

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CRIMINAL REVISION CASE No. 277 of 2008

ORDER:

This criminal revision case under sections 397 and 401 of the Code of Criminal Procedure, 1973 ('the CrPC' for short) is filed by the petitioner/first informant assailing the judgment dated 09.04.2007 of the learned Special Sessions Judge for trial of offences under SCs & STs(POA) Act at Karimnagar passed in SC.No.283 of 2006.

1. **(a)** By the said judgment impugned in this revision case, the learned Judge of the Trial court found the accused not guilty of the offences punishable under Section 4 of the Dowry Prohibition Act and Section 304-B of the IPC and acquitted the accused 1 to 3 (respondents 2 to 4 herein) under section 235 (1) of the CrPC. Therefore, the aggrieved brother of the deceased woman had preferred this revision case.

2. I have heard the submissions of the learned counsel for the petitioner and the learned counsel for the respondents 2 to 4/accused and the learned Additional Public Prosecutor appearing for the 1st respondent/State.

3. Now the points for determination are:

1. Whether the prosecution had successfully brought home, beyond all reasonable doubt, the guilt of the accused 1 to 3 for the offences punishable under section 304-B of the IPC and Section 4 of the Dowry Prohibition Act?

2. And, if so, whether the judgment impugned is liable to be set aside in the facts and circumstances stated by the petitioner and the accused 1 to 3 are liable to be convicted of the offences with which they are charged?

4. **POINTS:**

4. a) The case of the prosecution including the gravamen of the charge, in brief, is this: - 'PW1-Salvaji Surender, who is the brother of the deceased Latha @ Chandrakala lodged a report on 17.09.2005 at about 01:00 hours with the Station House Officer, Manakondur police station. In the said report, he had inter alia stated as under: 'The marriage of his deceased sister was performed with Kotte Manoj-A1 on 22.05.2005. At the time of marriage, Rs.2.5 lakhs and other household articles were given as dowry. But fifteen days after the marriage, A1, his mother Papamma-A3 and his father Nagabhushanam-A2, one Sunitha and her husband Madhukar had started harassing the deceased by making demand to bring additional dowry and also by saying that she was not pretty and good looking. PW1 and others requested them for some time to arrange the additional dowry. On 16.09.2005 at about 18:30 hours, a person said to be a friend of one Manoj informed PW1 over telephone that his sister was serious. On that PW1 and others went to the house of the accused and found her dead body hanging with a saree. The accused had killed her and hanged her dead body to make it appear that she had hanged herself.' Basing on the said report, PW15 had registered the subject crime and had submitted a requisition for inquest to be held on the dead body of the deceased. He had also got photographed the scene of offence and prepared the scene of offence observation report and seized the saree in the presence of PW12-P.Satayanarayana and PW10-Kotte Rajeswara Rao and apprehended the accused and produced them before PW16-the Sub-Divisional Police Officer, Karimanagar. On the requisition made by PW15, PW14-the Executive Magistrate-cum-MRO, Karimnagar had held inquest over the dead body of the deceased at the scene of offence in the presence of panchas PW8-Balasanthula Rama and LW12- P. Hanumantha Rao. PW15 had then got shifted the dead body to District headquarters hospital, Karimnagar for post mortem examination. PW3-Doctor A.Jaya kumar and LW17 Doctor E.Narendra Rao conducted autopsy over the dead body of the deceased. Further investigation was taken up by PW16. After conducting further investigation and after collecting the post mortem report, the FSL report etcetera, he had laid the charge sheet. On filing of the charge sheet, the case was taken on file by the learned Judicial

Magistrate of First Class, Karimnagar and was numbered as PRC.133 of 2005. Thereafter, after the formalities, the case was committed by a committal order dated 22.03.2006 to the Session division and the sessions case in SC.283 of 2006 was made over by the learned Sessions Judge to the Special Session Court/the trial court. Charges were framed under Section 4 of the Dowry Prohibition Act and Section 304-B of the IPC against the accused. During the course of trial, PWs1 to 16 were examined and exhibits P1 to P18 were marked. On merits, the trial court had found the accused not guilty of the offences with which they were charged and acquitted them.

