

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL Nos.2301 and 2600 of 2018

Crl.A.No.2301 of 2018

Between:

Malkari Radha Bai and another

...APPELLANT(s)

AND

State of Andhra Pradesh, Rep. by its Public
Prosecutor

...RESPONDENT(s)

Crl.A.No.2600 of 2018

Between:

Malakari Kiran Kumar

...APPELLANT

AND

State of Andhra Pradesh, Rep. by its Public
Prosecutor

...RESPONDENT(s)

DATE OF JUDGMENT PRONOUNCED : **05.01.2026**

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE K.SURESH REDDY

THE HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

1. Whether Reporters of Local Newspapers
may be allowed to see the order? : Yes/No
2. Whether the copy of order may be
marked to Law Reporters/Journals? : Yes/No
3. Whether their Lordships wish to
see the fair copy of the order? : Yes/No

JUSTICE K.SURESH REDDY

JUSTICE SUBBA REDDY SATTI

*** THE HONOURABLE SRI JUSTICE K SURESH REDDY
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**! Counsel for Appellants
in both the appeals**

: Smt. A. Gayathri Reddy

**^ Counsel for Respondents
in both the appeals**

**: Sri Marri Venkata Ramana
Additional Public Prosecutor**

< Gist:

> Head Note :

? Cases referred :

- 1) (2005) 2 SCC 388**
- 2) (2004) 13 SCC 300**
- 3) (2003) 8 SCC 80**
- 4) 1957 SCR 981 : AIR 1957 SC 614**
- 5) 2016 (3) ALT (Crl.) 505 (DB) (AP)**

This Court delivered the following:

IN THE HIGH COURT OF ANDHRA PRADESH :: AMARAVATI

SPECIAL DIVISION BENCH

PRESENT

HONOURABLE SRI JUSTICE K SURESH REDDY

And

HONOURABLE SRI JUSTICE SUBBA REDDY SATTI

CRIMINAL APPEAL Nos.2301 and 2600 of 2018

COMMON JUDGMENT: *(Per the Hon'ble Sri Justice Subba Reddy Satti)*

Since both the Criminal Appeals arise out of the same Sessions Case, i.e., S.C.No.218 of 2017, on the file of the Court of VI Additional Sessions Judge, Anantapuramu, at Gooty, they are heard together and disposed of by way of this common judgment.

2. Accused Nos.2 & 3 in the above Sessions Case filed Criminal Appeal No.2301 of 2018 and accused No.1 filed Criminal Appeal No.2600 of 2018. They were tried by the learned Additional Sessions Judge under the following charges:

The first charge was under Section 498-A IPC.

The last charge was under Section 304-B r/w 34 IPC or 302 IPC.

3. For the sake of convenience, the parties to this common judgment are referred to as they were arrayed in S.C.No.218 of 2017.

4. Substance of the charge is that A-1 being husband, A-2 and A-3 being in-laws of M.Lakshmi Rajyam @ Rajya Lakshmi (hereinafter referred to as deceased), subjected her to cruelty for want of additional

dowry; that the deceased died on 04.03.2016 at about 7.00 p.m. by falling under a train, within 7 years of marriage; the accused subjected the deceased to cruelty soon before her death and thus, committed offences punishable under Sections 498-A, 304-B r/w 34 or 302 IPC.

5. After completion of trial, the learned Additional Sessions Judge convicted accused No.1 under Section 304-B I.P.C. and sentenced him to suffer imprisonment for 'LIFE'. The learned Additional Sessions Judge further convicted accused No.1 under Section 498-A I.P.C. and sentenced him to suffer Simple Imprisonment for three years and also to pay a fine of Rs.1,000/-, in default to suffer Simple Imprisonment for one month. The learned Additional Sessions Judge further convicted accused Nos.2 and 3 under Section 304-B I.P.C. and sentenced each one of them to suffer Simple Imprisonment for a period of seven years. The learned Additional Sessions Judge also convicted accused Nos.2 and 3 under Section 498-A I.P.C. and sentenced them to suffer Simple Imprisonment for a period of one year and also to pay a fine of Rs.1,000/- each, in default to undergo Simple Imprisonment for one month. Both the substantive sentences were directed to run concurrently.

6. Learned counsel for the appellants field a memo vide USR No.141377/2025 stating that appellant No.2/accused No.3 in Crl.A.No.2301 of 2018 died pending the appeal. In view of the said fact, Crl.A.No.2301 of 2018, by order dated 18.12.2025, was dismissed as abated insofar as appellant No.2/accused No.3 is concerned. Both the

appeals are taken up for hearing insofar as accused Nos.1 and 2 are concerned.

