

THE HON'BLE JUSTICE SRI C.V NAGARJUNA REDDY

AND

THE HON'BLE SMT JUSTICE T. RAJANI

CRIMINAL APPEAL No.760 of 2012

JUDGMENT: (Per Hon'ble Smt Justice T. Rajani)

The State, represented by the Public Prosecutor, preferred this appeal aggrieved by the judgment of the II Additional Sessions Judge (FTC), Parvathipuram in SC.No.98 of 2008 dated 11.03.2011 acquitting the accused for the offences under Sections 498-A, 306, 304(B), 302 of the Indian Penal Code and Sections 3, 4 and 6 of the Dowry Prohibition Act.

2. The facts, briefly, are that the deceased-Chowdari Sridevi was the daughter of the complainant. A1 is the son of A2 and A3 and they are residents of Kunayavalasa village. The marriage of the deceased with A1 was performed on 18.06.2005. As agreed, an amount of Rs.1,02,000/- towards was paid in two instalments apart from the customary presentation of articles and gold by PW1 and LW2-Eswaramma, the father and mother of the deceased respectively. The deceased joined A1 immediately after marriage and lived happily for a few months. Thereafter, A1 to A3 started harassing the deceased with the demand for additional dowry. As things stood thus, the deceased became pregnant and came to her parents' house. She begot a male child. At the time of barasala function also, the accused demanded the parents of the deceased to present a gold chain to the newly born child, which could not be fulfilled due to their financial incapacity. The accused continued harassing the deceased even

thereafter and being unable to bear the harassment, the deceased committed suicide by setting herself ablaze.

On the report given by PW3, the VRO of Kunayavalasa, a case was registered in Cr.No.24 of 2007 and after due investigation, charge sheet was laid against the accused for the offences mentioned hereinbefore. The Court, to which the matter was made over for trial, framed charges for the said offences and after due trial, it acquitted the accused.

3. The appeal is preferred by the State on the grounds that the Court below did not properly appreciate the evidence on record and failed to see that A1 was responsible for continuous harassment of the deceased for additional dowry.

4. Heard learned Public Prosecutor appearing for the appellant-State and the counsel appearing for the respondent.

5. The Court below took up the analysis of the evidence meticulously. From the evidence of P.W.1, who is the father of the deceased, the Court below identified five incidents of harassment of the deceased by the accused for additional dowry. It considered the other witnesses viz. P.Ws.2 and 4 to 6 as interested witnesses, being the close relatives of the deceased, and took up a close scrutiny of their evidence, without discarding the same. The Court below appreciated the evidence with regard to the five incidents.

The first incident of harassment reported by the deceased to P.W.1, was a demand for additional dowry of Rs.30,000/- to purchase a cooler and a grinder. The second incident when the deceased came

to the house of P.W.1, when she was carrying 7th month pregnancy. The alleged harassment was in the form of demand of presentation of gold chain to the newly born child. The third incident was when P.W.2, P.W.5 and L.W.2 went to the house of the accused along with the deceased, after the birth of her child and after returning, they informed P.W.1 that the accused abused them for P.W.1 failing to fulfil their earlier demand of Rs.30,000/-. The fourth incident was few days after the third incident viz. when the deceased went to her parents' house for the marriage of her brother's daughter, A1 came and took the deceased forcibly in spite of their request to allow her to stay in their house for another ten days. The fifth incident was when P.W.1 went to the house of the accused, as the deceased was forcibly taken away by A1, and at that time, the deceased informed that there was no change in the attitude of the accused and that they are still harassing her for additional dowry.

6. The Court below noted that except P.W.1 deposing that there was harassment, the nature of harassment of the deceased by the accused was neither stated by him nor was the same reported by the deceased. The Court below also took into consideration the evidence of P.W.2, which is in the form of improvement, wherein the deceased informed him that A1 killed one calf and threw it in the well and threatened that if the deceased did not bring the demanded additional dowry, her fate also would be like the said calf. The Court below observed that the said version of P.W.2 was not stated in his evidence by P.W.1. On the said premise, the Court below disbelieved the evidence of P.W.2. The Court below also considered the evidence of

P.W.8 during his cross-examination that none of P.Ws.1, 2, 5 and 6 even whispered about the alleged incidents of harassment before him during inquest proceedings. The Court below also took into consideration the failure of the prosecution to file the statements of P.Ws.1, 2 and 4 to 6 recorded by both P.W.8 and P.W.11, SI of Police, during the inquest proceedings nor any explanation by the prosecution for non-filing of the said statements and P.W.8, MRO, who conducted inquest, drew an adverse inference as regards the said statements. The Court below also observed that it is only after the arrive of the blood relations of the deceased that Ex.P1 report was given by P.W.3 at 7 PM and that P.Ws.1, 2 and 4 to 6 did not even open their mouth giving incriminating statements against the accused until they were examined by P.W.13, the SDPO. The contradictions, which crept in the evidence of P.W.1, marked as Exs.D1 and D2 were also taken into consideration by the trial Court to disbelieve the evidence of the witnesses that there was harassment of the deceased by the accused for additional dowry. In Exs.D1 and D2, P.W.1 stated that the deceased and the accused never quarrelled during their wedlock, that the deceased never came alone to her parents' house, that both the deceased and A1 used to come to their house together and that both of them lived cordially whenever they visited their house.

7. From the above contradictions – Exs.D1 and D2, the Court below came to the conclusion that there was no harassment of the deceased on the part of the accused much less a demand for additional dowry or other valuable gifts. Hence, considering the fact that Exs.D1 and D2 reflected the cordiality between the deceased and

the accused, the Court below observed that they cut at the root of the prosecution case. The conduct of the material witnesses, P.Ws.4 to 7, who came to the spot immediately after the incident, was also appreciated in the right perspective. Their silence till they were examined by P.W.13 was considered as not reflecting any animosity between the deceased and the accused and rightly so. Based on the above circumstances, the Court below disbelieved the evidence of the material witnesses, which cannot be found fault with. As observed by the trial Court, Exs.D1 and D2 would present a pleasant picture of the relation between the accused and the deceased. The appreciation undertaken by the Court below went on right lines and hence, we do not find any reason to differ with the impugned judgment as regards the recording of acquittal of the accused for the offence under Section 498-A and 306 IPC.

The acquittal of the accused for the offences under Sections 3, 4 and 6 of the Dowry Prohibition Act also cannot be reversed for the reason that the Court below by relying on a decision of this Court in *ANGIREKULA RAMAKRISHNA v. STATE OF AP* [2007 (1) ALD (CRI.) 1024] has held that in the absence of any agreement to pay dowry, the conviction for the offence under the above provisions cannot be upheld.

8. This, being a judgment of acquittal, cannot be easily interfered with, though there is an other possible conclusion. But, in this case, we do not find any possibility of arriving at a different verdict. We do not find any illegality or infirmity either in the appreciation of evidence by the trial Court or in its findings. We place reliance on the decision of

the Honourable Supreme Court rendered in the case of Gowrishankara Swamigalu Vs. State of Karnataka and another [2009-2-SCC-Crl-813 = 2008 (14) SCC 411] in support of our finding that when the trial Court recorded a judgment of acquittal by assigning sufficient and cogent reasons, the same cannot be interfered with lightly.

The criminal appeal is dismissed upholding the acquittal recorded, against the accused, by the II Additional Sessions Judge (FTC), Parvathipuram in SC.No.98 of 2008 dated 11.03.2011. As a sequel, the miscellaneous applications, if any pending, shall stand closed.

November 20, 2018
DSK



C.V. NAGARJUNA REDDY, J

T. RAJANI, J