

**THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND**

THE HONOURABLE SRI JUSTICE T. VINOD KUMAR

CRIMINAL APPEAL No. 402 OF 2012

JUDGMENT: (Per Hon'ble the Chief Justice Raghvendra Singh Chauhan)

The complainant, Nomula Janga Reddy (P.W. 1), has challenged the legality of the judgment dated 15-3-2012, passed by the X Additional District Sessions Judge (FTC), Ranga Reddy District at L.B. Nagar, whereby the learned trial Court has acquitted the accused-respondents, namely Mogulla Rajender Reddy (A-1), Mogulla Rakesh Reddy (A-2), Mogulla Aluvelamma (A-3), and Mogulla Dharma Reddy (A-4), of offences under Section 304-B IPC and under Sections 3, 4 and 6 of the Dowry Prohibition Act.

Briefly, the facts of the case are that the appellant's second daughter, Mogulla Saritha ('the deceased' in this case), was married to Mogulla Rajender Reddy (A-1). A-2 happens to be the younger brother of A-1, and A-3 and A-4 happen to be the parents of A-1. According to the appellant (P.W. 1), he performed the marriage of his second daughter on 29.05.2005. At the time of the marriage, he gave a dowry of Rs.6,30,000/- in cash, 28 Tulas of gold, and other articles to the couple. For one year, the couple lived happily. However, after lapse of first year of marriage, his daughter was harassed by A-1 to A-4. For, they wanted his daughter to bring more dowry. Tired of their physical and mental harassment, on 17.07.2009, at 8:30 a.m., his daughter hanged herself at her matrimonial home. He was informed about the said incident by A-3, the mother-in-law of the deceased. On the basis

of the complaint (Ex. P. 1) filed by the appellant (P.W. 1) at Police Station, Alwal, a formal FIR, namely FIR No. 365 of 2009 (Ex. P. 10) was chalked out for the offences under Section 304-B IPC and under Sections 3, 4 and 6 of Dowry Prohibition Act.

During the course of investigation, the Police arrested A-1 to A-4. They were put up for trial. In order to support its case, the prosecution examined thirteen witnesses, submitted twelve documents, and one material object. The defense neither examined any witnesses, nor submitted any documents. After thoroughly analyzing the evidence, by judgment dated 15.03.2012, the learned trial Court has acquitted A-1 to A-4 of offences mentioned hereinabove. Hence this appeal before this Court by the complainant.

Ms. C. Vasundara Reddy, the learned counsel for the appellant, has raised the following contentions before this Court:-

Firstly, in a case under Section 304-B IPC, the prosecution is required to establish three essential ingredients, namely (i) the death of a woman should be caused by burns or bodily injury or otherwise than under a 'normal circumstance'; (ii) such a death should have occurred within seven years of her marriage; and (iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband, or in connection with, any demand for dowry "soon before her death". Despite the fact that these three ingredients do exist in the present case, the learned trial Court has still acquitted the husband and the in-laws of the deceased.

Secondly, Nomula Janga Reddy (P.W. 1), the father of the deceased, Nomula Sridhar Reddy (P.W. 6), the brother of the deceased, and Thota Gopal Reddy (P.W. 8) have clearly stated that the deceased died within three years of her marriage, that she committed suicide, and there was a constant demand for dowry for which she was harassed. Therefore, through these three witnesses the prosecution has established the offence under Section 304-B IPC.

Thirdly, according to the Post-Mortem Report (Ex. P. 8), the deceased had died due to hanging. The said Post-Mortem Report was proven by Dr. B. Sreeramulu (P.W. 10). Since the deceased, a married woman, had committed suicide, her death was an unnatural one. Therefore, the deceased had committed suicide only due to the physical and mental harassment inflicted by the accused persons. Yet, the learned trial Court has acquitted them for the offence under Section 304-B IPC.

Lastly, there is a consistent evidence of Nomula Janga Reddy (P.W. 1), Nomula Sridhar Reddy (P.W. 6), and Thota Gopal Reddy (P.W. 8) wherein they have claimed that at the time of the marriage, the accused persons were given a dowry of Rs.6,30,000/- in cash, and other articles. Thus, the case under Sections 3, 4 and 6 of Dowry Prohibition Act is made out. Yet, the learned trial Court has acquitted them of the offences under Sections 3, 4 and 6 of the Dowry Prohibition Act. Therefore, the impugned judgment deserves to be interfered with.

