

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Appeal No.145 OF 2020

Between:

The State of Telangana,
rep. by its Public Prosecutor,
High Court for the State of Telangana,
Hyderabad.

... Respondent.

And

Konyala Vijaya Kumar and others

DATE OF JUDGMENT PRONOUNCED: 28.06.2022

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

* THE HON'BLE SRI JUSTICE K.SURENDER

+ CRL.A. No.145 of 2020

% Dated 28.06.2022

The State of Telangana,
rep. by its Public Prosecutor,
High Court for the State of Telangana,
Hyderabad.

... Appellant

And

\$ Konyala Vijaya Kumar and others

...Respondents.

! **Counsel for the Appellant:** Public Prosecutor

^ **Counsel for the Respondents:** C.Sharan Reddy

> HEAD NOTE:

? Cases referred

HONOURABLE SRI JUSTICE K.SURENDER
CRIMINAL APPEAL No.145 of 2020

JUDGMENT:

1. Questioning the acquittal of the respondents 1 to 4, who are A1 to A4 for the offences under Sections 498-A and 306 of IPC in S.C.No.125 of 2015, dated 15.03.2019 passed by the learned Assistant Sessions Judge, Sangareddy (for short 'the Assistant Sessions Judge') present appeal is filed by the State.

2. Briefly, the case of the prosecution is that the *defacto* complainant-P.W.1 filed a complaint stating that his younger sister namely Sarala's (deceased) marriage was performed with the 1st respondent/A1 in the year 1997. For the reason of harassment as informed by the deceased some time after marriage, the respondents were counseled. However, they have not changed their attitude. The deceased was blessed with a male child, who was two years old at the time of the incident. Both the deceased and deceased's son, were found hanging in the house of the respondents/Accused. P.W.1 stated that deceased sister and his nephew died due to the

harassment of all the respondents/accused, as such, crime was registered for the offence under Section 498-A and 306 of IPC.

3. After completion of investigation, the police filed charge sheet for the said offences and charges were accordingly framed.

4. During the course of investigation, the police did not find any involvement of A2 and A3 as abettors to the incident of committing suicide, as such their names were deleted from the array of accused. However, during the course of trial, since P.W.1 stated that A2 and A3 were also responsible, their names were added as accused and charges were also framed against them.

5. During the course of cross-examination, P.W.1, the brother of the deceased and another brother P.W.2 and P.W.3, another relative, all of them admitted that they cannot specifically say regarding any harassment that was meted out to the deceased. P.W.1 admitted that the deceased was taken

to Hyderabad for fertility treatment by A-1 it was A1 who had borne medical expenditure for the treatment and also when the child was born. Likewise, tonsure ceremony and other functions were also performed by 1st respondent/A1.

6. Admittedly, none of the witnesses have spoken about the manner in which the accused had inflicted any kind of injury or harassed the deceased in any manner over the period of 17 years of marriage. The witnesses/P.Ws.1 to 3 also did not speak anything about dowry being given at the time of marriage in the year 1997 and that there was any kind of additional dowry which was demanded by the respondents/accused. The marriage took place in the year 1997 and the child was born in the year 2012, i.e., after a lapse of 15 years and in the entire period of 15 years, there was never any allegation of harassment, as admitted by P.Ws.1 to 3. The witnesses admitted that all through, it was A1 who was taking care of the deceased during 15 years of her fertility treatment and also taking care of the expenditure of the

treatment, delivery and subsequent functions. In the said circumstances when there are no specific allegations in the background of the 1st respondent/A1 taking care of the deceased in all respects as admitted by P.Ws.1 to 3, it cannot be said that only for the reason of the deceased committing suicide, presumption has to be drawn against the respondents that they have abetted suicide. The said argument has no basis in the background of the case and also the deceased committing suicide in the year 17th year of marriage. The evidence of P.Ws.1 to 3, who are closely related, is vague and omnibus in nature. None of the neighbors of the deceased and A1's house ever stated anything about any kind of harassment against any of the accused. In the said circumstances, death of the deceased, which is on account of suicide, cannot be held to be the result of any abetment by the respondents/Accused. Though it is very sad that the wife of A-1 and the child of two years were found hanging, the respondents cannot be held liable in the absence of any reliable evidence. This is a case of

no evidence and death cannot be made basis to find respondents guilty.

7. The initial burden is always on the prosecution to make out its case and it cannot solely rest upon the death being unnatural/suicidal and asking the Court to draw an inference of abetment. In the absence of any specific allegations, death cannot in any manner be a ground to reverse the well reasoned order of acquittal.

Accordingly, the Criminal Appeal is dismissed. As a sequel thereto, miscellaneous applications, if any, shall stand closed.

K.SURENDER, J

Date: 28.6.2022

kvs

HONOURABLE SRI JUSTICE K.SURENDER

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