

**THE HON'BLE SRI JUSTICE G. CHANDRAIAH
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO
CRIMINAL APPEAL No. 657 of 2011**

JUDGMENT: *(per Hon'ble Sri Justice U.Durga Prasad Rao)*

This appeal is filed by A1 against the judgment dated 14.06.2011 in S.C.No.634 of 2010 on the file of the V Additional Sessions Judge (II-FTC), Warangal whereby he was convicted for the offences under Sections 304B and 498-A IPC and Section 4 of Dowry Prohibition Act, 1961 and sentenced to undergo RI for life under Section 304B IPC; undergo RI for two years and pay fine of Rs.1,000/- and in default to suffer SI for two months on two counts under Section 498A IPC and Section 4 of Dowry Prohibition Act, 1961. A2 to A4 were acquitted of all the charges levelled against them.

2) The case of prosecution in brief is as under:

a) A1 is the husband, A2 is the mother-in-law and A3 is the father-in-law and A4 is the brother-in-law of the deceased—Kornepaka Renuka. The marriage between A1 and deceased took place on 11.05.2005. At the time of marriage PW1 (father of the deceased) gave Rs.70,000/- cash, 5 Tolas of gold and 25 Tolas of silver and household articles worth Rs.35,000/-. They lead happy marital life for six months and thereafter accused started harassing the deceased for additional dowry of Rs.50,000/-. The

deceased informed to her parents but they expressed their inability due to their economic constraints.

b) While so, the deceased gave birth to a female child in the month of March, 2006. At that time PW1 gave Rs.20,000/- to A1 on demand. Not satisfied the accused again started harassing the deceased both mentally and physically demanding to bring additional dowry and necked out her from the house in the year 2007 while she was carrying 6 months pregnancy. The deceased gave birth to a second female child in the month of January, 2008. Though PW1 informed the same, accused did not turn up. In that connection, a Panchayat was conducted and the accused was convinced. Later the accused took the deceased back to the marital house. After few months all the accused again started harassing the deceased demanding to deposit Rs.1 lakh each in the name of children in the bank and necked out her from the house. In the month of November, 2009, PW1 got convened Panchayat. During the Panchayat PW1 agreed to deposit Rs.1 lakh (Rs.50,000/- each) in the names of two children of deceased in the month by November, 2010 and to that effect he executed Ex.P2—agreement. After Panchayat, the accused took the deceased to the matrimonial house. After three months again the accused started harassing the deceased both mentally and physically demanding for one lakh as promised by PW1 in the agreement. The deceased informed the said fact to PW1

through telephone.

c) While so, on 04.08.2010 evening A1 picked up quarrel with the deceased and beat her indiscriminately. This was witnessed by neighbours also. Due to unbearable harassment the deceased at about 8 pm poured kerosene on her body in the kitchen room and set fire herself. A1 and PW4 put off the flames by covering blankets and admitted her in Government Area Hospital, Jangaon and thereafter shifted to MGM Hospital, Warangal where she succumbed to injuries. The said fact was informed to PW1 through telephone. Immediately all the family members of the deceased rushed to the hospital and came to know the dead body was already shifted to mortuary. On the next day PW1 went to PS Jangaon and lodged complaint—Ex.P1.

d) The police registered a case in Crime No.187 of 2010 and after investigation filed the charge sheet against the accused before the Judicial First Class Magistrate, Jangaon. Learned V Additional Sessions Judge (II-FTC), Warangal conducted trial. A1 to A4 were charged for the offences under Sections 498A, 304B IPC and alternatively under Section 302 IPC and Sections 3 and 4 of Dowry Prohibition Act, 1961.

e) On behalf of the prosecution, PWs.1 to 21 were examined and Exs.P1 to P14 were marked. No witness was examined and no document was marked on defence side.

f) The trial Court after full-fledged trial found A1 guilty of the offences under Sections 304B and 498A IPC and Section 4 of Dowry Prohibition Act and accordingly convicted and sentenced him as aforesaid while acquitting A2 to A4. Questioning the conviction and sentence A1 is before us with this appeal.

