

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.1569 of 2006

ORDER:

This Criminal Revision Case by the petitioner-accused under Sections 397 and 401 Cr.P.C. is directed against the judgment dated 15.09.2006 in Criminal Appeal No.143 of 2003 on the file of the IV Additional Sessions Judge, Nalgonda, (hereinafter referred to as 'the appellate Court'), whereby the learned Sessions Judge dismissed the appeal confirming the conviction and sentence recorded against the petitioner-accused in the Judgment dated 12.09.2003 in Sessions Case No.451 of 2002 on the file of the Assistant Sessions Judge, Bhongir (hereinafter referred to as 'the trial Court').

2. Case of the prosecution, in brief, is as follows:

Marriage of one Bharatamma (hereinafter referred to as 'the deceased') took place with the petitioner-accused about 20 years prior to her death and they were blessed with a female child. Thereafter, the petitioner-accused started harassing the deceased for money. When she refused to give money, he used to beat her indiscriminately. About 5 years prior to the incident, the accused beat her and necked out her from his house. About 3 years prior to the incident, a panchayat was held wherein the elders found fault with the petitioner-accused, warned him and settled the dispute between them, and the deceased joined company of the accused.

The petitioner-accused was having illicit intimacy with one Mallamma of Kapraipally village. When he decided to go to Cheruvugattu Jathara along with her, the deceased

questioned him. On that, he picked up a quarrel with the deceased and beat her indiscriminately. Unable to bear the harassment and vexed with her life, the deceased consumed poison and committed suicide on 19.02.2002 in the house of the petitioner-accused. On coming to know about her death, P.W.1 and his relatives went to house of the petitioner-accused and found the dead body. On Ex.P1-report lodged by P.W.1, police registered the case, investigated into and laid the charge sheet.

3. The learned Additional Judicial Magistrate of First Class, Bhongir took cognizance of the case as P.R.C. No.38 of 2002 for the offence punishable under Section 306 IPC and committed the same to the Court of Session. The learned Sessions Judge took the case as Sessions Case No.451 of 2002 and made over the same to the trial Court for disposal.

4. The trial Court framed a charge for the offence punishable under Section 306 IPC against the accused. When the charge was read over and explained to him in Telugu, he pleaded not guilty and claimed to be tried.

5. To substantiate the case of prosecution, P.Ws.1 to 11 were examined and Exs.P1 to P7 were got marked

6. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. with reference to the incriminating material found against him in the evidence of prosecution witnesses. He denied the same. No oral evidence or documentary evidence was adduced on behalf of the defence.

7. The trial Court after considering the evidence on record, found the accused guilty of the offence punishable under Section 306 IPC, accordingly convicted him of the said offence and sentenced to undergo rigorous imprisonment for a period of five years and to pay fine of Rs.1,000/- in default to suffer simple imprisonment for a further period of three months. Challenging the said conviction and sentence, the accused preferred the appeal. The appellate Court, vide the impugned judgment, dismissed the appeal confirming the conviction and sentence recorded by the trial Court. Challenging the same, the present revision came to be filed by the accused.

8. Heard the learned counsel for the petitioner-accused, learned Assistant Public Prosecutor for respondent-State and perused the record.

9. Learned counsel for the petitioner-accused would contend that the prosecution failed to prove the ingredients constituting the offence punishable under Section 306 IPC against the petitioner; that P.Ws.1 to 4 are close relatives and interested witnesses, and so, the courts below ought not to have acted on their evidence; that P.Ws.5 to 9 did not support the case of prosecution; that P.W.6 got a dispute with the petitioner-accused, and ultimately, prayed to set aside the conviction and sentence recorded against the accused by the trial Court as confirmed by the appellate Court.

10. Per contra, the learned Assistant Public Prosecutor would submit that there is ample evidence to prove the guilt of the accused for the offence punishable under Section 306 IPC; that both the Courts below considered the entire evidence on record in right perspective and rightly

found the accused guilty; that the evidence prosecution witnesses is consistent and they have no grouse or enmity against the accused to speak falsehood against him; that there is no infirmity in the concurrent findings arrived at, by both the Courts below, and there are no grounds interfere with the same, and ultimately, prayed to dismiss the revision.

11. Now the point that arises for consideration is whether the findings of both the courts below are legal, proper and correct?

