

THE HON'BLE JUSTICE G. SRI DEVI

CRL.A.Nos.362 of 2019 and 547 of 2020

COMMON JUDGMENT :

1. Since both these appeals are filed against the judgment, dated 01.05.2018, passed in S.C.No.339 of 2016 on the file of the VI-Additional District and Sessions Judge, Siddipet, they are being disposed of by this common judgment. Criminal Appeal No.362 of 2019 is filed by Accused No.2 and Criminal Appeal No.547 of 2020 is filed by Accused Nos.1 and 3. *Vide* judgment, dated 01.05.2018, the learned Additional Sessions Judge, found A-1 to A-3 guilty for the offences punishable under Sections 304-B of I.P.C., and Sections 3 and 4 of the Dowry Prohibition Act, 1961 and accordingly convicted and sentenced them to undergo rigorous imprisonment for a period ten years each and to pay fine of Rs.1,000/- each, in default, to suffer simple imprisonment for three months for the offence punishable under Section 304-B I.P.C; A-1 to A-3 were further convicted and sentenced to undergo rigorous imprisonment for five years each and to pay a fine of Rs.15,000/- each, in default, to suffer simple imprisonment for three months for the offence under Section 3 of the Dowry Prohibition Act, 1961 and they were further convicted and sentenced to undergo rigorous imprisonment for two years each and to pay a fine of Rs.2,000/- each, in default, to suffer simple imprisonment for three months for the offence Section 4 of the Dowry Prohibition Act, 1961. All the substantive sentences of

imprisonment imposed on A-1 to A-3 were directed to be run concurrently.

2. For the sake of convenience, the parties hereinafter referred to as they were arrayed in the trial Court.

3. The case of the prosecution, in brief, is as under:

(i) On 12.10.2015 at about 11.30 hours, P.W.10 received information through 100 phone number that one Putta Renuka W/o Raju (A-1) of Narmetta village sustained burns and immediately he went to Narmetta village and found that Putta Renuka (hereinafter referred to as "the deceased") was shifted to Government Hospital, Siddipet and from there to Gandhi Hospital, Secunderabd, where he recorded the statement of the deceased and basing on the said statement, which was marked as Ex.P7, he registered a case in Crime No.103 of 2015 under Section 498-A of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961 and also under the head of "Woman burning" and issued Ex.P8-First Information Report. P.W.10 also gave a requisition-Ex.P5 to the Magistrate, for recording Dying Declaration of the deceased and accordingly, P.W.9-IV Additional Metropolitan Magistrate, Nampally, recorded the Dying Declaration of the deceased, which was marked as Ex.P6. Thereafter, P.W.10 rushed to the scene of offence, where he secured the presence of panch witnesses and conducted scene of offence

panchanama in the presence of P.W.5 and another and also seized M.O.1-Match Box and M.O.2-kerosene tin under a cover of panchanama. Ex.P3 is the scene of offence panchanama along with rough sketch. P.W.10 also recorded the statements of P.Ws.1 to 3 and one Akula Bixapathi. On 16.10.2015 on receipt of information with regard to the death of the deceased, Section of Law was altered to Sections 498-A and 304-B of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961. Ex.P9 is the Section Alteration Memo. On receipt of requisition, P.W.8-Deputy Tahsildar proceeded to Gandhi Hospital, Secunderabad, and conducted inquest over the dead body of the deceased in the presence of P.W.7 and others. Ex.P4 is the inquest panchanama. On receipt of requisition, P.W.11-Assistant Professor, Department of Forensic Science, Gandhi Hospital, Secunderabad, conducted autopsy over the dead body of the deceased and issued Ex.P10-Post Mortem Examination Report; and he opined that the cause of death was "due to burns". On receipt of C.D. file from P.W.10, P.W.12-SDPO, Siddipet, proceeded to Gandhi Hospital, examined and recorded the statements of P.W.4 and others and thereafter he proceeded to scene of offence, examined and recorded the statements of P.W.6 and others. On 30.10.2015, he arrested A-1 to A-3 and produced them before the Court. After collecting all the material papers, P.W.12 filed charge sheet against the accused for the offences punishable under Sections

498-A and 304-B of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961, before the Judicial Magistrate of First Class, Siddipet, who in turn committed the case to the Court of Sessions and on committal, the case was taken on file as S.C.No.339 of 2016.

