

THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

CRIMINAL APPEAL No.1035 of 2009

JUDGMENT:

Appellants call in question the legality of convicting judgment dated 18.09.2009 of learned IX Additional Sessions Judge (FTC), Guntur in Sessions Case No.458 of 2008. They and some of their relatives were prosecuted for the offence under Section 304-B read with 34 I.P.C. On conclusion of the trial A.3 to A.5 were found not guilty and they were acquitted. However, A.1 and A.2 were found guilty for the offence under Section 304-B read with 34 I.P.C. and each of them was punished to undergo rigorous imprisonment for a period of ten years. That A.1 and A.2 filed this Criminal Appeal under Section 374 Cr.P.C alleging that the evidence did not establish the guilt beyond reasonable doubt and the sickness suffered by the deceased was proved by evidence and the cruelty or harassment with reference to dowry was never established and the death was not proved as a definite result out of the injuries allegedly that were there on the dead body of the deceased. It is for these reasons, learned counsel for appellants seek to upset the impugned judgment and acquit the accused.

2. Learned Special Assistant Public Prosecutor appearing for the State submit that with cogent evidence all the ingredients of the offence under Section 304-B I.P.C. were established and the trial Court reached to appropriate conclusions and convicted the accused and there are no tenable grounds in this appeal and sought for dismissal of the appeal.

3. Having considered the arguments on both sides and having perused the entire record, the point that falls for consideration is:

“Whether the facts disclosed by the evidence proved beyond reasonable doubt that there was dowry death in terms of Section 304-B I.P.C.?”

4. **Point:**

Crime No.111 of 2008 of Lalapet Law and Order Police Station, Guntur was investigated into by the Sub-Divisional Police Officer, Guntur Town. On conclusion of the investigation, the police report under Section 173 Cr.P.C. was filed before the learned IV Additional Judicial Magistrate of First Class, Guntur which was registered as P.R.C.No.28 of 2008. After securing

presence of the five accused and after furnishing copies of documents in terms of Section 207 Cr.P.C. and after hearing both sides, the learned Magistrate, acting in terms of Section 209 Cr.P.C., committed the case to Sessions Division. Learned IX Additional Sessions Judge (FTC), Guntur took cognizance for the offence under Section 304-B read with 34 I.P.C. After hearing both sides, charge was framed accordingly. Accused pleaded not guilty. At the trial, prosecution examined PWs.1 to 22 and got marked Exs.P.1 to P.17. Incriminating evidence was confronted to the accused in terms of Section 313 Cr.P.C. and the response was that the evidence was incorrect and false. Thereafter, first accused entered the witness box and deposed as DW.1. During his evidence Exs.D.3 to D.11 were marked. For defence, during the course of cross-examination of prosecution witnesses, Exs.D.1 and D.2 were marked. An extract of general diary was marked as Ex.C.1. The wearing apparel and ornaments of the deceased were seized and were exhibited at trial as MO.1 to MO.7. After considering the entire evidence on record and the arguments advanced on both sides, the learned trial Court found that the offence under Section

304-B I.P.C. was established as against these two appellants and accordingly convicted them.

5. The man and his mother are appellant Nos.1 and 2 respectively. Before the trial Court the man was A.1 and his mother was A.2. The victim in this case was Smt. J.Rajya lakshmi. To her, the 1st appellant was husband and the 2nd appellant was mother-in-law. The marriage of A.1 with the deceased woman was solemnized on 31.08.2007. The woman died in her matrimonial home on 27.04.2008. She was found dead at about 1:30 P.M. during day time. The matrimonial home is in 6th lane of Nalla Cheruvu of Guntur and the parental home of the deceased was in zero lane in the very same area of Nalla Cheruvu of Guntur. A.1 is a graduate in Arts and he works in 3D Colour Laboratory, Guntur as a Printing Operator and his work place situate near Arundalpet Police Station of Guntur. The deceased woman was an educated lady and worked as a Computer Operator for two years in Apex Solutions (vide the evidence of PW.5). By the time of her death on 27.04.2008 she was carrying 7th month pregnancy. The undisputed evidence on record further disclose that since the house of accused and the maternal house of the deceased are

geography located in the same area, there have been frequent exchange of visits between both the families. The evidence on record further show that for the deceased there are siblings and her father died a few years earlier to her marriage. Her brother is the one who has been looking after the well being of the family. All the above referred facts are undisputed on both sides and are borne by evidence on record.