7. Case of the prosecution, as emanated from the evidence, briefly, is as follows:

(i) P.W.3 is the father, P.W.4 is the brother, and P.W.10 is the paternal uncle of the deceased, respectively. A-1 is the husband, A-2 and A-3 are in-law of the deceased respectively. The marriage between the deceased and A-1 was solemnised about 6 years prior to the date of incident. At the time of marriage, P.W.1 gave Rs.5,00,000/- and 150 grams of gold and other household articles towards dowry. One month after the marriage, all the accused started harassing the deceased to bring gold ornaments and Pattu clothes towards 'Vadibiyam' every year from her parents. The accused also harassed the deceased, as she failed to conceive children. P.W.1 took the deceased to the hospital in Hyderabad, where fertility tests were conducted, and no defect was found with the deceased. P.Ws.3 and 10 went to the house of accused and gave Rs.50,000/- to A-1 and chastised them to lead happy marital life with the deceased. However, there was no change in the attitude of A-1 to A-3. P.W.3 performed the marriage of his 2nd daughter. Thereafter, the accused harassed the deceased to get cash of Rs.2,00,000/-, the difference in dowry amount which was given to the younger sister of the deceased during her wedding.

(ii) On 04.03.2016 at about 7.00 p.m., the deceased committed suicide by falling on the railway track at Platform No.5 in Guntakal Railway Station and the same was informed to P.W.3 by a known person at about 8.00 p.m. P.W.3 tried to contact A1 to A3; however, they did not respond. He, along with others, reached the scene of the offence and thereafter gave a report to the railway police.

(iii) P.W.2, Chief Health Inspector, at about 7 to 7-30 P.M., found a dead body of a female (head separated from body) near Swamy Hotel, Platform No.5 and informed P.W.1, the station manager who, in turn, reported to P.W.12.

(iv) P.W.12, on receipt of Ex.P1 intimation, registered a case in Crime No.25 of 2016 under Section 174 Cr.P.C. Ex.P12 is the F.I.R. He rushed to the spot and found a female dead body lying on the railway track. He secured the presence of P.Ws.1 and 2, who identified the dead body as that of the deceased. He posted a guard at the scene of offence. Thereafter, on 05.03.2016, P.W.3 gave a written report to P.W.12. Based on the said report, Ex.P2, P.W.12 altered the section of law from Section 174 Cr.P.C. to Section 304-B r/w 34 IPC. Ex.P13 is the FIR alteration memo. He issued express FIR to all the concerned. He gave a requisition to the Executive Magistrate, Guntakal (Ex.P14), to conduct inquest over the dead body of the deceased. P.W.8, the Tahsildar, Guntakal conducted inquest over the dead body of the deceased. The inquest report is marked as Ex.P8. At the inquest, P.W.12 examined P.W.3 and

others and recorded their statements. Later, the dead body was sent to Government Hospital for autopsy.

(v) P.W.9 Civil Assistant Surgeon, Area Hospital, Guntakal, conducted autopsy over the dead body and opined that the cause of death was due to head injury causing brain haemorrhage, which led to cardiac and respiratory arrest. Ex.P9 is the post-mortem certificate. After receipt of the FSL report, he issued Ex.P10 final opinion.

(vi) P.W.11 Sub Inspector of Police, received CD file along with endorsement of Superintendent of Police and Sub Divisional Police Officer (SDPO), Guntakal, through a Memo C.No.4544/C1/2016. He registered the case in Crime No.45 of 2016 under Section 304-B r/w 34 IPC and submitted copies of F.I.R. to all the concerned. Ex.P11 is the printed FIR. Later, he handed over C.D. to P.W.13, S.D.P.O, Guntakal.

(vii) P.W.13 took up further investigation and proceeded to the scene of offence. He verified the rough sketch-Ex.P15, prepared by P.W.12. He secured the presence of P.Ws.1 and 2, examined them and recorded their statements. He went to Swamy Tea Stall, near the scene of offence and tried to secure eye witnesses. However, none were available. Later, he visited the house of the accused and found it locked. On 20.04.2016, he recorded statements of P.Ws.3, 4, 10 and others. He also secured the presence of P.Ws.5, 6 and 7, examined them and recorded their statements. He examined the house of the deceased and prepared a rough sketch-Ex.P16. On 04.05.2016, P.W.13 arrested

accused Nos.1 and 3 at the SDPO office, Guntakal, and they were sent for judicial remand. He also collected M.Os.1 to 5 and submitted the same along with form No.66, to JFCM. He also forwarded the case property to the Court and, after receipt of RFSL report, Ex.P17, he filed the charge sheet.

