APHC010502682008

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3368]**
(Special Original Jurisdiction)

WEDNESDAY,THE EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY-SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL NO: 1246/2008

Between:

1. THE STATE OF A.P., REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF A.P., HYDERABAD.

...APPELLANT

AND

1. KONDAVEETI RAMBABU 2 OTHERS, S/O SURYANARAYANA, R/O KONDAVEETIKODAPA VILLAGE, CHAMAURAVARAIPALEM, NARSAPUR.
2. KONDAVEETI VENKATA NARASAMMA, W/O SURYANARAYANA, R/O KONDAVEETIKODAPA VILLAGE, CHAMAURAVARAIPALEM, NARSAPUR.
3. KOPALLI ANASUYA, W/O SATYANARAYANA, R/O GAGGIPARRI OF ADAVIPALEM, ELAMANCHILI MANDAL.

...RESPONDENT(S):

Appeal under Section 372/374(2)/378(4) of Cr.P.C praying that the High Court may be pleased to to present this memorandum of Crl.A., against the Judgment in S.C.No.324 of 2006 on the file of the VI Addl. Dist. & Sessions Judge, (FTC), Narsapur, dated 15.06.07 and prays that this Hon'ble Court may be pleased to set-aside the Order of acquittal and convict the accused/respondents for the offence with which they were charged.

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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 condone the delay of (183) days in presenting this Crl.A., against the order of acquittal of the accused/respondents in S.C.No.324 of 2006 on the file of the VI Addl. Dist. & Sessions Judge, (FTC), Narsapur, dated 15.06.07.

Counsel for the Appellant:

1. PUBLIC PROSECUTOR (AP)

Counsel for the Respondent(S):

1. RAMA MOHAN PALANKI

The Court made the following:

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No.1246 of 2008

ORAL JUDGMENT:

The present appeal is preferred by the appellant-State challenging the judgment of the learned Sessions Court delivered on 15.06.2007 in S.C. No. 324 of 2006 on the file of the learned VI Additional District and Sessions Judge, Fast Track Court, Narsapur.

2. The learned Sessions Judge found the respondents-accused not guilty of the offences under Sections 498-A and 304-B IPC and also under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, "DP Act"), and accordingly acquitted the accused.

CASE OF THE PROSECUTION:

3. The case of the prosecution is that the marriage of Smt. Kondaveeti Krishnaveni (hereinafter referred to as "the deceased") with Accused No.1 was solemnized about five years prior to the incident at Narsapur village.

4. At the time of marriage, cash of Rs. 40,000/- and agricultural land measuring 24 cents were presented to the accused towards dowry. A document was also executed in favour of the deceased one year after the marriage

acknowledging the presentation of land towards dowry at the time of marriage. The deceased joined the conjugal life of Accused No.1, and they lived happily for one year. Out of the wedlock, a male child was born.

5. Later, the accused began harassing the deceased by demanding additional dowry of Rs. 20,000/- and also insisting that she sell the land and bring the money. The deceased was assaulted on several occasions in connection with the said demand. The issue was placed before the elders, and on their advice, a report was presented to the police. Accused No.1 came to the police station and assured that he would not harass the deceased in future.

6. Two days prior to the death of the deceased, PW8, the mother of the deceased, visited the house of Accused No.1. At that time, Accused No.1 beat the deceased in her presence, demanding additional dowry of Rs. 20,000/- and insisting that she sell the land. PW8 returned home and informed PW1, the brother of the deceased, about the harassment and requested him to visit the house of Accused No.1 to resolve the issue.

7. Accordingly, PW1 and PW7 went to the house of Accused No.1. The house was found locked. PW1 complained to PW9 about the cruelty committed by Accused No.1. PW9 requested his wife to accompany PW1 and PW7 to the house of Accused No.1. Accordingly, they visited the house, where PW1 found the deceased hanging from the ceiling of the hut. He raised cries, and villagers

gathered at the spot. Injuries were noticed on the cheek and neck of the deceased. The accused were not found in the house.

8. PW1 went to Mogalthuru Police Station and presented Ex.P1 report at about 8:30 p.m. on 21.10.2005. PW15, the Assistant Sub-Inspector of Police, Mogalthuru Police Station, registered the same as Crime No. 150 of 2005 under Ex.P10 FIR and submitted it to the jurisdictional Magistrate at Narsapur.

9. PW15 issued a requisition to PW13, Mandal Revenue Officer, to conduct an inquest. PW15 visited the scene of offence at Kondaveeti Kadapa village, secured mediators, and seized MO1-saree under a cover of observation report. PW16, the photographer, took photographs of the dead body.

