

Sreerama Murthy

Vs

State of A. P.

Criminal Appeals Nos. 580-81 of 1997

(S. P. Kurdukar, G. T. Nanavati JJ)

29.07.1998

JUDGMENT

G. T. NANAVATI, J. –

1. These appeals are filed against the common judgment and order of the High Court of Andhra Pradesh in Criminal Appeal No. 69 of 1996 and Criminal Appeal No. 483 of 1996.
2. The trial court convicted the appellant under Sections 498-A and 304-B IPC. In Criminal Appeal No. 69 of 1996, the appellant challenged his conviction. As he was acquitted under Section 302 IPC, the State filed Criminal Appeal No. 483 of 1996.
3. The High Court dismissed the appeal filed by the appellant, allowed the appeal filed by the State and convicted the appellant for the offence of murder also. The High Court then observed that when the appellant was convicted for the offence punishable under Section 302 IPC, the question whether he should also be convicted for the offence punishable under Section 304-B became academic.
4. It was the prosecution case that the appellant committed the murder of his wife and daughter. In order to prove its case, the prosecution had examined 10 eyewitnesses and produced three dying declarations. PWs 1-10 did not support the prosecution. The trial court relying upon the three dying declarations, convicted the appellant. The High Court also found that the three dying declarations were genuine and truthful and relying upon them, held the appellant guilty.
5. What is contended by the learned counsel for the appellant is that the dying declarations, Ex. P-23 and Ex. P-33 ought not to have been relied upon as they contain improvements. He further pointed out that in the last dying declaration, a clear attempt was made to involve the father of the appellant who has now been acquitted by the High Court. Because of some doubt arising therefrom, the appellant's father was given benefit of doubt. That does not necessarily mean that it was not genuine. In any case, it does not have any bearing upon the genuineness and truthfulness of the first dying declaration, Ex. P-26, which was recorded by the Additional First Class Judicial Magistrate after ascertaining the physical and mental fitness of the person making it. In that declaration, she has clearly stated that she was set on fire by her husband.
6. We see no reason to discard that dying declaration. In that view of the matter, the conviction of the appellant has to be confirmed. These appeals are, therefore, dismissed.