8. In support of its case, the prosecution examined PWs.1 to 13, marked Exs.P1 to P16 and exhibited M.Os.1 to 5.

9. When the accused were examined under Section 313 Cr.P.C., regarding incriminating material appearing against them, they pleaded not guilty.

10. Accepting the evidence of the prosecution, the learned Additional Sessions Judge convicted the appellants as aforesaid.

11. Heard Smt. A. Gayathri Reddy, learned counsel for the appellants and Sri Marri Venkata Ramana, learned Additional Public Prosecutor for the respondent-State.

12. Learned counsel for the appellants would contend that the prosecution failed to prove the guilt of the appellants/accused beyond all reasonable doubt. The prosecution also failed to prove the alleged harassment of the deceased 'soon before' the death. P.Ws.3, 4 and 10 are interested witnesses, and hence their evidence regarding payment of dowry or demand for additional dowry needs to be considered carefully

and cautiously. Thus, would pray to set aside the conviction and sentence imposed by the learned Additional Sessions Judge.

13. On the other hand, the learned Additional Public Prosecutor supported the judgment of the trial court and would contend that the death of the deceased occurred within seven years of the marriage. Hence, the presumption under Section 304-B would apply to the facts of the case. He would also contend that the learned Additional Sessions Judge considered all the aspects and convicted the appellants. He thus prayed this Court to dismiss the appeal.

14. We have given our careful and thoughtful consideration to the material available on record.

15. The learned Additional Sessions Judge convicted the appellants for the offences under Section 304-B and 498-A I.P.C. Section 304-B I.P.C. and Section 113-B of the Indian Evidence Act were inserted into the respective statutes by the Dowry Prohibition (Amendment) Act, 43 of 1986 (for short 'the Act').

16. Section 304-B IPC deals with dowry death, reads as follows:

“304-B. *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. **(emphasis is added)**”

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.”

The provision has application when 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 relatives of her husband for, or in connection with, any demand for dowry.

17. Section 113-B of the Evidence Act reads thus:

“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 had 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 purpose of this section, ‘dowry death’ shall have the same meaning as in Section 304-B of Penal Code, 1860.”

18. Thus, Section 304-B I.P.C. would apply where the death of a woman occurs under unnatural 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 his relatives in connection with any demand for dowry. Section 113-B of the Evidence Act provides a presumption of dowry death when it is shown that a woman was subjected to cruelty or harassment by her husband or his relatives in

connection with the demand for dowry, 'soon before her death'. Such presumption shall be drawn on the proof. The Court shall consider whether the accused had committed the dowry death of a woman (when the accused is tried for the offence under Section 304-B I.P.C.), the woman was subjected to cruelty or harassment by her husband or his relatives, and such cruelty or harassment was for any demand for dowry, soon before her death.

19. The prosecution must rule out the possibility of a natural or accidental death to bring it within the purview of 'death occurring otherwise in normal circumstances. The prosecution must show that, soon before the death, there was cruelty or harassment, and in such circumstances, only the presumption under Section 113-B of the Evidence Act operates.

20. The Hon'ble Apex Court in **Kamesh Panjiyar v. State of Bihar**¹, considered an identical issue in an appeal filed by the accused against the conviction and sentence recorded for the offence under Section 304-B I.P.C. and held as under at para 11:

"11. ... "Soon before" is a relative term and it would depend upon the circumstances of each case and no straitjacket 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 113-B of the Evidence Act. The expression "soon before her

¹ (2005) 2 SCC 388

death” used in the substantive Section 304-B IPC and Section 113-B 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 the 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 or 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 the 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 cruelty or harassment concerned and the death in question. There must be existence of a proximate and live link between the effects of cruelty based on dowry demand and the death concerned. If the 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.”

21. The Hon’ble Apex Court in **State of Rajasthan v. Teg Bahadur and Others**², while considering 304-B I.P.C. vis-à-vis the burden of the prosecution to prove the offence, observed as under at para 15:

“15. In brief, for proving the offence under Section 304-B of the Indian Penal Code, the prosecution has to prove the following things:

- (a) The death of the married woman was within seven years of the marriage.
- (b) A little prior to death, her husband or relative, on the point of demand of dowry subjected her to cruelty or harassed her.”

² (2004) 13 SCC 300

22. The Hon'ble Apex Court in **Hira Lal v. State (Govt. of NCT), Delhi³**, held as under at para No.9:

Suffice, however, to indicate that the expression "soon before" would normally imply that the interval should not be much between the cruelty or harassment concerned 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 death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.

23. In the case at hand, according to the prosecution, the marriage between the deceased and accused No.1 was solemnised six years prior to the incident. The prosecution, to prove the demand for additional dowry and harassment, examined P.Ws. 3, 4, and 10, the father, brother, and paternal uncle of the deceased, respectively. In their chief examination, they deposed about the presentation of cash of Rs. 5,00,000/- and gold ornaments at the time of marriage. The couple, according to the prosecution, lived together till the date of death.

