

State of Karnataka Vs. B.G. Raghu and Others

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Court : Karnataka

Decided On : Mar-03-2014

Judge : N. Ananda

Appeal No. : Criminal Appeal No. 178 of 2010

Appellant : State of Karnataka

Respondent : B.G. Raghu and Others

Judgement :

(Prayer: This Appeal Is Filed Under Section 378(1) and (3) Cr.P.C., Praying To Grant Leave To File An Appeal Against The Judgment Dated 26.09.2009, Passed In S.C.No. 114/2002, On The File Of X Additional City Civil And Sessions Judge At Bangalore, Acquitting Respondents/Accused Nos.1, 3, 4 and 6 Of Offences Punishable Under Sections 498-A R/W 109, 313 R/W 34 Ipc And Also Of Offences Punishable Under Sections 3 and 4 Of Dowry Prohibition Act R/W 34 Ipc.)

1. The respondents (hereinafter referred as 'accused 1,3, 4 and 6') were tried along with accused 2 and 5 for offences punishable under sections 498A r/w 109, 313 r/w 34 IPC and also for offences punishable under sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short, 'the D.P.Act'). Accused 2 and 5 died during pendency of trial. The case against accused 2 and 5 abated. The learned trial Judge has acquitted accused 1, 3, 4 and 6. Therefore, State has filed this appeal.

2. I have heard Sri B.Visweswaraiah; learned HCGP for State.

3. Before adverting to appreciation of evidence and submissions made by learned counsel for parties, it is necessary to state certain facts which are not in dispute.
4. The marriage of accused No. 1-B.G.Raghu with PW1- Prabbavathi was performed on 15.11.1999. Accused No.2 (since dead) is the mother of accused No.1. Accused No.3 is the younger sister of accused No.2. Accused No.4 was associated with accused No.1. Accused Nos.5 and 6 are the younger brothers of accused No. 1.
5. The learned trial Judge on consideration of charges framed against accused 1, 3, 4 and 6 and evidence adduced by prosecution had formulated the following points for determination:-
 1. Whether prosecution has proved beyond reasonable doubt that the first accused having married the complainant on 15.11.99 all the accused persons at the instigation of the 4th accused C.M.Patil, demanded dowry of Rs.50,000/- and gold jewels at the time of marriage and obtained the same during marriage and subsequent to marriage the accused persons demanded site and Rs. 10,00,000/- in cash for construction of house and for business purpose as additional dowry and the complainant was subjected to physical and mental torture in this regard and the accused hereby committed offences punishable u/s.498-A and 109 r/w section 34 of IPC?
 2. Whether the prosecution has proved beyond all reasonable doubt that all the accused persons with the common intention and at the instigation of the accused no.4 got terminated pregnancy of the complainant on 2.2.2000 threatening her that until she brings additional dowry from her parental house she shall not be allowed to give birth to child and the accused persons thereby committed offence punishable u/s.313 r/w section 34 of IPC?
 3. Whether the prosecution has proved beyond reasonable doubt that the accused persons having forcibly taken dowry of Rs.50,000/- in cash and gold ornaments during marriage, the accused persons have deserted the complainant and made her to stay in her parental house and they did not return the dowry which was taken during marriage and the accused persons thereby committed offences punishable

u/s.3 and 4 of Dowry Prohibition Act r/w section 34 of IPC?

6. The learned trial Judge on appreciation of evidence has answered the above points in negative and acquitted the accused.

7. At the outset, it is necessary to state that PW1 and her parents had set criminal law into motion against the husband, mother-in-law, brothers-in-law and their distant relatives.

8. It is seen from evidence of PW1 that after her marriage with accused No.1, she came back to her parental house after a period of 2 1/2 months. PW1 has sought to establish that during her stay in her matrimonial house for a period of 2 1/2 months, there was forceful termination of her pregnancy. PW1 has admitted that after marriage, her husband (accused No.1) had taken her to honey moon and outstation trips. PW1 has deposed; before marriage, marriage negotiations took place in the month of August 1999 in her parental house: at that time, accused had demanded dowry of a sum of Rs.50,000/-; the father of PW1 agreed to pay the same and marriage engagement was fixed on 16.09.1999; at that time, they paid a sum of Rs.50,000/- as dowry to accused. PW1 has deposed; soon after marriage, she started living in her matrimonial house; problems started within 10 or 12 days after marriage.

9. It is interesting to notice in the first information lodged by PW1, she has not made allegations of dowry demand or acceptance of dowry by accused. In first information, PW1 has stated that a sum of Rs.50,000/- was given to purchase clothes to bridegroom and his mother, however, PW1 has not stated that aforestated amount was paid on demand made by accused. PW1 is sufficiently educated. Her evidence that she had forced termination of pregnancy does not inspire confidence. The Medical Officer, who had terminated her pregnancy, was not examined before trial court. On the other hand, PW1 has admitted that in the interest of her family, she had given her consent for termination of pregnancy. PW1 had hardly stayed in her matrimonial house for a period of 2Ya months, during which period accused No.1 had taken her to Kodaicanal and other places. In the circumstances, the case of prosecution that accused demanded PW1 to bring a sum of Rs. 10,00,000/- as additional dowry looks highly exaggerated.

10. PW2-M.Muniraju is the father of PW1.

11. PW3-S.Nagaraju had negotiated marriage between accused No. 1 and PW1.

12. PW4-Radhamma is the senior aunt of PW1. PW4- Radhamma, PW5-Srinivasa, PW6-N.Ananda and PW7- S.V.Narayanappa had participated in marriage talks. They have consistently deposed that a sum of Rs.50,000/- was given to accused. In the discussion made supra, I have rejected evidence of PW1 that a sum of Rs.50,000/- was paid as dowry.

13. The learned trial Judge on proper appreciation of evidence of aforesaid witnesses and evidence of PW1 and first information has held that amount voluntarily paid by the father of PW1 to accused No.1 and his mother to purchase clothes for marriage does not fall within the definition of dowry' under the D.P.Act.

14. The evidence of PW1 reveals that she was not able to adjust herself to matrimonial house. PW1 came out of her matrimonial house and started residing with her parents. PW1 has given an exaggerated version that when accused No.1 had taken her to Kodai Canal for honey moon, he had threatened her to bring a sum of Rs. 10,00,000/- as additional dowry or else, he would again take her to Kodai Canal and push her to a deep gorge. If accused No.1 had threatened life of PW1, there were no reasons for PVV1 to keep quite without informing her parents.

15. The learned trial Judge on proper appreciation of evidence has acquitted accused 1, 3, 4 and 6. There are no reasons to interfere with the impugned judgment.

16. In the result, I pass the following: -

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