

K. Vijay Kumar Vs. State of A.P. Represented by Public Prosecutor

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SooperKanoon Citation : sooperkanoon.com/441620

Court : Andhra Pradesh

Decided On : Sep-10-2004

Reported in : 2005(1)ALD(Cri)207; 2005CriLJ456; I(2005)DMC720

Judge : P.S. Narayana, J.

Acts : Indian Penal Code (IPC) - Sections 304B, 306 and 498A; Code of Criminal Procedure (CrPC) - Sections 174

Appeal No. : Criminal Appeal No. 873 of 1997

Appellant : K. Vijay Kumar

Respondent : State of A.P. Represented by Public Prosecutor

Advocate for Def. : Additional Public Prosecutor

Advocate for Pet/Ap. : Padmanabha Reddy, Adv.

Disposition : Appeal allowed

Judgement :

P.S. Narayana, J.

1. Heard Sri Padmanabha Reddy, Senior Counsel representing the appellant-accused and Sri Mohd. Osman Shaheed, Additional Public Prosecutor.

2. The sole accused in Sessions Case No.369 of 1993 on the file of the Sessions Judge, Anantapur, aggrieved by the conviction and sentence imposed under Section 498-A and 304-B of the Indian Penal Code (IPC), on 10.7.1997, had preferred the present appeal.

3. The learned Senior Counsel Sri Padmanabha Reddy had drawn the attention of this Court to Exs.D1 to D3 and would contend that what had been recorded by the M.R.O at the time of the inquest, Exs.D1 and D2 and also Ex.D-3 letter of the deceased, would clearly go to show that the version of the prosecution definitely cannot be believed. The learned Counsel would submit that however, so far as it relates to the charge under Section 306 IPC is concerned, the appellant-accused was found not guilty by the learned Judge. The learned Senior Counsel also pointed out that P.W.1 at the first instance had not deposed anything about the harassment, but after being recalled, no doubt, he added some improved versions and this may have to be viewed with suspicion. The learned Counsel also would contend that the evidence of P.Ws.1, 8 and also P.W.3, if carefully scrutinized, there is no legally acceptable evidence placed before the Court. The learned Counsel also had drawn the attention of this Court to Ex.P-9 and would contend that the said complaint was made by the accused-K. Vijay Kumar only on what he came to know about the happening of the incident and hence, on the ground that some false version had been incorporated in Ex.P-9, the conviction cannot be recorded and hence, the conviction and the sentence are liable to be set aside. The learned Counsel also had stressed the aspect that except the later improved version, at the earliest point of time or subsequent thereto, even at the time of the inquest, no harassment was spoken to and in this view of the matter, the appellant-accused definitely is entitled to the benefit of doubt.

4. Per contra, the learned Additional Public Prosecutor would submit that there is the evidence of P.Ws 1 and 8 and the evidence is clear and categorical, and that though the sufficient evidence available on record may be doubted in relation to Section 304-B IPC, especially in the light of the acquittal recorded as far as the charge under Section 306 IPC is concerned, definitely the material available would be sufficient to sustain the conviction under Section 498-A IPC. The learned Additional Public Prosecutor had drawn the attention of this Court to the material

portion of the evidence of P.Ws.1 and 8 in this regard.

5. The graveman of the charge against the appellant-accused is that he used to ill-treat his wife K. Nirmala, subjecting her to cruelty to meet his unlawful demands. It is also the case of the prosecution that on 2nd October, 1992 at about 10.50 am., in the house of the accused at Guntakal, Nirmala (hereinafter referred to as deceased for the purpose of convenience) committed suicide by setting herself on fire. The accused is a resident of Guntakal. P.W.1 is the father of the deceased and he was working as a clerk in Rayalaseema Spinning Mills, Adoni. The deceased was his eldest daughter. P.W.2 is a Kalasi in South Central Railway, Guntakal and his house is situated two houses before that of the accused. P.W.3 at the relevant point of time was residing in the out-house of the quarters of the father of the accused. P.W.4 is the mediator for the scene of offence panchanama(Ex.P-4) and the recoveries of M.Os 1 to 4. P.W.5 is the Village Administrative Officer of Thimmanacharla of Tuntakal Mandal, who attested Ex.P-5 inquest report. P.W.6- doctor conducted the post-mortem examination and issued Ex.P-6. P.W.7 is the Mandal Revenue Officer who held inquest over the dead body of the deceased and Ex.P-5 is the inquest report. P.W.8 is the younger sister of the deceased. P.W.9 is the Sub-Inspector of Police who altered the section of law from Section 174 Cr.P.C. to 304-B IPC. P.W.10 is the S.I. of Police who registered Ex.P-9 as Crime No.81 of 1992, under Section 174 Cr.P.C. P.W.11 is the photographer. P.Ws 12 and 13 are the investigating Officers.

