

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.1983 of 2006

ORDER:

The Petitioners-Accused Nos.3 & 4 preferred the present Criminal Revision Case by invoking the provisions under Section 397 and 401 of the Code of Criminal Procedure, being aggrieved by judgment, dated 28.11.2006, passed in CrI.A. No.294 of 2002 by the II-Additional Sessions Judge, Kadapa at Proddatur, whereby the learned Sessions Judge partly allowed the appeal by setting aside the conviction and sentence imposed by the Assistant Sessions Judge, Proddatur, against the petitioners insofar as the offences under Sections 304-B r/w.109 and 506 IPC and confirming the conviction insofar as the offence under Section 306 IPC and reducing the sentence for the said offence from five years rigorous imprisonment to three years rigorous imprisonment while confirming the fine, in SC No.295 of 2000, vide judgment, dated 18.11.2002, wherein the learned Assistant Sessions Judge found the petitioners – accused guilty of the offences under Sections 506, 304-B r/w.109 and 306 IPC and convicted and sentenced them as follows:

- i. to pay fine of Rs.2,000/- in default to undergo simple imprisonment for six months each for the offence punishable under Section 506 IPC;
- ii. to undergo rigorous imprisonment for a period of seven years each for the offence punishable under Section 304-B r/w.109 IPC, and
- iii. to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for one year each for the offence punishable under Section 306 IPC.

The case of the prosecution, in brief, is as follows:

The petitioners and the other accused i.e. A1 and A2 are relatives. A3 married the deceased Mabu Chan, who is the daughter of

PW.1. Out of their wedlock, they blessed with a male child. The accused harassed the deceased to earn money by attending to coolie work and used to beat her on that ground. Due to harassment made by the accused, the deceased went to her parents' house and is staying there. Four days prior to the date of occurrence, accused Nos.1 to 4 went to the place of the deceased abused and threatened her that they would kidnap her if she does not come to live along with her husband. Vexing with the attitude of the accused, the deceased decided to put an end to her life and poured kerosene on her body and set fire herself. Upon hearing her cries, LWs.3 to 9 extinguished the flames on the body of the deceased and shifted her to the Government Hospital for treatment. Subsequently, she died due to the burn injuries. On a complaint lodged by PW.1, mother of the deceased, a case was registered against the petitioners and A1 and A2 for the offences under Sections 304-B, 506 and 109 IPC. The accused were arrested by the Inspector of Police and were sent for judicial remand. After completion of investigation, the police filed charge sheet.

The case was taken on file for the offences under Sections 304-B, 506 and 109 IPC. Thereafter, the case was committed to the Sessions Division, Kadapa and the same was made over to the trial Court for trial and disposal in accordance with law. On appearance of the accused, the charges under Sections 506, 304-B r/w.109 and 306 IPC were framed, read over and explained to them in Telugu, for which they pleaded not guilty and claimed to be tried.

To prove its case, prosecution examined PWs.1 to 11 and marked Exs.P1 and P16 and MOs.1 to 6. On behalf of the accused no oral or documentary evidence was adduced. The accused Nos.1 and 2, who are

the parents of 3rd accused i.e. 1st petitioner herein, died during the pendency of the case. As such, the case against them got abated and the case against the petitioners was proceeded with.

The learned trial Judge mainly relying on the dying declaration of the deceased, since the other witnesses turned hostile, found the accused guilty of the offences under Sections 506, 304-B r/ w. 109 IPC and 306 IPC, and accordingly, convicted and sentenced them as stated above. Challenging the same, the accused preferred appeal in CrI.A. No.294 of 2002 before the II-Additional Sessions Judge, Kadapa. The learned Sessions Judge partly allowed the appeal by dismissing the appeal by confirming the conviction and reducing the sentence recorded by the trial Court for the offence under Section 306 IPC and by allowing it by setting aside the conviction and sentence recorded by the trial Court insofar as the offences under Sections 506 and 304-B r/ w. 109 IPC. Challenging dismissal of the appeal insofar as the offence under Section 306 IPC, the present revision case is filed by the petitioners – accused Nos.3 & 4.

Heard and perused the material available on record.

Learned counsel for the petitioners submitted that the judgment under revision suffers from material irregularities and that the learned appellate Judge has not taken into consideration the fact that PWs.1 to 7 did not support the case of the prosecution and that there was no abetment by the husband to lead the deceased to commit suicide and that there was no dowry demand and that the 2nd petitioner is a resident of other village and she is no way concerned with the affairs of the 1st petitioner and his wife i.e. deceased, and therefore, he prays to allow the revision.

On the other hand, learned Additional Public Prosecutor submitted that the findings of the Courts below need not be interfered with, insofar as the conviction of the accused for the offence under Section 306 IPC and therefore, he prays to dismiss the revision.

A perusal of the record discloses that even though the prosecution wants to substantiate the case by way of adducing evidence through witnesses, the material witnesses turned hostile and they have not supported the case of the prosecution. Apart from that, the entire evidence go to show that the deceased committed suicide in her parental house, that too, one and half years after she left her matrimonial house. Though there is no evidence to prove the charges framed against the accused, the learned trial Judge as well as the learned appellate Judge, placing reliance only on the dying declaration of the deceased, convicted the accused. This Court also perused the said dying declaration. As per the dying declaration, it was specifically stated by the deceased that her in-laws' compelled her to go for coolie work, for which she was not interested and therefore, she was subjected to harassment. Further, it go to show that the deceased sated that her husband, 1st petitioner herein, is a good person and he has also taken care of herself and the reason for committing suicide is that since she was compelled to go for coolie work. Even if the entire evidence is taken as true, more particularly the dying declaration, it would not attract the offence under Section 306 IPC. Therefore, this Court is of the view that there is no inducement by the petitioners, which lead the deceased to commit suicide and therefore, the judgments of the Courts below insofar as the conviction and sentence recorded against the

petitioners for the offence under Section 306 IPC is liable to be set aside.

Accordingly, the Criminal Revision Case is allowed and the conviction and sentence recorded against the petitioners – A3 & A4 by the Assistant Sessions Judge, Proddatur, in SC No.295 of 2000 vide judgment, dated 18.11.2002, for the offence under Section 306 IPC, as modified by the II-Additional Sessions Judge, Kadapa at Proddatur, in Crl.A.No.294 of 2002 vide judgment, dated 28.11.2006, are set aside. Consequently, the petitioners - accused Nos.3 & 4 are acquitted for the said charge. The fine amount, paid if any, shall be refunded to the petitioners. Bail bonds shall stand cancelled and the sureties are discharged.

Miscellaneous applications, pending if any, shall stand closed.

August 05, 2016.
KTL

RAJA ELANGO, J

