

[3251]

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

**FRIDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No: 189 of 2021

Criminal Appeal Under Section 374 (2) of Cr.P.C against the Judgment Dated 31-03-2021 in S.C.No.56 of 2019 on the file of the Court of the Principal Sessions Judge, Warangal.

Between:

Sk. Nagul Mira @ Yasin, S/o. Sk. Saidulu, Aged about 29 years, Occ. Mousam, R/o. Repallewada of Ellandu Mandal, Now at Khanapur Haveli, Khammam.

...Appellant/Accused No.1

AND

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

...Respondent/Complainant

Counsel for the Appellant: SRI C. SHARAN REDDY

Counsel for the Respondent: PUBLIC PROSECUTOR

The Court delivered the following: JUDGMENT

HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.189 OF 2021

JUDGMENT:-

The present Appeal assails the Judgment dated 31.03.2021 passed in S.C.No.56 of 2019, on the file of the Court of Principal Sessions Judge, Warangal, convicting the Appellant for the offence under Section 498-A IPC and Section 3 of Dowry Prohibition Act.

2. The case against the Appellant is that he was married to the deceased on 26.07.2017 and eleven months after marriage, the deceased died at her parent's house on 04.06.2018. The deceased stayed for around twenty five (25) days in the house of appellant and thereafter went to her parent's house where she remained till her death.

3. A complaint under Ex.P1 was lodged by the father of the deceased stating that he performed marriage of his daughter with the Appellant on 26.07.2017. At the time of marriage, dowry of Rs.3,00,000/- was agreed to be given to the appellant. However, Rs.1,20,000/- was given and for the remaining amount, the appellant and others started torturing the deceased. There was a meeting held in the house of the appellant. However, demand was made for the remaining amount of dowry. The appellant used to visit the house of the deceased constantly and fight with them for the remaining amount of dowry. Though the villagers requested to discuss the issue, the

appellant insisted that the discussion will take place only after payment of the remaining amount of dowry. Vexed with such constant harassment of the appellant, the deceased committed suicide on 04.06.2018 leaving behind a suicide note. In the said suicide note, the deceased stated that the appellant cheated her and he was not a man but a eunuch. He was torturing her mentally and physically.

4. On the basis of the complaint and also the suicide note, the Police filed charge sheet against appellant and two others for the offences punishable under Sections 498-A and 304-B of IPC and Sections 3 & 4 of Dowry Prohibition Act.

5. The learned Sessions Judge, having examined PWs 1 to 10 and marking Exs.P1 to P14, found Accused Nos.2 & 3 not guilty. The appellant was also found not guilty for the offence under Section 304-B IPC. However, the appellant was found guilty for the offence punishable under Section 498A IPC and Section 3 of Dowry Prohibition Act.

6. Learned counsel for the appellant submits that it is highly improbable that the deceased, who was staying for a period of one year in her parent's house, would have been subjected to cruelty. PW1-Defacto complainant, PW10-Investigating Officer and other witnesses also stated that twenty five days after marriage, the deceased left to her parent's house

and till the date of her death, she was staying at her parent's house. Therefore, the question of appellant harassing the deceased does not arise. Further, in the suicide note, there is no mention about any dowry. The entire story of demand for dowry is an improvement made to implicate the appellant and his family members. For the said reason, the conviction has to be set-aside.

7. On the other hand, learned Public Prosecutor submitted that the parent's of the deceased and others had clearly stated that on account of conduct of the appellant, the deceased was forced to stay at her parent's house. There was a constant demand for the remaining part of dowry by the appellant. No reasons are given as to why the deceased stayed at her parent's house. Even in the cross-examination and the defence taken by the accused, no reasons are suggested as to why the deceased stayed at her parent's house.

8. It is an admitted fact that the deceased stayed at her parent's house after leaving the house of appellant twenty five days after marriage. The reason given in the complaint is that as the appellant harassed her, she stayed at her parent's house. In the statement of witnesses, it is clearly stated that the appellant used to constantly visit the house of the parents of the deceased and used to harass her. The said fact is corroborated by the

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suicide note which was written by the deceased. From the circumstances and the evidence narrated, it is clear that the conduct of the appellant forced the deceased to stay in her parent's house.

9. Non-mentioning of any dowry demand in the suicide note by the deceased raises any amount of suspicion regarding the demand made by the appellant and other accused for remaining amount of dowry.

10. During cross-examination of the witnesses, the witnesses could not substantiate regarding the dowry given and also the sources.

11. Section 3 of the Dowry Prohibition Act makes it clear that giving or taking dowry is a punishable offence.

12. The relatives of the deceased, under normal circumstances, would be disturbed for the reason of the death of the deceased. When it is not mentioned in the suicide note that the appellant or anyone on his behalf, were demanding dowry, it casts a doubt on the version of the witnesses regarding dowry being given. The deceased was disturbed for the reason of conduct of the appellant. She stated in the suicide note that he was not a 'man' but a 'Eunuch'. He used to harass her and he has broken her heart.

13. The evidence given by the witnesses, the suicide note and also the reason explained regarding the deceased being in her parent's house over a

period of time, can only be attributed to the conduct of the appellant. However, the prosecution could not prove that any dowry was given for which reason this Court deems it appropriate to set-aside the conviction under Section 3 of Dowry Prohibition Act. However, the evidence on record clearly suggests that the appellant was the reason of harassment meted out to the deceased for which reason she was forced to stay in her parent's house.

14. Accordingly, the Criminal Appeal is allowed-in-part. The conviction imposed by the Court concerned under Section 498A IPC is confirmed. However, the sentence of imprisonment is reduced to six months. The Court concerned is directed to cause appearance of the appellant and send him to prison to serve out the remaining part of sentence.

15. Miscellaneous petitions pending, if any, shall stand closed.

Sd/- B.S. CHIRANJEEVI
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Sessions Judge, Warangal (with records, if any)
2. The Station House Officer, Eturnagaram Police Station, Warangal District.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad.(OUT)
4. One CC to SRI C. SHARAN REDDY, Advocate [OPUC]
5. Two CD Copies

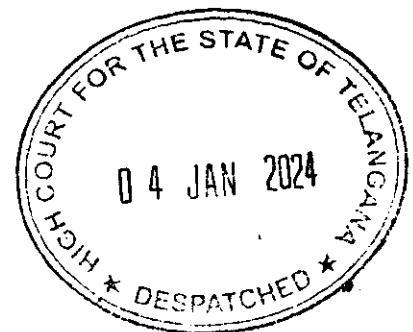
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HIGH COURT

DATED:24/11/2023

JUDGMENT

CRLA.No.189 of 2021



**THE CRIMINAL APPEAL
IS ALLOWED IN PART**

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23/12/23