12. Revisional jurisdiction of this Court under Section 401 Cr.P.C. is a truncated one. Unless the findings are based upon no evidence or perverse, or that inadmissible evidence was taken into consideration in convicting the accused or that admissible evidence was overlooked, normally the revisional powers cannot be exercised to disturb the concurrent findings of the two courts below.

13. P.Ws.1 and 2 are brother and mother, of the deceased. They deposed about the taking place of marriage between the petitioner-accused and the deceased about 20 years prior to the incident and thereafter their living happily for some time and begetting a female child. There is also specific evidence of P.Ws.1 and 2 that 5 or 6 years prior to the death of the deceased, the petitioner-accused beat her, driven her out from the house and caused physical cruelty. Thereafter, the deceased joined his company. There is also evidence of P.W.3 that the petitioner-accused came to Saidapuram village and took away gold pusthelu from the neck of the deceased after beating her, for which wife of P.W.3 raised objection. There is also evidence with regard to villagers gathering and

conducting panchayat. There is also evidence that after snatching away puthelu, the petitioner-accused filed a petition for divorce and later withdrew it, and during reconciliation before elders, the petitioner-accused was found fault, and again the deceased was sent to house of petitioner-accused at Kapraipally village. Thereafter, the accused again started beating and harassing her physically and mentally. There is specific evidence of P.W.3 that the deceased told him that the petitioner-accused used to harass her and beat her. P.W.4, who is one of the elders, deposed in his evidence that he advised the accused to treat the deceased properly. P.W.6, who is also one of the elders, deposed that the elders found fault with the accused. There is evidence of P.W.6, who is neighbour, is that the accused has concubine and he was harassing the deceased.

14. There is ample evidence that the petitioner-accused assaulted the deceased on many occasions, and while they were returning from Cheruvugattu Jatara, the petitioner-accused got the deceased assaulted by his concubine. Admittedly, the deceased consumed insecticide poison and committed suicide. The cumulative effect of the acts of the petitioner-accused resulted in the suicide of the deceased. Merely because P.Ws.1 to 4 are related to the deceased, their evidence cannot be discarded on that ground. They have no grouse or enmity against the petitioner-accused, who is none other than husband of the deceased, to speak falsehood against him. There are no inconsistencies in their evidence. Their evidence is clear, cogent and convincing. There is also evidence of investigating officer and other witnesses in support of the prosecution case. The ingredients to constitute the

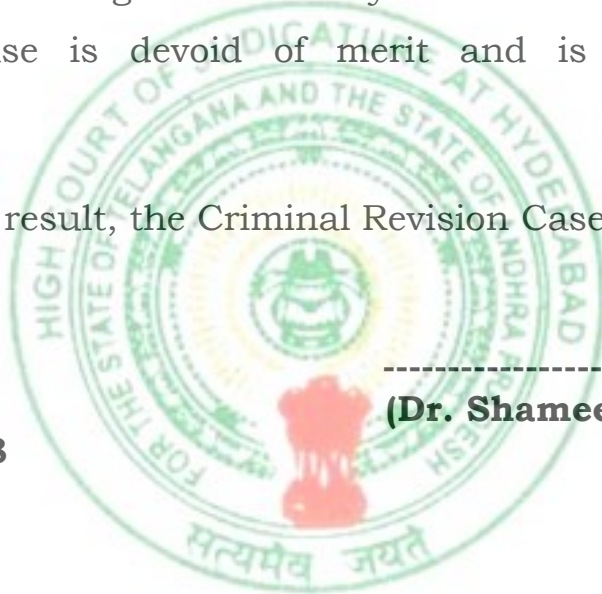
offence punishable under Section 306 IPC have been established by the prosecution. There is ample evidence on record to prove the guilt of the accused beyond reasonable doubt.

15. Both the Courts below rightly dealt with the contentions raised and negated the same. None of the findings of the Courts below is shown to be illegal, improper or incorrect. The submissions made on behalf of the accused merit no consideration. There is no miscarriage of justice. There is nothing to vary with the concurrent findings recorded by the Courts below. The revision case is devoid of merit and is liable to be dismissed.

16. In the result, the Criminal Revision Case is dismissed.

17.04.2018
DRK

(Dr. Shameem Akther, J)



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