4. (b) The learned counsel for the petitioner/informant had forcefully contended as follows: - "By adducing necessary and required standards of evidence the prosecution had successfully established all the essential ingredients of the penal provisions with which the accused were charged. The trial court ought to have accepted the evidence of PWs1, 5 and 6 which is cogent and consistent and ought to have drawn the presumption under section 113 of the Indian Evidence Act and ought to have held that the accused are liable to be convicted and ought to have convicted them. The trial court ought to have seen that the defects in the investigation and the illegalities or irregularities committed by the police during the course of investigation cannot be taken into consideration and such deficiencies in investigation shall not be the basis for acquittal of the accused more particularly when there is cogent and independent evidence on record showing the complicity of the accused. The trial court ought to have seen that the evidence of PWs1, 5 and 6 is well corroborated by medical evidence. The trial court ought to have seen that sufficient evidence was brought on record to show that the death of the deceased is a dowry death. However the trial court had erroneously acquitted the accused. The observations that PWs1 and 5 are relatives and are interested witnesses and their evidence cannot be accepted, are not correct and the trial court ought to have seen that in any case related to offences against married woman by the husband and his family members, the relatives will only be the natural witnesses and therefore, their evidence cannot be brushed aside on the ground that they are

relatives and interested and that the evidence of such witnesses who are natural witnesses shall be relied upon if their evidence is credible and trustworthy. The trial court committed grave error in giving importance to minor discrepancies in the evidence of the witnesses and erred in not considering the reliable evidence available on record.”

4. (c) On the other hand, the learned counsel for the A1 to A3 (the respondents 2 to 4) had contended that the trial court had carefully analyzed the evidence brought on record by the prosecution and had rightly held that the evidence adduced is not sufficient to base a conviction and that the prosecution had failed to adduce the required standard of evidence to bring home the guilt of the accused beyond reasonable doubt for the offences with which they were charged and that, therefore, the finding of acquittal recorded in favour of the accused is well founded and that before recording a finding of acquittal, the trial court had discussed the entire evidence on record and had assigned adequate reasons for acquitting the accused and that there are no compelling and substantial reasons to review and re-appreciate the evidence upon which the order of acquittal is founded and that the trial court had not ignored any part of the evidence and that in any view of the matter when two reasonable views can be reached – one that leads to acquittal, the other to conviction – this court must rule in favour of the accused. He had finally contended that none of the grounds urged in the revision are valid and that there is no merit in the revision and that the revision is liable to be dismissed.

5. I have given earnest consideration to the facts and the submissions. I have carefully perused the entire oral and documentary evidence on record.

6. (a) In this case, there is no dispute about the relationship. A1 is the husband of the deceased woman by name Latha @ Chandrakala. It is also not in dispute that the marriage of A1 with the deceased woman was performed on 22.05.2005. The death of the deceased had occurred on 16.09.2005 i.e., less than four months after her marriage with A1. Now it is

necessary to refer to the evidence brought on record to find out as to whether prosecution could successfully bring home the guilt of the accused for the offences with which they are charged. Before proceeding further, it is necessary to refer to the ingredients of one of the penal provisions i.e., Section 304-B of the IPC which reads as under:

'304B. Dowry Death: - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

It is also necessary to refer to Section 113 A and B of the Indian Evidence Act which deal with presumptions as to abetment of suicide by a married woman and dowry death.

113A. Presumption as to abetment of suicide by a married woman. —When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.—For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).

113B. Presumption as to dowry death.—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. Explanation.—For the purposes of this section, "dowry death" shall have the same meaning as in section 304B, of the Indian Penal Code, (45 of 1860).

6. (b) The first question to be considered is – 'whether the deceased had committed suicide or whether she was murdered and afterwards her dead body was made to hang with the help of a saree fixed to the ceiling to make it appear that she had committed suicide as was stated by PW1 in his report to the police'. **PW1**, the brother of the deceased woman on whose report under exhibit P1 the subject crime was registered and the criminal law was set into motion, had testified as under: 'At the time of

