
(2013) 07 AP CK 0104

In the Andhra Pradesh High Court

Case No : Criminal Appeal No. 794 of 2007

Syed Baji Hussain

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 08-07-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 235(2), 374(2)
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 304B, 306, 498A

Citation : (2013) 2 ALT(Cri) 343

Hon'ble Judges : Raja Elango, J

Bench : Single Bench

Advocate : T.M.K. Chaitanya, for the Appellant;

Judgement

Raja Elango, J.—Appellant-A-1 preferred the present Criminal Appeal by invoking the provision u/s 374(2) of the Code of Criminal Procedure (in short "Cr.P.C.") challenging the judgment dated 20-6-2007 rendered in Sessions Case No. 673 of 2004 by the XI Additional District and Sessions Judge (FTC) Guntur at Tenali whereby and whereunder the learned trial Judge while acquitting A-2 and A-3 for an offence punishable under Sections 498-A of the Indian Penal Code (in short "IPC"), 304-B IPC alternately 306 IPC and Sections 3 and 4 of Dowry Prohibition Act (in short "DP Act"), convicted the appellant-A-1 u/s 235(2) Cr.P.C. for an offence punishable under Sections 498-A IPC and 304-B IPC and Section 4 of DP Act and acquitted him for an offence punishable u/s 306 IPC and 3 of DP Act and sentenced him to undergo rigorous imprisonment for three years and to pay fine of Rs. 500/- for the offence u/s 498-A IPC, rigorous imprisonment for 7 years for the offence u/s 304-B IPC and simple imprisonment for six months and to pay fine of Rs. 300/- for the offence u/s 4 of DP Act. Case of the prosecution, in brief, is that the marriage of the deceased Syed Bajimoon @ Dilshad was performed with A-1 on 4-12-1999 and after the birth of a child all the accused started harassing the deceased to bring additional dowry to do business. Thereafter, A-1 started a chicken centre and the same went in loss and again the accused

started harassing the deceased to bring additional dowry for purchasing an auto for eking out his livelihood. In that connection a panchayat was also conducted. Still the accused continued their harassment over the deceased, due to which on 28-6-2004 at about 10.00 p.m. committed suicide by hanging herself to an iron rod at her in-laws' house. Hence, the case.

2. The trial Court framed charges under Sections 498-A, 304-B IPC alternatively 306 IPC and Sections 3 and 4 of DP Act against the accused wherein they denied the offence and claimed for trial. For proving the guilt of the accused, Prosecution got examined P.Ws. 1 to 14 and marked Exs. P-1 to 20 apart from M.O. 1. On defence side, D.Ws. 1 to 3 were examined, Exs. D-1 to D-10 were marked and X-1 to X-4 are also marked through D.W. 1. After appreciating the entire oral and documentary evidence, the learned trial Judge rendered the impugned judgment acquitting A-2 and A-3 and convicting A-1 as stated above.

3. Heard both sides and perused the material on record.

4. The entire case of the prosecution mainly rests upon the evidence of P.Ws. 1 and 9. P.W. 1 is the father of the deceased and P.W. 9 is the mediator who conducted panchayat between the family members of P.W. 1 and accused on a reference made by P.W. 1. The evidence of P.W. 1 reveals that the appellant could not able to run the family due to loss sustained in his business, he demanded a sum of Rs. 20,000/- and established a chicken centre at Veerapuram Village and the deceased as well as the appellant shifted the residence to Veerapuram Village and lived together. The appellant could not able to continue his business property and he got losses and so again he went back to his in-laws' house along with the deceased and again there was a demand by the appellant for additional dowry to purchase an auto for eking out his livelihood and the same was known to by P.W. 1 through the deceased. Even though in his evidence P.W. 1 has stated that the deceased informed him that she was harassed with a demand of dowry nowhere he deposed the quantum of amount so demanded by the accused and also the manner in which she was harassed or ill-treated or the abusive words uttered by the accused.

5. As far as the evidence of P.W. 9 is concerned, he deposed that P.W. 1 and deceased reported harassment but he also failed to inform the manner in which the deceased was harassed. In the absence of any specific information regarding the manner of harassment made prior to the death of the deceased in connection with demand of dowry, this Court is of the view that the conviction u/s 304-B IPC is not maintainable.

6. As far as offence u/s 498-A IPC and Section 4 of DP Act is concerned, even according to P.W. 1 the alleged demand of money is for purchasing an auto for eking his livelihood. It is well settled proposition of law that any demand made in connection with purchase of articles, vehicles, etc. will not come under the purview of dowry demand. In these circumstances, this Court is of the view that the prosecution failed to prove its case beyond reasonable doubts. Therefore, the

conviction and sentence imposed on the appellant needs to be interfered with.

7. Accordingly, the conviction and sentence imposed on the appellant by the trial Court is hereby set aside, the Criminal Appeal is allowed and the accused is acquitted of the charges leveled against him. Fine amounts paid by the accused, if any, shall be returned to him. Miscellaneous petitions pending in this appeal, if any, shall stand closed.