

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.717 of 2007

JUDGMENT:

1. This appeal is filed by the appellant-accused against the Judgment dated 4.5.2005 passed in S.C.No.575 of 2004 by the V Additional Sessions Judge, Fast Track Court, Ranga Reddy District, L.B. Nagar.

2. The case of the prosecution is as follows:

The marriage of the accused with the deceased Kalpana took place about six years prior to the incident. At the time of marriage, her mother-P.W.1 presented Rs.50,000/- towards dowry. The accused and the deceased were blessed with a son. Since the date of marriage, the accused had been harassing the deceased over trivial family issues. The panchayaths were held on three occasions and the elders admonished the accused not to ill-treat the deceased. But there was no change in his attitude. On 3.8.2004, the deceased informed her mother-P.W.1 that she was beaten by the accused and she was in critical condition. P.W.1 went to her house in Allwyn Colony in Kukatpally and found the neck of the deceased swelling. The deceased informed her that during the scuffle, her husband-accused caught hold of her hair and hit to wall. On 4.8.2004, P.W.1 took the deceased to her house in Puranapool and took to nearby hospital of P.W.12, who treated her. As the deceased was not responding well for the treatment, P.W.12 advised P.W.1 to take the deceased either to Osmania General Hospital or to ENT Hospital. Accordingly, she was taken to Osmania General Hospital and from there to ENT, where she died at 3.50 p.m. On the complaint given by P.W.1, a case was

registered and investigated into. After completion of the investigation, charge sheet was filed against the appellant-accused.

3. The learned Additional Judicial Magistrate of First Class, Hyderabad, West and South, Ranga Reddy District, took the case on file and committed the same to the Court of Sessions. The learned Principal Sessions Judge registered the same as S.C.No.575 of 2004 and made over the case to the V Additional Sessions Judge (FTC), Ranga Reddy District, for disposal.

4. The trial Court framed a charge under Section 302 IPC against the appellant, read over and explained to him, for which he pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws. to 14 were examined and Exs.P1 to P14 were marked. No oral or documentary evidence was adduced on behalf of the accused.

6. On appreciation of oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 304 Part II IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.200/- in default to suffer simple imprisonment for one month. Aggrieved by the same, the appellant-accused filed this appeal.

7. Learned Counsel for the appellant as well as the learned Additional Public Prosecutor brought to the notice of this Court that the appellant has served the sentence and he was released.

8. After perusing the material on record, this Court is of the view that even on the merits, the judgment of the trial Court does not warrant any interference. The material on record, more particularly, the evidence of P.Ws.1 to 3 goes to show that the accused used to beat and harass the deceased and in that connection, panchayats were also conducted. The evidence of P.Ws.1 to 3, 7 and 13 further establishes that the accused beat the deceased and caused injuries to her neck and head, as a result of which, the deceased was unable to turn her head to either side and she was succumbed to the injuries caused by the appellant. Considering the evidence of the prosecution witnesses and the circumstances of the case, this Court is of the view that the trial Court has rightly convicted the accused for the offence under Section 304 Part II IPC. However, the sentence of imprisonment imposed by the trial Court is modified to that of the period already undergone by the appellant-accused, while confirming the sentence of fine.

9. Accordingly, the Criminal Appeal is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated: 23rd September, 2016

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23.9.2016

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