

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1334 of 2006

JUDGMENT:

1. This Criminal Revision Case is filed by the petitioners-accused Nos.1 and 2 challenging the Judgment dated 11.7.2006 passed in Crl.A.No.30 of 2005 by the II Additional Sessions Judge, Mahabubnagar.

2. Brief facts of the case are as follows:

The marriage of Chennamma (for short, 'the deceased') with A2 was performed about three years prior to the incident. At the time of marriage, Rs.10,000/- cash, 4 tulas of gold were given as dowry to him. After marriage, the deceased was sent to her in-laws' house, where she lived happily for six months and thereafter, A2 and his father-A1 demanded her to get Rs.3,000/- from her parents. When she asked her parents, they expressed their inability. About 15 days prior to the incident, both the accused took her to her parents' house and demanded additional dowry of Rs.3,000/-, for which P.W.1-father of the deceased told them that he would arrange the money later. Both the accused continued harassment physically and mentally towards the deceased. On 2.3.2004 at about 11 p.m., the husband of the deceased, without any cause, picked up a quarrel, beat her indiscriminately and caused humiliation. The deceased took extreme step of pouring kerosene on her body and set herself ablaze to commit suicide. P.W.3, who was going on the road, found her with burn injuries and came to know the reason. The deceased succumbed to burn injuries on the way to the Government Hospital, Kurnool. On the report

given by the father of the deceased, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Wanaparthy took case on file for the offence under Section 304-B IPC and committed the same to the Court of Sessions. The Sessions Court made over the same to the learned Assistant Sessions Judge, Wanaparthy for disposal.

4. The trial Court framed charges under Section 498-A IPC and 304-B IPC or in the alternative a third charge under Section 306 IPC, read over and explained to them, for which they pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws.1 to 9 were examined and Exs.P1 to P7 and M.Os.1 and 2 were marked on behalf of the prosecution. D.W.1 was examined on behalf of the accused.

6. On appreciation of oral and documentary evidence, the trial Court found accused Nos.1 and 2 guilty for the offence under Sections 498-A and 304-B IPC, convicted and sentenced them as follows:

- 1) A1 and A2 were convicted and sentenced to undergo simple imprisonment for a period of one year each and to pay a fine of Rs.500/- each in default to undergo simple imprisonment for a period of six months each for the offence under Section 498-A IPC;
- 2) They were convicted and sentenced to undergo simple imprisonment for a period of seven years each for the offence under Section 304-B IPC;
- 3) They were acquitted for the alternative charge under Section 306 IPC;

4) Both the sentences shall run concurrently;

Aggrieved by the conviction and sentence imposed by the trial Court, A1 and A2 filed appeal viz., Crl.A.No.30 of 2005 before the II Additional Sessions Judge, Mahabubnagar. The said appeal was dismissed. Hence, the petitioners filed this revision.

7. Learned Counsel for the petitioners submitted that the trial Court has relied upon the testimony of the interested witnesses and that the trial Court has not appreciated the evidence in a proper perspective and that the trial Court convicted the accused basing on mere surmises and conjectures.

8. Learned Additional Public Prosecutor submitted that the Courts below have rightly appreciated the evidence and that the judgments of the Courts below do not warrant any interference.

9. Now, the point that arises for consideration in this revision is:

“Whether the conviction and sentence imposed by the Courts below warrant any interference by this Court?”

10. It is the case of the prosecution that the petitioners subjected the deceased to cruelty, due to which, the deceased committed suicide within seven years of her marriage. P.Ws.1 and 2 are the parents of the deceased. The entire evidence of P.Ws.1 and 2 goes to show that the accused demanded the deceased for additional dowry of Rs.3,000/-. They deposed that the accused brought the deceased to their house demanding Rs.3,000/- as additional dowry. About 4 or 5 days prior to death of the deceased, the deceased telephoned to her mother and complained about the harassment caused to her. Except stating that, the accused harassed the deceased for additional dowry of Rs.3,000/-, nowhere they stated in their evidence as

to the manner of harassment caused by the accused. No specific overt acts were attributed to the accused. Further more, except the evidence of P.Ws.1 and 2, there is no independent witness to speak as to the harassment made by the petitioners prior to her death.

11. According to the case of the prosecution, P.W.3 saw the deceased with flames and enquired the deceased and came to know the cause for committing suicide. But, P.W.3 has not stated anything before the Court. Further, he stated that the deceased informed him that she burnt herself because of stomach pain.

12. Considering the evidence of P.Ws.1 to 3, this Court is of the view that there is nothing on record to come to a conclusion that the petitioners committed the offence under Section 304-B IPC. But however, the evidence on record goes to show that the attitude of the petitioners drove her to commit suicide. It would amount to an offence under Section 498-A IPC.

13. In the above circumstances, the conviction and sentence imposed by the Courts below against the petitioners-accused for the offence under Section 304-B IPC are set aside.

14. The conviction recorded by the Courts below against the petitioners-accused for the offence under Section 498-A IPC is confirmed. However, the sentence of one year simple imprisonment imposed by the Courts below for the said offence is modified to that of the period, which each of the petitioners has already undergone, while confirming the sentence of fine with default sentence.

15. With the above modification, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

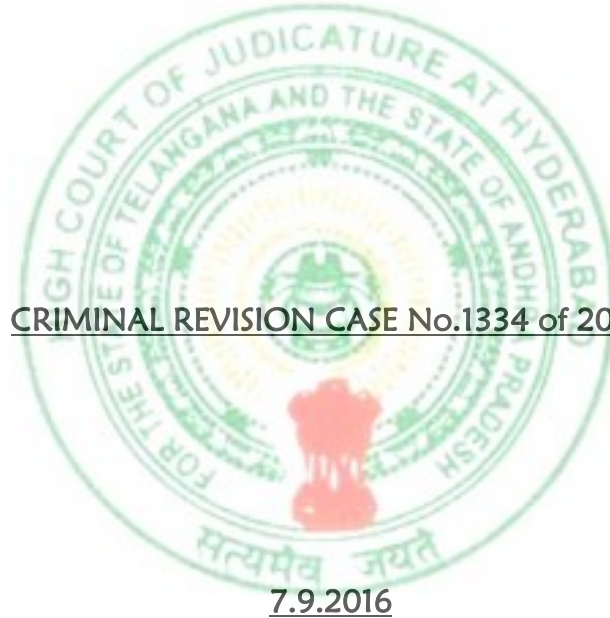
JUSTICE RAJA ELANGO

Dated:7th September, 2016

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