IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE TWELFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE K.SURENDER
AND
THE HON'BLE SHRI JUSTICE J. ANIL KUMAR

CRIMINAL APPEAL Nos: 961 and 1051 of 2016

Criminal Appeal No.961 of 2016

Appeal under Section 378(3) & (1) of Cr.P.C against the Judgment dated 25-02-2016 in SC.No.717 of 2013 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad.

Between:

The State of Telangana, rep. by The Public Prosecutor, High Court at Hyderabad.

...Appellant/Complainant

AND

1. Dr.Soma Chaitanya Reddy, S/o. Soma Devender Reddy, Occ:Business, R/o. Flat No. 202, Plot Nos.56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
2. Soma Rajeshwari, W/o. Soma Devender Reddy, Age:53 years, Occ:Housewife, R/o. Flat No. 202, Plot Nos. 56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
3. Soma Devender Reddy, S/o. Soma Govinda Reddy, Age:61 years, Occ:Business, R/o. Flat No. 202, Plot Nos.56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
4. Soma Nithin Reddy, S/o. Soma Devender Reddy, Age:29 years, Occ: Manager Brisah (A division of Ramoji Group) Panjagutta, Nagarjuna Circle, R/o. Plot Nos.56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.

...Respondents/Accused

Counsel for the Appellant: Mr. Dodla Arun Kumar,
Additional Public Prosecutor

Counsel for the Respondents: Mr. N. Naveen Kumar and
Mr. G. Ashok Reddy

Criminal Appeal No.1051 of 2016

Appeal under Section 372 of Cr.P.C aggrieved by the Judgment dated 25-02-2016 in SC.No.717 of 2013 on the file of the Court of the Metropolitan Sessions Judge, Hyderabad.

Between:

Sri K.Ragotham Reddy, S/o K.V.Ranga Reddy, Age:58 years, R/o Plot No. 338, Road No. 23/A, Jubilee Hills, Hyderabad.

...APPELLANT/COMPLAINANT

AND

1. The State of Telangana, through Assistant Commissioner of Police, CCS, DD, Hyderabad.
...RESPONDENT
2. Dr. Soma Chaitanya Reddy, S/o. Sri Soma Devender Reddy, occupation Business, R/o. flat No. 202, Plot Nos. 56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
3. Soma Rajeshwari, W/o. Soma Devender Reddy, Age:53 years, occupation House wife. R/o. flat No. 202, Plot Nos. 56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
4. Soma Devender Reddy, S/o. Soma Govinda Reddy, Age:61 years, occupation business R/o. flat No. 202, Plot Nos. 56 & 57, Valley View Apartments. Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.
5. Soma Nithin Reddy, S/o. Soma Devender Reddy, Age:29 years, Occ: Manager Brisah, (A Division of Ramoji Group), Panjagutta Nagarjuna Circle r/o. flat No. 202, Plot Nos. 56 & 57, Valley View Apartments, Bharani Layout, Road No. 78, Jubilee Hills, Hyderabad.

...RESPONDENTS/ACCUSED

Counsel for the Appellant: Mr. T. Balmohan Reddy

Counsel for the Respondent No.1: Mr. Dodla Arun Kumar,
Additional Public Prosecutor

Counsel for the Respondents No.2 to 5: Mr. N. Naveen Kumar and
Mr. G. Ashok Reddy

The Court made the following: COMMON JUDGMENT

THE HONOURABLE SRI JUSTICE K.SURENDER
AND
THE HONOURABLE SHRI JUSTICE J.ANIL KUMAR

CRIMINAL APPEAL Nos.961 AND 1051 OF 2016

COMMON JUDGMENT: *(per Hon'ble Sri Justice K.Surender)*

1. Criminal Appeal No.961 of 2016 is filed by state and Criminal Appeal No.1051 of 2016 is filed by de-facto complainant who is father-in-law of accused No.1.

2. Both these criminal appeals are filed against the judgment dated 25.02.2016 in S.C.No.717 of 2013 on the file of learned Metropolitan Sessions Judge, Hyderabad, acquitting the respondents-accused Nos.1 to 4 for the offence under Section 304-B read with 201 of IPC and Sections 3 and 4 of Dowry Prohibition Act and respondent-accused Nos.2 to 4 for the offence under Sections 120-B, 498-A, 302 alternatively 304-B read with 34 and 201 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

3. Heard Mr. T.Balmohan Reddy, learned counsel for appellant/complainant and Mr. N.Naveen Kumar, learned counsel and Mr. G.Ashok Reddy, learned counsel for respondents/accused and Mr. Dodla Arun Kumar, learned Additional Public Prosecutor.

4. Briefly the facts of the case are that on 18.06.2011, the complainant who is the father of the deceased gave a report to the Police that his daughter was taken to Apollo Hospital in an unconscious state and was declared dead. She has been married since six years and has a daughter of 3 years age. The deceased and her husband went out at 08:00 P.M. on that day and came back in the midnight hours. Based on the complaint, a case in Cr.No.285 of 2011 under Section 174 Cr.P.C. was registered.

