



2023:APHC:9903

**HIGH COURT OF ANDHRA PRADESH**  
TUESDAY ,THE FOURTH DAY OF APRIL  
TWO THOUSAND AND TWENTY THREE

**PRSENT**

**THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU**

**CRIMINAL APPEAL NO: 588 OF 2009**

**Between:**

1. SARANGAM DAYAKAR RAO, -

**...PETITIONER(S)**

**AND:**

1. STATE OF A.P., REP BY PP., -

**...RESPONDENTS**

**Counsel for the Petitioner(s): D SANGEETHA REDDY**

**Counsel for the Respondents: PUBLIC PROSECUTOR**

**The Court made the following: ORDER**



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

\*\*\*\*

**CRIMINAL APPEAL No.588 OF 2009**

**Between:**

Sarangam Dayakar Rao,  
S/o.Padmanabha Rao,  
Aged 32 years, Hindu,  
II Street, Haranadhapuram,  
Nellore.

....

Appellant

*Versus*

The State of AP,  
Re. by Public Prosecutor,  
High Court of A.P.  
Amaravathi.

....

Respondent

DATE OF JUDGMENT PRONOUNCED : 04.04.2023

SUBMITTED FOR APPROVAL:

**HON'BLE SRI JUSTICE A.V.RAVINDRA BABU**

1. Whether Reporters of Local Newspapers  
may be allowed to see the judgment? Yes/No
2. Whether the copy of judgment may be  
marked to Law Reporters/Journals? Yes/No
2. Whether His Lordship wish to see  
The fair copy of the judgment? Yes/No

---

**A.V.RAVINDRA BABU, J**



**\* HON'BLE SRI JUSTICE A.V.RAVINDRA BABU**

**+ CRIMINAL APPEAL No.588 OF 2009**

**% 04.04.2023**

**# Between:**

Sarangam Dayakar Rao,  
S/o.Padmanabha Rao,  
Aged 32 years, Hindu,  
II Street, Haranadhapuram,  
Nellore.

....

Appellant

*Versus*

The State of AP,  
Re. by Public Prosecutor,  
High Court of A.P.  
Amaravathi.

....

Respondent

**! Counsel for the Appellant** : Sri Shaik Mohd. Ismail,  
learned counsel, representing  
Smt. D. Sangeetha Reddy.  
Learned Counsel.

**^ Counsel for the Respondent** : Sri Y. Jagadeeswara Rao,  
Learned counsel, representing  
Learned Public Prosecutor

**> Head Note:**

**? Cases referred:**

1. (2011) 12 SCC 408
2. (2009) 16 SCC 35
3. Crl.A.No.189 of 2001, Dt.03.07.2003
4. (2004) 4 SCC 470

This Court made the following:

**HON'BLE SRI JUSTICE A.V.RAVINDRA BABU****CRIMINAL APPEAL No.588 OF 2009****JUDGMENT:**

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C'), is filed by the appellant, who was the accused No.1 in Sessions Case No.103 of 2007, on the file of the Court of IV Additional District and Sessions Judge (Fast Track Court), Nellore (for short, 'the learned Additional Sessions Judge'), challenging the judgment, dated 23.05.2009, where under the learned Additional Sessions Judge found the appellant guilty of the charges under Sections 498-A and 304-B of the Indian Penal Code, 1860 (for short, 'the IPC'), questioned him about the quantum of sentence, and thereafter sentenced him to suffer Rigorous Imprisonment for one (1) year and to pay a fine of Rs.1,000/- in default to suffer Simple Imprisonment for three months for the charge under Section 498-A IPC and sentenced him to suffer Rigorous Imprisonment for seven (7) years and to pay a fine of Rs.3,000/- in default to suffer Simple Imprisonment for six months for the charge under Section 304-B IPC. By the same judgment, the learned Additional Sessions Judge found accused



Nos.2 and 3 not guilty of the charges under Sections 498-A and 304-B IPC and acquitted them under section 235(1) Cr.P.C.

2. The parties to this Criminal Appeal will hereinafter be referred to as described before the trial Court, for the sake of convenience.

3. The Sessions Case No.103 of 2007 arose out of PRC No.92 of 2006 on the file of the Court of IV Additional Judicial Magistrate of First Class, Nellore (for short, 'the learned Magistrate') pertaining to Crime No.16 of 2006 of Nellore Rural Police Station.

4. The case of the prosecution, in brief, according to the averments in the charge sheet, filed by the Sub-Divisional Police Officer, Nellore Rural Sub-Division, Nellore in the above Crime, is as follows:

A-1 is resident of II Street, Harinathapuram, Nellore. A-2 and A-3 are the residents of Kota of Nellore District. A-1 is the son of A-2 and A-3, who are the husband and wife. The deceased by name Sarangam Anuradha was resident of Harinathapuram at the time of her death. She is the wife of A-1 and daughter-in-law of A-2 and A-3. She was subjected to dowry harassment by A-1 to A-3 prior to her death. She died on 22.01.2006 at 11:00 a.m. by jumping and drowning in Penna River near Venkateswarapuram,



outskirts area of Nellore City. LW.1 – Mandava Rani, resident of Nellore Town and Corporator of 1<sup>st</sup> Division, is the *de-facto* complainant.

LW.6 – K. Ravindra Babu and LW.7 – K. Sujatha belonged to Gundalammapalem of Kodavalur Mandal in Nellore District and they settled at Hyderabad doing the job of plying Auto. They have one son *i.e.*, LW.8 – K. Raja Sekhar and one daughter *i.e.*, the deceased by name Anuradha. They performed the marriage of their deceased daughter with A-1 on 28.01.2004 in D.N.R. Community Hall of Gudur Town in the presence of A-2, A-3 and others. On demand made by all the accused, they gave them dowry of Rs.60,000/- and 14 sovereigns of gold. A cash of Rs.15,000/- was also paid to the accused towards household articles. LW.11 – P. Ramesh Babu and LW.12 – Sarangam Anjani Kumar settled the said marriage. After marriage, the deceased joined with A-1. Both A-1 and the deceased were residing in a rented house in Harinathapuram of Nellore along with A-2 and A-3 and their daughter. Three or four months subsequent to the marriage, A-1 to A-3 started demanding the deceased to get additional dowry from her parents. They subjected her to harassment mentally and physically for more dowry. Deceased used to reveal the same to LWs.6 and 7, her parents, and LW.8, her brother, whenever she



visited her parents house at Hyderabad. In the year 2004, when she became pregnant, LW.6 paid Rs.10,000/- to the accused as additional dowry. Even after the deceased gave birth to a male child, accused subjected her to dowry harassment. In May, 2005, LW.6 paid another sum of Rs.10,000/- to the accused. Subsequently, A-2 and A-3 shifted their residence to their native place Kota. A-1 and deceased continued to reside in the same Harinathapuram.

