



# Why Should They Speak Lies: Deceased's Parents Are Most Natural Witnesses In Dowry Death Cases: SC

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To begin with, in a latest, landmark and laudable judgment authored by Justice Abhay Manohar Sapre for himself and Justice Indu Malhotra, the Supreme Court in Mahadevappa

v State of Karnataka Rep. By Public Prosecutor in Criminal Appeal No. 1261 of 2008 on January 7, 2019 upheld the conviction of a man accused of dowry death, relying largely on the evidence of his deceased wife's parents and relatives. The Apex Court Bench also upheld the High Court finding that this was a case of homicidal death and not a case of accidental death. This judgment thus reposed complete faith in the testimony of deceased's parents and termed them as most natural witnesses in dowry death cases.

Needless to say, the prosecution had alleged that the accused had poured kerosene oil on his wife Rukmini Bai when she was in kitchen and had set her on fire. The Trial Court had then acquitted him while holding that the prosecution

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was not able to prove the charge of demand of dowry against him. It had also held that there is no proof that she suffered homicidal death.

As it turned out, the High Court, on state's appeal had reversed these findings and convicted the accused. The accused then challenged the conviction before the Apex Court. But the Apex Court too did not find merit in his arguments.

To be sure, it is rightly pointed out in para 17 that, 'Having heard the learned counsel for the parties and on appreciating the entire evidence, we are inclined to agree with the reasoning and the conclusion of the High Court.' Para 18 then further points out that, 'In our view, the High Court was right in holding that a case of the appellant's conviction under Section 498-A and Section 302 IPC was made out by the prosecution beyond the reasonable doubt and, therefore, the appellant has to be convicted and accordingly sentenced for commission of twin offences punishable under Sections 498-A and 302 IPC.'

Simply put, it is then acknowledged in para 19 that, 'On appreciating the evidence and on perusal of the record of the case, we find that it is not in dispute that Rukmini Bai died within 17 months of her marriage with the appellant (date of marriage is 4.6.1994 and date of her death is 2.10.1995). It is also not in dispute that Rukmini Bai was not suffering from any kind of ailment and was a healthy woman. It is also not in dispute that the death occurred due to severe burn injuries suffered by her on 02.10.1995.'

More importantly, it is then revealed in para 22 that, 'PW-1 is the father of the deceased- Rukmini Bai. He deposed in his evidence that the appellant was working as a Constable in the State Police Department. He was addicted to consuming alcohol daily. He often visited to the house of PW-1 in fully drunken condition. He deposed that Rukmini Bai had told him and his wife (mother of Rukmini Bai) that under the influence of alcohol, the appellant used to insist Rukmini Bai that she should also consume liquor and dance before him undressed. He also deposed that Rukmini Bai had told him many a times that the appellant used to harass and ill-treat her off and on in the house. He also



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deposed that Rukmini Bai also used to tell him that the appellant also used to beat her while he was under the influence of liquor and used to insist her to go to her parental house to bring Rs. 4000/- to Rs. 5000/- from her parents for him. He further deposed that on two occasions, he managed to send Rs. 2000/- for the appellant through Rukmini Bai but third time, he declined due to his poor financial capacity to send more money. He deposed that Rukmini Bai once told him that she apprehends danger to her life when she is alone with the appellant and, therefore, she would like to come back and stay with her parents in their house. He deposed that with the intervention of elder members of the village, Rukmini Bai was persuaded to go back and stay with the appellant for which she agreed.'

Continuing in the same vein, it is then revealed in para 23 that, 'He deposed that Rukmini Bai on returning to her matrimonial house found that the appellant was not mending his ways, and continued with his bad habits. She had therefore sent a letter to her father mentioning the incidents of ill-treatment meted out to her by the appellant. He also deposed that on receipt of the letter from Rukmini Bai, his wife Savitribai and his elder brother's wife – Droupadi had gone to the appellant's house but the appellant abused both the ladies and did not permit them to meet Rukmini Bai. He deposed that the appellant on that day went to the extent of beating the two ladies with his shoes. The two ladies then went to the Police Station and requested the in-charge of the police station to advise the appellant to behave properly with his wife. On return back to home, both the ladies told the incident to their elder brother who then contacted Rukmini Bai when she told him to send Rs. 3000/- for the appellant failing which allow her to come back to her father's house.'

