

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

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**Criminal Appeal No.1816 OF 2009**

Between:

Kaka Venkateswar Rao

... Appellant

And

The State of A.P., rep by  
its Public Prosecutor

... Respondent

DATE OF JUDGMENT PRONOUNCED:

04.07.2023

Submitted for approval.

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

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|---|--|--------|
| 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 |

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**K.SURENDER, J**

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

+ CRLA. No. 1816 of 2009

% Dated 04.07.2023

# Kaka Venkateswar Rao

... Appellant

And

\$ The State of A.P., rep by  
its Public Prosecutor

... Respondent

**! Counsel for the Petitioner:** Sri Nimmagadda Satyanarayana

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

**>HEAD NOTE:**

**? Cases referred**

(2007)(2) ALT (CRI.) 311 (S.B)

**HON'BLE SRI JUSTICE K.SURENDER**  
**CRIMINAL APPEAL No.1816 OF 2009**

**JUDGMENT:**

1. The appellant was convicted for the offences under Section 304-B of IPC and sentenced to undergo rigorous imprisonment for a period of seven years vide judgment in Sessions Case No.545 of 2008, dated 03.12.2009 passed by the Judge, Family Court-cum-Additional Sessions Judge at Khammam. Aggrieved by the same, present appeal is filed.

2. Briefly, the case of the prosecution is that P.W.1 is the mother of the deceased. Deceased was married to A1. At the time of marriage Rs 70,000/- was demanded as dowry. Rs.45,000/- cash was given, keeping balance of Rs.25,000/- and also one gold ring. The deceased was treated affectionately for three months and thereafter, the appellant and his parents who are acquitted accused, started harassing for additional dowry. The deceased informed P.W.1 on phone that the appellant and others were harassing. P.Ws.1 and 2 went to the house of the deceased and brought her back. A1 was questioned as to why he was beating the deceased. A1 informed that the deceased was mentally retarded.

PW1 stated that the deceased informed that the appellant and three others who were acquitted were harassing for additional dowry. The deceased was taken to their house and stayed there for one month. After one month, the appellant went to their house. He was presented with cash of Rs.20,000/- and Rs.5,000/- for purchasing a cot. Thereafter, they were happy for one month. However, the deceased again called and informed that the appellant was harassing mentally and physically for dowry.

3. A panchayat was held as the appellant and A4 beat the deceased. It was informed by deceased that when she questioned about the appellant and A4 sleeping on the same cot, deceased was beaten saying that she was mentally retarded. After some days, PWs.1 and 2 received information that the deceased was in hospital. P.Ws.1 and 2 went to the hospital and found the deceased dead. P.W.1 filed a complaint with the police narrating the facts suspecting that the deceased was kicked on her stomach and was killed. It was further mentioned in the complaint that the appellant/A1 was having affair with A4. On the basis of the said complaint, FIR was registered and investigated. Charge sheet was

filed for the offences under Sections 498-A and 304-B of IPC and Sections 3, 4 & 6 of Dowry Prohibition Act.

4. Learned Sessions Judge, having examined the witnesses P.Ws.1 to 17 and marking Exs.P1 to P18 came to conclusion that the appellant and other accused were not guilty of the offence under Sections 498-A and Sections 3, 4 & 6 of Dowry Prohibition Act. Accused 2 to 4 were also acquitted for the offence under Section 304-B of IPC. However, the learned Sessions Judge found that the appellant had beaten the deceased indiscriminately before her death. Injuries were found on the dead body of the deceased and for the said reason of indiscriminate beating, she committed suicide. Therefore, the prosecution established offence under Section 304-B of IPC against Appellant/A1.

5. Learned counsel appearing for the appellant would submit that except for the interested evidence of P.Ws.1 and 2, there is no other evidence to corroborate the allegation of any harassment to attract the offence under Section 304-B of IPC.

6. It was further argued that the finding of the learned Sessions Judge that she was beaten before the death will not attract the

ingredients of Section 304-B of IPC. He relied on the judgment of this Court in the case of Angirekula Ramakrishna v. State of A.P., rep. by Public Prosecutor (2007)(2) ALT (CRI.) 311 (S.B). This Court while deciding a case under Section 304-B of IPC held that to attract an offence under Section 304-B of IPC, harassment for dowry should be proximate to the death.

7. On the other hand, learned Public Prosecutor would submit that the evidence of witnesses P.Ws.1 and 2 is consistent regarding harassment that was meted out. In fact, the postmortem report clearly indicates that there were three ante-mortem injuries on the body of the deceased. On the basis of the said injuries, the learned Sessions Judge came to a conclusion that she was beaten up prior to her committing suicide. There are no grounds to interfere with the findings of the learned Sessions Judge.

8. Ex.P1 was lodged stating that the deceased was beaten indiscriminately in the stomach resulting in her death. However, during the course of investigation, the case of the prosecution is that the deceased died due to poisoning.

9. The evidence adduced by the prosecution has to be discussed. Ex.P5 is the inquest panchanama which was conducted on 30.03.2007. In the said inquest report no where it is mentioned that any injuries were found on the body of the deceased. According to the version given by P.Ws.1, 2 and others, the deceased was taken to RMP Doctor, who gave her treatment and from there, to the hospital. P.W.14 is the Doctor, who treated the deceased and deposed that she was in the state of unconsciousness. Though necessary treatment was given, she died at 4.00 p.m. According to P.W.14, deceased died for the reason of consuming poison. The opinion is for the reason of finding 'pinpoint pupils'.