6. The large number of witnesses examined for prosecution can be grouped under different heads. For the deceased woman her mother is PW.1, her brother is PW.2, her younger sister is PW.3, her aunt is PW.4 and her friend is PW.5. For the house of PWs.1 to 5 in the opposite direction there is a house where PW.6 lives. This is one set of evidence. Subsequent to marriage, the victim woman was living in her matrimonial home. PWs.7 and 8 run kirana shops in the neighbourhood of her matrimonial house. PWs.11 and 12 are residents in the neighbourhood of matrimonial house of the deceased. This is one group of witnesses. At the matrimonial home when the deceased was found unconscious PW.9-R.M.P.Doctor was summoned and thereafter the woman was taken to another doctor/PW.10. PW.13 is in the business of settling marriage

alliances and he runs Jayalakshmi Marriage Links as his business. He settled the marriage between the spouses. PW.14 is stated to be another person who was instrumental in the marriage of this couple. PW.15 is the Purohit who solemnized the marriage. The rest of the witnesses include persons who assisted the investigating agency when they visited the scene of offence, prepared a scene observation report and held inquest over the dead body and they signed several Mahazars in that regard. None of them is an eye witness to any of the facts constituting the offence. PW.19 is the photographer who shot photographs of the dead body. One crucial witness in this case is PW.21-Dr. M.Madhusudhana Reddy, who was Professor in Medical College. He conducted autopsy over the dead body. PW.22 was investigating Sub-Divisional Police Officer, who did all the investigation and filed police report. As against this, the evidence of DW.1/A.1 was about happy marital life and sickness of his pregnant wife. His endeavour was to show that his wife for the last three years preceding her death has been suffering from rheumatism. Exs.D.3 to D.11 are the various medical prescriptions of various doctors and diagnostic reports of the

laboratory starting from 02.11.2007 till 23.04.2008. Death occurred on 27.04.2008.

7. On considering the above referred evidence of various witnesses, the learned trial Court found the following facts as established:

1. That the accused have been complaining that the deceased woman was not doing household work properly and there were several imperfections in her household work.
2. On 28.02.2008 which was just 2 months earlier to the death, the marriage of younger sister of the deceased was solemnized. That the evidence established that all the accused including these appellants were not very happy since they believed that the marriage of the sister of the deceased was solemnized in a grand manner while the marriage of A.1 with the deceased was not so solemnized. For their marriage screens were not arranged, but for the marriage of sister of the deceased screens were arranged and lighting was made. A.1 even refused to take meals at the marriage

but finally being convinced by the relations, he had his meals at the marriage venue.

3. A.1 was demanding the deceased to bring Rs.50,000/- on the ground that he wanted to go to Bangalore and study a computer course.

8. From the evidence of PWs.1 to 6, the learned trial Court found consistent statements from the witnesses in proof of the above facts. The learned trial Court referred to the evidence of PW.21 and his post-mortem examination report in Exs.P.10 and P.11 and Ex.P.17- RFSL report and recorded a finding that there were injuries on the body of the deceased woman. It was on that evidence and the evidence of PWs.1 to 6 saw it crystal clear that the accused used to scold the deceased for not doing household work in a proper manner and when she became pregnant and suffered from swelling of her feet she was abused by A.2 that it was unfortunate that her son/A.1 had to marry a patient. That A.1 and A.2 quarreled with PW.1/mother of deceased at the time of marriage of the younger sister of deceased. That after that marriage function they still harassed the woman stating that if they did not have money how they