6. The case of the prosecution is that the marriage between the deceased and the accused was celebrated in the month of April, 1992. At the time of marriage, the accused was running an audio cassette shop at Guntakal. The father of the accused was working as Assistant Mechanical Engineer, Loco Shed, Guntakal. At the time of marriage, an amount of Rs.15,000/- cash along with other house-hold articles were given. After the marriage, the deceased joined the accused at Guntakal. Three months after the marriage, there were misunderstandings between the accused and the deceased with regard to money matters. It is the version of the prosecution that the accused demanded an amount of Rs.15,000/- for securing a job for him in railways. P.W.1 paid the same. About 15 days prior to the incident, the accused and the deceased came to the house of P.W.1 at Adoni

and at that time, P.W.1 was informed by the accused that the deceased was vomiting. Then, P.W.1 took her to doctor Vijayalakshmi and she advised the deceased to stay at Adoni for a week and take treatment. On the next day, the accused went away. During her stay at Adoni, the deceased informed P.W.1 that the accused was demanding Rs.10,000/- for improving his cassette business. Then, P.W.1 informed the deceased that he already paid Rs.15,000/-, and that he would pay the amount after 5 months i.e., at the time of sreemantham. Later, the deceased went to Guntakal. On 30.9.1992, P.W.8-sister of the deceased went to Guntakal. At that time, the deceased informed her about the demand of Rs.10,000/- by the accused. On 1.10.1992, P.W.8 returned to Adoni and informed P.W.1 about the demand. P.W.1 said that he would go to Guntakal on 2.10.1992. On 2.10.1992, P.W.3 witnessed the deceased closing the doors of the kitchen and bath-room after sending the accused to his shop. After 10 minutes, P.W.3 noticed smoke coming from the kitchen and then, she knocked the door, but there was no response. She heard the cries of the deceased. Then P.W.3 raised cries. P.W.2 came there. P.W.3 gave a small crowbar and P.W.2 could break open the two planks of the door and P.W.3 noticed the deceased burning and smoke was coming out. Meanwhile, the fire station people came and extinguished the fire. At about 11.00 a.m., one person who is the son of Paul Jaya Rao came and informed the accused about the incident. Immediately, he went there and found smoke coming out. When he enquired, the neighbours informed that the gas-cylinder exploded. On 2.10.1992, P.W.1 received a telegram from one Jagdish from Guntakal stating that the deceased was serious. Immediately, he proceeded to Guntakal and found the dead body of the deceased with burns. He also found that the left leg was cut off. By the time P.W.1 reached, the accused was present and when questioned, he informed that the deceased sustained injuries due to gas explosion while cooking. But P.W.1 noticed the utensils and samans were intact and there were no signs of explosion. By the time P.W.1 reached the house of the accused, a police constable from I town police station, Guntakal was present. The constable asked P.W.1 to give a report. But P.W.1 did not give any report. On the other hand, he telephoned to one R.M. Maregoud, an Advocate at Adoni. At about 3.00 p.m., on 2.10.1992, the accused went to I town Police Station, Guntakal and gave a written report (Ex.P-9) to P.W.10-A.S.I and he registered the same as a