Despite the issuance of the notice to the accused-respondents, the same have not been served as according to the postal record, the address of the accused-respondents is an

incomplete one. Once this fact was pointed out to the learned counsel for the appellant-complainant, she submits that she is not in a position to give the complete and correct address of the accused Nos. 1 to 4. Nonetheless, she insists that the appeal should be heard as the appeal has been hanging fire since 2012 i.e. for the last seven years. It is in these circumstances that the appeal was heard by this Court.

The Additional learned Public Prosecutor, Smt. J. Sri Devi, has supported the impugned judgment and has raised the following contentions:-

Firstly, the testimonies of Nomula Janga Reddy (P.W. 1), Nomula Sridhar Reddy (P.W. 6), and Thota Gopal Reddy (P.W. 8) are general and vague in their contents. Although they claim that the deceased was subjected to physical and mental cruelties, they have not narrated a single instance of how, when and by whom she was subjected to physical and mental cruelties. Therefore, a vague statement cannot form the basis of a conviction.

Secondly, Nomula Janga Reddy (P.W. 1), Nomula Sridhar Reddy (P.W. 6), and Thota Gopal Reddy (P.W. 8) do not claim that “soon before her death”, the deceased was subjected to any physical or mental cruelty. Hence, one of the ingredients for establishing the offence under Section 304-B IPC is missing.

Thirdly, Nomula Janga Reddy (P.W. 1), Nomula Sridhar Reddy (P.W. 6) clearly state that A-1 wanted certain amount from his in-laws in order to help A-2, his younger brother, in establishing a factory. Thus, it was not a “dowry demand”, but merely a financial assistance that was being asked for by A-1 in

order to help his brother. Therefore, one of the main ingredients required for establishing the offence under Section 304-B IPC is conspicuously absent.

Lastly, there is a contradiction within the testimonies of these witnesses with regard to the amount of dowry given at the time of the marriage. Moreover, except the oral testimonies of interested witnesses, there is no documentary proof to show that any dowry was given by Nomula Janga Reddy (P.W. 1) to the accused at the time of marriage of his second daughter. Hence, the learned trial Court was justified in acquitting the accused-respondents for offences under Section 304-B IPC and under Sections 3, 4 and 6 of the Dowry Prohibition Act. Thus, the learned Additional Public Prosecutor has supported the impugned judgment.

Heard the learned counsel for the parties, and perused the impugned judgment, and examined the record.

It is, indeed, a settled principle of law that interference with an acquittal order falls within a very limited scope. If a reasonable view has been taken by the learned trial Court, and since the presumption of innocence stands strengthened, the appellate court ordinarily should not interfere with the acquittal order. [Ref. to **Mohd. Akhtar vs. State of Bihar**¹.]

In the present case, Nomula Janga Reddy (P.W. 1) states in his examination-in-chief that *“the couple lived happily for the initial one year after the marriage. Thereafter A-2 came down to Alwal*

¹ (2019) 2 Supreme Court Cases 513

from Mumbai and set up a factory. A-4 invested dowry amount given by me at the time of the marriage of the deceased on the factory of A-2 and all the accused demanded the deceased to bring additional dowry, for the purpose of more investment on the factory of A-2. As I did not comply with the demand of the accused, all the accused harassed and ill-treated the deceased. Whenever my daughter visited my house, she used to disclose about the suffering faced at the house of the accused. I raised a panchayat before the elders and even then, there was no change in the attitude of the accused. Four months after the panchayat, the deceased died. A-3 informed on the phone that the deceased committed suicide by hanging". The same statement has been made by Nomula Sridhar Reddy (P.W. 6).

A bare perusal of the testimonies of Nomula Janga Reddy (P.W. 1), and Nomula Sridhar Reddy (P.W. 6) clearly reveal that the reason for asking for more money was for investing the said amount in the factory of A-2. Thus, the demand is not for a dowry, but it is for financial assistance. Hence, the element of "demand of dowry" is conspicuously missing in the present case.

