

Ranganatha Vs. State of Karnataka

Ranganatha Vs. State of Karnataka

SooperKanoon Citation : sooperkanoon.com/1177375

Court : Karnataka

Decided On : Nov-20-2015

Judge : A.V. Chandrashekara

Appeal No. : Crl. Appeal No. 600 of 2010

Appellant : Ranganatha

Respondent : State of Karnataka

Advocate for Pet/Ap. : Shri. Chandrashekar

Judgement :

(Prayer: Crl.A. U/s.374 (2) Cr.P.C by the Adv., For the appellant praying that this Hon'ble court may be pleased to set aside the judgment of conviction of sentence DT.4/6.5.2010 passed by the I ADDL. S.J. D.K. Mangalore in SC. No. 125/2007 Convicting the Appellant/Accused for the offence P/U/S 498A and 304B of IPC and U/S 4 of the D.P. Act. The Appellant/Accused to undergo R.I. for a period of 3 (Three) years and also sentenced to pay a fine of Rs. 10,000/-, in default to pay the fine, he shall further undergo S.I. for a period of one year, for the offence P/U/S 498A of IPC. The Appellant/Accused to undergo R.I. for a period of 12 (Twelve) years. For the offence P/U/S 304B of IPC. Appellant/accused to undergo R.I. for a period of 2(TWO) years and also pay a fine of Rs. 10,000/- in default to pay fine, the accused shall undergo SI for a period of one year. For the offence P/U/S 4 of the D.P. Act all the Substantive sentences shall run concurrently and

etc.)

1. The present appeal is directed against the judgment of conviction and sentence passed by the sessions court in S.C.125/07 which was pending on the file of I Additional Sessions Judge, Mangalore. Appellate is the sole accused in the said case. He had faced trial for the offences punishable under Sections 498A, 304B, I.P.C. and Sections 3 and 4 of the Dowry Prohibition Act, 1961, (herein after referred to as the Act, for brevity). He is found guilty for the offences punishable under Sections 498A, 304B, I.P.C. and Section 4 of the D.P. Act and is sentenced to undergo RI for a period of 3 years and to pay a fine of Rs. 10,000/- for the offence punishable under Section 498A, I.P.C., to undergo 12 years RI for the offence punishable under Section 304B, I.P.C. and to undergo RI for a period 2 years and to pay a fine of Rs. 10,000/- for the offence punishable under Section 4 of the D.P. Act. The learned judge, by the impugned judgment of conviction and sentence dated 6.5.2010, has directed that the substantive sentences shall run concurrently.

2. The case of the prosecution is that the deceased, a lady named Nandini married the accused according to Hindu customs on 4.5.2007 in a kalyanmantap in Vijayanagar, Bengaluru City. At the time of marriage, it is alleged that the accused and his family members demanded the deceased and her parents to give dowry and pursuant to such demand, they gave one gold case wrist watch worth Rs. 10,000/-, a gold chain, gold bracelet and a gold ring. After the marriage, the couple had been to the house of the parents of the deceased and stayed there for 3 days and later on he went to Mangalore leaving her in the house of his father, since he was working as a stenographer in Coast Guard, Mangalore.

3. On 1.6.2007, the accused came back from Mangalore to take his wife. On 3.6.2007, both of them went to Mangalore and resided in the house taken on rent from PW5-Giriyappa at Kulai. The allegation against the accused is that he was coming home drunk and was abusing the deceased by using filthy language and demanding her to bring Rs. 1,00,000/- from her parental house. Being unable to withstand the torture meted out to her in relation to payment of dowry, the victim-Nandini committed suicide by hanging herself in the rented house of the accused

at Kulai in Mangaluru on 29.6.2007 at 10.00 p.m.

4. After coming to know of the same, immediately the owner of the house lodged a report to the police and he did not suspect the hand of the accused in any manner. The next day the parents of the deceased came to Mangalore and lodged the first information with the allegation of torture meted out to the deceased in connection with demand for dowry and consequential death. Therefore police chose to register a case in Crime No. 85/07 for the offences punishable under Sections 498A, 304B, I.P.C and Sections 3 and 4 of the Act. After concluding investigation, charge sheet came to be filed for the above said offences.

5. Out of the witnesses cited in the charge sheet, 30 persons have been examined as PWs-1 to 30 to bring home the guilt of the accused. 23 material objects have been got marked and 62 exhibits have been got marked. 5 witnesses have been examined on behalf of the accused to probablise his defence, and 26 exhibits have been gotmarked on behalf of the accused during the course of cross-examination of the accused.

6. The defence of the accused is one of total denial of all the allegations leveled against him. He has been examined under Section 313, Cr.P.C. in regard to the incriminating materials emanating from the prosecution case. It is his specific case that he did not demand any dowry and did not receive any dowry, and on the other hand, whatever, was given to him by the parents of the deceased was a customary one and it was only 'Varopachara. It is this judgment of conviction which is called in question in this appeal on various grounds as set out in the appeal memo.

7. Mr. Chandrashekar, learned counsel representing the appellant has submitted that the accused has been in judicial custody since 5 years 10 months and that the prosecution has thoroughly failed to make out a case either for the offence under Section 304B or Section 4 of the D.P. Act. He has argued that even if it is admitted that the accused did ill-treat the deceased, at best, the case would come under Section 498A, I.P.C. only. It is argued that the consequential unnatural death of the deceased cannot be attributed to the alleged torture so as to bring it within the provision of Section 304B, I.P.C. He has placed reliance on several decisions of

the Hon'ble Supreme Court and Hon'ble High Court of Andhra Pradesh. It is vehemently argued that the alleged demand to bring some amount was not in connection with marriage and was subsequent to the marriage, that too, to have a bigger rented house and there was no demand to pay dowry. Hence it does not come within Section 304B, I.P.C. or Section 4 of D.P. Act.

8. Learned counsel for the appellant has further submitted that the entire case revolves upon proper assessment of the oral evidence of PW1 and PW2, parents of the deceased, PW3- younger sister of the deceased and PW5-owner of the house in which the deceased and accused were living. It is argued that the learned judge has not properly analyzed the oral and documentary evidence on record in right perspective and that wrong approach has been adopted to the real state of affairs. It is argued that the judgment impugned of conviction is opposed to law, facts and probabilities and there is no foundation for the offences alleged either under Section 304B or Section 4 of D.P. act. It is argued that important admissions elicited from the mouth of material witnesses have not been properly analyzed in right perspective and the learned judge has seriously erred in drawing presumption under Section 113(B) of the Evidence Act.

