
Egalapati Sarojanamma Vs State of A.P.

Criminal A. No. 163 of 1996

Court: Andhra Pradesh High Court

Date of Decision: Aug. 1, 2001

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€” Section 313#Evidence Act, 1872 â€” Section 113A#Penal Code, 1860 (IPC) â€” Section 302, 498A

Citation: (2001) 2 ALD(Cri) 486 : (2001) 2 ALT(Cri) 306 : (2001) 3 APLJ 31 : (2002) 1 DMC 455

Hon'ble Judges: V. Eswaraiah, J

Bench: Single Bench

Advocate: Samson Babu, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

V. Eswaraiah, J.

The appellant filed this Criminal Appeal against the judgment of the learned Sessions Judge, Guntur, dated 5/02/1996

made in S.C.No.856/1994 in convicting her u/s 498-A IPC and sentencing her to undergo Rigorous Imprisonment for a period of three years and

to pay a fine of Rs.3,000/-, in default, to suffer Simple Imprisonment for six months.

2. The appellant is the mother-in-law of the deceased. The deceased married the son (PW-1) of the appellant five months prior to the date of her

death i.e., 29/12/1993 in Komarapudi, Sattenapally Mandal, Guntur District. They belonged to Christian Community. At the time of the marriage,

the parents of the deceased gave Rs.3,000/- as dowry. After the marriage the deceased joined with her husband (PW-1) and started living with

the accused in H.No.432, K.V.P. Colony, Guntur. It is alleged that the accused was having some illicit intimacy with some one, which was noticed

by the deceased and the deceased informed the same to her parents and the accused finding fault with the deceased, used to harass her. It is the

further case of the prosecution that the age of the PW-1 is double the age of the deceased and to convince the parents of the deceased, the

accused gifted a house in the name of the deceased at the time of the marriage and after the marriage the accused proposing to alienate the house

and she wanted to take back the entire house gifted to her and decided to get rid of the deceased and she throttled the neck of the deceased on

20/12/1993 in between 8-00 and 10-00 a.m. and due to which the deceased died and thereafter the accused created the scene by hanging the

deceased with her voni and bolted the front door and came back from the back door and in order to attract the sympathy of the neighbours she

shouted in front of the house stating that the deceased committed suicide and the neighbours came on her shouting and forcibly opened the door

and found the deceased sitting dead, and one of the neighbours brought the deceased outside and laid on a cot.

3. Husband of the deceased was examined as PW-1. He gave the information to the police on 20/12/1993 itself at about 7-00 p.m. stating that on

that fateful day he left the house at 8-00 a.m. to do mason work at bazaar. While he was at his work place, he came to know through some one

about the death of his wife. He immediately rushed to his house and found his wife dead. He disowned the alleged statement said to have been

given to the police. PWs 2 and 3 are the neighbours deposed that on 10-00 a.m. they heard shouting of the accused stating that the deceased

bolted the door from inside and committed suicide. PW-4 is the mother of the deceased stated that her daughter was given in marriage to PW-1

prior to five months of her death. At the time of the marriage, she gave Rs.3,000/- as dowry. During her visits to the house of the accused,

whenever the the deceased used to complain her that her mother-in-law (accused) is quarrelsome lady and she was harassing her on flimsy

grounds etc., she used to advise her (deceased daughter) to ignore such bickerings. Brother of PW-1 informed about the death of her daughter.

PW-5 is the brother of the deceased. He also stated that a sum of Rs.3,000/- dowry was paid to the accused at the time of the marriage and the

marriage was performed six months prior to the death of the deceased and the deceased lived happily for about 4 months and thereafter his

deceased sister used to inform him during his visits to his sister"s place that the accused started quarrelling with the deceased. PW-7 is a neighbour

who stated that the accused made extra-judicial confession to her stating that the accused throttled the neck of the deceased as a result of which

she died and she made the deceased to hang with her voni. PW-8 is also a neighbour stated that when she went to the house of the accused, the

dead body of the deceased was laid in front of their house and the accused was cleaning the motion and urine extracts in one corner of the house

and she found the saree which was used for hanging in the other corner of the house. PW-9 is the witness for the seizure of the voni (M.O.1) and

bangle pieces (M.O.2) from the house of the accused. PW-10 is the Special Deputy Tahsildar who conducted inquest and submitted inquest

report (Ex.P-4). PW-11 is the other mediator for the inquest report (Ex.P-4). PW-13, PW-14, and PW-15 are the police witnesses.

4. As there was no direct evidence with regard to the fact that the accused throttled the neck of the deceased as a result of which the deceased

died, she was acquitted for the offence u/s 302 IPC. The learned Sessions Judge only considered the offence whether the accused had committed

offence u/s 498A in view of the evidence available on record. Though the accused denied in her examination u/s 313 Cr.P.C., her presence at the

house of the deceased, the evidence of PW-2, PW-3 and PW-8 has supported the prosecution case, which clearly shows that the accused was

present at the place of occurrence. The fact remains that the death of the deceased was not suicidal but it was homicidal. Whether it was suicidal

or homicidal, a disbelievable story has been created by the accused stating that the deceased was hanged herself but the post mortem report and

the opinion of the doctor of the Guntur Medical College was also not specific that the cause of the death of the deceased was due to throttling or

hanging, and therefore, the accused was found not guilty for the offence u/s 302 IPC but the circumstantial evidence shows that she was present at

her house when the deceased died and the brother of the deceased clearly deposed stating that the accused used to harass his sister for petty

things. The deceased died within six months from the date of her marriage. u/s 498A, husband or relative of the husband of a woman, subjects

such woman to cruelty shall be punishable. The cruelty means any willful conduct, which is of such a nature as likely to drive the woman to commit

suicide or to cause grave injury or danger to life, limb or health (whether mental or physical). As per the evidence of PW-4 and PW-5 supported

the circumstantial evidence, the accused used to quarrel with the deceased and due to the quarrel the deceased used to suffer mental agony. u/s

113A of Indian Evidence Act for the purpose of Section 498A, the cruelty subjected by such relative of the husband shall be presumed if such

suicide occurs within 7 years from the date of the marriage. According to the accused, the deceased herself committed suicide. As she has

committed suicide within six months from the date of her marriage, it shall be presumed that the accused has subjected the deceased to cruelty, and

therefore, I do not see any grounds to come to a different conclusion from that of learned Sessions Judge.

5. Accordingly, I confirm the judgment of the learned Sessions Judge and I have no hesitation to confirm the finding of the trial Judge that the

prosecution was able to prove the guilty of the offence u/s 498A. As far as the sentence is concerned, having regard to the age of the appellant, I

am inclined to reduce the Rigorous Imprisonment from 3 years to one year.

6. Accordingly, the appellant is sentenced to undergo Rigorous Imprisonment of one year. The sentence to pay a fine of Rs.3,000/- is confirmed.

7. With the aforesaid reduction of sentence to undergo Rigorous Imprisonment of one year and to pay a fine of Rs.3,000/-, in default, to suffer

Simple Imprisonment, the appeal is dismissed.