case in Crime No.81 of 1992 under Section 174 Cr.P.C. and issued Ex.P-1 express F.I.R to all the concerned. On 3.10.1992, P.W.7-Mandal Revenue officer, Guntakal, on a requisition from the police, held inquest over the dead body of the deceased between 9. 45 a.m., and 11.45 a.m. and recorded the statements of P.Ws 1,3 and 8 and others. Ex.P-5 is the inquest report. P.W.5-VAO attested the inquest report. On 3.10.1992, P.W.6-Medical Officer, Government Hospital, Guntakal, conducted autopsy over the dead body of the deceased at 1.30 p.m. and found burns on the deceased and issued Ex.P-6 post-mortem certificate. According to the doctor, the death was due to extensive burns. On 10.10.1992, at about 8.30 p.m. P.W.9-S.I of police, I town P.S., Guntakal, received a statement of P.W.1, recorded by the M.R.O. along with the inquest report, and then he altered the section of law from Section 174 Cr.P.C. to Section 304-B IPC. Ex.P-8 is the altered F.I.R. On 11.10.1992, P.W.12-Inspector of police took up investigation and visited the scene of offence and prepared Ex.P-4-observation report and Ex.P-13-rough sketch. On the same day, he examined all the witnesses. On 14.10.1992, P.W.12 arrested the accused. After completing the investigation, P.W.13 laid the charge sheet.

7. In support of the case of the prosecution P.Ws 1 to 13 were examined and Exs.P-1 to 16 and M.Os 1 to 4 were marked. On behalf of the defence, documents Exs.D-1 to D-8 were marked.

8. The defence of the appellant-accused was one of total denial. The learned Judge recorded the reasons in detail and placed reliance on the evidence of P.Ws 1, 3 and 8 and also taking into consideration the contents of Ex.P-9, had entertained a serious doubt about the bona fides of the accused, and ultimately, arrived at a conclusion that though the appellant-accused is entitled to acquittal for the offence under Section 306 of the Indian Penal Code, he is liable to be convicted and sentenced under both Sections 498-A and 304-B IPC. Hence, the present criminal appeal.

9. The charges which had been framed as against the appellant-accused are as hereunder:

Firstly:- That you accused during the stay of your wife K. Nirmala with you, subjected her to cruelty by ill-treating her with an intention to coerce her parents to meet an unlawful demand of additional dowry and you thereby committed an offence punishable under Section 498-A of the Indian Penal Code and within my cognizance.

Secondly- That you on 2.10.1992 at 10.50 a.m. Aravindanagar in railway quarters, Guntakal caused the death of your wife K. Nirmala within seven years from the date of her marriage, before her death by subjecting her to cruelty in connection with the demand of additional dowry and thereby committed an offence of dowry death punishable under Section 304-B of the Indian Penal Code and within my cognizance.

Lastly- That you on the same day and place and the course of same transaction referred to in charge No.2 abetted your wife K. Nirmala to commit suicide by forcing her to pour kerosene on her person and got her self-immolated and thereby committed an offence punishable under Section 306 of the Indian Penal Code and within my cognizance.

10. It is no doubt true that the learned Judge made some comment relating to the reason, which had been given by the accused in Ex.P-1. But it is pertinent to note that Ex.P-9 was given by the accused, on the strength of information furnished to him and on that ground, and viewing the same with grave suspicion, arriving at a conclusion that the guilt of the accused in relation to charges under Section 498-A and 304-B IPC had been proved, in the absence of any other legally acceptable evidence, may not be well justified. Apart from this aspect of the matter, the other evidence, which had been relied upon by the learned Judge, P.Ws.1, 3 and 8 may have to be carefully scrutinized in this regard.

