

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

**MONDAY, THE FOURTEENTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 322 OF 2010

Criminal Appeal Under Section 378 (4) of CrI.P.C against the Judgement dated 08-12-2009 in S.C. No. 418 of 2007 on the file of the Court of the Additional Assistant Sessions Judge (FTC) at Laxettipet, Adilabad District.

Between:

Gaddam Bhadrailah S/o Bhumaiah, Aged 55 years, Occ: Ice Manufacturing
R/o Ashok Road, Mancheriala.

...COMPLAINANT/APELLANT

AND

1. Padigela Lingaiah, S/o Poshetty, aged 55 years, Occ. Steel & Brass Merchant
R/o Budawarpet, Nirmal. (A-1)
2. Padigela Lalitha W/o Lingaiah, aged 52 years , Occ: Household R/o
Budawarpet, Nirmal. (A-2)
3. Gaddam Sarith (died) (A-3)
4. Padegela Ramesh, S/o Lingaiah, Age 34 Years, Occ: Steel & Brass Merchant
R/o Budawarpet, Nirmal. (A-4)
5. The State of Andhra Pradesh, Represented by its Respondents Public
Prosecutor, High Court Hyderabad.

...RESPONDENTS

Counsel for the Appellant: SRI. L KUMARA SWAMY, ADVOCATE

Counsel for the Respondent 1 to 4: Sri. K RAGHUVeer REDDY, ADVOCATE

Counsel for the Respondent No. 5: PUBLIC PROSECUTOR (TG)

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.322 OF 2010****ORDER:**

This Criminal Appeal is filed by the state under Section 378(4) of Code of Criminal Procedure, 1973 (for short "Cr.P.C") against the acquittal order dated 08.12.2009 in S.C. No.418 of 2007 on the file of Additional Assistant Sessions Judge (FTC) at Luxettipet, Adilabad District.

2. Heard the learned counsel for the respondent Nos.1 to 4 and learned Additional Public Prosecutor for the State-Respondent No.5. Perused the material on record.

3. Briefly, the facts of the case are that the *de facto* complainant/PW1 is the father of the deceased. The deceased was married to accused No.3 and according to the *de facto* complainant the deceased was listening to his in-laws and wife. He was living in a separate residence along with his wife. The *de facto* complainant filed a civil suit in O.S. No.242 of 2003 against the deceased and obtained permanent injunction. Thereafter, the deceased and accused No.3 shifted to Nirmal. There was a demand

by accused Nos.1 and 2 to return Rs. 25,000/- which was given to the deceased by the *de facto* complainant, which was returned by way of D.D. through an Advocate. Respondent/accused interfered with the life of his son namely Ashok and he was abused, for which reason, he committed suicide. The news of his son's death was in daily newspaper and on seeing the same, nearly after a month of his son's death the complaint was filed. The police having investigated the crime, filed charge sheet against the respondent/accused Nos.1 to 4 for the offence punishable under Section 306 of Indian Penal Code.

4. Learned counsel for the appellant remained absent for which reason case was posted for dismissal. However, the appellant did not turn up as such the respondent counsel was heard and appeal is being disposed off.

5. Learned Sessions Judge having considered the evidence of PWs1 to 10 and Ex.P1 to P4 found that the respondent/accused found not guilty for the offence under Section 306 of Indian Penal Code for the following reasons:

- i. Ex.P2 letter was marked by PW1 which contains the hand writing of the deceased, however, no steps were taken to prove that the said letter was in the hand writing of the deceased.
- ii. There is only a bald accusation in the said letter against accused No.1, however that cannot be read against accused No.1 as the letter Ex.P2 was not proved.
- iii. The father/PW1 filed several suits against the deceased and obtained injunction and they were living separately.
- iv. The alleged complaint was filed after one month of the death of the deceased and there are no reasons given for the delay.
- v. Accused No.3 filed complaint against the *de facto* complainant and deceased for the offences punishable under Section 498-A, 504, 506 of Indian Penal Code, which was registered as Cr.No.125 of 2005 and investigation was pending. The evidence of PWs1, 2, 6 and 8 regarding utterances of accused against deceased could not be believed for the reason of stating the same with delay.

6. In **Jafarudheen and others v. State of Kerala**¹ and **Rajesh Prasad v. State of Bihar and another**², the Hon'ble Supreme Court held that in case of acquittal, presumption is in favour of the accused. Unless there are glaring mistakes or any errors view of law is taken, the appellate Courts cannot interfere with the judgment of the acquittal. The Hon'ble Supreme Court further held that it has to be shown that there was miscarriage of justice and while dealing with the evidence, the Court committed an error and improperly considered and adjudicated the case.

7. In the present case, there is a delay of one month in lodging the complaint, which is unexplained. Secondly, the criminal case was filed by accused No.3 against PW1 and husband, in which investigation was pending under Section 498-A of Indian Penal Code. There is a fabrication of letter Ex.P2 as held by the trial Court and which was not proved.

8. In the said circumstances, when there is no evidence to suggest that this respondent/accused has in any manner abated commission of suicide by the deceased, the question of being

¹ (2022) 8 SCC 440

² (2022) 3 SCC 471

convicted under Section 306 of Indian Penal Code does not arise. The findings of the learned Sessions Judge are borne out by record and reasonable.

9. In the said circumstances, this Court does not find any ground to interfere with the well reasoned Judgment of the Additional Assistant Sessions Judge (FTC) at Luxetipet, Adilabad District.

10. Accordingly, the Criminal Appeal is dismissed.

Miscellaneous applications pending, if any, shall stand closed.

Sd/-B. S. CHIRANJEEVI

JOINT REGISTRAR
SECTION OFFICER

//TRUE COPY//

To,

1. The Additional Assistant Sessions Judge (FTC), Laxetipet, Adilabad District. (with Records)
2. One CC to SRI. L KUMARA SWAMY Advocate [OPUC]
3. One CC to SRI K RAGHUVeer REDDY Advocate [OPUC]
4. Two CCs to the Public Prosecutor, High Court of Telangana. (OUT)
5. Two CD Copies

VH



HIGH COURT

KS, J

DATED: 14/11/2022

ORDER

CRLA.No.322 of 2010



Dismissing the Crl.A

7
HMA
10/05/1/2022