

# Law Today Live Doc. Id. 15237

**SUPREME COURT OF INDIA**

**Before: Ashok Bhushan & R. Subhash Reddy, JJ.**

Criminal Appeal No.521 of 2020

Decided on: 14.08.2020

[Arising out of S.L.P.(Crl.) No. 2053 of 2020]

M. Radha Hari Seshu

Appellant

Versus

The State of Telangana

Respondent

For Petitioner(s):

Mr. Manoj C. Mishra, AOR

For Respondent(s):

Mr. S.. Udaya Kumar Sagar, AOR, Ms. Bina Madhavan, Adv. and  
Ms. Swati Bhardwaj, Adv.

**Indian Penal Code, 1860 (45 of 1860), Section 304-B, 498-A -- Code of Criminal Procedure, 1973 (2 of 1974), Section 389 – Conviction for dowry death – Suspension of sentence -- Appellant is confined in jail from 15.12.2016 onwards and father of the appellant was diagnosed with pancolitis – Appeal pending before the High Court – Without going into the merits of the matter, considering the submissions and other material placed on record and further taking into account that the appellant is in jail since 15.12.2016, sentence suspended.**

**(Para 9-11)**

**Cases referred:**

1. Piara Singh & Ors. v. State of Punjab, (1977) 4 SCC 452.

**ORDER**

1. Leave granted.

2. This criminal appeal is filed by the appellant-accused, aggrieved by the order dated 20th March 2019 passed in I.A.No.1 of 2019 in Criminal Appeal No.1325 of 2016 by the High Court for the State of Telangana at Hyderabad. By the aforesaid order, High Court dismissed the application filed by the appellant herein under Section 389(1) of the Code of Criminal Procedure seeking suspension of sentence imposed in Sessions Case No.306 of 2013 by the learned III Additional District & Sessions Judge, Ranga Reddy District at L.B. Nagar vide judgment dated 14.12.2016.

3. Based on the complaint dated 07.12.2011 filed by the *de facto* complainant a case was registered against the appellant and his parents in Crime No.964 of 2011 for the alleged offences under Sections 498A, 304B and 302, Indian Penal Code (IPC) on the file of KPHB Police Station, Ranga Reddy District. After completion of investigation, chargesheet was filed against the appellant-accused no.1, and his parents – accused nos.2 and 3 for the offence under Sections 304B and 498A, IPC. The learned XIX Metropolitan Magistrate, Cyberabad took cognizance of the case against the accused for the offences

under Sections 304B and 498A, IPC and committed it to the Court of Sessions, Metropolitan Sessions Judge, Cyberabad. Upon committal, same was registered as Sessions Case No.306 of 2013 for offences under Sections 304B and 498A, IPC. The learned III Additional District & Sessions Judge, Ranga Reddy District, L.B. Nagar, by judgment dated 14.12 2016 passed in Sessions Case No.306 of 2013, has convicted the appellant herein for offence under Sections 304B and 498A of IPC. He was sentenced for imprisonment of life and to pay fine amount of Rs.5,000/- with default clause for the offence under Section 304B and was also sentenced for a period of three years with a fine amount of Rs.3,000/- for the offence under Section 498A of IPC. Accused nos.2 and 3 in the aforesaid case were discharged on an application filed by them, as such, appellant alone was tried for the offence under Sections 498A and 304B, IPC.

4. As against the conviction recorded and sentence imposed by the learned III Additional District & Sessions Judge, Ranga Reddy District, L.B. Nagar, the appellant has preferred appeal before the High Court for the State of Telangana at Hyderabad and filed I.A.No.1 of 2019 in Criminal Appeal No.1325 of 2016 seeking suspension of sentence and to release the appellant on bail, pending disposal of the criminal appeal. Such application filed by the appellant is dismissed by the High Court vide impugned order.

5. We have heard Sri R. Basant, learned senior advocate appearing for the appellant and the learned counsel standing counsel appearing for the State of Telangana.

6. By taking us to the judgment of the Sessions Court and other material placed on record, it is contended by Sri Basant, learned senior counsel that though prosecution has utterly failed to prove the guilt of the appellant-accused for the offence under Sections 304B and 498A of IPC, by misconstruing the evidence on record, the trial court has erroneously convicted the appellant. It is submitted that deceased was married to the appellant as early as on 13th February 2005 and they were leading happy married life and were also blessed with two sons. Further it is submitted that except interested witnesses, the case of the prosecution is not proved by any independent witness. By referring to the provision under Section 304B, IPC it is submitted by learned senior counsel that there is absolutely no evidence to show that, soon before her death deceased was subjected to cruelty or harassment by the appellant-husband. In spite of the same, trial court has wrongly convicted the appellant for offence under Section 304B, IPC and imposed the maximum punishment of imprisonment for life. Further it is submitted that PW-1 and PW-2 are the parents of the deceased and PW-3 is a close friend of the deceased, as such, they are interested witnesses and if deposition of such witnesses is carefully scrutinised by applying ratio laid down by this Court in the case of **Piara Singh & Ors. v. State of Punjab**<sup>1</sup> [(1977) 4 SCC 452], their testimony was not to be relied on by the trial court to convict the appellant. Further it is submitted that in spite of making a strong prima facie case to suspend the sentence, pending appeal, the High Court has dismissed the application without recording valid reasons.

7. On the other hand, the learned standing counsel appearing for the State of Telangana has submitted that by recording valid reasons the application of the appellant is rejected and there are no grounds to interfere

with the same.

8. Having heard learned counsel on both sides, we have perused the impugned order and other material placed on record.

9. In this case it is to be noted that marriage of the deceased with appellant was performed on 13.02.2005 and they were blessed with two children. Though initially case was registered under Sections 304B, 498A and 302, IPC, after investigation the appellant and his parents were charged under Sections 304B and 498A, IPC. The parents of the appellant herein were discharged on an application and only appellant was tried for the offence under Sections 498A and 304B, IPC. It is also brought to our notice that the appellant is confined in jail from 15th December 2016 onwards and further it is also brought to our notice that the father of the appellant was diagnosed with pancolitis.

10. Though learned senior counsel, by taking us to the findings recorded by the trial court, has submitted that no case is made out for the offence under Section 304B and he was erroneously convicted for offence under Section 304B as well as 498A, IPC, in view of the pendency of the appeal before the High Court, we do not wish to go into the merits of the matter at this stage. However, considering the submissions made by the learned counsel and other material placed on record and further taking into account that the appellant is in jail since 15th December 2016, we deem it appropriate that it is a fit case to suspend the sentence imposed on the appellant and to enlarge the appellant on bail, pending Criminal Appeal No.1325 of 2016 before the High Court.

11. For the aforesaid reasons, this appeal is allowed. Impugned order dated 20th March 2019 passed in I.A.No.1 of 2019 in Criminal Appeal No.1325 of 2016 passed by the High Court for the State of Telangana at Hyderabad, is set aside and we order that the sentence imposed on the appellant in Sessions Case No.306 of 2013 by the learned III Additional District & Sessions Judge, Ranga Reddy District, L.B. Nagar in judgment dated 14.12.2016, shall remain suspended pending disposal of appeal before the High Court and the appellant shall be released on bail subject to such conditions to be imposed by the trial court. Further, we direct that the appellant shall not leave the country pending disposal of the appeal before the High Court.

**Appeal allowed.**

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