10. PW13 conducted the inquest at the house of Accused No.1 in Kondaveeti Kadapa village in the presence of mediators under Ex.P6 inquest proceedings. PW12, the Village Revenue Officer, attested the inquest proceedings along with other mediators. They opined that the deceased committed suicide due to harassment by the accused. The dead body was later shifted to the Government Hospital for autopsy. PW13 recorded the statements of PWs 1 to 7 during the inquest.

11. PW14, the Civil Assistant Surgeon, Government Hospital, Narsapur, conducted the autopsy and issued Ex.P7 postmortem certificate. As per Ex.P9 final opinion, the deceased appeared to have died of asphyxia due to hanging.

12. PW17, the Sub-Divisional Police Officer, conducted further investigation and, upon completion, filed the charge sheet before the jurisdictional Magistrate.

13. The case was committed to the learned Sessions Court under Section 209 Cr.P.C. It was registered as S.C. No. 324 of 2006 and made over to the learned VI Additional District and Sessions Judge, Fast Track Court, Narsapur, for trial.

14. The accused were charged for the offences under Sections 498-A and 304-B IPC and also under Sections 3 and 4 of the DP Act. The accused denied the charges as false and claimed to be tried.

EVIDENCE FOR THE PROSECUTION:

15. To substantiate the charges, the prosecution examined PWs 1 to 17 and marked Exs.P1 to P15, apart from MO1-saree.

16. The accused were examined under Section 313 Cr.P.C. regarding the incriminating circumstances appearing against them from the prosecution evidence. They denied the same as not true.

17. Exs.D1 to D9 were marked for the defence during the examination of prosecution witnesses. No oral evidence was adduced on behalf of the defence.

FINDING OF THE SESSIONS COURT:

18. Upon consideration of the evidence, the learned Sessions Court found Accused Nos.1 to 3 not guilty of the offences and accordingly acquitted them. Therefore, the State preferred the present appeal challenging the judgment.

SUBMISSIONS ON BEHALF OF THE APPELLANT/STATE:

19. The learned Additional Public Prosecutor appearing for the appellant-State contended that the learned Sessions Court failed to appreciate the evidence in its proper perspective and thereby arrived at an erroneous conclusion that the prosecution failed to prove the charges.

20. He argued that the evidence of PWs 1 to 6 and PW8, namely the brother, sisters, husbands of the sisters, and the mother of the deceased, establishes that dowry was given at the time of marriage. Their evidence further establishes that, pursuant to the promise made at the time of marriage, land was also given in the name of the deceased.

21. He further contended that their evidence establishes that one year after the marriage, the accused began harassing the deceased demanding additional dowry and insisting on the sale of the land. In that connection, Accused No.1 assaulted the deceased several times.

22. The evidence of PW8 would establish that two days prior to the death of the deceased, she visited the house of the accused, and Accused No.1 beat the deceased in her presence demanding additional dowry. Thus, it establishes that the deceased was subjected to cruelty soon before her death in connection with dowry demand.

23. Hence, Section 113-B of the Indian Evidence Act would come into operation, as the deceased died after being subjected to cruelty in connection with the demand for dowry soon before her death. The accused did not place any evidence rebutting the said presumption. However, the learned Sessions Court erroneously concluded that the prosecution failed to prove the charge.

24. He would further argue that the evidence of the Doctor establishes that the deceased died under unnatural circumstances. The evidence also establishes that the death occurred within seven years of marriage. The evidence of the above witnesses would further show that the deceased was subjected to cruelty soon before her death. Hence, all the ingredients required to prove the offence under Section 304-B IPC have been established by the prosecution beyond reasonable doubt.

25. The evidence on record also establish that Accused No.1 harassed the deceased for additional dowry. Therefore, the offences under Sections 3 and 4 of the DP Act are also proved by the prosecution. In that view of the matter, it is a fit

case to interfere with the judgment of the learned Sessions Court, as the same is not sustainable either on facts or in law.

26. The learned Additional Public Prosecutor would further submit that, pending the appeal, Accused No.2 died, and a copy of the death certificate of the said accused is placed on record for perusal. Therefore, the appeal against Accused No.2 stands abated.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS/ACCUSED:

27. On the other hand, the learned counsel representing respondents-accused would argue that the learned Sessions Court, after considering all the facts and circumstances, delivered a well-reasoned judgment explaining how the evidence on record does not prove the charges in the case.

28. He would submit that Exs.D1 to D9, which are the statements of PWs 1 to 7 recorded during investigation by the Investigating Officer under Section 161 Cr.P.C. and also recorded during the inquest by the Mandal Revenue Officer, would establish that the witnesses gave one version during the investigation and later gave a different version during the trial to suit the charges, thereby suppressing the truth before the Court.

