

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 1533 OF 2008

T.VENKATA SUBBA RAO

Appellant

VERSUS

STATE OF A.P.

Respondent

O R D E R

1. Appellant, being aggrieved by his conviction and sentence under Section 304-B of the Indian Penal Code, 1860, is before us with the leave of the Court.

2. The appellant happens to be the husband of the deceased Padmavati Devi. Marriage between them had taken place on 01.06.1991, whereas she died on 06.08.1996 on account of burn injuries. There is overwhelming evidence that the appellant all the time was making demand of dowry and threatening his wife that in case of failure, he would marry another woman. The wife has given her dying declaration in which she has stated that on 04.08.1996, the appellant visited her and repeated the threat.

3. The Trial Court and the High Court on appreciation of evidence came to the conclusion that the death has taken place within seven years from the date of the marriage, the deceased died otherwise than under normal circumstances and she was subjected to cruelty in connection with demand of dowry by the husband soon before her death and accordingly convicted and sentenced him as above.

4. The only submission made on behalf of the appellant is that there is no evidence that the deceased was subjected to cruelty soon before her death. He points out from the evidence of the witnesses, it is evident that the appellant had not visited the deceased since March, 1996 and therefore, it cannot be said that the appellant subjected the wife to cruelty in connection with the demand of dowry soon before her death.

5. Learned counsel representing respondent, however, submits that from the dying declaration it is evident that on the very day the deceased sustained burn injuries, the appellant visited her and made demand for dowry and threatened that he would marry another woman if the demand of dowry is not met. He further submits that according to the appellant's own showing, he abandoned his wife as she refused to meet demand of dowry and threatened to marry another woman which

clearly shows that the act of cruelty was done soon before the death.

6. We have given our consideration to the rival submissions and we do not find any substance in the submission of the learned counsel for the appellant. There is overwhelming evidence that the appellant made demand of dowry and threatened his wife that in case of failure, he will marry another woman. He, in fact, abandoned his wife on that account. Further, on the date of incident, he visited his wife and repeated the demand of dowry. This clearly shows that the appellant subjected his wife to cruelty soon before her death in connection with demand of dowry.

7. Learned counsel for the appellant pointed out that the visit of the appellant on the date of occurrence, as disclosed in the dying declaration, does not find place in the suicide note given by her and, therefore, this part of the dying declaration is fit to be rejected. We do not find any substance in this submission of the learned counsel. The dying declaration has been recorded by a Judicial Magistrate, First Class and we have no doubt in our mind that the Judicial Magistrate would incorporate in the dying declaration what was not stated by the deceased.

8. We are of the opinion that in the facts and circumstances of the case, both the courts have rightly come to the conclusion that the appellant has committed the offence.

9. We do not find any merit in the appeal and it is dismissed accordingly. Appellant is on bail. His bail bonds are cancelled. He be taken into custody forthwith to serve out the remainder of sentence.

.....J.
(CHANDRAMAULI KR. PRASAD)

.....J.
(FAKKIR MOHAMED IBRAHIM KALIFULLA)

NEW DELHI
FEBRUARY 06, 2013

ITEM NO.101 (PH) COURT NO.12 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 1533 OF 2008

T.VENKATA SUBBA RAO Appellant (s)
VERSUS

STATE OF A.P.

Respondent(s)

(With appln(s) for exemption from filing O.T., stay and office report)

Date: 06/02/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD
HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

For Appellant(s) Mr. G. Ramakrishna Prasad, Adv.
Mr. B. Suyodhan, Adv.
Mohd. Wasay Khan, Adv.
Ms. Filza Moonis, Adv.
Mr. Arjun Rajkumar Fedrik, Adv.

For Respondent(s) Mr. D. Mahesh Babu, Adv.
Mr. Mayur R Shah, Adv.
Ms. Suchitra Hrangkhawl, Adv.
Mr. Amjid Maqbool, Adv.

UPON hearing counsel the Court made the following
O R D E R

Appeal is dismissed in terms of the signed order.

(NAVEEN KUMAR)
COURT MASTER

(INDU SATIJA)
COURT MASTER

(Signed order is placed on the file)