

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Revision Case No.108 of 2018

ORDER:

This Criminal Revision Case is directed at the instance of petitioner/A.2 against the order dated 21.07.2017 in CrI.M.P.No.409/2017 in S.C.No.68/2016 on the file of Sessions Judge, Mahila Court, Vijayawada, whereunder the learned Judge dismissed the application filed by the petitioner under Section 227 Cr.P.C to discharge her from the case.

2) The factual matrix of the case is thus:

a) A.1 is the husband of the deceased and A.2 is the sister of A.1. The marriage of deceased was performed with A.1 on 18.01.2013 at Vijayawada and for one year A.1 looked after the deceased well. Thereafter, A.1 started harassing deceased mentally and physically demanding additional dowry. It is alleged that A.2 instigated the A.1 to harass the deceased. While-so on 06.09.2015, the deceased committed suicide by hanging. On the complaint given by sister of the deceased, the police of Vijayawada II Town PS, Vijayawada City, registered case in Crime No.307/2015 and after conducting investigation laid charge sheet against A.1 and A.2 for the offences under Sections 498-A, 306, 304-B r/w 34 IPC.

On 21.10.2015, A.1 also committed suicide by hanging.

b) Pending Sessions Case, A.2 filed CrI.M.P.No.409/2017 seeking to discharge her from the case on the ground that false case was foisted and that

A.1 and deceased used to live at Vijayawada, whereas she has been residing at Hyderabad, which is a far-off place from Vijayawada. She further submitted that on the date of offence she was at Hyderabad and that no case was made out against her as there was no allegation that she involved in the commission of offence. Hence she prayed to discharge her from the case.

c) The prosecution filed its counter and opposed the petition denying the allegations made in the petition.

d) The Trial Court dismissed the petition on the observation that the inquest report and the statements of the witnesses would prove *prima facie* involvement of petitioner/A.2.

Hence, the Criminal Revision Case.

3) Heard Sri Balantha Devadass, learned counsel for petitioner and learned Additional Public Prosecutor for the State.

4) The point for determination is:

“Whether there are merits in the Crl.R.C to allow?”

5) **POINT**: The prosecution case briefly is that the deceased and Accused No.1 were married on 18.01.2013 and both the couple lead happy marital life for a short stint at Vijayawada. Thereafter, it is alleged, at the instigation of A.2, A.1 started harassing deceased physically and mentally for additional dowry. A.1 was demanding the deceased to bring additional dowry from her natal home. A.1 used to utter that the deceased had not brought the dowry befitting to his status and she should live like a maid in his house. All those

words it is alleged, he uttered under the influence of the evil advices of A.2. The deceased used to inform to his sisters and mother by phone about the harassment meted out by A.1. Few days before 06.09.2015, A.1 and deceased went to Hyderabad and spent with A.2's family. Since after they returned to Vijayawada, A.1 started harassing the deceased mentally and physically under the influence of the words of A.2. The deceased informed the said fact also to her family members. Ultimately, unable to bear the harassment of A.1, the deceased committed suicide on 06.09.2015 in her matrimonial home by hanging to a ceiling fan. The police of Vijayawada II Town PS, Vijayawada City, after investigation filed charge sheet against A.1 and A.2 under Sections 498-A, 306, 304-B r/w 34 IPC in Crime No.307/2015. It is to be noted that A.1—the husband of the deceased committed suicide by hanging and therefore, case against him was abated. The Trial Court dismissed the discharge application filed by the petitioner/A.2 in CrI.M.P.No.409/2017 in S.C.No.68/2016 and framed two charges against A.2. The first charge is under Section 306 IPC and alternatively under Section 304-B r/w 34 IPC and Section 302 IPC and second charge is under Section 498-A IPC. In the instant CrI.R.C, the petitioner/A.2 challenged the dismissal of discharge petition and framing of charges.

