

(1995) 02 AP CK 0040

In the Andhra Pradesh High Court

Case No : Criminal App. No. 1106 of 1992

Sunkoji Laxmana Chary

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 16-02-1995

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B

Citation : (1995) 1 ALT(Cri) 550 : (1995) CriLJ 2562 : (1996) 1 DMC 524

Hon'ble Judges : Ramesh Madhav Bapat, J

Bench : Single Bench

Advocate : C. Praveen Kumar, for the Appellant; Public Prosecutor, for the Respondent

Judgement

1. The sole accused in Sessions Case No. 65/89 is the appellant herein who was prosecuted in the Court of the Additional Sessions Judge, Medak at Sangareddy, under one charge punishable u/s 304(B), I.P.C. The ground of the charge is as follows :

That Sridevi wife of the accused died on 25-7-1988 by jumping into a well at Guomadidala village in a manner other than in normal circumstances within three years two months from the date of her marriage, because of the accused subjected Sridevi to cruelty and harassment before her death in connection with demand for more money by way of dowry and thus it is alleged by the prosecution that the accused has committed dowry death an offence punishable u/s 304(B), I.P.C.

2. It is not in dispute that the deceased was married to the accused three years prior to the incident i.e. on 25-5-1985. At the time of the marriage, according to the version of P.W. 1 he had given Rs. 10,000/- by way of dowry. He had also given clothes, gold and silver ornaments to the accused and his daughter at the time of the marriage. Some altercation took place at the time of the marriage between the brothers of the accused and P.W. 1 who happened to be the father of the deceased. The brothers of the accused demanded that he should serve

food first to the band players. Such dispute cannot be treated as a serious dispute at the time of the marriage. Ultimately the marriage was celebrated.

3. It was further alleged by the prosecution that after the marriage the accused continued to harass his wife and beat her for the purpose of getting more money of dowry. The financial position of P.W. 1 was not proper and therefore every time he could not comply with the demands made by the accused. Ultimately the deceased was found dead in a well on 25-7-1988.

4. The information regarding the death of the deceased was given to P.W. 1, the father of the deceased. Thereafter he filed the first information report with the police which is produced on record at Ex. P. 1. The first information report was recorded by P.W. 12. The further investigation was done by P.W. 14, the Inspector of Police. He recorded the statements of various witnesses. The dead-body of the deceased was removed from the well by P.W. 4. The inquest panchnama was held by P.W. 9, Mandal Revenue Officer, in the presence of inquest panch, P.W. 8. The inquest panchnama was produced on record at Ex. P. 2. After the inquest panchnama was over, the dead-body was sent to P.W. 11 the Doctor for carrying out autopsy and the autopsy certificate is produced on record at Ex. P. 4. Thus after completion of investigation, P.W. 14 handed over the papers to P.W. 15 and after verification of the investigation done by P.W. 14, P.W. 15 filed the charge-sheet.

5. The defence of the accused is total denial. It is also suggested by the accused that the deceased was a mental patient who was not able to take care of herself because of mental illness and on many occasions she used to go outside the house without informing any one and in such circumstances she might have fell into the well accidentally for which the accused cannot be made responsible.

6. Now I will proceed to scrutinise the evidence so as to ascertain whether the prosecution is able to connect the accused with the crime.

7. In order to prove that the deceased died unnatural death, the prosecution led the evidence of P.W. 9, Mandal Revenue Officer, who conducted inquest over the dead-body of the deceased in the presence of P.W. 8. The inquest report is produced on record at Ex. P2.

8. As stated earlier after the inquest panchnama was over, the dead-body of the deceased Sridevi was sent to P.W. 11, the Doctor for conducting the post-mortem examination. Dr. V. B. Patnaik, Asst. Professor, Forensic Medicine Department, Gandhi Medical College, conducted autopsy over the dead-body of the deceased and he noticed the following external injuries on the person of the deceased :

(1) A brownish grazed abrasion 12 x 6 cm. inner aspect of left knee below upwards;

(2) An abrasion of 30 x 15 cms. oblique outer aspect of right thigh and lower part of the leg and lower front of the thigh with fracture right femur in the middle with a large haemotoma around;

- (3) A laceration in the perineum 4 x 3 x 3 cms. extending down the vagina.
- (4) A laceration 4 x 3 x 1 cm. inner aspect of right wrist.
- (5) A laceration of 15 x 10 x 4 cms. in the left axilla.
- (6) A contusion 10 x 10 cm. left middle of upper arm with fractured left humerus upper end.

