

HIGH COURT FOR THE STATE OF TELANGANA

HON'BLE THE CHIEF JUSTICE SRI RAGHVENDRA SINGH CHAUHAN

AND

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.187 of 2014

Date: 23.07.2019

Between:

Alle Raju.

...Appellant/Accused No.1

AND

The State of A.P.
Rep. by its Public Prosecutor,
High Court Buildings, Hyderabad.

...Respondent/Complainant

Counsel for the Appellant : Ms. A. Divya

Counsel for the Respondent : Mrs. J. Sridevi,
The Addl. Public Prosecutor

The Court made the following:

JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C'), is filed by the appellant/accused No.1, aggrieved by the judgment, dated 31.01.2014, passed in Sessions Case No.333 of 2013 by the learned Special Sessions Judge for Trial of Offences under SCs & STs (POA) Act, at Karimnagar, whereby and whereunder, accused Nos.2, 4 and 5 were acquitted of the offences punishable under Sections 498-A and 304-B IPC and appellant-accused No.1 was acquitted of the offence punishable under Section 304-B IPC and convicted of the offences punishable under Sections 498-A and 302 IPC. Accordingly, the appellant-accused No.1 was sentenced to undergo Rigorous Imprisonment for life and to pay a fine of Rs.1000/-, in default to suffer Simple Imprisonment for three months, for the offence punishable under Section 302 IPC. Further, the appellant-accused No.1 was sentenced to undergo Rigorous Imprisonment for a period of three years and to pay a fine of Rs.1000/-, in default to suffer Simple Imprisonment for three months, for the offence punishable under Section 498-A IPC. Both the substantive sentences were directed to run concurrently.

2. Hereinafter the appellant-accused No.1 is referred to as appellant-A.1 and deceased 1 and 2 are referred to as D.1 and D.2 respectively.

3. The case of the prosecution in brief is that on 22.01.2013 at 10:00AM, PW.1-*de facto* complainant (Adhula Nagaraju), lodged a report (Ex.P.1) before the Police, Yellareddipet PS, alleging that about seven years ago, his sister-Anuradha @ Latha-D.1, was given in

marriage to appellant-A.1(Alle Raju). Thereafter, the appellant-A.1 along with A.2, A.4 and A.5, his father (A.Narayana) and another sister (Haravva @ Varalaxmi), started harassing D.1 physically and mentally demanding to bring money. Several panchayaths were held, elders advised appellant-A.1 not to harass D.1 but the appellant-A.1 did not change his attitude. About one year ago, all the accused tried to kill his sister (D.1) by pouring kerosene and appellant-A.1 beat D.1 with cycle chain, for which, D.1 tried to commit suicide by hanging. On 16.01.2013, a panchayath was held at Vemulawada and in the said panchayath, appellant-A.1 promised that he would look after his wife and children well. Therefore, he sent his sister-D.1 and her daughter-D.2 along with appellant-A.1 while he kept his nephew-Aravind with them. On 22.01.2013, PW.1 was informed over phone by PW.7-Alle Shekhar, a resident of Venkatapur village, that D.1 and D.2 were found dead in the rented house of Venkatapur village. Then PW.1 along with his family rushed to Venkatapur village and found the dead bodies of D.1 and D.2 with severe injuries over their neck and a knife and axe was also found there. The appellant-A.1 on the instigation of other accused killed D.1 and D.2 since D.1 could not bring the amount demanded and requested to take necessary action.

4. Basing on the Ex.P.1-report, PW.15-Sub-Inspector of Police, Yellareddipet PS, registered a case in Crime No.14 of 2013 under Sections 304-B and 302 IPC and issued F.I.R (Ex.P.10) and sent requisition to PW.13-Tahsildar for holding inquest over the dead bodies. Thereafter, PW.16-Sub-Divisional Police Officer, Sircilla, took up investigation and visited the scene of offence i.e, house of the deceased, situated at Venkatapur village and found the dead bodies

of D.1 and D.2 in a pool of blood, drew rough sketch, seized blood stained earth, controlled earth, axe and knife and noted the same in Crime Details Form in the presence of mediators and thereafter, examined and recorded the statements of witnesses. PW.13-Tahsildar held inquest over the dead bodies in the presence of mediators, issued inquest reports Exs.P.6 and P.7, got photographed and sent the dead bodies for post-mortem examination. PW.14-Dr.Muralidhar Rao, conducted post-mortem examination over the dead bodies of D.1 and D.2 and issued Exs.P.8 and P.9-post-mortem examination reports.

