

State of Karnataka Vs. M C Gopi S/ 0 Chikka Muddappa and ors

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Court : Karnataka

Decided On : Nov-09-2010

Judge : K.N. Keshavanarayana J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 498-A, 304-B ; Dowry Prohibition Act, 1961 Sections 3, 4 ; [Land Acquisition Act, 1894](#) - Section 113 ;

Appeal No. : CRIMINAL APPEAL NO. 729/ 2005 (A)

Appellant : State of Karnataka

Respondent : M C Gopi S/ 0 Chikka Muddappa and ors

Advocate for Def. : SRI AV. RAMAKRISHNA Adv

Advocate for Pet/Ap. : SRI N.S. SAMPANGI RAMATAH, ADV.

Judgement :

1. This appeal by the State is directed against the judgment dated 4.11.2004 passed by the in Addl. City Civil and Sessions Judge, Bangalore City in SC No.733/2003 acquitting the respondents - accused 1 to 4 of tile charges leveled against them for the offences punishable under Sections 498-A, 304-B of IPC and Section 3 8B 4 of the Dowry Prohibition Act.

2. Briefly stated case of the prosecution is as under:

The accused No.1 M.C. Go pi is the son of accused No.2 Chikkamuddappa and accused No.3 Muniyamma. Accused No 4 Smt. Santa is the married sister of accused No.1. The deceased Manjula was the daughter of PW-3 G.M. Nanjundappa and PW-4 Jayamma. The deceased was given in marriage to A-I and their marriage was solemnised on 6.3.2003. Prior to the marriage, the accused persons demanded dowry in the form of cash and also gold and silver ornaments and after negotiations, the accused received a sum of Rs.5,000/- in cash as dowry apart from gold and silver articles at the time of the marriage. After the marriage, the deceased started living with the accused in her matrimonial home at No.607, 10th cross, II main, 2nd cross, KS Layout, Bangalore, During her stay in the matrimonial home, the accused started subjecting her to cruelty and harassment by coercing her to get additional dowry of Rs.20,000/- from her parental home on the ground that the dowry paid at the time of marriage is Insufficient and inadequate. However, the deceased failed to comply with the illegal demand made by the accused. In this background, unable to bear the cruelty meted out to her, the deceased committed suicide by hanging at 2.30pm on 6.8.2003 in her matrimonial home. Soon thereafter, the information regarding commission of suicide by the deceased was passed on to her parents and they came to the house of the accused and saw the dead body of their daughter lying on the floor inside the house. Thereafter, PW 3 Nanjundappa went to Police station, lodged written complaint as per Ex.P-4 based on which, the case was registered and investigation was taken up, During investigation inquest was held over the dead body and thereafter the dead body was subjected to Post Mortem examination. The doctor who conducted Post Mortem examination opined that the death was due to asphyxia as a result of hanging , During investigation, the IO collected a death note Ex.P-12 from the scene of occurrence and thereafter, collected the standard writings of the deceased from the complainant as per Ex.P-8 to P-11 and sent them for comparison to the handwriting expert. The handwriting expert furnished the report to the effect that the contents and the signatures on the death note Ex.P-12 as well as the contents and the signatures found in Ex.P-8 to P-11 are of the same person. After collecting necessary documents and evidence,, the IO filed the charge sheet. Accused persons denied the charges levelled against them and claimed to be tried. Prosecution to bring home the guilt

of the accused examined PWs. 1 to 5 and placed reliance on Exs.P-1 to P-18 and MOs.1 to 4. The accused did not choose to lead any defense evidence. Their defense was one of total denial to that of false implication. According to them, the deceased on account of the unbearable stomach pain committed suicide as stated in the death note. Therefore, they are not in any way responsible for the commission of suicide by the deceased.. After hearing both the sides and on assessment of oral and documentary evidence, learned Sessions Judge by the Judgment under appeal acquitted all the accused persons of the charges against them holding that the prosecution has failed to prove the charges leveled against them. Learned Sessions Judge was of the opinion that the evidence on record clearly indicate that the contents of death note Ex.P-12 are in the handwriting of the deceased and the contents of death note clearly indicates that the deceased committed suicide on account of the unbearable stomach pain from which she was suffering. Learned Sessions Judge also noticed that there is no satisfactory and acceptable evidence with regard to the demand and acceptance of the dowry by the accused persons prior to the marriage or demand of additional dowry subsequent to the marriage. Learned Sessions Judge also noticed that though the death of the deceased occurred within 7 years from the date of the marriage, and she met unnatural death in her matrimonial home, in the absence of any evidence that the deceased was subjected to cruelty soon before her death in connection with the dowry, the death of the deceased cannot be termed as dowry death within the meaning of Section 304B IPC, Therefore, it was held that the presumption under Section 113 B of the Evidence Act also cannot be drawn. In this view of the matter, learned Sessions Judge has held that the guilt of the accused persons has not been proved beyond reasonable doubt. Therefore, the accused were acquitted of the charges leveled against them. Being aggrieved by the order of acquittal, the State is in