4. On appearance of the accused, charges under Sections 498-A and 304-B of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961 came to be framed, read over and explained to the accused, to which they pleaded not guilty and claimed to be tried.

5. The prosecution, in order to prove its case, examined P.Ws.1 to 12 and got marked Exs.P1 to P10 and M.Os.1 and 2. After closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C., with reference to the incriminating circumstances appearing against them in the evidence of the prosecution witnesses, to which they denied. Neither oral nor any documentary evidence was adduced on behalf of the accused.

6. The learned trial Judge, on appraisal of entire evidence, both oral and documentary, convicted the accused for the offences punishable under Section 304-B of I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961 and sentenced them as stated supra. Against the said conviction and sentence, the appellants/A-1 to A-3 preferred this appeal.

7. Learned Counsel for the appellant/A-2 in Crl.A.No.362 of 2019 would submit that the judgment of the trial Court is contrary to law, weight of evidence and probabilities of the case and the judgment of the trial Court is neither sustainable in facts nor in law and as such it is liable to be set aside. He further submits that the trial Court failed to appreciate the facts and circumstances of the case in proper perspective and erred in convicting A-2 and that the Court below ought to have seen that P.Ws.1 and 2 did not support the case of the prosecution. He also submits that the Court below ought to have seen that P.Ws.1 and 2 did not state anything about the family affairs of A-1 to A-3 and the deceased and that P.W.6 also did not support the case of the prosecution and he turned hostile though he was cross-examined nothing has been elicited in favour of the prosecution.

8. Learned Counsel for the appellants/A-1 and A-3 in Criminal Appeal No.547 of 2020, would submit that the judgment of the trial Court is contrary to law, weight of evidence and probabilities of the case and is neither sustainable in facts nor in law and as such it is liable to be set aside. She further submits that the Court below failed to observe and take into consideration that the death of the deceased is accidental and not suicidal as the deceased in her Dying Declaration recorded by the Magistrate, has clearly stated that she

herself poured kerosene on her in order to give a threat, but she did not lit fire on her nor anybody lit fire on her and that her saree fell on the stove. She also submits that the Court below failed to take into consideration that the prosecution failed to establish the dowry harassment, reasons for harassment and that the deceased died by committing suicide due to dowry harassment.

9. On the other hand, the learned Assistant Public Prosecutor appearing for the respondent/State would submit that since the death took place within seven years of the marriage, the burden is on the accused to explain as to why the deceased died. In the absence of any explanation, and as the deceased died in the house of the accused at Narmetta, the presumption under Section 113-B of the Evidence Act comes into operation, more so, when the evidence of the doctor is to the effect that the deceased died “due to burns”. Therefore, the learned Assistant Public Prosecutor pleads that the conviction and sentence awarded by the trial Court, warrants no interference.

10. In order to prove its case, the prosecution examined P.Ws.1 to 12, out of whom, P.Ws.1 to 3 are neighbours of the deceased and accused; P.W.4 is the mother of the deceased; P.W.5 is the panch witness for scene of offence along with rough sketch; P.W.6 is the elder of a panchayat; P.W.7 is the panch witness for inquest; P.W.8 is

the Deputy Tahsildar, who conducted inquest over the dead body of the deceased; P.W.9 is the Magistrate, who recorded the Dying Declaration of the deceased; P.Ws.10 and 12 are the investigating officers and P.W.11 is the doctor, who conducted Post Mortem Examination over the dead body of the deceased.