3) Heard arguments of Sri P. Prabhakar Reddy, learned counsel for appellant/A1 and learned Public Prosecutor (Telangana).

4a) Attacking the judgment of the trial Court, learned counsel for appellant/A1 argued that A1 and his family members never demanded additional dowry and subjected the deceased to cruelty and harassment and prosecution failed to prove the vital ingredients of the offence under Section 304B IPC. In expatiation, he argued that prosecution for proving the dowry harassment mostly relied upon the evidence of PWs.1, 2, 6 and 7 and Ex.P2 but the aforesaid oral and documentary evidence could not substantiate the alleged demand for additional dowry against any of the accused. He argued that PWs.1 and 2 are the interested witnesses being father and brother of the deceased and their evidence suffered so many inconsistencies and contradictions. PWs.6 and 7 are the close associates of PW1 and hence their evidence also cannot be believed. He further argued that the prosecution fabricated Ex.P2—agreement as if executed between A1

and PW1 when on one occasion A1 allegedly demanded additional dowry, PW1 agreed to deposit the said dowry amount by way of fixed deposits in the names of his two grand daughters at the rate of Rs.50,000/- each by November, 2009 and PWs.6 and 7 allegedly attested the said agreement. He argued that even if Ex.P2 is believed, it would only show that PW1 voluntarily agreed to make fixed deposits in the names of his grand daughters but the said document will not show that on account of harassment by A1 only PW1 agreed to make such deposit. Thus, Ex.P2 will at best show a voluntary act on the part of PW1 to deposit the amounts but it will not establish that A1 made any demand for dowry. Therefore, the prosecution failed to establish the demand for dowry allegedly made by A1 and other accused. He argued the trial Court misread the evidence and convicted A1. To buttress his point that voluntary payments and requests for amounts on some urgent needs will not amount to dowry harassment, he relied upon the decision of the Apex Court in ***Appasaheb v. State of Maharashtra***^[1].

b) Learned counsel further argued that when the trial Court disbelieved the same evidence and acquitted A2 to A4 of the charges under Sections 304B, 498 IPC and Section 4 of Dowry Prohibition Act, it should not have accepted the very same evidence to convict A1 for the same charges.

c) Nextly, regarding cause of death of the deceased, learned counsel argued that deceased died due to explosion of kerosene stove and not due to self-immolation by pouring kerosene and some of the prosecution witnesses clearly spoken this fact. Even PW1 in his evidence admitted that prior to Ex.P1 he gave another complaint to the SI of Police but he returned the same stating that with those allegations they would not succeed in the case which indicates that in the earlier compliant PW1 must have mentioned as if his daughter met with accidental death due to explosion of stove and suppressing the said compliant Ex.P1 was later created.

d) Finally, learned counsel made an alternative argument that in case this Court confirms the conviction, a lenient view may be taken against A1 considering the fact that he is having two minor daughters and aged parents whose welfare he has to look after. On this point he relied upon the following decisions.

1. ***Ranjit Singh v. State of Punjab***^[2]

2. ***Satish Chandra v. State of Madhya Pradesh***^[3]

5a) In oppugnation, learned Public Prosecutor argued that the prosecution by cogent and convincing evidence of PWs.1, 2, 6 and 7 and other supporting evidence could amply establish the guilt of A1 for the offences under