When LWs.6 and 7 fixed the marriage of their son *i.e.*, LW.8, A-1 began demanding the deceased to bring an amount of Rs.1,00,000/- from her parents. On 21.01.2006, LW.6 visited Bitragunta and fixed his son's marriage. At that time, the deceased made a phone call to him and informed about the demand of A-1 to bring one lakh rupees. LW.6 returned to Hyderabad on 22.01.2006. Again the deceased made a phone call to LW.6 and stated that A-1 to A-3 were harassing and beating her for want of one lakh rupees. On the same day, A-1 made a phone call to LW.8 at 10:30 a.m. stating that he was sending the deceased to Hyderabad for money. A-1 forcibly sent the deceased from his house to go to Hyderabad to bring cash of Rs.1,00,000/- from her parents on 22.01.2006 at 10:00 a.m. The deceased left the house, as there was no other option to escape from the dowry harassment



by A-1 to A-3, went to Penna Bridge and jumped into the river at about 11:00 a.m. and committed suicide. LW.4 – Shaik Dasthagiri witnessed the occurrence. On knowing the occurrence, LW.1 – Mandava Rani, LW.2 – Katamgari Balakrishna and LW.3 – Shaik Khaleel Basha visited the scene of occurrence and removed the dead body from the river water. On the same day at 03:30 p.m., LW.1 preferred a written report to SI of Police, Nellore Rural. LW.23, SI of Police, Nellore Rural, registered the same as a case in Crime No.16 of 2006 under Section 174 Cr.P.C. and issued FIR. On coming to know about the death of the deceased, LWs.6 to 8 *i.e.*, parents and brother of the deceased, relatives and others reached Nellore and saw the dead body of the deceased in Government Hospital, Nellore. LW.23 – SI of Police and LW.24 – K. Veera Reddy, Sub-Divisional Police Officer, took up investigation, visited the scene of offence and examined all the material witnesses. LW.18 – Y. Bhaskar Naidu, Mandal Executive Magistrate (MRO), conducted inquest over the dead body of the deceased on 23.01.2006 at 01:00 p.m. in the presence of LW.15 – K. Venkata Mahesh and LW.16 – K. Sreenivasa Rao as inquest panchayatdars and further examined LWs.1 to 3. Later, the dead body of the deceased was sent for post-mortem examination. LWs.19 and 20, Medical Officers, conducted post-mortem





examination and opined that the death is due to asphyxia due to drowning. On 28.01.2006 at 08:50 a.m. A-1 was produced before LW.24 by SI of Police, Nellore Rural. After following the requisite arrest procedure, LW.24 arrested the accused in his office and later sent him for remand. Subsequently, A-2 and A-3 surrendered before the Court on 12.04.2006. Hence, the charge sheet.

5. The learned Magistrate took cognizance of the charge sheet and numbered it as PRC No.92 of 2006. After appearance of the accused and after completing the formalities under Section 207 Cr.P.C, PRC No.92 of 2006 was committed to the Court of Session and thereafter it was numbered as S.C. No.103 of 2007 and made over to the Court of learned Additional Sessions Judge.

6. After appearance of the accused before the learned Additional Sessions Judge (Fast Track Court), Nellore, charges under Sections 498-A and 304-B IPC were framed and explained to the accused in Telugu, for which they pleaded not guilty and claimed to be tried.

7. During the course of trial, before the Court below, on behalf of the prosecution, PWs.1 to 18 were examined and Exs.P-1 to P-16 were marked. Further, Exs.D-1 to D-4 were marked during



the course of cross-examination of PWs.5, 6 and 7. Further, MOs.1 to 7 were marked.

8. After closure of the evidence of the prosecution, accused were examined under Section 313 Cr.P.C with reference to the incriminating circumstances appearing in the evidence let in by the prosecution, for which they denied the same and did not adduce any defence evidence.

9. The learned Additional Sessions Judge, on hearing both sides and after considering the oral and documentary evidence on record, found A-2 and A-3 not guilty of the charges and acquitted them under Section 235(1) Cr.P.C. The learned Additional Sessions Judge found A-1 guilty of both the charges under Sections 498-A and 304-B IPC, convicted and sentenced him as above.

10. Felt aggrieved of the same, the un-successful accused (A-1) filed the present Appeal challenging the judgment of the learned Additional Sessions Judge in convicting him under Sections 498-A and 304-B IPC.

11. Now, in deciding this Criminal Appeal, the points that arise for consideration are:



1) Whether the prosecution before the Court below proved that A-1 subjected the deceased to mental and physical harassment and subjected her to cruelty within the meaning of Section 498-A IPC?

2) Whether the prosecution before the Court below proved that death of the deceased was dowry death on account of the harassment meted out to her in the hands of the appellant (A-1)?

3) Whether the prosecution before the Court below proved charges under Sections 498-A and 304-B IPC against the accused beyond reasonable doubt?

12. **POINT Nos.1, 2 & 3**: Sri Shaik Mohammed Ismail, learned counsel, representing Smt. D. Sangeetha Reddy, learned counsel for the appellant, would contend that the Court below recorded an order of conviction against the appellant basing on the interested testimony of PWs.5 to 7, parents and elder brother of the deceased. Even the Court below relied upon the testimony of P. Ramesh Babu – PW.9, who was also interested in the case of the prosecution. Absolutely, the evidence of PWs.5 to 7 is hearsay in nature. It is not that A-1 demanded the parents and brother of the deceased to pay additional dowry etc. The learned Additional



Sessions Judge having recorded an order of acquittal against A-2 and A-3 erred in convicting the appellant herein. The evidence is lacking to prove the harassment, physical and mental, alleged to be meted out to the deceased in the hands of A-1. The averments in the charge sheet were with untrue contents because prosecution alleged that A-2 and A-3 used to reside along with A-1 but in the evidence it was admitted that A-2 and A-3 were residing in Kota, Nellore District. Deceased and A-1 were residing at Harinathapuram, Nellore District. So, the case of the prosecution was with false allegations. The evidence on record proved that PWs.5 and 6 had no financial capacity to pay dowry, household articles and gold *etc.*, at the time of marriage, and prosecution did not produce any documentary evidence to prove that the gold ornaments were purchased in connection with the marriage by PWs.5 and 6. In fact, it is A-2 and A-3, who performed the birthday function of the son of A-1 and deceased and to examine the same, there were photographs before the Court below. The neighbouring witnesses *i.e.*, PWs.8 and 17 did not support the case of the prosecution. Prosecution did not examine any other independent witnesses. Though there was delay in lodging the report, the trial Court failed to take into consideration the same. Except a bald version that A-1 subjected the deceased to cruelty



and harassment on the vague allegations of demand and dowry and vague allegations of bringing huge amount of one lakh rupees, there was no convincing evidence adduced before the Court. There were improvements in the testimony of PWs.5 to 7 on material aspects and the trial Court failed to look into the same. According to the defence of A-1 before the Court below, the death of the deceased was on accidental fall. The learned Additional Sessions Judge did not appreciate the evidence on record and instead of acquitting the appellant/A-1 convicted him as such Appeal is liable to be allowed. Learned counsel for the appellant in support of his contentions, would rely upon the decisions of the Hon'ble Apex Court in **Gurdeep Singh v. State of Punjab and others**<sup>1</sup>, **Raman Kumar v. State of Punjab**<sup>2</sup> and a decision of the erstwhile High Court of Andhra Pradesh in **G.M.Ravi v. State of Andhra Pradesh**<sup>3</sup>.