9. On internal examination he noticed the following injuries :

- (1) Fractured scapula left and left clavicle into multiple pieces.
- (2) Fractured pelvis left side into multiple pieces with large pelvic haematoma.
- (3) Brain Sub-dural haematoma of 1/4th cm. thickness all over with Sub-arachnoid haemorrhage.

As per the opinion of the Doctor, P.W. 11, the death was due to multiple injuries. He issued the P.M.E. certificate which is produced on record at Ex. P4.

10. Considering the above opinion of the Doctor Ex. P4, I have no hesitation in holding that the deceased died because of the fall into the well. Now it is to be decided whether it was accidental fall or she committed suicide, with reference to the evidence which is brought on record by the prosecution.

11. P.W. 1 is happened to be the father of the deceased. P.W. 2 is the mother of the deceased. P.W. 3 is the brother of the deceased. P.W. 4 is the person who had taken out the dead-body of the deceased from the well. P.W. 5 is a relation of the deceased. P.W. 6 is the person who attended the marriage of the accused with Sridevi. P.W. 7 is the uncle of the deceased. Out of the aforesaid witnesses, the evidence of P.Ws. 1 to 3 will throw on the prosecution story.

12. Ex. P. 1 as stated earlier was given by P.W. 1 and it has been his case that the deceased died by jumping into the well because of the dowry harassment. As stated earlier, the defence of the accused is that the deceased was a mental patient and she was not able to take care of herself and she might have fell into the well accidentally and died.

13. There is no dispute that immediately after the marriage, the deceased had gone to join her husband in her matrimonial home. She also delivered a female child. According to P.W. 1. he had given Rs. 10,000/- to the accused at the time of the marriage. It is also stated by P.W. 1 that he had given clothes, silver and gold ornaments at the time of the marriage. He stated that he is in the habit of keeping accounts for the expenditure. But such accounts were not maintained as far as these expenditure is concerned for the reasons best known to him.

14. The learned counsel appearing on behalf of the accused submitted at the bar, that as a matter of fact the relationship between the accused and the deceased as well as with P.W. 1 were cordial, that all of them were living happily, though Sridevi had mental illness, the accused was treating her well and was giving her

treatment. The learned counsel further submitted that Ex. D1 is the letter alleged to have been written by P.W. 1 to his own son-in-law i.e., the accused, which would go to show that there was love and affection between the two and the deceased had never complained to him regarding harassment for the purpose of dowry. The portion of Ex. D1 is hereby extracted which reads as follows :

"About Sridevi, I feel that it will be better if we follow the doctor's advise in treatment. On seeing the condition of the patient. They are asking the wife to attend on her husband and vis versa. You should have noted it already. Please see the board hanging there about O.T. It shows that keeping the patient busy by way of some work or other will make the patient relieved from mental fatigue. It is not only an oral instructions of the doctors, but some patients whose spouses do not come here shall be taken away to their places. I have also written in my letter dt. 17-2-88 that Harika is also remembering you saying "Daddy, Daddy". When the doctors attending on Harika asked me whether there are anybody very much loved by Harika, I told them "her daddy". Whatever service we do, will not substitute daddy's love and affection. Is it not ? There, if you come on receipt of this letter, taking leave for a few days, it will help Sridevi discharged soon. You also become a father of a daughter. I am grateful for the love and kindness you have on me. If your have any misunderstanding against me, please spare them all and come here along with my sister immediately on receipt of this letter. My respect to all the elders."