9. Heard Sri Chetan Desai, learned HCGP for the State. He has argued that the oral and documentary evidence placed on record amply proves that the payment of Rs. 1,00,000/- by the accused with the deceased amounts to cruelty and it was nothing but a demand for dowry. It is argued that the evidence of PW19, the younger sister of the deceased would also make out a clear case of torture meted out to the deceased by the accused in connection with the demand for dowry. What is argued before this court is that the time lag between the date of marriage and death was hardly 2 months, and the demand for Rs. 1,00,000/- made by the accused would definitely come with dowry as explained by the Hon'ble Supreme Court in the case of RAJINDER SINGH v. STATE OF PUNJAB in CrI. A.22321/09 dated 26.2.2015. It is argued that the decision rendered in the case of APPASAHEB by the Hon'ble apex court in the case of [2007] 9 SCC 721 has been distinguished subsequently by the Hon'ble apex court in a plethora of decisions to hold that the provisions of the special penal statute will have to be construed liberally and a pragmatic approach will have to be adopted while interpreting the

provisions of such statutes. It is argued that the expression dowry demand is a relative expression. It is argued that the time lag may differ from case and in the present case, it was hardly 2 months and therefore, the demand would definitely come with the expression demand for dowry.'

10. He has relied on the decision in the case of RAJINDER SINGH (supra) to contend that the demand for money was made by the accused-husband one year after her marriage and it was also considered as demand for dowry and the time lag of one year cannot be considered as snap time. What is argued is that soon after coming to know of the suicide committed by his wife, the accused did not take immediate steps to move her to the hospital, and on the other hand, the mother of the deceased telephoned PW5-the owner of the house to see as to what had happened. It is further argued that it is the owner of the house who took all necessary steps immediately to take the victim to the hospital and this speaks in volumes against the conduct of the accused. It is argued that the trial court has properly analyzed the oral and documentary evidence placed on record in right perspective keeping in mind the laudable object for which Section 113(B) of the Evidence Act and Section 304B, I.P.C. It is argued that the mandatory provision of Section 304B have been complied with since the married lady died within 7 years from the date of marriage relating to torture meted out to her in connection with the demand for dowry and the obnoxious behavior of accused in coming home everyday in an inebriated condition and ill-treating her. Hence he has requested the court to confirm the judgment of conviction. It is argued that accused is not entitled for any lenience in the matter of sentence.

11. Shri. Chandrashekar, learned counsel for the appellant has replied that PWs-16, 20 and 21 who are the brother and sister respectively of PW1 and PW2 are examined to bring whom the allegation of demand of Rs.1,00,000/- towards dowry and torture given by this accused. He has argued that these two witness (PW.16 and 21) have not whispered about demand made by the accused with the deceased to bring a sum of Rs. 1,00,000/- PWs. 16 and 21, though were not family members of PW.1, the father of the deceased, they were in constant touch with PW.1 and deceased Nandini and they had been to bus-stop to see Nandini along her husband, when she wanted to go to Mangalore. He further argued that

the material witness examined on behalf of the prosecution are ear say witness and they were examined several after the incident and much credence could not have been or attached to the same

12. He has argued that if the prosecution is not able to prove the alleged demand said to have been made by the accused to bring a sum of Rs. 1,00 000/- beyond all reasonable doubt, conviction for the offence punishable under Section-304B will have to be aside. He further argued that the deceased Nandini contacted her mother over phone just 4 or 5 days earlier to her death and there was a reference only about accused coming home in a drunken condition every day abusing her but there was no reference about accused demanding Rs. 1,00,00/- Hence, he has requested this Court to allow the appeal in its entirety.

13. The following points arise for the consideration of this court:

- 1) Whether the learned sessions judge is justified in giving a finding that the accused treated his wife with cruelty as contemplated under Section 498A, I.P.C.?
- 2) Whether the demand made by the accused for Rs. 1,00,000/ would amount to demand for dowry'?
- 3) Whether the suicide committed by the deceased was because of torture meted out to her in connection with dowry to be punishable under Section 304B, I.P.C.?
- 4) Whether the trial court is justified in convicting the accused for the offences punishable under Sections 498A and 304B, I.P.C. and Section 4 of the Dowry Prohibition Act?
- 5) Whether any lenience in regard to the sentence of fine and imprisonment is required, and if so, to what extent?

REASONS

14. Point no.(1): The learned judge has framed the following points for consideration and the same which are found in paragraph 6 of the impugned judgment, are as under:

1) Whether the prosecution proves beyond reasonable doubt that the accused-Ranganatha, son of Late C.R.Swamy being the husband of Smt. Nandini @ Komala, having married her on 4.5.2007 at GBB Kalyan Mantap, Vijayanagar, Bengaluru, and by the willful conduct of the accused, subjected her to cruelty and harassment after consuming liquor and forced her to meet unlawful demand of dowry of Rs.1,00,000/- from the parents of the deceased and such conduct drove the deceased to commit suicide by hanging on 29.6.2007 at 10.00 p.m., in the house of PW5, Giryappa Poojary compound, Kulai village, Suratkal, and thereby committed an offence punishable under Section 498A of IPC?

2) Whether the prosecution proves beyond reasonable doubt that the accused being the husband of Smt. Nandini@ Komala, having married her on 4.5.2007 at the above place as above stated and subjected the deceased to mental and physical cruelty and harassment in connection with the demand of dowry and being unbearable of the ill-treatment meted out to her, and also the accused by consuming alcohol, treated mentally and physical harassment and thus the deceased Nandinicommitted suicide by hanging on 29.6.2007 at 10.00 p.m. at the house of PW5 above stated and thus, the death of the deceased had occurred otherwise than under normal circumstances within 7 years of her marriage, and thereby the accused committed an offence of dowry death punishable under Section 304B of IPC?

3) Whether the prosecution proves beyond reasonable doubt that the accused being the husband of Smt. Nandini @ Komala, (daughter of complainant-Ravindra) having married her on 4.5.2007 at bangalore, demanded and took as dowry from her parents gold chain, bracelet and gold rings at the time of his marriage at GBB KalyanMantap, Bengaluru, and thereby committed an offence punishable under Section 3 of the Dowry Prohibition Act, 1961?

