



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE P. V. BALAKRISHNAN

WEDNESDAY, THE 18TH DAY OF DECEMBER 2024 / 27TH AGRAHAYANA,

1946

CRA(V) NO. 14 OF 2019

AGAINST THE ORDER/JUDGMENT DATED IN SC NO.364 OF 2013
OF ADDITIONAL SESSIONS COURT-II, MAVELIKKARA ARISING OUT OF
THE ORDER/JUDGMENT DATED IN CP NO.104 OF 2011 OF JUDICIAL
FIRST CLASS MAGISTRATE COURT-I, MAVELIKKARA

APPELLANT/DEFACTO COMPLAINANT:

GOPINATHAN PILLAI
AGED 67 YEARS
S/O.NANUPILLAI, UDAYAMPERUR HOUSE,
KUNNATHUMKARA (PO), THIRUVALLA, PATHANAMTHITTA-
689546. MOB.7902369750

BY ADV SIVAN MADATHIL

RESPONDENTS/ACCUSED 2 TO 4 / STATE:

1 SMT.VIJAYALAKSHMI,
W/O.SANKARA NARAYANAN, VETTUKULATHIL THEKKETHIL
VEEDU, BARANIKKAVU MURI, KATTANAM VILLAGE,
ALAPPUZHA DISTRICT-690503.



- 2 MAHESWARI @ MAYA,
W/O.HARIKUMAR, PUTHEN PURAYIL VEEDU, PALLICKAL
EAST MURI, THEKKEKARA VILLAGE, BARANIKKAVU-690520.
- 3 HARIKUMAR,
S/O.RAGHAVAN PILLAI, PUTHEN PURAYIL VEEDU,
PALLICKAL EAST MURI, THEKKEKARA VILLAGE,
BARANIKKAVU-690520.
- 4 THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM-31, IDYSP, CBCID, H AND H WING-
1, SIB UNIT, KOLLAM.

BY ADVS.
ARUN
AISWARYA V.S. (K/001596/2018)
VARNA MANOJ (K/552/2016)

OTHER PRESENT:

SMT NEEMA T V, SR. PP

THIS CRL.A BY DEFACTO COMPLAINANT/VICTIM HAVING
FINALLY HEARD ON 13.12.2024, THE COURT ON 18.12.2024
DELIVERED THE FOLLOWING:



**RAJA VIJAYARAGHAVAN V,
&
P.V.BALAKRISHNAN, JJ.**

Crl.Appeal No.14 of 2019

Dated this the 18th day of December 2024

JUDGMENT

P.V.BALAKRISHNAN, J

This appeal is filed under Section 372 of Cr.P.C. by the defacto complainant, aggrieved by the judgment passed in SCNo.364/2013 by the Additional Sessions Court-II, Mavelikara, acquitting accused Nos.2 to 4 under Sections 302 and 498A read with Section 34 IPC.

2. The prosecution case is that, the first accused married Girijakumari, the daughter of the defacto complainant on 6/1/2006. Thereafter, while Girijakumari was residing in her matrimonial home, accused Nos. 1 to 4, subjected her to cruelty demanding gold and money. While so on 19/5/2006, the first accused expressed a desire that he along with Girijakumari can



commit suicide since the first accused lost his job. On the said premise, the first accused gave a banana laced with furadan to Girijakumari and he himself pretended to consume one. But, accused No.1 did not eat the fruit and only Girijakumari consumed it and died.

3. In the trial court, from the side of the prosecution, PW1 to PW42 were examined and Exhibits P1 to P67 and MO1 to MO8 were marked. On examining the accused under Section 313 Cr.P.C, they denied all the incriminating circumstances brought against them in evidence. From the side of the accused, DW1 was examined and Exts.D1 to D6 documents were marked. The trial court, on an appreciation of evidence on record and after hearing both sides, convicted the first accused under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.2 Lakhs. But he was found not guilty of the offence punishable under Section 498A IPC and was acquitted thereunder. Accused Nos.2 to 4 were also acquitted of all the charges levelled against them.



4. As far as the conviction and sentence passed against the first accused is concerned, the same has been confirmed by this Court in Crl.Appeal No.1107/2014. The learned counsel for the appellant submitted that the present appeal is filed challenging only the acquittal of accused Nos. 2 to 4 under Section 498A read with Section 34 IPC and that there is no challenge as against the acquittal order passed against them under Section 302 read with Section 34 IPC .

5. In such circumstances, the points that arise for consideration in this appeal are:

- i) Whether accused Nos. 2 to 4 committed acts of cruelty against deceased Girijakumari?
- ii) Whether the impugned judgment acquitting accused Nos. 2 to 4 of the offence punishable under Section 498A read with Section 34 IPC is correct and whether the same requires any interference?

6. Heard Adv.Sivan Maadathil learned counsel for the appellant, Smt.Varna Manoj learned counsel for respondents 1 to



3 and Adv.Neema I.V, the learned Public Prosecutor appearing for the 4th respondent.

7. The learned Counsel for the appellant heavily relies upon the evidence of PWs1,2,36,40 & 41 to contend that the impugned judgment acquitting accused Nos. 2 to 4 under Section 498A cannot be sustained. He argued that evidence of PW1 and PW2 would pinpoint the chain of circumstances leading to the murder of the de facto complainant's daughter, including the mental and physical harassment meted out by the accused towards her. He contended that the evidence would reveal that the accused have pledged gold ornaments belonging to Girijakumari and has utilised the money for the house construction of the 4th accused. He submitted that evidence is also forthcoming to show that the accused have demanded more gold and money from Girijakumari for the said purpose and when refused, the first accused has physically and the other accused have mentally harassed her. According to the learned counsel, it is also discernible from the evidence that accused Nos.2 to 4 have aided the first accused for



committing the crime by removing themselves at the relevant time and their subsequent conduct in not attending the funeral ceremonies of Girijakumari speaks volumes about their intention.