marriage, Rs.2.50 lakhs was given as dowry to A1 and A2. After the marriage the deceased went to the house of A1. For fifteen days the deceased and the accused had cordial relationship and afterwards problems had started. A1 to A3, Kotte Madhukar and Kotte Sunitha were all living jointly. The deceased returned to the house of her parents 15 days after the marriage. Two years earlier to the marriage of the deceased, the father of the deceased and the PW1 had died in harness. By the date of his death, he was working as an employee of the RTC. PW1 and his family members received money. The deceased having come to the house of PW1 had told them that all the five family members were questioning her to get money from the amounts received by the family of PW1. She had further told PW1 and others that the accused were harassing her by saying that she was the elder member of the family and that therefore, she should know where the amount was kept. She had further told PW1 and others that the accused stated that the health of A2 was not good and that they want to dig a well in the field and that, therefore, they required Rs.1 lakh and that she can live happily only if the amount of Rs.1 lakh was brought or otherwise she cannot lead a happy life. Then PW1 had requested Aitha Mallayya, Aitha Agayya and Salvaji Kishta Rao/PW6 to inform the accused that PW1 cannot arrange money immediately and that money as agreed was already paid and that further amount can be adjusted only after Deepawali. On the advice of the elders and on the promise that the deceased would be looked after well, the deceased was taken back by the accused to their house. In the Ashadamasam i.e., in July 2005 the deceased came to the house of PW1 and told PW1 that the accused are blaming her that she was not good looking and that they were not providing food and are ill treating her as she did not get money. She had also shown PW1 the marks of injuries on her body. The deceased stayed with PW1 and others in his house for one month and the accused had again taken her to their house. After fifteen days, on one day at about 06:00 PM., he had received telephonic message that the condition of his sister was serious. Then he and his uncle Krishna Rao went to the house of the accused. Due to Ganesh immersion they had reached the house by 07:30 PM and found that the body of his sister was hanging to the beam with a saree tied to her body. Immediately, on the

same night PW1 went to the police station and lodged exhibit P1 report at 01:00 AM [mid night]. His sister died only because of dowry harassment by A1 to A3.' In the cross examination of PW1, the following points were elicited. 'He is studying Master of Sciences (1st year). The marriage of the deceased with the A1 is an arranged marriage. The marriage negotiations took place for about three or four months. An engagement ceremony was performed. There are no written documents for the dowry given. The deceased along with A1 and relatives came to the house of PW1, two days after the marriage. At that time, A1 had only said that less gold was given but he did not raise any dispute. The deceased stayed in the house of PW1 for one week when she came after fifteen days after the marriage. A1 did not come to the house of PW1 during the 15 days stay of the deceased at the house of PW1. PW1 did not give any complaint at that time but had only sent the elders. He did not inform the police the names of the elders who were sent for convincing the accused. One week thereafter, elders went and met A1. A1 came and took the deceased with him. In the month of July the deceased alone came to the house of PW1.' When it was suggested to him that he did not state to the police that his sister has shown him the injuries on her body caused by the accused, he had denied the said suggestion as 'not true'. He had further testified in the cross examination as follows: 'I have not given any complaint to the police. I did not send any elders at that time. The deceased is our second elder sister. A1 married the deceased after seeing her before the marriage. During the period of one month of Ashadamasam, A1 did not come to our house. The distance between the house of the accused and the police station is one kilometer. By the time I went to the house of the accused, some police constable of Manakondur police Station was present. The dead body was shifted to Government Hospital by morning 4'0 clock. We informed about the harassment to the constable who was present at the house by the time we reached the house of the accused. His name is Parasuramulu. I can identify him. He did not record any statement. I, PW6-Krishna Rao, LW12 P.Hanumantha Rao went to the police station. Immediately after giving the complaint, police enquired with me. The DSP called me and made enquiries. After I gave the report the head constable

noted the details stated by me and recorded the statements. It is true that I filed another complaint before the police stating that the accused asked for additional dowry of Rs.50,000/- and on that complaint, a case in Cr.no.155 of 2006 was registered.' In the cross examination of this witness, the following suggestions were denied as 'not true': 'I have not stated to police that we received money on account of our father's death. I have not stated to the police that accused asked my elder sister to bring money or that the accused had stated that because she being the eldest she must know where the money was kept. I have not stated to the police that accused asked for money for digging the well and also to eke out his livelihood. I have not stated to the police that I have informed accused that the amount will be adjusted after Deepavali festival. I have not stated to the police that food was not provided to my sister.' He had also denied the following suggestions: 'It is not true to say that we had broke open the almyrahs and took away gold ornaments. It is not true to say that we damaged the articles of the house and tried to set fire. It is not true to say that A1 developed white patches disease after marriage. It is not true to say that my sister refused to live with A1 because he developed leprosy. It is not true to say that though my sister was not willing we had forcibly sent her to A1 for leading marital life and for that reason she had committed suicide. It is not true to say that as my sister had committed suicide we had filed this false case. It is not true to say that the accused never demanded additional dowry and had never humiliated the deceased and harassed her. It is not true to say that to get money and to put pressure on accused this false case is foisted.'