4) Whether the prosecution further proves beyond reasonable doubt that the accused being the husband of Smt. Nandini @ Komala, daughter of complainant-Ravindra, when he was staying in a house at Kulai, Mangalore, demanded dowry of Rs. 1,00,000/- through his wife from her parents stating that the said amount of dowry is required by the accused to take on lease a good rented house at

Mangalore and thereby, the accused has committed an offence punishable under Sec.4 of the Dowry Prohibition Act, 1961?

5) What order?

After hearing the arguments and assessing the evidence placed on record, the learned sessions judge has answered point nos.1,2 and 4 in the affirmative and 3 in the negative, and has held that the gold chain, gold bracelet and gold rings given to the accused at the time of marriage by the parents of the deceased were not dowry', but customary presentations and therefore Section 3 of the Dowry Prohibition act is not attracted. The learned judge has placed reliance on the evidence of PW1 and PW2 who are father and mother of the deceased, as also on the evidence of PW3-Bhavana, younger sister of the deceased and PW5-Giriyappa, owner of the house in which the deceased and accused were living and PWs-16, 20 and 21 who are the close relatives of the deceased.

15. In a case like this, the evidence of the parents and other members of the family of the deceased would be relevant. Though it appears to be hearsay in nature, if such evidence inspires confidence in the mind of the court, it will have to be considered. PW1 is the father of the deceased. PW1 was working in a private company at Bengaluru. Deceased is the eldest daughter and his second daughter's name is Bhavana. He has spoken about the engagement ceremony that was solemnized on 28.1.2007 between the deceased and the accused and the marriage performed by him on 4.5.2007 in a kalyanmantap at Bengaluru. Nandini died on 29.6.2007 under unnatural circumstances within two months from the date of her marriage under unnatural circumstances.

16. After the marriage, the bride was sent to the house of the accused and her parents had also accompanied their daughter. They had stayed there for 4 days and during that time, accused and his daughter had come to their house. In paragraph 7 of his deposition, PW1 has deposed that when his daughter had come to his house, she told him that the accused would come home fully drunk but he had requested his daughter to somehow adjust with him. Both had stayed for 2-3 days in their house and she went back to the house of her husband. Since the accused was working at Mangaluru he left his wife in the house of his father

stating that he would take her after some time. When PW1's daughter was living with her in-laws, PW1 and his wife used to go to their house to see their daughter.

17. On 2.6.2007, deceased had talked to her mother and had told that on 3.6.2007 she would be going with her husband to Mangaluru. Therefore both of them went to the house of the accused on the morning of 3.6.2007 and saw her off in the bus stand. On that day, deceased told PW1 that the accused had come home fully drunk the previous night. She is stated to have told him that the accused was determining dowry in order to have a bigger house on rent. Somehow he had consoled her stated that he would see whether money could be pooled.

18. In paragraph 9 of his evidence, PW1 has deposed that 4-5 days thereafter, deceased had telephoned from Mangaluru to her mother that her husband was torturing her and demanding to pay Rs. 1,00,000/- as dowry. Suddenly PW1, PW2, their daughter-Bhavana came to the house of the accused and all of them stayed there. There also deceased told them that the accused would keep quiet only if Rs. 1,00,000/- was paid. Then PW1 is stated to have told her that he was not even able to repay the loan availed in connection with her marriage and had asked her to somehow adjust with him. It is his case that he had even advised his son-in-law not to demand for money, being a Government servant. In spite of the same, he persisted with the demand. The next day, all of them returned to Bengaluru. Even after they returned from Mangaluru, deceased telephoned him that the accused would come home fully drunk everyday and assault her and would demand Rs. 1,00,000/- from her.

19. On 29.6.2007, the owner of the house at Mangaluru telephoned to him at about 10.45 p.m. that the accused had murdered his daughter and soon after coming to know of the same, his wife lost consciousness and all of them went to Mangaluru in a private van.

20. PW2 is the mother of the deceased. The contents of the examination-in-chief of her evidence is similar to that of her husband. Whether both of them have withstood the rigor of cross-examination in regard to the allegation of torture and demand for dowry, will have to be looked into.

21. PW1 has been cross-examined at length. The case is registered on the basis of first information lodged by him. The same is found at Ex.P2. By virtue of Ex.P1, criminal investigation agency was sent into motion. In page 1 of Ex.P1, there is a reference about the approximate amount spent for solemnizing the marriage of his daughter with the accused and the customary presentations made in the form of suit, the gold case watch worth Rs. 10,000/-, gold bracelet, gold ring and clothes. In view of material evidence forthcoming in page 1 of Ex.P1, the learned judge has come to the conclusion that the gold chain, gold bracelet, gold ring, gold case watch and clothes given to the accused at the time of marriage are not dowry but customary presentations. According to the learned judge, they were given to the accused on their own volition and therefore, it was not dowry and hence, issue no.(3) is answered in the negative. Therefore there is no reason to interfere with the said reasoning in view of the documentary evidence and oral evidence of PW1.

22. Of course in Ex.P1 there is no reference about the accused coming home fully drunk everyday. But there is a specific reference about the physical and mental torture meted out to her. In page 3 of Ex.P1, there is a specific reference about cigarette and beedi pieces and liquor bottles lying scattered in the house when they saw the dead body. This probablises the case of the prosecution in regard to the accused being a drunkard.

23. Giriyappa is examined as PW5. He was the owner of the house in which the deceased and accused were living. In paragraph 8 of his deposition, he has specifically deposed that the accused was addicted to drinking liquor and he came to know of the same on the day when she died. Prior to that, he had not seen. But he has denied having mentioned in his report given to the police that the accused was addicted to drinking liquor everyday and being disgusted with his behavior, she committed suicide. Admittedly Giriyappa was working as driver in Coast Guard at Mangaluru. He is a knowledgeable man and had submitted report to the police on his own vide Ex.P30.

On the basis of Ex.P13, initially a case in UDR.330/07 was registered under Section 174, Cr.P.C. Consequent upon the first information lodged by PW1, a

regular case was registered against the accused. At an undisputed point of time, a reference is made about the bad habit of the accused which was the cause for the death of his wife. This is referred to by the learned judge while assessing the evidence. PW1 and PW2 have asserted in their evidence that the deceased was addicted to drinking and they had come to know from their daughter. In his cross-examination found in page 13, PW1 has asserted that his daughter had not told him anything except the accused coming home everyday drunk. Of course he has admitted in paragraph 15 that nothing is mentioned about the drinking habit of the accused in Ex.P1.

