

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL No.1492 of 2009

JUDGMENT:

This appeal has been preferred by the State, aggrieved by the Judgment, dated 21.11.2006, passed by the Assistant Sessions Judge, Nalgonda, in Sessions Case No.630 of 2005, whereby, the respondents herein were acquitted of the charge levelled against them under Section 304-B of IPC.

2. Heard learned Public Prosecutor appearing for the State and the learned counsel appearing for the respondents/accused, and also perused the record.

3. The case of the prosecution was that the daughter of PWs.1 and 2 was married to A-1. Two months after the marriage, A-1 and his parents i.e. A-2 and A-3 started harassing daughter of PWs.1 and 2 physically and mentally, demanding for balance amount of dowry and also made her responsible for missing of their she buffalo and beat her. Being unable to bear their harassment, the daughter of P.Ws.1 and 2 committed suicide on 17.02.2004 by consuming pesticide poison.

4. Prosecution examined PWs.1 to 10 and marked Exs.P-1 to P-9 besides M.Os.1 and 2.

5. The Court below, has recorded its finding that there are lacunas in the prosecution case. In Ex.P-1/report, the specific allegation is that A-1 to A-3 along with four others, who were not charge-sheeted, beat the deceased and killed her and there is no averment in Ex.P-1 that the deceased/Renuka committed suicide by consuming poison due to harassment for dowry. Further, PWs.1 and

2 i.e. the parents of deceased and also the paternal uncle of deceased, stated before the inquest panchas and the M.R.O., who conducted inquest over the dead body that the deceased was beaten by A-1 to A-3 and others and forcibly administered poison to her and thus killed her. Therefore, the prosecution has failed to establish as to whether the deceased committed suicide on her own or being killed by the accused and others. Apart from that, just prior to the incident, the accused quarrelled with the deceased over missing of their she-buffalo but not for bringing dowry amount. Therefore, the trial Court opined that the prosecution has failed to establish the motive for the occurrence i.e. whether it is for missing of she-buffalo or for payment of balance dowry, and also the cause of death i.e. whether the deceased committed suicide on her own or being beat and administered poison and thus killed by the accused and others. With the said findings, the trial Court found A-1 to A-3 not guilty of the charge under Section 304-B of IPC and thus, acquitted them.

6. The learned Public Prosecutor has contended that the trial Court has failed to see that the death occurred within 7 years of marriage of deceased with A-1; the ingredients of offence under Section 304-B IPC were made out, in which, the burden of proof lies on the accused but not on the prosecution.

7. The learned counsel for respondents/accused, on the other hand, contended that the trial Court, after evaluating the evidence of prosecution witnesses in detail and after perusing the documentary evidence on record, has given its findings that the prosecution has failed to establish its case, and thus, has rightly acquitted the accused. He contended that there are no grounds to interfere with

the well-reasoned judgment of the court below acquitting the accused. Accordingly, he prayed for dismissal of the appeal.

8. The material on record shows that the prosecution has failed to establish its case against the respondents/accused. The record discloses that there are many contradictions and lacunas in the depositions of the prosecution witnesses, when compared to the contents of Ex.P-1/complaint. The prosecution has failed to establish the cause of death of the deceased, whether it is for missing of the she-buffalo or for want of balance dowry and also failed to establish as to whether the deceased committed suicide on her own or was beaten and killed by A-1 to A-3 and 4 others. For the reasons best known to it, the prosecution has also failed to charge-sheet those 4 other persons who allegedly beat the deceased along with A-1 to A-3, though such serious allegations were made against those four persons.

9. Therefore, this Court is of the view that there is no infirmity or illegality in the Judgment of the trial Court and this appeal is liable to be dismissed.

10. The Criminal appeal is accordingly dismissed confirming the Judgment, dated 21.11.2006, passed by the Assistant Sessions Judge, Nalgonda, in Sessions Case No.630 of 2005.

Pending miscellaneous applications, if any, shall stand closed.

G. SRI DEVI, J

16th February 2021
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Date:16.02.2021