6. (c) PW2, a person who belonged to the same village of the deceased and PW1, did not support the case of the prosecution. According to the case of the prosecution, the deceased used to go to her and complain that the accused were demanding additional dowry of Rs.1 lakh and harassed her.

6. (d) PW3 a resident of the village of the accused also did not support the case of the prosecution. According to the version of the prosecution, the deceased used to tell PW3 that the accused were harassing

her for additional dowry.

6. (e) **PW4** is another villager of the same village of the accused. She also did not support the case of the prosecution. According to the version of the prosecution, the deceased used to tell her that the accused used to harass her for additional dowry of Rs.1 lakh.

6. (f) **PW5** is the mother of the deceased and PW1. She testified as under: 'After marriage, my daughter went to the house of the accused and lived happily for 15 days. Thereafter she had returned to our house and told me that the accused were asking for additional dowry of Rs.1 lakh and that A1 told her that A2 was not well and that they have to dig a well in the field and that, therefore, they require Rs.1 lakh and that if she does not bring the amount, it will be not good. Then I pacified my daughter and sent elders to question the accused. A1 stated that he will look after my daughter well and will not ask for additional dowry and harass her. Then I had sent my daughter with A1. After I sent my daughter to the house of the accused, she came to our house in Ashadamasam and stayed for one month. She told me that A1 was harassing her asking her for additional dowry saying that he was getting more offers up to Rs.3 lakhs and that he would do something if she did not bring money. I again pacified her and sent her to the house of the accused. 15 days thereafter, the incident had occurred. Some persons of the village informed me that my daughter was serious. LW2 and PW6 were sent to the house of A1 and I followed them. I saw my daughter hanging to a beam in the house with a saree. My daughter had committed suicide because she was not able to bear the dowry harassment meted out to her by the accused.' In her cross examination, the following points were elicited. 'Marriage discussions took place for 15 days prior to the marriage. There was no prior relationship with the accused. Lagna patrika was written but the details of articles and money to be given were not noted. Three days after the marriage, A1 and my daughter came with their relatives and a boy; and, they all stayed for some time having come for a function and they had left on the same day. My daughter has not complained about the harassment when she came after three days. During the first 15 days after the marriage, none of our

family members went to the house of the accused. After first 15 days, my daughter was dropped at my house by A1. I did not invite them. I did not inform the police that A1 dropped my daughter at the house 15 days after the marriage. I along with the elders went to the house of the accused when my daughter had complained about the harassment. The names of elders are Tumu Rajaiah, Balasanthula Rajaiah, PW1 and Kistaiah. No panchayat was held there. Only A1 was questioned. A1 promised not to beat and harass the deceased. Four days after dropping her, A1 took her back to his house saying that his father/A2 had undergone an operation and there is nobody to prepare food. One week thereafter, A1 beat the deceased and dropped her at our house. Thereafter, till the completion of Ashadamasam month, the accused did not take my daughter to their house. A1 did not come to our house when my daughter stayed in our house. Two days after the Ashadamasam A1 came and took away the deceased. On receiving information, on the date of the death of my daughter, we reached the house of the accused at 08:00 PM and about 10 to 12 persons of our village went to see my daughter. It is true A2 filed a case against me, PW1 and others stating that we have taken away the articles by breaking open the almyrah and also damaged the articles. In the night at about 01:00 AM my daughter was shifted to Government hospital. When we reached the house of the accused, no police person was present there. I never went to the police station and police never came to me and enquired with me. A1 was hale and healthy at the time of marriage. In her cross examination, she had denied the following suggestions. 'It is not true to say that we attempted to set fire to the articles in the house of the accused and the neighbors came and requested us not to set fire to the house. It is not true to say that the deceased told me that A1 developed leprosy and that, therefore, she does not want to live with him; but; we sent her to A1 forcibly and that, therefore, she had committed suicide; but, now we have filed this case and are giving false evidence.' She had denied the following suggestions: "It is not true to say that no dowry was paid and the accused never made any demand for additional dowry. It is not true to say that the elders were not sent and no questioning of A1 was done. It is not true to say that we demanded Rs.1,75,000/-."