13. Sri Y. Jagadeeswara Rao, learned counsel, representing learned Public Prosecutor, appearing for the respondent-State, would contend that the trial Court took care in analyzing the evidence on record and in that process extended benefit of doubt

---

<sup>1</sup> (2011) 12 SCC 408

<sup>2</sup> (2009) 16 SCC 35

<sup>3</sup> Crl.A. No.189 of 2001, Dt.03.07.2003



to A-2 and A-3. The trial Court rightly believed the evidence of PWs.5 to 7 and the mediator, who mediated the marriage between the deceased and A-1. PWs.5 to 7 fully supported the case of the prosecution. The mediator by name P. Ramesh Babu (PW.9) also supported the case of the prosecution. The death of the deceased was on account of commission of suicide for which the prosecution let in voluminous oral evidence. The contention of A-1 that the death of deceased was due to accidental fall was not at all established. The death of the deceased was hardly within two years from the date of her marriage. The deceased was residing along with A-1 at the time of her death. A-1 had no probable say as to the circumstances in which the deceased committed suicide. On the other hand, the prosecution adduced evidence to prove that commission of suicide by the deceased was on account of the harassment meted out to her in the hands of A-1. The learned Additional Sessions Judge rightly appreciated the evidence on record and awarded conviction as such Appeal is liable to be dismissed.

14. PW.1 is the 1<sup>st</sup> Division Corporator, Nellore who came to know that the deceased committed suicide and lodged report with the Police. PW.2 is the person who was requested by PW.1 to



remove the dead body from the river water and according to him, he removed the dead body of the deceased from the river water. PW.3 is the auto driver, who claimed to have witnessed when a woman jumped into the Penna River. PW.4 is the elder brother of A-1, who came to know about the commission of suicide by the deceased on 22.01.2006. PWs.5 and 6 are the father and mother and PW.7 is the elder brother of the deceased. PW.8 is the witness examined by the prosecution who did not support the case of the prosecution. The prosecution examined PW.9 to prove the fact that he and others mediated the marriage between A-1 and deceased and to speak about the dowry given at the time of marriage. PW.10 is the panchayatdar to the observation of the scene of offence by the Police. PW.11 is the inquest panchayatdar. PW.12 is the then Executive Magistrate, who conducted inquest over the dead body of the deceased. PW.13 is the Medical Officer, who conducted post-mortem examination over the dead body of the deceased. PW.14 is the photographer who took photographs over the dead body of the deceased. PW.15 is the Police Constable who took the dead body of the deceased to the Medical Officer for conducting post-mortem examination. PW.16 is the then SI of Police, who registered the report of PW.1 as a case under Section 174 Cr.P.C. and to speak about his part of investigation. PW.17 is neighbor to the house of



the deceased, who did not support the case of the prosecution. PW.18 is the SDPO and investigating Officer in this case.

15. There is no dispute about the relationship of A-1 with A-2 and A-3. A-2 and A-3 were exonerated of the charges. The marriage between the deceased and A-1 was not in dispute. PWs.5 to 7 are the father, mother and brother of the deceased. To speak about the alleged cruelty meted out to deceased in the hands of A-1 and further harassment and ill-treatment towards additional dowry, there is evidence of PWs.5 to 7, kith and kin of the deceased and PW.9, the mediator, who mediated the marriage between the deceased and A-1. The Court below found favour with the case of the prosecution as such convicted A-1 under Sections 498-A and 304-B IPC.

16. Section 498-A IPC speaks of subjecting a married woman to cruelty by the husband or the relative of the husband and cruelty means any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman or when such harassment is with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security.





17. The gist of the offence under Section 304-B IPC is that there should be death of a woman caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and that soon before her death she was subjected to cruelty or harassment by her husband or any relative for, or in connection with any demand for dowry.

18. The case of the prosecution is that the deceased committed suicide on account of the harassment meted out to her from A-1. It is altogether a different aspect that though the Investigating Officer alleged that A-2 and A-3 were also responsible for her death, the Court below exonerated them of the charges. So, the scope of this Appeal is confined to decide the allegations against A-1 only.

19. In the light of the essential ingredients of Sections 498-A and 304-B IPC, this Court has to decide as to whether the death of the deceased was on account of the suicide and whether it was otherwise than under normal circumstances.

20. PW.1 is the 1<sup>st</sup> Division Corporator, Nelluru, who does not know A-1 to A-3 as well as the deceased. Her evidence is that on 22.01.2006 at 12:00 noon, she came to know that a woman fell



into Penna River. Then, she rushed to Penna River, situated at a distance of 4 or 5 KMs from the place where she was and she was informed that the said woman jumped into the Penna River and she was not rescued from the water. Then, she requested LW.2 – Balakrishna and LW.3 – Khaleel Basha to remove the woman from the river water and they jumped into the river water and removed the woman from river water, by which time she died. Then it was about 01:30 p.m. She informed the incident to Police by virtue of Ex.P-1 report. Later, she came to know about the identity particulars of the deceased. Ex.P-2 is four photographs with negatives of the deceased. Police examined her on the date of report.

21. The defence counsel elicited from her cross-examination that the bridge near the scene of offence is running north to south and might be of 2 KMs at length.

22. PW.2 is one of the persons who removed the dead body from the waters of Penna River and he testified that on 22.01.2006 at 02:00 p.m. PW.1 sent a word to him to come to Penna River and then he went to Penna River. PW.1 requested him and one Khaleel Basha to remove the dead body of a woman from the water. Then, himself and Khaleel Basha jumped into Penna River and removed



the dead body from the waters. He can identify the photographs of the dead body. Ex.P-2 is 4 photographs of the dead body. During the course of cross-examination, there is no dispute about removal of the dead body by PW.2 with the aid of one Khaleel Basha at the instance of PW.1. Even during the course of cross-examination of PW.1 accused did not dispute about the removal of the dead body from the Penna River.

23. Coming to the evidence of PW.3, who was a direct witness to the occurrence *i.e.*, jumping of the deceased into Penna River, he deposed that he is an Auto driver. On 22.01.2006 at 11:00 or 11:30 a.m. when he was coming towards Nellore from Venkateswarapuram in his service auto with passengers and when their auto was on the Penna Bridge, he saw a woman on the Penna Bridge. In the meanwhile, one of the passengers in the Auto cried as she is jumping into river. Then, he saw the said woman on the Penna Bridge jumping into the waters of Penna River. Though he tried to stop the Auto but the passengers in the auto asked him not to stop. So, he proceeded further towards Nellore without stopping the Auto. He stated that the woman who jumped into the river water was wearing light rose colour Punjabi dress and she was aged about 25 years. The photographs under Ex.P-2



shown to him are of the woman whom he saw jumping into the river water. On that day, Police examined him in the evening. During the course of cross-examination he reiterated that he saw the said woman jumping from the Penna Bridge at a distance of 100 feet away from Venkateswarapuram side bridge entrance. He did not prefer any report to Police. He denied that he did not saw any woman jumping into the river water.

24. PW.4 is no other than the elder brother of A-1 who testified categorically that Anuradha – deceased died on 22.01.2006 by committing suicide by jumping into the Penna river. On 22.01.2006 at 03:30 p.m. when he was in Nellore town, he received phone message about the death of wife of A-1. Then, he rushed to Penna River and found the dead body. Police were also there. People gathered there. Then he informed the incident to A-2. He also informed about the death of Anuradha to her brother at Hyderabad. To the above evidence of PW.4, who is no other than the elder brother of A-1, his evidence was not challenged in cross-examination on the theory of suicide.

