

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1085 of 2008

JUDGMENT:

This criminal appeal is preferred by the appellant/accused by invoking the provision under Section 374(2) of the Code of Criminal Procedure being aggrieved by the judgment, dated 27.02.2007, rendered in S.C.No.193 of 2006, by the III Additional District & Sessions Judge, Fast Track Court, at Medak, whereby and whereunder the learned Sessions Judge found the appellant guilty of the offence punishable under Section 304 Part-I IPC, convicted for the same and sentenced him to suffer Rigorous Imprisonment for a period of seven (7) years and to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for a period of three (3) months.

2. The case of the prosecution is as follows:

The marriage of the accused was performed with the deceased about 13 years back and blessed with two sons and the accused used to harass her and the accused is habituated to drinking liquor and harassed the deceased by suspecting her fidelity and character, due to unbearable harassment, the deceased went to her parents house and filed case against the accused. On 30.05.2005, at about 9.00 p.m., the accused quarreled with the deceased and threatened her with dire consequences and took his wife to their house at Gummadidala and on the same day night, the accused killed his wife by strangulation with her chunny and locked the house by leaving the dead body in the house and fled away. During the investigation, it

is well established that the accused has committed an offence punishable under Section 302 IPC.

3. The Judicial Magistrate of First Class, Narsapur, has taken on file the case in Crime No.33 of 2005 of P.S. Jinnaram under Section 302 IPC and committed the case P.R.C.No.29 of 2006 to the Court of Sessions, Medak at Sangareddy for trial. The District & Sessions Judge, Medak, at Sangareddy, has registered the case P.R.C.No.29 of 2006 as S.C.No.193 of 2006 and made over the case to the trial Court on 28.07.2006 for disposal according to law.

4. On appearance of the accused before the Court, the charge under Section 302 IPC was framed, read over and explained to him in his own language, for which, he pleaded not guilty and claimed for trial.

5. During the course of trial, P.Ws.1 to 16 were examined and Exs.P-1 to P-9 and M.O.1 were marked on behalf of the prosecution. No oral evidence or documentary evidence was adduced on behalf of the accused.

6. On appreciation of the oral and documentary evidence, the trial Court found the accused guilty of the offence under Section 304 Part-I IPC and accordingly convicted and sentenced him as stated above. Aggrieved by the same, the present appeal is preferred by the appellant/accused.

7. Heard and perused the entire material available on record.

8. After evaluating the evidence and after examining the material available on record, this Court of the view that there are no valid reasons to interfere with the Judgment of the trial Court

in convicting the appellant/accused for the offence under Section 304 Part-I IPC.

9. When this Court pointed out that there are no merits in the appeal, learned counsel for the appellant confined his arguments only to the quantum of sentence and prayed this Court to take a lenient view.

10. Considering the facts and circumstances of the case and the time elapsed, this Court is inclined to reduce the sentence of imprisonment for the offence under Section 304 Part-I IPC imposed by the trial Court to that of the period, which the appellant has already undergone.

11. In the result, the Criminal Appeal is partly allowed. The conviction recorded by the learned III Additional District & Sessions Judge (Fast Track Court), Medak, vide judgment, dated 27.02.2007, in S.C.No.193 of 2006, against the appellant/accused for the offence under Section 304 Part-I IPC is hereby confirmed. But the sentence of imprisonment imposed by the learned trial Judge for the said offence is reduced to the period already undergone by the accused. However, the sentence of fine imposed by the trial Court shall not be interfered with. Miscellaneous applications, if any, pending in this appeal, shall stand closed.

RAJA ELANGO, J

Date: 27th August, 2016

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