

(2022) 03 TEL CK 0050

In the Telangana High Court

Case No : Criminal Revision Case No. 1935 Of 2006

Budige Narsimha

APPELLANT

Vs

State Of A.P., Rep By PP.

RESPONDENT

Date of Decision : 14-03-2022

Acts Referred:

Indian Penal Code, 1860 — Section 304B, 498A
Evidence Act, 1872 — Section 113B

Citation : (2022) 03 TEL CK 0050

Hon'ble Judges : G. Sri Devi, J

Bench : Single Bench

Advocate : C Sharan Reddy

Final Decision : Dismissed

Judgement

This Criminal Revision Case is directed against the judgment of the learned IV-Additional Sessions Judge (II F.T.C.), Nalgonda, passed in CrI.A.No.140 of 2004, dated 14.11.2006, wherein the learned Judge, while confirming the conviction and sentence of rigorous imprisonment for a period of three years and a fine of Rs.500/- , in default, to suffer simple imprisonment for three months for the offence punishable under Section 498-A of I.P.C. and also rigorous imprisonment for a period of seven years for the offence punishable under Section 304-B of I.P.C., imposed against the revision petitioner/A-1 by the learned Assistant Sessions Judge, Bhongir, in S.C.No.234 of 2003, dated 20.09.2004, set aside the conviction and sentence imposed against A-2 and A-3 for the aforesaid offences.

The case of the prosecution, in brief, is that the marriage of the revision petitioner/A-1 with one Budige Padmaja @ Balamani (hereinafter referred to as "the deceased") took place on 14.12.2002 and at the time of marriage, the parents of the deceased gave Rs.40,000/-, four tulas of gold ornaments, Almirah, double cot and other household articles, all worth Rs.1,00,000/- out of agreed dowry amount of Rs.1,30,000/- and also assured A-1 that they would give the remaining dowry amount two months after the marriage. A-1 and his parents

(A-2 and A-3) started harassing the deceased for the balance dowry amount since 10 days after the marriage. When P.W.1, the brother of the deceased, went to the house of accused few days prior to Sankaranthi festival to bring the deceased to Narkatpally, A-1 to A-3 told P.W.1 that they would not send the deceased to their house unless the dowry amount is paid to them, however, after persuasion, they sent the deceased with P.W.1. After coming to her parents' house, the deceased informed to her parents about the harassment made by the accused for balance dowry amount. On 18.01.2003, A-1 came to the house of P.Ws.1 and 3 and demanded P.W.1 and his parents to pay the balance dowry amount and when they asked A-1 to give some more time, A-1 quarreled with P.W.1 and his parents and took away the deceased to Lingarajupally village. Thereafter, A-1 to A-3 continued to harass the deceased both physically and mentally for balance dowry amount. Unable to bear the harassment made by all the accused, the deceased decided to put an end to her life. On 22.01.2003 at 12.00 Noon, when A-1 to A-3 were away from the house, the deceased closed the door from inside, went into the kitchen room, doused herself with kerosene and set fire to her. On seeing the smoke coming out of the house of the accused, P.Ws.5 and 6 and others broke open the rear door, went inside and found the charred body of the deceased. Basing on the complaint of P.W.1, P.W.12 registered a case in Crime No.7 of 2003 against A-1 to A-3 for the offences punishable under Sections 498-A and 304-B of I.P.C. and after completion of investigation, P.W.11 police filed a charge sheet against the accused for the aforesaid offences, which was taken cognizance as P.R.C.No.11 of 2003 and on committal the same was numbered as S.C.No.234 of 2003. The accused were tried for the offences punishable under Sections 498-A and 304-B of I.P.C.

The prosecution has examined P.Ws.1 to 12 and got marked Exs.P1 and P15 to prove the guilt of the accused. On behalf of the accused, no oral evidence was adduced, but Ex.D1 was marked. On a perusal of the entire evidence, both oral and documentary, the trial Court convicted the revision petitioner/A-1 along with A-2 and A-3 for the offences punishable under Sections 498-A and 304-B of I.P.C. and sentenced them as stated supra.

In an appeal preferred by the revision petitioner/A-1 along with A-2 and A-3, the learned IV-Additional Sessions Judge, while setting aside the conviction and sentence imposed against A-2 and A-3, confirmed the conviction and sentence imposed against the revision petitioner/A-1 for the aforesaid offences. Aggrieved by the same, the revision petitioner/A-1 preferred this criminal revision.

Heard learned Counsel for the revision petitioner/A-1, learned Assistant Public Prosecutor for the respondent/State and perused the entire material available on record.

The point that arises for consideration is "Whether the conviction and sentence imposed against the revision petitioner/A-1 for the offences punishable under Sections 498-A and 304-B of I.P.C. are sustainable in law or not?"

