

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.275 of 2008

JUDGMENT:

Petitioner/complainant filed this criminal revision case by invoking the provisions under Sections 397 read with 401 of the Criminal Procedure Code, being aggrieved by the judgment, dated 23.04.2007, rendered in S.C.No.335 of 2006 by the Additional Assistant Sessions Judge (Fast Track Court), West Godavari Division, at Kovvur, whereby and whereunder respondents 1 to 4/A-1 to A-4 were not found guilty for the offence under Section 306 IPC and respondents 1 to 3/A-1 to A-3 were not found guilty for the offence under Section 498-A IPC and, accordingly, they were acquitted under Section 232 Cr.P.C.

2. The brief facts, that are necessary for the disposal of the present Criminal Revision Case, may be stated as follows:

One Devarakonda Purnima was the resident of Kovvur and hereinafter referred as the deceased. The marriage of the deceased was performed with A-1 on 04.08.2001 and they lead matrimonial life at Patan Cheruvu near Hyderabad. In the wedlock, she begot a boy, who was aged 3 years. At Patan Cheruvu, A-1 addicted to vices and used to spend all the amounts. On demand made by the accused, the parents of the deceased gave an amount of Rs.1,00,000/- in cash and Rs.50,000/- by way of jewellery and also spent Rs.1,00,000/- towards marriage expenses. A-1 with the instigation of A-2 to A-4 harassed the deceased for additional dowry. Thereby, the parents of the deceased now and then sent amounts to Patan Cheruvu to a tune of Rs.70,000/-. Prior to one year to the date of that incident, A-1 came down to Kovvur along

with the deceased and started leading matrimonial life at Kovvur. At Kovvur, all the accused subjected the deceased to cruelty and treated her like a slave and also not providing medical aid to the infant son and not allowing her to her parents house. On 28.05.2005 A-1 to A-3 did not oblige to send the deceased to her mother's birthday function. On that, some disputes arose in between four walls of the house and on account of the cruel treatment, the deceased resorted to the extreme step of committing suicide and came out of the house on 29.05.2005 at 1.00 p.m. and drowned herself into river Godavari at Kovvur. On the next day, the body of the deceased was traced by her father in the river Godavari. The father of the deceased preferred a complaint and the same was registered as case in Crime No.90 of 2005 under Section 174 Cr.P.C. and during the course of investigation, the Section of law was altered to 498-A & 306 read with 34 IPC and proceeded into the case. The M.R.O., Kovvur, conducted an inquest over the dead body as the death was caused before seven years of marriage life. The doctor, who conducted Autopsy over the dead body, issued Post Mortem Certificate and opined that the cause of death was due to Cardio Respiratory Failure and due to asphyxia and due to drowning. On 01.06.2005 at 5.15 p.m., the accused were arrested and sent for judicial custody. As the accused caused harassment physically and mentally to the deceased, she committed suicide. Hence, the charge.

3. The II Additional Judicial Magistrate of First Class, Kovvur, had taken cognizance of the case and took the same on file as P.R.C.No.132 of 2005. On perusal of the entire case on record, the learned Magistrate committed the case to the District and

Sessions Judge, Eluru, as contemplated under Section 209 Cr.P.C. The District and Sessions Judge, Eluru, took the case on file and numbered the same as S.C.No.335 of 2006. Later, the District and Sessions Judge sent the entire record to the Assistant Sessions Judge, Kovvur, for disposal according to law. Later, on the orders of the District and Sessions Judge, Eluru, the case was transferred to the Additional Assistant Sessions Judge (Fast Track Court), West Godavari District, at Kovvur.

4. On appearance of the accused before the trial Court, the charge under Section 306 IPC against A-1 to A-4 and charge under Section 498-A IPC against A-1 to A-3 were framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

5. To substantiate its case, the prosecution got examined PWs.1 to 16 and marked Exs.P-1 to P-14 and M.Os.1 to 11. On behalf of defence, no oral or documentary evidence was adduced.