could solemnize the marriage in such a grand fashion. That the evidence established a dowry demand of Rs.50,000/- and on the dead body there were injuries and the death was preceded by dowry demand. A pregnant woman was to be considered as goddess, but this unfortunate woman was humiliated and harassed and she was made lifeless and the accused had no excuse to escape. The presumption under Section 113B of the Indian Evidence Act about the dowry death was recorded and finally at para No.34 of the impugned judgment, the learned Additional Sessions Judge held that the unrelenting demand for dowry of Rs.50,000/- led to the death of the woman and therefore, found these appellants guilty and convicted them accordingly.

9. The fervent argument of the learned counsel for appellants is that this being the appeal against conviction this Court has to see the entire evidence on record and on seeing so, according to learned counsel, it would be clear that the evidence on record really did not depict what was actually concluded by the trial Court. Learned counsel submits that mere evidence of cruelty and harassment is not sufficient to prove charge under Section 304-B I.P.C. It has to be shown in addition that such

cruelty or harassment was for or in connection with the demand for dowry as held in ***Biswajit Halder @ Babu Halder v. State of West Bengal***¹. Learned counsel further submits that to bring in operation Section 34 I.P.C. and to convict A.2 law mandates that there shall be evidence direct or circumstantial showing that there was plan or meeting of minds among the accused to commit the offence for which they are charged. Learned counsel submits, the facts and circumstances appearing from the evidence do not indicate any common intention and for this purpose learned counsel placed reliance on ***Laxman Anaji Dhundale v. State of Maharashtra***². Learned counsel further submits that unless there is clear evidence showing that the accused demanded dowry followed by ill-treatment prior to death there is no legality in convicting accused for the offence under Section 304-B I.P.C. and placed reliance on ***State of Karnataka v. Tailor Manjunatha @ Manjunatha Reddy***³.

¹ (2008) 1 SCC 202

² (2007) 10 SCC 771

³ 2010 SCC Online Kar 4619 (DB)

10. It was at 9:00 P.M. on 27.04.2008 PW.1 who is the mother of the deceased lodged Ex.P.1 written information with Sub-Inspector of Police, Lalapet Law and Order Police Station. That was registered as F.I.R. in Crime No.111 of 2008 under Section 304-B read with 34 I.P.C. Ex.P.9 is F.I.R. A reading of Ex.P.1 from the very mother of the deceased would show that the wife and husband have been living happily and two months prior to this lodging of information she solemnized marriage of her second daughter and it is only since then the accused developed enmity against the deceased and started harassing her, ill-treating her and demanding her to bring more gold and money. She further stated that it was from neighbours she had come to know that her daughter was not treated properly and unparliamentary words were being used against her. She further mentioned in it that as and when her daughter was coming to her house she was telling neighbours of the house about the harassment and ill-treatment suffered by her. Ex.P.1 further discloses that it was only since 17.04.2008 after she dropped her daughter at her matrimonial home she was subjected to harassment without any reason. When her daughter came to her house to go to hospital she was taken to

the hospital and thereafter she was once again dropped at her matrimonial house. During this interaction PW.1 observed that her daughter was not happy and it was then her daughter told her that she was harassed for no reason and if she went back to matrimonial home it may not be safe for her life. It was then she also told her that she was asked to bring Rs.50,000/- from her brother for getting a job at Bangalore. For all these, the response of the mother/PW.1, as per Ex.P.1 is that she advised her to be patient enough to endure these things.