11. The evidence of P.W.1 is that she knew A-1 to A-3 and their houses are located two houses away from his house at Narmetta Village and that the deceased was the wife of A-1. He further deposed that about two years back in the morning at about 10.30 or 11.00 A.M., he heard shouts from the house of A-1 and then himself and his wife rushed to the house of the accused and at that time A-1 to A-3 were present in the house and that A-1 and A-2 and deceased were in the front room. He further stated that four other persons were also present and the deceased was crying with burn injuries all over her body and then he called the ambulance and shifted the deceased to hospital. He further stated that he does not know anything about the family affairs of A-1 to A-3 and deceased as he was not residing at Narmetta village. P.W.1 was declared hostile for limited purpose. In the cross-examination, P.W.1 stated that by the time he reached the house of the accused, the deceased was standing and she was crying. He denied the suggestion that he did not go to the house of the accused and that he does not know anything about this case.

12. P.W.2, wife of P.W.1, deposed that about two years back in the afternoon, her children came and told that the deceased set herself on fire by pouring kerosene and then herself and her husband rushed to the house of accused and at that time A-1 and A-2 were present in their house and the deceased was standing with burn injuries with petticoat and she covered the deceased with clothes and then her husband called ambulance and the deceased was shifted to hospital. P.W.2 further stated that she does not know anything about the family affairs of A-1 to A-3 and the deceased as she was not residing at Narmetta village. P.W.2 was also declared hostile for limited purpose. In her cross-examination, she denied the suggestion that she is having personal knowledge about the family affairs of accused and the deceased. She, however, stated that by the time she reached the house of accused, the deceased was standing and was crying. P.W.2 further stated in her cross-examination that when she questioned the deceased as to what had happened, the deceased told her that there were some disputes and due to that she poured kerosene.

13. P.W.3 in his evidence deposed that he is the neighbour of the deceased and the accused; A-1 and the deceased lived together happily till the birth of two children and thereafter petty disputes started; A-1 and A-2 used to harass and threaten the deceased

demanding her to bring money and the same was informed to him and one Mallesham and he went to the house of A-1 and told A-1 and A-2 to look after the deceased properly. He further deposed that after one week at the time of festival, again A-1 and A-2 harassed the deceased to bring additional dowry from her parents and on the date of occurrence at about 10.30/11.00 A.M., he heard shouts of the deceased from her house, then he himself, P.Ws.1, 2 and one Bikshapathi rushed to the house of A-1 and by the time they reached there, the flames were doused with water and the deceased was with burn injuries all over her body and her clothes were burnt. He also deposed that they questioned the deceased as to what had happened, on that the deceased stated that her husband and mother-in-law harassed her on account of dowry and unable to bear the same, she poured kerosene and set herself on fire and that they shifted the deceased to the hospital by 108 Ambulance. In the cross-examination, P.W.3 stated that his house is located at a distance of 100 yards away from the house of accused. He affirmed that he and P.W.2 questioned the deceased as to what had happened and that he stated the same to the police.

14. P.W.4, who is the mother of the deceased, deposed in her evidence that the marriage of her daughter was performed with A-1 about five years back; A-2 and A-3 are parents of A-1 and at the time of marriage, she gave dowry of Rs.50,000/- cash, three tulas of

gold and household articles worth Rs.60,000/- and after the marriage, her daughter joined with A-1 and they were blessed with two children and that A-1 looked after the deceased properly till the birth of two children and thereafter A-1 to A-3 started harassing the deceased to bring additional dowry and they necked out the deceased to bring dowry. P.W.4 also deposed that her daughter came to her house twice and complained to them and that the accused threatened her daughter not to return to his house unless she brings money and she sent her daughter to the house of the accused and placed the matter before elders at Narmetta and that the elders advised the accused to treat the deceased properly and not to demand dowry. But, the accused continued their harassment and unable to bear the harassment, her daughter committed suicide and that P.W.1 called her on phone and informed about the incident. She further deposed that herself, her husband and her daughters and son rushed to Gandhi Hospital, where the deceased was admitted with burn injuries and she was in a position to talk and that when they questioned the deceased as to what happened, she stated that A-1 to A-3 harassed her demanding to bring dowry and unable to bear the same she committed suicide by pouring kerosene. In the cross-examination, P.W.4 affirmed that her daughter was harassed by the accused for the sake of dowry.