5. On 29.01.2013, the appellant-A.1 was arrested at Venkatapur bus stand and on interrogation in the presence of mediators, he confessed his guilt. Police recovered the blood stained lungi-MO.8 from the possession of appellant-A.1. On 16.02.2013, A.4 and A.5 surrendered before the police and material objects were forwarded to Regional Forensic Science Laboratory (RFSL) for analysis and report. After obtaining reports and after completion of investigation, PW.16-Investigating Officer, filed charge sheet against the appellant-A.1 for the offences punishable under Sections 304-B and 302 IPC and against A.2, A.4 and A.5 for the offence punishable under Section 304-B IPC.

6. The learned Judicial Magistrate of First Class, Sircilla, after complying the provisions under Sections 208 and 209 Cr.P.C, took cognizance of the case in P.R.C.No.45 of 2013 and committed the same to District and Sessions Court, Karimnagar, which was taken on file as S.C.No.333 of 2013 and made over to the trial Court. On appearance of appellant-A.1, A.2, A.4 and A.5 before the trial Court,

charges under Sections 498-A, 304-B and 302 IPC were framed against the appellant-A.1 and charges under Sections 498-A and 304-B IPC were framed against A.2, A.4 and A.5. The charges levelled against the accused were read over and explained to them in Telugu, for which, they pleaded not guilty and claimed to be tried.

7. To prove the guilt of appellant-A.1 and other accused, the prosecution examined the Doctor, who treated appellant-A.1 for his mental illness as CW.1 and PW.1 to PW.16 and marked Exs.P.1 to P.11 and MOs.1 to 12. Appellant-A.1 and other accused did not examine any defence witness nor filed any document.

8. After closure of prosecution evidence, when appellant-A.1 and other accused were examined under Section 313 Cr.P.C explaining the incriminating material appearing against them, they denied the same and submitted that they were implicated falsely and they never harassed D.1 for additional dowry and they were not responsible for the death of D.1 and D.2.

9. The trial Court, on analysis of both oral and documentary evidence and the submissions put-forth before it, held that the prosecution failed to prove the guilt of A.2, A.4 and A.5 of the offences under Sections 498-A and 304-B IPC and also the guilt of appellant-A.1 of the offence under Section 304-B IPC. However, the trial Court held that the prosecution could prove the guilt of appellant-A.1 of the offences under Sections 498-A and 302 IPC and accordingly convicted and sentenced him as indicated above. Hence this Criminal Appeal by the appellant-A.1.

10. Heard arguments of Ms.A.Divya, learned counsel for the appellant-A.1 and Mrs.J.Sridevi, learned Additional Public Prosecutor for the respondent-State and perused the record.

11. Learned counsel for the appellant-A.1 would contend that the trial Court erred in convicting and sentencing the appellant-A.1 for the offences under Sections 498-A and 302 IPC without there being sufficient evidence on record. The prosecution failed to prove the guilt of appellant-A.1 of the offences under Section 498-A and 302 IPC. Though, PW.1-brother-in-law and PW.2-mother-in-law of the appellant-A.1 stated that appellant-A.1 demanded dowry, they did not lodge any report, during the lifetime of D.1. There is no specific mention of quantum of dowry demanded by the appellant-A.1. The appellant-A.1 was suffering from mental illness. He took treatment before and after the marriage and was not in a fit state of mind. Appellant-A.1 is entitled for the benefit under Section 84 IPC. On this ground alone, appellant-A1 is entitled to be acquitted of the charges levelled against him under Section 498-A and 302 IPC. There is no independent witness to support the case of prosecution. Though, PW.9-house owner of appellant-A.1 was examined, she did not state that she heard the cries of D.1 and D.2 in the intervening night of 21/22.01.2013. Neither the blood group nor the fingerprints of the appellant-A.1 were taken to analyse with the scene of offence. On MOs.1 and 2, blood group of appellant-A.1 was not detected. On MO.8-blood stained lungi and MO.11-blood stained petticoat, blood group 'O' was detected but the prosecution failed to prove and establish that the blood group of appellant-A.1 is 'O' group. There is no direct eye witness to the alleged offence and the chain of

circumstances brought on record are incomplete and not unerringly points towards the appellant-A.1 as the person guilty of the offence. The appellant-A.1 is entitled for benefit of doubt and ultimately, prayed to allow the appeal by setting aside the conviction and sentence recorded against the appellant-A.1.