Sections 304B and 498IPC and Section 4 of Dowry Prohibition Act, 1961 and having convinced, the trial Court rightly convicted A1 and hence, there are no merits in the appeal to set aside the conviction and sentence. Deprecating the comment of the appellant, learned Public Prosecutor argued that in a case of this nature the family members are the appropriate persons to speak about the travails, demand of dowry and cruelty meted out to the deceased and therefore, the evidence of PWs.1 and 2 cannot be brushed aside with the groom tagged related witnesses. He strongly argued that the evidence of PWs.1 and 2 is intrinsic and suffered no major inconsistencies and contradictions on the aspect of demand of dowry and hence their evidence cannot be doubted. In addition to PWs.1 and 2 the evidence of PWs.6 and 7 who are independent, has also established the dowry demand made by A1 which necessitated PW1 to deposit Rs.1 lakh in the names of his two daughters. The proposed act of PW1 was not a gratuitous one but on account of demand made by A1. He argued, the execution of Ex.P2 was cogently established by PW1 and also PWs.6 and 7 who are the attesters and thus the evidence on record established the demand and cruelty aspects.

b) He argued that the admission of PW1 that prior to Ex.P1 he gave another report need not be viewed through suspicious glasses. His earlier report should not be taken as

if he mentioned therein that his daughter met with an accidental death which was not his case at all. Such a suggestion was not even given to PW1. It might be probable that due to illiteracy and grief PW1 might not have presented Ex.P1 in proper and in understandable format so that PW19 might have asked him to present the report in proper fashion. Except that the earlier presentation of report cannot be understood as if disclosing the death of deceased due to explosion of kerosene stove. When such suggestion was given to PW19, he categorically denied the same. Therefore, the appellant cannot harp that truth was suppressed.

c) Nextly, he argued that A2 to A4 are concerned, except general allegations of demand and dowry, no specific overt acts or instances are spoken against them and therefore, the trial Court rightly acquitted them and hence A1, against whom the evidence is strong, cannot contend that he too deserves acquittal as the same evidence was held not believable against co-accused. He thus prayed to dismiss the appeal.

6) In the light of above rival arguments, the points for determination are:

- 1) *Whether the conviction and sentence recorded against A1 by the trial Court are factually and legally sustainable?*

2) *To what relief?*

7) **POINT No.1:** A1 was convicted for the charges under sections 304B and 498A IPC and Section 4 of Dowry Prohibition Act, 1961.

The essential ingredients of Section 304B IPC are (i) death of woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years after marriage, and (ii) soon before death woman was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for "dowry". The explanation appended to Sub-section (1) of Section 304B IPC says that "dowry" shall have the same meaning as in Section 2 of Dowry Prohibition Act, 1961.

Section 2 of Dowry Prohibition Act reads as under:

"Sec.2. Definition of "dowry" - In this Act "dowry" means any property or valuable security given or agreed to be given either directly or indirectly -

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (shariat) applies."

a) In view of the above definition of the word "dowry" any property or valuable security should be given or agreed to

be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential.

b) Then, Section 113B of Indian Evidence Act, 1872 necessitates the Court to make a mandatory presumption in respect of dowry deaths when certain conditions are fulfilled. It says when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. The explanation to the Section would show the term “dowry death” shall have the same meaning as in Section 304B IPC.

c) Therefore, it has to be seen whether in the instant case demand of dowry was made by A1 and it has connection with the marriage and whether the death of the deceased was under any of the circumstances as narrated under Section 304B IPC so as to draw a presumption that her death is dowry death.

8a) Then the offence under Section 498A IPC is

concerned, the prosecution shall establish that the husband or relatives of the husband subjected the woman to cruelty bring home the offence. The term “cruelty” is di-pronged.

(a) any wilful conduct of the offender driving the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment with a view to coercing her or any person relating to her to meet any unlawful demand for any property or valuable security.

b) In the light of above essential ingredients of Section 498A, it is imperative to probe whether the death of deceased was a suicide and it has the nexus with the cruelty subjected by A1.

9) Then, to attract the charge under Section 4 of Dowry Prohibition Act, 1961 the prosecution must establish that accused demanded dowry from the parents or other relatives of the deceased.