10. After inquest proceedings Ex.P5 on 30.03.2007, the complaint was filed on the next date i.e., 31.03.2007 at 12.30 p.m. However, Ex.P5 inquest report reflects the crime number as 25 of 2007. Crime 25 of 2007 was registered on 31.03.2007, the next day of inquest proceedings.

11. The First Information Report Ex.P17 was initially registered under Section 174 Cr.P.C for suspicious death, though complaint was lodged.

12. The postmortem examination was done on 01.04.2007. In the said postmortem examination report, three injuries were found i.e., 1) abrasion 4 x 2 cms on right hand; 2) contusion of 6 x 4 cms on left side chest wall; 3) Contusion of 6 x 4 cms on left foot. P.W.13 conducted postmortem on 01.04.2007. According to P.W.13, he found abrasion of 4 x 2 cms on right hand caused by blunt object ante-mortem in nature. The other two injuries were caused by blunt object and post-mortem in nature.

13. During Postmortem examination on 01.04.2007, the stomach contents, parts of liver and kidney were sent to RFSL. The report marked as EXP14 is dated 05.06.2007 sent by RFSL, after analyzing the same was given as *'The items 1 to 3 are analysed but no Chemical poisonous substance is found in them.'* P.W.15 again conducted postmortem examination of the body on 02.04.2007 and noted down the very same injuries as in the post mortem report on 01.04.2007. Ex.P16 is the second postmortem examination report. P.W.15 stated that they received FSL report stating that the deceased appears to have died due to cardiac respiratory failure due



to inorganic phosphorous poisoning. The said final opinion is Ex.P15 given by P.W.13.

14. It is not stated as to why two postmortems were conducted on the deceased on 01.04.2007 and again on 02.04.2007. In the postmortem conducted on 01.04.2007, the stomach, liver and kidney and the intestine were sent for the purpose of examination. Report was received by RFSL that there was no chemical poisonous substance in them, which is dated 05.06.2007. However, Ex.P15 was given by P.W.13 dated 07.07.2007 that the cause of death was '*cardiac respiratory failure due to inorganic phosphorous poison*'. It is not clear as to what was sent for the purpose of FSL examination on 02.07.2007, on the basis of which Ex.P15 was given that the deceased died of poisoning. Either Ex.P15 nor the evidence of P.Ws.13 and 14 reflect as to what was sent for FSL examination. There was no other FSL examination report other than the FSL report dated 05.06.2007. Ex.P14, wherein APFSL found that there was no poisonous substance.

15. Having received the report on 05.06.2007, a hand written final opinion Ex.P15 was given by P.W.13 saying that the death was due

to poisoning. As already stated what was sent for FSL report is not mentioned. The basis for Ex.P15 is a FSL report, according to P.W.15, but such FSL report is not placed before the Court. It is apparent that Ex.P15 was subsequently given without any basis at the instance of police.

16. Two injuries are spoken to by P.W.3, which are post-mortem in nature. It is for the prosecution to explain as to how the postmortem injuries were found on the body of the deceased. Since it has come on record that she was treated and given first aid and apparently, during the process of resuscitation, the contusion on chest must have been received.

17. It is for the prosecution to prove as to how the death occurred. As found by the learned Sessions Judge, when two injuries out of three found on the body were postmortem in nature, the question of indiscriminately beating by the appellant does not arise. The medical evidence is vague and fabricated. No credibility can be given to such evidence. Ex.P5 inquest report on 30.03.2007 does not reflect any injuries. FIR was registered on 31.03.2007. First postmortem was done on 01.04.2007 in which two postmortem

injuries were found. From the evidence, there is any amount of doubt that is created regarding the indiscriminate beating by the appellant. The ante mortem injuries according to P.W.13 is abrasion of 4 x 2 cms on the right hand caused by blunt object and that on the basis of one abrasion on the right hand, it cannot be said that the deceased was indiscriminately beaten and consequently she consumed poison. The prosecution was not able to prove that the death occurred on account of poisoning. Since Exs.P14 and P15 are contradicting one another, Ex.P14 which says that there was no chemical poisonous substance found based on the examination of the liver, kidney, stomach and intestine contents. However, Ex.P15 is a written final opinion given without any basis and though P.W.15 claims that there was FSL report, no such FSL report was brought on record.

18. As already discussed, the very basis for finding the appellant guilty by the learned Sessions Judge is indiscriminately beating the deceased prior to her death and such indiscriminate beating lead her to consuming poison. To attract an offence under Section 304-B of IPC, it has to be proved that there was demand for

dowry/additional dowry soon before death and unable to bear such harassment, the deceased committed suicide. The Learned sessions Judge did not believe that there was any harassment for additional dowry. There is no evidence of any illegal relation between Appellant/A1 and A4, which is the reason for beating and consequent suicide. There is any amount of inconsistency and fabrication of evidence as discussed above, for which reason, benefit of doubt is extended to the appellant.

19. In the result, the judgment of trial Court in Sessions Case No.545 of 2008, dated 03.12.2009 is hereby set aside and the appellant is acquitted. His bail bonds shall stand cancelled.

20. Accordingly, the Criminal Appeal is allowed. Consequently, miscellaneous applications, if any, shall stand closed.

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**K.SURENDER, J**

Date: 04.07.2023

Note: LR copy to be marked.

B/o.kvs

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

CRIMINAL APPEAL No.1816 of 2009

Date: 04.07.2023.

*kvs*