Going forward, it is then stated in para 24 that, 'PW-1 further deposed that after eight days, a message came to him at his residence that Rukmini Bai has suffered extensive burns on her body and is admitted in the hospital for treatment. He, therefore, immediately left for the hospital along with his relatives and friends. On reaching there, he met Rukmini Bai when she told him that it was

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the appellant who poured kerosene oil on her body, due to which she suffered injuries.'

As it turned out, it is then observed in para 25 that, 'PW-4 (Savitribai) is the mother of deceased. On perusal of her deposition, we find that she has corroborated the evidence of PW-1 which we have detailed above on all material issues. In other words, PW-4 also has given the same version of the appellant which PW-1 has given in his deposition including about the behavior of the appellant and the way he had ill-treated Rukmini Bai all along till her death.'

As anticipated, para 26 then very rightly observes that, 'We, therefore, need not repeat in verbatim the deposition of PW-4 except to state that her deposition is also on the same lines on which PW-1 has given his statement and it fully corroborates with the version of PW-1 on all material issues about the appellant without any contradiction between the two versions.' Furthermore, it is then aptly stated in para 27 that, 'Now, we come to the evidence of PW-5. He is another son-in-law of PW-1. His name is Bhimappa. He is brother of the appellant. He was married to PW-1's another daughter- Sonabai. His marriage was also performed on the same day on which the appellant got married to Rukmini Bai.' Para 28 then further states that, 'He also deposed that the appellant used to ill-treat Rukmini Bai and at times beat her also. He deposed that one of his relatives-Krishnappa when he visited Rukmini Bai's house, she complained to him about the bad behavior of the appellant towards her. This was told to him by Krishnappa.'

To put things in perspective, para 29 then elucidates that, 'Now, we come to the evidence of PW-17 (Kristappa). He is a close relative of Eknath (PW-1) – father of the deceased. He deposed that once he went to Rukmini Bai's residence and when he was on his way to a Temple at Tulasigeri, Rukmini Bai met him and complained against the appellant and told him to convey to her father (PW-1) to send money for the appellant.'

In essence, it is then clarified in para 30 in no uncertain terms that, 'On a perusal of the evidence of the aforementioned four prosecution witnesses, it proves in clear terms that firstly the appellant was addicted to consuming liquor. Secondly, he used to demand money from the deceased and her parents quite often; and thirdly, he also at times used to ill-treat and assault the deceased. The incident of ill-treatment and demand of money did not occur once but on many a times and it started soon after the marriage which continued till Rukmini Bai's death.'

It cannot be lost on us that the Supreme Court Bench while appreciating and upholding the evidentiary value of the parents of the deceased then without mincing any words states explicitly in para 31 that, 'In our opinion, there is no reason to discard the evidence of the father and mother of the deceased who are the most natural and material witnesses to speak on such issues. Indeed, in such circumstances, the daughter – a newly married girl would always like to first disclose her domestic problems to her mother and father and then to her close relatives because they have access to her and are always helpful in solving her problems.'



What's more, it is then held in para 32 that, 'We have not been able to notice any kind of contradiction on any of the material issues in the evidence of these four witnesses despite they being subjected to lengthy cross-examination by the defense. That apart, why should a mother and a father speak lie unless there are justifiable reasons behind it. We do not find any such reason in this case. Not

only that, even their relatives, i.e., Bhimappa and Kristappa supported their version.'

Not stopping here, it is then held in para 33 that, 'We are, therefore, of the opinion that the acts and the behavior of the appellant (husband) towards his wife – Rukmini Bai soon after their marriage which eventually culminated in Rukmini Bai's death within seven years from the date of their marriage squarely fell within the meaning of Section 498-A Explanations (a) and (b) of IPC.'

Having said this, it would be imperative to now examine on what the Bench held regarding the death of Rukmini Bai being homicidal or accidental. While shedding enough light on it, the Bench observed in Para 38 that, 'Having perused the evidence, we are of the considered opinion that Rukmini Bai died due to pouring of Kerosene oil and setting her body on fire and this act could be done only by the appellant and by no one else. In other words, it was a case of homicidal death and not a case of accidental death. It is proved by following circumstances.'