15. P.W.5 deposed in his evidence that the police conducted scene observation in his presence and during the course of panchanama, the police seized one match box and one kerosene can and that the police also prepared the scene of offence panchanama along with rough sketch. Ex.P3 is the scene of offence panchanama along with rough sketch. M.O.1 is match box and M.O.2 is kerosene can.

16. P.W.6 deposed in his evidence that he knew A-1 to A-3 and the deceased, who are his villagers; A-1 used to consume alcohol and beat the deceased and the deceased complained the same to him and one Ravinder Reddy and that they called A-1 and questioned A-1 about the same; the parents of the deceased convened a panchayat, in which they advised A-1 not to beat and not to abuse the deceased and that A-1 informed that hereinafter he will not beat or abuse the deceased and he will look after her properly, but after two or three months, the deceased committed suicide by pouring kerosene at her in-laws house and at that time he was out of station and thereafter he rushed to Area Hospital, Siddipeta, and when he questioned the deceased as to what happened, she did not tell him anything, and thereafter the deceased was shifted to Gandhi Hospital, Hyderabad, where she died. P.W.6 was declared hostile for limited purpose. In the cross-examination, P.W.6 affirmed that A-1 used to consume alcohol, beat and abuse the deceased.

17. P.W.7 deposed in his evidence that the Tahsildar, Nagnoor, conducted inquest panchanama over the dead body of the deceased at Gandhi Hospital, Secunderabad, and reduced the same into writing and himself, one Mallesham and Narsamma attested the said Ex.P4 inquest panchanama.

18. P.W.8, Tahsildar, deposed in his evidence that on 16.10.2015, he received requisition from the S.H.O., Rajgopalpet to conduct inquest over the dead body of the deceased at Gandhi Hospital, Secunderabad, then he proceeded to the hospital, secured the presence of P.W.7 and others and in their presence, he conducted inquest panchanama.

19. P.W.9, the XI Additional Chief Metropolitan Magistrate, Secunderabad, deposed that on receipt of requisition from S.H.O., Rajagopalpet Police Station, he proceeded to burns ward of Gandhi Hospital, Secunderabad, to record the Dying Declaration of the deceased; the duty doctor certified that the patient was conscious and coherent to give statement; he also put preliminary questions to the patient to know her state of mind and that he recorded the statement of the deceased; the patient stated that from the time of marriage, her husband and in-laws were harassing her; on the date of incident, her husband was in a drunken condition and he abused and beat her; her father-in-law told her to die and her mother-in-law

and husband instigated her to die and as such she poured kerosene and her saree end fell in the fire of the stove, due to which her saree was burnt and she sustained burn injuries, neighbours came and covered her with saree and she was shifted to hospital in 108 ambulance. She further stated that her husband and in-laws and her brother-in-law Ilaiah were responsible for her act of burning. P.W.9 further stated that he recorded the statement of victim, read over the same to her and after she ratified the same as true and correct, he obtained her right thumb impression as she was not in a position to sign and he also obtained certification of the duty doctor at the conclusion of recording of statement and the doctor certified that the patient was conscious and coherent throughout recording her statement. He further deposed that at the time of proceedings, except himself and duty doctor, none other was present, Ex.P5 is the requisition and Ex.P6 is the dying declaration.

20. P.W.11 is the Doctor, who conducted autopsy over the dead body of the deceased, deposed that on 16.09.2015 on receipt of requisition from the S.H.O., Rajgopalpet Police Station, he commenced the Post Mortem Examination at 2.15 P.M. and concluded the same at 3.45 P.M. He noted burns on face and neck, front and back chest, front and back upper half abdomen, both upper limbs, both lower limbs of the victim and the burns are 80% of total body surface area and are covered with unhealthy infected

tissue material with pockets of foul smelling pus and he opined that the cause of death was due to burns. Ex.P10 is the P.M.E. Report.