10) As can be seen the prosecution mainly relied upon the evidence of PWs.1, 2, 6, 7 and 13 and also Ex.P2 to bring home the guilt of the accused. Hence, the said evidence needs to be analysed.

a) PW1 is the father of deceased. His evidence depicts that he performed the marriage of the deceased with A1 on 11.05.2005 at his residence Uppal, Hyderabad. At the time of marriage he agreed to pay Rs.2 lakhs as dowry but he

could pay only Rs.70,000/-, 5 tolas of gold, 25 tolas of silver and other household articles worth Rs.35,000/- to A1. After marriage he sent the deceased to matrimonial home at Vadlakonda village, Jangaon Mandal. His grievance is that though for 5 to 6 months the accused looked after the deceased well but later they demanded Rs.50,000/- as balance of the dowry amount. Meanwhile, his daughter became pregnant and so he brought her home for confinement and she delivered one female child. He celebrated the occasion and presented Rs.10,000/- and other lanchanams to A1 and sent the deceased along with accused. Within short time again accused quarrelled with the deceased for the balance amount of dowry and sent her to his house. Then he called the elders and gave Rs.20,000/- to the deceased and sent her to in-laws house. For some time she lived happily and again she became pregnant and for second delivery PW1 took her to his house. She again delivered a female child. In spite of his informing the said fact none of the accused turned up. Then he informed the elders i.e. PWs.8, and 14. The elders convened a Panchayat and at that time A1 demanded Rs.1 lakh to be fixed in the names of two daughters or otherwise he would not take back the deceased. Accordingly, PW1 agreed to deposit Rs.50,000/- each in the names of his grand daughters and to that effect Ex.P2 was executed. Thereafter, A1 put up a separate family with deceased at Balanagar, Hyderabad. Again disputes arose with regard to

demand of balance dowry and the deceased poured kerosene on her body and on intimation of the neighbours he went and brought the deceased along with children and she stayed with him for four months. Then again Panchayat held before PWs.6, 7, 8 and 14. A1 attended the said Panchayat and in the presence of elders he promised that he would look after the deceased well and took back her to Vadlakonda village after execution of document. His further version was that after three months when he went to Vadlakonda to enquire about the welfare of the deceased, she asked him Rs.1 lakh as A1 intended to construct a house in the plot and PW1 replied that if the accused registered the land in her name he would provide the amount for the construction of the house. Then, he invited the accused for the function held in Amangal at the temple of Gandhi Mysamma. A1 and his brother—Ravi and his wife attended the function and after completion of function they returned home. On the next day the deceased returned to Vadlakonda along with accused. Three days prior to the death, the deceased informed PW1 that A1 quarrelled with her for Rs.1 lakh for the construction of the house and he was also taking alcohol and playing cards. PW1 assured that he would come and ask A1. Three days later i.e. on 04.08.2010 one girl made a telephone call to his mother and informed that the deceased poured kerosene and set her ablaze and died. He informed this fact to PW14 and then went to the house of PW14. PW14 telephoned to A1 and

requested him to shift the deceased to Hyderabad. PW1 and his family members waited upto 9 PM but the accused did not come with the dead body and so, they went MGM Hospital, Hanamkonda in a Sumo van and found the dead body in the mortuary. Thereafter, on that night they went to Vadalakonda village but did not find any of the accused in the village. Then he gave report to PS Jangaon on 05.08.2010. This is the evidence of PW1.

b) On careful analysis, the salient features in his evidence cover the necessary ingredients of the charges under Sections 304B and 498A IPC and Section 4 of Dowry Prohibition Act, 1961 inasmuch as his evidence would reveal the death of deceased was occurred within 7 years of her marriage due to burn injuries and in suspicious circumstances; within short time after the marriage A1 started harassing her for the balance dowry amount due and this harassment continued even after the birth of two daughters and in unavoidable circumstances PW1 agreed to deposit Rs.1 lakh in the names of his grand daughters for which amount A1 harassed his wife and even three days prior to her death, the deceased asked his father to pay the amount of Rs.1 lakh as A1 demanding to get that amount to construct a house on the vacant plot.

