

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Crl.A.No.255 of 2015

Crl.A.(SR).No.2288 of 2009

JUDGMENT :

This appeal is filed challenging judgment dt.11.07.2008 in S.C.No.87 of 2008 on the file of V Additional Metropolitan Sessions Judge, (Mahila Court), Hyderabad acquitting respondents of having committing offences under Sections 498-A, 304-B and 306 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1989.

2. It is the case of prosecution that on 05.01.2007 at about 02:00 a.m. a statement of deceased, wife of 1st respondent, was recorded at Image Hospital, Hyderabad. She stated that she was married to 1st respondent/accused no.1 three years prior thereto and gave birth to a child; on 04.01.2007 at about 19:00 hrs when she was cooking on a kerosene stove, the flames erupted all of a sudden from the stove, ignited her saree and she suffered burn injuries; that upon her shouts, accused No.1 came to the spot, poured water and then shifted her to the hospital. Basing on the said statement a case in Cr.No.9 of 2007 was registered under the head 'woman burns'; and the statement of deceased was recorded by a Magistrate and the same was marked as Ex.P.2, wherein she reiterated the same facts.
3. According to prosecution, the investigation revealed that the accused had sold away the house at Boduppall which was purchased by parents of deceased and in regard thereto

quarrels took place between the couple on 02.01.2007 and 03.01.2007; that on 10.01.2007, the deceased succumbed to injuries; and on the basis of representation given by father of deceased PW.1, the provision of law was altered as 304-B IPC initially.

4. The matter was committed to Metropolitan Sessions Division, Hyderabad, which took the matter on file and made it over to V Additional Metropolitan Sessions Judge, (Mahila Court), Hyderabad.
5. Charges were then framed under Sections 498-A, 304-B and 306 IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1989.
6. The accused pleaded not guilty for the charges framed against them.
7. The court examined PWs.1 to 17 and marked Exs.P.1 to P.10 were marked on behalf of prosecution.
8. After concluding prosecution evidence, the accused were questioned about the incriminating circumstances against them but they denied them.
9. By judgment dt.11.07.2008, the court below acquitted the accused for the above charges.
10. Challenging the same, this appeal is filed.
11. It is pertinent to note that the incident in question occurred on 04.01.2007 at about 19:00 hrs. The version of deceased, as per Ex.P.5, given on that date was that when she went to cook and when she was lighting the kerosene stove, suddenly flames

arose from the stove; that her saree caught fire and she received burn injuries; and when she cried, accused No.1 came and put off the flames and shifted her to Image Hospital. This was reiterated by her in Ex.P.2-Dying declaration given by her before the Magistrate. Admittedly, the deceased succumbed to injuries on 10.01.2007. While the accused was a resident of Hyderabad, the other accused were residents of either Doralagudem, Nalgonda District or Yadagirigutta, and they did not reside with the deceased and accused No.1.

12. PW.1 stated that after the marriage of deceased with A.1, he went to the house of A.1 only once; that the deceased never wrote any letters to him; and that he did not know the affairs between deceased and A.1, and their family.
13. However, PWs.1 and 2, the parents of deceased, stated that a house was purchased in the name of deceased at Boduppall and that in connection with the said house, which was allegedly sold away by A.1 subsequently, disputes arose between A.1 and deceased. According to PW.1, the value of house was Rs.3 lakhs, but according to PW.2 it was Rs.6 lakhs and that out of Rs.6 lakhs only Rs.3.50 lakhs was given by them, and the rest was given by A.1. If the accused himself had contributed substantially for the purchase of house as admitted by PW.2, it cannot be said that in regard to the sale of the house there were disputes particularly when the accused was magnanimous enough to register the house in the name of deceased after its purchase. At least, this would not show that there was no demand for dowry by the accused from the family of deceased.
14. PWs.3 and 4, who were the brothers of deceased, admitted that

they did not visit the couple at Hyderabad. Their evidence is therefore not believable. PW.5, is the owner of house in which the deceased and PW.1 resided and he categorically stated that there were no disputes between the couple. None of the prosecution witnesses stated about the role of the other accused, apart from A.1 and admitted that they stayed separately from A.1 and deceased. Therefore, it is clear that A.2 to A.6 were falsely implicated by prosecution and *de facto* complainant. No incidents of any harassment prior to the incident relating to house have been mentioned by any of the prosecution witnesses. Therefore, it is highly doubtful whether there is any harassment regarding dowry at all. Having regard to the statements made by deceased in the report Ex.P.5 as well as in Ex.P.2 Dying declaration (wherein she did not state anything against all the accused) and the fact that she stated it was A.1 who put out the flames and took her to a Hospital, I am satisfied that the prosecution had failed to prove the guilt of the accused miserably.

15. In this view of the matter, I do not see any merit in the appeal and the same is accordingly dismissed.
16. Miscellaneous applications, pending if any in this Appeal, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09-03-2015

Ndr/*