15. The learned counsel also invited my attention to the letter dt. 13-5-1988 written by the deceased to the accused, two months prior to the death of the deceased, which reads as follows :

"Dear Husband,

I am getting changed here. You come and see. I am getting very much change in me, through tablets and shock. Convey my respects to my mother-in-law, father-in-law, sisters and others at home. I am working. I was not able to work completely. You used to tell me that I did not work. But now I am able to work fully. Nobody is assisting me. I am doing for myself. I am not now, as I was then with you. I have a complete change. I am getting up at 6 "O" clock. It is true that I did not get up early when I was with you. Now I am getting up early. I am doing my work for myself. Nobody is helping me. Nobody need to say to me. I am helping myself. If anybody say anything to me I get angry. Nobody should tell me anything. You did not say anything against my parents. You have tolerated silently. If anybody else, they might have done something. You are very nice. My parents-in-law are nice. So they have kept quite. Who will tolerate."

16. Ex. D3 is one such letter admittedly written by the deceased to the accused which reads as follows :

"Dear Husband,

I have received your letter dt. 9-1-88 sent through your friend on 16-1-88 at

6-30. I have read the letter. I want black beads and chain of Mangalsutras. Here others are asking me that I do not have anything on my neck. Please convey my respects to mother-in-law. My due respects to parents-in-law. Harika is calling "grandma" and remembering her father saying "Daddy, Daddy". I am getting up at 6.00 a.m. I have no money for fruits to Harika. Please send. I am doing my work timely.

I have received your letter and Horlicks bottle and plantains. Myself and Harika have no dress. Please send. Myself and Harika are remembering you. I have written that yourself and mother-in-law will come on 26th. How is your health ? I am writing this letter without anybody's knowledge. I have written this letter on my own. I am writing this letter on my own without asking anybody and sending, and I have expressed my welfare and troubles. No more to pen. Convey my respects to all."

17. Looking to the letters Ex. D2 and Ex. D3 written by Sridevi it can be stated that Sridevi herself realised that though she was mental patient she was treated with love and affection by the accused as well as his parents. She had no grievance of any kind against the accused at any time.

18. The learned counsel for the appellant further submitted that due to mental illness Sridevi used to walk out of the house without informing the family members and therefore the accused was required to file a complaint with the police. However, a meeting was held at the instance of P.W. 1 which was attended by 12 to 15 persons in which it was agreed between the parties that Sridevi was a mental patient and she is to be looked after by all the persons concerned. Ex. D5 is the letter written by P.W. 1 which reads as follows :-

"A decision has been taken in the presence of the elders on Sunday 7-6-1987 (Prabhavanama year of Jesta Sudha Yekadasi) commencing at 2 p.m.

I, Manumeri Panduranga Chary s/o Manumari Papaiah Chari, execute that I got my second daughter Sreedevi married to Sri Sunkoju Laxmana Chari, about two years back. Since some time she had some mental disorder and on doctor's advise we got her treated for a few days. It is settled, agreed and executed in the presence of fifteen caste people that the husband Sunkoju Laxmana Chary, his family members, parents of Sreedevi shall take responsibility till the recovery of illness of Sreedevi. From now onwards we both shall live amicably. I got this executed with consent at 5-15 hours."

19. Looking to the letter Ex. D5 it can definitely be stated that P.W. 1 was aware that his daughter Sridevi was a mental patient and he had got her married with the accused without disclosing the aforesaid fact, still the accused continued to tolerate the mental illness of his own wife and was prepared at all times to take care of her.

20. The learned counsel for the appellant also invited my attention to the evidence of the investigating Officer, P.W. 15, who has in unequivocal terms

stated that during investigation it transpired to him that the deceased died accidental death. In spite of his own satisfaction that the deceased died accidentally, he proceeded to file the charge-sheet against the accused for the reasons best known to him.

21. P.W. 14 who had conducted main part of the investigation had admitted in the cross-examination that nobody had told before him that the accused was harassing the deceased on account of dowry.

22. Considering the entire evidence as brought on record, I have to put on record that the accused was put to harassment unnecessarily. The accused was treating his wife very well knowing that she was a mental patient, he was affectionate and he was giving her treatment for her medical illness. Under such circumstances I hold that the accused is entitled for honourable acquittal. Accordingly, he is acquitted of the offence with which he is charged.

23. The Criminal Appeal is, therefore, allowed.

24. Appeal allowed.