c) Coming to the veracity of PW1, he is an illiterate and only a signatory and eking out livelihood by doing catering work. For a person who is an illiterate and leads humble life,

there cannot be any occasion to make a false report against his own son-in-law unless his daughter was subjected to cruelty for dowry and ended her life in a miserable form. In the cross-examination some instances were sought to be projected by the defence side for PW1 nurturing grudge giving false report and false evidence. It was suggested to PW1 that the accused never harassed the deceased for dowry and they were not in any way responsible for her death. It was also suggested that he proposed A1 to shift his family to Hyderabad to work under PW1 as a cook and accordingly A1 worked under him for long time and in that course PW1 was due large amount to A1 for the work done by him and A1 requested for money several times but he postponed. It was further suggested that because PW1 has only one daughter he influenced her to leave accused and come back to his house and also suggested that after the death of the deceased PW1 demanded A1 to give Rs.4 lakhs by selling his land as otherwise he would file case against the accused. All these suggestions were staunchly denied by PW1. Except the above suggestions no tangible material could be extracted in the cross-examination to hold that PW1 was speaking blatant lies. On the other hand his evidence amply corroborated by other witnesses.

11) PW2 is the son of PW1 and he too deposed that A1 demanded Rs.1 lakh from his father and he (PW1) agreed to deposit the same. He further deposed that often A1 to

A4 used to send away deceased to their house for fulfilling their demand of Rs.1 lakh and once the deceased stayed for about 5 months in their house and then A1 came with elders to their house and gave assurance that he would look after the deceased well and took back her. With regard to death of deceased, he deposed that his grand mother who is residing at Siripuram has telephoned to him that deceased poured kerosene on her and lit fire and then he informed the same to PW1 through telephone. In the cross-examination he stated that A1 used to work in Swagath Bar and Restaurant in Nampally. He denied the suggestion that he did not work there but worked along with his father. He also denied the suggestion that accused never harassed the deceased for additional dowry and he looked after her well and she died due to explosion of kerosene stove accidentally. Thus, the evidence of PW2 tows in the line of PW1 on material facts. It is true PWs.1 and 2 are the father and brother of the deceased. However, as rightly put it by the public prosecutor, in a case of this nature, the own blood relations are the correct persons to speak about the family affairs of the deceased and cruelty meted out to her. In this case, their evidence does not suffer inconsistencies and discrepancies.

12) Apart from PW2, PWs.6 and 7 also corroborated PW1. PW6 is an auto driver residing at Chilakanagar, Hyderabad situated two lanes after PW1. He is related to

PW1 by courtesy. He stated that once PW1 called him to transport the provisions to the house of A1 in his auto. At that time A1 and deceased were residing at Jagadgirigutta, Hyderabad. Accordingly, in his auto himself and PW1 took provisions to the house of A1. In his presence A1 and PW1 quarrelled regarding the dowry amount. Five or six months thereafter, Panchayat was held in the house of PW1 for which A1 brought PWs.8 and 14 as elders on his behalf whereas this witness (PW6) and PW7 attended the Panchayat on behalf of PW1. At that time a dispute arose between PW1 and A1 regarding dowry amount. PWs.8 and 14 asked PW1 Rs.1 lakh for the children of A1 and PW1 agreed to deposit Rs.50,000/- each in the names of two children of the deceased and to that effect Ex.P2 was executed; himself, PWs.7, 8 and 14 attested the same. Then A1 took the deceased back to his home. He denied the suggestion that no Panchayat was held in his presence and no document much less Ex.P2 was executed and Ex.P2 was prepared to implicate the accused.

