

D. Ramulu Vs. State of A.P.

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Court : Andhra Pradesh

Decided On : Dec-31-1998

Reported in : 1999(1)ALD554; 1999(1)ALT(Cri)612

Judge : Vaman Rao, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 340-B, 306 and 498-A; [Code of Criminal Procedure \(CrPC\), 1973](#) - Sections 161

Appeal No. : CrI. A. No. 526 of 1993

Appellant : D. Ramulu

Respondent : State of A.P.

Advocate for Def. : Public Prosecutor

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

Judgement :

1. This appeal is directed against the judgment dated 11-3-1993 rendered by the Sessions Judge, Karimnagar in SC No.146 of 1992 under which the appellant has been convicted for the offence under Section 304-B, 498-A and 306 of Indian Penal Code and was sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.100/- in default to suffer simple imprisonment for one month for the offence under Section 304-B of IPC; to undergo rigorous imprisonment for three years and to pay a fine of Rs. 100/- in default of undergo simple imprisonment for one month for the offence under Section 498-A of IPC; and rigorous imprisonment for three years and to pay a fine of Rs.100/- in default to undergo simple imprisonment for one month for the offence under Section 306 of IPC.

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

The deceased Veeramma was married to the accused about three years prior to her death which occurred on 26-2-1991. The deceased had a son by name Santosh who is the second deceased in this case. For about one year prior to her death, the accused was ill-treating the deceased wife-Veeramma to extract more dowry. PW1, Gade Veeraiah, at the suggestion of PW2-Pasida Sankaraiah gave his daughter Veeramma (deceased No. 1) in marriage to the accused. The marriage was accordingly performed about four years back. At the time of marriage, a sum of Rs.10,000/- was paid towards dowry. The deceased joined the accused and they were blessed with son by name Santosh (deceased No.2) after about one year of the marriage. The deceased (sic accused) was resident of Kummarikunta village but at the time of marriage he was living at Kisansagar for the last seven years prior to marriage as he came down there after quarreling with his parents. He was living as a tenant in the house of Lachamma (PW6). At the time of marriage, the mother of the accused promised to take back the accused to their house in Kummarikunta and settle him in cultivation as the family possessed four acres of wet land and four acres of dry land. But, the accused continued to live at Kisansagar and do cooly

work. When questioned as to why he was not going to his native village and attend to cultivation, the accused took the land of one Akula Mallareddy in Bommakal village on lease and started to cultivate the same.

3. After about an year after marriage, the accused started to demand Rs.5,000/-more as dowry and he requested PW2 who is the husband of the second daughter of PW1 Kamala (PW3), PW2 pleaded his inability to persuade PW1 to pay the amount which the accused said was for meeting cultivation expenses. As the amount was not paid. A] was harassing his wife (deceased) to bring Rs.5,000/- from her father. The deceased Veeramma had been informing PWs.1 to 3 about the conduct of the accused.

4. It is in the evidence of PW1 that he took his daughter to his house about four or five days before Sankranti festival. Thereafter, she refused to go back to the accused and told that she would go to the accused only if he (PW1) gave Rs.5,000/-and she stayed with him for about a month. It is stated that about four or five days after Sankranti festival, the accused went to the house of PW1 to take back the deceased. PW1 secured the presence of PW4 and other elders and narrated the problem relating to the deceased.

According to PW4, himself and other elders questioned the accused as to why he was beating the deceased and that they advised him that PW1 was not in a position to give additional dowry of Rs.5,000/-and that he would pay something after Deepavali festival and they advised the accused to take back his wife and accordingly the accused took away the deceased to his house. Two months thereafter, PW2 came to his house and informed at about 3.00 a.m. that the deceased Nos.1 and 2 i.e., Veeramma and Santosh fell into a well and died.

5. For bringing home the charge under Section 304-B of IPC, the prosecution is required to prove the following:

(i) that the deceased died within seven years of her marriage,

(ii) that the death of the deceased was due to burns or under any other unnatural circumstances;

(iii)that soon before her death, the deceased was subjected to cruelty or harassment by her husband or any relative of her husband or in connection with any demand for dowry.

For making out an offence under Section 498-A of IPC, the prosecution is required to prove the following:

(i) that the husband or the relatives of the husband of a woman subjected such woman to crueltyCruelty is defined as:

(a) any wilful conduct which is of such a nature as likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

6. In this case, there is no dispute that the deceased died within 7 years of her marriage. There is also no controversy and at any rate it is proved by abundance of evidence including the evidence of the Medical Officer, PW9 who conducted postmortem examination of the deceased that the deceased died under unnatural circumstances, namely, by asphyxia due to drowning.

7. The only question is, whether soon before her death, the deceased was subjected to harassment and cruelty as contemplated under Section 498-A of IPC. There is no material to show that harassment and cruelty was of such a nature as to bring it within the purview of explanation (a) of Section 498-A of IPC. The prosecution obviously relies on explanation (b) of Section 498-A of IPC. The evidence of PW1, PW2, PW3, PW4, PW5 and PW6 is pertinent on this question.