6. (g) **PW6** is the senior paternal uncle of the deceased. He testified as under: 'PW1 is my brother's son. PW5 is my brother's wife. My brother died. The marriage of the deceased with A1 was performed one year two months back. At the time of marriage, Rs.2,50,000/- was given as dowry. After the marriage, deceased was sent to the house of the accused. Deceased came to the house of PW1 in the month of Ashadam. She told him (PW1) that the accused were harassing her. He advised her to wait for some days and told her that they will convince the accused. Before we approached the accused, on one day evening we came to know that the deceased was not well. We went and saw; and we had noticed that the deceased died by hanging. I do not know why she had committed suicide.' In the cross examination, the following points were elicited: 'My brother has no properties. It is not true to say that Rs.2,50,000/- was not given as dowry. It is not true to say that deceased has not stated to me that the accused were harassing her. I and PW1 went to the house of accused at about 06:00 PM. By the time we reached the house of the accused, two police constables were present; no other persons were present. We have stated the details to the constable; and the constable noted the details. Afterwards, nobody asked me about the incident. It is not true to say that I am falsely stating that the deceased was harassed for additional dowry as she had committed suicide. It is not true to say that because the deceased was my brother's daughter, I am giving false evidence. It is not true to say that deceased told me that A1 got leprosy and she did not want to live with him, but we had insisted that she should go to A1 and that, therefore, she had committed suicide.'

6. (h) **PW7** did not support the case of the prosecution. According to the prosecution, he is aware of the fact that the accused harassed the deceased for Rs.1 lakh additional dowry.

6. (i) **PW8** is also a relative of the deceased and PW1; and he was said to have acted as an inquest panch witness. He did not support the case of the prosecution. However, he had admitted his signature on exhibit P6.

6. (j) **PW9** is the photographer who had taken photographs at the house of A1. In his evidence four photographs with negatives in a bunch were marked as exhibit P7.

6. (k) **PW10** is an agriculturist of Manakondur. He did not support the case of the prosecution. According to the prosecution version, he acted as a panch witness at the time of the observation of the scene of offence and the seizure of the saree. However, he had admitted his signatures on exhibits P8, the crime detail form, and P9, the rough sketch of scene of offence.

6. (l) **PW11** who is an Assistant Manager, APSRTC, Karimnagar and who was said to have acted as another inquest panch witness at the time of inquest held on the dead body of the deceased had deposed about the inquest held by the MRO and the preparation of exhibit P10 inquest panchnama on 17.09.2005 at 07:00 AM. In his cross examination he could not state as to who had scribed exhibit P10. In his evidence it was also elicited that on 16.09.2005 night at about 10:30 i.e., by the time they went to the house of the accused, the police constables were already present there.

6. (m) **PW12** who is said to have acted as a panch witness at the time of the observation of scene of offence had not supported the case of the prosecution. However, he had admitted his signatures on exhibits P11 and P12 panchanamas.

6. (n) **PW13** is the Civil Surgeon of District Head Quarters hospital, Karimnagar who had conducted autopsy on the dead body of the deceased. He had testified that during the course of the examination he had found the following injuries on the body of the deceased. '(i) U shaped hang mark extending from the right side of the hair line across the neck anteriorly above the thyroid cartilage extending up to the mastoid process of left side - width about half inch. Edges are haemorrhagic and parched on cut section. Small haematoma found in the musculatry. Hyoid in tact. Ante mortem in

nature. Pharyngeal neck bone intact. Hyoid skin plough of over the neck are preserved and sent it to the RFSL, Warangal.' He opined that the cause of death is 'asphyxia due to hanging'. Exhibit P13 is the post mortem report and exhibit P14 is the final report.

6. (o) PW14 is the MRO of Manakondur at the relevant time. According to his evidence, at request of the police he had conducted the inquest on the dead body of the deceased on 17.09.2005 in the house of the accused and prepared exhibit P15 inquest report in the presence of the witnesses including PW11. When it was suggested to him that the dead body was shifted to the hospital on mid night of 16th and there was nobody at the house of the accused when he visited the said house and that he had prepared a false panchanama to help the police, he had denied the said suggestion as 'not true'.