24. The first information is only a document which sets the criminal investigation agency into motion. It is not the magna carta of the prosecution case and whatever is disclosed to the police during the course of investigation would be the basis and the same will have to be proved while leading evidence. Both PW1 and PW2 have asserted in their examination-in-chief about the accused being addicted to liquor and coming home everyday drunk. Both of them have asserted that their daughter had told them that the accused was beating her in a drunken state.

25. PW3-Bhavana is none other than the younger sister of the deceased. She has also spoken about the engagement ceremony and the marriage of her elder sister with the accused. In paragraph 4 of her evidence, PW3 has deposed that her sister had told her about the accused coming home everyday drunk. In paragraph 5 of her evidence, she has deposed about her sister being in a dejected mood and she came to know that the accused was demanding her to bring Rs.1,00,000/- and the torture meted out to her during his intoxication. Therefore, she has deposed that her parents had consoled her and sent her to Mangaluru. She has further deposed that her sister had telephoned to her house about the accused demanding her to bring Rs. 1,00,000/-. She is stated to have accompanied her parents when her sister went to Mangaluru with her husband. She had been to the bus stand along with her sister and parents. She has specifically deposed that even in the bus stand, her sister was weeping. She has further deposed that her sister was telling her parents that the accused was demanding her to bring Rs.1,00,000/- and was ill-treating her in an intoxicated state, and that her parents were consoling her. She repeated the same when she telephoned her parents a

day after reaching Mangaluru.

26. During the course of cross-examination, PW3 has asserted that she has deposed about these things to the police when her statement was recorded. She has denied a suggestion that for the first time she has deposed before the court to that effect. There is absolute corroboration in regard to the alleged ill-treatment meted out to the deceased by her husband by these three witnesses who are none other than the family members of the deceased.

27. PW16-Ramesh is the younger brother of PW1. He had also participated in the talks held in connection with the marriage. It is his case that deceased was talking to him over phone often and had complained about her husband relating to suspicion he had about her fidelity and the drinking habit of her husband. It is his case that he had telephoned to her after she went to Suraktal. He has been cross-examined at length. He has admitted that he had not telephoned Nandini. A suggestion that at no point of time Nandini had telephoned to him is specifically denied. There is no reason to disbelieve his deposition. In fact, he had accompanied his brother when he received the death message of his niece.

28. PW20 is the brother of PW2. He was also very close to the deceased and was present when the talks took place in connection with the marriage of the deceased with the accused. He had accompanied his sister to the bus stand. This fact has not been seriously disputed while cross-examining him. He has deposed that when Nandini telephoned PW2, he was in the house of PW2 and came to know about the ill-treatment meted out to Nandini by her husband. He had also gone along with his sister after receiving the death message of Nandini. Of course he is the scribe of Ex.P1. Of course the details in regard to the manner in which she was ill-treated is not forthcoming in Ex.P1. As already discussed, Ex.P1 is only a document which set the criminal investigation agency into motion and there is no reason to disbelieve his version in view of the good relationship he had with the members of the family of his sister including the deceased.

29. PW29-Nagalakshmi is the sister of PW2. She has also deposed about the information given to her about the accused ill-treating Nandini. She had also gone to the bus stand along with her sister at the time when Nandini went to Mangaluru

along with her husband. She has further deposed that Nandini was weeping because her husband had come home fully drunk on the previous night and that she had remarked that they (parents) had put a stone slab on her by performing her marriage with the accused. Just because PWs-16, 20 and 21 have not deposed anything about the demand made by the accused to bring Rs. 1,00,000/-, the evidence of PWs-1 to 3 cannot be disbelieved. The evidence of these witnesses speaks clearly about the torture meted out to her. Such demand for dowry will normally be disclosed by the married daughter to her parents.

30. Offences of this type will be committed within four walls. Any information regarding the alleged torture and demand for dowry will be made known only to parents and close relatives. Therefore the version of PWs-1 to 3, 16,20 and 21 cannot be rejected on the ground that they are relatives of the deceased. In fact they are the best witnesses to speak about the same and there is no reason to disbelieve their version. Though the witnesses are cross-examined at length, nothing has been elicited from their mouth to discredit their credibility in regard to the assertion relating to torture meted out by the accused to the deceased.

31. One cannot forget that a newly married girl expects her husband to look after her with all care and affection till she adjusts to the new environment. The accused, in the present case, was coming home fully drunk everyday and was pressurizing her to bring Rs. 1,00,000/- from the house of her parents and this would definitely be cruelty'. The definition of cruelty includes mental cruelty. A newly married girl expects her husband to come home early and to spend good quality time with him and this would cement their relationship. On the other hand, the accused, instead of looking after her with care, love and affection, was coming home everyday drunk and was torturing her both physically and mentally and was also pressurizing her to bring Rs. 1,00,000/-

32. The parents of the deceased were not financially well-off and they had raised a loan to perform her marriage with a Government employee in a grand manner and had given good customary presentations. With all this, he was not satisfied and was pressurizing her. These aspects have been taken into consideration by the learned judge to come to the conclusion that the deceased was treated with

cruelty. In fact, the concept of cruelty is explained in Section 498A, I.P.C. Therefore, the learned judge is justified in coming to the conclusion that the deceased was treated by the accused with cruelty as contemplated under Section 498A, I.P.C. Accordingly point no.(1) is answered in the affirmative.

33. Point nos.(2) to (4): Since all these points are inter-related, they are taken up together for common discussion. All the material witnesses have asserted about the demand made by the accused with Nandini to bring Rs. 1,00,000/. Whether this demand would be 'demand for dowry' is to be looked into. Learned counsel for the appellant has relied on a decision rendered by three Hon'ble Judges of the Supreme Court in the case of RAMESHKUMAR .V. STATE OF CHATTISGARH reported in AIR 2001 SC 3837(1) wherein the provisions of Sections 498A and 306, I.P.C. have been discussed at length. What is held is that these two offences are separate offences and that merely because the accused has been held liable to be punished under Section 498A, it does not follow that on the same evidence, he is necessarily held guilty of having abetted the commission of suicide by the woman concerned. The presumption available under Section 113 A of the Evidence Act is dealt with in paragraph 11 of the judgment. In paragraph 12, the amendment carried out to Criminal Law (Second) Amendment Act, 1983, with effect from 26.12.1983 is also discussed. It is relevant and the entire paragraph is reproduced below:

This provision was introduced by Criminal Law (Second) Amendment Act, 1983, with effect from 26.12.1983 to meet the social demand to resolve difficulty of proof where helpless married women were eliminated by being forced to commit suicide by the husband or in-laws and incriminating evidence was usually available within the four corners of the matrimonial home and hence was not available to anyone outside the occupants of the house. However, still it cannot be lost sight of that the presumption is intended to operate against the accused in the field of criminal law. Before the presumption may be raised, the foundation thereof must exist. A bare reading of Sec. 113A shows that to attract applicability of Section 113A it must be shown that (i) the woman has committed/suicide, (ii) such suicide has been committed within a period of 7 years from the date of marriage, (iii) the husband or his relatives who are charged had subjected her to cruelty. On existence and

availability of the above said circumstances, the court may presume that such suicide had been abetted by her husband or by such relatives of her husband. The Parliament has chosen to sound a note of caution. Firstly the presumption is not mandatory; it is only permissive as the employment of expression may presume suggest. Secondly, the existence and availability of the above said three circumstances shall not, like a formula, enable the presumption being drawn: before the presumption may be drawn, the court shall have to be regard to all the other circumstances of the case. A consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the court to obtain from drawing the presumption. The expression-the other circumstances of the case used in Section 113A suggest the need to reach a cause and effect relationship between the cruelty and the suicide for the purpose of raising a presumption. Last but not the least, the presumption is not an irrebuttable one. In spite of a presumption having been raised, the evidence adduced in defence of the facts and circumstances otherwise available on record may destroy the presumption. The phrase 'may presume' used in Section 113A is defined in Section 4 of the Evidence Act, which says- 'whenever it is provided by this Act that the court may presume a fact, it may either regard such fact as proved, unless and until it is disproved or may call for proof of it.'

34. Even as per the facts of the said case, deceased Uma died by committing suicide within one year from the date of her marriage. The reason for committing suicide is forthcoming in Ex.P10-suicide note left by her. She has acknowledge freedom given to her by her husband and she had admitted that she had no house except the one given to her by him. On the date of the incident, she had quarreled with him and being aggrieved, committed suicide. To a specific question as to what made her to set herself on fire, she had answered that her husband had told her that she was free to go anywhere and do whatever she wanted. To another pointed question as to whether she wanted to say anything more, she had said no. The facts in the case of RAMESH KUMAR (supra) did not point out to any cruelty which drove her to commit suicide. Taking into consideration the surrounding circumstances, the Hon'ble apex court has held that probably she committed suicide because of the disinclination on the part of the accused to drop her at her sister's house and therefore, she felt disappointed and frustrated. In

paragraph 19 of the judgment, it is held that she was overtaken by a feeling of shortcomings which she attributed to herself. She was overcome by a forceful feeling generating within her that in the assessment of her husband, she did not deserve to be his life partner. The accused Ramesh may or must have told the deceased that she was free to go anywhere she liked. May be that was in a fit of anger as contrary to his wish and immediate convenience, the deceased was emphatic on being dropped at her sister's residence to see her. It is further held that such remark made by the accused was neither to provoke, incite or to do any act to satisfy the requirement of instigation.

35. In the present case, the facts are totally different. Soon after the marriage, the deceased came to know that the accused was a drunkard and he was coming home everyday fully drunk. Even after going to Mangaluru, he was coming home drunk and home drunk and this is evident from the evidence of material witness and the circumstances which prevailed at the time of her death. Apart from this, there was persistent demand to bring Rs.1,00,000/- from the house of her parents. Therefore, the said decision is clearly distinguishable on facts and hence, the same is not helpful to the case of the appellant.

36. Learned counsel for the appellant for the appellant has relied on a decision rendered in the case of BOMMIDI RAJAMAKKU v. STATE OF A.P (2001 CrI.L.J. 1319) in which the decision in the case of MAHENDRA SINGH .v. STATE OF MADHYA PRADESH (1995 AIR SCW 4570) is referred to and relied on. As per the facts of the said case, the accused was addicted to drinking liquor and in spite of several requests of his wife, he did not pay heed and continued to torture her and the same became unbearable to her. As such, she set herself on fire. What is observed is that mere ill-treatment and beating in a state of intoxication on the part of the accused cannot constitute an act amounting to abetting the deceased to commit suicide. This court would like to respectfully disagree with the said observation in the light of the decision rendered in the case of RAMESH KUMAR. Hence the said decision is not applicable to the facts of this case.

37. The decision reported in the case of AIR 2013 SC 1567 between VIPIN JAISWAL.v. STATE OF ANAHRA PRADESH) is relied on by the learned counsel

for the appellant to contend that the demand for bringing RS.1,00,000/- from the house of her parents cannot be considered as demand for dowry since there was no agreement at the time of marriage to pay such dowry. What is held in the said decision is that such demand cannot be said to be a demand in connection with marriage. As per the facts of the said case, accused had demanded his wife to bring money from the house of her parents to purchase computers and the same was made 6 months after the marriage. Therefore it was held that such demand would not be in connection with marriage and could not be termed as dowry within the meaning of Section 2 of the Dowry prohibition Act.

38. Relying on another decision of the Hon'ble apex court in the case of APPASAHEB and ANOTHER .v. STATE OF MAHARASHTRA⁹[2007] 9 SCC 721), it is held as under:

In view of the aforesaid definition of the word dowry any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision, it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of statute that if the act is passed without reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning.'

39. The primary ingredient to attract the offence punishable under Section 304B, I.P.C. is that the death of the woman must be dowry death and dowry is defined under Section 2 of the Dowry Prohibition Act, Section 2 is relevant and is reproduced below:

2. Definition of dowry':

In this Act, dowry means any property or valuable security given or agreed to be given either directly or indirectly-

- a) By one party to a marriage to other party to the marriage; or
- b) By the parents of either party to a marriage or by any one person, to either party to the marriage or to any other person,

at or before or any time after the marriage in connection with the marriage of the said parties but does not include dower or mehr in the case of persons to whom Muslim Personal Law (Shariat) applies.'

The important ingredients to be proved in a case punishable under Section 304B, I.P.C. are as follows:

- a) Death of a woman must have been caused by any burns or bodily injury or her death must have occurred otherwise than under normal circumstances.
- b) Such death must have occurred within seven years of her marriage;
- c) Soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and
- d) Such cruelty or harassment must be in connection with the demand for dowry.