8. Per contra, the learned counsel for respondents 1 to 3 submitted that, even if the evidence of PW1 and PW2 are accepted as gospel truth, the same will not disclose the commission of an offence under Section 498A IPC. She argued that the evidence of PWs 36,40 & 41 who are the investigating officers in this case are only opinion evidence and no reliance can be placed upon it to reach a finding of guilt. She further contended that all the events spoken to by PW1 and PW2 are on the basis of hearsay information and they are very vague sans, details.

9. The learned Public Prosecutor supported the learned counsel for the appellant and raised arguments in the very same lines as that of the appellant.

10. As stated earlier, this appeal is filed by the de facto complainant challenging the acquittal of accused Nos. 2 to 4 of



the offence punishable under Section 498A IPC. Before probing into the evidence, it would only be appropriate to keep in mind the settled principles of law relating to considering an appeal from an order of acquittal. It is the law that in an appeal against acquittal, the court would not ordinarily interfere with the trial court's conclusion unless there are compelling reasons to do so inter alia, on account of manifest errors of law or facts resulting in miscarriage of justice. It will not interfere with an order of acquittal lightly or merely because one other view is possible. This is because of the fact that in case of an acquittal there is a double presumption in favour of the accused which are the presumption of innocence and the subsequent reinforcement and strengthening of it by the acquittal order passed by the trial court. (See **Chandrappa v. State of Karnataka [(2007) 4 SCC 415]**, **Tota Singh v. State of Punjab [(1987) 2 SCC 529]** and **State of Rajasthan v. Mohan Lal [JT (2009) 5 SC 587]**).

11. In the case on hand, the father of deceased



Girijakumari, was examined as PW1. He deposed that he had given 31 sovereigns of gold ornaments and Rs.1,00,000/- at the time of marriage and has agreed to pay another Rs.2,00,000/- within three years therefrom. He stated that after marriage for about one and half months, his daughter was very happy in her matrimonial home. Subsequently, on an occasion, the third accused took the gold chain belonging to his daughter and thereafter failed to return it. When his daughter asked the third accused about the same, there occurred a verbal duel and her daughter was physically and mentally abused. Thereafter, the first accused pledged three bangles belonging to his daughter for the construction of his sister's house. The first and second accused also demanded the remaining gold ornaments of Girijakumari for the said purpose. When Girijakumari refused to heed, the first accused physically and the other accused mentally harassed her. He came to know from his friends that when Girijakumari refused to handover gold ornaments to the first accused for pledging it, there occurred a fight and due to mental



agony, Girijakumari consumed poison. In his cross examination, he stated that it is his daughter who has told him about the third accused not returning her gold chain and about the money obtained by pledging ornaments being used for construction purposes.

12. While appreciating the afore evidence of PW1, at the outset itself it is to be seen that , PW1 has not witnessed any events of accused Nos. 2 to 4 harassing his daughter, either physically or mentally. It also reveals that the information regarding the alleged harassment has been gathered by him from the mouth of his daughter herself, allegedly two weeks before her death. Similar is the case regarding the first accused pledging gold ornaments of Girijakumari and utilising the money for construction of the house of the 4th accused. The version of PW1 that Girijakumari consumed poison due to a fight between the first accused and herself over her refusal to handover her gold ornaments for pledging, again is on the basis of hearsay information. Further, it is to be taken note that the version of



PW1 regarding the alleged harassments meted out to Girijakumari are very vague, sans details and PW1 has not raised a finger against any of the accused till 20/5/2006.

13. Coming to PW2, the relative of Girijakumari, she deposed that whenever she went to the matrimonial house of Girijakumari, she used to make complaints against the accused . Girijakumari told her that her gold ornaments were taken away without her consent and were pledged and the money utilised for the purpose of house construction of the sister of the first accused. The accused used to harass her by demanding gold and money for the said purpose and the first accused physically and the other accused mentally harassed Girijakumari. In her cross examination, she would say that she has not witnessed any physical harassment meted out to Girijakumari and all the information was given by Girijakumari herself. She did not divulge any of these matters to the father of Girijakumari or any police officials until she was questioned in 2010 by the police.

14. Now while evaluating the evidence of PW2, it can be



seen that she has also not witnessed any incident of mental or physical harassment meted out to Girijakumari by the accused. Her evidence reveals that all the information she acquired is purely hearsay and also that her version is very vague. It does not reveal anything about the date or month or the nature of physical or mental harassment allegedly meted out to Girijakumari. Most importantly, it is to be seen that even after acquiring information about such harassment, she has not informed the father of Girijakumari or any authorities and the afore conduct does not satisfy the test of a prudent person's mind set.

15. Coming to the evidence of PWs 36, 40 and 41, the same will not help the appellant in any manner to bring home the guilt of accused Nos.2 to 4 since, their testimonies inculcating these accused are only opinion evidence. At this juncture, we will also take note of the fact that the acquittal of the first accused under Section 498A IPC by the trial court has now attained finality since there was no challenge regarding the



same.

16. The upshot of the afore discussions on evidence is that there are absolutely no materials to inculcate accused Nos. 2 to 4 under Section 498A IPC. The trial court has properly appreciated the evidence on record and has arrived at a correct conclusion that accused Nos. 2 to 4 are not guilty of committing the offence under Section 498A read with Section 34 IPC. The appellant could not bring out any material which would enable this Court to interfere with the said conclusion. Therefore, we find that this appeal lacks merit and the same is only to be dismissed.

In the result, this appeal is dismissed.

Sd/-

RAJA VIJAYARAGHAVAN V
Judge

Sd/-

P.V.BALAKRISHNAN
Judge