

THE HONOURABLE SRI JUSTICE P. KESHA RAO

CRIMINAL REVISION CASE No.828 of 2006

ORDER:

Heard learned counsel for the petitioner as well as learned Public Prosecutor.

2. The present criminal revision case is filed aggrieved by the judgment, dated 11.08.2005, passed in Criminal Appeal No.128 of 2004 by the IV Additional District and Sessions Judge (FTC), Ranga Reddy District, confirming the judgment in S.C.No.183 of 2004, dated 28.10.2004, by the IV Additional Assistant Judge, L.B.Nagar, Ranga Reddy District, convicting and sentencing the petitioner to undergo rigorous imprisonment for a period of seven years for the offence under Section 304-B IPC and further sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- in default to suffer simple imprisonment for three months for the offence under Section 498-A IPC.

3. The case of the prosecution is that one Manjula, who is the deceased and daughter of PWs.1 and 5, R/o.Sheriguda Village of Ibrahimpatnam Mandal, was married accused No.1 in the month of April, 2003. At the time of marriage, the parents of the deceased presented 4 tolas of gold, 40 tolas of silver, Rs.30,000/- cash and household articles worth of Rs.60,000/- towards dowry. Two months after the marriage, the accused started harassing the deceased demanding 2 tolas of gold and two wheeler vehicle towards additional

dowry. The parents of the deceased requested the accused to look after their daughter well. However, the accused did not change his attitude and continued his harassment physically and mentally for want of additional dowry. Due to the said harassment, the deceased consumed poison on 07.10.2003 at about 10.00 a.m. and when she was being shifted to the hospital, she died.

4. The father of the deceased i.e., PW.5, lodged a complaint with the Ibrahimpatnam Police. Pursuant to which, a case in Crime No.135 of 2003 for the offence under Section 304-B IPC was registered and investigation was taken up. During the investigation, the Investigating Officer recorded the statement of witnesses LWs.1 to 7, who are parents, brothers and panchayatdars. The accused was arrested on 27.12.2003. After completion of investigation, charge sheet was filed. The evidence of PWs.1 and 5, who are the parents of the deceased, and the evidence of PWs.2 and 3, who are the brothers of the deceased, clearly establish the harassment meted out to the deceased for additional dowry of 2 tolas of gold and two wheeler vehicle. When the said factum was brought to the notice of the parents of the deceased, a panchayath was held in the presence of PWs.4, 7 and 14, who are eye witnesses and acted as panchayatdars, clearly deposed that the accused was harassing the deceased for additional dowry and in the panchayath, the accused was advised not to harass the deceased for additional dowry. The evidence of PWs.4, 7 and 14 corroborates and supports the evidence of PWs.1 to 3 and 5.

Though PWs.4, 7 and 14 are the eye witnesses, the accused has not chosen to cross-examine them. Therefore, their evidence goes un-rebutted. No reasons are forthcoming to put-forth the evidence of the said witnesses. In fact, both the Courts below appreciated the evidence let by the prosecution in proper perspective, more so, the evidence of PWs.4, 7 and 14.

5. Learned counsel appearing for the petitioner/accused submits that both the Courts below presumed that the deceased committed suicide by consuming poison, without there being any harassment, and the parents of the deceased might be responsible for the death of the deceased. It is also submitted that the neighbours of the accused were not examined. Therefore, the evidence let in by the prosecution is not trustworthy, basing on which the accused cannot be convicted.

6. Learned Public Prosecutor appearing for the respondent-State supported the judgment of the lower appellate Court and submitted that the petitioner has not chosen to cross-examine the prosecution witnesses, particularly, PWs.4, 7 and 14 and, therefore, basing on the said evidence, the prosecution has proved the guilty of the accused for the above said offences beyond reasonable doubt. The petitioner also has not brought on record any evidence to rebut the evidence of the prosecution, more particularly relating to the harassment meted out to the deceased and the additional dowry. To support the said two aspects, the evidence of PWs.4, 7 and 14, being the panchayatdars, is crucial. However, the petitioner has not chosen to cross-examine

them. In the light of the above said facts, it is not open for the petitioner to canvass that the prosecution has not proved its case beyond reasonable doubt particularly in the light of independent witnesses, who were examined.

7. When there is a dowry harassment, which is occurred within the four walls of a house, it is not expected that immediate neighbours, who are independent and crucial witnesses, in not examining them, prejudice is caused to the petitioner and the prosecution failed to establish the guilty of the accused beyond reasonable doubt. In **Jarnail Singh v. State of Punjab**¹, the Apex Court held that merely because independent witnesses are not examined, it cannot be presumed that the prosecution failed to establish the guilty of the accused beyond reasonable doubt. However, in the case on hand, the evidence of PWs.4, 7 and 14 corroborated with the evidence of PWs.1 to 3 and 5 on the aspect of the demand of additional dowry and the harassment meted out to the deceased. Therefore, this Court is of the opinion that there is no illegality or irregularity in the findings given by the both the Courts below while convicting the petitioner.

8. Though learned counsel appearing for the petitioner strenuously submitted that independent witnesses were not examined and thereby the prosecution has not proved the guilty of the petitioner beyond reasonable doubt, but, the evidence of PWs.4, 7 and 14 is corroborating with the evidence of PWs.1 to 3 and 5. In these

¹ (2011) 3 SCC 521

circumstances, this Court is of the opinion that there are no merits in the criminal revision case and the same is liable to be dismissed.

9. Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

6th January 2020

mar

P. KESHA VA RAO, J