25. Turning to the testimony of PW.5, father of the deceased, his evidence as to the manner in which they came to know about the death of the deceased is that since A-1 to A-3 are harassing her



daughter for bringing more money from him and A-1 was not looking after the son of her daughter, she committed suicide by jumping into Penna river. According to the evidence of PW.6, mother of the deceased, her daughter committed suicide by jumping into the waters of Penna river on account of the harassment made by the accused towards her daughter on the demand of additional dowry. According to the evidence of PW.7, the elder brother of the deceased, her sister committed suicide on account of the harassment of the accused. According to him, on 22.01.2006 at about 04:00 p.m., PW.4 telephoned to him and informed that his sister committed suicide by jumping into the waters of Penna River.

26. During the course of cross-examination of PW.5 accused got suggested to him that he (PW.5) asked his daughter to come over to Gundalammapalem on telephone from Bitragunta and accordingly, she proceeded to Gundalammapalem from Nellore. He denied the above said suggestion. He further denied a suggestion that her daughter on the way to Gundalammapalem fell into the river Penna accidentally. He denied that he asked her daughter to come to Gundalammapalem as such he went to Gundalammapalem to enquire about coming of her daughter to



Gundalammapalem and that he is deposing false. PW.6 during the course of cross-examination denied that the deceased died on account of the accidental fall into Penna River while she was going to Gundalammapalem at their instance only. Even PW.7 denied the above said suggestion.

27. Admittedly, PWs.5 to 7 were not witnesses as to how the deceased died. So, the crucial evidence as regards the commission of suicide by the deceased is that of the evidence of PW.3, auto driver. When PW.3 specifically testified that the deceased jumped into the river on that day and when he identified the dead body of the deceased with reference to Ex.P-2 nothing is suggested to PW.3 during the course of cross-examination that the deceased died by accidental fall. Even the evidence of PW.4, own brother of A-1, is not impeached on the ground that his coming to know about the commission of the suicide by the deceased is false. It is to be noticed that the topographic particulars elicited from the mouth of PW.1 disclosed that the bridge near the scene of offence is running north to south and its length is of 2 KMs. It is not the case of A-1 that one has to cross the Penna Bridge by walking into the riverbed of Penna. On the other hand, the bridge is of 2 KMs length with necessary parapet walls. A-1 has no probable say as to



how the deceased might go to Penna River especially when she was allegedly going to Gundalammalem. So, the theory of accidental fall projected by A-1 during the course of cross-examination of PWs.5 to 7 is without any basis. It is nothing but a baseless defence. There was no reason for PW.3, auto driver, to speak falsely. There is no dispute about the cause of death of the deceased by virtue of the evidence of PW.13, the Medical Officer, who conducted autopsy over the dead body of the deceased. The cause of death was of shock due to asphyxia due to drowning and Ex.P-11 is the final report. So, the cause of death was due to asphyxia due to drowning. The crucial thing is whether the deceased fell into the river accidentally or jumped into the river. As pointed out above, the very defence of A-1 that the deceased fell into the river by accidental fall cannot stand to any reason. He did not venture to put forth any theory before PW.3 that the deceased fell into river by accidental fall. Having regard to the above, this Court is of the considered view that the defence of accused that the deceased died by accidental fall cannot stand to any reason.

28. The line of contention of appellant is that as PW.5 telephoned to the deceased to come over to Gundalammalem and when the deceased was proceeding to there, she fell into the



river accidentally. It is no doubt true that PW.5 during cross-examination deposed that while reaching to Nellore on the way after they learnt that the deceased was admitted into hospital, they happened to visit Gundalammapalem. He volunteers that as the son of the deceased was with them, by then they went into village to bring milk for the son and where they came to know about the death of the deceased. His chief-examination in this regard is that having learnt a message *i.e.*, on that day the deceased was admitted into hospital, they all started in a car. So, accused was able to elicit from PW.5 during cross-examination on the way they visited the particular village. PW.5 clarified that they went into the village to bring milk. A-1 wanted to probabalize his contention that as PWs.5 and 6 went into Gundalammapalem village, there was a probability for the deceased to make an attempt to go to that village. The above said contention is devoid of merits for the reason that if the deceased was going to the village, she had no necessity to go to Penna River which is far away from the city and she would have caught a bus at Nellore city itself. As evident from the evidence of PW.7, who is the elder brother of deceased, it is PW.4 who intimated to PW.7 on 22.01.2006 at 04:00 p.m. that the deceased committed suicide by jumping into the waters of Penna River. PW.4 is no other than the elder brother





of A-1, who intimated PW.7 that the death of the deceased was suicidal. If really, the death was due to accidental fall into the river, A-1 would have cross-examined PW.4 in this regard. So, there is consistency in the case of prosecution from the evidence of PW.1 and PWs.3 to 7. PW.17, who was neighbourer to the house of the deceased did not support the case of the prosecution and deviating from Ex.P-15, 161 Cr.P.C. statement, deposed as if she learnt that the deceased died by falling into Penna river. According to her, on that day when she was washing her clothes, deceased left her house asking her (PW.17) to fill one vessel of water as she was going to see her paternal grand mother. So, the hostility of PW.17 was proved through the evidence of PW.18, Sub-Divisional Police Officer. PW.17 stated before him as in Ex.P-15. Hence, the evidence of PW.17, the hostile witness, is of no use to the case of A-1 to contend that the deceased died due to accidental fall into the Penna River. In the light of the above, the prosecution before the Court below categorically established that the deceased committed suicide by jumping into the Penna River. The contention of the appellant that the deceased died by accidental fall is without any basis.



29. There is no dispute that the marriage between the deceased and A-1 was held on 28.01.2004. The death of the deceased was on 22.01.2006. So, it was hardly within a period of two years from the date of marriage she died on account of the commission of suicide. The gist of the offence to brand the death as un-natural one should be that such death should be within a period of 7 years from the date of marriage. So, the prosecution categorically established that the commission of suicide by the deceased was within the period of seven years as such another essential ingredient of Section 304-B IPC was established by the prosecution. Apart from this, the prosecution was further able to prove that the death of the deceased *i.e.*, by way of commission of suicide was nothing but under normal circumstances. So, another essential ingredient of Section 304-B IPC that the death of a married woman happened in otherwise under normal circumstances was also established by the prosecution before the Court below.

30. Another essential ingredient of Section 304-B IPC which the prosecution was supposed to establish is that soon before death, the deceased was subjected to cruelty or harassment by A-1 with a demand for dowry or in connection with dowry. Admittedly, the



evidence available to prove these aspects is that of PWs.5 to 7 and PW.9, who was a mediator, who negotiated the marriage with regard to things that were presented at the time of marriage. PWs.5 to 7 deposed that the marriage between the deceased and A-1 was held at Gudur and at the time of marriage they gave Rs.60,000/- cash towards dowry, Rs.40,000/- cash towards marriage expenses and Rs.15,000/- towards household articles and 14 sovereigns of gold to A-1. The contention of A-1 is that PWs.5 and 6 had no financial capacity to pay such amount. A-1 agitated about the same during the course of their cross-examination. A probing cross-examination of PW.5 was done by learned defence counsel before the Court below. In such course PW.5 testified that out of 14 sovereigns of gold that was given to A-1 during the marriage, some gold was with him in his house. Some gold ornament was with his mother and the remaining gold was purchased by his wife and his relatives. The receipts are available for the gold purchased by his wife and relatives. He did not handover those receipts to Police. Before marriage, they were having movable and immovable properties of their own *i.e.*, landed property and household property at Bitragunta and landed property at Gundalammalem was sold away by them for the marriage. He sold them during month of December, 2003 when



the marriage was held in the month of January, 2004. There are documents evidencing his selling the immovable property. The landed property was sold by him to his younger brother. His house property was sold by him to his neighbor at Bitragunta but he cannot give his name but his son knows his name. He denied that he is not having capacity to gift 14 sovereigns of gold, pay Rs.60,000/- in cash towards dowry and Rs.40,000/- cash towards marriage expenses. PW.6 during cross-examination deposed that she purchased gold ornaments for her daughter at the time of her marriage at Nellore. She did not handover the said receipts to the Police.

