

Analysis of Judgement in Dowry Case

Judgment Text-

(Disclaimer:-Text of Judgment is taken from website of Courts which is a public domain. Every effort is made to omit names of parties and Judge. The analysis of Judgment is for academic purpose to assist the law graduates and entry level Judges to learn the skill of writing Judgment. I analyse the Judgment on the basis of my experience but do not claim that my analysis is perfect. There may be another view different from my analysis.)

IN THE COURT OF SESSION AT

(Presided over by:)

Additional Sessions Judge

Sessions Case No. --/----

The State

(Through: Police Station Officer,
Police Station,).

...Complainant.

Versus

1 Mr.N

2 Mr.B

3 Mrs.K

4 Mrs.A

...Accused.

Mr, A. P. P. for the Prosecution.
Mr. Advocate,for the accused.

ORAL JUDGMENT

(Delivered on this day of)

1. The accused stand to trial of the offence punishable under sections 307 r. w. S. 34, 498-A r.w. S. 34 and 506 r. w. S. 34 of the Indian Penal Code.

2. Facts constituting the prosecution case are as under;

Informant Mrs. S was married to Mr.L, an agriculturist residing at village. In the year 2005 Mr.L was residing with the accused. Accused Nos. 1 and 3 are parents of Mr.L. Accused No. 2 is his brother and accused No. 4 is wife of accused No. 2.

3. After four months of the marriage accused No. 2 instructed informant Mrs. S to bring Rs.50,000/- from her parents, as the family wants money to repay the loan amount. Informant Mrs. S complained to her husband Mr.L about the demands made by the accused. Mr.L requested his brother not to instruct his wife to bring money from her parents. He also said them that it is the responsibility of the family to repay the loan amount. After two months of this incident accused Nos. 1 and 3 again instructed Mrs. S to bring amount of Rs.50,000/- from her parents. Accused also abused her. Mrs. S informed her parents about demands of the accused. Her parents had shown inability to pay the amount because of poor financial condition. Father of Mrs. S visited accused Nos. 1 and 2 and requested them not to raise demand of money.

4. On 29/05/2006 accused again raised dispute for demand of money. All the accused shown their unhappiness for Mrs. S not bringing money from her parents. When Mrs. S informed them that her parents are not able to pay money, accused No. 3 then said that it is useless to keep her alive. Accused Nos. 1 and 2 caught Mrs. S. Accused No. 4 spread kerosene on her person from a plastic Can and accused No. 3 set her on afire by means of a match stick. All the accused left the house leaving behind Mrs. S in flames. Mr.L,

who came across his wife in flames extinguished the fire. Mrs. S was carried to the Hospital and was admitted to the Hospital.

5. Mrs. S lodged report of the incident with Police Station, on date. On the basis of her report offence was registered against the accused. P.S.I. investigated the offence. Mrs. S was examined by Medical Officer. P.S.I. recorded statement of witnesses. He visited place of incident. He seized partially burnt sari and plastic Can found at the place of the incident. He recorded spot panchnama in presence of panchas. After investigation he filed charge-sheet.

6. As the offence under section 307 r. w. S. 34 of the Indian Penal Code for which the accused are charged are triable by the Court of Session, the case was committed by Judicial Magistrate, First Class, to the Sessions Court at . The case was then transferred to this Court for trial.

7. Charge under sections 307 r. w. S.34, 498-A r. w. S. 34 and S. 506 r. w. S. 34 of the Indian Penal Code is explained to the accused. They pleaded not guilty.

8. Defence of the accused is of total denial.

9. Following points arise for my determination. I have recorded my findings against each of them for the reasons to follow;

<u>POINTS:</u>	<u>FINDINGS:</u>
1. Does the prosecution prove that accused Nos. 1 to 4,being relatives of the husband of Mrs. S, subjected her to harassment to coerce her parents to meet unlawful demand of money?	..Not proved.
2. Does it further prove that on date at about 05.00 p.m. at village , all the accused, in furtherance of their common intention, did an act to set Mrs. S on fire, with such intention or knowledge and under such circumstances that if Mrs. S would have died, the accused would have been guilty of offence of murder and the accused did inflict injuries to Mrs. S?	..Not proved.
3. Does it further prove that on the same day, date,time and place, all the accused intimidated Mrs. S by subjecting her to threats of death?	..Not proved.
4. What order?	..Accused are acquitted.

REASONS

AS TO POINT Nos. 1 TO 3:-

10. In order to prove the ingredients of the charge explained to the accused, the prosecution relied on the evidence of informant Mrs. S and her father P. W. 4 Mr.R. Besides this, prosecution also examined P. W.1 Dr., who examined Mrs. S after the incident. P. W.2 Mr.D,in whose presence spot panchnama was drawn and P. W.5 Head Constable, who scribed report,lodged by Mrs. S. Let's consider their evidence to find out whether prosecution succeed to prove its case.

11. Informant Mrs. S deposed before Court that since marriage she and her husband are residing separate from the accused. She deposed that accused were treating her properly after marriage. She denied the factum of demand of money by the accused. She denied the incident dated, when the facts of incident were suggested to her, during her cross-examination by learner Prosecutor. In her cross-examination by defence counsel she deposed that there was partition between her husband and accused and since marriage she found that her husband is cultivating his property separately. Mrs. S, the victim of the incident, is denying her harassment by the accused for getting money from her parents and parents of incident dated.

12. Mrs. S denied to have lodged report. She was confronted with her earlier statement in the report. She denied to have made allegations of harassment, unlawful demand and the fact of setting her on fire. Contents of her report was proved by evidence of Police Head Constable. ,scribed her report. Evidence of P. H. C. reveal that he recorded statement of Mrs. S while she was under treatment at the Hospital and while

at Hospital she stated about the incident to him. Contents of report proved by Police Head Constable are totally contradictory to the evidence of Mrs. S. So, the contents of her report which can only be used to corroborate author of FIR are not useful to the prosecution.