24. It is a well-settled principle of law that the Court is concerned with the quality and not with the quantity of evidence for proving a fact. The Hon'ble Apex Court made the following observations in its celebrated judgment in **Vadivelu Thevar v. State of Madras⁴**:

"11. ... Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact.

³ (2003) 8 SCC 80

⁴ 1957 SCR 981 : AIR 1957 SC 614

Generally speaking, oral testimony in this context may be classified into three categories, namely:

- (1) Wholly reliable.
- (2) Wholly unreliable.
- (3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.”

25. In the case at hand, though P.Ws.3, 4 and 10, in their evidence, spoke about the alleged harassment made by accused Nos.1 to 3, the evidence falls within the third category of the above test. The evidence does not inspire confidence in the Court since the evidence is far from reality and naturality. Had the accused really harassed as spoken by P.Ws 3, 4 and 10, for a period of nearly five years, P.W.1 would have reported the same or pressed for elderly mediation. P.W.3, father of the deceased, specifically stated in his cross-examination that no panchayat was held before the elders regarding harassment caused by accused Nos.1 to 3 towards their daughter.

26. The other allegation of P.W.3 is regarding the payment of the additional amount of Rs.50,000/- to accused No.1. He had not furnished

the date, or at least the month or year. Likewise, the evidence of P.Ws.3, 4 and 10 is silent regarding the solemnization of the marriage of the second daughter of P.W.3 and the demand of Rs.2,00,000/- made by accused Nos 1 to 3 on the deceased.

27. The prosecution must prove the guilt of the accused beyond all reasonable doubt by connecting them to the offence. In the case at hand, in Ex.P1, report, P.W.3 stated about the marriage and presentation of Rs.5,00,000/- along with other articles, at the time of marriage. The report further discloses the alleged medical tests conducted on the deceased regarding fertility. However, nothing was mentioned about the payment of Rs.50,000/- and the demand for additional dowry of Rs.2,00,000/-. Thus, P.W.3 and other material witnesses improved the version during the evidence. Of course, Ex.P1, report cannot be treated as an encyclopedia. However, in the facts and circumstances of the case, non-mentioning of the alleged payment, demand of additional dowry and the harassment made by accused Nos.1 to 3 on the deceased, the prosecution failed to connect the accused to the crime.

28. Further, as per the evidence of P.W.12, S.I. of Police, Guntakal R.P.S., the scene of offence is situated in the middle of the platform, where several passengers will be present, and Guntakal railway station is a big junction, where trains move round the clock with the public.

29. Given the above discussion, the prosecution failed to connect the appellants to the crime and prove their guilt regarding the cruelty and

harassment in connection with the demand of dowry, soon before the death of the deceased. Hence, convicting accused Nos.1 to 3 for the offences under Sections 304-B and 498-A I.P.C., based on the improved version of P.Ws.3, 4 and 10 is wholly unsustainable. Therefore, we are inclined to set aside the conviction and sentence recorded by the learned Additional Sessions Judge in S.C.No.218 of 2017 against accused Nos.1 and 2 under Sections 304-B and 498-A I.P.C.

30. In the result, Criminal Appeal Nos.2301 and 2600 of 2018 are hereby allowed by setting aside the convictions and sentences recorded against accused Nos.1 and 2, by the learned VI Additional Sessions Judge, Anantapur at Gooty, in S.C.No.218 of 2017 dated 01.08.2018, for the offences under 304-B and 498-A I.P.C. Accordingly they are acquitted of the said charges. Fine amount, if any, paid shall be refunded to them. As accused Nos.1 and 2 were already enlarged on bail by orders dated 28.03.2024 and 21.08.2018 vide I.A.No.1 of 2024 in CrI.A.No.2600 of 2018 and I.A.No.1 of 2018 in CrI.A.No.2301 of 2018 respectively, they are directed to appear before the concerned for completing the legal formalities in terms of the order rendered by the combined High Court of Andhra Pradesh in **Batchu Ranga Rao & others Vs. State of A.P.**⁵.

31. The **CrI.Appeal No.2301 of 2018**, was dismissed as abated insofar as **appellant No.2/accused No.3** is concerned, by order dated 18.12.2025 in Memo CrI.A. USR No.141377/2025.

⁵ 2016(3) ALT (CrI.) 505 (DB) (AP)

Consequently, miscellaneous petitions, if any, pending shall stand closed.

JUSTICE K.SURESH REDDY

JUSTICE SUBBA REDDY SATTI

Date : 05.01.2026
IKN