6. (p) PW15 is the head constable of police who had received exhibit P1 report from PW1 and registered the subject crime and had issued exhibit P16-FIR. According to his version he gave a requisition to the MRO to conduct inquest over the dead body of the deceased and that MRO had conducted the inquest and that he had secured the presence of the witnesses PW12 and 10 and had prepared crime detail form and also sketch map of the scene and seized the saree-MO1. In his evidence, he had referred to exhibit P17 crime detail form and exhibit P18 rough sketch of scene of offence. According to him the further investigation was taken over by his superior officer and that he had apprehended A1 to A3 at their house on 07.10.2005 and produced before SDPO, Karimnagar. In his evidence the following points were elicited. 'The house of the accused is in the centre of Manakondur village. It is true that police bandobast was present in the village center because of Ganesh Nimajjanam. It is true that in exhibit P1 the date was corrected from 16th to 17th. In the second para also it was noted and corrected from 'neti roju' to 'ninnati roju'. I did not mention the date and time in the crime detail form. I have not recorded the statement of PW1. I do not have any record to show that I gave requisition to MRO for conducting

inquest. I do not know whether PW1 along with his relatives tried to set fire and destroy the property of the accused and his house. At the time of inquest I came there and went away.' In his cross examination, he had denied the following suggestions: 'It is not true to say that police have information on the evening of 16th. It is not correct to say that dead body was shifted to Karimnagar on that night itself. It is not true to say that police were informed on 16th evening and that suppressing that information, a false case was filed by obtaining a fresh complaint. It is not true to say that inquest report was subsequently created and that PW1 had not complained about any dowry harassment and that the accused was falsely implicated.'

6. (q) PW16 is the Investigating Officer who had conducted further investigation and laid the charge sheet. He testified that on production of the apprehended accused before him he had arrested them and sent them for remand. He deposed in his cross examination as follows: - 'I do not know whether the date of offence was Vinayak Immersion day. On Vinayak immersion half of the town will be immersing Ganesh idols in Manakondur tank. On that day police bandobasth arrangements were made at tank bund of Manakondur. The house of accused is about one kilo meter from the police station. I do not remember whether by 06:00 PM on the date of offence police had reached the house of the accused. I do not remember whether the dead body was shifted to the Government Hospital, Karimnagar on the intervening midnight of 16/17.09.2005. It is true when the deceased had committed suicide, the accused were not in the house. It is true that one Sunitha cried stating that the deceased was not opening the door and not answering and that on that the door was broken open forcibly by Hamid (PW7). It is true that the 5th accused named in the FIR was on bandobast duty from 15.09.2005 to 18.09.2005 in Hyderabad. As the allegations against A4 and A5 were found to be incorrect, their names were dropped from the charge sheet. PW1 had not stated to me that he sent elders namely Aitha Mallaiah, Aitha Agayya and Salvaji Kista Rao to the accused for mediation. PW1 did not state to me that the deceased had shown injuries caused by the accused during Ashadamasam. It is true that PW1 had not stated to me that

the accused demanded the deceased to get money on account of death of her father. PW1 had not stated that the accused stated to the deceased that she being the elder daughter must know where the money was kept. It is true PW1 had not stated to me that the accused asked money for digging the well. It is true that PW1 had not stated to me that they promised to give money during the Deepavali. It is true that PW1 has not stated to me that the deceased informed him that the accused were not providing food to her.' He had denied the following suggestions. 'It is not true that the inquest was fabricated as the dead body was shifted to the hospital. It is not true to say that the case was registered as an after thought. It is not true to say that the PWs3, 4, 7 and 8 have not stated to me as in exhibits P2 to P4. It is not true to say that I am giving false evidence and that I have filed false case.'

7. (a) I have thus carefully gone through the evidence. Now this evidence has to be carefully scrutinized in view of the fact that the trial court had recorded a finding of acquittal and the same is under challenge before this court. Even as per the case of the prosecution and the evidence brought on record, the deceased had committed suicide and the cause of her death was suicide. The evidence of PW13, the Doctor who had conducted post mortem examination on the dead body of the deceased confirms the cause of death is 'asphyxia due to hanging'. Exhibit P13 is the post mortem report and exhibit P14 is the final report in regard to the cause of death. Therefore the version of PW1 that the deceased was murdered by the accused and that afterwards her dead body was made to hang with the help of a saree fixed to the beam of the ceiling to make it appear that she had committed suicide is far from truth.