13. Evidence of Dr. reveal that on 29/05/2006 at about 08.15 p.m. he examined Mrs. S and found injuries on her right thigh, right hand, and right and left arms. In his opinion, the burns were 9%. His evidence reveal that when Mrs. S was brought to the Hospital she narrated him history of sustaining burns accidentally.

14. Evidence of P.W. 2 Mr.D, a panch witness of spot panchnama, reveal that on date when the house of Mr.L was inspected by police in his presence he found a plastic Can, kerosene on floor and partially burnt sari lying in the first room of the house. During his cross-examination it is brought on record that Mr.L and accused reside separate. During his cross-examination it is also brought on record that the house of Mr.L is surrounded by houses of several villagers. In absence of any evidence about occurrence of incident, only presence of plastic Can, kerosene on the floor of the house and the partially burnt sari on the floor does not indicate that Mrs. S was set on fire in the first room of the house of Mr.L. The above discussed facts brought on record reveal that the prosecution had not examined any witness from the neighbourhood of Mr.L to prove visit of accused to the house of Mr.L and their involvement in any untoward incident. So, the circumstances prevailing at the time of incident cannot be used to prove the occurrence of incident in absence of any evidence indicating occurrence of incident dated at the house of Mr.L.

15. P. W. 4 Mr.R, father of Mrs. S, deposed that after marriage accused treated Mrs. S properly. His evidence reveal that Mrs. S never complained him of harassment by the accused. He was cross-examined by learned A.P.P. With the permission of the court. However, nothing is brought on record to show that Mrs. S complained about conduct of the accused with him.

16. The above discussed evidence taken together reveal that the evidence adduced by the prosecution is not sufficient to establish harassment of Mrs. S by the accused to coerce her parents to provide Rs.50,000/- to the accused. The evidence is also not sufficient to establish that Mrs. S was set on fire by the accused on date. There is no evidence about intimidation of Mrs. S. In view of these reasons, I answer point Nos. 1 to 3 in negative.

17. Considering the above discussed evidence, I come to conclusion that the prosecution failed to produce enough evidence to establish that the accused committed an offence of attempt to commit murder of Mrs. S or in furtherance of their common intention harassed Mrs. S to coerce her parents to provide money to the accused.

18. As the prosecution failed to establish ingredients of the charge explained to the accused, I pass following order.

ORDER

I. All the accused are acquitted of the offences punishable under section 498-A r.w. S.34, S. 307 r.w. S. 34 and S. 506 r. w. S. 34 of the Indian Penal Code vide S. 232(1) of the Code of Criminal Procedure.

II. Their bail bonds stand cancelled.

III. Seized property, being worthless, be destroyed after appeal period is over.

Date:

Addl. Sessions Judge,

Analysis

This is yet another case of bride burning for demand of dowry. The FIR was lodged by the persecuted wife Mrs. S. Who was ill treated by her husband and in-laws, to compel her to bring Rs. 50000 as family wanted the amount desperately to pay the loan. The parents of Mrs. S were poverty ridden and were unable to pay the amount so demanded. On the day of incident there was a quarrel between Mrs. S on one side and accused on the other side when Mrs. S informed inability to pay the dowry. Mother in-law of Mrs. S said that it is useless to keep her alive. Husband & Father in-law of Mrs. S caught her. Her sister in-law spread kerosene on her person and her mother in-law set her on fire. The neighbors helped Mrs. S and had taken Mrs. S to the hospital Mrs. S survived and lodged report of incident. Accused were charged for the offence 304, 498A 506 of IPC.

When the trial of the case began the case had seen similar fait as it happens in the case of other matrimonial criminal cases. Mrs. S who suffered cruelty and attempt to end her life was made denied the incident or series of incidents leading to FIR. Her father too denied any incident of cruelty and demand of money by accused. The evidence of medical officer, who examined the Mrs. S deposed that she had burn injuries on right thigh, right hand, right & left arms, in his opinion extend of burn was 9%. Mrs. S had given history of accidental burns. Evidence of pancha witness in whose presence spot panchanama was recorded deposed that a plastic can, a partially burned saree, and kerosene was lying on floor of house where the incident had occurred. There was no equipment in the room operating on kerosene so the circumstance prevailing at spot incident immediately after the occurrence are not suggestive of accidental fire. The circumstance however are also not suggestive to jump to the conclusion that, either someone poured kerosene on Mrs. S in that room or she herself poured kerosene on her. The evidence of informant Mrs. S and her father negative all the aspects on the premises of which the prosecution's case was build.

I have taken up this case to point out that even if victim of the offence turns hostile it is appropriate to compel prosecution to examine the other witnesses and try to find out what must have happened. Evidence of some witnesses recorded gives some material for narrative in the judgment otherwise the judgment becomes very cryptic. Again the examination of several witnesses helps to keep the people on their heels, who sabotage the criminal justice system by compelling the witnesses to turn hostile.

The manner in which the things have happened in the present case and thousands of matrimonial cases settled in similar manner disclose that a system beyond the criminal justice system operates which does not allow the criminal justice system to take the trial before it to a logical end. In cases of cruelty to a married woman instances of hostility are more. The married women is compelled to turn hostile by assurance of resumption of marital relations, her parents are compelled to turn hostile either to secure the future of daughter or to secure social ties with the society to complete their parental duties to marry their other sons and daughters. The criminal justice system will not be able to achieve its ends to impress upon the society that the crime never pays unless we are able to take care of this parallel system.