13) PW7 is a resident of Kummarigunta, Hyderabad. He knows PW1 and accused. His version is that after birth of two female children to deceased once at the instance of PW1 he attended the Panchayat at his house; himself and PW6 acted as elders for PW1 whereas PWs.8 and 14 acted as elders on behalf of A1. The Panchayat was held three months prior to the date of death of the deceased and by

that date the deceased was staying in the house of PW1. He further deposed that in that Panchayat A1 asked Rs.1 lakh from PW1 towards dowry and PW1 expressed his inability to provide immediately, but agreed to pay Rs.1 lakh by the date of Daseera festival and fix the amount in the names of daughters of deceased. Then PWs.8 and 14 assured that they were responsible for the deceased and requested PW1 to send deceased with A1. The resolution was drafted under Ex.P2 and this witness, PW6, PW8 and PW14 signed on it and on that date A1 took back the deceased to his company. Later this witness on knowing about the death of deceased went to MGM Hospital, Warangal and saw the dead body. This witness was intensely cross-examined but he stuck up to his version. He denied the suggestion no Panchayat was held and Ex.P2 was not drafted.

14) When analysed, the evidence of PWs.6 and 7 staunchly corroborates PW1 on the aspects of their attending Panchayat in the house of PW1 along with PWs.8 and 14 and A1 reiterating his demand of Rs.1 lakh towards dowry. PWs.6 and 7 are independent witnesses and nothing specific was brought on record as to reason to support PW1 and speak falsehood.

15) Ex.P2 shows that it was signed by A1 wherein it is stated that some disputes arose between him and deceased and due to his abusing her she had been residing

with her parents. It was mentioned that A1 begged excuse before the elders and promised to look well his wife and children without causing any harassment. It was further mentioned that PW1 has to pay only Rs.75,000/- but he agreed to deposit Rs.1 lakh. Thus, the oral evidence of PWs.1, 2, 6 and 7 coupled with Ex.P2 cumulatively established the prosecution case as stated supra.

16) It may be noted that some of the prosecution witnesses turned hostile and did not support the prosecution case. For instance, PW3 who is witness for inquest though stated that he attended the inquest and signed on the papers but did not further state that as per the opinion of inquest mediators the apparent cause for the death of deceased was due to harassment for dowry. Hence, he was declared hostile by the prosecution and his 161 Cr.P.C. statement was marked as Ex.P3. Though this witness did not speak about the opinion of the inquest mediators about apparent cause for the death of the deceased, still PW13 who was one of the inquest mediators in Ex.P9—inquest report, clearly deposed about apparent cause for the death of the deceased.

17) PW13 is the Sarpanch of Siripuram village. He deposed that in his presence PW18—Tahsildar, Lingala Ghanpur conducted inquest and he signed on Ex.P9—inquest report. This witness deposed that as per the opinion of the mediators apparent cause for the death of the

deceased was due to dowry harassment of A1 and thereby deceased committed suicide by pouring kerosene and setting fire by herself. He denied the suggestion that no inquest as conducted in his presence. Apart from this witness PW18 who is the Tahsildar also deposed about his conducting inquest on the dead body of the deceased on 05.08.2010. He stated that as per the opinion of the panchas apparent cause for the death of the deceased was due to accused harassing her for additional dowry and thereby she committed suicide by pouring kerosene and setting fire. In view of clear evidence of PWs.13 and 18, PW3's turning hostile will have no impact on prosecution case.

18) Then PW4 who is a resident of Vadlakonda village was examined by prosecution to speak about the harassment meted out by deceased at Vadlakonda for dowry of Rs.1 lakh and the deceased on some occasions going to this witness and reporting about the attitude of the accused etc. facts. This witness was also examined to speak about the incidents occurred on the evening of the death of the deceased i.e. 04.08.2010. However, this witness turned hostile and stated that he did not know anything about the marital life of the deceased. He was declared hostile but his previous statement was marked as Ex.P4. It should be noted that Kornepaka Ramulu (PW4) is none other than the own younger brother of A3—Kornepaka

Murali. Therefore, it is nothing strange if he turned hostile.

