BAIL SLIP: The Appellant/ Accused was directed to be released on bail by the order of the High Court dated 18-07-2012 in Crl.A.M.P.No.1473 of 2012 in Crl.A.No.683 of 2012.

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THURSDAY, THE SECOND DAY OF APRIL
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL APPEAL NO: 683 OF 2012

Appeal under Section 374(2) of the Cr.P.C. aggrieved by the Judgment dated 13-07-2012 passed in S.C.No.367 of 2011 on the file of the Court of the I Additional Sessions Judge, Adilabad.

Between:

Shaik Ghouse, S/o Khaja, Aged 24 years, Occ: Kasab (Beef Seller), R/o Kolipura, Adilabad District.

...Appellant/Accused

AND

The State of A.P., through the Sub Divisional Police Officer, Adilabad, Adilabad District, Represented by its Public Prosecutor, High Court of Andhra Pradesh, Hyderabad.

...Respondent/Complainant

Counsel for the Appellant: Ms. S. Navya, counsel representing Sri S. Surender Reddy

Counsel for the Respondent: Sri D. Arun Kumar, Additional Public Prosecutor

The Court delivered the following: JUDGMENT

IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HON'BLE SMT. JUSTICE TIRUMALA DEVI EADA

CRIMINAL APPEAL NO.683 OF 2012

Date: 02.04.2026

Between:

Shaik Ghouse ... Appellant

and

The State of A.P., through
Sub-Divisional Police Officer,
Adilabad, Adilabad District, rep. by
Public Prosecutor, High Court of A.P.,
Hyderabad. ... Respondent

: JUDGMENT :

This criminal appeal is filed by the appellant–Accused aggrieved by the judgment dated 13.07.2012 passed in Sessions Case No.367 of 2011 by the learned I Additional Sessions Judge, Adilabad (for short 'the trial Court').

2. Vide the aforesaid judgment, the trial Court found the appellant guilty of the charge under Section 304-B of the Indian Penal Code (for short 'IPC') and accordingly, he was convicted and sentenced him to undergo rigorous imprisonment for a

period of 10 years and to pay a fine of Rs.2000/-, in default to undergo simple imprisonment for a period of three months.

3. The case of the prosecution is that, on 25.12.2008, the marriage of accused was performed with the deceased, and that at the time of marriage, her parents presented an amount of Rs.40,000/- net cash, one tula of gold, and other household articles. After marriage, the accused and the deceased lived separately in a rented house at Kolipura locality of Adilabad. They were blessed with one son, and the accused began to torture the deceased for want of an additional dowry of Rs.15,000/-. However, her parents expressed their inability, and the harassment continued. On 13.09.2010, the accused picked up a quarrel with the deceased over a petty issue and beat her, upon which the deceased, getting vexed with her life, committed suicide by hanging. Thus, the accused is facing charge under Section 304-B of the IPC.

4. After following due procedure, the case was committed to the Sessions Court, and the I Additional Sessions Judge, Adilabad heard the accused on the charge and conducted the trial.

5. During the trial, PWs.1 to 12 were examined and Exs.P1 to P14 and MOs 1 and 2 were marked on behalf of the prosecution, whereas none were examined on behalf of the accused and no documents were marked.

6. Based on the evidence on record, the trial Court found the appellant – accused guilty of the charge under Section 304-B of IPC and accordingly convicted and sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for three months. Aggrieved by the said judgment of conviction and sentence, the present appeal is preferred.

7. Heard the submissions of Ms.S.Navya, learned counsel representing Sri S.Surender Reddy, learned counsel for the appellant and Sri D.Arun Kumar, learned Additional Public Prosecutor for the respondent-State.

8. The learned counsel for the appellant has submitted that the prosecution could not prove the offence against the accused beyond reasonable doubt, and that all are interested

witnesses who spoke with regard to the harassment. There is no independent witness examined in this case to prove the offence against the accused, and that the accused never harassed the deceased for want of additional dowry. The parents of the deceased do not have such status to give any dowry, and the allegation of giving dowry itself is false. There is no proof of harassment for want of dowry soon before her death, in the absence of which the ingredients under Section 304-B of IPC are not made out. Once the ingredients under 304-B IPC are not made out, no presumption can be drawn under Section 113-B of the Evidence Act, and the prosecution has utterly failed to prove the guilt of the accused under 304-B of IPC. The presumption drawn by the trial Court cannot be sustained, as the foundational facts are not established by the prosecution. She, therefore, prayed to acquit the accused and set aside the judgment of conviction and sentence passed by the trial court.

