

THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

TUESDAY THIS THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIFTEEN

PRESENT

THE HON'BLE MRS JUSTICE ANIS

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CRIMINAL REVISION CASE No.266 of 2008

Between:

K.Srihari

..... PETITIONER

AND

Eguturu Chandra and another

.....RESPONDENTS

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The Court made the following:

HON'BLE MRS JUSTICE ANIS

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CRIMINAL REVISION CASE No.266 of 2008

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ORDER:

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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 herein challenging the judgment dated 13.02.2007, passed by the Sessions Judge, Nellore, in Criminal Appeal No.154 of 2005, whereunder and whereby the conviction and sentence passed against the 1st respondent/accused for the offence punishable under Section 306 of Indian Penal Code, vide the judgment dated 18.10.2005 in Sessions Case No.366 of 2004 by the Assistant Sessions Judge, Kavali, was set aside and acquitted the accused.

2. The revision petitioner herein is the *de facto* complainant in Sessions Case No.366 of 2004 before the trial Court. For the sake of convenience, the parties are hereinafter referred to as they were arrayed in the Sessions Case before the trial Court.

3. The case of the prosecution in brief is that PWs 1 and 2, who are husband and wife are residing in I line Janathapet North in Kavali town. The deceased Venkata Ramanamma is their elder daughter and PW 3 is their younger daughter. PW 1 is washer man by profession. According to the prosecution, prior to the offence, PW 1 with his family used to reside at Balakrishna Reddy Nagar and the accused was also residing in the same area, who is a married person. The accused was insisting the deceased Venkata Ramanamma regularly to marry him or to have sexual intercourse with him, for which the deceased refused. Due to unbearable harassment made by the accused towards the deceased Venkata Ramanamma, PW 1 shifted his family from Balakrishna Reddy Nagar, Kavali to Janathapet, Kavali under unavoidable circumstances and in a helpless situation. Even though, the accused did not leave the deceased Venkata Ramanamma and used to visit the residential area of PW 1 and subjecting the deceased Venkata Ramanamma mentally and harassing her to marry him as his second wife or in the alternative to have sexual intercourse. The deceased Venkata Ramanamma complained the said fact to her parents and when PW 1 tried to search for the accused he used to escape.

4. While so, on 14.06.2004 at about 8.30 a.m when PW 1 was present in his laundry shop, the deceased Venkata Ramanamma came and informed him that the accused harassed her and she was able escape from his hands. PW 1 sent the deceased to

the house stating that he would warn the accused. The deceased went to the house and committed suicide by hanging herself with a sari tied to Palmyra beam on the roof of the house. At about 10 a.m. PW 3 went to the house and found the deceased hanging to the beam and raised cries. On receiving information, PW 1 rushed to the scene and found the dead body of his deceased daughter hanging from the roof. Thereafter,

PW 1 lodged a report with the police and the same was registered as a case in Cr.No.86/2004 under Section 306 of IPC. PW 10-Doctor conducted post mortem over the dead body of the deceased and issued Ex.P12-post mortem certificate and he opined that the deceased died due to asphyxia. According to the prosecution, the deceased died due to the harassment of the accused to marry him or to have sexual intercourse and thereby abetted the deceased to commit suicide, for which, he is liable for punishment under Section 306 of IPC. During course of investigation, the investigating officer recorded the statements of witnesses. The investigating officer, after completing the investigation and after receiving necessary reports, filed the charge sheet into the court.

5. The learned Magistrate took cognizance of the case against the accused and committed the same to the Court of Sessions, as the offence charged against the accused is triable by Sessions Court. On appearance of accused, the learned Assistant Sessions Judge framed a charge against the accused for the offence punishable under Section 306 of IPC, for which, accused pleaded not guilty. During course of trial, the prosecution examined PWs 1 to 12 and got marked Exs.P1 to P16 and M.Os.1 & 2.

6. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C putting all incriminating material available against him. Accused denied the material evidence and reported no defence evidence on his behalf.

7. The trial Court, after hearing on either side and after considering the oral and documentary evidence, found the accused guilty of the offence punishable under Section 306 of IPC, convicted him for the said offence and sentenced him to undergo simple imprisonment for a period of four years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of four months.

8. Aggrieved by the conviction and sentence passed by the trial Court, the accused

preferred Criminal Appeal No.154 of 2005 on the file of the Sessions Judge, Nellore, where the Appellate Court after reappraisal of the evidence and material on record, allowed the appeal, while setting aside the conviction and sentence passed by the trial Court and acquitted the accused.

9. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.154 of 2005, the father of the deceased i.e. the *de facto* complainant preferred the present revision case.

10. The learned counsel for the revision petitioner argued that the appellate court erred in holding that the evidence of PWs 1 and 2 does not show that the accused abetted the deceased to commit suicide. Further, the appellate court erred in holding that the prosecution failed to prove the ingredients of Section 306 of IPC and acquitted the accused of the charge framed against him. The appellate Court also erred in holding that it is not the case of the prosecution that shortly prior to the commission of the suicide by the deceased, she was subjected to forcible sexual intercourse by the accused. Finally, the learned counsel argued that the prosecution has not presented the case in truthful manner and suppressed the essential material facts and prayed this Court to set aside the judgment of the appellate Court and confirm the judgment of the trial Court and convict the accused.

