

THE HON' BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.808 of 2008

JUDGMENT:

This Criminal Appeal is preferred by the appellant-accused against judgment, dated 23.06.2008, passed in S.C.No.338 of 2006 by the Assistant Sessions Judge, Sddipet, Medak District.

The case of the prosecution is as follows:

That the marriage of the daughter of the de facto complainant was performed with the accused on 09.06.2005 and at the time of marriage he gave 7.5 tulas of gold, furniture worth Rs.20,000/- and net cash of Rs.15,000/- apart from house hold articles and also agreed to give Hero Honda Motor Cycle at the time of Deepavali festival. After some time, the accused and his family members started harassing the daughter of the de facto complaint physically and mentally to bring Hero Honda Motor Cycle, as agreed by her father. Then, the de facto complainant requested the accused and his family members not to harass his daughter and he would give Motorcycle. But, on 01.10.2005, the de facto complainant received information that his daughter consumed poison and was shifted to BBR Hospital. She died on 12.10.2005, while undergoing treatment.

On the basis of the complaint lodged by the de facto complainant, the Sub-Inspector of Police, Toopran, registered a case in Crime No.233 of 2005 for the offence under Section 304-B IPC. After completion of investigation, the police filed charge sheet against the accused for the offence under Section 306 IPC.

The Judicial Magistrate of First Class, Gajwel, has taken cognizance of the case and committed the same to the Court of Sessions

after complying the provisions under Section 207 Cr.P.C., and thereafter, the case was made over to the trial Court for disposal in accordance with law. On appearance of the accused before the trial Court, he was examined under Section 228 Cr.P.C., charge under Section 306 IPC was framed, read over and explained to him in Telugu, for which he pleaded not guilty and claimed to be tried.

To prove its case, the prosecution examined PWs.1 to 13 and got marked Exs.P-1 to P-8. After completion of evidence on behalf of prosecution, the accused has been examined under Section 313 Cr.P.C. to explain the incriminating circumstances appearing in the evidence of prosecution and denied the same. The accused was examined himself as DW.1 and also DWs.2 and 3 and got marked Exs.D1 to D6.

On appreciation of oral and documentary evidence and mainly basing on the evidence of the relatives of the deceased, the trial Court found the appellant-accused guilty of the offence under Section 306 IPC, and accordingly convicted and sentenced him to undergo rigorous imprisonment for a period of ten (10) years and to pay a fine of Rs.10,000/- (Rupees ten thousand only), in default to suffer simple imprisonment for two years. Aggrieved by the same, the present appeal is preferred by the appellant-accused.

Heard and perused the material available on record.

Learned counsel for the appellant submitted that the trial Court erred in convicting the accused since there are discrepancies in the evidence of the prosecution witnesses and without properly appreciating the evidence of those witness, the trial Court passed the conviction order against the appellant. He further submitted that except PWs.1 to

4 and 7, who are closely related to each other, there is no other independent witness to support the case of the prosecution and hence, he prays to set aside the judgment under challenge.

Learned Additional Public Prosecutor submitted that the judgment impugned need not be interfered with since it was passed on proper appreciation of the evidence of the witnesses.

The allegations, as per the prosecution case, are that due to the harassment made by the petitioner herein, the deceased committed suicide. Admittedly, the marriage took place on 09.06.2005 and the deceased committed suicide on 01.10.2005 i.e. within a period of four months. The relatives, in their evidence before the Court, deposed only about the harassment made by the appellant that he demanded Hero Honda vehicle, but they have not stated any specific incident of harassment by the appellant. The said witnesses have stated before the investigation officer in their statements recorded under Section 161 Cr.P.C., that the deceased had a love affair with one Shyam and even prior to the marriage of the deceased, said Shyam used to visit the house of the deceased and once the brother of the deceased also warned him. It is evident from the record that there was exchange of letters between the deceased and said Shyam. The appellant was able to prove his innocence by way of marking the statements given by the prosecution witnesses before the police and also by filing the letters exchanged between the deceased and said Shyam. It is also evident from the statements of the said witnesses given before the investigation officer that said Shyam went to the matrimonial house of the deceased and when the same was questioned by the appellant, there was a quarrel

took place between the appellant and the deceased and aggrieved over the same, the deceased committed suicide.

The deceased was in hospital upto 12.10.2005 and was in unconscious therefore, she could not able to give any statement to the police. The rebuttal evidence adduced by the appellant is the statements of the prosecution witnesses given before the police and also the love letters exchanged between the deceased and said Shyam, eloquently speaks about the affair between Shyam and the deceased. Therefore, there was a quarrel between both the husband and wife due to which the deceased committed suicide. Even admitting that there was a quarrel between the deceased and the appellant, due to which the deceased committed suicide, it does not attract the offence under Section 306 IPC.

To attract the offence under Section 306 IPC, there should be specific acts of the accused, which instigated the deceased to commit suicide. In the present case, there is no such abetment by the accused by way of any harassment to the deceased. Therefore, the prosecution has totally failed in connecting the appellant with the offence under Section 306 IPC. Hence, this Court is of the view that the conviction and sentence recorded against the appellant by the trial Court are liable to be set aside.

Accordingly, the Criminal Appeal is allowed setting aside the conviction and sentence recorded by the Assistant Sessions Judge, Siddipet, vide judgment, dated 23.06.2008, in S.C. No.338 of 2006. The accused is found not guilty of the offence under Section 306 IPC and he is acquitted for the said charge. The fine amount, paid if any, shall be

refunded to the petitioner. Bail bonds shall stand cancelled and the sureties are discharged.

Miscellaneous applications, pending if any, shall stand closed.

September 21, 2016.
KTL

RAJA ELANGO, J