3 We have heard Sri M.S. Sampangi Ramaiah, learned Government Pleader appearing for the State and Sri A.V. Ramakrishna, learned counsel appearing for the respondent - accused. We have perused the records and read

4. The point that arises for our consideration is:

"Whether the Judgment under appeal suffers from perversity or illegality calling interference by this Court."

5. The fact that the deceased was given in marriage to A-I and their marriage was solemnized on 6.3.2003 and that the said deceased Manjula committed suicide in her matrimonial home at about; 2.30 pm on 6.8.2003 by hanging are not in serious dispute. With regard to the alleged demand and acceptance of dowry prior to the marriage, the independent witnesses examined by the prosecution have not supported the case of prosecution. The only evidence available is that of the parents of the deceased. On careful analysis of the evidence of the witnesses, the learned Sessions Judge, has recorded a finding that their evidence in this regard is not worthy of acceptance. In addition to this, the parents of the deceased admitted in their evidence that the cash and the articles given to the bridegroom at the time of marriage was towards Varopachara as per their customs and not as dowry. Therefore, even if some articles and cash had been given to the bridegroom, as admitted by PWs.3 & 4 it was not given as a dowry. The evidence regarding the demand of dowry by the accused is not worthy of acceptance as rightly observed by the learned Sessions Judge, Therefore, in our opinion, the learned Sessions Judge has not committed any error in acquitting the accused for the offence punishable under Sections 3 & 4 of Dowry Prohibition Act, We find no ground to interfere with the said finding.

6. No doubt the death of the deceased occurred within four months of her marriage and she met an unnatural death. However, the evidence with regard to the alleged cruelty in the form of oral evidence of PWs.3 & 4, as rightly pointed out by the learned Sessions Judge, is not satisfactory and sufficient to establish that the accused persons subjected the deceased to cruelty and harassment on account of her failure to comply with the demand for additional dowry of Rs.20,000. One of the ingredients to attract the offence under Section 304-B IPC is that the married women had been subjected to cruelty and harassment in connection with the dowry soon before her death. In the case on hand, even according to the prosecution, the deceased had left behind a death note marked as Ex.P-12. According to the prosecution, the Investigation Officer sensed the death note from the scene of occurrence and thereafter during investigation he

collected the standard handwritings of the deceased from the custody of the complainant as per Ex.P-8 to P- II. Thereafter. He sent them to the handwriting expert for comparison and report. The report of the handwriting expert clearly indicate that the contents of death note Ex.P-12 and signature found thereon as well as the contents of Ex.P-8 to P-II are in the handwriting of the same person. Therefore, the learned Sessions Judge, in our opinion has rightly held that the death note Ex.P-12 is in the handwriting of the deceased. As per the contents of Ex.P-22, the deceased was suffering from unbearable stomach pain; therefore, she resorted to end her life by committing suicide. As such, no other person is responsible for her death. This death note is addressed to her father. PWs,3 and 4 have not disputed the fact that the contents of Ex.P-12 is in the hand writing of the deceased, PWs.3 & 4 also does not suspect any foul play in Ex.P-12 coming into existence. Therefore, in the light of the contents Ex.P-12 and in the absence of any satisfactory evidence with regard to the alleged demand for additional dowry of Rs.20,000/ and subjecting the deceased to cruelty and harassment on account of her failure to comply with such illegal further demand, the learned Sessions Judge, in our opinion, has rightly held that the prosecution has utterly failed to prove the death of the deceased as dowry death within the meaning of Section 304-B IPC. Rightly, the presumption under section 113-B of the Evidence Act has not been drawn in view of the fact that the prosecution has not proved that the deceased was subjected to cruelty or harassment in connection with the dowry soon before her death. In the circumstances, in our opinion, the learned Sessions Judge, was justified in holding that the prosecution has failed to prove the guilt of the accused persons for the charge under Section 304-B IPC. The appreciation of the evidence by the learned Sessions Judge is sound and reasonable. The opinion formed by the learned Sessions Judge is reasonable one having regard to the evidence on record. Therefore, we find no perversity or illegality in the Judgment under appeal; as such we find no ground to interfere with judgment under appeal.

In view of the above, the appeal is dismissed.