40. What is held in the case of APPASAHEB (supra) is that the definition of dowry must be strictly construed as it forms part of Section 304B which is a penal statute. In the case of APPASAHEB, it is held that the demand for money for defraying expenses of manure made to a young wife who in turn made the same demand to her father, would be outside the definition of the term dowry. The pith and substance of the decision in the case of APPASAHEB is that the demand made for money for a financial exigency or for domestic expenses or for purchase of manure cannot be termed as demand for dowry as the said word is normally understood. Therefore, learned counsel for the appellant has argued that even if one were to accept that the accused in the present case had demanded the deceased to bring Rs. 1,00,000/-, the same will not come within the purview of demand for dowry and hence his conviction for the offence under Section 304B,

I.P.C. is not sustainable.

41. Whether such demand for dowry made during the subsistence of a marriage irrespective of the time gap between the marriage and death would amount to demand for dowry is dealt with by the Hon'ble apex court in the case of BACHNI DEVI .V. STATE OF HARYANA ([2011] 4 SCC 427), KULWANT SINGH AND OTHERS .V. STATE OF PUNJAB ([2003] 4 SCC 177), SURINDER SINGH .V. STATE OF HARYANA ([2014] 4 SCC 129) and RAJINDER SINGH .V. STATE OF PUNJAB ([2014] 12 SCC 582. All these four decisions have been considered by the Hon'ble apex court in the case of RAJINDER SINGH .V. STATE OF PUNJAB in Crl Appeal No. 2321/09, a case decided by a Bench consisting of three Hon'ble Judges of the Supreme Court on 26.2.2015.

42. How a provision of a penal statute will have to be interpreted, is also dealt with in the said case. Section 304B, I.P.C. is obviously a stringent penal provision intended to combat social evil like demand for dowry and the consequence of such demand. Whether such a provision will have to be strictly construed is the question. Relying on the Constitutional Bench decision of the apex court reported in the case of NARAYAN NAMBAIR .V. STATE OF KERALA (1963 Supp. (2) SCR 724), it is held that though all penal statutes are to be construed strictly, while doing so, a fair and pragmatic and commonsense interpretation will have to be done so as to fulfill the object sought by the Parliament. Therefore, the Hon'ble apex court in the case of RAJINDER SINGH .V. STATE OF PUNJAB in Crl. Appeal No. 2321/09 has held that judgments in the case of APPASAHEB (supra) and VIPIN JAISWAL (supra) did not state the law correctly. In paragraph 20 of the said decision, the Hon'ble apex court has held as follows:

We therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Sec.2 of the Dowry Prohibition Act, at or before or at any time after the marriage is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise.'

43. In the case of KANS RAJ .V. STATE OF PUNJAB ([2000] 5 SCC 207), the Hon'ble apex court has discussed the term soon beforefound in Section 304B, I.P.C. In paragraph 15 of the judgment, it is held that the term soon beforeis a relative term which has to be considered under specific circumstances of each case and that no straitjacket formula can be laid down by fixing any time limit. This expression, according to the Hon'ble Supreme Court, is pregnant with the idea of proximity test. The term soon beforeis not synonymous with the term immediately beforeand is the opposite of the expression soon afteras used and understood in Section 114 illustration (a) of the Evidence Act.

44. In the case of SHER SINGER .v. STATE OF PUNJAB AND JHARYANA (2015 (1) SCALE 250), the Hon'ble apex court has held that the word soonshould not be interpreted to mean days or, months or years, but as necessarily indicating that the demand for dowry should not be stale or an aberration of the past, but should be the continuing cause for the death under Section 30B or the suicide under Section 306 of IPC. This decision in the case of SHER SINGH is referred to and relied on by the Bench consisting of three Hon'ble judges in the case of RAJINDER SINGH .v. STATE OF PUNJAB in paragraph 22. Ultimaely, the Hon'ble apex court has held as follows in the case of RAJINDRE SINGH and the relevant portion is found in paragraph 23:

We endorse what has been said by these two decisions. Days or months are not what is to be seen. What must be borne in mind is that the word soondoes not mean immediate. A fair and pragmatic construction keeping in mind the great social evil that has led to the enactment of Section 304B would make it clear that the expression is relative expression. Time lags may differ from case to case. All that is necessary that the demand for dowry should not be stale but should be continuing cause for death of married woman under Section 304B'

45. The facts in the present case are glaring. The demand for dowry was made immediately after marriage and it was a persistent demand till she committed suicide. Sufficient cogent evidence is placed on record in regard to the physical and mental cruelty meted out by the accused to the deceased. Thefaparents had performed the marriage of their daughter by spending huge amount. In spite of

their advise to the accused not to make demand for RS.1,00,000/- he did not stop. Deceased had told her parents about the persistent demand made by the accused to bring Rs. 1,00,000/- from her parental house. The father had even told his daughter that it was difficult to pool money as she had already spent sufficiently for her marriage. That is also evident from the fact that sufficient customary presentations had been given to the accused. There is overwhelming evidence in regard to the cruelty meted out to the deceased from the time of marriage till her death. Therefore, consequent suicide of the deceased was pursuant to the persistent demand for dowry.

46. There need not be any prior agreement at the time of marriage to pay dowry in terms of cash or kind. It may arise even after marriage and that is what is held in the case of RAJINDRA SINGH (supra). In this view of the matter. The demand made by the accused for Rs.1,00,000/- from his wife would amount to demand for dowry and the suicide committed by the deceased was because of the torture meted out to her in connection with dowry to be punishable under Section 304B, I.P.C. and Section 4 of the Dowry prohibition Act. Hence, point nos.(2) to (4) are answered in the affirmative.

47. No infirmity or perversity is found in the overall assessment of the evidence done by the trial court. In fact it has adopted right approach to the real state of affairs to raise statutory presumption available under Section 113B of the Evidence Act to convict the accused for the offence punishable under Section 304B, I.P.C. Hence the judgment of conviction and sentence for the offences punishable under Sections 498A and 304B, I.P.C. is confirmed.

Hence, to hear regarding sentencing on point no.(5).

ORDER ON SENTENCE:

48. Heard the learned counsel for the appellant and the learned High court Government pleader, as regards imposition of sentence.

49. Sri. G. Suresh, learned counsel appearing for the appellant, placing reliance on the decision of the Apex Court rendered in the case of G.V. siddaramesh-Vs.