31. It is to be noticed that the accused having got elicited the above answers during the course of cross-examination of PWs.5 and 6 did not further challenge their testimony. It is not suggested either to PW.5 or PW.6 that they did not have any lands and they did not have any house. Their further testimony with regard to selling of the landed property and household property for the marriage of the deceased was not challenged on behalf of the accused. So, the contention of A-1 before the Court below that PWs.5 and 6 had no financial capacity to present the things as deposed by them at the time of marriage is not tenable.



32. However, to prove the charges under Sections 498-A and 304-B IPC, the further thing which the prosecution was supposed to establish was the so called demand made by A-1 against deceased to bring some more amounts towards additional dowry.

33. Now, it is appropriate to look into the evidence of PWs.5 to 7 further. According to PW.5, after marriage, A-1 setup his family at Harinathapuram along with deceased, his parents and sister, who was un-married by then. His daughter and accused lived amicably for three months. After that A-1 along with his parents demanded his daughter to bring one lakh rupees. A-1 was demanding and harassing her daughter asking her to bring money from him. The deceased used to inform about the harassment to him by telephone and whenever she visited Hyderabad. They incurred the expenses of delivery of her daughter when she gave birth to a male child at Andalamma Hospital, Nellore. Even after accused harassed her daughter, A-1 used to beat his grandson. After the boy attained age of one year, his daughter gave the said boy to them as A-1 was frequently beating the small boy. So, they were looking after the son of her daughter and even now the boy is with them. With regard to the incident in question, he deposed that on 21.01.2006 he came to Bitragunta in connection with the



negotiations for the marriage of his son. He informed his daughter that he will give some amount to her in due course. During the night of 21.01.2006 he returned to Hyderabad by train. He talked with her daughter by phone and assured that he will pay some amount. On 22.01.2006 when he was at his house at Hyderabad, he came to know that his daughter was admitted in a hospital in a serious condition. Then, they proceeded to Nellore in a car. On the way they went to Gundalammalem where he was informed that she died. Then they went to Nellore Government Hospital and found the dead body of their daughter in mortuary at 08:00 a.m. on 23.01.2006. A-1 to A-3 were not present when they reached there. Even they did not attend the funeral ceremonies of his daughter. Police examined him. MRO conducted inquest over the dead body.

34. The evidence of PW.6 with regard to the allegations against A-1 for demanding additional dowry is that some months after the marriage, her daughter used to inform that the accused were not looking after on the ground that she did not bring sufficient money. Whenever she visited Hyderabad, she used to state to them that accused was not looking her properly and she used to weep. They incurred the medical expenses when their daughter



gave birth to a boy in Andalamma Hospital, Nellore. They have borne out those hospital expenses. Whenever she further visited Hyderabad, she used to state that accused were demanding money. Her son Rajasekhar gave money for three times to deceased at the rate of Rs.10,000/- each time. On 22.01.2006 she was informed that her son talked with her daughter and came to know that A-1 along with A-2 and A-3 quarreled with her on the demand of additional dowry amount. On the same day her son received telephone message from PW.4 that her daughter died. Then, she, her husband and her son started to Nellore along with the son of her daughter in a car. They reached to Government hospital and A-1 to A-3 were not there. Police conducted inquest over the dead body.

35. The evidence of PW.7 is that in the first instance accused looked after her sister properly and later she was not treated properly and was subjected to harassment. A-1 used to harass her on the ground that his business was not good by demanding her to bring more money. He convinced his sister to adjust with the accused. He also brought the said fact to the notice of Ramesh Babu, who arranged the marriage between his sister and A-1. When her sister got pregnancy, he used to pay the amounts to her



sister for medical expenditure at the request of A-1. On 20.01.2006, his father came to Nellore in connection with negotiations for his marriage. On 21.01.2006 his father went to Bitragunta in connection with his marriage negotiations. On the same night he left to Hyderabad. On 22.01.2006, he received a telephone call from his sister from Nellore at 10:30 a.m. and she enquired him about his marriage alliance and he informed her about the details of negotiations of his marriage. Her sister informed him that her husband and parents-in-law were not looking after her properly. In the meantime, A-1 took the cell phone from his sister and beat her. He was able to hear it in the telephone. After some time, he made a call to his sister at 08:30 a.m. and asked her that those things are common. At 10:30 a.m. A-1 telephoned to him from one rupee coin box at Railway Station, Nellore and informed him that he was sending his sister to Hyderabad for which he asked him not to send her to Hyderabad and that he would send his parents to Nellore for talks. Then, A-1 told him that at least he would send his sister to Bitragunta to his paternal grand mother for which he replied that his grand mother is not at Bitragunta and she went to Balajinagar. Then, A-1 told him that he would send his sister to Balajinagar. Again, he asked him to go back to his house and that his parents would come by





next day. Then, A-1 switched off the mobile. Then, he again telephoned to the cell phone of A-1, which was lifted by his sister and he asked her to go back to house and that he would send his parents. Then, his sister asked him to telephone her after she goes to the house so that she can talk with her mother. On the same day at about 03:30 p.m. A-1 telephoned to him and informed that his sister did not return to house and then he asked him to verify whether she went to Balajinagar or not. Then, A-1 stated that he does not want to telephone to anybody and switched off the phone. Then, at 04:00 p.m. he came to know that his sister died by committing suicide through PW.4.

36. This portion of the evidence of PW.7 that he came to know about the death of the deceased by commission of suicide has support from the evidence of PW.4, who deposed that he intimated the elder brother of the deceased about the commission of suicide.

37. As seen from the evidence of PW.9, who was a mediator, who negotiated the marriage between the deceased and A-1, he deposed that Anuradha committed suicide by jumping into Penna River on 22.01.2006. In the year, 2003 he and Anjani Kumar negotiated and settled the marriage between Anuradha and A-1. At the time of marriage, it was agreed to give Rs.60,000/- as dowry,



Rs.40,000/- towards marriage expenses and Rs.15,000/- towards household articles and 14 sovereigns of gold to A-1. During marriage the parents of Anurdaha gave the agreed dowry and presentations. Six months after the marriage, PWs.5 and 7 informed him that in spite of their giving the amounts, their daughter was subjected to harassment by A-1. One year after the marriage, when he met Anuradha and her mother at Nellore Railway Station, they informed him that accused were demanding more money from her parents for the business of A-1. Then, he made a request to his co-brother Anjani Kumar to convince the accused. Later, he came to know that the deceased committed suicide.

38. The first line of contention of appellant is that the evidence of PWs.5 to 7 is hearsay in nature. It is difficult to accept such a contention. They categorically have spoken about the presentation of cash, gold ornaments and household articles to the accused at the time of marriage. The harassment meted out to the deceased can only be spoken by PWs.5 to 7. Hence, the contention of learned counsel for the appellant in this regard is not tenable.