9. The learned Additional Public Prosecutor has submitted that the evidence of PWs 1 to 3 and PW5 clinchingly proves the offence against the accused. PW5 is the house owner, who is

a third party and is no way related to the deceased, and his evidence itself shows that there was harassment by the accused for want of additional dowry. The trial court has rightly appreciated the evidence on record and has convicted the accused; hence, he prayed to confirm the same.

10. Considering the above submissions, the points that fall for consideration in this appeal are:

1) Whether the charge under 304-B of IPC was proved by the prosecution beyond reasonable doubt?

2) Whether the conviction and sentence of imprisonment recorded by the trial Court against the appellant herein - accused are sustainable, both on facts and in law?

3) To what relief?

11. **POINT NO.1:**

a) PW1/Sulthana is the mother of the deceased. It is elicited from her that she performed the marriage of her daughter with the accused in the year 2008 by giving Rs.40,000/- as dowry, and presented one tula of gold, silver, and other household articles. After the marriage, they lived happily for some time at Kulipura locality of Adilabad. Out of the wedlock, they were

blessed with a son, after which the accused started harassing the deceased, and he also kicked her out of the house with a demand for additional dowry of Rs.15,000/-. Since then, the deceased was forced to stay with them and she could not satisfy the demand of additional dowry by the accused. Later on, she convinced her daughter and sent her to the house of the accused. After 15 to 20 days, one Zameel made a phone call from Adilabad, informing that the deceased had committed suicide by hanging herself in the house of the accused. It is further elicited that since they failed to satisfy the demand of the accused for additional dowry, he subjected the deceased to cruelty, and that is the reason she committed suicide. She gave the complaint under Ex.P1.

b) She admitted that after the death of the deceased, their caste elders returned all the belongings of her daughter to her, from the accused. She stated that she does not know whether any money was paid by the accused on that day in the presence of the elders, and whether her husband received any amount from the accused. She denied the suggestion that the deceased suffered from stomach pain and, due to unbearable

pain, committed suicide. She admitted that the parents of the accused were not living with them at Kulipura.

c) PW2/Taslim is the sister of PW1. She corroborated the evidence of PW1. She admitted that the list of presentations is prepared at the time of marriage in their community, but she does not know about the said list of presentations made in the marriage of the deceased with the accused.

d) PW3/Jameel Ahmed is a relative of PW1. His evidence also corroborates the evidence of PW1. It is elicited from him that the deceased was sent to her parental home for want of additional dowry of Rs.15,000/- after the birth of the male child and before the Ramzan festival in the year 2010, i.e., on 13.09.2010, she was sent back to the house of the accused after being convinced and after her parents expressed their inability to pay the additional dowry. On the third day of Ramzan, he heard the news of the deceased committing suicide by hanging herself.

e) PW4/MA Hafeez is the sister-in-law of PW1 and her evidence corroborates the evidence of PW1.

f) PW5/Shami Khan is the house owner, where the accused used to live along with the deceased. His evidence reveals that the accused lived as a tenant along with his wife. Once he noticed that there was a quarrel between both of them, and he warned them to vacate if they repeated such an incident. It is elicited from him that the deceased died by committing suicide in the same house, in the portion of the accused. On the said day, he was not in Adilabad, and on learning about the incident, he returned and found the dead body of the deceased. Thus, the evidence of the house owner aids the case of prosecution to the extent that there were quarrels between the accused and the deceased, and that the deceased committed suicide in the house of the accused.

g) PW6/Md.Khaleel is the photographer. In his evidence, Exs.P2 to P9 (the photographs) are marked.

h) PW7/Muneer Khan is the cable operator and a witness for the scene of offence Panchanama under Ex.P10, and MO1/nylon rope and MO2/red-colour chunni were recovered from the scene of offence.

