***THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA**

+ CRIMINAL REVISION CASE No.1473 OF 2009

%12.08.2026

#1. G. ABDUL RAFI,, S/O LATE D.MASTHAN, EMPLOYEE, R/O QRS. NO. 372-D, SANTHI NAGAR, GUNTAKAL

….**PETITIONER**

And:

$ 1. THE STATE OF AP REP BY ITS PP HYD, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD.

2. R JAREENA BEGUM, W/O. G.ABDUL RAFI, AGED 28 YEARS, DO. P. KHAJA HUSSAIN, TEACHER, CO.D.NO.5 77, PORTERLINE, GUNTAKAL. RESPONDENT NO.2 IS IMPLEADED AS PER THE COURTS ORDER DATED 20.08.2025 IN CRL.R.C.NO.1473 OF 2009.

...RESPONDENT(S):

! Counsel for the Petitioner: 1. Sri Rosedar SRA

^Counsel for the respondent : Sri Panini Somayaji
Assistant Public Prosecutor

<Gist:

>Head Note:

? Cases referred:

1. 2020(110) ACrC 50
2. Crl.R.C. No.150 of 2022 of Madras High Court
3. 2024 INSC 128

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HIGH COURT OF ANDHRA PRADESH

* * * *

CRL.R.C. No:1473/2009

DATE OF ORDER: 12.08.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE SUBHENDU SAMANTA

1.	**Whether Reporters of Local newspapers may be allowed to see the Order?**	**Yes/No**
2.	**Whether the copies of Order may be marked to Law Reporters/ Journals**	**Yes/No**
3.	**Whether Your Lordships wish to see the fair copy of the Order?**	**Yes/No**

JUSTICE SUBHENDU SAMANTA

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Date of reserved for orders : 22.07.2026
Date of pronouncement : 12.08.2026
Date of uploading : 12.08.2026

APHC010381512009

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3560]**
(Special Original Jurisdiction)

WEDNESDAY, THE 12th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE SUBHENDU SAMANTA

CRIMINAL REVISION CASE NO: 1473/2009

Between:

1. G. ABDUL RAFI,, S/O LATE D.MASTHAN, EMPLOYEE, R/O QRS. NO. 372-D, SANTHI NAGAR, GUNTAKAL,

...PETITIONER

AND

1. THE STATE OF AP REP BY ITS PP HYD, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF A.P., AT HYDERABAD.
2. R JAREENA BEGUM, W/O. G. ABDUL RAFI, AGED 28 YEARS, DO. P. KHAJA HUSSAIN, TEACHER, CO. D.NO.5 77, PORTERLINE, GUNTAKAL. RESPONDENT NO.2 IS IMPLEADED AS PER THE COURTS ORDER DATED 20.08.2025 IN CRL.R.C.NO.1473 OF 2009.

...RESPONDENT(S):

Revision filed under Section 397/401 of CrPC praying that in the circumstances stated in the affidavit filed in support of the Criminal Revision Case, the High Court may be pleased to present this Memorandum of Crl.R.C., aggrieved by the Judgment in C.C. No.90 of 2008, dt.06-08-2008 on the file of the J.F.C.M., Guntakal, which was partly confirmed by the Family court-cum- Addl. Dist. & Sessions Judge, Ananthapur, in Crl.A.No.96 of 2008, dt.02-09-2009.

IA NO: 1 OF 2009(CRLRCMP 2036 OF 2009

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to release the petitioner on bail after suspending the operation of the sentence imposed in C.C.No.90 of 2008, dt.06-08-2008 on the file of the J.F.C.M., Guntakal, which was confirmed by the Family Court-cum-Addl. Dist. & Sessions Judge, Ananthapur in Crl.A.No.96 of 2008, dt.02-09-2009, pending disposal of the Crl.R.C., in the interest of justice.

Counsel for the Petitioner:

1. ROSEDAR SRA

Counsel for the Respondent(S):

1. PUBLIC PROSECUTOR
2. NAGESWARA RAO V

The Court made the following order:

1. The instant criminal revision case has been preferred against the judgment dt.02.09.2009 in Crl.A.No.96 of 2008, passed by learned Family Court-cum-Additional District and Sessions Judge, Anantapur, which partly confirmed the judgment dated 06.08.2008 in C.C.No.90 of 2006 passed by learned Judicial Magistrate of First Class, Guntakal.