State of Karnataka (2010) 2 Supreme Court Cases (Cri) 19, vehemently contended that the accused appellant is aged 31 years and therefore, leniency be shown while awarding sentence.

50. In paragraph-30 of the said decision, Hon'ble Apex Court has held that the conviction in respect of the offence punishable under Section 304B will be essentially based on the presumption available under Section 113 (B) of the Evidence Act and therefore, imprisonment for life should be used in rare case and not in every case and consequently, the sentence of imprisonment for life reduced to 10 years. Furthermore, the learned counsel placed reliance on a Division Bench decision of this Court, rendered in the case of Sachin-Vs. State of Karnataka (Kar.L.J. 2014-5-191). It was a case in regard to the offence punishable under Section-498A, 304B and 306 of IPC. In the said case also, sentence of imprisonment of life is reduced to 10 years. In the case of Hari Om-Vs-State of Haryana and another (2014) 10 SCC 577, the Apex Court, while reducing the sentence of imprisonment for life to 10 years imprisonment has relied on the decision rendered in the case of G.V.Siddarama's case referred supra for such reduction of imprisonment.

51. On the other hand, Shri. ChetanDesai, learned High Court Government Pleader, placing reliance on the decision of the Apex Court rendered in the case of Raja Bala Vs State of Haryana and Others (Crl.A. Nos. 1049-1050/2015 disposed on 18.08.2015, in regard to the principle to be kept in mind while imposing sentence. He has argued that the trial Court is justified in imposing sentence of imprisonment for 12 years and the same does not call for interference. In the said case, relying upon the earlier decision in the case of Gopal Singh Vs. State of Uttarakhand (2013) 7 SCC 545, the Hon'ble Apex Court, held as follows:

Just punishment is the collective cry of the society. While the collective cry has to be kept uppermost in the mind, simultaneously the principle of proportionality between the crime and punishment cannot be totally brushed aside. The Principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the Judge but the same has to be

guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, the factum of age, the potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect-propensity to become a social threat or nuisance, and some times lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability between the parties and attractability of the doctrine of bringing the convict to the value-based social mainstream may be the guiding factors. Needless to emphasize, these are certain illustrative aspects put forth in a condensed manner. We may hasten to add that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalized judicial discretion. Neither the personal perception of a Judge nor self-adhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a Court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which we have indicated hereinbefore and also have been stated in a number of pronouncements by this Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment ?.

52. In the case on hand, the deceased Nandini had marital life for only two months with the accused appellant after her marriage. The evidence placed on record amply discloses that she was constantly harassed by her husband on one pretext or the other, demanding additional dowry amount soon before her death. In view of the dictum of the Apex Court in the cases cited Supra, this court is of the considered view that the sentence of imprisonment imposed on the accused-appellant is liable to be reduced to 10 years only and not beyond that. Hence, the following:

ORDER

53. In modification of the order of sentence dated 06.05.2010, passed by the first Additional Sessions Judge, D.K. Mangaluru in S.C. No. 125/2007. and the sentence of 12 years rigorous imprisonment imposed on the accused-appellant for the offence punishable under Section-304B is reduced from 12 years to 10 (ten) years. However, the sentence of imprisonment and quantum of fine imposed by the Court below in respect of other two counts remain un-altered.

54. It is made clear that all the sentence imposed on the appellant shall run concurrently and he is entitled to have the benefit of set off as contemplated under Section- 428 of the Code of Criminal Procedure.

Registry to send the altered conviction warrant to the jail authorities at the earliest.

55. The learned judge of the trial Court has imposed fine of 10,000/- each for the offences punishable U/S. 498-A IPC and Section-4 of the Dowry Prohibition Act, and no sentence of fine is imposed in regard to the offence punishable under Section-304B IPC. Further, out of total fine of Rs.20,000/- a sum of Rs. 15,000/- is directed to be paid as compensation to PWs.1 and 2, who are the parents of the deceased Nandini and the remaining sum of Rs. 5,000/- to the State.

56. In this regard, the provisions of Section 357 of the Code of Criminal procedure, which has five sub-sections will have to be considered in right perspective. Sub-section(1) of Section 357 of Cr.P.C. enables the Court to impose fine and out of fine so imposed, a portion of the same could be awarded as compensation to be paid to the victim. Sub-section (3) of Section-357 of Cr.P.C reads thus:

(3) When a Court imposes a sentence, of which fine does not form a part, the court may, when passing judgment order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been sentenced ?.

57. On a plain reading of the entire provisions of Section-357 of Cr.P.C., it is evident that the Court is empowered to award compensation only when the fine is imposed as sentence. The provisions of Section-357A of the Code of Criminal

procedure which has come into force with effect from 31.12.2009, by virtue of Act 5 of 2009 enables the Court to award compensation even where the cases end in acquittal or discharge. It is just and relevant to reproduce the entire Section-357A which consists six sub-sections:

357A. Victim compensation scheme-

(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section(1).

(3) If the Trial Court, at the conclusion of the trial, is satisfied that the compensation awarded under section 357 is not adequate for such rehabilitation or where the cases end in acquittal or discharge and the Victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependants may make an application to the state or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the state or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) 96) The State or the District Legal services Authority, as the case may order alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit. ?

58. In Ankush Shivaji Gaikwad “Vs- State of Maharashtra (2013) 6 SCC 770, the Hon'ble Apex Court has reviewed the entire case law relating to the payment of compensation and relevant discussion is found at page-785-791 and 797. In the said case, in paragraph-33, the Hon'ble Apex Court has observed as follows:

33. The long line of judicial pronouncements of this Court recognized in no uncertain terms a paradigm shift in the approach towards victims of crimes who were held entitled to reparation, restitution or compensation for loss or injury suffered by them. This shift from retribution to restitution began in the mid-1960s and gained momentum in the decades that followed. Interestingly the clock appears to have come full circle by the lawmakers and courts going back in a great measure to what was in ancient times common place. Harvard Law Review (1984) in an article on Victim Restitution in Criminal Law Process: a Procedural Analysis sums up the historical perspective of the concept of restitution in the following words:

Far from being novel approach to sentencing restitution has been employed as a punitive sanction throughout history. In ancient societies, before the conceptual separation of civil and criminal law it was standard practice to require an offender to reimburse the victim or his family for any loss caused by the offense. The primary purpose of such restitution was not to compensate the victim but to protect the offender from violent retaliation by the victim or the community. It was a means by which the offender could buy back the peace he had broken. As the State gradually established a monopoly over the institution of punishment, and a division between civil and criminal law emerged, the victim's right to compensation was incorporated into civil law. ?