7. (b) The next question is as to whether the evidence brought on record is sufficient to hold that prosecution proved, beyond all reasonable doubt, the guilt of the accused for the offences with which they were charged. The incident of hanging took place at about 16:30 hours on 16.09.2005. At that time, A1 to A3 were not present in the house. It is borne out by evidence that the deceased had bolted the doors from inside before committing suicide and that the doors of the house could not be opened from out side and that

therefore, only after PW7 had broken open the door of the house it became possible to enter into the house and that after entering into the house it was noticed by the persons present including PW7 that the body of the deceased was hanging from the fan fixed to the ceiling. Therefore, the said circumstances are suggestive of the fact that the theory of PW1 that the accused had committed murder and had later hanged the dead body of the deceased from the ceiling with the help of a saree is unbelievable and is far from truth as the doors of the house were found to have been bolted from inside and that none else except the deceased's dead body was found in the house after a forceful entry was made into the house by breaking open the doors of the house. In spite of the said facts and circumstances PW1 had made a statement in his report contrary to the true facts to implicate the accused in a case of murder. As already noted, in the present case, the death of the deceased had occurred under circumstances which are other than normal circumstances. It is also not in dispute that her unnatural death had occurred within four months of her marriage with the A1. In exhibit P1 report, PW1 had stated that since 15 days after the marriage the accused had started demanding for additional dowry and had harassed the deceased for not getting additional dowry; and he had stated that the deceased had informed him that the accused had stated to her that she is not good looking and that despite the harassment meted out to her, she was putting up with the harassment and lead family life and that for the inability to give additional dowry, PW1 and others had pleaded with the accused and that the accused did not listen to the requests of PW1 and others and had demanded that the additional dowry as demanded should be given if PW1 and others want the deceased to live happily with the accused; and thus, harassed the deceased both mentally and physically. Coming to the evidence of PW1 given before the Court, his said evidence is completely an improvised version from his earlier version. In his evidence, he had stated that during one of her visits to his house, his deceased sister had shown injuries on her body to him which were said to have been caused by A1. In the year 2006, as per the admission of PW1, a criminal case in Crime No.55 of 2006 was registered against the accused on the ground that they had demanded additional dowry

of Rs.50,000/-. Both PWs1 and 5 who are the brother and mother of the deceased stated that the deceased was harassed for additional dowry of Rs.1 lakh. Even according to the case of the prosecution and the evidence of PWs1 and 5, A1 had brought PW1 and dropped her at the house of PW1 and later did not take her back and therefore, PW1 had sent mediators. No mediator except PW6 was examined and PW6 did not support the case of the prosecution on the aspect of mediation despite the fact that he is no other than the senior paternal uncle of the PW1 and the deceased. In the cross examination of PW16, the investigating officer the improvements made in the evidence of PW1 i.e., the material omissions were brought on record. The same are as follows: -

‘PW1 did not state to me that he had sent elders namely Aitha Mallaiah, Aitha Agayya and Salvaji Kista Rao to the accused for effecting mediation. PW1 did not state to me that the deceased had shown injuries caused by the accused during Ashadamasam. It is true that PW1 had not stated to me that the accused demanded the deceased to get money on account of death of her father. PW1 had not stated that the accused stated to the deceased that she being the elder daughter should know where the money was kept. It is true PW1 had not stated to me that the accused asked money for digging the well. It is true that PW1 had not stated to me that they promised to give money during the Deepavali. It is true that PW1 has not stated to me that the deceased informed him that the accused were not providing food to her.’

The evidence of PW1 shows that A1 took the deceased to his house saying that he will look after her well but according to the investigation, even in the meeting before the elders, A1 insisted for payment of additional dowry. Therefore, from the evidence it appears that because the deceased died in the house of A1 by committing suicide, PW1 who is her brother and who is aggrieved had given a report by going to the extent of saying that the accused murdered his sister and projected a scene to make people to believe that the deceased had hanged herself to death. On the same day evening PW1 received information that his sister was serious and had reached the house of the accused. PW1 had stated in his cross examination that by the time he went to the house of the accused a police constable was already present