29. Therefore, the previous statements under Exs.D1 to D9, which were proved in accordance with law, clearly show that PWs 1 to 7 made statements

inconsistent with their evidence before the Court. Consequently, their credibility was impeached as laid down under Section 155 of the Indian Evidence Act.

30. Hence, the learned Sessions Court did not place reliance on their testimony before the Court and rightly concluded that the prosecution failed to prove the charges beyond reasonable doubt, and accordingly acquitted the accused. Therefore, there are no grounds to interfere with the judgment of the learned Sessions Court.

31. In view of the above rival contentions, the point that arises for consideration is:

> ***"Whether the judgment of the learned Sessions Court is unsustainable in law?"***

ANALYSIS:

32. The case of the prosecution is that the marriage of Accused No.1 and the deceased, Smt. Kondaveeti Krishnaveni, was solemnized five years prior to the date of her death. At the time of marriage, a sum of Rs. 40,000/- was presented to the accused towards dowry. It was also promised that some land would be given towards dowry. Accused No.1 is the husband of the deceased, Accused No.2 is the mother of Accused No.1, and Accused No.3 is the sister of Accused No.1. It is alleged that all the accused began harassing the deceased one year after the marriage, demanding execution of a document for the land promised

towards dowry. Accordingly, PW1, the brother of the deceased, executed a document in the name of the deceased for 24 cents of land. Thereafter, the accused allegedly subjected the deceased to both physical and mental harassment, demanding additional dowry of Rs. 20,000/- and also insisting that she sell the land given in her name.

33. PW1 deposed that he had worked in Saudi Arabia for some time and had earned money, and after returning to India, he was able to give Rs. 40,000/- to the accused towards dowry at the time of the marriage of Accused No.1 with the deceased. However, during cross-examination, no documentary proof was produced to substantiate his claim of working in Saudi Arabia or earning money and paying Rs. 40,000/- as dowry. It is the specific case of the prosecution that an extent of Ac.0-24 cents of land was presented to the deceased towards dowry by PW1, and a document was executed in her favour on the demand made by the accused one year after the marriage. However, no such document has been placed before the Court to prove the said claim. Thus, the prosecution failed to produce any documentary evidence to establish that PW1 and his family members paid Rs. 40,000/- and gifted Ac.0-24 cents of land to the deceased either at the time of marriage or subsequently.

34. The evidence of PWs 1 to 6 and PW8, who are the brother, sisters, husbands of the sisters, and the mother of the deceased, indicates that the accused subjected the deceased to harassment by demanding additional dowry

and execution of a document for the land promised at the time of marriage. However, as noted above, no documentary evidence has been produced to substantiate the alleged transfer of land. Further, the evidence on record shows that Accused No.1 and the deceased lived happily for one year, and a male child was born to them out of the wedlock.

35. It is the further case of the prosecution that one year after the marriage, the accused made demands for additional dowry and execution of the document, and the matter was placed before elders, including PW9 and others. The elders allegedly advised PW1 to lodge a complaint with the police. Accordingly, PW1 is said to have presented a report to the police, and Accused No.1 came to the police station and assured that he would take care of the deceased. However, no evidence has been placed by the prosecution to prove these facts, and PW9 did not support the case of the prosecution.

36. Exs.D1 to D9 disclose that PWs 1 to 7 made statements before the Investigating Officer and also before the Mandal Revenue Officer during investigation and inquest. Exs.D1 and D2 relate to the statements made by PW1. These statements disclose that two days prior to the death of the deceased, PW8 visited the house of Accused No.1, and at that time, Accused No.1 was not present. Thereafter, PW8 returned to the village and informed PW1, requesting him to visit the house of the accused. However, during trial, PWs 1 to 6 and PW8 gave a different version stating that when PW8 visited the house two days prior

to the death, Accused No.1 was present and beat the deceased in her presence, demanding additional dowry and insisting that she sell the land. This contradiction shows that PW1 and other witnesses made inconsistent statements, apparently to bring the case within the ambit of Sections 498-A and 304-B IPC by alleging cruelty soon before death.

37. The prosecution case is that Accused Nos.1 to 3 were living under a common roof and subjected the deceased to cruelty. However, the defence case is that Accused No.1 and the deceased were living separately in a hut. It is not disputed that the deceased died in the said hut where she was residing with Accused No.1. The evidence of PW4, particularly her statement recorded under Ex.D5, shows that Accused No.1 was not employed and had no steady income, the deceased was doing tailoring work and maintaining the household. It was also stated that Accused No.1 used to go to his mother's house for meals whenever he had no income. This statement contradicts her testimony in Court that all the accused were living together and harassing the deceased. This inconsistency creates doubt regarding the prosecution version that all the accused were residing together and harassing the deceased.

