

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

**THURSDAY THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 1052 OF 2011

Criminal Appeal under Section 304(B) of Cr.P.C against the Judgement dated 06.09.2011 in S.C.No.19 of 2011, on the file of the Court of the Ill Addl. Sessions Judge, (FTC), at Asifabad, Adilabad District.

Between:

Vadai Bikaru @ Bhikku, (A-1) S/o Nanaiah, Coolie R/o Bodepally, Adilabad Dist.

...PETITIONER/APELLANT/ACCUSED No.1

AND

The State of A.P., Represented by its Public Prosecutor, High Court of Andhra Pradesh, Hyderabad.

...RESPONENT/COMPLAINANT

I.A. NO: 1 OF 2011(CRLAMP. NO: 1562 OF 2011)

Petition under Section of Cr. P.C praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High Court may be pleased to suspend the execution of sentence passed in S.C.No.19 of 2011, on the file of the Ill Addl. Sessions Judge, (FTC), at Asifabad, dated 06.09.2011 and release the petitioner on bail, pending disposal of the Cr.A.

Counsel for the Appellan:Mr. C. SHARAN REDDY

Counsel for the Respondents: THE PUBLIC PROSECUTOR

The Court made the following:

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.1052 OF 2011

JUDGMENT:

This Criminal Appeal is filed by the Appellant/A1 aggrieved by the conviction recorded by the III Additional District and Sessions Judge (FTC), Asifabad, in S.C.No.19 of 2011, dated 06.09.2011, convicting the appellant/A1 for the offence punishable under Section 304-B of the Indian Penal Code and sentenced to Rigorous Imprisonment for a period of eight years.

2. Heard and perused the record.
3. Briefly, the case of the prosecution is that the daughter of PW2 was married two years prior to her death to the appellant. At the time of marriage Rs.30,000/- and half tula gold was given. The appellant was not doing any work and he was an alcoholic. The appellant was also having illicit relation with acquitted accused No.3. Though, 'panchayat' was held, the appellant did not change his attitude and demanded dowry of Rs.20,000/-. One year after 'panchayat' was held, it was informed that the deceased was found dead on the railway track. PW2 lodged a police complaint Ex.P1.

4. On the basis of investigation, police filed charge sheet against this appellant and two others for the offence under Section 304-B of the Indian Penal Code.

5. The learned Sessions Judge having examined PWs.1 to 10 and marking Exs.P1 to P17 and Exs.D1 to D3 found that this appellant was guilty for the offence under Section 304-B, whereas the other accused were acquitted.

6. Learned Counsel for the appellant would submit that nowhere it is mentioned that there was any kind of demand for dowry. In fact, the deceased died in accident which was stated by PWs.1 and PW10. Even according to admission of PW2, he stated regarding demand of Rs.20,000/- for the first time during the course of his examination before the Court.

7. PW2 who is the father gave Ex.P1 in writing. However, he states that he is illiterate and that the complaint-Ex.P1 was drafted by Kagaznagar Police. PW2 further admitted that 3 days after Rakhi Pournami festival, the appellant went to his house to take his daughter and appellant was tied to the cot by the relatives of PW2 as he was fully drunk. PW2 and his relatives demanded A1 to give divorce to the deceased, but, appellant/A1 refused. He was kept in the house, tied to the cot for three days

and was beaten. Further, PW2 admitted that the deceased died due to accident and the relevant para reads as follows;

".....I for the first time I am deposing about the accused demanding balance amount of Rs.20,000/-
.....My daughter died due to accident. It is true that we filed this case as A1 filed criminal case against my sons."

8. Even according to Investigating Officer-PW10, the death of the deceased was on account of accident.

9. To attract an offence under Section 304-B of the Indian Penal Code, it has to be proved by the prosecution that the death occurred within seven years of the marriage and such death was unnatural death and thirdly, the deceased was subjected to cruelty for demand of dowry.

10. In the present case, the death of the deceased occurred within seven years, but the death was accidental. Demand of dowry of Rs.20,000/- was stated by PW2, for the first time, during the course of his examination in the Court. Even according to PW2, such demand for dowry was one year prior to the death. Even assuming that there was a demand, the said demand is too remote. The case appears to have been made up for the reason of the death of the deceased. It is natural that the close relatives of

the deceased tend to exaggerate and also implicate the husband in a case. Such bald and vague allegations of demand for dowry which was made for the first time in the Court, will not be sufficient to convict the appellant for the said offences under Section 304-B of the Indian Penal Code.

11. Accordingly, the Criminal Appeal is allowed and the appellant/A1 is acquitted for the offence under Section 304-B of the Indian Penal Code. The conviction recorded by the III Additional District and Sessions Judge (FTC), Asifabad, against the appellant/A1 in S.C.No.19 of 2011, dated 06.09.2011, is hereby set aside. Since the appellant is on bail, his bail bonds shall stand cancelled.

Miscellaneous applications, if any, pending shall stand dismissed.

//TRUE COPY//

Sd/-K. SRINIVASA RAO
JOINT REGISTRAR
SECTION OFFICER

To,

1. The III Additional Sessions Judge (Fast Track Court), at Asifabad, Adilabad District (with record)
2. The Judicial Magistrate of First Class, Sirpur, Adilabad, Adilabad District.
3. The Sub Divisional Officer, Kagaz Nagar, Adilabad District.
4. The Superintendent Central Jail, Warangal.
5. Two CC's to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad (OUT).
6. One CC to Sri C. Sharan Reddy, Advocate [OPUC]
7. Two CD Copies

dl PML.

HIGH COURT

KS,J

DATED:17/11/2022

ORDER

CRLA.No.1052 of 2011

ALLOWING THE CRIMINAL APPEAL



⑩ PMG.

17/12/22