

HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.1100 OF 2015

JUDGMENT:

This criminal appeal is filed by the appellant/complainant by invoking the provision under Section 372 of the Code of Criminal Procedure (Cr.P.C.), challenging the order of acquittal, dated 05.08.2014, passed in S.C.No.79 of 2011 by the Assistant Sessions Judge at Miryalaguda, Nalgonda District, whereby and whereunder the learned Sessions Judge found A-1 & A-2/respondents 1 & 2 not guilty of the offences punishable under Sections 448, 306 & 506 IPC and acquitted them for the said offence.

2. The allegations against the accused/respondents 1 & 2 are that on 15.08.2010 at 23.00 hours, the accused committed house trespass by entering into the house of the *de facto* complainant, who is P.W.1, threatened her and her husband to vacate the house by next day, otherwise accused would kill them since their son, who worked under them previously owed some amount to them and due to which, the deceased mortgaged his house in the name of A-1. Hence, the *de facto* complainant lodged the complaint.

3. On appearance of the accused, the trial Court framed charges under Sections 448, 306 & 506 IPC against the accused, read over and explained to them, for which, they pleaded not guilty and claimed for trial.

4. To substantiate its case, the prosecution got examined P.Ws.1 to 10 and marked Exs.P-1 to P-9 and M.O.1. On behalf of defence, no oral evidence was adduced but got marked Exs.D-1 & D-2 in the cross-examination of P.Ws.3 and 4 and Exs.D-3 to D-6 in the cross-examination of P.W.10.

5. After evaluating the oral and documentary evidence adduced by the prosecution, the trial Court found the accused not guilty of the offences punishable under Sections 448, 306 & 506 IPC and acquitted them for the said offence. Aggrieved by the said judgment, the *de facto* complainant preferred the present appeal.

6. Heard the learned counsel for the petitioner, learned counsel for respondents 1 & 2/A-1 & A-2 and the learned Additional Public Prosecutor for the 3rd respondent.

7. The main allegation against the accused is that prior to the incident, the accused took the husband of the *de facto* complainant and tortured him for 15 days on the ground that his son Uday Kumar (P.W.3) misappropriated the mill amount and forced him to execute an agreement of sale-cum-General Power of Attorney, dated 12.07.2010, in their favour. Thereafter, on 15.08.2016, the accused entered into the house of the deceased and threatened him and left the circumstances. Aggrieved over the same, the deceased committed suicide on 15.08.2010 and died on 16.08.2010 at 12.50 noon. Admittedly, there is no suicide note and also there is no dying declaration even though the deceased died on the next day after consumption of the pesticide. The entire case is based on the evidence of P.W.1, who is the wife of the deceased.

8. The learned trial Judge, after appreciating the evidence adduced, is of the view that even taking into consideration the entire allegations as true, the offence under Section 306 IPC is not attracted since there is no evidence that the act of the accused is an inducement to commit suicide by the deceased.

9. The learned trial Judge also relied upon the

decisions of this Court and also the judgment of the Apex Court, which are as follows:

1. **V. Shankaraiah Vs. State of A.P. [2002(1) ALT Criminal 470]**
2. **Khyaliram Vs. State of M.P. [2008(2) ALT (Cri) 6 (NRC)]**
3. **State of West Bengal Vs. Orilal Jaiswal [(1994) 1 SCC- 73: 1994 SCC (Cri) 107]**
4. **Darabar Singh Vs. State of Chhattisgarh [2013 CRI.L.J.1612]**

The facts of the present case are squarely covered by the said judgments.

10. Further, in a case of acquittal, if the trial Court considered the two views and basing on one of the views, which is in favour of the accused, acquits the accused, normally, the appellate Court will not interfere with the judgment of the trial Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned trial Judge has considered all aspects and acquitted the accused. Hence, this Court is not inclined to interfere with the judgment of acquittal of the trial Court and the appeal fails and is liable to be dismissed.

11. Accordingly, the Criminal Appeal is dismissed. Miscellaneous petitions, if any pending, in this criminal appeal shall stand dismissed.

RAJA ELANGO, J

Date: 22nd July, 2016

KL

HONOURABLE SRI JUSTICE RAJA ELANGO

-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-
-

CRIMINAL APPEAL No.1100 OF 2015

Date: 22nd July, 2016

KL