39. During the course of cross-examination of PWs.5 to 7, Exs.D-1 to D-4 were marked. As seen from the Exs.D-1, D-2 and



D-4 they are not at all material. Ex.D-1 is relating to the date of giving an amount of Rs.10,000/- by PW.5. So, it is not material at all. Similarly, Ex.D-2 is to the effect that they brought their daughter's child to Hyderabad about 40 days back and they are looking after the baby. This has no significance at all as it is not the case of A-1 that his son *i.e.*, small child was in his custody at the time of death of the deceased. Even accused agitated before PW.6 that when they attended a function at Kota, they took away the child of the deceased. So, the custody of the child was with PWs.5 and 6, admittedly. It is immaterial whether they got the custody of the child 40 days back or earlier thereto. Coming to Ex.D-4, it runs that PW.7 told his sister that Ac.1.00 cents of and Rs.50,000/- cash is being given to him at the time of marriage. It is to be noticed that in connection with the marriage alliance of PW.7, elder brother of the deceased, actually he conversed with his sister by phone and according to the appellant he stated so as in Ex.D-4. So, accused wanted to take an advantage even what PW.7 conversed with his marriage alliance with the deceased and it has nothing to do with the case of the accused. So, Exs.D-1, D-2 and D-4 deserve no merit. Ex.D-3 is three photos when some function was held at Kota in the year 2004 and it has nothing to do with the defence of the accused. The contention of A-1 is that he was



taking care of the deceased when she became pregnant and went to hospital along with the deceased etc. As husband of the deceased, it is the bounden duty of A-1 to take care of the health of the deceased when she was carrying pregnancy. So, simply because PWs.5 and 6 attended some function at Kota in connection with new born child and simply because A-1 accompanied the deceased to the hospital when she became pregnant etc., are not going to advance the case of the defence of A-1 in any way, in my considered view.

40. Now, coming to the omissions, absolutely, during the course of evidence of PW.5, no omissions are elicited by the learned defence counsel before the Court below. Coming to the evidence of PW.6, she deposed that she did not state before Police that her daughter came to their house and left her son with them stating that accused were not looking after her properly. She volunteers that as the Police did not ask them, she did not reveal. The above is not at all material because some how or the other PWs.5 and 6 came into custody of the son of A-1 and deceased for which there was no explanation from the mouth of A-1 properly. So, even the evidence of PW.6 has no improvements. During the course of cross-examination of PW.7, A-1 agitated about certain omissions



and he was able to elicit some omissions from the mouth of PW.18, the SDPO. To ascertain as to whether the so called omissions are on material aspects, it is pertinent to look into the same. PW.18 during the course of cross-examination stated that PW.7 did not state before him that A-1 sustained loss in his business and on that ground he demanded additional dowry but he stated before him that A-1 demanded for additional dowry. So, what is crucial is the demand for additional dowry but not the reason for such demand. So, the above is not at all an improvement. PW.18, further deposed in cross-examination that PW.7 did not state before him that he paid amount thrice at the rate of Rs.10,000/- each time but he stated that he paid cash twice to A-1 at Rs.10,000/- each. The above is also not a material aspect because the payment of Rs.10,000/- each by PW.7 to A-1 was there even in 161 Cr.P.C statement, according to PW.18. PW.18 further deposed that PW.7 did not state before him that when the victim and A-1 were at railway station, they talked with PW.7 on phone and that A-1 beat the victim but he stated about the victim and A-1's presence at the railway station. Though the so called attribution against A-1 that he beat the deceased at railway station was omission but the presence of deceased and A-1 was not an omission on 22.01.2006 at railway station. So, the



substratum of the evidence of PW.7 that on 22.01.2006 A-1 made a telephone call to him from one rupee coin box stating that he was sending the deceased to him and that PW.7 requested him not to do so and the so called conversation between him and A-1 was there even before the SDPO during the course of investigation and these are not at all omissions. So, in my considered view, the evidence of PW.7 with regard to certain events happened at railway station on 22.01.2006 in the morning cannot be taken as omissions. Hence, in my considered view, the evidence of PW.7 does not suffer with any omissions. The contradictions under Exs.D-1, D-2 and D-4 are not at all material. Hence, there was consistency between the evidence of PWs.5 to 7 to any extent.

41. Absolutely, there is no dispute that though the Police alleged in the charge sheet that A-2 and A-3 were residing with A-1 but it is elicited during the course of cross-examination of PW.5 that as on the date of death of the deceased they were residing at Kota. Looking into those circumstances the Court below extended an order of acquittal in favour of A-2 and A-3. So, as on the date of death, A-1 and the deceased were residing together. During the course of cross-examination of PWs.5 to 7, accused got suggested to them that as they were not taking care of the deceased



financially well, the deceased felt humiliated. As already pointed out, the financial capacity of PW.5 was probed during the course of cross-examination and his evidence in this regard is convincing. It is a case where, according to the cross-examination of PW.7, the medical bills regarding the expenses incurred by PWs.5 and 6 were with the accused. According to the evidence of PW.7, A-1 delivered the medical receipts to him and he paid back the amounts to A-1. So, it is a case where there is convincing evidence to show that PWs.5 to 7 took care of the medical expenses of the deceased, when she gave birth to a child at Andalamma Hospital, Nellore. As dutiful parents, they obliged that it is their responsibility and did so. Apart from this, it is a case where PWs.5 and 6 were taking care of the small child of the deceased and A-1 at Hyderabad. A woman like the deceased would not go to the extent of feeling humiliation, especially when PW.5 was the auto driver and when he presented cash, gold ornaments and household articles at the time of her marriage. So, according to A-1, as the parents of deceased were not taking care of her financially, she felt humiliated. Virtually, it is not the defence of the accused that on account of such humiliation, she committed suicide. The intention of A-1 can be gathered from his line of defence that he attributed default against PWs.5 and 6 for not looking after the deceased



financially well. The above said defence of the accused appears to be baseless when PWs.5 and 6 born out the medical expenses and they did necessary things at the time of marriage. Though PW.5 was an auto driver, they took care of the minor child into their fold. The contention of the appellant in this regard is not tenable.

42. A-1 had no probable say as to the circumstances under which he allowed his small child into the custody of PWs.5 and 6, who were residing at Hyderabad, a far away place from Nellore. The evidence of PW.5 is that as A-1 was torturing even the small child, they took the son of the deceased and A-1 into their fold. These things are quietly evident and established by the prosecution. It is a case that 20.01.2006 and 21.01.2006 were the dates which relate to the negotiations pertaining to the marriage talks of PW.7. The deceased was no other than sister of PW.7 and daughter of PWs.5 and 6. So, the settlement of marriage of PW.7 was happy news to the deceased. So, when there was an occasion for settlement of marriage talks pertaining to PW.7, it is rather surprising that the deceased would develop humiliation against PWs.5 and 6 for allegedly not providing financial help. As pointed out, it is not the case of A-1 that she committed suicide on account of such humiliation. The theory of accidental fall





canvassed by A-1 deserves no merit. During the course of probing cross-examination of PW.7, he was asked to state as to whether the deceased attended relating to his marriage talks. He deposed in cross-examination that they did not call his sister for his marriage negotiations but they called her at the time of *PELLI CHOOPULU* (Bride groom and bride first meeting prior to the date of marriage talks) and she also attended it. It was held in January, 11<sup>th</sup> or 12<sup>th</sup>. In that connection both A-1 and his sister attended. He further denied in cross-examination that since they did not call his sister for his marriage negotiations, she felt ashamed of it. He volunteers that since the gold ornaments of deceased were pledged by A-1, she herself did not attend to his marriage negotiations in spite of their inviting her. The above answer elicited during the course of cross-examination was not challenged by A-1. Nothing was suggested by PW.7 that A-1 did not pledge the gold ornaments of the deceased. Without disputing the above fact, A-1 ventured to put a question before PW.18 during cross-examination as to whether he investigated whether the gold ornaments of the deceased were pledged or not. In fact, the Investigating Officer has no chance to look into the said aspect because the above answer was elicited during the course of cross-examination of PW.7. So, the evidence of PW.7 shows a plausible explanation as to why the



deceased could not attend the marriage talks of PW.7. Hence, in the light of the above, absolutely, the contention of A-1 that the deceased felt humiliated on account of the behaviour of PWs.5 and 6 was not at all probalitized before the Court below.