11. In Ex.P.1 it is then mentioned that at about 1:20 P.M. on 27.04.2008 the father-in-law of her daughter came to her house and told that the deceased was shifted to hospital and the junior mother-in-law telephoned to PW.2 that the deceased hanged herself. PW.1 went to Kalpana Hospital and found all the accused bringing the dead body and the dead body was taken to the matrimonial home and she observed some swelling injuries on her body. It was in these circumstances, she felt that cruelty was the cause of her death and therefore, she was lodging that written information. PW.1 gave evidence of the facts and in her cross-examination she further stated that till the marriage of her younger daughter on 28.02.2008 the marital

life of her deceased daughter with A.1 was happy. From 28.02.2008 only for two months her daughter survived and she died on 27.04.2008. The evidence of PW.1 is that accused harassed her daughter alleging that she was not attending household work properly and she was not perfect in doing household work. Her evidence also shows that on 28.02.2008 A.1 and A.2 quarreled with her at the marriage venue where the marriage of her younger daughter was solemnized wherein the accused drew comparison between the marriage of A.1 with deceased as against the marriage of sister of the deceased with a lorry driver. They were complaining that while the marriage of A.1 was dull and dark, the marriage of the lorry driver is very bright and grand. It is in this regard they quarreled. The evidence of PW.5 who is a friend of the deceased is that it was because of these comparisons and quarrels the deceased was weeping at that marriage venue. The other evidence of PW.1 is that four days prior to Srirama Navami festival she went and brought her daughter to her home and it was on that occasion she told her that her husband/A.1 was asking her to get Rs.50,000/- for the purpose of pursuing a computer course at Bangalore. The response from the family of the deceased was

that the issue would be resolved soon. PW.1 then dropped her daughter at the house of the accused on 17.04.2008. She said that deceased was harassed for her inability to bring money. The deceased was once again brought by PW.1 on 23.04.2008 which was four days earlier to her death. She took her to a doctor for medical check up. On that occasion also her daughter told her about this Rs.50,000/- and expressed her fear to go back home without that money. PW.1 consoled her and dropped her at her matrimonial home. On the next day that was on 24.04.2008 PW.1 visited her daughter at her matrimonial home and there also she was told by her daughter about her fear in staying in the house and she expressed her desire to come to the house of her mother. However, PW.1 consoled her and left the house. She told her daughter that on completing her 7th month pregnancy she would take her to home.

12. PW.1 then stated in her evidence that A.3 hurriedly came to her house stating that the deceased due to reeling sensation fell down and she was taken to Doctor Kalpana's Hospital located in the same Nalla Cheruvu area. On listening this PW.1 rushed there and found all the accused there and her daughter

unconscious and she spoke to her daughter but there was no response from her and there was no body movements and thereafter her daughter was shifted to the matrimonial home. She said that she observed certain injuries on her body such as contusions and twisted position of left hand and an injury over the left eye side. The evidence of PWs.2 to 5 is also on these facts on similar lines and do not require any reproduction or repetition here. PW.2 who is the very brother of the deceased who has been taking care of the maintenance of the entire house stated in his cross-examination that his deceased sister never told him about any harassment from any of the accused at any point of time. Thus, what all he spoke about certain facts are only information he gathered from others and not from his own sister. Thus, on all the important facts his evidence was in the realm of hearsay. To the prosecution witnesses defence was suggesting that the deceased was suffering from rheumatism and swelling of feet much prior to her pregnancy and earlier to her marriage. Witnesses were denying it as incorrect and false. However, PW.3 who is the very younger sister of the deceased stated in her cross-examination that even before marriage her deceased sister suffered from swelling of

feet and she did not take any medicines. She also said that her deceased sister's matrimonial life was happy till the time of her own marriage in February, 2008. About comments against the deceased that she was not attending household work properly the evidence of PW.5/the friend of deceased was, that comment was there only from A.2 and not others. PW.6 who lives near the house of PWs.1 to 5 said that the deceased used to tell him that the accused were not satisfied with the dowry. Be it noted, PWs.1 to 5 never even whispered about any dissatisfaction expressed by any of the accused concerning dowry for the marriage of A.1 with the deceased.