6. After appreciating the oral and documentary evidence available on record, the trial Court found A-1 to A-4 not guilty of the offence punishable under Section 306 IPC and found A-1 to A-3 not guilty for the offence punishable under Section 498-A IPC and acquitted them under Section 232 Cr.P.C. Aggrieved by the said acquittal order, petitioner/complainant filed the present criminal revision case.

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

8. The learned counsel for the petitioner/complainant vehemently contended that even though there is no evidence for

the offence under Section 498-A IPC, the evidence of P.W.8, who is servant maid in the house of the accused, clearly indicates the fact that there was a quarrel between the deceased and A-1, which necessitated her to commit suicide.

9. Learned counsel for the petitioner read the entire evidence of P.W.8. In the said evidence, P.W.8 stated that she knows the accused as well as the deceased and she went to the house on 28.05.2005 also. When the deceased sought permission to go to her parents' house in order to celebrate her mother's birthday, some quarrel arose between the deceased and A-1. Thereafter, the deceased left the house by 11.30 a.m. on 29.05.2005. P.W.8 further stated that she was in the house till 4.00 p.m. The said evidence reveals the fact that there was a quarrel between the accused and the deceased.

10. The learned trial Judge acquitted the accused by observing as follows:

"The father of the deceased stated in his evidence that A-2 told that A-1 beat his daughter and sent her to her house to get him. The M.R.O. recorded the statements of the parents and the brother and the sisters of the deceased as the death was caused prior to 7 years to the date of marriage. He tender his evidence as PW-15. He also recorded the statements of witnesses. During the course of cross-examination, the M.R.O. stated that PW-1 has not stated that A-2 to A-4 sat leisurely in their house and PW-1 went to the house of accused and A-2 told that A-1 beat his daughter and sent her to his house to get him. He further stated that PW-1 has not stated that there are injuries in the dead body and he has not stated anything against A-4. The witness further stated that PW-2 has not stated anything that A-1 beat the deceased Purnima at Kovvur and A-1 beat his sister and he has not stated that any injury on the dead body and not stated anything against A-

4. The witness further stated that PW-3 has not stated to him that the accused harassed to get silver tumbler and never supplied milk to the son of the deceased and A-1 beat the deceased Purnima to get her parents. The witness further stated that PW-4 has not stated that A-1 beat the deceased Purnima to get her parents and not stated anything about A-4. He further stated that PW-5 has not stated that the accused are harassing to get silver tumbler towards 'Adapaduchu Katnam' and she has not stated that A-1 on the second occasion telephoned whether the parents were started or not. The above omissions from the evidences of PWs.1 to 5 were not stated to M.R.O. who was earlier examined the witnesses. Those omissions are clearly nothing but contradictions. Even in the earlier complaint or before the M.R.O., PWs.1 to 5 have not stated about the harassment made by A-4 and about the beating of the deceased Purnima by the accused and some other vital aspects. But, those were stated before the court first time. These are nothing but the exaggerations by PWs.1 to 5 in the Court. Of course, because of the death of their married daughter, obviously they would have some regrets. But, to get the justice, they must state before the court the facts and not the exaggerated things."

11. Apart from the observations made by the learned Sessions Judge, the un-rebutted evidence of the prosecution does not disclose the commission of offence under Section 306 IPC.

12. Section 306 IPC reads as follows:

"Abetment of suicide - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

13. To attract an offence under Section 306 IPC, there should be positive evidence by the prosecution that there was an inducement which necessitated the deceased to commit suicide

and further the deceased has no other alternative except to commit suicide. In the present case, there is nothing on record to suggest the same. Hence, this Court is of the view that the prosecution failed to establish the crime and also failed to connect the accused with the crime. Hence, this Court is of the view that the judgment of the trial Court is in accordance with law and it does not suffer from any illegality or perversity necessitating interference by this Court. Hence, the criminal revision case fails and is liable to be dismissed.

14. The Criminal Revision Case is, accordingly, dismissed. Consequently, the Miscellaneous Petitions pending, if any, shall stand closed.



RAJA ELANGO, J

Date: 20th September, 2016

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