6) I have given my anxious consideration to the FIR, charge sheet and statements of witnesses to find out whether any *prima facie* case is exposed to direct A.2 to stand for trial. As per charge sheet, the gravamen of the accusation against petitioner/A.2 is that she being the elder sister of A.1, instigated A.1 to harass the deceased for additional dowry and due to her ill-

advice, A.1 harassed the deceased and demanded her to bring additional dowry from her parental home. He used to deride her that the deceased did not bring sumptuous dowry befitting to his status and therefore, she should lead the life of a maid in his house. It is further accused in the charge sheet that few days prior to the death of deceased, both the couple went to Hyderabad and stayed there for few days and since from the day they returned to Vijayawada, A.1 started harassing the deceased mentally and physically due to the influence of the words of A.2. Ultimately, the deceased committed suicide on 06.09.2015 by hanging.

a) Coming to the evidence, LW.1—M.Baby Rajeshwari, who is the elder sister of the deceased lodged the report. In her 161 Cr.P.C statement, she stated that her sister was married to A.1 in the year 2013 and for sometime, they lived cordially. Thereafter the deceased used to inform her woes through phone that she was not being allowed to talk with her mother and sisters in phone and that her husband uttered that she was not befitting to his status and she should live like a maid servant. She further stated that the deceased informed her that her husband was harassing her at the instigation of his sister i.e, Neelima. She also stated that Neelima used to tell her that she should bring grocery items every month. She also stated that about 10 days prior to her death, the deceased and A.1 went to Hyderabad to the house of Neelima and stayed there for 4 days and returned and since then her husband had been harassing her mentally and physically to bring additional dowry from her parental home. She alleged that her sister committed suicide due to unbearable harassment by the husband of the deceased and her sister-in-law

i.e, Neelima and though her sister-in-law stays at Hyderabad, she used to instigate A.1 over phone to harass her sister. LW.2—Bandi Yesu Prema Bharathi, LW.3—Bandi Bharathi Prasad and LW.4—Gudapati Sudhavani, who are the mother, brother and sister of the deceased respectively also stated in similar manner. Then we have the statements of LW.10—Althi Lakshmi and LW.11—Smt. Shaik Kairunnisa, who are the neighbours of the deceased. Their version is that they used to hear quarrels between A.1 and the deceased, now and then. The deceased used to inform them that at the instigation of his elder sister—Neelima, her husband was harassing her to bring additional dowry. They further stated that about 10 days back, the deceased and A.1 went to Hyderabad to the house of Neelima and returned to Vijayawada and on 06.09.2015, the deceased committed suicide.

7) Thus a close scrutiny of the above material placed on record would show that there is a *prima facie* accusation against the petitioner/A.2 to the effect that though petitioner/A.2 was staying at Hyderabad, she instigated A1 and thereby A.1 used to harass deceased for additional dowry and used to abuse her. Ofcourse, the veracity of the statements of the witnesses and the genuineness of the prosecution case can be determined only after full-fledged trial. As the matter stands, since the deceased died within 7 years of her marriage otherwise than under normal circumstances in her matrimonial home and as the statements of the witnesses reveal that prior to her death she was harassed for additional dowry, in my considered view, charges under Section 306 IPC and alternative charges under Section 304-B IPC and another charge under Section 498-A IPC are maintainable against petitioner/A.2. As already

stated supra, A.1 died committing suicide and case against him was abated. Sofaras the alternative charge under Section 302 IPC is concerned, there is no iota of material to frame the said alternative charge. It must be noted that it is nobody's case that A.2 has either committed the murder of deceased directly or she instigated A.1 to kill the deceased. The only allegation against her is that she used to instigate A.1 to harass the deceased to bring additional dowry. Therefore, there is absolutely no material to frame even an alternative charge under Section 302 IPC against petitioner/A.2 and therefore, the said charge is liable to be expunged.

8) In the result, this CrI.R.C is partly allowed and while sustaining the other charges framed by the Trial Court, the alternative charge framed under Section 302 IPC is quashed and the petitioner/A.2 is discharged to that extent. The Trial Court shall conduct the trial without being influenced by the observations made in this order.

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

U. DURGA PRASAD RAO, J

Date: 13.06.2018

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