13. One conspicuous fact that emerges from the evidence of PWs.1 to 6 and any of the facts that they are learnt from the deceased is that they never went and sat with any of the accused and spoke to them, they never questioned them, they never advised them, they never took anyone else to resolve anything. The evidence of PWs.1 to 6 also shows that on any facts that they heard from deceased they were never witnesses to any of those facts. Their entire knowledge of facts was only through PW.1 and none else. That a married lady being told by her mother-in-law that she required more perfection in doing or

attending household work can never be said to be cruelty or harassment among family members. A praise or a comment with reference to the works that were being done is a common factor in any household. It is no one's case that she was either abused or physically beaten for her imperfections in doing household works. The evidence of the prosecution witnesses in PWs.1 to 6 that A.1 was dissatisfied with the manner in which his marriage was performed was a dissatisfaction that he never expressed to anyone till the marriage of sister of deceased was solemnized at the marriage venue. The sullenness of A.1 was out of a comparison with the grandeur with which he found the marriage of his wife's sister was performed. He walked out without taking meals and was consoled and was brought back. Either at the said marriage or thereafter it is not the evidence of PWs.1 to 6 that there was any physical abuse of the deceased by any of the accused in this regard. It is not the evidence of PWs.1 to 6 that earlier to the marriage of A.1 with the deceased there was a bargain and settlement of dowry and that only a part of it was paid and a balance was not paid and that for fetching that balance dowry the married lady was subjected to cruelty or harassment. What all the prosecution witnesses were

telling was that A.1 was asking his wife to fetch Rs.50,000/- so that he would pursue a computer course at Bangalore. The learned trial Court termed this as dowry harassment. No witness ever stated that this Rs.50,000/- was demanded as a dowry. The evidence of DW.1 and the evidence of PW.3 is that at the time of marriage between deceased and A.1 Rs.1,00,000/- was given and that was kept in the fixed deposit in the joint names of A.1 and the deceased. It is not the case of prosecution that the said deposit was ever disturbed and that money was ever consumed by accused. Thus, the evidence indicates existence of Rs.1,00,000/- with A.1 and deceased. It is not the case of prosecution that the deceased or the mother and brother and sister of the deceased were told by the accused that they wanted to consume that money. Thus, the fact remains availability of Rs.1,00,000/- with accused. It is in that context one has to see the alleged demand for Rs.50,000/-. None of the prosecution witnesses ever went and spoke to A.1 or A.2 to A.5 either to find what was the need for him or to told him anything or advised him that the money should not be a matter between wife and husband. There was absolutely no movement from any of the prosecution witnesses in response to anything that they

heard from PW.1. Even four days before the death, PW.1 went to the house of accused and brought her daughter, went to the hospital and dropped her at the matrimonial home. That indicates that the accused have always been permitting the deceased to meet her family members and talk to her family members and permitting the family members and others to meet her at the matrimonial home. The evidence of DW.1 is that he has been taking his wife to doctors althroughout during her period of pregnancy. Ex.D-Series documents vouchsafe for it. Thus, there was no deficiency on part of accused in rendering service to a married woman. That they have been attending all the functions and A.1 attended the marriage of PW.3 without any questions raised though at the marriage venue comparison of spending for marriage was taken as an exception by A.1. All these facts put together would indicate the normal life being led by the spouses. None of the family members of the deceased, for themselves, were entertaining any apprehensions about anything could happen to the deceased in the hands of the accused. There has been no criminal history either for the accused or for the prosecution witnesses. Drawing comparison for marriage celebrations or elders telling the newly married girl

about the need for attending household works more efficiently are no way connected to dowry and cruelty with reference to dowry as mentioned in Section 304-B I.P.C. In ***Girish Singh v. State of Uttarakhand***⁴, the Hon'ble Supreme Court of India was examining a case under Section 304-B read with 34 I.P.C. Among other facts, one of the crucial facts that made the lower Courts to bring the offence under Section 304-B I.P.C. was that the father-in-law of the deceased married lady was frequently approaching the lady and demanding her to sleep with him. At para No.55, their Lordships held that those facts have nothing to do with reference to a case under Section 304-B I.P.C. Their Lordships at para No.37 held that any and every cruelty does not fall within the ambit of Section 304-B I.P.C. and to bring the case within the four corners of that provision the evidence led by prosecution must show that the woman was subjected to cruelty or harassment by her husband or his relatives in connection with any demand for dowry and not otherwise. The law is that mere demand for dowry by itself is also not

⁴ (2020) 18 SCC 423

considered as cruelty unless failure to comply with the demand was visited with cruelty.