43. The time of commission of suicide by the deceased was in broad day light. The contention of the accused that at the instance of PWs.5 and 6 deceased proceeded to Gundalammapalem and on the way, she fell into the river was falsified when the Penna river was far away from Nellore city and when there was a probability for the deceased to catch a bus at Nellore. Such line of defence is not at all tenable. Accused had no say except the above untenable defence as to the circumstances in which the deceased left the house on the fateful day. There is categorical evidence of PWs.5 to 7 that accused was not available at the Government hospital by the time they visited. Even he was not available at the time of funerals also. During the course of cross-examination of PW.16, he deposed that he went to the hospital at about 12:30 p.m. on 23.01.2006 and by then MRO examined the witnesses during the inquest and they did not state anything to him. He deposed that he tried to examine the parents of the deceased by then but they were in sorrow mood and were engaged in taking the dead body for



funerals etc. A-1 did not elicit anything further from PW.16 that he took part in the funerals of the deceased. So, the evidence on record goes to prove that presence of A-1 can altogether be excluded when the parents of the deceased were taking necessary steps for funerals of the deceased. All these goes to show the guilty conscious of the appellant. In my considered view, nothing was probalised from the part of A-1 showing that he was physically present at the Government hospital when PWs.5 to 7 visited the hospital and he participated in the funerals. As husband of the deceased, he was bound to attend the funerals. There were no circumstances from the line of the defence whether he attended the funerals of the deceased. Having regard to the above, in my considered view, that the evidence adduced by the prosecution is convincing. The evidence of PWs.5 to 7 with regard to the demand made by A-1 to bring more money on the ground that the deceased did not bring sufficient money is convincing. The accused wanted to blame the deceased on the ground that the parents of the deceased did not provide sufficient financial help to her. The above said contention is totally improbabilised.

44. Now turning to the decision of the Hon'ble Apex Court in **Raman Kumar** (2<sup>nd</sup> *supra*), the evidence of the prosecution



witnesses suffers with exaggerations and omissions and the judgment of the High Court of Punjab was held to be sketchy and devoid of reasons. There was a mention in the history sheet of the hospital that the deceased came into contact with the fire when she tried to ignite the gas stove. The said history sheet was said to be written by a Doctor. In the letter purported to be written by the deceased, there was no whisper about the demand of dowry. Looking into the above infirmities in the case of the prosecution, the Hon'ble Apex Court allowed the Appeal and reversed the judgment of the High Court of Punjab. The factual aspects in **Raman Kumar** (2<sup>nd</sup> *supra*), stood on a different footing and the same cannot be made applicable to the case on hand.

45. Turning to the decision of the Hon'ble Apex Court in **Gurdeep Singh** (1<sup>st</sup> *supra*), the allegations were that of administering poison to the deceased and cremation of dead body hurriedly without intimating to the parents and the medical evidence ruled out any possibility for administering poisonous substance and the case of the prosecution suffered with several infirmities. Under the circumstances, the Hon'ble Supreme Court found favour with the case of the appellant and reversed the



conviction. Even the factual aspects in the above said case, obviously, stood on a different footing.

46. Another decision of the High Court of Andhra Pradesh in **G.M. Ravi** (3<sup>rd</sup> *supra*), has nothing to do with the allegations under Section 304-B IPC. The allegations in the above said case were of Sections 302 and 498-A IPC and the prosecution exhibited dying declaration which was the basis for conviction by the learned Sessions Court and the High Court of A.P. held that the dying declaration suffered with suspicious circumstances and reversed the judgment of conviction. Even the factual aspects in the above case, obviously, stood on a different footing.

47. Coming to the case on hand, death of the deceased was within seven years of the marriage and it was happened otherwise than under normal circumstances. As pointed out, the evidence of PWs.5 to 7 does not suffer with any omissions or contradictions and it is inspiring confidence in the mind of the Court.

48. At this juncture, it is pertinent to look into the decision of the Hon'ble Supreme Court in **The State of Andhra Pradesh v. Raj Gopal Asawa and others**<sup>4</sup>, it is a case where the learned

---

<sup>4</sup> (2004) 4 SCC 470



Sessions Judge found favour with the case of the prosecution and convicted A-1 to A-3. They filed an Appeal before the High Court of Andhra Pradesh and the High Court reversed the judgment of conviction on the findings that to constitute dowry, demand should be made directly or indirectly either at the time of marriage or before the marriage or at any time after the marriage and that if there was no agreement between the parties to give or take any property or valuable security and after the marriage if further amounts are demanded, such demand will not fall within the meaning of dowry. While holding so, the High Court of A.P. reversed the judgment of conviction. Then, the State of Andhra Pradesh went for Appeal in Criminal Appeal No.384 of 1998 before the Hon'ble Apex Court. The Hon'ble Apex Court dealt with the essential ingredients Sections 304-B and 498-A IPC and further looked into the term *dowry* as defined in Section 2 of the Dowry Prohibition Act, 1961 and held that under Section 304-B IPC demand of dowry itself is punishable and it neither conceives or conceive of any agreement. If for convicting any offender, agreement for dowry is to be proved, hardly any offenders would come under the clutches of law.



49. The Hon'ble Apex Court in **Raj Gopal Asawa** (4<sup>th</sup> *supra*) at Para Nos.6 and 7 dealt with the essential ingredients of Sections 304-B and 498-A IPC and further the definition of the word 'dowry' in Section 2 of the Dowry Prohibition Act and dealt with the issue elaborately at Para Nos.8 to 11. It is necessary to extract here the observations of the Hon'ble Apex Court, as above:

"8. Explanation to Section 304B refers to dowry "as having the same meaning as in Section 2 of the Act", the question is : what is the periphery of the dowry as defined therein? The argument is, there has to be an agreement at the time of the marriage in view of the words "agreed to be given" occurring therein, and in the absence of any such evidence it would not constitute to be a dowry. It is noticeable, as this definition by amendment includes not only the period before and at the marriage but also the period subsequent to the marriage. This position was highlighted in *Pawan Kumar and Ors. v. State of Haryana* (1998 CriLJ 1 144) .