21. Before proceeding it would be appropriate to refer to Section 304-B of I.P.C. which reads as under:-

Section 304-B of I.P.C.

"Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called 'dowry death' and such husband or relative shall be deemed to have caused her death."

22. On a plain reading of the language used in Section 304-B I.P.C. it is clear that in order to attract the provisions of Section 304-B, the deceased must have been subjected to harassment or cruelty "soon before her death". The words "soon before her death" occurring in the said provision came to be interpreted by the Apex Court in *Satvir Singh and others v. State of Punjab and another*¹ and the Apex Court held that the death should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a perceptible nexus between her death and the

¹ (2002) 1 ALD (Crl.) 99 (SC)

dowry related harassment. The relevant paragraph of the above judgment of the Apex Court is extracted hereunder :

"It is not enough that harassment or cruelty was caused to the woman with a demand for dowry at some time, if Section 304-B is to be invoked. But it should have happened 'soon before her death'. The said phrase, no doubt, is an elastic expression and can refer to a period either immediately before her death or within a few days or even a few weeks before it. But the proximity to her death is the pivot indicated by that expression. The legislative object in providing such a radius of time by employing the words 'soon before her death' is to emphasize the idea that her death should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a perceptible nexus between her death and the dowry related harassment or cruelty inflicted on her. If the interval elapsed between the infliction of such harassment or cruelty and her death is wide the Court would be in a position to gauge that in all probabilities the death would not have been the immediate cause of her death. It is hence for the Court to decide, on the facts and circumstances of each case, whether the said interval in that particular case was sufficient to snuff its cord from the concept 'soon before her death'."

23. Thus, having regard to the interpretation of the words 'soon before her death' occurring in Section 304-B I.P.C., it must be seen whether the death of the deceased in this case is only the aftermath of the cruelty or harassment.

24. It is not in dispute that the deceased was died due to burns and that she sustained the burns due to self immolation on 12.10.2015 in the morning hours at her in-law's house. The main reliance of the prosecution is on the Dying Declarations of the deceased. There are two written Dying Declarations.

25. The Dying Declaration is undoubtedly admissible under Section 32 of Indian Evidence Act and not being a statement on oath so that its truth can be decided by cross-examination, the Courts have to apply the strictest scrutiny and the closest circumspection of the statement before acting upon it. While great solemnity and sanctity is attached to the words of a dying man because a person on the verge of death is not likely to tell lies or to concoct a case so as to implicate an innocent person, yet the Court has to be on guard against the statement of the deceased being a result of either tutoring, prompting or a product of his imagination. The Court must be satisfied that the deceased was in a fit statement of mind to make the statement after the deceased had a clear opportunity to observe and identify his assailants and that he was making the statement without any influence or rancour. Once the Court is satisfied that the dying declaration is true and voluntary it can be sufficient to found the conviction even without any further corroboration. When it is said that a conviction can rest on a dying declaration, it is implied

that it must inspire confidence so as to make it safe to act upon it. The law relating to reliability of Dying Declaration is well settled by catena of judgments of the Apex Court.

26. In the instant case, the first Dying declaration came to be recorded by the P.W.10-Sub Inspector of Police at about 10.00 P.M. on 12.10.2015, which was marked as Ex.P7, wherein the deceased stated as under:-

“Since last one year her husband Raju, mother-in-law and father-in-law have been harassing her both physically and mentally and also demanding her to get Rs.50,000/- as additional dowry from her parental house and as she was unable to bare the above harassment, she informed the same to her parents and accordingly her parents, relatives and village elders summoned the accused, held panchayats several times and advised the accused to look after her wellbeing. However there was no change in their attitude. Today i.e., 12.10.2015 morning at about 11.00 hours when she was at her house, her husband Raju, mother-in-law Iylavva and father-in-law Rajaiah each together harassed her physically and mentally to bring additional dowry from her parental house, due to unbearable harassment, she went into kitchen room and poured kerosene herself and set herself on fire with match stick. Therefore, she requested to take necessary legal action against the person, who harassed her for the sake of additional dowry”.