12. On the other hand, the learned Additional Public Prosecutor submitted that there is clear and cogent evidence of the neighbours that the appellant-A.1 along with his wife (D.1) and daughter (D.2) were living in a house belonging to PW.9 as a tenant. PW.9-owner of the house also supported the case of the prosecution. There is clear and categorical evidence of PW.1 and PW.2 with regard to demand of dowry and after mediations, D.1 and D.2 were sent along with appellant-A.1 to lead a peaceful life and appellant-A.1 alone was living along with D.1 and D.2 in a rented house. There is also evidence of PW.9 and her neighbours to support the prosecution case. Absolutely, there is no evidence of appellant-A.1 suffering from mental illness. This plea is falsely setup by the appellant-A.1. There is medical evidence as well as evidence of panch witnesses, which supports that the subject deaths of D.1 and D.2 are homicidal. There is also scientific analysis on the blood group found at the scene of offence and also on MO.8-blood stained lungi of the appellant-A.1, to connect the appellant-A.1 with the alleged offence and ultimately, prayed to dismiss the appeal and sustain the impugned order.

13. In view of the above submissions made by both sides, the points that arise for determination are:

1. ***Whether the appellant-A.1 had caused the death of his wife-D.1 and daughter-D.2 on the intervening night of 21/22.01.2013 in the house of PW.9, situated at Venkatapur village of Yellareddipet Mandal?***

2. Whether the appellant-A.1 has demanded dowry during the lifetime of his wife-D.1?

3. Whether the prosecution proved the guilt of the appellant-A.1 beyond all reasonable doubt of the offences under Sections 498-A and 302 IPC?

14. **POINTS:** The specific case of the prosecution is that on the intervening night of 21/22.01.2013, the appellant-A.1 has committed murder of his wife Anuradha @ Latha-D.1 and daughter Alle Srilekha-D.2 with an axe and knife, when they were sleeping in a rented house belonging to PW.9-Konda Shyamala, situated at Venkatapur village of Yellareddipet Mandal.

15. In view of the submissions made by both sides, it is appropriate to place precisely, the evidence of prosecution on record.

16. The evidence on record reveals that on 22.01.2013, during the morning hours, the dead bodies of D.1 and D.2 were found in a pool of blood with multiple injuries in the house belonging to PW.9, situated at Venkatapur village of Yellareddipet Mandal. On the report (Ex.P.1) lodged by PW.1, PW.15-S.I of Police registered a case in Crime No.14 of 2013 under Sections 304-B and 302 IPC and issued Ex.P.10-F.I.R. PW.16-the Sub-Divisional Police Officer, Sircilla, took up investigation and visited the scene of offence. PW.13-Tahsildar held inquest over the dead bodies of D.1 and D.2 in the presence of panch witnesses PW.11-Sajida Begum, PW.14-Ramesh and LW.16-Pochavva and seized MOs.9 to 12. Exs.P.6 and P.7 are the inquest reports of D.1 and D.2 respectively. PW.6 took photographs (Ex.P.2) of dead bodies of D.1 and D.2 and also the scene of offence. PW.16 conducted scene of offence panchanama and inquest panchanama in the presence of PW.11. PW.12 is a witness to Ex.P.4-confession

panchanama of appellant-A.1 and Ex.P.5-seizure panchanama. PW.16 drew rough sketch, seized MOs.1 to 7 from the scene of offence under Ex.P.3-Crime Details Form. The panch witnesses opined that the cause of death was due to hacking with an axe. The same is substantiated by examining PW.16-Investigating Officer and marking Ex.P.3-Crime Details Form and Exs.P.6 and P.7-inquest reports of the dead bodies of D1 and D.2. The finding of the dead bodies at the house belonging to PW.9 was also substantiated therein.

