

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

**MONDAY, THE THIRD DAY OF JULY
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL NO: 526 OF 2023

Appeal under Section 378(1) & (3) of Cr.P.C against the judgment dated. 18.02.2010 passed in S.C.No.241/2009 on the file of the V Additional Metropolitan Sessions Judge. (Mahila Court), Hyderabad

Between:

The State of A.P., rep. by the Public Prosecutor, High Court of A.P., Hyderabad.

...APPELLANT/PETITIONER

AND

1. G.Jeevan Kumar, S/o. G.Bhoomaiah, aged 26 years. R/o. H.No.4-1019, Hafeezpet, Ranga Reddy District.
2. G.Chitti Babu, S/o. G.Bhoomaiah. aged 30 years. R/o. H.No.4-1019, Hafeezpet, Ranga Reddy District.
3. G.Venkatesh, S/o. Bhoomaiah. aged 32 years, R/o. H.No.4-1019, Hafeezpet, Ranga Reddy District.
4. Smt. Rasmalla Vijaya, W/o. Shekar, aged 28 years, R/o. 18-4-524, Aliabad, Hyderabad.
5. Smt. Balamani, W/o. Anjaiah, aged 36 years. R/o. Jagtiyal, Karimnagar District.
6. Anjaiah, aged 45 years. R/o. Jagtiyal, Karimnagar District.

...RESPONDENTS/ACCUSED

Counsel for the Appellant: THE PUBLIC PROSECUTOR

Counsel for the Respondent Nos. 1 3, 4: SRI. G VASANTHA RAYUDU

Counsel for the Respondent Nos.2 and 5: SRI U VENUGOPAL

The Court made the following: ORDER

THE HONOURABLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No.526 OF 2023

JUDGMENT:

This Criminal Appeal is filed by the state under Section 378(1 & 3) of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') to set aside the judgment dated 16.02.2010 passed in S.C.No.241 of 2009 by the learned V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad, and to convict the respondents – accused.

2. When the matter is taken up for hearing, it is informed by the learned counsel appearing for respondents – accused that pending this appeal, respondents – accused Nos.2 and 6 died.

3. In view of the aforesaid submission, the appeal against respondents – accused Nos.2 and 6 is dismissed/abated.

4. Heard. Perused the record.

5. The facts of the case in brief are that the marriage of deceased viz., Devika was performed with respondent - accused No.1 on 24.05.2006 and at the time of marriage, certain dowry was given. After marriage, respondent – accused No.1 harassed the deceased suspecting her fidelity. Even though panchayat was held in the presence of elders, the respondents – accused did not change their attitude. Due to depression, on 05.11.2006, the deceased committed suicide by jumping

into the canal. On the basis of complaint filed by PW1 who is the father of deceased, police registered a crime for the offences punishable under Sections 304-B and 498-A of the Indian Penal Code (for short 'IPC') and the same was numbered as P.R.C.No.8 of 2006, which was committed to the learned V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad and numbered as S.C.No.241 of 2009. After concluding trial and hearing arguments, the learned Sessions Judge has convicted the respondent – accused No.1 for the offence punishable under Section 498-A of IPC and acquitted the respondents – accused Nos.2 to 6.

6. Against the conviction recorded by the learned Sessions Judge, the respondent – accused has preferred an appeal in Criminal Appeal No.373 of 2010 before this Court and the said appeal was dismissed by confirming the conviction recorded against him. However, the sentence of imprisonment was reduced to the period already undergone by him.

7. Aggrieved by the order of acquittal of respondents – accused, the State has preferred the present appeal.

8. The learned Assistant Public Prosecutor appearing on behalf of the State submits that the evidence of witnesses i.e., PW1 to PW5 ought to have been believed since the evidence is consistent regarding the harassment. The learned Sessions Judge ought to have seen that there was constant harassment for additional dowry by the respondents -

accused Nos.2 to 6. The respondents – accused failed to discharge the presumption as to dowry death under Section 113(b) of Indian Evidence Act. In the said circumstances of cogent evidence of witnesses narrating the instances amounting to cruelty, the acquittal recorded by the learned Sessions Judge has to be set aside and prayed to convict the accused.

9. Admittedly, respondents - accused Nos.2 to 6 were living separately. Except stating that the respondents – accused Nos.2 to 6 were instigating respondent – accused No.1, there is no other evidence on record to state that respondents - accused Nos.2 to 6 had harassed the deceased for additional dowry. The information given by the deceased was the basis for lodging the complaint. Since there was no consistent evidence of the witnesses, the learned Sessions Judge found that the offence punishable under Section 304-B of IPC is not made out. Further, there is no allegation or proof of any harassment for additional dowry in proximity with the death of deceased.

10. In cases of acquittal, the Appellate Court cannot interfere with the orders passed by the Courts, unless there are compelling reasons.

11. In view of the aforesaid circumstances, I find no infirmity with the order passed by the learned Sessions Judge in acquitting the respondents–accused Nos.3 to 5 when the evidence of eye witnesses was not convincing and when there was no evidence of any harassment for

dowry soon before her death. As already stated, the conviction of accused No.1 for the offence punishable under Section 498-A of IPC was upheld. Therefore, there are no grounds to interfere with the order of the learned Sessions Judge and the appeal is liable to be dismissed.

12. Accordingly, the Criminal Appeal is dismissed.

Miscellaneous Petitions, pending if any, shall stand closed.

Sd/-B.SATYAVATHI
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The V Additional Metropolitan Sessions Judge (Mahila Court), Hyderabad (With Records if any)
2. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad [OUT]
3. One CC to SRI. G VASANTHA RAYUDU, Advocate [OPUC]
4. One CC to SRI. U VENUGOPAL, Advocate [OPUC]
5. Two CD Copies

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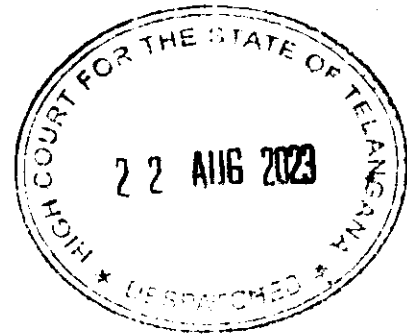


HIGH COURT

DATED: 03/07/2023

JUDGMENT

CRLA.No.526 of 2023



DISMISSING THE

CRL.APPEAL

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14/08/23