27. The second Dying Declaration of the deceased has been recorded by P.W.9- XI Additional Chief Metropolitan Magistrate,

Secunderabad on 30.10.2015 at about 1.10 A.M., which was marked as Ex.P6. Before recording the said statement, the Magistrate initially put preliminary questions to satisfy himself about the mental condition of the deceased and thereafter recorded the statement, wherein the deceased stated as under:-

“She was married about six years back, her husband is harassing her from the time of marriage on hearing the words of his parents and they used to beat her; on the day before, her husband was in intoxicated condition, whole of the day her son was crying, at first instance her husband beat her son, she questioned her husband as to why he is beating their son, she went inside the house by carrying her son, her husband also entered into the house, as soon as she entered into the house, her husband again told her to take cattle to the fields, she refused for it and she replied him that his parents are saying that she is an unfortunate one, on that, her husband beat her with chappal, bent her neck, pushed her to the ground, kicked her on her waist and threatened to kill her, then her mother-in-law came and abused her in filthy language that she came to die, then her husband beat again, she went outside the house, then her father-in-law came and questioned her if she has become a woman enough beat his son, then she told her father-in-law that his son beat her and their son, on that her father-in-law stated that they will kill her even spending Rs.1,00,000/-, she questioned why he will kill her when she did not commit any fault, then her father-in-law said that she is more worst than a characterless woman, she objected for that and questioned the purpose for which they brought her from her parents, then her father-in-law stated that she is “Dommari Lanje” if she dies he will break 10 coconuts in front

of God, he instigated saying that he himself will give matchstick and to pour kerosene and set fire to herself, first he told to hang herself, then she went into the house and poured kerosene, her husband came inside and took her outside and poured water on her, her husband told her mother-in-law that she poured kerosene, on that her mother-in-law said why she could not set herself ablaze, then she went and sat near the stove, her sari end fell in the stove and caught fire, her husband and her mother-in-law and father-in-law did not come to her rescue, neighbour Lalitha came and told her husband to pour water, her husband took her inside the house, pushed her to the ground, she sustained injury to her hand, neighbours came and covered her with sari, they called ambulance, then her father-in-law uttered that after she dies he will see".

28. From the aforesaid Dying Declarations of the deceased, it is apparent that A-1 used to come home in a drunken condition, he used to beat her indiscriminately and A-2 and A-3 at all times were instigating and abetting A-1, for which the deceased has taken the drastic step.

29. As seen from the statements made before the Sub Inspector of Police and the Magistrate, there was no inconsistency with regard to the demand of additional dowry and on that demand the deceased was harassed and panchayats were also convened. The statements of the deceased also get corroboration from the evidence of P.W.3, who is the neighbour of the deceased and accused, and P.W.4, who is the mother of the deceased. P.W.3 in his evidence deposed that on

hearing the shouts from the house of the accused, himself, P.Ws.1 and 2 rushed there and by the time they reached there, the flame was doused with water and the deceased was with burn injuries all over her body and her clothes were burnt and P.W.2 covered the deceased with saree. P.W.3 further deposed that when they questioned the deceased as to what had happened, she stated that her husband and mother-in-law harassed her on account of dowry and unable to bear the same, she poured kerosene and set herself on fire. P.W.4, who is the mother of the deceased, also stated that on receipt of the information with regard to the admission of the deceased in Gandhi Hospital with burn injuries, they went there and when they questioned the deceased as to what had happened, the deceased stated that A-1 to A-3 harassed her demanding her to bring dowry and unable to bear the same she committed suicide by pouring kerosene. Though P.Ws.3 and 4 were strenuously cross-examined at length, nothing useful was elicited to discredit their evidence with regard to the oral statements made by the deceased before them.

