

**THE HONOURABLE SRI JUSTICE RAJA ELANGO
AND
THE HONOURABLE SRI JUSTICE P.KESHA RAO**

CRIMINAL APPEAL No.348 OF 2011

JUDGMENT: (per Hon'ble Sri Justice Raja Elango)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 25.11.2010, in Sessions Case No.641 of 2007 on the file of the V Additional Sessions Judge (III Fast Track Court), Nalgonda at Miryalaguda whereunder and whereby, appellants herein/A-1 and A-2 were found guilty of the offence punishable under Section 304-B of the Indian Penal Code, 1860 (for short, "I.P.C.") and they were convicted under Section 235(1) Cr.P.C. and sentenced to undergo life imprisonment.

2. The Sub-Divisional Police Officer, Miryalguda filed charge sheet against A-1 and A-2 for the offence under Section 304-B I.P.C. in Crime No.01 of 2007 of Miryalguda Rural Police Station.

The brief facts that are necessary for disposal of the present appeal may be stated as follows:

On 04.01.2007, at 8:30 P.M., L.W.1 – Puli Sandeep Kumar lodged a Telugu written complaint stating that one Errabelli Venkata Gurvaiah developed love affair with his sister Latha, got married in February, 2006 without the consent of his family members. Since their marriage, they are leading their matrimonial life by residing in the house of Venkata Gurvaiah at Kothagudem Village. The couple led their conjugal life happily for a period of 40

days. While the things stood thus, about four months prior to the incident, his sister came to his house and informed that her husband started harassing her physically and mentally to bring Rs.4,00,000/- towards dowry saying that he married her without taking dowry and their parents gave an amount of Rs.4,00,000/- to her elder sister as dowry during the marriage. On coming to know about the harassment, her relatives Puli Venkateshwarlu, S/o.Bala Krishna and Puli Venkateshwarlu, S/o.Saidaiah took his sister to Kothagudem and convinced her husband that they will arrange the dowry amount within six months after getting the paddy crops. Thereafter, he did not harass for a period of ten days and later, again her husband, mother-in-law (A-1 and A-2) and sister started harassing his sister both physically and mentally to bring dowry. Having not tolerated their harassment, on 04.01.2007, at 3:00 P.M., his sister committed suicide by hanging to ceiling fan rod at her house.

On the basis of the above complaint, L.W.19 registered a case in Crime No.01 of 2007 under Section 304-B I.P.C. He filed a requisition to L.W.16, who in turn held inquest over the dead body of the deceased in the presence of L.Ws.13 to 15 and sent the body for post mortem examination. L.W.20 recorded the statements of L.Ws.1 to 12. Thereafter, visited the scene, got photographed, conducted scene of offence panchanama and seized a "chunni", which was used by deceased in hanging, in the presence of L.Ws.13 and 14. L.Ws.17 and 18, a team of doctors, conducted the autopsy.

3. The trial Court framed charge under Section 304-B I.P.C.

against A-1 and A-2.

4. When the above charge was read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.

5. To substantiate the charges, the prosecution examined P.Ws.1 to 15 and got marked Exs.P-1 to P-17 besides case property – M.O.1.

6. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. with reference to the incriminating circumstances appearing against them in the evidence of prosecution witnesses. They denied the same. On behalf of the accused, none was examined and no documents were got marked.

7. The trial Court, after appreciating both oral and documentary evidence on record, found A-1 and A-2 guilty of the charge with which they were charged and accordingly, convicted and sentenced them as stated supra. Challenging the same, the present appeal is filed by A-1 and A-2.

8. After perusal of the entire records and hearing the arguments, this Court is of the view that there is nothing to interfere with the order of conviction recorded by the trial Court. At the same time, as pointed out by the learned counsel for the appellants, it is true that whenever the Court wants to impose a sentence of life imprisonment for an offence under Section 304-B I.P.C., it should record reasons for the same. Under Section 304-B I.P.C., the sentence should not be less than seven years and

it may be extended to life imprisonment. In the present case on hand, learned trial Judge observed as follows:

“From the facts and the circumstances of the case leading to the death of the deceased is that the deceased married the accused No.1 against the wishes of her parents left them with a fond hope that he will take care of her, but the accused did not take care of the deceased Latha and started harassing her to get dowry as her parents gave Rs.4,00,000/- to her elder sister and thereafter, the elders of the village mediated the matter and requested the accused not to harass the deceased Latha and they promised that they will pay the amount of Rs.4,00,000/- as demanded within two months. But, in spite of that also, the accused started harassing the deceased Latha after ten days of the mediation.”

It is evident from the above observation that the learned trial Judge has not given any reason for imposing the sentence of life imprisonment against the accused.

9. Considering all the facts and circumstances of the case and from a perusal of the evidence on record, this Court is of the view that the allegations are not so serious in nature except the fact that the deceased committed suicide within a period of seven (7) years from the date of her marriage in connection with demand of dowry. From the material available on record and in view of the fact that A-2 is suffering from ill-health and A-1 is the sole bread winner to their family and both of them are very poor, this Court is inclined to modify the sentence.

10. In the result, the conviction recorded by the V Additional Sessions Judge (III Fast Track Court), Nalgonda at Miryalaguda vide judgment, dated 25.11.2010, in Sessions Case No.641 of 2007

against the appellants/A-1 and A-2 for the offence under Section 304-B I.P.C. is confirmed. However, the sentence of imprisonment for life is modified to seven years and accordingly, A-1 and A-2 shall undergo rigorous imprisonment for a period of seven (7) years. The period of remand underwent by them during investigation, trial and after conviction shall be given set off under Section 428 Cr.P.C.

11. Accordingly, the Criminal Appeal is partly allowed.

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

JUSTICE RAJA ELANGO

JUSTICE P.KESHA VA RAO

Date: 21.09.2017
AMD



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