5. During the investigation, the investigating officer, recorded the statement of the complainant, as the death occurred within 7 years of marriage of the deceased and a requisition was filed before the RDO, Secunderabad, to depute a Tahasildar to conduct inquest. A scene of offence panchanama was conducted in the presence of two panch witnesses, which is the bedroom situated adjacent to the staircase leading to the first floor. Clues team collected the incriminating material and the dead body was shifted to mortuary of Gandhi hospital. No external injuries were found on the dead body.

6. While investigation was in progress, on 19.06.2011 at 06:00 A.M., the complainant gave another report complaining that the death of the deceased was unnatural and occurred in

the matrimonial home and hence a doubt arises that she was deliberately killed by her husband. The Section of law was altered to Section 302 of IPC and further investigation was taken up by LW16, as the offence is grievous in nature. Express report was submitted to XVII Additional Chief Metropolitan Magistrate Court to call for the original FIR.

7. The statements of the complainant was re-recorded, so also the statements of LWs.2 and 3. LW46, visited the scene of offence. The team of doctors issued PME report in the meantime, stating that the death was due to smothering. As such, on 21.06.2011, A1 was taken into custody and his confession statement was recorded. A pillow was seized, based on his confession, LW46 re-visited the scene of offence on 23.06.2011 and seized two bed sheets, one pillow cover and a party wear of the deceased and A1. The statements of other witnesses were recorded. The material objects were forwarded to FSL.

8. After concluding the investigation charge sheet was filed against the respondents-accused Nos.1 to 5, charge was framed for the offence under Sections 498, 304-B r/w 34 and 201 IPC, Sections 3 & 4 of D.P.Act against accused Nos.1 to 5.

9.2. Alternate charge under Section 302 of IPC was framed against accused No.1.

10. The learned Sessions Judge having examined the witnesses acquitted the accused Nos.1 to 5 mainly on the ground that death was not proved to be homicidal. PW12 who is the doctor gave opinion that the death was on account of Asphyxia due to "smothering", however, she corrected herself stating that the death was associated with consumption of intoxication of ethyl alcohol. Further, doctor during the cross examination stated that in cases of ethyl alcohol consumption, a particular stage of intoxication can lead to death due to inability to transport oxygen to the brain due to reduced supply of oxygen. Doctor/PW12 was cross examined extensively regarding the manner in which the death occurred and also possibilities of death as a consequence of ethyl alcohol consumption.

11. The main basis for acquittal of the accused by the learned Sessions Judge is that the death was not proved to be homicidal or suicidal.

12. After arguing for some time, learned counsel for the de-facto complainant conceded to the fact that prosecution was not able to prove that death was homicidal or suicidal. Learned counsel for de-facto complainant and also learned

Public Prosecutor tried to impress upon the Court that though the finding on the basis of medical evidence was not conclusive, however, the fact remains that death happened in the house when the accused were present. Burden would shift on to the accused under Section 106 of Evidence Act.

13. In the absence of prosecution proving that death was homicidal or suicidal, the question of shifting burden on to the accused under Section 106 of Evidence Act does not arise. Only in the event of prosecution proving initially that the death was homicidal or suicidal the burden shifts on to the accused.

14. Having gone through the evidence, since the prosecution has failed to prove that death was homicidal or suicidal, and a result of effects of excessive ethyl alcohol consumption, both the appeals fail.

15. Accordingly, the Criminal Appeals are dismissed.

Sd/- T. SRINIVAS
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge, Hyderabad. (with records, if any)
2. The XII Additional Chief Metropolitan Magistrate, Hyderabad.
3. The Station House Officer, CCS, DD, Hyderabad.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana at

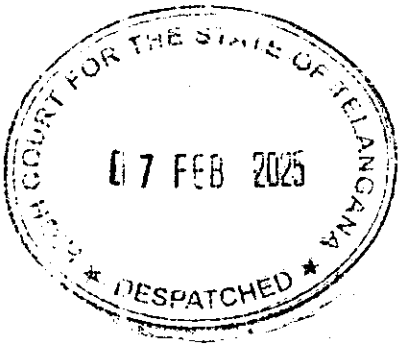
Hyderabad [OUT]

5. One CC to Mr. T. Balmohan Reddy Advocate [OPUC]
6. One CC to Mr. N. Naveen Kumar Advocate [OPUC]
7. One CC to Mr. G. Ashok Reddy , Advocate [OPUC
8. Two CD Copies

kam/gh

HIGH COURT

DATED:12/12/2024



COMMON JUDGMENT

CRLA.Nos.961 and 1051 of 2016

DISMISSING OF THESE CRIMINAL APPEALS

(11)

fcp
6/2/25