i) PW8/Sunil Kumar Masade, the Tahsildar conducted the inquest over the dead body of the deceased in the presence of PW7, as recorded under Ex.P11.

j) PW9/Dr.B.Shekar Rao is the doctor. He conducted the autopsy over the dead body of the deceased and issued the PME under Ex.P12. His evidence reveals that there were antemortem ligature marks measuring 25 cms in length, with a width of 1 to 1.5 cms, present over the front and sides of the neck, running obliquely just above the thyroid cartilage with the knot just below the right mastoid process. It is also elicited that the thyroid cartilage and hyoid were intact.

k) PW10/Ch.Natesh, PW11/AR Dhamodhar, and PW12/L.Satish Kumar are the investigating officers, who deposed with regard to the mode of investigation done by them. PW10 issued the FIR under Ex.P13. Ex.P14, the rough sketch, is marked in the evidence of PW11.

l) Thus, the evidence of PWs 1 to 5 shows that the deceased was subjected to harassment by the accused for want of additional dowry and that she committed suicide by

hanging herself in the house of the accused. There is no explanation offered by the accused for the death of the deceased in his house, and the accused was the only person present in the house at the time of the alleged incident. When he cannot offer any explanation for the death of the deceased, and there is ample evidence to show that there was harassment by the accused for want of additional dowry, the only conclusion that can arise is that the deceased committed suicide due to unbearable harassment for want of additional dowry.

m) Section 304-B of IPC is extracted hereunder for the sake of reference:

> "304B. Dowry death.—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.
>
> Explanation.—For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).
>
> (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."

n) In catena of cases viz., ***Kashmir Kaur v. State of Punjab***[1] and ***Yogendra Palsingh v. Raghvendra Singh alias Prince and another***[2], the Apex Court has held that the essential ingredients to prove the offence under Section 304-B of IPC are as follows:

> "a) The main ingredient of the offence to be established is that soon before the death of the deceased she was subjected to cruelty and harassment in connection with the demand of dowry.
>
> b) The death of the deceased woman was caused by any burn or bodily injury or some other circumstance which was not normal.
>
> c) Such death occurs within seven years from the date of her marriage.
>
> d) That the victim was subjected to cruelty or harassment by her husband or any relative of her husband.
>
> e) Such cruelty or harassment should be for or in connection with demand of dowry.
>
> f) It should be established that such cruelty and harassment was made soon before her death.
>
> g) The expression (soon before) is a relative term and it would depend upon circumstances of each case and no straightjacket formula can be laid down as to what would constitute a period of soon before the occurrence.
>
> h) 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.
>
> i) Therefore, 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 or life link between the effect of cruelty based on dowry demand and the concerned death. In other words, it should not be remote in point of time and thereby make it a stale one.

[1] 2012 (13) SCC 627
[2] 2025 INSC 1367

j) However, the expression "soon before" should not be given a narrow meaning which would otherwise defeat the very purpose of the provisions of the Act and should not lead to absurd results.

k) Section 304B is an exception to the cardinal principles of criminal jurisprudence that a suspect in the Indian Law is entitled to the protection of Article 20 of the Constitution, as well as, a presumption of innocence in his favour. The concept of deeming fiction is hardly applicable to criminal jurisprudence but in contradistinction to this aspect of criminal law, the legislature applied the concept of deeming fiction to the provisions of Section 304B.

l) Such deeming fiction resulting in a presumption is, however, a rebuttable presumption and the husband and his relatives, can, by leading their defence prove that the ingredients of Section 304B were not satisfied.

m) The specific significance to be attached is to the time of the alleged cruelty and harassment to which the victim was subjected to, the time of her death and whether the alleged demand of dowry was in connection with the marriage. Once the said ingredients were satisfied it will be called dowry death and by deemed fiction of law the husband or the relatives will be deemed to have committed that offence."

