

**HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

\*\*\*\*\*

**Criminal Appeal No. 1447 OF 2008**

Between:

Patolla Mahender Reddy

... Appellant

And

The State of Andhra Pradesh,  
Rep. by Public Prosecutor,  
High Court of A.P., Hyderabad

... Respondent

DATE OF JUDGMENT PRONOUNCED: 22.06.2023

Submitted for approval.

**THE HON'BLE SRI JUSTICE K.SURENDER**

- 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
- 2 Whether the copies of judgment may be marked to Law Reporters/Journals Yes/No
- 3 Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

---

**K.SURENDER, J**

**\* THE HON'BLE SRI JUSTICE K. SURENDER**

**+ CRL.A. No. 1447 OF 2008**

% Dated 22.06.2023

#Patolla Mahender Reddy

... Appellant

And

\$ The State of Andhra Pradesh,  
Rep. by its Public Prosecutor,  
High Court Of A.P., Hyderabad

... Respondent

**! Counsel for the Appellant:** Smt.C.Vasundhara Reddy

**^ Counsel for the Respondent:** Sri Public Prosecutor

**>HEAD NOTE**

**? Cases referred**

<sup>1</sup> (2009) 16 Supreme Court Cases 35

<sup>2</sup> (2016) 10 Supreme Court Cases 519

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No. 1447 OF 2008****JUDGMENT:**

This Criminal Appeal is filed by the appellant/A1 aggrieved by the conviction recorded by the III Additional District and Sessions Judge (FTC) at Medak, in S.C.No.30 of 2007 dated 25.11.2008, for the offences punishable under Section 304-B of Indian Penal Code, and sentenced to Rigorous Imprisonment for a period of seven years.

2. Briefly, the case of the prosecution is that the appellant's marriage was performed with the deceased who is the daughter of PW1 on 20.05.2005. At the time of marriage Rs.5 lakhs cash, 25 Tulas of gold and 100 tulas of silver and other articles were given towards dowry. It is further alleged that this appellant and his relatives A2 to A4 started harassing the deceased for additional dowry. Two months prior to her death, she was sent out of the house on the ground that additional dowry was not given. On 20.05.2006, PW1 along with other relatives went to the house of appellant and gave Rs.50,000/- cash, however, there was a demand for additional dowry of Rs.2 lakhs. PW1 assured that he will pay the same after harvest of the crop and

requested not to harass the deceased. On 19.06.2006, the deceased called PW9 who is her brother, over phone, and informed that the appellant and others were threatening to kill her if the balance of the demanded amount was not given. PW9 informed her that he will send PW1 with money on the next date. However, PW9 received a phone call from one Sanjeeva Reddy on 20.06.2006 informing that the deceased was in serious condition and was taken to the hospital at Jogipet. All of them rushed to the hospital and found the deceased dead in the house of the appellant.

3. The Police having investigated the case filed charge sheet against the appellant and three others for the offence under Section 304 B of the Indian Penal Code.

4. Learned Sessions Judge having examined PWs.1 to 17 and marking Exs.P1 to P23 found that Accused Nos.2 to 4 were not responsible for any kind of harassment as they were living separately. In the said circumstances, benefit of doubt was given to A2 to A4. However, the appellant was convicted under Section 304 B of the Indian Penal Code.

5. Learned Counsel appearing for the appellant would submit that firstly the learned Sessions Judge had committed an error in convicting the A1 when the evidence against A1 is similar to that of acquitted accused nos.2 to 4. The only basis for convicting the appellant for the offence under Section 304-B of IPC is, alleged phone call said to have been received by PW9-brother at 8PM. However, it is on record that the deceased was already dead by that time. According to evidence of PW2 & PW3 who are independent witnesses, around 8.00 p.m. on the said date, the appellant asked to get an auto rikshaw to take the deceased to the hospital. When it is the specific case of PWs.2 and 3 that at 8.00 p.m., she was taken to the hospital, the question of making a phone call at 8.00 p.m. to PW9 does not arise. Further no telephone call details are filed by the prosecution to substantiate that there was a call by the deceased at 8.00 p.m. The father-PW1 and brother-PW9 of the deceased had given exaggerated version, only to implicate this appellant and his family members in the said case.

