

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

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**Criminal Appeal No.309 OF 2015**

Between:

Gundu Venkata Sai Kumar

... Appellant

And

The State of Telangana., rep by  
its Public Prosecutor

... Respondent

DATE OF JUDGMENT PRONOUNCED:

14.07.2023

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

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**K.SURENDER, J**

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

**+ CRLA. No. 309 of 2015**

% Dated 14.07.2023

#Gund Venkata Sai Kumar

... Appellant

And

\$ The State of Telangana, rep by  
its Public Prosecutor

... Respondent

**! Counsel for the Appellant:** Sri T.Prasanna Kumar

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

**>HEAD NOTE:**

? Cases referred

(2015) 5 Supreme Court Cases 201

**HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No. 309 of 2015****JUDGMENT:**

1. The appellant is questioning his conviction for the offence under Section 304-B IPC vide judgment in SC No.596 of 2013 dated 30.03.2015 passed by the Special Judge for trial of offences under SCs & STs (POA) Act-cum-VI Additional Metropolitan Sessions Judge, Secunderabad.

2. Briefly, the case of the prosecution is that the deceased was the wife of the appellant. She was married to the appellant in the year 2010. At the time of marriage, one Acre land, Rs.1.50 lakhs cash, seven tulas of gold were given. After marriage, the deceased joined the company of the accused and lived happily for some time. They were blessed with two children, who are girls. Appellant and three other acquitted accused started harassing the deceased for additional dowry. They insisted to register one acre land in the name of the appellant. On 03.02.2013 A-2 informed P.W.1 that the deceased died due to burn injuries on account of cylinder blast. It is further the case of P.W.1 that prior to the incident, the deceased was in a depressed condition and when enquired she informed that

the appellant and others used to harass for not getting additional dowry and also giving birth to female children.

3. P.W.1 suspected that his daughter might have been murdered and accordingly filed a complaint stating that the appellant and others poured kerosene on her and lit her fire.

4. On the basis of Ex.P1 complaint filed by P.W.1, crime was registered and investigated by the police. The police filed charge sheet for the offence under Section 304-B of IPC and 201 of IPC. It was found during investigation that the deceased set fire to herself and the appellant and other family members rescued her by covering with blankets and bet sheets. However, she died due to burn injuries.

5. Learned counsel appearing for the appellant would submit that bald allegations of harassment of dowry are made. In the absence of any specific allegations that are leveled against the appellant, conviction cannot be sustained. In fact, the children have to be taken care of by the appellant. He relied on the judgment of Hon'ble Supreme Court in the case of **Major Singh and another v. State of Punjab**<sup>1</sup>, wherein it is held as follows:

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<sup>1</sup> (2015) 5 Supreme Court Cases 201

“**10.** To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:

- (i) the death of a woman should be caused by burns or bodily injury or otherwise than under a ‘normal circumstance’;
- (ii) such a death should have occurred within seven years of her marriage;
- (iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband;
- (iv) such cruelty or harassment should be for or in connection with demand of dowry; and
- (v) such cruelty or harassment is shown to have been meted out to the woman soon before her death.

**14.** The prosecution has not examined any independent witness or the panchayatdars to prove that there was demand of dowry and that the deceased was subjected to ill-treatment. Ordinarily, offences against married woman are being committed within the four corners of a house and normally direct evidence regarding cruelty or harassment on the woman by her husband or relatives of the husband is not available. But when PW 3 has specifically stated that the demand of dowry by the accused was informed to the panchayatdars and that panchayat was taken to Village Badiala, the alleged ill-treatment or cruelty of Karamjit Kaur by her husband or relatives could have been proved by the examination of the panchayatdars. The fact that the deceased was subjected to harassment or cruelty in connection with demand of dowry is not proved by the prosecution.”

6. On the other hand, learned Public Prosecutor would submit that in the evidence of P.W1, it is mentioned that the deceased was being harassed for giving birth to female children. Further, the appellant and other accused were also insisting for registering one acre of land in favour of the appellant. It is specifically mentioned in the deposition of P.W1 that one month prior to her death, the deceased called them and was in a depressed state. The deceased informed that the appellant and others were harassing for

additional dowry. For the said reasons, the conviction cannot be altered.

7. It is natural that on account of death, the family members of the deceased would be angered by the death and tend to exaggerate the situation and implicate the husband and his relatives. The Court has to be cautious in accepting the evidence of the witnesses who are closely related to the deceased and interested witnesses. In cases of dowry harassment or any kind of cruelty meted out to the wife, it would be within four corners of the house and normally, there may or may not be any independent evidence. However, in the facts and circumstances of a case, the Court might look into the need for corroboration from independent witnesses.

8. Initially complaint was lodged and then the ACP filed Ex.P17 which is a requisition to the Magistrate to examine the witnesses and record their statements before Magistrate. In Ex.P17, it is mentioned by the Investigating Officer as follows:

*“On observing, the intention of the complainant which is totally differing with his F.I.R. Contents when he was lodged the complaint against his son-in-law and his family members at the first instance. Now he is lodging another petition with a request to not to take any action against his son-in-law and his family persons in the second instance.”*

On the basis of the said requisition, the statements were recorded under Section 164 of Cr.P.C.

9. The parents initially have lodged the complainant against the appellant and others and thereafter wanted to withdraw their complaint. In fact, during the course of Section 164 Cr.P.C statement, according to the cross-examination of P.W.1, he stated that the deceased committed suicide in haste. Further, P.W.1 admitted stated during cross-examination as follows:

*“Except the information given by my daughter Aruna I have no other documentary proof or any other proofs to show accused used to harass Aruna. It is true that till her death we have not given report to the police mentioning that accused used to harass Aruna for additional dowry.”*

P.W.1 also admitted that the accused never insisted the deceased to sell one acre of land and get money.

10. The only source of information of alleged harassment that was meted out to the deceased was the information provided by the deceased to P.W.1. It is hearsay evidence. PW1 does not state when the deceased informed him. No statement is made by the deceased falling within section 32(1) of Evidence Act. At no point of time, there was any direct confrontation or any meeting or any attempt made by the accused with P.W.1 and other family members of the deceased. According to the Investigating Officer, P.W.1 having

lodged complaint, did not want the case to be prosecuted and wanted to take back the complaint. The above back ground and circumstances create any amount of doubt. It cannot be ruled out that the father under the influence of grief, anger must have lodged the complaint. After some time, P.W.1 did not deem it appropriate to pursue with the complaint. However, it appears from the requisition made by the Investigating officer, the witnesses were forced to make statements before the Magistrate. It is not the case of the Investigating officer that the appellant or anyone else on his behalf at any point of time either insisted, coerced or forced P.W.1 into withdrawing the complaint. In the said circumstances, it creates any amount of doubt regarding the case of the prosecution being correct.

11. Though two views are possible, since the sole basis for lodging the complaint is the information provided by the deceased and at no point of time, there was any demand made directly by the appellant for additional dowry, benefit of doubt is extended to the appellant.

12. In the result, the judgment of trial Court in SC No.596 of 2013 dated 30.03.2015 is hereby set aside. Since the appellant is on bail, his bail bonds shall stand cancelled.



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

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**K.SURENDER, J**

Date: 14.07.2023.

Note: LR copy to be marked.

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**HONOURABLE SRI JUSTICE K.SURENDER**

Criminal Appeal No.309 of 2015

Date: 14.07.2023

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