

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Criminal Petition No.2056 of 2011

ORDER:

In this petition filed under Section 482 Cr.P.C, the petitioners/A.1 to A.4 seek to quash the proceedings against them in S.C.No.418/2008 on the file of II Additional Sessions Judge, Ranga Reddy District at L.B.Nagar.

2) A.1 is the husband of the deceased. A.3 and A.4 are the parents and A.2 is the elder brother of A.1. The prosecution case as per charge sheet is that the deceased—Sujatha and A.1 married on 28.05.2004 against the wish of elders of both sides and they setup their family independently in H.No.18-73/38/1, NTR Nagar, Ambedkarnagar, Balaji nagar, Shameerpet Mandal. While-so within short time after the marriage, all the accused started harassing the deceased to bring Rs.50,000/- from her parents as dowry to clear their debts. On her intimation, the father of the deceased (LW.1) expressed his inability and finally paid Rs.8,000/-. Not satisfying with the said amount, the accused harassed her for the balance amount. Unable to bear their harassment, the deceased committed suicide by setting fire to her Saree from the kerosene stove on the night of 12.06.2004 and she was admitted in Gandhi Hospital, Hyderabad and while undergoing treatment, she died on 19.06.2004. On intimation, the VII Metropolitan Magistrate, Secunderabad, recorded her dying declaration wherein she stated as if she was accidentally caught fire. However, basing on the statements of

parents, brother and neighbours, the Investigating Officer (IO) came to conclusion that the death was not accidental and it was a dowry death case and thus filed charge sheet against the accused for the offence under Section 304-B IPC.

Hence the Criminal Petition.

3) Heard arguments of Sri T.Bala Mohan Reddy, learned counsel for petitioners and learned Addl. Public Prosecutor for the State (Telangana).

4) Severely fulminating the charge sheet, learned counsel for petitioners argued in vehemence that the deceased and A.1 loved each other and married against the wish of their respective parents and setup independent family in NTR Nagar, Shameerpet and the deceased was caught in fire accidentally while she was preparing tea on the kerosene stove and this fact was clearly stated in her dying declaration recorded by the Magistrate. Despite the same, the IO due to the pressure of the parents of the deceased filed charge sheet against the accused without any basis. Learned counsel argued that the incident occurred within 15 days after the marriage and since it was a love marriage between A.1 and the deceased, absolutely there was no need for the deceased to commit suicide. Considering these facts and her dying declaration, the police ought to have filed a final report. He further argued that A.2 to A.4 are residing at a different place and there is no material against them to sustain a charge under Section 304-B IPC. He thus prayed to allow the petition.

5) Per contra, learned Addl. Public Prosecutor argued that the dying declaration was given by the deceased under influence of her husband and other accused and the same is evident from the fact that the parents, brother and the neighbours of the deceased clearly stated that all the accused harassed the deceased for dowry of Rs.50,000/- and her father with great difficulty could only pay Rs.8,000/- and not satisfied with the said amount, the accused harassed her for the balance amount. Therefore, she must have committed suicide unable to bear the harassment meted out to her by the accused and therefore, her dying declaration cannot be given much importance.

6) The point for consideration is:

“Whether there are merits in this petition to allow?”

7) **POINT:** In this case admittedly the A.1 and deceased married against the wish of their respective parents on 28.05.2004 and setup their family independently at NTR Nagar, Shameerpet in a one roomed house. The burn incident occurred within short time thereafter i.e, on 12.06.2004. From the statements of witnesses to the scene of offence panchanama and the photographer, it is evident that the stove was not bursted indicating that the incident was not occurred due to sudden burst of the stove. Therefore, the burn injuries must have occurred to the deceased either due to her intentionally setting fire to her Saree or her Saree accidentally caught in fire. In this regard, the statements of the deceased given before the Magistrate and the Head Constable of Alwal

PS no doubt reveals that she was accidentally caught in fire while preparing tea. However, at the same time we have equally strong evidence indicating that it was not an accidental fire incident. The statements of the parents, brother and more particularly the immediate neighbours of the deceased would reveal that all the accused demanded the deceased to bring dowry of Rs.50,000/- from her parents and when she intimated the same to her father, he could only pay Rs.8,000/- with much difficulty and having not satisfied, the accused harassed her for the balance amount. Whether the statements of the deceased were genuine or whether the evidence of prosecution witnesses is a truthful one can be determined only after a full-fledged trial. As the matter stands, there is a strong *prima facie* case against all the accused. Therefore, it is not a fit case to quash the proceedings. The petitioners/ accused shall face trial and vindicate their defence. The Trial Court shall decide the case on merits without being influenced by the observations made in this order.

8) With the above observations, this Criminal Petition is dismissed.

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

U. DURGA PRASAD RAO, J

Date: 29.08.2018

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