17. The dead bodies of D.1 and D.2 were sent for autopsy. PW.14-Dr.M.Muralidhar Rao, conducted autopsy over the dead bodies between 2-30 p.m to 5-00 p.m on 22.01.2013. PW.14 in his evidence clearly stated with regard to conducting of autopsy over the two dead bodies. He gave the details of injuries found over the two dead bodies. The details of injuries found over the dead body of D.1-Anuradha @ Latha, are as follows:

1. Spindle shaped laceration 5" x 2" x 2" over left temporal area with fracture of left temporal bone exposing cerebral tissues with contusion and haemorrhage of that part.
2. Deep seated laceration across the neck above the Thyroid cartilage measuring 5" x 4" x 1, injuring neck muscles and vasculature.
3. Small laceration over the manubrium sternum.
4. Laceration injuries near perianal region.

The details of injuries found over the dead body of D.2-Srilekha, are as follows:

"Linear Laceration extending from left post auricular area towards occipital area 5" x 1" x 1" inches size with underlying temporo occipital bones fracture exposing cerebral tissue with associated cerebral haemorrhage."

18. PW.14-Doctor had clearly stated that the injuries found over the dead bodies was possible with a sharp and heavy object and he gave the approximate time of death as 18 to 20 hours prior to post-mortem examination. He also opined that the ante-mortem injuries found on D.1 are possible with MO.1 (axe) and MO.2 (knife). As far as D.2 is concerned, the ante-mortem injury found on her is possible with a weapon like MO.1 (axe). Exs.P.8 and P.9 are the post-mortem examination reports of D.1 and D.2 respectively, which corroborates with the evidence of PW.14. Therefore, the evidence of PW.14-Doctor and other material evidence placed on record substantiate that the death of D.1 and D.2 is homicidal and it was caused on the intervening night of 21/22.01.2013. In both cases, the approximate time of death given by PW.14-Doctor was 18 to 20 hours prior to the post-mortem examination.

19. Now, the question is who had caused the subject deaths. As per the evidence of PWs.1 and 2, appellant-A.1 used to demand additional dowry, for which panchayaths were held and ultimately appellant-A.1 was advised by the elders PW.10 and LW.13-Adhula Paramesham to lead happy marital life and then PW.1 sent D.1 and D.2 with A.1.

20. PWs.1 and 2 are not direct witnesses to the alleged subject deaths. PW.3-neighbour of the deceased testified that she knows D.1 and D.2 and appellant-A.1. She specifically stated that appellant-A.1 along with his wife-D.1 and daughter-D.2 were residing in the house of PW.9 as tenants. She also specifically stated that she was the neighbour of appellant-A.1 and there were disputes among the appellant-A.1 and his wife-D.1. She further stated that ten months

prior to her deposition, the appellant-A.1 killed D.1 and D.2. As per her evidence, when PW.9-house owner of appellant-A.1, called her on the date of incident and informed that D.1 did not wake up, she went to the house of D.1 and made an attempt to wake her up. She also spoke about other circumstances that followed. Thereafter, she along with PW.9, PW.4-Dr.Sudhakar, R.M.P, and some others went inside the house and found the dead bodies of D.1 and D.2 and PW.4 confirmed the death of D.1 and D.2. In the cross-examination, she categorically stated that the door of the house was not bolted from inside and the appellant-A.1 was not present there. Her evidence establishes that no stranger gained entry into the house on the intervening night of 21/22.01.2013 and only some inmate of the house caused the subject deaths and went away.

21. The evidence of PW.4-Dr.Sudhakar, RMP, corroborates the evidence of PW.3. He deposed about finding of dead bodies of D.1 and D.2 on 22.01.2013 during morning hours at 6-30 or 7-00 AM in the house of appellant-A.1. He also stated that he found the dead bodies in a pool of blood. He further deposed about the presence of PW.3 and his instructing PW.7 to inform the death of D.1 and D.2 to PWs.1 and 2. He categorically stated in his evidence that appellant-A.1 was not present in the house and as such he suspected that appellant-A.1 killed D.1 and D.2. He denied the suggestion that appellant-A.1 did not kill D.1 and D.2.