o) In the present case, the marriage of deceased with the accused was performed on 25.12.2008, the death occurred on 13.09.2010 i.e. within seven years of marriage. There are incidents of harassment by the husband for want of additional dowry. The deceased was sent to her parental home for want of additional dowry. She was convinced by her parents and sent back to the matrimonial house, after which the said incident of committing suicide occurred. The cause of death is due to asphyxia from hanging, as elicited from the PME report given by PW9. Thus, the death occurred under other than

natural circumstances. Thus, all the circumstances prove the ingredients under Section 304-B of IPC.

p) Hence, the prosecution could prove the offence under Section 304-B of IPC, and a presumption under Section 113-B of the Evidence Act is raised against the accused. It is for him to rebut the presumption, but no evidence was adduced by the accused in his defence. However, the appellant counsel has argued that the harassment soon before her death is not proved by the prosecution. There is no straight jacket formula as to what would constitute the period of "soon before her death". There is ample evidence on record to show that the deceased was driven out of the house for want of additional dowry, for which reason she was staying at her parents' house. The evidence of PWs 1 to 4 shows that she was at her parental house, as she was necked out by the accused, and that she was convinced by her parents and sent back to the matrimonial home. After sending her back to the matrimonial home, within 15 to 20 days, they received a call that the deceased committed suicide by hanging.

q) The evidence of PW5, the house owner, also throws light upon the fact that there was a quarrel between the wife and husband, and that he warned the accused that they had to vacate the house in case such an incident was repeated.

r) There is no explanation offered by the accused for the death of the deceased, in his own home, and there is ample evidence regarding the harassment made by the accused for want of additional dowry. There was no other person at home apart from the accused and their infant son at the relevant time. It is also evident that she was driven out of the house and sent back to her parental home and that she was sent back to the accused just 15 days prior to her death. Thus it is proved that she was subjected to cruelty for want of additional dowry. Hence, the offence under Section 304-B of IPC against the accused is proved beyond reasonable doubt by the prosecution. Point No.1 is answered accordingly.

12. **POINT NO.2:**

a) In view of the finding arrived at point No.1, it is held that the trial Court has rightly convicted the accused.

b) With regard to sentence, the learned counsel for the appellant has submitted that the appellant is middle aged and has prayed to consider his case in a lenient way so as to reduce the quantum of sentence. He also pointed out that the appellant has been roaming around the Courts for the past 15 years and therefore, he has been facing mental incarcerate for 15 years.

c) Considering the above said submissions, it is opined that the sentence can be reduced to seven years to meet the ends of justice. Point No.2 is answered accordingly.

13. **POINT NO.3:**

In the result, the Criminal Appeal is partly allowed. The conviction of the appellant – accused for the offence under Section 304-B of IPC is confirmed. However, the sentence imposed for the offence under Section 304-B of IPC is modified and reduced to seven years of rigorous imprisonment, while confirming the fine amount with default sentence. The appellant – accused shall be entitled to set-off under Section 428 Cr.P.C. for the period of detention, if any, already undergone.

As a sequel, miscellaneous petitions, if any filed in this appeal, shall stand closed.

SD/- M.MANJULA
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The I Additional Sessions Judge, Adilabad.(with records, if any)
2. The Judicial Magistrate of First Class, Adilabad.
3. The Superintendent, Central Prison, Warangal, Warangal District.
4. Two CCs to the Public Prosecutor, High Court for the State of Telangana at Hyderabad. [OUT]
5. One CC to Sri S. Surender Reddy, Advocate [OPUC]
6. Two CD Copies

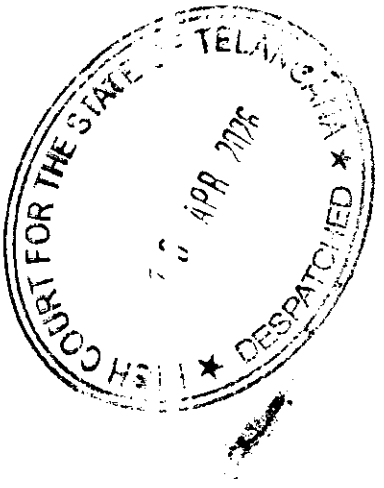
KAM/PSL

HIGH COURT

DATED: 02/04/2026

JUDGMENT

CRLA.No.683 of 2012



PARTLY ALLOWING
THE CRIMINAL APPEAL

16/4/26