11. P.W.1 is the father of the deceased and the father-in-law of the accused. This witness was examined on 25.3.1997. This witness was examined up to some extent. But however, he requested time, since he has come directly to the court, in addition the 2nd witness is sick and he filed a petition for adjournment and the case was adjourned to 26.3.1997. When P.W.1 was examined in chief on 25.3.1997, he deposed relating to the celebration of marriage and also the

negotiations that were agreed. He deposed that one week prior to the date of marriage, they delivered four toolas of gold in the shape of Thalibottu chain, cash of Rs.15,000/-, one steel almyrah, clothes, shoes, watch, wall clock etc. This witness also deposed that after the marriage, the accused and his deceased daughter set up their family at Guntakal and they were living with the parents of the accused in the same house and that after the marriage the accused and his daughter came from Guntakal to his house at Adoni, on three occasions, and that the deceased daughter died on 2.10.1992 at Guntakal and that he received a telegram as his daughter was serious and it was sent by one Jagadish of Guntakal and that after coming to the house of the accused, they noticed that her right leg was cut off and detached from the body and she had burns on her face, chest and abdomen, right buttock were completely burnt. He deposed that by the time they came, the body was stitched with palmyrah leaves, suspecting some poul play and as they had no known persons at Guntakal, they telephoned to Adoni and contacted their advocate by name R.M. Mare Gowd, and on his arrival only, panchnama was conducted and that Mr. Mare Gowd was also present at the time of panchanama and he was also present at the time of observation of the scene of offence. After P.W.1 was recalled on 26.3.1997, P.W.1 deposed in detail that three months after the marriage, the accused demanded him to pay a sum of Rs.15,000/- which has to be paid for securing a job in railways and he paid a sum of Rs.15,000/- to his son-in-law. This witness also deposed about accused informing him that the deceased was vomiting and requesting him to take her to a doctor and thereupon, taking accused and the deceased to the Doctor Vijaya Laxmi. He deposed that the doctor advised him to keep his daughter at Adoni to give treatment for about a week and that on the next day, the accused went away to Guntkal. It is also the further evidence of P.W.1 that he made enquiries about her welfare and his daughter informed him that his son-in-law is demanding a sum of Rs.10,000/- for improving his business in Cassettes and that she further informed that the accused was pressing her to get that amount of Rs.10,000/- and that P.W.1 informed the deceased that since he had already paid Rs.15,000/- he could not adjust that amount but however, he assured her that he would pay the amount after five months i.e., at the time of Sreemantham. This witness further deposed that his second daughter who was examined as P.W.8 went to Guntakal

on 30.9.1992 and this witness further deposed that the deceased informed P.W.8 that her husband was pressing for getting the amount of Rs.10,000/- and she sent word through P.W.8 to P.W.1 to send the amount at an early date and she also informed her that she was being harassed and the same was informed him. This witness also deposed that when he was preparing to go to Guntakal on the evening of 2.10.1992, after preparing sweets to her, he received a telegram on that day at 2.30 p.m. as Nirmala serious, start immediately and then, himself, his wife and P.W.8 had gone to Guntakal, and when they entered the house, the accused informed that the deceased sustained burn injuries due to gas explosion while she was cooking, and the accused took him and showed the scene and himself, his wife and P.W.8 had seen the scene of incident and they noticed that all the utensils and the saman were intact and there was no signs of explosion of either gas stove or gas cylinder and there were no smoke on the walls or floor. He further deposed that by the time they went to the house of the accused, police constable of I Town P.S. Guntakal was there and the Constable asked P.W.1 to give a report as his daughter died and on seeing the incident, they had not given any complaint to the police and he stated that they did not know as to what to do and on what basis they have to give report and they were in grief and they were weeping, and that on the next day Mandal Revenue Officer held inquest and he was examined by the M.R.O and Ex.P-1 is the statement recorded by M.R.O. He further deposed that the M.R.O. sent for a photographer of Guntakal and after ten days P.W.1 was examined by the C.I. of police, Guntakal and he was present at the time of the inquest and after post-mortem examination, the dead body was handed over to him. This witness was cross-examination at length.