22. PW.5-brother-in-law of D.1 testified with regard to marriage in between appellant-A.1 and D.1 and demand of additional dowry etc. He also testified with regard to the panchayaths held in between the parties on occasion of demand of additional dowry. In his cross-

examination, he stated that on 22.01.2013, when he along with other persons went to the house of appellant-A.1, which is consisting of one room, appellant-A.1 was not present there. He specifically stated that there is only one door.

23. PW.6-Photographer, testified with regard to taking of photos and Ex.P.2 is the bunch of 17 photographs with CD. The evidence of PW.7 corroborates the evidence of PWs.3 and 4. PW.7 is a witness to the finding of dead bodies in a pool of blood on 22.01.2013 at 6:30AM in the house appellant-A.1. He did not speak about the presence of appellant-A.1 at the house during that time. In the cross-examination he stated that appellant-A.1 consumed pesticide and in the village there was talk that the mental health condition of appellant-A.1 was not good and he was taking treatment in Ashwini Nursing Home, Yellareddipet and the other accused were living in a separate house. PW.8 is a resident of Vemulavada. He deposed about A.1, A.2 and A.4 demanding additional dowry.

24. PW.9-house owner of appellant-A.1 categorically testified with regard to the relationship of appellant-A.1, D.1 and D.2. She stated that the house was let out to appellant-A.1. On 22.01.2013, at 7.30AM, she found the door of the room of appellant-A.1 was closed. She called PW.3 and the PW.3 came to the house of appellant-A.1 and called PW.4. Then they all went into the room of appellant-A.1 and D.1 and found the dead bodies of D.1 and D.2 lying in the pool of blood with injuries, which appears to have been caused with axe and knife. She further stated that appellant-A.1 killed D.1 and D.2 as he alone was living with D.1 and D.2 in her rented house and always used to quarrel with D.1.

25. All these witnesses have reiterated in the cross-examination what they stated in the chief-examination. According to PW.3, PW.4, PW.5 and PW.9, appellant-A.1 was living along with D.1 and D.2 in a room let out to them by PW.9, situated at Venkatapur village of Yellareddipet Mandal. Appellant-A.1 was not found during the morning hours of 22.01.2013, when the above witnesses visited his house. They found the dead bodies in a pool of blood. There is also specific evidence of PW.3 that the door was not locked from inside.

26. Admittedly, there is no direct witness to the alleged commission of subject death of D.1 and D.2. The prosecution case is based on circumstantial evidence. Therefore, at this juncture, it is apt and appropriate to refer the decisions of Hon'ble Apex Court rendered in ***Navaneethakrishnan vs. The State*¹, *Devi Lal vs. State of Rajasthan*² and *Chandru @ Chandrasekaran vs. State rep. by Deputy Superintendent of Police, CB CID & another*³.**

27. In the case of ***Navaneethakrishnan*** (*supra* 1), the Hon'ble Apex Court held as follows:

“Para 23: The law is well settled that each and every incriminating circumstance must be clearly established by reliable and clinching evidence and the circumstances so proved must form a chain of events from which the only irresistible conclusion about the guilt of the accused can be safely drawn and no other hypothesis against the guilt is possible. In a case depending largely upon circumstantial evidence, there is always a danger that conjecture or suspicion may take the place of legal proof. The court must satisfy itself that various circumstances in the chain of events must be such as to rule out a reasonable likelihood of the innocence of

¹ AIR 2018 SC 2027

² AIR 2019 SC 688

³ Criminal Appeal No.1193 of 2011 (dt.12.02.2019)

the accused. When the important link goes, the chain of circumstances gets snapped and the other circumstances cannot, in any manner, establish the guilt of the accused beyond all reasonable doubt. The court has to be watchful and avoid the danger of allowing the suspicion to take the place of legal proof for sometimes, unconsciously it may happen to be a short step between moral certainty and legal proof. There is a long mental distance between “may be true” and “must be true” and the same divides conjectures from sure conclusions. The Court in mindful of caution by the settled principles of law and the decisions rendered by this Court that in a given case like this, where the prosecution rests on the circumstantial evidence, the prosecution must place and prove all the necessary circumstances, which would constitute a complete chain without a snap and pointing to the hypothesis that except the accused, no one had committed the offence, which in the present case, the prosecution has failed to prove.”