19) PW8 is one of the mediators attended the Panchayat at the time of drafting Ex.P2. Himself and PW14 attended the Panchayat in the house of PW1 as elders on behalf of A1. However, PW8 did not support the prosecution case. He turned hostile and deposed that no Panchayat was conducted in respect of any dispute. He further stated that he came to know that deceased died due to explosion of kerosene stove. He was declared hostile by Public Prosecutor and his statement was marked as Ex.P5. PW8 appears to be cousin of A1 as he stated that deceased is his sister-in-law by courtesy. In view of close relation with A1, he must have turned hostile. However, PWs.6 and 7 have categorically stated that this witness and PW14 attended the Panchayat on behalf of A1 and they too signed on Ex.P2. So, in our view, his turning hostile will not debilitate the prosecution.

20) PWs.9, 10 and 11 are the residents of Vadlakonda village and neighbourhood women of the deceased. The prosecution examined them to speak about the harassment meted out by accused for additional dowry and also A1 beating deceased on the evening of incident and etc. facts. They stated that they do not know anything about the case and all of them turned hostile and did not support the prosecution case and their statements are marked as Exs.P6 to P8. It should be noted that these witnesses are

neighbours of the accused and of them PW9 appears to be relation of A1. They must have been won over by the accused.

21) PW14 is a relation of accused. He along with PW8 attended the Panchayat in the house of PW1 as elder on behalf of A1 and signed on Ex.P2. However, owing to relationship with A1 he did not support the prosecution case to speak about the Panchayat. He was declared hostile and his statement was marked as Ex.P10. Despite this witness turning hostile, PWs.6 and 7 have clearly deposed about his presence at the time of Panchayat.

a) Thus, in spite of some witnesses turning hostile the prosecution nevertheless established its case with the help of other witnesses.

22) Then regarding the contentions of appellant, it is firstly contended that A1 never harassed the deceased for dowry and Ex.P2 was fabricated and even if Ex.P2 is taken as true, it would only show as if PW1 voluntarily agreed to deposit Rs.1 lakh in the names of his grand daughters but not due to any demand made by A1. This argument has no force. As already discussed supra, the evidence of PWs.1 and 2 and most importantly PWs.6 and 7 would clearly show that within short time after marriage A1 started harassing the deceased for the balance amount of dowry and it continued till her death. PW6 deposed that when once himself and

PW1 took provisions to the house of A1 in his auto, at that time also A1 made demand for the dowry. So, it is naive for A1 to contend that he never harassed the deceased for dowry. Coming to Ex.P2, it is the cumulative evidence of all the witnesses that only on the demand of A1 and the advice of PWs.8 and 14, PW1 in unavoidable circumstances agreed to deposit Rs.1 lakh in the names of his grand daughters. So it was not a voluntary act but due to coercion.

a) The cited decision in ***Appasaheb***'s case (1 supra) can be distinguished on facts. In that case the demand for money was made to defray the expenses for purchasing manure etc. In that context it was held by Apex Court that the demand for money on account of financial stringency or for meeting domestic requirements or for purchase of manure cannot be termed as 'dowry' as the said word is normally understood. It was held that the essential ingredients of Section 304B IPC i.e. demand for dowry was not established in those circumstances. However, the facts are quite different in the instant case. Since inception A1 was demanding for the balance of dowry and PW1 paid amounts at the time of birth of children and ultimately agreed to deposit Rs.1 lakh in the names of grand daughters. All these were not due to any domestic requirements of the accused but for demand of dowry.

