

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No. 699 OF 2008

ORDER:

This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner/Accused No.1 challenging the judgment dated 14.12.2007, passed by the

III Additional District & Sessions Judge (Fast Track Court), Medak in Criminal Appeal No.136 of 2006, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 304-B of the Indian Penal Code, 1860 (for short, 'IPC') vide the judgment dated 15.11.2006 in S.C.No.95 of 2006 by the Assistant Sessions Judge, Medak, was confirmed.

2. The revision petitioner herein is accused No.1, whereas the respondent is the complainant in S.C.No.95 of 2006 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the S.C. before the trial Court.

3. The case of the prosecution in brief is that on 05.11.2005 at 6.00 a.m., PW1 came to the police station and submitted a complaint in Telugu stating that he performed the marriage of his elder daughter Sujatha (hereinafter referred to as 'the deceased') with A.1 as per rites and customs. At the time of marriage, PW1 gave cash of Rs.20,000/-, 4 tulas of gold and other utensils as dowry. The deceased and A.1 lived happily for six months. Thereafter, A.1 and his family members started harassment and demanded the deceased to bring an additional dowry. After one year of the marriage, the deceased blessed with a female child by name Pujitha. On 12.10.2005, the deceased and A.1 came to the house of PW1 for celebration of Dasara festival and A.1 demanded additional dowry of

Rs.50,000/- to purchase an auto. Upon which, PW1 expressed his inability but promised that he would arrange some amount by the time of Diwali. On 04.11.2005 evening, PW1 got information from his relatives that his daughter was died by hanging. Then, PW1 and his family members rushed there and saw that his daughter was found dead lying in front of her room in the house of the accused. PW1 also stated in the complaint that A.1 and his brothers harassed the deceased and hanged her to death. Basing on the complaint, PW8 registered the same as a case in Crime No.63 of 2005 for the offence punishable under Section 304-B IPC. During the course of investigation, the Investigating Officer visited the scene of offence, prepared the scene of offence panchanama in the presence of PW6 and one Patlori Mogulaiah and seized the incriminating articles. PW7 conducted inquest over the dead body of the deceased in the presence of PW6, Patlori Mogulaiah and one Wadde Anjamma and sent the dead body for post-mortem examination. PW8 examined and recorded the statements of material witnesses and handed over the C.D. file to PW10, who in turn visited the scene of offence and verified the investigation done by PW8. On 11.11.2005 at 9.00 a.m., PW8 apprehended A.1 to A.5 and sent them to judicial custody. After completion of investigation, PW10 filed the Charge sheet into the Court against A.1 to A.5 for the offence punishable under Section 304-B r/w 34 IPC.

4. The learned Judicial Magistrate of First Class, Jogipet registered the same as P.R.C. No.1 of 2006 and committed the case to the Sessions Division vide order dated 01.03.2006. The learned Sessions Judge registered the case as S.C.No.95 of 2006 and made over to the Assistant Sessions Judge, Medak. The learned Assistant Sessions Judge framed the charge against A.1 to A.5 for the offence punishable under Section 304-B IPC. During trial, on behalf of the prosecution, PWs.1 to 10 were examined and Exs.P.1 to P.8 and

MOs 1 and 2 were got marked.

5. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C putting the incriminatory material deposed against them. The accused denied the same and reported no oral or documentary evidence on their behalf.

6. After perusing the oral and documentary evidence, the trial Court held that the prosecution proved that the deceased was subjected to cruelty by A.1 before her death and her death was not under normal circumstances, but the prosecution failed to prove that A.2 to A.5 also joined A.1 in harassing the deceased. Therefore, the trial Court convicted A.1 for the offence punishable under Section 304-B IPC and sentenced him to undergo Rigorous Imprisonment for 7 years, while acquitting A.2 to A.5 for the said charge.

7. Aggrieved by the conviction and sentence passed by the trial Court, accused No.1 preferred Criminal Appeal No.136 of 2006 before the III Additional District & Sessions Judge (Fast Track Court), Medak, where the appellate Court after considering the oral and documentary evidence and after hearing both sides, dismissed the appeal by confirming the conviction and sentence passed by the trial Court.

8. Being aggrieved by the concurrent finding of both the Courts below, passed in Criminal Appeal No.136 of 2006 and S.C.No.95 of 2006, accused No.1 preferred the present revision case.

9. The learned counsel appearing for the revision petitioner/accused No.1 argued that the ingredients of Section 304-B IPC is not at all attracted to the present facts of the case; that both the Courts failed to appreciate the evidence in proper perspective and convicted A.1 on presumptions and assumptions; that no independent witness was examined to corroborate the evidence of prosecution;

that the evidence of PWs 1 to 6 suffers material contradictions and omissions, and prayed the Court to allow the revision by setting aside the judgment dated 14.12.2007 passed in Criminal Appeal No.136 of 2006.