59. The newly introduced provisions of Section-375A casts a responsibility on the State Governments to formulate schemes for compensating the victims of crime by the State Government, in coordination with the Central Government. Under the new Section 357A, the onus is put on the District Legal Services Authority or the State Legal Services Authority to determine the quantum of compensation in each case. The Government of Karnataka has formulated the scheme and the same was notified in the Gazette, published by the Home Secretariat on 22.02.2012 vide

Notification No. HD 1 PCB 2011, providing for compensation to victims of various crimes.

60. Relying on the decision rendered in Ankush's case, in the case of Suresh and another “Vs- State of Haryana, (2015) 2 Supreme Court Cases 227, the Hon'ble Apex Court has held that even interim compensation will have to be paid and rehabilitation of the victim will have to be made by the government by providing adequacy of upper limit of compensation. Taking judicial note of the fact that 25 out of 29 States have notified victim compensation schemes, the award of compensation has not become a rule in terms of the provisions of Section 357A of Cr.PC., direction is issued by the Apex Court to the effect that pending consideration of upward revision of compensation scales, scale notified by the State of Kerala in its scheme, unless the scale awarded by any other State is higher, is to be adopted by all States and those States who have not formulated the scheme have been directed to formulate and notify their schemes within one month from the receipt of a copy of the Order. It is further directed that the copy of the Judgment be forwarded to National Judicial Academy to sensitize all the judicial officers in the Country relating to awarding of compensation under Section-357 and 357A of Cr.P.C.

61. As per the facts of the said case, a direction has been given to the Haryana State Legal Services Authority to provide interim compensation of Rs.10,00,000/- to the family of the victim within one month from the date of receipt of copy of said judgment.

62. The primary object of the provisions of Section-357A of the Code of Criminal Procedure is to enable the Court to direct the State to pay the compensation to the victim wherem the compensation awarded under Section-357 Cr.PC. is inadequate irrespective of the fact that the case ended in acquittal or discharge and where the victim is required to be rehabilitated. The provisions of Section-357A have been incorporated into the Code of Criminal Procedure, on the recommendation of the 154th report of the Law Commission headed by Dr. Justice V.S. Malimath.

63. In the schedule appended to the notification dated 22.02.2012 issued by the Home Department (Crimes), a sum of Rs.2,00,000/- could be awarded as maximum compensation towards loss of life. The same has been increased to Rs.3,00,000/- by issuing another notification by the Home Department (Crimes), Government of Karnataka in HDI. PCB 2011 Dated. 19.09.2013. What is observed in the case of Suresh referred supra is that there must be uniformity in the matter of fixing compensation in terms of the provisions of Section-357A of Cr.P.C., between States and there shall not be arbitrariness in awarding compensation. Direction is also issued to all the States to formulate the appropriate scheme, adopting the scheme notified by the State of Kerala, unless the scale awarded by any other States is higher.

64. The decision rendered by the Apex Court in the case of Suresh referred supra is a binding precedent under Article-21 of the Constitution of India for all the Courts, authorities concerned and therefore, this Court expects that the State of Karnataka would make its endeavor to comply with the obligation caused upon it in the above case.

65. There will be nobody to make a request for awarding suitable compensation on behalf of the victims of the crimes or kith and kin of the deceased/victim. Under such circumstances, all the criminal Courts in the district judiciary are expected to take into account the dictum of the Hon'ble Apex Court rendered in Ankush Shivaji Gaikwad "Vs- State of Maharashtra (2013) 6 SCC 770, and in Suresh and another "Vs- State of Haryana, (2015) 2 Supreme Court Cases 227, even where the cases ends in acquittal or discharge. The obligation caused upon the criminal Courts under Section-357 is a statutory obligation and its objects and meaning can be achieved only when the criminal Courts award requisite compensation as per the notification issued by the Government of Karnataka, Home Department (Crimes), without fail.

66. In this regard, this Court is of the considered opinion that all the public prosecutors, representing the department of prosecution in the criminal Courts in the State will have to make sincere efforts to request the Court to award suitable compensation not only in the cases where they end in conviction but also in the

cases where the criminal cases end in acquittal or discharge. In this regard, the Director of Prosecution and Government Litigation in Karnataka Bengaluru is directed to issue necessary circular imposing obligation on the part of all the Public Prosecutors working the State to make effective representation before the Courts to awarding suitable compensation not only in terms of Section-357 of Cr.P.C. but also in terms of Section-357A of Cr.P.C.

67. Similarly, the State Public Prosecutor and other law officers representing the State in the High Court shall also consider it as an obligation to make effective representation before this Court, in regard to the mandate of Section-357 and 357A of Cr.P.C.

68. Hence, The Karnataka State Legal Services Authority to take appropriate steps to award suitable compensation payable to PW.1 (Ravindra), the father of the victim/deceased Nandini, inasmuch as, he has spent sufficient money in connection with the marriage of his deceased daughter and consequential loss caused to him because of the untimely death of his daughter due to dowry demand.

69. The Registry is directed to spend the copy of this Judgment to:-

(i) The Principal Secretary, Law and Justice, Government of Karnataka to take up this issue with the Home Ministry for strict compliance of the directions issued by the Hon'ble Apex Court in the cases cited supra,

(ii) the Member Secretary, Karnataka State Legal Services Authority Siddaiah road, Bengaluru, in order to take up this issue with the Principle Secretary, department of home, government of Karnataka through the Principal Secretary to the government, department of Law and justice,

(iii) the Director of Prosecution and Government Litigations in Karnataka, Cauvery Bhavan, Bengaluru to issue necessary circulars, directing the public prosecutors working in all the criminal courts to make effective representation before the court, in the matter of awarding compensation under Sections-357 and 357A of the Code of Criminal Procedure,

(iv) the State Public Prosecutor attached to the High Court of Karnataka including the Dharwad and Kalaburgi benches.

(v) The Director, Karnataka Judicial Academy to sensitize the judicial officers in the District Judiciary about the mandate of Sections-357 and 357-A of the Code of Criminal Procedure.

Office is directed to furnish the copy of this Judgment to the accused-appellant, free of cost.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com