2. The petitioner herein was arrayed as A.1 and mother of the petitioner was arrayed as A.2 in C.C. No.90 of 2006. They were convicted and sentenced to suffer rigorous imprisonment for a period of one year each for the offence punishable under Section 498-A of the Indian Penal Code, 1860 (for short, 'IPC'). They were also directed to suffer simple imprisonment for a period of one year each and to pay fine of Rs.1,000/- each, in default to undergo simple imprisonment for a period of six months each for the offence under Section 3 and 4 of

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the Dowry Prohibition Act. A.1 and A.2 also sentenced to undergo rigorous imprisonment for a period of three months each for the offence under Section 4 of the Dowry Prohibition Act. Further, A.2 is sentenced to undergo rigorous imprisonment for a period of one month for the offence under Section 506 of IPC.

3. In the appeal, learned appellate court set aside the order of conviction and sentence against both A.1 and A.2 for the offences punishable under Sections 3 and 4 of the Dowry Prohibition Act and also acquitted A.2 for the offence punishable under Sections 498-A and 506 of IPC and dismissed the appeal filed by A.1 challenging the judgment of conviction and sentence for the offence punishable under Section 498-A of IPC. Hence, the present revision.

4. **The facts of the prosecution case, in a nutshell, are as follows:**

4.1 The marriage between A.1 and PW1 was solemnized on 12.07.2002 according to the Mohammedan rites and customs. At the time of marriage, PW2 presented cash of Rs.1,00,000/- as dowry and a wrist watch as gift to A.1. After marriage, PW1 and A.1 started their marital life happily for quite a few days. Thereafter, A.1 having addiction of liquor and gambling, harassed PW1 by demanding additional dowry of Rs.50,000/-, some gold ornaments and a house plot. A.2, along with A.1, joined in harassing PW1 by making a

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demand for additional dowry and also abused PW1 in filthy language on the ground that she had given birth to a female child.

4.2 Due to such continuous harassment, a meeting was held between the accused persons and the prosecution witnesses in the presence of their elders. In the said meeting, the accused assured PW1 and her parents that he would not subject PW1 to any further torture or harassment for additional dowry. However, the situation never became normalised. The ill treatment to PW1 was increased day by day, A1 and A2 also threatened to kill PW1 demanding additional dowry. On 11.04.2006, the accused persons beat PW1 and, as the situation became unbearable, she left the matrimonial home. Thereafter, PW1 lodged a private complaint before the Court on 21.04.2006, which was endorsed to the police for investigation. Accordingly, Crime No.46 of 2006 was registered for the offences punishable under Sections 498-A and 506 of IPC and Sections 3 and 4 of the Dowry Prohibition Act.

5. **SUBMISSIONS OF THE PETITIONER:**

5.1 The main contention of learned counsel for the petitioner is that the prosecution has led evidence against both the accused persons and that the allegations in the FIR as well as in the prosecution case are one and the same. However, learned Appellate Court, while acquitting A.2 of all the offences, has illegally convicted A.1. He

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further argued that learned Appellate Court should have acquitted both the accused persons.

5.2 He further submits that the prosecution witnesses are interested witnesses and that their evidence is hearsay. Therefore, their evidence cannot be relied for recording a conviction. It is further pointed out that the allegations of torture are false, general and omnibus in nature, on the basis of which conviction cannot be sustained.

5.3 In support of his contention, he cited the following decisions:

a. **Matadin and another**[1]
b. **Ponnazhagu v. The State Represented by Inspector of Police, All Women Police Station;**[2]
c. **Ram Singh v. The State of U.P.**[3]

6. **SUBMISSIONS OF THE STATE:**

6.1 Learned Assistant Public Prosecutor submits that the offence under Section 498-A of IPC against the petitioner has been sufficiently proved. The petitioner, being the husband of PW1, inflicted torture, both physically and mentally, upon PW1, which has been well proved. PW1 herself deposed about the torture meted out to her by petitioner during their matrimonial life. At this juncture, decision of learned appellate court cannot be called into question.

[1] 2020(110) ACrC 50
[2] Crl.R.C. No.150 of 2022 of Madras High Court
[3] 2024 INSC 128

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6.2 He further pointed out that though set of evidences are one and the same, but role of participation in offence by A.1 and A.2 is different. A.1 led his matrimonial life with PW1 in the same house, whereas A.2 was residing elsewhere. Reasons thereby, A.2 was acquitted in this case. He further submits that the entire prosecution case has been proved from the evidence of DWs.1 and 2. They have unequivocally stated that there was a meeting held on 05.04.2004, wherein the accused persons assured that they would not harass PW1 for any additional demand of dowry.

7. **OBSERVATIONS OF THE COURT:**

7.1 Heard learned counsel for the petitioner and learned Assistant Public Prosecutor for the State.

7.2 First of all, this Court has to consider whether the observation of learned appellate court in separating A.1/petitioner and A.2 on the same set of evidence is justified or not.