38. Further, it is admitted that Accused No.3 is a married woman with children. There is no reliable evidence to show that she was residing with Accused Nos.1 and 2 or that she participated in the alleged harassment.

39. PW7 is a villager and an acquaintance of PW1. His evidence discloses that there were certain family disputes between the deceased and Accused No.1. According to PW1, upon coming to know about the death of his sister, he went to the village of Accused No.1 along with PW7 to enquire about the cause of death. They initially went to the house of PW9, and the wife of PW9 accompanied them to the house of Accused No.1. However, the former statement of PW1, as recorded under Ex.D2 before the Mandal Revenue Officer, reveals a different version. In the said statement, PW1 stated that he went to the house of PW9, namely Kondaveeti Rama Krishna, and remained there. Thereafter, a boy was sent to the house of the deceased to verify the situation. The boy returned and informed that the deceased was not found in the house. In contrast, PW1, in his deposition before the Court, stated that after visiting the house of PW9, he, along with PW7, went to the house of Accused No.1 and found the dead body of the deceased hanging in the house. This inconsistency creates a serious doubt regarding the truthfulness of the version put forth by PW1. Therefore, it gives rise to a reasonable inference that PWs 1 to 6 and PW8 have suppressed the true facts before the Court regarding the real cause and circumstances of the death of the deceased. It further appears that, after deliberations in their village, they presented Ex.P1 report implicating Accused Nos.1 to 3 with allegations of cruelty in connection with additional dowry and land. As already noted, the evidence of PW2 indicates that there were marital disputes between the deceased and

Accused No.1. Further, the statement of PW4 shows that Accused No.1 was not engaged in any work and had no steady income to maintain the family, despite the fact that a child was born out of the wedlock. In view of these circumstances, a doubt is created regarding the veracity and reliability of the testimony of PWs 1 to 6 and PW8.

40. The statements made by PWs 1 to 6, as reflected in Exs.D3 to D8, would show that upon receiving intimation about the death of the deceased, they first went to their village, i.e., to the house of PW1, and thereafter all of them jointly proceeded to the house of Accused No.1, which is situated in another village. However, in their earlier statements recorded by the Investigating Officer and the Mandal Revenue Officer, they stated so, whereas before the Court they changed their version by stating that upon receiving information about the death of the deceased, they directly went to the house of Accused No.1.

41. This inconsistency creates a doubt that they intended to suppress the truth regarding their visit to the house of PW1 prior to going to the house of Accused No.1, possibly to avoid disclosure of the deliberations that took place at the house of PW1 before presenting Ex.P1 report to the police.

42. Therefore, in light of the above inconsistent statements made by PWs 1 to 7, which also affect the testimony of PW8, it can safely be held that the evidence of PWs 1 to 8 stands impeached during trial, as contemplated under Section

155(3) of the Indian Evidence Act. PWs 1 to 6 and PW8 have made different statements at different stages of the case, thereby rendering their testimony untrustworthy.

43. In such circumstances, it is not safe to rely solely on their testimony to record a conviction for the offences under Sections 498-A and 304-B IPC or under Sections 3 and 4 of the DP Act, 1961.

44. As already discussed above, when the evidence of PWs 1 to 6 and PW8 is found to be unreliable, the contention of the prosecution that the deceased was subjected to cruelty soon before her death, thereby attracting the presumption under Section 113-B of the Indian Evidence Act, cannot be accepted. The evidence on record does not enable the Court to conclude that the deceased was subjected to cruelty soon before her death. Therefore, the presumption under Section 113-B of the Indian Evidence Act cannot be invoked.

CONCLUSION:

45. In light of the foregoing discussion, since the evidence on record does not establish to say that the prosecution proved the charges under Sections 498-A and 304-B IPC, as well as under Sections 3 and 4 of the Dowry Prohibition Act, beyond reasonable doubt, this Court is of the considered opinion that the order of acquittal passed by the learned Sessions Court does not warrant any interference, and thus the appeal is liable to be dismissed.

RESULT:

46. Accordingly, this Criminal Appeal is dismissed against Accused Nos.1 and 3. The Criminal Appeal against Accused No.2 is dismissed as abated.

47. This judgment be certified to the learned Sessions Court as per Section 405 Cr.P.C.

As a sequel thereto, interlocutory applications, if any, pending in this Criminal Appeal shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI

8th April 2026
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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL No: 1246 of 2008

8th April, 2026

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