14. In the light of the above facts and law the evidence on record has to be further scrutinized. Be it noted, the deceased belonged to Nalla Cheruvu area and where her paternal home was in zero lane and her matrimonial home is at 6th lane. She must be knowing people around that area for quite some time. After marriage for about eight months till her death she continuously lived at the house of her husband. Therefore, she must be knowing her neighbours. PWs.7, 8, 11 and 12 are the neighbours. All of them said that the matrimonial life of the deceased at the house of the accused was happy and cheerful and they never noticed any untoward incident. Prosecution chose to examine some of them in cross but failed to elicit anything to impeach their credibility or any fact in proof of charge. If really the deceased woman was subjected to troubles, there was no occasion for her not to tell someone who was immediately available around her house. Be it noted, as one could see from the evidence of prosecution witnesses, never there was an incident of any of the accused sending away the deceased from the house nor the deceased rushing away from

the matrimonial home and reaching her mother and brother complaining any trouble for her in the hands of accused. That is indicative of the fact that it was a normal family life she was leading. Normal family life holds pains and pleasures in its living. The evidence of PWs.1 to 6 does not show that they ever felt to enquire the well being of the deceased through any neighbour of the matrimonial home. That means they had no occasion to feel anything bad or suspicious. All witnesses always told in the Court that as and when the deceased woman happened to come to the house of PW.1 only during that time they were informed all these incidents. Evidence shows she always normally went back to her matrimonial home. That speaks of her assured life at the matrimonial home. The demand for Rs.50,000/- though spoken to by witnesses consistently the evidence also indicates that for that Rs.50,000/- she was never beaten. Be it noted, Section 304-B I.P.C. indicates causing bodily injuries and no other injuries such as injury to mind, reputation or property as defined in Section 44 I.P.C. During the entire lifetime of deceased she neither complained to anyone about any bodily injury inflicted by any of the accused against her nor any of the prosecution

witnesses observing any injury on the body of the deceased. It was in the context of these facts and circumstances on record, the further scrutiny of the evidence is required.

15. As the evidence of DW.1 indicates he went to his employment, came back home at 1:00 P.M. and went into the home and found his wife unconscious on the cot. It was thereafter he and his family members informed the matter to the prosecution witnesses. Thus, the moment they saw the victim woman on the cot unconscious they did not keep it a secret and they made it public and they immediately informed it to PW.1 and others. It is also the evidence of PW.1 and other witnesses as well as the evidence of DW.1 that they summoned PW.9-R.M.P. Doctor and they took the unconscious lady to PW.10 doctor. PW.10 declared her dead. Then they brought back the dead body to the house of accused. PW.19-photographer at the behest of PW.22 investigating officer shot photographs as per Ex.P.8 and his evidence is that he did not find any injuries on the dead body. PW.21 is the doctor who conducted autopsy. In his evidence he said and his opinion in Ex.P.10 report he mentioned that he observed the following injuries on the dead woman:

The following antemortem injuries present over the body.

1. Contusion measuring 3 x 3 x 1 Cm present over outer aspect of left thigh in middle 1/3rd area.
2. Contusion of 4 x 3 x 1 Cm present near the first injury.
3. Contusion measuring 3 x 2 x 1Cm present on back of left knee.
4. Contusion measuring 2 x 2 x 1Cm present back of left elbow.
5. Contusion 5 x 2 x 1 Cm present on back of left shoulder.
6. Scratch abrasion present on back of right ear.