there and he had taken the details. So this admission lays bare the fact that police had already information about the death of the deceased under suspicious circumstances immediately after the incident. PW6 who is the senior paternal uncle of the deceased had also stated in his cross examination that by the time he and PW1 went to the house of the accused at about 06:00 PM two police constables were present and no other persons were present. PW9, the photographer had stated that he had taken photographs between 6.00 PM to 7.00 PM and at that time the head constable was present. So at any rate police were present at the scene of offence on 16.09.2005 by 07:30 PM though no report was given till mid night i.e., 01:00 AM i.e., early morning hours on 17.09.2005. In fact exhibit P1 report shows that it was originally dated 16.09.2005 and the date was corrected as 17th and the words 'neti roju' referring to today were corrected as 'ninnati roju' (yesterday) in the said report. Therefore, it appears that police had the first information about the suspicious death of the deceased even before PW1 reached the scene of offence. In fact, it is admitted by PW1 and PW6 that police constables were present at the scene even by the time they both had reached there. However, a report under exhibit P1 was said to have been lodged by the PW1 on 17.09.2005 and on the basis of the said report, which is not the first information, the subject crime was registered. Therefore, exhibit P1 was hit by section 162 of the CrPC. Even in the inquest report-exhibit P15 the time of commission of suicide was corrected from 04:00 PM to 05:00 PM. The inquest was allegedly held on 17.09.2005; and the inquest report was received in the Court by 03.45 PM on the same day. It is in the evidence of the MRO-PW14 that inquest was held in the house of the accused where the incident had taken place. But, PW1 had clearly stated that the dead body was taken to the hospital even by 04.00AM. Further, PW15-the Head Constable had stated that the requisition for holding inquest was filed by him before the MRO at 6.00AM. The said requisition is not exhibited. PW15 who had prepared the crime detail form did not mention the time in it. PW16-the Investigating officer had conveniently stated in his cross examination that he does not remember whether by 06:00 PM on the date of offence police had reached the house of the accused and that he does not

also remember whether the dead body was shifted to the Government Hospital, Karimnagar on the intervening midnight of 16/17.09.2005. Therefore, the version of the prosecution that inquest was held at the house of the accused cannot be accepted to be true. Therefore, the evidence brought on record raises reasonable doubt as to the truthfulness of the prosecution case. Most importantly the defence of the accused is that the A1 had developed white patches and that he is suffering from leprosy and that, therefore, the deceased had deserted him but, her family members forced her to re-join A1 and that in the said circumstances she had committed suicide. In the examination under Section 313 of the CrPC the accused no.1 had stated to the following effect: "The deceased deserted him and went away 10 days after the marriage. He is suffering from leprosy. She had demanded divorce from him. After two days, the mother and brother of the deceased had raised a dispute. After two days thereafter, her mother and brother-in-law brought the deceased to his house. She had died by the next day." Therefore, the reason for the deceased committing suicide is the serious ill-health of A1 is more probable and hence, the contrary version sought to be established that the deceased had committed suicide on account of demands for additional dowry or due to ill-treatment meted out to her cannot be accepted as true.

7. (c) There is no dispute with the following propositions of law in the decisions in **Rotash v. State of Rajasthan**^[1] and **State of MP v. Mansingh**^[2] to the effect that the FIR need not be an encyclopedia of the entire case and that the prosecution does not per se become vulnerable merely because there is manipulation of the time of the lodging of the first information and that in such circumstances the evidence on record requires much more careful analysis. In this case on hand, on a careful analysis it is found that the evidence brought on record is not sufficient to base a conviction more particularly in the light of the defence of the accused, which is probable. Further, in the instant case there is no glaring legal defect of serious nature which has resulted in grave failure of justice to exercise the

power of revision and remit the matter to the Court below.

7. (d) Viewed thus, this Court finds that the prosecution could not succeed in bringing home, beyond all reasonable doubt, the guilt of the accused 1 to 3 for the offences punishable under section 304-B of the IPC and Section 4 of the Dowry Prohibition Act. On a careful examination of the facts, the evidence and the circumstances of the case and on perusing the judgment impugned, this Court further finds that the Court below had rightly held that the prosecution had failed to prove the guilt of the accused as required under law for the offences with which they were charged. Therefore, this court finds no material irregularity or illegality in the judgment of the court below calling for interference. The law is well settled that when two views are possible and when the view taken by the court below is consistent with the evidence on record and is probable and plausible, this court shall not substitute its own view because another view is possible. As a sequel it must be held that the revision is devoid of merit and is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed.

Miscellaneous petitions pending, if any, in this CrIRC shall also stand dismissed.

M.SEETHARAMA MURTI, J

19th January 2015
Vjl

[\[1\]](#) (2007) 2 SCC (Cri) 382

[\[2\]](#) (2007) 2 SCC (Cri) 390