30. In *Sudhakar v. State of Maharashtra*² the Apex Court held as under:

“21. Having referred to the law relating to dying declaration, now we may examine the issue that in cases

² (2012) 7 SCC 569

involving multiple dying declarations made by the deceased, which of the various dying declarations should be believed by the court and what are the principles governing such determination. This becomes important where the multiple dying declarations made by the deceased are either contradictory or are at variance with each other to a large extent. The test of common prudence would be to first examine which of the dying declarations is corroborated by other prosecution evidence. Further, the attendant circumstances, the condition of the deceased at the relevant time, the medical evidence, the voluntariness and genuineness of the statement made by the deceased, physical and mental fitness of the deceased and possibility of the deceased being tutored are some of the factors which would guide the exercise of judicial discretion by the court in such matters.”

31. In *Raju Devade v. State of Maharashtra*³ the Apex Court held as under:

“Each dying declaration has to be considered independently on its own merit so as to appreciate its evidentiary value and one cannot be rejected because of the contents of the other. In cases where there is more than one dying declaration, it is the duty of the court to consider the each one of them in its correct perspective and satisfy itself that which one of them reflects the true state of affairs.”

32. Further, the evidence on record also disclosed that the deceased was given in marriage to A-1 and at the time of marriage Rs.50,000/- and 3 tulas of gold, silver and other household articles

³ AIR 2016 SC 3209

worth Rs.60,000/- were presented. Being not satisfied with the same, the accused demanded for additional dowry and when the same was informed to the parents of the deceased, panchayats were also held. It is well settled that if the Dying Declaration is found to be true and free from embellishment, it can be sufficient for recording conviction. Factum of death had not been disputed by the accused in their defence, which occurred within seven years of the marriage. Further, the factum of demand of dowry has been asserted by the prosecution witnesses. Therefore, I am of the considered view that there was persistent demand of dowry made by the accused from the deceased, who was subjected to cruelty and harassment for such demand, soon before her death.

33. Minor discrepancies, which have been tried to be pointed out by learned Counsel for the appellants, are not much relevant in the present matter. The minor discrepancies or contradictions are not of much relevance in examining the facts and circumstances responsible for the commission of the crime, inasmuch as, with the passage of time when witnesses are called in the witness box, they may have some problem, for many reasons, in recollecting the exact happening which took place on the date of occurrence. In this respect, the Apex Court in *Bharwada Ghoginbhai Hirjibhai v. State*

*of Gujrat*⁴, has expounded the law showing several conditions wherein minor discrepancies could be occurred and same should be ignored. The relevant portion of paragraph 5 and paragraph 6 are being quoted below :

"5.Over much importance cannot be attached to minor discrepancies. The reasons are obvious:

(1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

(2) Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

(3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind whereas it might go unnoticed on the part of another.

(4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape recorder.

(5) In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their

⁴ AIR 1983 SC 753

estimates by guess work on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time- sense of individuals which varies from person to person.

(6) Ordinarily a witness cannot be expected to recall accurately the sequence of events which take place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

(7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross examination made by counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The sub-conscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him-Perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment. Discrepancies which do not go to the root of the matter and shake the basic version of the witnesses therefore cannot be annexed with undue importance."

34. From a perusal of evidence of prosecution witnesses, in totality of surrounding circumstances along with other evidence available on record, in which crime is alleged to have commissioned, it can easily be inferred that the deceased was subjected to cruelty and harassment for demand of dowry soon before her death and the

chain of incidents constitute proximate live link with the death of deceased.

35. In view of aforesaid discussions and observations, I feel that the findings arrived at by the trial Court, warrants no interference and I do not find any good ground to alter or modify the impugned judgment.

36. In the result, the present Criminal Appeals lack merit and are, accordingly, dismissed, confirming the conviction and sentence imposed against the appellants/ A-1 to A-3 in S.C.No.339 of 2016 on the file of the VI-Additional District and Sessions Judge, Siddipet.

37. Consequently, miscellaneous petitions, if any, pending shall stand closed.

03.09.2021
Gsn/gkv

JUSTICE G.SRI DEVI

GSD, J
Crla_362_2019 and 547_2020