10. On the other hand, the learned Public Prosecutor argued that the evidence on record clearly established that prior to the death of the deceased, A.1 harassed her and demanded Rs.50,000/- to purchase an auto; that at the time of marriage, PW1 gave Rs.20,000/- cash, other gold articles and utensils; that A.1 and the deceased lived happily for six months and thereafter, A.1 started harassing her for additional amount; that when the deceased and A.1 came to the house of PW1 for Dasara festival, the deceased informed PW1 about the demand of A.1 for Rs.50,000/- to purchase an auto and on that PW1 promised to arrange the said amount at the time of Diwali festival, but in the meanwhile the deceased died by hanging in the house of accused, and this fact was supported by the evidence of PWs 1 to 3; that prior to the death of the deceased, a panchayat was held between the parties; that the evidence of prosecution witnesses is consistent and cogent; that the findings of both the Courts need no interference, and finally prayed the Court to dismiss the revision case.

11. Now, the point for determination is -

Whether the revision petitioner/A.1 is entitled to set aside the concurrent findings given by the trial Court as well as the appellate Court for the offence punishable under Section 304-B IPC?

12. **Point:**

PW1 is the *de facto* complainant and father of the deceased. In his evidence, PW1 stated that he performed the marriage of his daughter with A.1 and at the time of marriage, he gave Rs.20,000/- cash, 4 tulas of gold and other utensils as dowry. PW1 further stated that A.1 and the deceased lived happily for six months and thereafter,

A.1 demanded additional dowry, as such a panchayat was held and the panchayatdars convinced the deceased and sent the deceased to her in-laws' house. PW1 further stated that the deceased gave a birth to a female child by name Pujitha. PW1 further stated that during Dasara festival, A.1 again demanded Rs.50,000/- from PW1 to purchase an auto, but PW1 promised to pay the same after Diwali festival. PW1 further stated that he came to know that the deceased committed suicide in the house of accused by hanging and immediately they went to the house of A.1 and found the dead body of the deceased. PW1 further stated that he suspected that all the accused killed his daughter and hanged her to a wooden rafter, therefore he gave a complaint to the police under Ex.P.1.

13. PW2 is the wife and PW3 is the sister of PW1. They corroborated the evidence of PW1 in all aspects.

14. After knowing the death of the deceased, PW4 along with others went to the house of A.1 and found the dead body of the deceased lying on the floor in the verandah of A.1's house. But, on enquiry, PW4 came to know that the deceased was found hanging around 2.00 p.m.

15. PW5, who is the co-sister of the deceased, deposed that after she came to know that the deceased was found hanging, she visited the house of the accused and found that the deceased was hanging to the rafter by a saree. PW5 further deposed that she cut the saree with a knife and got the body down and found that the deceased was already died. PW5 further deposed that she did not find the accused in the house on the date of incident.

16. PW6 in his evidence supported the evidence of PWs 1 to 3 regarding the marriage of A.1 with the deceased and giving of Rs.20,000/- cash, 4 tulas of gold and other utensils by PW1 at the

time of marriage. PW6 further stated that the deceased informed him about the demand of dowry of Rs.50,000/- by A.1 to purchase an auto. PW6 further stated that he came to know that the accused killed the deceased and hanged her to a wooden rafter. PW6 also stated that all the inquestdars opined that the accused killed the deceased and hanged her to a wooden rafter.

17. PW7 is the Mandal Revenue Officer. He deposed that on 05.11.2005, he received requisition from the Sub-Inspector of Police and conducted inquest over the dead body of the deceased in the presence of inquestdars.

18. PW8 deposed that after receiving complaint from PW1, he registered the same as a case in Crime No.63 of 2005 for the offence punishable under Section 304-B IPC. PW8 further deposed that he visited the scene of offence, prepared scene of offence panchanama in the presence of mediators, seized MOs 1 and 2 and got photographed the scene of offence and the dead body. PW8 further deposed that M.R.O. conducted inquest over the dead body of the deceased and later, he handed over the C.D. file to PW10 for further investigation and sent the dead body of the deceased for post-mortem examination. PW8 also deposed that on 11.11.2005, he apprehended A.1 to A.5 and produced before PW10.

19. PW9 is the doctor who conducted post-mortem examination over the dead body of the deceased and opined that the cause of death was asphyxia due to throttling.

20. PW10 is the Investigating Officer who received the C.D. file from PW8. He deposed that after completion of investigation, he filed the Charge sheet into the Court.

21. A perusal of the evidence of PWs 1 to 6, it is evident that A.1 harassed the deceased during her lifetime and demanded Rs.50,000/-

to purchase an auto. Admittedly, the deceased died within seven years of her marriage and her death is an unnatural one. Further, when the deceased came to her parents' house, she informed PW1 about the demand made by A.1 to purchase an auto and PW1 promised to adjust the said amount after Diwali festival. Thus, it is clear that prior to the death of the deceased, she was subjected to harassment by A.1. Further, the evidence produced by the prosecution is consistent regarding the harassment meted out by the deceased in the hands of A.1. Thus, the prosecution is able to prove the ingredients of Section 304-B IPC against the revision petitioner/A.1. Therefore, the trial Court as well as the appellate Court rightly held that A.1 committed the offence punishable under Section 304-B IPC and thereby convicted and sentenced him to undergo Rigorous Imprisonment for seven years, and the concurrent findings of both the Courts below need no interference of this Court.

22. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 14.12.2007, passed in Criminal Appeal No.136 of 2006 on the file of the
III Additional District & Sessions Judge (Fast Track Court), Medak.

23. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

ANIS, J

Date: 23.03.2015

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