23) The next contention is that the deceased accidentally

died due to explosion of kerosene stove and did not commit suicide and hence the charge under Section 304B IPC cannot be attracted. This argument also has no force. The suggestion given to PWs.1 and 2 in that regard was strongly denied by them. PW1 replied that in Vaddlakonda village deceased used to cook on fire wood but not on kerosene stove. Added to it, in column 3 of Ex.P9—inquest report the inquest mediators and other witnesses have clearly stated that the deceased committed suicide by self-immolation. If really she died due to explosion of kerosene stove, they would have mentioned that fact in Ex.P9. Even PW.14 who turned hostile on other aspects, has deposed that he was informed by PW1 that deceased burnt herself. So, the argument of A1 that deceased met with accidental death does not hold water. For the same reason another argument of the accused that in the earlier report given by PW.1 he might have mentioned that his daughter met with an accidental death and thereby police returned the same stating that with those allegations he cannot win the case and thereafter second report was prepared with false allegations to implicate the accused cannot be accepted. It should be noted that since inception it is nobody's case that the deceased met with an accidental death. As rightly pointed out by learned Public Prosecutor, due to illiteracy PW.1 might not have presented the complaint in a proper and understandable format and on the advice of the police he might have presented a second report. By that count it

cannot be stated that the true facts were suppressed.

24) The next argument of appellant is that when on the same evidence A2 to A4 were acquitted, the trial Court should not have convicted A1 basing on the same evidence and for the same charges. This argument also has no much conviction. A close analysis of facts and evidence would show that PWs.1 and 2 made only general statements against A2 to A4 without signifying their specific overt acts. In contrast, the prosecution witnesses spoke many instances of dowry harassment against A1. PW1 gave Rs.10,000/- and Rs.20,000/- at the time of birth of two grand daughters to A1 alone and PW1 agreed to deposit Rs.1 lakh in the name of two children etc. Further, as per PW6 when himself and PW1 took the provisions to the house of A1 in his auto, even in his presence A1 raised galata with PW1 for additional dowry. Added to it, A1 and deceased lived separately from A2 to A4 at Jagadgirigutta, Hyderabad and during that period A1 only harassed the deceased for amount. Above all, 3 days prior to her death, deceased telephoned to her father (PW1) and informed about the demand of Rs.1 lakh by A1 and that he was drinking alcohol and playing cards. So, the evidence mainly points out accusing finger against A1 alone rather than A2 to A4 which prompted the trial Court to convict A1 but acquit A2 to A4. Hence, mere acquittal of A2 to A4 for lack of strong and cogent evidence cannot be a ground for A1 to seek acquittal

as in his case the evidence was strong, forcible and reliable too. Hence, point No.1 is concerned, the conviction recorded by the trial Court is held factually and legally sustainable.

25) **POINT No.2:** Coming to sentence, it was submitted on behalf of appellant/A1 that two minor daughters are with him and he has also got aged parents to look after and therefore a lenient view may be taken. In **Ranjit Singh's** case (2 supra) the Honourable Apex Court taking into consideration that appellant got three children out of which one son is handicapped and his mother also paralysed, reduced the life imprisonment under Section 304B IPC to 7 years. In the instant case, PW1 admitted in his cross-examination that since after the death of the deceased the two children are with the accused. So, he has to look after their welfare. Besides, A1 has aged parents. In that view of the matter, we consider justification in his prayer to take lenient view. Accordingly, while confirming the sentence passed against A1 for the offences under Section 498A IPC and Section 4 of Dowry Prohibition Act, the life sentence passed against him for the offence under Section 304B IPC is reduced to **Seven (7) years Rigorous Imprisonment**. The substantive sentences passed for different offences shall run concurrently.

26) In the result, this Criminal Appeal is allowed to the extent mentioned above.

As a sequel, miscellaneous petitions, pending, if any,
shall stand closed.

G. CHANDRAIAH, J

U. DURGA PRASAD RAO, J

Date: 04.04.2016

Murthy

[\[1\]](#) (2007) 9 SCC 721

[\[2\]](#) (2014) 1 SCC (CrI.) 644

[\[3\]](#) (2014) 3 SCC (CrI.) 113