28. In the case of ***Devi Lal*** (*supra* 2), the Hon’ble Apex Court held as follows:

“While scrutinising circumstantial evidence, a Court had to evaluate it to ensure chain of events was established clearly and completely to Rule out any reasonable likelihood of innocence of accused. Underlying principle was whether chain was complete or not, indeed it would depend on facts of each case emanating from evidence and there could not be a straight jacket formula which can be laid down for purpose. But circumstances adduced when considered collectively, it must lead only to conclusion that, there could not be a person other than accused who alone was perpetrator of crime alleged and circumstances must establish conclusive nature consistent only with hypothesis of guilt of accused. That apart, in case of circumstantial evidence, two views were possible on case of record, one pointing to guilt of accused and other his innocence. Accused was indeed entitled to have benefit of one which was favourable to him.”

29. In the case of **Chandru @ Chandrasekaran** (*supra* 3), the Hon'ble Apex Court held as follows:

"11. The law can be summarised in the following terms:

1. The circumstances relied upon by the prosecution which lead to an inference to the guilt of the accused must be proved beyond doubt;
2. The circumstances should unerringly point towards the guilt of the accused;
3. The circumstances should be linked together in such a manner that the cumulative effect of the chain formed by joining the links is so complete that it leads to only one conclusion i.e. the guilt of the accused;
4. That there should be no probability of the crime having been committed by a person other than the accused."

30. When the appellant-A.1 was subjected to examination under Section 313 Cr.P.C, he simply denied the incriminating evidence against him. However, the appellant-A.1 had taken defence that he is suffering with mental illness. There is no iota of evidence to substantiate that appellant-A.1 was mentally ill during the month of January, 2013. In fact, as per the evidence of CW.1-Dr.P.Srilaxmi, Assistant Professor, Institute of Mental Health, Erragadda, Hyderabad, appellant-A.1 has no active signs and symptoms of mental illness and the psychometric test conducted on appellant-A.1 shows that depression with psychosis under control. CW.1-Doctor, opined that appellant-A.1 is fit for facing trial in the case.

31. There is specific evidence of PW.16-Investigating Officer that appellant-A.1 pursuant to his confession, led him, PW.12 and LW.18-S.Mallesha, to the agricultural well in his fields and produced MO.8-blood stained lungi and seized the same. It is also the specific evidence of PW.16 that MOs.1 to 12 were seized during the course of investigation. MO.1 is axe, MO.2 is knife, MO.3 is red colour bed

sheet, MO.4 is brown colour blanket, MO.5 is pink colour bontha, MO.6 is blood stained cement floor piece. MO.7 is controlled floor stone piece, MO.8 is blood stained lungi, MO.9 is blood stained saree, MO.10 is blood stained blouse, MO.11 is blood stained petticoat and MO.12 is blood stained frock. PW.16 sent MOs.1 to 12 to RFSL for examination and received Ex.P.11-RFSL Report.

32. As per Ex.P.11, human blood is detected on Items 1 to 10 and 12 i.e, blood stained saree (MO.9), blood stained blouse (MO.10), blood stained petticoat (MO.11), blood stained frock (MO.12), brown colour blanket (MO.4), red colour bed sheet (MO.3), pink colour bontha (MO.5), axe (MO.1), knife (MO.2), blood stained cement floor piece (MO.6) and blood stained lungi (MO.8). Further, as per Ex.P.11-report, blood group of blood stains detected on Items 1, 3, 5, 6, 7 and 12 i.e, blood stained saree (MO.9), blood stained petticoat (MO.11), brown colour blanket (MO.4), red colour bed sheet (MO.3), pink colour bontha (MO.5) and blood stained lungi (MO.8), is of 'O' group.