8. PW1 in his evidence specifically mentioned that some time after the birth of the son, the accused started demanding the deceased to bring more money from him. According to him, he was abusing and beating her. It is in the evidence of PW1 that the deceased visited him on four or five occasions between the birth of a child and her death and on those occasions, she told that the accused was pressurising her for money. He told her that he was not in a position to arrange the money. PW1 specifically refers to the circumstance that after the deceased was brought to his house few days before Sankranti, she told him that she would not go to house of the accused unless a sum of Rs.5,000/- was paid. She stayed in his house for some time. After four or five days after Sankranti festival, the accused went to his house and at that time he called the elders of the village, namely, PW4 and others to advise the accused as stated above. This version of PW1 finds corroboration from the evidence of PW4 who is said to be one of the elders. It is stated by PW4 that he questioned the accused why he was beating the deceased and he advised that PW1 was not in a position to pay the huge amount and that he would pay some amount after Ugadi. Thus, he persuaded the accused to take the deceased with him. PW2, another son-in-law of PW 1, was also stated to be present on that occasion and he seeks to corroborate the evidence of PW1 and PW4. The complaint given by PW1 in Ex.P1 mentions broadly that since about an year the accused was asking the deceased to get more dowry and was teasing her. It also mentions about PW1 arranging panchayat. It is significant to note that there is no specific mention as to in what manner the accused used to harass PW1 and as to what was the nature of cruel treatment to which the deceased was subjected to.

9. A perusal of the evidence of PW1 would show that on important aspects his evidence constitutes improvement inasmuch as it does not find mention in his statement given to the police. For instance, there is omission to state by him that the deceased went to his house about a month before Sankranti. In fact, the version of PW1 appears contradictory. According to him, the deceased went to his house four or five days before Sankranti and four or five days after Sankranti, the accused came to his house and took her away on the advice of the elders. In that case, his (PW1's) statement that the deceased lived in his house for a month is contradictory to the above statement. Even Ex.P1 does not mention the fact that the deceased went to the house of PW1 for Sankranti. Though there is a mention of PW1 arranging Panchayat of village elders, but what is stated in Ex.P1 is that the elders convinced the accused saying that he will meet his demands after Ugadi. But, the version given by PW I is that the village elders only told the accused that PW1 would give some amount after Ugadi and that he should take his wife and son. This is also what PW4 states in his evidence. This version goes contrary to Ex.P1 in which PW1 is said to have promised to give the entire amount demanded by the accused.

10. In his evidence in chief, PW1 specifically stated that between the birth of her child and her death the deceased visited him on about four or five occasions and told him that the accused was pressurising her for money. It is significant to note that he refers only to 'pressurising' but not to any harassment or cruel treatment. At any rate, even this version is contradicted by him in his cross-examination when he says that since about an year after birth of child and before the death of her daughter, herself and the accused have been quarrelling about the money but his daughter did not tell him about it and that he learned about it from others. According to him, he obtained personal knowledge of the demand of the accused for payment of additional dowry only four or five days after Dasara. In Ex.P1 there is no mention of specific amount as having been demanded by the accused. It mentions that the accused demanded some more dowry.

11. PW2 is the second son-in-law of PW1. Almost even- statement that he made incriminating the accused is an improvement over previous version given to the police. In his examination in chief, PW2 stated that the accused asked him personally in the first instance and thereafter through his brothers-in-law to convince PW1 to give additional dowry of Rs.5,000/-. PW2 admits that this aspect has been omitted by him in his statement to the police. PW2's statement that the deceased used to come to his house during the absence of the accused and inform him that the accused has been abusing her and beating her in connection with the demand to bring Rs.5,000/- more as dowry is also an improvement inasmuch as he omitted to mention this in his statement given to the police earlier as admitted by him. PW2 in his evidence stated that from time to time

he has bccii conveying the complaints made to him by the deceased through a resident of Cheemalakuntla Palli who visited Karimnagar to PW1 is again an improvement from his 161 Cr PC statement. PW2 further stated that once he chastised the accused for demanding additional dowry and for harassing his wife and that the accused questioned his competence to chastise him. This again has been omitted by PW2 in his earlier version given to the police as admitted by him. In his chief-examination, PW2 stated that for the purpose of panchayat he secured the presence of two elders, namely, Laxmaiah and Ramaiah. In his cross-examination he denies that he secured their presence and stated that it was PW1 himself who secured their presence.

12. PW3 is the wife of PW2. According to her, the deceased told her that the accused has been harassing her to bring additional dowry of Rs.5,000/-. This was after the birth of son to the deceased. She also told that the deceased complained to her that the accused was beating her and abusing her. This, as admitted by her, was omitted in her statement to the police. Thus, on all crucial aspects her version given in the Court is improvement over her earlier version.

13. Coming to the evidence of PW4, in his evidence in the Court he stated that when PW1 complained to him about the harassment of the deceased by the accused, they sent word to PW1 to bring the accused to the village and that PW2 brought the accused on the third day. But, PW4 in his earlier statement to the police under Section 161 of Cr PC stated that it was the other elder i.e., Ramaiah who went to Karimnagar and brought the accused to Cheemalakunta Palli as found in the relevant statement in Ex.D3. Even in regard to PW4's statement that they asked PW2 to bring the accused, it was omitted by him in his earlier statement to the police.

14. Considering the various improvements made by these witnesses on crucial aspects which incriminate the accused, it appears unsafe to rely upon their evidence. It may be mentioned that PW6, in whose house the accused and the deceased were living before the death of the deceased, has not supported the prosecution version. He has categorically stated that there was no quarrel between the deceased and the accused.

15. Taking into consideration the totality of the circumstances, I am inclined to hold that the prosecution failed to prove beyond reasonable doubt that the deceased was subjected to harassment and cruelty by the accused soon before her death as contemplated under Section 304-B and that she was subjected to cruelty as required under Section 498-A of the IPC. For the same reasons, the offence under Section 306 of IPC has also not been established.

16. In the result, the appeal is allowed. The conviction and sentence imposed on the accused for the offences under Sections 304-B, 498-A and 306 of IPC are set aside and the accused are acquitted of the said charges. Their bail bonds shall stand discharged.

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