



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 2ND DAY OF DECEMBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA

CRIMINAL APPEAL NO.100052 OF 2022 (A)

BETWEEN:

STATE OF KARNATAKA
REPRESENTED BY THE
DEPUTY SUPERINTENDENT OF POLICE,
ATHANI POLICE STATION,
BELAGAVI DISTRICT,
THROUGH THE ADDITIONAL STATE
PUBLIC PROSECUTOR,
ADVOCATE GENERAL OFFICE,
HIGH COURT OF KARNATAKA,
DHARWAD BENCH-580011.

- APPELLANT

(BY SRI T. HANAMAREDDY, AGA)

AND:

1. SADASHIV
RAMU VEER @ JADHAV
AGE: 58 YEARS,
OCC: AGRICULTURE,
R/O. GUNDEWADI,
TALUK: ATHANI,
DISTRICT: BELAGAVI-577428.
2. SMT. RADHABAI
SADHASHIV VEER @ JADHAV
AGE: 58 YEARS,
OCC: HOUSEHOLD,
R/O. GUNDEWADI,
TALUK: ATHANI,
DISTRICT: BELAGAVI-577428.

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Location: High Court
of Karnataka,
Dharwad Bench
Date: 2024.12.18
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3. NAMDEV
SADASHIV VEER @ JADHAV
AGE: 35 YEARS, OCC: MASON,
R/O. GUNDEWADI,
TALUK: ATHANI,
DISTRICT: BELAGAVI-577428.
4. MAHADEV
SADASHIV VEER @ JADHAV
AGE: 26 YEARS,
OCC: TEACHER,
R/O. GUNDEWADI,
TALUK: ATHANI,
DISTRICT: BELAGAVI-577428.
5. SAHADEV
SADASHIV VEER @ JADHAV
AGE: 24 YEARS, OCC: MASON,
R/O. GUNDEWADI, TALUK: ATHANI,
DISTRICT: BELAGAVI-577428.

- RESPONDENTS

(BY SRI A.M. GUNDAWADE, ADVOCATE FOR R2 TO R5;
APPEAL AGAINST RESPONDENT NO.1 IS ABATED)

THIS CRIMINAL APPEAL IS FILED UNDER SECTION 378(1) AND (3) OF CR.P.C., PRAYING TO GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT AND ORDER OF ACQUITTAL DATED 23.04.2021 PASSED BY THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE BELAGAVI AND CONVICT THE RESPONDENTS/ACCUSED 1 TO 5 FOR THE OFFENCES PUNISHABLE UNDER SECTION 143, 147, 498A, 306, 304(B) R/W SECTION 149 OF IPC AND SECTION 4 OF DP ACT & ETC.,

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR
AND
THE HON'BLE MR. JUSTICE T. G. SHIVASHANKARE GOWDA



ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR)

The trial in SC.No.60/2015 on the file of VI Additional District and Sessions Judge, Belgavi, ended in acquittal of accused 1 to 5 for the offences punishable under Sections 143, 147, 498-A and 306 read with 149 IPC and Sections 3 and 4 of Dowry Prohibition Act. Hence this appeal by the State.

2. On 23.06.2014 a woman by name Pooja @ Gowri committed suicide by burning herself at Gundewadi village, Athani Taluk, Belagavi District. This incident being reported to the police resulted in investigation and charge sheet being filed. According to the prosecution Pooja @ Gowri was being harassed by the accused for dowry. Accused no.3 was also addicted to bad habits and it was found that he had contracted HIV-AIDS. This prompted her to commit suicide.

3. Assessing the evidence of 22 witnesses, the Trial Court arrived at an opinion that the evidence of main witnesses PWs.1, 11, 12 and PWs.18 to 20 would not establish harassment on Pooja for the sake of dowry and what actually



the evidence would disclose was that Pooja committed suicide coming to know that her husband had contracted AIDS.

4. We have heard the arguments of Sri T.Hanamareddy, Additional Government Advocate for State and Sri A.M.Gundawade for respondents 2 to 5. Appeal against accused no.1 was abated because of his death.

5. Re-appreciation of evidence leads us to draw these conclusions. The prosecution case itself is that Pooja committed suicide at 10.00 a.m., at 23.06.2014 by locking the bedroom from inside. In the charge sheet it is clearly stated that she had become disgusted in life coming to know that her husband was suffering from AIDS. This being the case it is not understandable as to how the investigating officer could still file charge sheet for the offences under Sections 498-A and 304-B IPC besides Sections 3 and 4 of the Dowry Prohibition Act. The Trial Court could have discharged the accused if it had applied its mind to the charge sheet materials.