12. The episode in relation to one Sreenivas, a watch repairer had been put to this witness and this witness also deposed that he belongs to T.N.T.U.C. while he was working in the mill, and at that time Mare Gowd was their Union President and no doubt, he deposed that he does not know whether the Mare Gowd was a factionist and he was involved in number of cases. But however, this witness deposed that Mare Gowd came to safeguard their interest and the M.R.O. recorded the statements in the presence of all the persons and recorded what all happened, in the inquest report. This witness also deposed that he sent petitions to higher authorities alleging that the accused and his parents burnt the deceased and

murdered her and he had given statement before the M.R.O. It is true that he filed a petition before C.B.C.I.D. stating that the parents of the accused murdered his daughter and requested the prosecution to include them as accused. He deposed that signature shown to him is that of his and the handwriting and signature in Ex.D-1 had been put to this witness. The witness admitted and again denied and the witness again was confronted with another document Ex.D-2 and he admitted the handwriting but had denied the signature of M.N. Indira-2nd daughter (P.W.8). This witness also deposed that he had read the inquest report and the contents in the inquest report are correct. This witness further deposed that the handwriting shown in the letter is that of his deceased daughter which is marked as Ex.D-3, and that after marriage he had written some letters to the father of the accused and he did not mention any facts with regard to the demand of Rs.10,000/- in his letters. This witness also was further elaborately cross-examined. This witness further deposed that he had been writing letters to Indira while she was studying at Tirupathi and he does not know whether he referred the welfare of the deceased Nirmala in those letters and his second daughter did not mention about the welfare of the deceased in her letters. He further deposed that P.W.8 does not know anything about the marital life of the deceased with the accused. P.W.1 no doubt deposed that he does not know that he stated before the Inspector, CBCID as in Ex.D4 and it is not true that he stated before the Inspector of police Guntakal as in Ex.D-5 and it is not true that he stated before the Inspector of Police, Guntakal that the accused demanded and paid a sum of Rs.10,000/- as in Ex.D-6. Several other suggestions were put to him were also denied by this witness.

13. P.W.2 who was working as Kalasi in South Central Railway, Guntakal simply deposed that he heard the cries and noticed smoke coming from the kitchen room and One Vajramma handed over a small crowbar and he tried to open the door, but he could not and when he bent the door, the bottom portion of the door was opened and the plank was broken, and through the opening of the door portion, he peeped inside the kitchen and he could see only the foot of a person and he cannot say whose foot it was. He further deposed that due to fear, he came away. This witness no doubt was declared as hostile witness and it was suggested to him that he had stated before the police as in Ex.P-2.

14. P.W.8 who is the sister of the deceased and the other daughter of P.W.1, is another witness and she deposed about the marriage and the other affairs of the family. She also deposed that she went to Guntakal and at that time, the accused was not in the house and her elder sister was there and that the deceased informed her that she was being harassed and they are demanding Rs.10,000/- cash and the deceased asked her to go and inform the same to her parents and unless the money is sent, something will be done and on coming to know of this thing, she returned to Adoni on 1.10.1992 and informed her father about this fact and requested her father to take a sum of Rs.10,000/- and her father informed that he would go on 2nd October, 1992 as it was a holiday and that on 2.10.1992, herself, her mother and father were getting ready to go to Guntakal and they were preparing sweets, at about 2.00 p.m., they received a telegram stating that her sister was serious and immediately, all of them left to Guntakal and went to the house of the accused. She deposed that by the time they went to the house of the accused, they noticed that her sister was burnt and she was dead, and this witness deposed that after a week, she was examined by the police and M.R.O. examined her in this case and the signature shown to her in the statement given by her to the M.R.O. is that of this witness. Ex.P-7 is the statement made by her before the M.R.O. This witness on the episode of her brother Srinivas and suicide of her sister had been elaborately cross-examined when she was in the witness box. No doubt, several other suggestions had been denied.

15. Apart from the evidence of P.Ws 1 and 8, the other evidence available on record is that of P.W.3. P.W.3 was not declared hostile and she had deposed that she was residing in the out house of the quarters of the father of the accused and the deceased died about 4 to 5 years ago and that on the date of the incident at about 9.30 a.m., after sending the accused to his shop, the deceased closed the doors of the kitchen and the bath room and after 10 minutes, she noticed smoke coming from the kitchen and when she tapped the doors, there was no response from inside, when she went to the sides of the room, she heard the cries of the deceased and she was crying due to burns. She also deposed that when she raised cries, the neighbours gathered and meanwhile P.W.2 came there and then she gave a small crow-bar to P.W.2 to break open the door and he could broke open two planks of the door. She deposed that when she peeped through the