11. On the other hand, the learned for the accused argued that there is no direct evidence to prove that the accused abetted the deceased to commit suicide. Further, there are no disputes or panchayats held between the family of the accused and the family of the deceased to prove that the accused used to harass the deceased for marrying him as second wife and also used to harass her to have sexual intercourse with him. The learned counsel further argued that the appellate Court after considering the evidence on record rightly set aside the judgment of the trial court and acquitted the accused by allowing the appeal, and therefore, the findings of the appellate court do not call for interference by this Court and prayed this Court to dismiss the revision.

12. Now the point that arises for consideration is whether the revision petitioner is entitled to set aside the judgment of the appellate Court dated 13.02.2007, passed in Crl.A.No.154/2005, as prayed for.

13. Point:

A perusal of the evidence produced by the prosecution shows that PWs 1 and 2 are parents of the deceased Venkata Ramanamma. PW 3 is sister of deceased Venkata Ramanamma. PW 4 is sister of PW 1. The evidence of PWs 1 to 3 is similar to show that PW 1 is running a laundry shop at Janathapet, Kavali. Prior to the incident, PW 1 and his family used to reside at Balakrishna Reddy Nagar, Kavali, where the accused used to reside there. According to PWs 1 to 3, prior to the incident, the accused now and then used to harass the deceased to marry him as second wife or to have sexual intercourse and the deceased used to complain the same to PW 1, and PW 1 used to console the deceased by saying that he will admonish the accused. Due to harassment of the accused, PW 1 shifted his family from Balakrishna Reddy Nagar, Kavali to Janathapet, Kavali, there too also the accused started harassing the deceased Venkata Ramanamma. On the date of incident at 8.30 a.m when PWs 1 and 2 were in their laundry shop, doing laundry work, the deceased came weeping and informed them that the accused obstructed her in the second street of Janathapet and insisted her to marry him as his second wife or to have sexual intercourse with him. PW 1 consoled the deceased and sent her to the house. After reaching the house, the deceased committed suicide by hanging.

14. The evidence of PWs 2 and 3 are similar in nature regarding the harassment meted out by the deceased in the hands of the accused and manner of the death of the deceased. After knowing the death of deceased, PW 4, who is the sister of PW 1, rushed to the spot and found the dead body of the deceased and found ligature marks on the neck of the deceased. PWs 4 and 5 not supported the prosecution case and they turned hostile.

15. PWs 6 and 7 are the mediators to the scene of offence and the inquest conducted on the body of the deceased in their presence, they identified their signatures on Exs.P4 and P5. Likewise, PW 9 is the photographer, who took photographs of the dead body of the deceased at the scene. PW 10 is the Doctor, who conducted post mortem over the dead body of the deceased and issued Ex.P12 post mortem certificate and opined that the cause of death of deceased is asphyxia

due to hanging with the evidence of sexual intercourse prior to her death. PW 11 is investigating officer who registered the crime and investigated the case and filed charge sheet into the court.

16. PWs 1 and 2 are the important witnesses to prove that the accused abetted the deceased to commit suicide. In this regard, their evidence shows that whenever the deceased come to PWs 1 and 2 and complained against the accused, they used to console her and tell her that they will admonish the accused. But in this case, when the deceased informed PWs 1 and 2 that accused is harassing her to marry him as his second wife or to have sexual intercourse with him are serious allegations levelled by the deceased against the accused. In this regard, PWs 1 and 2 have not shown any interest to give police report nor they called for mediation before the elders or nor they gave any complaint to the parents of the accused. Admittedly, the accused is sister's son of PW 1, and therefore, PW 1 should have brought this fact to the notice of his sister about the behaviour of the accused.

17. On the date of incident, the deceased came to PW 1 and informed him that accused obstructed her in the morning when she went to bring clothes. Except that, the deceased has not informed anything against the accused before committing suicide by hanging. Admittedly, PW 10-Doctor says that prior to the death of the deceased, she had sexual intercourse. The investigating officer has not investigated on this aspect, but filed the charge sheet under section 306 IPC stating that the accused abetted the deceased and hence she committed suicide. Therefore, the prosecution has not presented its case in a truthful manner and suppressed the essential material facts.

18. Further, it is not the evidence of PWs 1 and 2 that the accused committed sexual intercourse on the deceased in their house and the same was reported by the deceased to them. Prior to her death, except the evidence of Doctor, there is no evidence in this regard to show that the accused committed rape on the deceased prior to the incident. Further, the evidence of PWs 1 to 3 also does not prove that the deceased used to tell them that accused harassed her and due to which she vexed

with the behaviour of the accused. Even on the date of death, the deceased came to the laundry shop of PW 1 and informed him that on that day also accused obstructed her in the morning when she went to bring the clothes. Therefore, the appellate court, after considering the evidence on record, rightly held that the prosecution failed to prove the essential ingredients of section 306 IPC and acquitted the accused for the charge under section 306 IPC, as the accused is entitled to benefit of doubt. These findings of the appellate court need no interference and the prosecution failed to prove the ingredients of section 306 IPC beyond all reasonable doubt.

19. For the aforesaid reasons, the Criminal Revision Case is dismissed confirming the judgment of the appellate Court dated 13.02.2007, passed in Crl.A.154/2005.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

ANIS, J

Date: 24.03.2015

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