6. The Trial Court had rightly held that there is no proof for the death of deceased on account of dowry harassment. It has also held that death does not appear to



have taken place within seven years of marriage. It was a clear case of suicide, is the finding of the Trial Court. Even suicide attracts the offence under Section 304-B IPC provided the suicidal death had taken place within seven years of marriage in the background of dowry harassment.

7. It is enough, if the evidence of main witnesses-PWs.1, 11, 12 and 18 to 20 is assessed. PW.1 is the father of Pooja. In the examination in chief he stated that the accused were demanding for Rs.1,00,000/- and 10 tolas of gold. For this sake, the accused were harassing his daughter. Coming to know about the death of his daughter he went to Gundewadi village and observed a ligature mark on the neck of the dead body. He suspected that his daughter might have been killed by the accused as their demand for dowry was not met with. But his answers in the cross examination discredit him. His answers disclose that the accused were financially better placed than him, and the fourth accused was working as a professor at Bengaluru. His son-in-law i.e., accused no.3 and his daughter used to visit his house very often and that he and his wife were also visiting son's-in-law house. He came to know that his son-in-law had contracted AIDS and therefore he advised his



daughter to go for medical checkup which disclosed she had not contracted AIDS. However, his daughter went into depression thinking of future, especially that of her two children. She had not taken food on the night previous to the date of incident. He has stated very clearly that his daughter burnt herself when none of the accused was present in the house and that accused no.3 himself, coming to know the incident, broke open the door of the room and shifted her to hospital. He clearly admitted that his daughter committed suicide because of the reason that her husband was suffering from AIDS. It is to be mentioned here that the public prosecutor sought permission to reexamine PW.1 for the reason that the latter did not support the prosecution in the cross examination. But the prayer for reexamination was rejected. The deposition sheet discloses that PW.1 was recalled on an application made under Section 311 of Cr.P.C., and subjected to reexamination where he again asserted that his daughter was killed by the accused. Therefore he was again cross examined by the defence counsel.

8. PW.11 is the mother of Pooja. Her evidence in examination in chief shows that the accused were harassing her daughter for the sake of dowry and for this reason her



daughter committed suicide. In the cross examination she denied all the suggestions that there was no demand for dowry and that her daughter was not at all harassed or ill treated by accused, however she too admitted that her son-in-law had contracted AIDS. PW.12 is the sister of PW.1. Her evidence is also that she observed ligature mark on the neck of Pooja's dead body and she was being harassed by the accused for dowry. She blamed the accused to be responsible for the death. Admitting the suggestion that accused no.3 had contracted AIDS, she refuted the suggestion that Pooja committed suicide becoming disgusted in life after her husband contracted AIDS. The evidence of PWs.18 to 20 has come in the same manner.

9. Now, if the evidence of all the witnesses is seen, it can be clearly inferred that in view of clear admission given by PW.1 in the cross examination that his daughter committed suicide having gone into depression because of her husband's HIV disease, the evidence of other witnesses supporting the prosecution case cannot be trusted. The Trial Court having rejected the public prosecutor's request for reexamining PW.1, should not have allowed such a lengthy reexamination once again after allowing the application under Section 311 of



Cr.P.C. Reexamination is not cross examination. This was the basic error committed by the learned judge who recorded the evidence. Even though PW.1 stated in the re-examination that whatever he first stated in examination-in-chief was correct, that answer cannot be believed at all. The truth once having come out cannot be suppressed. That means the other witnesses actually knew the real reason for suicide and in the Court they made an attempt to give a different colour. Very pertinently the answers given by PW.22, the investigating officer can be referred here. PW.22 admitted that Pooja knew about her husband's disease, that during investigation he came to know that the accused had advised her when she came to know about the disease of her husband, that she had quarreled with her husband and slept without taking food. These answers do indicate that Pooja committed suicide for this reason and not for the reason she was being harassed by the accused. In fact, the evidence discloses that there was no demand for dowry at all and jewelry that were given at the time of marriage were customary gifts.

10. It is not understandable on what basis the investigating officer thought of invoking the offences under



Sections 143 and 147 of IPC, when there are no ingredients for the same. Merely for the reason that accused were five in number, these sections could be invoked. Therefore we find that the Trial Court is justified in recording acquittal and therefore there are no grounds to interfere. Appeal is dismissed.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(T. G. SHIVASHANKARE GOWDA)
JUDGE**

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LIST NO.: 1 SL NO.: 63