

(2014) 01 KAR CK 0106
In the Karnataka High Court
Case No : Criminal Appeal No. 1192 of 2008

State of Karnataka

APPELLANT

Vs

Renukaradya and T. P. Nanjundaradya

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313 378(1)
Dowry Prohibition Act, 1961 — Section 3 4 6
Penal Code, 1860 (IPC) — Section 304B 304-B 306 498-A

Citation : (2014) 01 KAR CK 0106

Hon'ble Judges : K.N. Keshavanarayana, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : B.T. Venkatesh, ASPP, for the Appellant; M.R. Nanjunda Gowda, for the Respondent

Final Decision : Dismissed

Judgement

K. Bhakthavatsala, J.—This is an appeal filed by the State u/s 378(1) & (3) of Code of Criminal Procedure challenging the judgment dated 04.06.2008 made in S.C. No. 12/07 on the file of Sessions Court at Chickballapur, acquitting the respondents-accused for the offences punishable under Sections 3, 4, & 6 of D.P. Act and Sections 498-A, 304-B and 306 of Indian Penal Code. For the purpose of convenience and better understanding, "the respondents 1 and 2" are hereinafter referred to as "the accused Nos. 1 and 2" as arraigned in the sessions case.

2. Brief facts of the case leading to the filing of the appeal may be stated as under:

Marriage of the deceased Shobha was performed with accused No. 1 on 06.02.2003. Accused No. 2 is the father of accused No. 1. After her marriage she was living with her husband accused No. 1 and her in-laws. It is the case of the prosecution that the deceased Shobha was living happily with accused No. 1 for a period of one year and thereafter, the accused started ill-treating and harassing

the deceased Shobha for dowry. It is stated that PW1 performed marriage of his deceased daughter Shobha with accused No. 1 by giving dowry of Rs. 50,000/- and 80 grams of gold ornaments. It is the case of the prosecution that wife of accused No. 1 committed suicide by hanging on 23.08.2006 at 10.00 p.m. in the house of accused at Manchenahalli. After the parents of the deceased viz., PWs 1 and 2 came to know about the death of their daughter Shobha, they came to the village of the accused and saw the dead body and then lodged a written complaint as per Ex. P1 on 24.08.2006 at about 9.30 am. with Manchenahalli Police Station. PW19-Krishnappa, the then PSI registered the case in Crime No. 58/06 against the husband and father-in-law for the offences punishable under Sections 498-A, 304-B of Indian Penal Code and Sections 3 and 4 of D.P. Act. The accused were arrested on 25.08.2006.

3. After the investigation was over, charge sheet came to be laid against both the accused for the offences punishable under Sections 3, 4 & 6 of D.P. Act and Sections 498-A, 304-B & 306 of Indian Penal Code. The accused faced trial before the Sessions Court for the above said offences.

4. In support of the case of the prosecution, it has got examined as many as 23 witnesses, got marked 31 documents and got exhibited 20 Material Objects.

5. After the evidence of the side of the prosecution was closed, statement of the accused u/s 313 of Code of Criminal Procedure was recorded. The accused have denied all the incriminating circumstances appearing in the evidence of prosecution witnesses. They have not adduced any defence evidence.

6. The Trial Court after hearing arguments and perusing the oral and documentary evidence on record came to a conclusion that the prosecution failed to bring home the guilt to the accused for the offences levelled against the accused and recorded an order of acquittal in their favour. This is impugned in this appeal.

7. Learned Additional State Public Prosecutor submits that the evidence of PW12-Narayanaswamy, neighbours of the accused has deposed about the performance of marriage of the deceased with accused No. 1 by giving dowry etc., and harassment given by the accused to the deceased, but the Trial Court erred in rejecting his evidence. He also submits that the parents of the deceased have been examined as PWs 1 & 2 and their evidence is corroborated by Venkataswamy as PW3, PW4-Jyothi, sister of the deceased who drew P.F. amount of Rs. 35,000/-; PW5-Jagadish, cousin of the deceased, PW7-Venkataramanareddy who gave loan of Rs. 25,000/- to PW1 at the time of marriage, PW8-Soolappa, brother-in-law of PW1, PW11-Amaravatamma, wife of PW3. He submits that at least respondent-accused No. 1, who is the husband of deceased Shobha may be convicted for the dowry death u/s 304B of Indian Penal Code and under the provisions of D.P. Act.

8. Learned counsel appearing for the respondents-accused submits that the trial court on proper appreciation of evidence on record acquitted the accused and the

same does not call for interference by this Court.

9. In view of the arguments addressed by the learned counsel for the parties, the only point that arise for our consideration is,

Whether the impugned judgment calls for our interference?

Our answer to the above point is in the negative for the following reasons:

Evidence of the prosecution that the marriage of the deceased Shobha was performed with accused No. 1 at the cost of PW1 is not sufficient to hold that the accused demanded dowry at the time of marriage and subsequently, PW12-Narayanaswamy who is the neighbour of the accused has deposed with regard to dowry demand and the harassment given by the accused to the deceased. But his evidence is not supported by any of the independent witness. Under such circumstances, conviction cannot be based solely on basis of evidence of PW12. Admittedly, the deceased Shobha committed suicide by hanging in the house of the accused. At that time the accused, his parents and deceased alone were present in the home. There is no allegation against the mother-in-law of the deceased. Absolutely there is no evidence to convict the accused No. 2 for the alleged offences. In our view, the Trial Court on proper appreciation of the evidence on record has rightly acquitted the accused. We see no good ground to interfere with the impugned judgment. In the result, we pass the following order:

Appeal fails and the same is hereby dismissed.