broken planks of the door, she noticed the deceased was burning and smoke was coming out, meanwhile the fire engine came, water was sprayed into the kitchen room. She deposed that one of the legs of the deceased was severed and it was burnt. She deposed that she was examined by the Mandal Revenue Officer and she affixed her thumb mark on the statement-Ex.P3 and she was examined by the police. This witness was no doubt cross-examined. The evidence of P.W.3 is helpful to the version of the prosecution only to the limited extent of what actually transpired, just immediate to the incident on the fateful day.

16. Though P.W.2 was examined, he had supported the prosecution only to some extent, and ultimately, he was declared hostile. Findings at length had been recorded by the learned Judge, and acquittal had been recorded as far as the charge under Section 306 IPC is concerned.

17. P.W.4 attested the panchanama (Ex.P.4) along with Venkataramappa, and this witness also deposed about the seizure of M.Os 1 to 4.

18. P.W.5-Village Administrative Officer had attested the inquest report-Ex.P5. He deposed that during the course of inquest, the Mandal Revenue Officer examined P.W.1 and others and recorded their statements and panchayatdars opined that the deceased died due to burns. He deposed that the gas stove and the gas cylinder were intact and there was no explosion.

19. P.W.6-Medical Officer conducted post-mortem examination over the dead body of the deceased, and had noted the following features:

'The body of a female aged about 20 years lying on the back of the Post-Mortem table with the both upper limbs in flexion attitude. The bones of the left upper limb are exposed with charred ends at its elbow joint and the tissue. Scalp hair black in colour 1 1/2 feet in length. The scalp hair are signed and black a charred material is present on it. Face is swollen. Left eye is partially opened. Right eye is closed. Eornea is lazy. Pupils are dilated and fixed. Mouth is opened and teeth are exposed. The black charred tongue is slightly protruding out of the mouth. Black charred material is present on head and face. Eye brows and eye lashes are completely burnt and absent. Both breasts are charred and black. The abdominal

viscera are black and charred exposing out of abdominal cavity. The external genitalia are black and charred. The body is completely in flexion attitude. The left leg is completely detached from the proximal part of the left lower limb at the level of the middle of the thigh.

On external examination, this witness found the following:

Head: Superficial burns of the scalp present. On cut section the scalp layers are congested. Skull bones are normal and no fracture. Meninges are congested. Brain is solid and congested on cut section congested and haemorrhages present. Base of the skull is normal.

Neck: Hyoid bone is normal. Thyroid cartilage is normal. Trachea is normal and on cut section the mucosa is black and congested. Soot particles are present in it.

Thorax: Ribs are normal. Sternum is normal. Heart is hard in consistency and congested. On cut section the chambers contained black blood clots. Lungs brownish black in colour, congested firm in consistency, on cut section congested. On compression of lung tissue black tarry froathy fluid is exuding out of it.

Abdomen: Stomach congested, collapsed and the walls of the stomach are adherent to each on cut section it is empty, the mucosa is congested. It is hard in consistency.

2. Liver is hard and consistency, brownish black in colour roasted, on cut section hard to cut and it is brownish black in colour.

3. Spleen: Hard roasted, congested blackish brown in colour on cut section dark red and congested.

4. Kidneys: Hard in consistency, blackish brown in colour, roasted and on cut section congested.

5. Bladder is empty on cut section.

6. Uterus hard, brown in colour, congested on cut section congested. It is normal. Ovaries congested on cut section.

7. Bowels are burnt and charred and blackish in colour. On cut section the mucosa is blackish brown and congested.

The vertebral column is normal. The spinal cord is congested on cut section.

This witness is of the opinion that the deceased would appear to have died of extensive burns on the individual and the burns are of ante-mortem in nature. Time of death: the deceased would appear to have died of 24-36 hours prior to Post-mortem examination. Ex.P.6 is the Post-mortem examination certificate issued by him. Due to extensive and deep burns there can be fracture of bones and muscles and detachment of the limb is possible.