He gave his final opinion as per Ex.P.11 stating that the deceased suffered shock because of her multiple injuries and died. The learned trial Court considered this evidence and held that injuries were found on the dead body of the married woman and the death occurred in the matrimonial home and this occurred within seven years from the time of marriage and therefore, accused were guilty for the offence under Section 304-B I.P.C. Having considered the cross-examination of this medical man and on considering the other facts, this Court is unable to approve the findings of the trial Court in this regard. This doctor in his cross-examination stated certain facts and they are extracted here:

“It is true if a person suffering from rheumatism or romatied arthritis and if she taking some self prescribed tablets there is likelihood of aggravating the disease. In general cases the injuries mentioned in post mortem examination report are not such a nature of producing shock or resulting in death but the possibility cannot be ruled out. It is true the pregnant women may develop reeling sensation and may fall on ground or any hard substance there is possibility of receiving injury and there is a possibility if a person fell on cot in contact with any hard substance will receive the injury mentioned in post mortem examination report.”

16. The above facts spoken to by the doctor/prosecution witness signify that in the opinion of this expert it could have been a natural death also. In the opinion of this expert accidental fall on a cot or a hard substance also would have caused such injuries. In the opinion of this expert medical man, the injuries found on the body could not reasonably cause death.

17. There are no witnesses from the prosecution side specifying that any of these accused inflicted any of these injuries on the deceased woman. There is no prosecution evidence indicating as to who was physically present when that death occurred in the matrimonial home. Was it only A.1 or A.1

to A.5 or some of them. No prosecution witness told hearing of any cries or wailing of the injured woman before she fell unconscious. When this married lady during that day time suffered these injuries in the hands of any accused one would have heard some cry or other. Thus, nothing relevant was brought on record on these crucial aspects. Existence of injuries on the body is a fact and it is also a fact that no accused inflicted them because there is no evidence and no allegation in proof of a fact that accused inflicted these injuries. Whether woman suffered from rheumatism or not, the evidence of her husband/DW.1 is that she suffered from rheumatism. That has been the defence from the beginning. That the woman suffered from swelling of feet even earlier to the marriage is acknowledged by her own sister PW.3. Though there is no defence evidence of a doctor proving rheumatism, the version of defence gives certain probability to think the possibility of truth in it. Viewed in that context, one has to necessarily conclude that the injuries on the body of the deceased were not inflicted by the accused as part of cruelty for not bringing Rs.50,000/-. If that be the case, even going by the medical evidence, either it could have been a natural death or could have been death out

of accidental fall. It has never been the case of prosecution that this is either a case of suicide or homicide. It is in these facts and circumstances, this Court has to say that when the medical evidence indicates other possibilities the Court has to conclude that the cause of death is not proved beyond reasonable doubt. In ***Alamuri Lalita Devi v. State of A.P.***⁵, this Court had stated that when there is no evidence that death is homicidal or suicidal and when the evidence does not indicate the gravity of alleged cruelty leading to a death, one could not conclude that the death was result of cruelty. Cruelty is not a fact isolated from the environment and back ground of the spouses. There shall be no speculation or ambiguity in the evidence. It is for the above reasons, this Court finds that there was failure of prosecution in bringing the alleged conduct of the accused within the parameters of dowry death that is defined in Section 304-B I.P.C. Therefore, conviction recorded by the trial Court as against these appellants cannot be sustained. Point is answered in favour of the appellants.

⁵ (1995) 1 ALT CrI. 139 (AP)/(1994) SCC ONLINE AP 314.

18. In the result, this Criminal Appeal is allowed. The conviction and sentence recorded against the appellants/A.1 and A.2 in the judgment dated 18.09.2009 of the learned IX Additional Sessions Judge (FTC), Guntur in Sessions Case No.458 of 2008 for the offence punishable under Section 304-B read with 34 I.P.C. is set aside and they are acquitted for the said offence.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

Dr. V.R.K.KRUPA SAGAR, J

Date: 17.03.2023
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THE HON'BLE JUSTICE Dr. V.R.K.KRUPA SAGAR

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