

IN THE HIGH COURT FOR THE STATE OF TELANGANA
HYDERABAD

THE HON'BLE MR. JUSTICE **P.SAM KOSHY** , THE HON'BLE MR. JUSTICE
NAMAVARAPU RAJESHWAR RAO

CRL.A NO. 630 OF 2024

18.12.2024

Maloth Ravi, S/o. Chandru

... Petitioner

v.

The State of Telangana.

... Respondent

Code of Criminal Procedure, 1973 – Right to Legal Aid and fair trial – Duty of Public Prosecutor – §. 313 CrPC crucial for accused – Appeal under §. 374(2) – §§. 304 and 386 empower Court to ensure legal aid and order retrial – Constitutional safeguards under Articles 21 and 39-A – Indigent accused entitled to counsel at State expense – Inadequate representation vitiates conviction – De novo or retrial ordered – Prompt disposal with proper defense arrangements mandated.

Indian Evidence Act – Cross-Examination – Purpose – §. 137 of Evidence Act enumerates cross-examination as an acid test of truthfulness – Constitution Bench in Kartar Singh v. State of Punjab, (1994) 3 SCC 569, highlighted its significance – Inadequate legal assistance preventing effective cross-examination vitiates fair trial – Right to legal aid under Articles 21 and 39-A ensures meaningful defense at all stages – Conviction set aside due to lack of fair opportunity to cross-examine – De novo trial directed to uphold fairness.

Constitution of India – Court's power to do complete justice under Article 142 – Right to free legal aid and fair trial guaranteed under Articles 21 and 39-A – State's obligation, not mere charity, to provide counsel and fair remuneration – 42nd Amendment, 1977, inserted Article 39-A ensuring no denial of justice due to economic or other disabilities – Inadequate representation vitiates conviction – Courts may set aside conviction and order retrial or de novo trial – Prompt disposal with competent counsel mandated – Powers under Articles 136 and 142 invoked to secure fundamental rights – Complemented by Legal Services Authorities Act, 1987.

Dowry Prohibition Act, 1961 – §§. 3 and 4 – Dowry offences – Additional charges of cruelty and murder under IPC – Right to legal aid under Articles 21 and 39-A of Constitution must be upheld – Inadequate legal representation vitiates fair trial – Court emphasizes necessity of competent defense at every stage – Conviction set aside, retrial ordered to preserve fundamental rights – Directions for adequate legal aid, expeditious disposal.

Indian Penal Code – §§. 498A & 302 – Conviction for cruelty and murder – Inadequate legal representation at trial – Articles 21 and 39-A mandate

effective legal aid — Conviction vitiated, fresh de novo trial ordered — Right to fair trial upheld.

Legal Services Authorities Act, 1987 — Right to free legal aid — Constitutional recognition under Article 39-A inserted by the 42nd Amendment — Enactment ensures no denial of justice due to economic or other disabilities — Inadequate legal representation vitiates conviction — Court set aside conviction and directed de novo trial to uphold fair trial guarantee under Article 21 — Emphasis on competent counsel at every stage and prompt disposal of proceedings.

FACTS. The appellant was charged with physically assaulting his wife, who later died on 12.09.2016 from her injuries. The victim's father lodged a complaint leading to an investigation and trial. The police initially charged attempted murder but later included murder charges under Section 302 of the Indian Penal Code. The I Additional Sessions Judge, Warangal, convicted the appellant on 15.05.2024 for cruelty, dowry offences, and murder. The appellant contends that he was deprived of effective legal representation during trial. This appeal challenges the conviction and seeks determination of whether inadequate legal aid invalidates the verdict or warrants a fresh trial.

PRAYER. The instant is an appeal filed by the appellant - accused under Section 374(2) of Cr.P.C . challenging the judgment of conviction dated 15.05.2024, in Sessions Case No.290 of 2022, passed by the I Additional Sessions Judge, Warangal.

ISSUES OF LAW.

Whether the trial court correctly convicted the appellant under charges of cruelty, dowry offences, and murder; whether the appellant was provided a fair trial and afforded effective legal representation; whether the lack of effective legal assistance violated the right to a fair trial and warranted a new trial; whether the accused's right to a speedy trial requires discontinuation of prosecution in the event of long delay and the implications of failing to provide effective legal aid; whether free legal aid must be provided to persons facing imprisonment or possible capital punishment and the requisite qualifications for appointed counsel; whether courts and public prosecutors must ensure adequate legal representation in serious criminal cases; and whether the appellant's trial was fatally flawed by inadequate legal aid necessitating setting aside the conviction or directing a new trial.

SUMMARY. The appellant was tried for offences encompassing cruelty, dowry demands, and murder after his wife succumbed to her injuries. He was convicted on 15.05.2024 by the I Additional Sessions Judge, Warangal, but contested the verdict on the ground that he lacked effective legal counsel and was denied a fair trial. Multiple Supreme Court and High Court rulings are cited to emphasize the right to legal aid, reflecting constitutional safeguards under Article 21 and Article 39-A. After examining the arguments of both parties, the Court set aside the conviction and directed a fresh de novo trial, underscoring the necessity of proper representation, sufficient time for counsel's preparation, and prompt disposal of

the proceedings.

HELD. The Court found that the appellant's conviction was vitiated by inadequate legal representation and ordered a retrial to safeguard the fundamental right to a fair trial. It emphasized the necessity for competent legal aid at every critical stage and directed the lower court to conclude the proceedings expeditiously with proper defense arrangements.

FINAL STATUS. Appeal partly allowed and disposed with directions for a fresh de novo trial.

CASES REFERRED

Ambadas Laxman Shinde vs State of Maharashtra [(2018) 18 SCC 788 : (2019) 3 SCC (Cri) 452 : (2018) 14 Scale 730]
Anokhilal vs State of M.P. [5]
Ashok vs State of Uttar Pradesh [2024 SCC OnLine SC 3580]
Bashira vs State of U.P. [(1969) 1 SCR 32 : AIR 1968 SC 1313 : 1968 Cri LJ 1495]
Hussainara Khatoon (IV) vs Home Secy., State of Bihar
ImtiyazRamzan Khan vs State of Maharashtra (2018) 9 SCC 160
Kartar Singh vs State of Punjab [(1994) 3 SCC 569 : 1994 SCC (Cri) 899]
M.H. Hoskot vs State of Maharashtra
Mohd. Hussain alias Zulfikar Ali vs State (Government of NCT of Delhi) [(2012) 9 SCC 408 : (2012) 3 SCC (Cri) 1139 : (2012) 2 SCC 584, decided on 31.08.2012]
State vs Mohd. Hussain [(2007) 140 DLT 428]
ZahiraHabibulla H. Sheikh vs State of Gujarat [(2004) 4 SCC 158 : 2004 SCC (Cri) 999]

COUNSELS

Mr. Y. Soma Srinath Reddy (for the Appellant)
M/s. Harsheet Reddy Law Firm (for the Appellant)
Mrs. Shalini Saxena (for the Respondent)

Judgment Pronounced on 18.12.2024