20.P.W.7- the then Mandal Revenue Officer deposed that on the requisition from the police, he held inquest over the dead body of the deceased and signed the inquest report-Ex.P5. He deposed that during the course of inquest, he examined P.W.1 and recorded his statement and he had mentioned all what he had observed in the inquest report. He had examined P.W.3 and others also and recorded their statements. Ex.P1 is the statement of P.W.1 and Ex.P3 is the statement of P.W.3. He deposed that at the time of inquest, he observed that the kitchen room, gas stove and the gas cylinder. He also observed that the gas stove was intact and it was not opened and the gas cylinder was also intact, and that the inquest panchayatdars opined that the deceased died due to burns. In the cross-examination, this witness deposed that during the preliminary enquiry P.W.1 and Indira expressed that they would give statement in writing to the effect that the deceased and the accused lived amicably and they had no suspicion either against the accused or any one. Basing on the oral statements of the witnesses, this witness prepared the inquest report and they have not expressed any doubt or suspicion against the accused. But however, this witness deposed that he cannot say whether they have written Exs.D1 and D2. This witness was cross-examined at length relating to Exs.P1 and Ex.P3 and also certain aspects were elicited relating to Mare Gowd and the other aspects. Ex.D.7 is the original unsigned letter produced by Krishnamurthy, containing his endorsement. No doubt, he denied certain suggestions.

21.P.W.9-Inspector of Police, who was the Sub-Inspector of Police at the relevant point of time, had received the statement-Ex.P1 recorded by the Mandal Revenue Officer along with inquest report and the other documents through Inspector of Police, Guntakal and registered the same as a case in Crime No. 81 of 1992, altering the Section from 174 Cr.P.C. to Section 304-B IPC and issuing Ex.P.8-express FIRs to the concerned.

22. P.W.10 at the relevant point of time worked as Assistant Sub-Inspector of Police, Guntakal and he deposed that the accused came to the police station and gave written report-Ex.P9 and he registered the same as Crime No. 81 of 1992 under Section 174 Cr.P.C. and issued Ex.P.10-F.I.R and gave requisition to the Mandal Revenue Officer to conduct inquest over the dead body of the deceased and the further investigation was taken up by the Sub-Inspector of Police.

23. P.W.11-photographer deposed about Exs.P-11 and P-12 negatives and positives respectively.

24. P.W.12-Inspector of Police had deposed about the details of investigation and after deposing about all the details of investigation, this witness also further deposed that the investigation had taken over by the Sub-Divisional Police Officer, Guntakal.

25. P.W.13-the then Sub-Divisional Police Officer,Guntakal deposed that he supervised the investigation in the case and perused the case diary and also examined the witnesses P.Ws.1,2, 8 and others and he had not recorded separate statements from them since, they stated the very same facts stated before the Circle Inspector and he also verified the telegram given in the name of Jagadish and contacted him and he denied having issued that telegram. He deposed that on 23.02.1993, he examined the Mandal Revenue Officer and recorded his statement, and on 12.04.1993, he filed the charge sheet after completing the investigation.

26. On the strength of this evidence available on record, no doubt, submissions at length were made relating to the appreciation of the evidence of P.W.1, 8 and 3. The evidence of P.W.3 is helpful to the version of the prosecution only to the