6. He relied on the Judgment of the Honourable Supreme Court in ***Raman Kumar v. State of Punjab***<sup>1</sup> and argued that

---

<sup>1</sup> (2009) 16 Supreme Court Cases 35

a reading of Section 113 of the Evidence Act and Section 304-B of the Indian Penal Code shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment.

7. According to counsel, in the present case, the prosecution utterly failed to prove that there was any harassment prior to the death.

8. He also relied on the Judgment of Honourable Supreme Court in ***Jose alisas Pappachan v. sub-Inspector of Police, Koyilandy and another***<sup>2</sup>. The Honourable Supreme Court while deciding a case of murder held that to shift the burden on to the accused under Section 106 of the Evidence Act, it has to be proved that the husband was present in the house when the death occurred.

9. Learned Counsel argued that in the present case there is no evidence that the appellant was present when the death occurred.

10. On the other hand learned Assistant Public Prosecutor would submit that the evidence of the close relatives will only

---

<sup>2</sup> (2016) 10 Supreme Court Cases 519

be available in cases of dowry harassment. One cannot expect independent evidence in such cases where there are differences between the spouses. Since the evidence of PW1-father and PW9-brother is convincing, the conviction cannot be altered.

11. PW1-father and PW9-brother have stated that dowry was given at the time of marriage and two months after the marriage, the appellant started harassing for Rs.70,000/-. After an assurance was given by the father, the harassment stopped for some time. However, the appellant and others continued to harass her for additional dowry. Initially, Rs.70,000/- was given. Again there was a demand of Rs.2 lakhs and the deceased was driven out of the house. One month prior to the death, PW1 took the daughter to the appellant and gave an amount of Rs.50,000/- and requested the appellant and others not to harass the deceased. However, the evidence of PWs.2, 3 and 4 who are independent witnesses is otherwise. During the course of cross-examination they stated that to their knowledge there were no disputes in between the appellant and the deceased. The said statement made during cross-examination that to their knowledge there was no disputes, cannot be made

basis to disbelieve the evidence of harassment spoken to by PWs.1 and 9.

12. The prosecution has failed to prove that there was any harassment soon before the death of the deceased. Though the witnesses speak about giving Rs.50,000/-, one month prior to the death, there is no specific allegation that she was harassed at any point of time. The only evidence of a phone call being made on 19.06.2006 becomes doubtful in the background of specific evidence by the prosecution witnesses that by 8.00 p.m. on the said date, she was taken to the hospital.

13. The statement of PW9 that he has received a phone call when found to be incorrect, there is no other evidence to suggest that there was any kind of harassment soon before her death. Relatives of the deceased tend to exaggerate for the reason of the death that occurs in the family. However, such tendency to exaggerate cannot be made basis to totally disbelieve the witnesses and reject the prosecution case.

14. In the present case, the evidence of PW1 and 9 regarding the harassment for additional dowry cannot be disbelieved. In the said circumstances, when there is no proof of any harassment for dowry soon before death, the offence under



Section 304 B of the Indian Penal Code is not made out. However, the appellant is convicted for the offence under Section 498-A of the Indian Penal Code and sentenced to six months imprisonment.

15. Accordingly, the Criminal Appeal is partly allowed and the trial Court is directed to cause appearance of the appellant and send him to prison to serve out the remaining part of the sentence. The fine component remains unaltered.

Miscellaneous applications, if any pending in this criminal appeal, shall stand closed.

**K.SURENDER,J**

Date: 22.06.2023  
Note: L.R.copy to be marked.  
tk.

**THE HON'BLE SRI JUSTICE K.SURENDER**

**CRIMINAL APPEAL No. 1447 of 2008**  
**Dt. 22.06.2023**

tk