

**Dodda Pulla Reddy Vs. State**

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**Court :** Andhra Pradesh

**Decided On :** Dec-17-1998

**Reported in :** 1999(1)ALD551; 1999(1)ALT(Cri)318

**Judge :** Vaman Rao, J.

**Acts :** [Indian Penal Code \(IPC\), 1860](#) - Sections 302, 304-B and 498-A

**Appeal No. :** Crl. A. No. 564 of 1993

**Appellant :** Dodda Pulla Reddy

**Respondent :** State

**Advocate for Def. :** Public Prosecutor

**Advocate for Pet/Ap. :** Mr. C. Praveen Kumar, Adv.

**Judgement :**

1. This appeal is directed against the judgment dated 30-4-1993 in SC No.119 of 1991 on the file of Sessions Judge, Krishna Division at Machilipatnam, under which the appellant-accused has been convicted for the offence under Section 498-A of Indian Penal Code (IPC) while acquitting him of the charge under Section 302 IPC.

2. The facts relating to this appeal may be stated briefly as follows:

The deceased-Kumari is the daughter of PW No.2 and 3. She was married to the accused about 12 years back. At the time of marriage two acres of land was given to her towards Pasupu Kumkunta and she joined her husband. Since then, her husband, accused herein, started harassing her to force her to sell the land given to her and get the money. He sent her to her parents telling that she should not come back unless she get the money. She accordingly went to her parents and informed about the harassment and she was compelled to stay for considerable time in her parents house as her parents were not able to raise money. Ultimately, the land given to her towards Pasupu Kumkunta was sold for Rs.31,000/-. PW Nos.2 and 3 gave Rs.22,000/- to the deceased and she took that money to her husband. The accused kept quiet for some time but again started harassing and persecuting her to compel her to get the balance amount of Rs.9,000/-. She accordingly went to her parents and narrated the same. Then her parents sent her back on the promise that the balance of Rs.9,000/- would be paid to her within one month thereafter. But, in the meantime on 1-1-1991 the deceased died. PW12 informed PW Nos.2 and 3 about the death. Thereafter, PW Nos.2 and 3 and 1 and their relations went to the house of the accused and saw the dead body of the deceased. They had suspicion that her death was not natural. The accused had also left the house on seeing them. On the next day PW1 gave a report-Ex.P1 to the Police. After investigation a charge-sheet has been filed for the offence under Section 304-B IPC. However, the Magistrate seems to have taken cognizance of the case for the offence under Sections 498-A and 302 IPC. Charges were also framed by the Sessions Judge for the offence under Sections 498-A and 302 IPC.

3. In support of the case of the prosecution PWs. 1 to 15 were examined and Exs: P1 to P18 have been marked. The accused has not chosen to examine any defence evidence on his behalf.

4. The learned Judge while acquitting the accused for the charge under Section 302 IPC found him guilty for the offence under Section 498-A IPC and sentenced him as stated above.

5. The point for consideration is whether the prosecution has succeeded in bringing home the charge under Section 498-A against the accused and whether

the judgment under appeal can be sustained.

6. As stated above the accused has been acquitted of the charge under Section 302 IPC. The finding of the learned Sessions Judge in this regard is that the prosecution had not succeeded in proving that the death of the deceased was homicidal or unnatural. The doctor, PW8, in his evidence was unable to state that the death occurred due to any specific reason. There were no external injuries on the dead body and in post-mortem examination also nothing was detected to show that the death was homicidal. Thus, the doctor was unable to give any opinion as to cause of death. In these circumstances, as stated in para-51 of the judgment, the trial Court held that the prosecution has not succeeded in proving that the death was homicidal or unnatural. The trial Court therefore acquitted the accused for the offence under Section 302 IPC and also ruled out the offence under Section 304-B IPC having made out. The trial Court based this conclusion not only for the reason that there was no material to show that the death was unnatural but also on the ground that there was no definite evidence that the death occurred within seven years from the date of marriage. The trial Court however found the accused guilty for the offence under Section 498A IPC mainly on the basis of evidence of PWs. 1, 2, 3, 10 and 11. He has also mentioned about the evidence of PW4 who was declared hostile by the prosecution. PW4 has stated in his evidence that once he saw the quarrel between the deceased and her mother-in-law and intervening in the quarrel the accused had beaten the deceased. This does not seem to have anything to do with any demand for dowry and at any rate the stray incident of beating deposed to by PW4 cannot be considered of any consequence for making out the offence under Section 498-A IPC. The case of the prosecution must hinge on the evidence of PWs. 1, 2, 3, 10 and 11. In regard to PW.11, it may be stated that he has deposed as if he was an eye-witness to the murder itself. He made an attempt to show that when the deceased and the accused were in the room he heard some groaning cries of the deceased and he rushed to that place and found the deceased lying on the ground. He then further improved his version and stated that he actually saw the accused pressing the neck of the deceased. The trial Court disbelieved this version completely. The investigating agency did not get the version of this witness till three days after death. PW.11's explanation that after the incident he immediately went to his

uncle's house and came back three days later, was disbelieved by the trial Court. PW11 who could go to the extent of projecting himself as witness to the alleged incident of murder can scarcely be believed in respect of harassment of the deceased which he claims to have witnessed. PW1 is the uncle's son of the deceased, PWs.2 and 3 are the parents of the deceased and PW10 is the brother of PW3. It is in the evidence that on hearing the news of the death of the deceased PWs. 1, 2, 3 and 10 went to the house of the accused and saw the dead-body of the deceased. PW1 claims that he was aware of the background of harassment of the deceased at the hands of the accused, Even PW10, brother of the father of the deceased, was also aware of the things. But, strangely Ex:P1 FIR given to the Police does not contain even a whisper about any harassment of the deceased by the accused. There is not even a mention about the version that the accused insisted for sale of the land given to the deceased as Pasupu Kumkuma and that ultimately that land was sold and that the accused was given a part of the money and that he insisted for balance of the sale money. The omission is all the more significant inasmuch as Ex:P1 was not given immediately on the date of death of the deceased, but, admittedly it was given on the next day. There was scope for any amount of recalling and recollection and consultation before giving Ex:P1. In the absence of any hint of any harassment of the deceased by the accused in Ex:P1, the version of PWs. 1, 2, 3 and 10 for the first time in the Court that the deceased, was subjected to harassment in respect of sale of land given to the deceased as Pasupu Kumkuma does not appear worthy of belief. Ex:PI specifically mentions that the parents of the deceased and the first informant suspected foul play on the part of the accused. Once suspicion was raised against the accused, it would have been quite natural to recall all that the accused might have done in the past for engendering such suspicion. Further, the investigating agency, as admitted by PW14, has not attached any importance to the aspect of alleged sale of land of two acres given to the deceased as Pasupu Kumkuma. No effort has been made to verify the truth of the statement whether such land was in fact given and whether the land was in fact sold. Thus, apart from the interested version of PWs.1, 2, 3 and 10 there is not a scrap of evidence to show that PW3, father of the deceased, was under any pressure to sell the land in question and that it was in fact sold. Not even the alleged purchaser or any witness to the

transaction of the sale of that land has been examined. Considering these circumstances, the accused must be held to be entitled to the benefit of doubt.

7. In the result, the appeal is allowed and the appellant-accused is found not guilty of the offence under Section 498-A IPC and is accordingly acquitted of the said charge. His bail bonds shall stand discharged.

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