9. The offence alleged against the respondents is under Section 304B IPC which makes "demand of dowry" itself punishable. Demand neither conceives nor would conceive of any agreement. If for convicting any offender, agreement for dowry is to be proved, hardly any offenders would come under the clutches of law. When Section 304B refers to "demand of dowry", it refers to the demand of property or valuable security as referred to in the definition of "dowry" under the Act. The argument that there is no demand of dowry, in the present case, has no force. In cases of dowry deaths and suicides, circumstantial evidence plays an



important role and inferences can be drawn on the basis of such evidence. That could be either direct or indirect. It is significant that Section 4 of the Act, was also amended by means of Act 63 of 1984, under which it is an offence to demand dowry directly or indirectly from the parents or other relatives or guardian of a bride. The word "agreement" referred to in Section 2 has to be inferred on the facts and circumstances of each case. The interpretation that the respondents seek, that conviction can only be if there is agreement for dowry, is misconceived. This would be contrary to the mandate and object of the Act. "Dowry" definition is to be interpreted with the other provisions of the Act including Section 3, which refers to giving or taking dowry and Section 4 which deals with a penalty for demanding dowry, under the Act and the IPC. This makes it clear that even demand of dowry on other ingredients being satisfied is punishable. It is not always necessary that there be any agreement for dowry.

10. Section 113B of the Evidence Act is also relevant for the case at hand. Both Section 304B IPC and Section 113B of the Evidence Act were inserted as noted earlier by the Dowry Prohibition (Amendment) Act 43 of 1986 with a view to combat the increasing menace of dowry deaths. Section 113B reads as follows:-

"113-B: Presumption as to dowry death- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall





presume that such person had caused the dowry death.

Explanation - For the purposes of this section 'dowry death' shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)."

The necessity for insertion of the two provisions has been amply analysed by the Law Commission of India in its 21<sup>st</sup> Report dated 10<sup>th</sup> August, 1988 on 'Dowry Deaths and Law Reform'. Keeping in view the impediment in the pre-existing law in securing evidence to prove dowry related deaths, legislature thought it wise to insert a provision relating to presumption of dowry death on proof of certain essentials. It is in this background presumptive Section 113B in the Evidence Act has been inserted. As per the definition of 'dowry death' in Section 304B IPC and the wording in the presumptive Section 113B of the Evidence Act, one of the essential ingredients, amongst others, in both the provisions is that the concerned woman must have been "soon before her death" subjected to cruelty or harassment "for or in connection with the demand of dowry". Presumption under Section 113B is a presumption of law. On proof of the essentials mentioned therein, it becomes obligatory on the Court to raise a presumption that the accused caused the dowry death. The presumption shall be raised only on proof of the following essentials:

(1) The question before the Court must be whether the accused has committed the dowry death of a woman. (This means that the presumption can be raised only if the accused



is being tried for the offence under Section 304B IPC).

(2) The woman was subjected to cruelty or harassment by her husband or his relatives.

(3) Such cruelty or harassment was for, or in connection with any demand for dowry.

(4) Such cruelty or harassment was soon before her death.

11. A conjoint reading of Section 113B of the Evidence Act and Section 304B IPC shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. Prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances'. The expression 'soon before' is very relevant where Section 113B of the Evidence Act and Section 304B IPC are pressed into service. Prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led by prosecution. 'Soon before' is a relative term and it would depend upon circumstances of each case and no strait-jacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113B of the Evidence Act. The expression 'soon before her death' used in the substantive Section 304B IPC and Section 113B of the Evidence Act is present



with the idea of proximity test. No definite period has been indicated and the expression 'soon before' is not defined. A reference to expression 'soon before' used in Section 114. Illustration (a) of the Evidence Act is relevant. It lays down that a Court may presume that a man who is in the possession of goods 'soon after the theft, is either the thief has received the goods knowing them to be stolen, unless he can account for his possession. The determination of the period which can come within the term 'soon before' is left to be determined by the Courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression 'soon before' would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question. There must be existence of a proximate and live-link between the effect of cruelty based on dowry demand and the concerned death. If alleged incident of cruelty is remote in time and has become stale enough not to disturb mental equilibrium of the woman concerned, it would be of no consequence”.

50. The Hon'ble Apex Court while holding that the evidence established the charges against A-1, believed the evidence of PWs.2 to 4 and 6. Accordingly, the Hon'ble Apex Court allowed the Appeal thereby reversing the judgment of the High Court as against A-1 but dismissed the Appeal insofar as respondent No.2 (A-3) is concerned. The Appeal against A-2 stood abated even before the High Court of Andhra Pradesh.



51. In the light of the decision of the Hon'ble Apex Court in **Raj Gopal Asawa** (4<sup>th</sup> *supra*), there need not be any agreement at the time of marriage with regard to the dowry. Coming to the case on hand, as pointed out, the death of the deceased was otherwise under normal circumstances and it was within the period of 7 years from the date of marriage. The evidence of PWs.5 to 7 and 9 with regard to the harassment meted out to the deceased by A-1 with demand for additional dowry is convincing. The evidence of PW.7 categorically proves the fact that A-1 on 22.01.2006, telephoned to PW.7 and stated that he is sending her to Hyderabad and PW.7 objected for the same and asked him that he would send his parents and again A-1 informed him that he would send the deceased to Bitragunta to his maternal grand mother and then PW.7 intimated him that she is at Balajinagar and even asked him not to send the deceased even to Balajinagar and that he would send his parents. This portion of the evidence of PW.7 is not an omission, as pointed out, and A-1 did not elicit anything from the mouth of PW.18 in this regard. A-1 had no probable say as to the circumstances in which the deceased came out from the house on 22.01.2006. On the other hand, the case of the prosecution that on the fateful day A-1 drove out the deceased to her parents house to bring the amounts is fully established by the



prosecution. Having regard to the above, I am of the considered view that the evidence of PWs.5 to 7 and 9 to the effect that A-1 demanded amounts from the deceased towards additional dowry is believable. Hence, I am of the considered view that another essential ingredient of Section 304-B IPC that the deceased was subjected to harassment soon before her death is categorically established by the prosecution. The prosecution has the benefit of the presumption under Section 113-B of the Indian Evidence Act, 1872. It reads as follows:

**“113-B. Presumption as to dowry death:-** when the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.”

52. Apart from the evidence of PWs.5 to 7 and 9, whose evidence is convincing, the prosecution had the benefit of presumption under Section 113-B of the Indian Evidence Act and the accused failed to prove *contra*. The appreciation of evidence by the learned Additional Sessions Judge as evident from the judgment of the Court below is on correct lines. Under the circumstances, I am of the considered view that the prosecution before the Court below



categorically established the charges under Sections 498-A and 304-B IPC against the appellant/A-1 beyond reasonable doubt. Hence, I see no reason to interfere with the impugned judgment.

53. In the result, the Criminal Appeal is dismissed confirming conviction and sentence imposed against the appellant/A-1 in Sessions Case No.103 of 2007, dated 23.05.2009, on the file of the Court of IV Additional District and Sessions Judge (Fast Track Court), Nellore.

54. The Registry is directed to take steps immediately under Section 388 Cr.P.C. to certify the judgment of this Court including the trial Court record, if any, to the Court below on or before 13.04.2023 and on such certification, the trial Court shall take necessary steps to carry out the sentence imposed against the appellant/A-1 in S.C. No.103 of 2007, dated 23.05.2009, and to report compliance to this Court. A copy of this judgment be placed before the Registrar (Judicial), forthwith, for giving necessary instructions to the concerned Officers in the Registry.

Consequently, Miscellaneous Applications pending, if any, shall stand closed.

---

**JUSTICE A.V.RAVINDRA BABU**

Date: 04.04.2023  
DSH