Neither Nomula Janga Reddy (P.W. 1) nor Nomula Sridhar Reddy (P.W. 6), and Thota Gopal Reddy (P.W. 8) narrate a single instance of when, and by whom, and how the deceased was subjected to physical or mental cruelty. The testimony is merely general and vague. Therefore, the learned trial Court was well justified in concluding that there is no evidence that "soon before her death", the deceased was subjected to any harassment for dowry demand. Since two of the essential ingredients, out of three, are conspicuously missing, the learned trial Court was justified in

acquitting the accused persons for offence under Section 304-B IPC.

As far as the evidence with regard to the offences under Sections 3, 4 and 6 of the Dowry Prohibition Act is concerned, the learned trial Court has observed in the impugned judgment that the testimonies of P.Ws. 1, 6, 7 and 8 do not quantify the amount of dowry being demanded by the accused-respondents. Moreover, they do not give any concrete details as to when the demand was made, by whom it was made, and where it was made. Obviously, a conviction for offence under Sections 3, 4 and 6 of the Dowry Prohibition Act cannot be based on vague statements. In the absence of cogent and convincing evidence, the learned trial Court is legally justified in acquitting the accused-respondents for offences under Sections 3, 4 and 6 of the Dowry Prohibition Act.

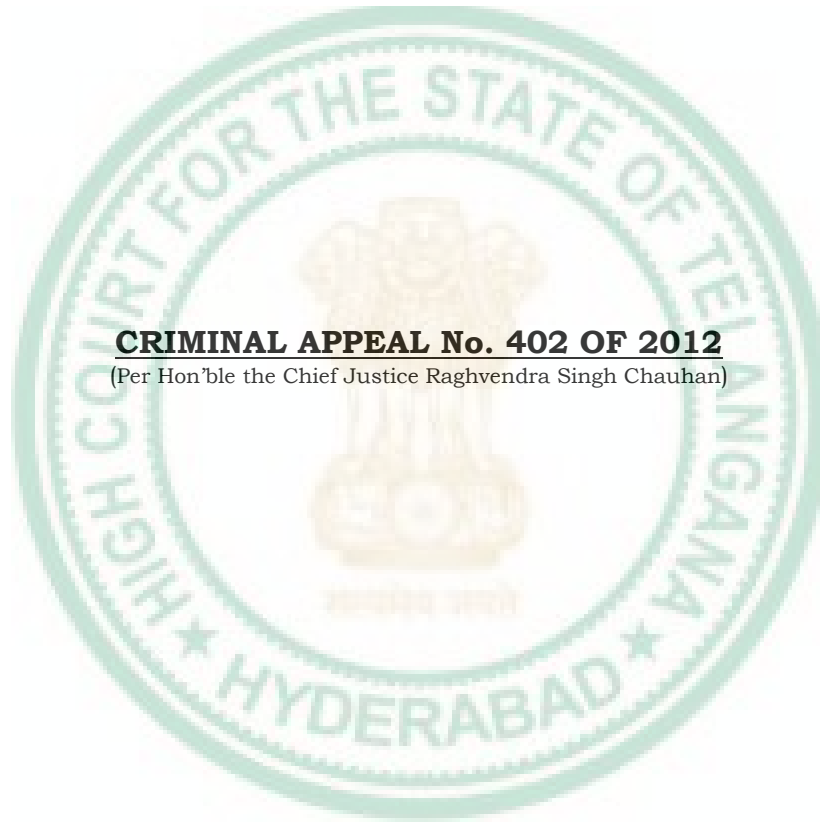
For the reasons stated above, this Court does not find any merit in the present appeal. Therefore, this appeal is, hereby, dismissed.

RAGHVENDRA SINGH CHAUHAN, CJ

T. VINOD KUMAR, J

21st September, 2019
Tsr

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HONOURABLE SRI JUSTICE T. VINOD KUMAR



CRIMINAL APPEAL No. 402 OF 2012
(Per Hon'ble the Chief Justice Raghvendra Singh Chauhan)

21-09-2019

Tsr