33. It is the evidence of PW.16 that as per Ex.P.11-report, the blood found on Items 1 to 10 and 12 belongs to human origin and MO.8-blood stained lungi, which was recovered from appellant-A.1 pursuant to his confession contains 'O' group blood. The blood group 'O' was also detected over M.O.9-blood stained saree, MO.11-blood stained petticoat, MO.3-red colour bed sheet, MO.4-brown colour blanket and MO.5-pink colour bontha i.e, belongings of D.1 (wife of A.1) and the bed clothes on which D.1 and D.2 were sleeping. There is no explanation from the appellant-A.1 as to how MO.8-blood stained lungi came in contact with blood group 'O'. As per the evidence on record, the appellant-A.1 did not participate in funeral

and death ceremonies of D.1 and D.2 from day one. Further, though the appellant-A.1 was living with D.1 and D.2, he was not found in the house from the early hours of 22.01.2013 till he was apprehended by the police on 29.01.2013. He did not give any explanation regarding his absence.

34. The appellant-A.1 did not give any explanation and did not rebut the circumstances appearing against him by leading any cogent and convincing evidence. As per Section 106 of the Indian Evidence Act, 1872, the appellant-A.1 is required to explain the facts within his knowledge. Section 106 of the Evidence Act, reads thus:

“106. Burden of proving fact especially within knowledge.—When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Illustrations:

(a) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(b) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.”

The finding of the human blood ‘O’ group over MO.8-blood stained lungi belonging to the appellant-A.1 as well as over the apparels of D.1 (wife of A.1) and bed clothes on which D.1 and D.2 were sleeping, is an incriminating circumstance against the appellant-A.1 to connect him with the alleged subject deaths.

35. In ***State of M.P. v. Ratan Lal***⁴ the Hon’ble Supreme Court held as follows:

“In a case where various links have been satisfactorily made out and the accused did not offer any explanation consistent with their innocence, the absence of such explanation itself is an additional link with completes the chain.”

⁴ AIR 1994 SC 458

36. There is specific evidence of the prosecution witnesses PW.1, PW.2, PW.5, and PW.8 that appellant-A.1 was demanding additional dowry and in that connection panchayat was also held. Pursuant to the advise of the elders, D.1 along with her daughter-D.2 joined the appellant-A.1 in a rented house, situated at Venkatapur village. Thereafter, they lived together for sometime from 16.01.2013 to till the intervening night of 21/22.01.2013.

37. From the evidence on record, it is clear that the appellant-A.1 was not happy with D.1 for not bringing the demanded dowry from her parents and there were marital disputes among appellant-A.1 and D.1 and so the appellant-A.1 developed grudge against the D.1. There was clear intention on the part of appellant-A.1 to eliminate the D.1 and D.2. With that intention he caused injuries to D.1 and D.2 with MOs.1 and 2 and caused the subject deaths. The evidence on record is consistent to prove the guilt of appellant-A.1. There is no explainable any other hypothesis except that the appellant-A.1 is guilty of causing the death of his wife-D.1 and his daughter-D.2. Further, the evidence excludes any remote possibility of causing the subject deaths by any other person, than the appellant-A.1. The absence of appellant-A.1 in the house on 22.01.2013, not attending the funeral and death ceremonies of D.1 and D.2 and no explanation from the appellant-A.1, would clinchingly establish that the appellant-A.1 had caused the subject deaths. The other evidence brought on record in the course of investigation establishes the chain of events so complete to exclude with the innocence of the appellant-A.1. There is also ample evidence on record to prove the demand of additional dowry by the appellant-A.1 from the deceased-wife and her

relatives. Under these circumstances, the prosecution had proved the guilt of appellant-A.1 beyond all reasonable doubt of the offences punishable under Sections 498-A and 302 IPC. As far as the imposition of punishment is concerned, in view of the gravity of the offence, the trial Court is justified in convicting and sentencing the A.1 as indicated above. There is no illegality in convicting and sentencing the A.1 by the trial Court of the offences punishable under Sections 498-A and 302 IPC. All the defences setup by the appellant-A.1 do fail and merit no consideration.

38. In the result, this Criminal Appeal is dismissed, confirming the conviction and sentence recorded against the appellant-A.1 of the offences punishable under Sections 498-A and 302 IPC vide impugned judgment dated 31.01.2014, passed in Sessions Case No.333 of 2013 by the learned Special Sessions Judge for Trial of Offences under SCs & STs (POA) Act, at Karimnagar.

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

RAGHVENDRA SINGH CHAUHAN, HCJ

Dr. SHAMEEM AKTHER, J

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