

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.1384 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 378(3) & (1) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is filed by the State against the judgment, dated 16.12.2004, in Sessions Case No.436 of 2003 on the file of the Assistant Sessions Judge at Sangareddy whereunder and whereby, the learned Assistant Sessions Judge found the accused not guilty for the offence punishable under Section 304-B I.P.C. and accordingly, acquitted them under Section 235(1) Cr.P.C.

2. Case of the prosecution is as follows:

The complainant – Jakkidi Sanjeevareddy was resident of Kuchavaram Village of Toopran Mandal and he is the father of one Renuka @ Chitti, hereinafter, referred to as "the deceased". A-1 to A-3 were residents of House No.9-64, Thellapur Village of Ramachandrapuram Mandal and A-4 was resident of House No.4589, MIG Colony, Phase-II, B.H.E.L., Ramachandrapuram. On 8.5.1998, the complainant performed the marriage of the deceased with A-1. A-2 and A-3 are the parents of A-1 and A-4 is the sister of A-1. At the time of marriage, complainant agreed to pay Rs.3,00,000/- as dowry and out of it, he gave Rs.2,50,000/- to A-1 to A-3. In turn, A-1 to A-3 promised to give twenty tulas of gold ornaments to the deceased. However, A-1 to A-3 gave only a silver chain coated with gold weighing about six tulas. The complainant could not pay the balance dowry amount of Rs.50,000/- to A-1 due to loss of crops. A-1 asked the complainant many times to pay the balance dowry amount. After the marriage, the deceased was blessed with two male children. The accused ill-treated the deceased for not paying the balance dowry

amount of Rs.50,000/- and also threatened that the marriage of A-1 would be performed with another girl. On 6.8.2003, the younger son of the complainant by name Sudhakar Reddy contacted the deceased on telephone and she informed that she was not well and A-1 did not take her to the hospital for treatment. On 8.8.2003, at 3:00 A.M., the complainant was informed that the deceased died in Tellapur Village. Immediately, the complainant, his wife, sons and others went to Tellapur Village and found the dead body of the deceased lying on the cot. They have noticed black marks around her throat and scratches on her hands. On their enquiry, they came to know that on the night of 7.8.2003, the deceased committed suicide by hanging. However, the complainant, his wife and others suspected that the accused have killed the deceased by throttling or due to continuous ill-treatment, the deceased has committed suicide by hanging. On 8.8.2003, at 10:00 A.M., the complainant presented a report to B.Som Narayan Singh, Sub Inspector of Police, Ramachandrapuram and he registered the same as a case in Crime No.181 of 2003 under Section 304-B I.P.C. and the same was investigated into. After completion of investigation, charge sheet was filed for the offence under Section 304-B I.P.C.

3. The learned Additional Judicial First Class Magistrate, Sangareddy took cognizance of the charge sheet for the offence under Section 304-B I.P.C. against A-1 to A-4 in P.R.C.No.91 of 2003 and committed the case to the Court of Sessions, Medak at Sangareddy, as the offence under Section 304-B I.P.C. is exclusively triable by the Court of Sessions. The Principal District and Sessions Judge, Medak at Sangareddy took cognizance of the case for the same offence and made it over to the Court of the Assistant Sessions Judge at Sangareddy for disposal as per law.

4. A charge under Section 304-B I.P.C. was framed against the accused, read over and explained to them in Telugu for which, they pleaded not guilty and claimed to be tried.

5. To substantiate the case of the prosecution, P.Ws.1 to 10 were examined and Exs.P-1 to P-25 were marked.

6. After closure of the evidence on the prosecution side, the accused were examined under Section 313 Cr.P.C. They denied the evidence on the side of the prosecution. On behalf of the accused, none was examined and no documents were marked.

7. The learned trial Judge, basing on the evidence adduced and after elaborate discussion, found the accused not guilty of the offence under Section 304-B I.P.C. and accordingly, acquitted them. Aggrieved thereby, the State preferred the present Criminal Appeal.

8. The learned trial Judge, while appreciating the evidence adduced, placed reliance mainly on the evidence of P.Ws.1 to 3, who are the persons closely related to the deceased. As the offence is under Section 304-B I.P.C., the evidence of the relatives, who were aware of the harassment and cruelty which necessitated the deceased to commit suicide, has been taken into consideration by the learned trial Judge. After evaluating the evidence of the said witnesses, the learned Judge observed as follows:

(a) there is no nexus between the death of the deceased and the alleged harassment by the accused and (b) the deceased and A-1 lived together for a period of four years and there is no whisper about any demand of additional dowry even though it is stated in Ex.P-1 – complaint that there is continuous demand by the accused and the same was not deposed before the trial Court. Further, the learned trial Judge observed that even though the said witnesses stated that there was harassment by the accused, the same was not explained by the witnesses, which made them to inform the Court that the deceased was subjected to harassment like physical abuse, oral abuse or other cruelties, which necessitated the deceased to commit suicide.

9. Heard and perused the material available on record.

10. As rightly observed by the learned trial Judge, to attract an offence under Section 304-B I.P.C., there should be evidence necessitating the Court to come to a conclusion that there is a nexus between the death of the deceased and the cruelty. In the present case, no such evidence was adduced by the prosecution. Hence, this Court is of the view that the judgment of the trial Court is in accordance with law and that judgment warrants no interference of this Court.

11. Further, in a case of acquittal, if the trial Court consists of two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the trial Court has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the impugned judgment and the Criminal Appeal fails and is liable to be dismissed.

12. Accordingly, this Criminal Appeal is dismissed confirming the judgment, dated 16.12.2004, in Sessions Case No.436 of 2003 on the file of the Assistant Sessions Judge at Sangareddy.

13. Miscellaneous petitions pending, if any, in this Criminal Appeal shall stand closed.

JUSTICE RAJA ELANGO

29.7.2016
AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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