

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

Criminal Appeal No.1159 OF 2010

Between:

Ladinieni Somesh & Others

... Appellants/A1 to A3

And

The State of A.P.,
Rep. by its Special Public Prosecutor,
High Court Buildings, Hyderabad through
SHO, P.S. Mothkur, Nalgonda District.

... Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED : 31.07.2023

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 their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

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

+ CRL.A. No. 1159 of 2010

% Dated 31.07.2023

Ladineni Somesh & Others ... Appellants/A1 to A3

And

\$ The State of A.P.,
Rep. by its Special Public Prosecutor,
High Court Buildings, Hyderabad through
SHO, P.S. Mothkur, Nalgonda District.
... Respondent/Complainant

! Counsel for the Petitioner: Sri V.Ravi Kiran Rao

^ Counsel for the Respondents: Sri Public Prosecutor

>HEAD NOTE:

? Cases referred

¹ (2017) 1 Supreme Court Cases 101

² (2007) 9 Supreme Court Cases 721

³ 2023 SCC Online SC 454

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No. 1159 OF 2010****JUDGMENT:**

This Criminal Appeal is filed by the appellants/A1 to A3 challenging the conviction recorded by the I Additional Sessions Judge, Nalgonda in S.C.No.151 of 2009 dt.29.09.2010, sentencing the accused to undergo 7 years Rigorous Imprisonment for the offence under Section 304-B of the Indian Penal Code; to undergo 2 years Rigorous Imprisonment and a fine of Rs.1,000/- each for the offences under Section 498-A of IPC and further to undergo Rigorous Imprisonment for one year and a fine of Rs.1,000/- each for the offence under Section 4 of the Dowry Prohibition Act.

2. Heard both sides.

3. The case of the prosecution is that PW1 and PW2 are the parents of the deceased. The deceased and Accused No.1 fell in love, while A1 was working as a teacher in a school. The parents admonished the deceased, however, without informing the elders, the deceased and Accused No.1 married at Dharmaram village. PW1 and PW2, on account of their love and affection for the deceased, went to the house of the accused. The accused allegedly asked for the amount of Rs.70,000/- which was spent by them at

the time of marriage. PW1-father informed that the amount would be paid after getting money from his agricultural yield. But, the accused continued to harass the deceased for the amount which was spent at the time of marriage.

4. For 'Dasara' festival, A1 and the deceased went to the house of her parents PW1 and PW2 and they gave two tulas of gold necklace, 6 tulas of silver anklets. The deceased and A1 shifted to Hyderabad for their livelihood. However, they returned to Dharmaram village. On account of the harassment by the accused, the deceased went to her parents house. The mother-in-law/A2 went to the parents house of the deceased and stated that the deceased had not informed them before coming to their house. A2 asked for Rs.70,000/- to be paid and PW1 informed that he did not receive the money from sale of his agricultural yield. After 20 days on 18.11.2007, PW1 came to know that the deceased committed suicide by consuming poison. PW1 lodged a complaint-Ex.P1 on 18.11.2007 before the Police. The Police investigated the case and filed charge sheet for the offence under Sections 498-A, 304-B of Indian Penal Code and Sections 3 & 4 of Dowry Prohibition Act, 1961.

5. The learned Sessions Judge having examined the parents and other witnesses found the accused guilty and convicted them as stated above.

6. The learned Senior Counsel appearing for the appellants would submit that a false case has been filed against the appellants. Even according to the evidence of the witnesses, the deceased and A1 loved each other and married without consent of the parents of the deceased. Due to indifferent attitude of the parents of the deceased, she had committed suicide. Further, the allegation that there was a demand for Rs.70,000/- was vaguely stated and such statement cannot be made basis to convict the accused for the offence under Section 304-B of the Indian Penal Code.

7. He relied on the Judgment of Honourable Supreme Court in ***Bajnath and others v. State of Madhya Pradesh***³ wherein the Honourable Supreme Court held that only for the reason of there being an unnatural death, it was not sufficient to prove an offence under Section 304-B unless there are specific allegations which are made prior to the death of the wife. The Court further held that unless there is proof that the deceased was being subjected

³ (2017) 1 Supreme Court Cases 101

to harassment for additional dowry soon before her death, it cannot be presumed that the accused had committed offence.

8. Learned Counsel also relied on the Judgments of Honourable Supreme Court in ***Appasaheb and another v. State of Maharashtra***⁴. In the said Judgment, the Honourable Supreme Court found that demand for money on account of some financial stringency or for meeting domestic expenditure cannot be termed as demand for dowry.

9. He also relied on the Judgment of Honourable Supreme Court in ***Charan Singh v. State of Uttarakhand***⁵.

10. On the other hand learned Public Prosecutor would submit that the evidence on record indicates that the accused was persistent and demanded Rs.70,000/- to be paid. 18 days prior to the incident, A2 had gone to the house of PW1 and 2 and demanded the said amount. The death occurred is in proximity with the harassment for Rs.70,000/-. For the said reason, the conviction cannot be interfered with.

11. The case of the prosecution is that the deceased and A1 married without consent of the parents of the deceased. The

⁴ (2007) 9 Supreme Court Cases 721

⁵ 2023 SCC OnLine SC 454

demand for Rs.70,000/- was made after PW1 and 2 went to the village and met the deceased and the accused. The amount was asked since the same was incurred for performing the marriage. The said demand made by the accused to reimburse the amount of Rs.70,000/- which was incurred for performing the marriage, will not fall within the definition of 'dowry' under the Dowry Prohibition Act. Any demand should have been made prior to or after marriage in connection with the marriage.

12. Unless the prosecution lays foundation of there being harassment for dowry in proximity with the death of the deceased, presumption under Section 113-B of the Indian Evidence Act will not be available. Since this Court finds that Rs.70,000/- which was asked by the accused will not fall within the definition of dowry, the question of attracting Section 304-B of IPC does not arise. The unnatural death cannot form basis for raising the presumption under Section 113-B of the Evidence Act unless evidence is let in to attract the ingredients under Section 304-B of the Indian Penal Code. The prosecution has failed to adduce evidence that there was demand for any dowry in connection with the marriage.

13. For the aforementioned reasons, the conviction is liable to be set aside.

14. In the result, the appeal stands allowed and the appellants are acquitted. The appellants/accused are on bail. Their bail bonds shall stand discharged.

Miscellaneous applications, if any pending, shall stand closed.

Date: 31 .07.2023
Note: L.R copy to be marked
B/o. tk

K.SURENDER,J

THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No. 1159 OF 2010
Dt. 31.07.2023

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