
(2022) 11 TEL CK 0042
In the Telangana High Court
Case No : Criminal Appeal No. 634 Of 2010

Shivaravindra Chowdary

APPELLANT

Vs

State Of Andhra Pradesh

RESPONDENT

Date of Decision : 08-11-2022

Acts Referred:

Indian Penal Code, 1860 — Section 304B
Code of Criminal Procedure, 1973 — Section 174

Citation : (2022) 11 TEL CK 0042

Hon'ble Judges : K. Surender, J

Bench : Single Bench

Advocate : A Hariprasad Reddy

Final Decision : Partly Allowed

Judgement

1. This Criminal Appeal is filed by the Appellant/Accused No.1 aggrieved by the conviction recorded by the V Additional District & Sessions Judge (FTC), R.R.District at L.B.Nagar, in S.C.No.84 of 2006, dated 29.04.2010, convicting the appellant/A1 for the offence punishable under Section 304(B) of the Indian Penal Code; and sentence of rigorous imprisonment for a period of ten years and a fine of Rs.5,000/-.

2. Heard and perused the record.

3. Briefly, the case of the prosecution is that the appellant's wife committed suicide on 11.01.2005. The father of the deceased-PW1 lodged a complaint on the very same day at 12.00 noon. In the said complaint, he stated that the marriage of the deceased was performed with the appellant on 27.04.2001 and they were living in a flat which was purchased. They have a daughter and were living happily without any differences or disputes. The deceased was carrying 7th month pregnancy and on receipt of a telephone call, they went to the house of the accused and found that the deceased was hanging to the ceiling wall with a saree. PW1 further wrote in the complaint that she had differences with the

appellant regarding setting up a separate family, however, she committed suicide. Further it is specifically mentioned that there is no doubt against the appellant or any of his family members.

4. A crime was registered under Section 174 of Cr.P.C. and thereafter during the course of investigation, it was found that the appellant and the acquitted accused Nos.2 & 3-parents of the appellant were charge sheeted for the reason of the investigation revealing that an amount of Rs.2 lakhs was given as cash, 50 Tulas of gold and also a house at Balramnagar Colony worth Rs.10 lakhs and other utensils at the time of marriage. They lived happily for one year and thereafter the appellant and his parents started harassing the deceased physically and mentally by demanding additional dowry of Rs.4 lakhs to be brought from the parents. Since PW1 and PW2 who are parents of the deceased expressed their inability, harassment continued, ultimately leading to the suicide of the wife of the appellant.

5. During the course of trial, PW1-father & PW2-mother stated regarding giving of dowry at the time of marriage and also several household articles. PW1 further stated that he mortgaged his gold and gave money to the appellant. For the reason of repeatedly asking for dowry, though PW1 was incapable, he was provided money by taking loan and pledging gold. Though an amount of Rs.5 lakhs was taken for purchase of flat, the said amount was not paid for any purchase. The deceased was sent away from her in-laws house asking her to get an amount of Rs.4 lakhs. Though, the deceased was pregnant, she was not given food properly. For the reason of continuous harassment for additional dowry she committed suicide.

6. PW2-mother of the deceased also deposed on similar lines. PW3-brother of PW1, PW4-brother-in-law of PW1 also corroborated the fact of taking dowry at the time of marriage and stated that the deceased was subjected to harassment for additional dowry.

7. Learned Counsel appearing for the appellant would submit that, at the very inception complaint was filed at 12.00 noon on 11.01.2005 in which PW1 specifically stated that there were no disputes and he had no grievance against the appellant and his family members. It is apparent that PW1 did not complain about any kind of harassment against this appellant or his parents. PW1 gave a complaint to the Commissioner of Police, which was marked as Ex.P2 in which he narrated regarding the dowry and also additional dowry that was demanded by the appellant and his parents. The said complaint was made on 01.03.2005 i.e. nearly after 50 days from the date of incident. In the said circumstances, the entire case of the parents of the deceased i.e. PW1 and PW2 is an exaggerated version and an afterthought as evident from Ex.P2 and the deposition made in the court. The learned Sessions Judge had committed an error in relying upon such exaggerated version to convict this appellant. For the said reason, prayed to reverse the order of conviction.

8. On the other hand, learned Additional Public Prosecutor Sri S.Sudershan would submit that PW1 and PW2 who are the parents of the appellant are the persons who would have knowledge about harassment meted out to his daughter. Further, on the date of death of the deceased, it is natural that the parents will be in a state of shock and such statement which was made on the date of death cannot be considered. PW8- Sub Inspector of Police, Emigration Police Station, Airport, Shamshabad, who investigated the case was biased and deliberately did not record the statement of harassment which was stated by PW1. For the reason of the finding of the learned Sessions Judge being correct, the same cannot be set aside.

9. Having perused the record, though an initial statement was made by PW1 stating that he did not have any grievance against this appellant and others, subsequently, a complaint under Ex.P2 was made to the Commissioner of Police, alleging that the appellant and her parents demanded dowry and further on several occasions, the appellant had demanded additional dowry. Though, several instances were narrated in the deposition before the Court and also the complaint made under Ex.P2, except stating that on several occasions accused demanded, there is no evidence of harassment on record which is in close proximity to the death of the deceased.

10. PW8 who is the Investigating Officer has entered into witness box and admitted regarding the entire version of harassment that was stated by PWs.1 and 2 in the court as omission, when the witnesses were examined.

11. As seen from the Inquest Report, on the very same day, the opinion which is reflected in the Inquest Report was that there was harassment by the husband and parents-in-law, during which time PW1 and PW2 were also examined.

12. The element of cruelty that was meted out by the accused is apparent from the statements. Though there is an exaggerated version which is given by the close relatives, it may be on account of the sufferance due to the loss of their daughter. The evidence has to be scrutinized carefully to arrive at a conclusion whether the deceased was treated cruelly.

13. Several allegations are made regarding the demand of this appellant for additional dowry, for which reason, it can be concluded that the deceased was subjected to cruelty for additional dowry. However in the absence of any specific allegations regarding any harassment soon before death, the conviction recorded under Section 304-B cannot be sustained.

14. In the aforesaid peculiar facts and circumstances of the case, the appellant is found guilty for the offence under Section- 498 A of Indian Penal Code. Though, no separate charge is framed under the said provision, the contents of the charge under Section 304-B clearly indicate that the appellant subjected the deceased to cruelty. The said statement of charge suffices and no separate charge need be framed.

15. However, since the incident is of the year 2005 and nearly 17 years have passed since the date of incident, this Court deems it appropriate to reduce sentence of the appellant to the period already undergone.

16. Accordingly, the Criminal Appeal is partly allowed reducing the sentence of imprisonment of the appellant to the period already undergone.

Miscellaneous applications, if any, pending shall stand dismissed.