No doubt, para 39 sets the ball rolling by observing clearly and convincingly that, 'First, it is not in dispute that the incident in question occurred in the house when only the deceased and the appellant were present. In other words, the appellant was the only person present at the time of incident in the house with the deceased.' Para 40 then states that, 'In these circumstances, it was the appellant who could give some plausible explanation as to how and in what manner the incident in question occurred. As mentioned above, the explanation given by the appellant was that Rukmini Bai's sari accidentally caught fire when she was boiling the water on the oven. In our opinion, this story of the appellant cannot be believed.'

Moving ahead, it is then observed in para 41 that, 'Second, the evidence of I.O., Post-Mortem Report, FSL report and the evidence of doctor (PW-6) has proved that kerosene oil was found on the body of deceased and second, one bottle of kerosene oil was also lying in the room. The presence of kerosene oil on the

body of deceased would indicate that the kerosene oil was poured on her body. Since the appellant was the only person present in the room (kitchen), it was he who could do it.'

To put it succinctly, para 42 then spells out that, 'Third, the presence of broken bangles found in the room suggest that the deceased must have struggled with the appellant to save herself which resulted in breaking of her bangles.' Furthermore, para 43 then states that, 'Fourth, had it been a case of catching of simple fire from the oven, then in such event, the smell of kerosene oil from the body of the deceased would not have been found on her body.'

While explicitly ruling out the possibility of deceased committing suicide, it is then observed in para 44 that, 'Fifth, it is nobody's case that the deceased tried to commit suicide by pouring kerosene oil on her and then put herself on fire.'

Bluntly put, para 45 then exposes the sharp differences between the appellant and the deceased while pointing out that, 'Sixth, the relations between the appellant and deceased were not cordial. The appellant always used to demand money from the deceased which she was not in a position to give to the appellant.'

While again ruling out the possibility of accident as the cause of her death, it is then pointed out in para 46 that, 'Seventh, had this been a case of accident as suggested by the defense then burn injuries sustained by the deceased would have been more on the lower part of her body rather than the upper part of the body because according to defense, the deceased was near to oven when her sari caught fire. The post-mortem report, however, showed that the burn injuries were more on her upper part and her blouse was found burnt.'

To say the least, it is then again reiterated in para 47 that, 'In the absence of any plausible explanation given by the appellant and the one which was suggested but not having been proved and further keeping in view the circumstances, the manner in which the incident occurred and material seized from the room i.e.

kerosene and bottle, it is proved beyond reasonable doubt that the appellant was responsible for causing death of Rukmini Bai. In other words, Rukmini Bai's death was homicidal and not accidental.'

Curiously enough, it is then pointed out in para 48 that, 'Learned counsel for the appellant argued that some of the witnesses of the prosecution did not support their case, and turned hostile. It is for this reason, learned counsel submitted that the prosecution case should be discarded.'

It is a no-brainer that all this did not impress the Bench and it is then observed in para 49 that, 'We do not agree to this submission of the learned counsel for the appellant. The evidence of four prosecution witnesses which we have detailed above fully proves the case of the prosecution. In this view of the matter, even if, some witnesses might have turned hostile, yet it would be of no significance and nor it would adversely affect the case of the prosecution. It is more so when the witnesses which we have referred above did not turn hostile and were, therefore, rightly believed by the High Court.'

Lastly, it is then held in para 50 that, 'In view of the foregoing discussion, we agree with the reasons and the conclusion of the High Court. As a result, the appeal fails and is accordingly dismissed.'

On a concluding note, we thus see that in this case, the Apex Court relied on what the deceased parents said and treated their evidence as most natural witnesses in dowry death cases. It is well known that a newly married girl would always prefer to first confide in her parents rather than on others on what all is happening at her in-laws house. No wonder then that even the Apex Court Bench also in this landmark case rightly acknowledged this and very rightly accepted their evidence and refused to buy the arguments put forth by the appellant which culminated in his appeal getting dismissed finally!



Sanjeev Sirohi  
on 28 January 2019



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