

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.14 OF 2014

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ORDER:

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This Criminal Revision Case is filed by the sole accused challenging the judgment dated 11.12.2013 passed by the Additional District & Sessions Judge, Vikarabad, R.R.District in CrI.A.No.10 of 2007, whereby the learned Sessions Judge dismissed the appeal confirming the judgment of the Assistant Sessions Judge, Vikarabad in S.C.No.52 of 2006 dated 19.4.2007 whereby the petitioner was convicted for the offence under Section 304-B IPC and was sentenced to undergo R.I. for seven years.

The brief facts of the case of the prosecution are as follows:

Marriage of the deceased-Mahamuda Begum @ Sameena Begum was performed with the accused about two years back to the date of incident. At the time of marriage, the father of deceased gave cash of Rs.15,000/-, house-hold articles and two tulas of gold towards dowry and promised to give two tulas of gold later. After the marriage, the accused started harassing the deceased mentally and physically to bring the remaining two tulas of gold from her parents. He also used to quarrel with the parents of deceased demanding them for two tulas of gold. One year after the marriage, the deceased was blessed with a male child. Ten days prior to the date of incident, the accused and deceased went to the house of parents of deceased and there when the accused demanded for the remaining two tulas of gold, the father of deceased promised to give the said gold after one week. Due to the unbearable harassment caused by the accused, vexed with her life, the deceased committed suicide by

hanging to a neem tree nearby the fields of one Suddagala Chandraiah and died. On the complaint lodged by father of the deceased, police registered a case on 10.5.2005 for the offence under Section 304-B IPC and after completion of investigation, police laid charge sheet against the accused for the offence under Section 304-B IPC.

In order to bring home the guilt of the accused, prosecution examined P.Ws.1 to 13 and marked Exs.P.1 to P.6. On behalf of defence, no oral or documentary evidence was adduced.

After evaluating the entire evidence brought on record, the trial Court convicted and sentenced the accused as aforementioned. On appeal being preferred, the lower appellate Court dismissed the appeal confirming the conviction and sentence imposed by the trial Court.

Heard the learned counsel for the petitioner and learned Additional Public Prosecutor and perused the material brought on record.

The most important witnesses in this case are P.Ws.1 to 5 those who are closely related to the deceased. These witnesses in their evidence stated that the deceased informed them that she was subjected to harassment by the petitioner in connection with demand of Rs.15,000/- as additional dowry. However, these witnesses did not depose before the trial Court the manner in which the deceased was subjected to the alleged harassment. There is no evidence regarding specific allegation like oral abuse or physical assault or any other act, that constitute the harassment as per the case of the prosecution. Without there being any specific allegation to constitute harassment, the evidence of P.Ws.1 to 5 is not sufficient to hold the petitioner

guilty of the offence under Section 304-B IPC. Mere demand of dowry cannot be construed as an offence under Section 304-B IPC. The entire evidence brought on record does not connect the accused with the commission of offence under Section 304-B IPC. But at the same time, there is ample evidence in the form of P.Ws.1 to 5 that the deceased was forced by the petitioner to get Rs.15,000/- as additional dowry and that the deceased informed the same to her parents. Hence, this Court is of the view that relying on the evidence of P.Ws.1 to 5, this Court can safely convict the accused for the offence under Section 498-A IPC.

In the result, the Criminal revision case is allowed in part. The conviction and sentence imposed by the trial Court on the petitioner as confirmed by the lower appellate Court for the offence under Section 304-B IPC is hereby modified to the one under Section 498-A IPC and the sentence of imprisonment is modified to the period already undergone by the petitioner.

Consequently, miscellaneous petitions, if any, pending, shall stand closed.

JUSTICE RAJA ELANGO

17.11.2015

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