The law is well settled that the High Court cannot interfere with the concurrent findings of the Courts below unless there is no legal evidence to support the findings of the Courts below or the appreciation of evidence by the Courts below is perverse and it resulted in miscarriage of justice. So, it has to be seen whether in the instant case the findings of the Courts below are supported by legal evidence and if so, whether the appreciation of evidence by the Courts below is perverse?

P.W.1 is the elder brother, P.W.2 is the relative, P.W.3 is the mother of the deceased and P.W.4 is the husband of the sister of P.W.3. All these witnesses have emphatically stated that the marriage between the deceased and A-1 took place on 14.12.2002. They further stated that at the time of marriage, they agreed to pay dowry of Rs.1,30,000/- and out of it they have paid Rs.1,00,000/- and the balance amount of Rs.30,000/- has to be paid to A-1 within two months. Further, P.Ws.1 and 3 have stated in their evidence that just before Sankranti festival of 2003, when P.W.1 went to the house of the accused to bring the deceased and A-1 to his house, the accused refused to send the deceased till they paid the balance dowry amount. P.Ws.1 and 3 have also stated that the deceased told them that the accused used to ill-treat and beat her by demanding balance dowry amount. The evidence of P.W.1 is that on 18.01.2003, A-1 came to their house and asked them to pay the balance amount and he told A-1 that he would pay the balance dowry amount within the agreed period and thereafter A-1 took away the deceased forcibly in spite of their protest. P.W.1 further stated that on 22.01.2003 at about 3.00 P.M. he received a phone call stating that the deceased poured kerosene over her body and set fire to herself and died. Therefore, it is evident from the evidence of P.Ws.1 to 4 that as P.Ws.1 and 3 have failed to comply with their promise to pay the balance dowry amount to A-1 within the stipulated time, the deceased was harassed by the revision petitioner to bring the said agreed dowry amount.

P.W.7-Mandal Revenue Officer, who conducted inquest over the dead body of the deceased on 23.01.2003 in the presence of panch witnesses (P.W.9 and others) in the house of the accused and prepared Ex.P3-Inquest panchanama, stated that P.W.9 opined that unable to bear the harassment meted out to the deceased in the hands of the accused for balance dowry amount, she poured kerosene on her and set fire to herself. P.W.8-Doctor, who conducted autopsy on the dead body of the deceased, found 98% burn injuries on the body of the deceased and he opined that the cause of death was due to shock on account of burns. He further stated that the burn injuries sustained by the deceased are not possible accidentally. Therefore, from the evidence of P.W.8, it can safely be concluded that the deceased committed suicide by pouring kerosene on her body and set fire to herself.

It is no doubt true that the deceased died within one and half month of her marriage. To attract Section 304-B of I.P.C., it must be proved that the woman died otherwise than under normal circumstances within seven years of her

marriage. Secondly, it must be shown that soon before her death, she was subjected to cruelty or harassment by her husband or relatives of her husband in connection with any demand for dowry. Section 113 (B) of the Evidence Act states that when the question is where a person has caused dowry death of woman and it is shown that soon before her death, such woman had been subjected to such person to cruelty or harassment, in connection with any demand of dowry, the Court shall presume that such person had caused the dowry death. The Courts below placed reliance on the above provision for convicting the accused.

To draw the above presumption raised under Section 113-B of the Evidence Act, it must be established that the deceased was subjected to cruelty or dowry harassment soon before the death. It is an admitted fact that the marriage between the deceased and A-1 was solemnised on 14.12.2002. The deceased was subjected to harassment by A-1 for balance dowry amount within 10 days of their marriage. The evidence of P.Ws.1 to 3 clearly discloses that just before Sankranti festival of 2003 i.e., within one month after the marriage, when P.W.1 went to the house of the accused to bring the deceased and A-1 to his house, the accused refused to send the deceased till they paid the balance dowry amount. Again on 18.01.2003, there was a demand for balance dowry amount by A-1 when he came to the house of P.W.1, and that P.W.1 told A-1 that he would pay the balance dowry amount within the agreed period and thereafter A-1 took away the deceased forcibly in spite of their protest. From this it is clear that the harassment meted out by the deceased in the hands of A-1 is soon before her death.

In view of the aforementioned reasons, this Court is of the view that the trial Court as well as the appellate Court has given sufficient and cogent reasons in convicting and sentencing the revision petitioner/A-1. There is no reason or justification to interfere with the said finding of the Courts below. I find no merit in the criminal revision case and it is liable to be dismissed.

Accordingly, the Criminal Revision Case is dismissed, confirming the conviction and sentence imposed against the revision petitioner/A-1 by the appellate Court in CrI.A.No.140 of 2004, dated 14.11.2006. Since the revision petitioner/A-1 is on bail, his bail bond is hereby cancelled and he is directed to surrender before the trial Court forthwith for serving out the remaining period of sentence of imprisonment, otherwise the learned trial Judge shall take appropriate steps for securing his presence in order to serve out the remaining period of sentence of imprisonment.

Miscellaneous petitions, if any, pending shall stand closed.