7.3 In the case of **Matadin and another v. State of U.P.** (supra1) relating to the offence under Section 302/34 of IPC, the Allahabad High Court has held that though there was the same set of eye witnesses, A.1 was acquitted, whereas A.2 was convicted, which appears to be illegal. Paragraphs 41 and 42 are set out hereunder:

> "41. There is another very strange aspect of the matter. Along with appellants before us, one Mehngu was also charge-sheeted and tried for the charge under Section 302/34 I.P.C. The role assigned to him by P.W.2 Ram Narayan was that he had fired the first shot at the deceased which had hit him and thereafter he had caught hold of the deceased along with Matadin @ Chapole (A1) while Kripa Ram (A2)

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had inflicted injuries on him with 'pharsa'. According to P.W.3 Hari Om, the shot fired by him at the deceased had missed him. The trial court however strangely proceeded to acquit Mehngu and convicted Kripa Ram (A2) on the same set of evidence. The learned trial Judge has failed to assign any reason for disbelieving the evidence of two eye witnesses qua Matadin @ Chapole (A1) while relying upon the same for the purpose of convicting Kripa Ram (A2).

42. Thus, upon a wholesome consideration of the facts of the case, attending circumstances and the evidence on record, we do not find that the prosecution has been able to prove its case against the surviving appellant Matadin @ Chapole (A1) beyond all reasonable doubts and he is entitled to benefit of doubt."

7.4 On the same principle, in the case of **Ram Singh v. The State of U.P.** (supra3), the Hon'ble Supreme Court has held that,

"32. This Court in the case of *Javed Shaukat Ali Qureshi,* has held that when there is similar or identical evidence of eyewitnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. This Court clarified as under:

15. When there is similar or identical evidence of eye witnesses against two accused by ascribing them the same or similar role, the court cannot convict one accused and acquit the other. In such a case, the cases of both the accused will be governed by the principle of parity. This principle means that the criminal court should decide like cases alike, and in such cases, the court cannot make a distinction between the two accused, which will amount to discrimination."

7.5 In the present case, charges were framed against both the accused persons under Section 498-A of IPC and Sections 3 and 4 of the Dowry Prohibition Act. Learned trial court, though has convicted both the accused persons for the said offences, learned appellate court has acquitted both the accused persons for the offence under Sections 3 and 4 of the Dowry Prohibition Act.

7.6 On a plain reading of the entire complaint/FIR, it appears that the allegation of torture was made against both A.1 and A.2 only for the demand of additional dowry. When the charges under Sections 3 and 4 of the Dowry Prohibition Act have not been proved, as

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observed by learned Appellate Court, it cannot be said that the allegation of torture can stand independently without the allegation of demand of dowry. That is to say, when there is an allegation of torture upon a married woman by her husband and relatives on account of a demand for additional dowry, after conclusion of the trial, if it appears that the demand for dowry has not been proved, the allegation of torture itself cannot stand independently.

7.7 On clarifying the entire position of the present facts and circumstances of the case, it appears that the evidence of the prosecution witnesses supports the prosecution case, particularly the version of PW1. On the other hand, DWs.1 and 2 are the persons who have spoken about the meeting held on 05.04.2004 to minimise the dispute between PW1 and A.1.

7.8 Learned appellate court has categorically observed that the FIR was lodged after more than ten days from the alleged date of incident and that it is a lawyer drafting FIR. So, learned appellate court has not placed much reliance upon the FIR.

7.9 Considering the entire aspect of the matter, I am of the view that in a criminal case, when there is a clear allegation of torture upon a married woman on account of a demand for additional dowry, and after trial it has been disproved that there were no demand for additional dowry, the sole allegation of torture, as alleged to have been meted out by the husband and his relatives, cannot stand

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alone; moreover, delay in lodging FIR was not explained by prosecution in this case.

7.10 Under the above observation, in my view, the conviction of A.1 under Section 498-A of IPC, solely on the basis of the allegation of torture without any demand for additional dowry, cannot be maintainable.

7.11 Hence, the criminal revision case is allowed. The order of conviction and sentence recorded by learned trial court and confirmed by learned appellate court against the petitioner for the offence punishable under Section 498-A of IPC is hereby set aside.

7.12 The petitioner/A.1 is acquitted and set at liberty. The fine amount, if already deposited by the accused, shall be refunded to the petitioner in accordance with law. The bail bonds, if any, executed by the petitioner shall stand cancelled, and the sureties, if any, shall stand discharged.

8. Miscellaneous applications, if any pending in this criminal revision case, shall stand closed.

JUSTICE SUBHENDU SAMANTA

Dt.12.08.2026
BV

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Whether the order is :

Speaking Yes/No / Reasoned Yes/No

Reportable Yes/No / Non-Reportable Yes/No

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