limited extent as referred to supra. The evidence of P.W.1 and P.W.8 alone would be material for the purpose of establishing the harassment for demand of amount as per the version of the prosecution, and the consequent death of the deceased. A careful scrutiny of the evidence available on record would go to show that most part of the evidence of these witnesses appears to be more in the nature of hearsay. No doubt, P.W.8 had deposed that what had been stated by her deceased sister to her relating to the demands made by the accused. It is also pertinent to note that nowhere, P.W.1 had deposed that even the specific demand made, had been in relation to any dowry as such. But it is in relation to the help in some monetary terms either for securing a job in railways or for improving of his business and nothing more and nothing beyond. Apart from this aspect of the matter, initially, when P.W.1 was examined and the matter was adjourned, nothing serious had been elicited in the chief-examination. But, on the next date of hearing, several other allegations were made in the course of deposition when P.W.1 was examined. It is no doubt true that the reasons specified in Ex.P9 may not be the true version, but, it is pertinent to note that this was given by the accused on the information furnished to him and this cannot be made a ground in favour of the prosecution so as to support the version of the prosecution. Apart from this aspect of the matter, the evidence of P.W.7 is so clear and categorical that absolutely there was no suspicion at the time of inquest. It is also pertinent to note that at the earliest point of time, neither P.W.1 nor P.W.8 had entertained any suspicion, but only at a later point of time, the improved version had come in, and the nature of evidence as let in by the prosecution and as deposed by P.W.1 would clearly disclose that the implication of the accused by P.W.1 and his family members is definitely an after thought for the reasons best known to them. Apart from Ex.P1-statement of P.W.1 recorded by the Mandal Revenue Officer, Exs.D1 to D3 just read as hereunder:

Ex.D1- Statement of M.Chalannna-P.W.1. On 02.10.1992, when we came to know that my daughter Nirmala committed suicide, I came to Guntakal. We conducted inquest (in the presence of) of my son-in-law Vijayakumar and his father Krishna Murthy. This appears to be suicide. I have no suspicion on anybody. With all my volition, I gave this statement.

Yours obediently

Sd/-M.Chalanna, 15/234

Adoni

Ex.D2-Statement of M.N.Indira-P.W.8

I am studying in Padmavathi Polytechnical college in Thirupathi. We got married our sister Nirmala to one Vijayakumar s/o Krishnamurthy 5 months back. On 2.10.1992, we received a telegram to Adoni that my sister committed suicide. On seeing the telegram, myself and my father came to Guntakal. We sent to Vijayakumar house and saw our sister lying with burn injuries in the kitchen room. It seems, she died due to self burning. Nobody is responsible and we have no suspicion on any body.

Sd/- M.N.Indira

Ex.D3-letter of the deceased:

To my dear husband, your wife Nirmala writes, I have got fever due to your absence. I wrote in the previous letter, that hereafter I will not be annoyed. Kindly excuse me. Please come on Saturday without fail. If you excuse me you will certainly come. If you have any work, write a letter immediately. I will look for you on Saturday. Everyday, I am not getting sleep from the day you left. Every day I remember you. I felt very sorry, as I hurt you mentally. I will never repeat it. Please excuse me for this time. Please reply that you will be coming immediately after receipt of this letter. Don't forget. Please write a letter. I am writing this to understand how much I am suffering here.

Yours wife

Sd/- Nirmala.

27. On careful scrutiny of Exs.D1 and D2, and also the letter written by the deceased and also in the light of the nature of the evidence which had been given by P.W.1 in the cross-examination, definitely, the allegations relating to

harassment are highly doubtful, and hence, when the episode of the prosecution is carefully scrutinized from its inception, there is totally an improved version at the later point of time, which was not thought of initially on the fateful day or at least at the time of inquest, when the Mandal Revenue Officer had recorded the statements. In view of the same, prosecution cannot take aid of Ex.P9-report given by the accused and definitely, the version of the defence cannot be viewed with suspicion on the said basis.

28. Hence, viewed from any angle, the findings recorded by the learned Judge, definitely cannot be sustained in the light of the evidence of P.Ws.1 and 8 coupled with the evidence of P.W.3, especially in the light of the evidence of P.W.7 and Exs.D1 to D3. This Court is of the considered opinion that the prosecution miserably failed to bring home the guilt of the accused in relation to the other charges under Sections 498-A and 304-B IPC, and accordingly, the appellant-accused is entitled for an acquittal of the of the charges with which he was convicted.

29. In view of the foregoing discussion, the conviction and the sentence imposed by the learned Sessions Judge, Ananthapur, on 10.7.1997 in Sessions Case No.369 of 1993 against the aappellant-accused are hereby set aside and accordingly, the criminal appeal is hereby allowed recording an acquittal.

The bail bonds of the appellant-accused shall stand cancelled.

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