
(2001) 08 BOM CK 0012
In the Bombay High Court
Case No : Criminal Appeal No. 54 of 1996

Amrut	Vs	APPELLANT
State of Maharashtra		RESPONDENT

Date of Decision : 14-08-2001

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 498A

Citation : (2002) 2 DMC 168

Hon'ble Judges : P.V. Hardas, J;J.N. Patel, J

Bench : Division Bench

Advocate : M.R. Daga, for the Appellant; S.G. Loney, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

J.N. Patel, J.—Heard Mr. Daga, Counsel for the appellant and Mr. Loney, A.P.P. for the respondent-State.

2. The appellant-Amrut Sadashio Hulgunde is challenging the judgment and order dated 15.12.1995, passed by the Additional Sessions judge, Chandrapur, in Session Trial No. 36 of 1995, under which the appellant-accused has been found guilty of having committed murder of his wife Mahananda by pouring kerosene and by setting her on fire by burning stick from hearth, and so also for Subjecting her to cruelty with a view to satisfy his illegal demand of money from her parents, and thereby came to be convicted u/s 302, I.P.C. and sentenced to suffer imprisonment for life and to pay a fine of Rs. 500/-, in default to suffer R.I. for three months. No substantive sentence is imposed for having committed offence u/s 498-A of I.P.C.

3. It is the prosecution case that the appellant-accused was married to Mahananda about 8 years prior to the date of incident and that they had three sons and a daughter born out of the wedlock. Initially, the couple was residing at Latur. Then they came to Gadchandur for work. After four years, they again

returned to Latur. Thereafter they again came back to Gadchandur alter about two years. They started living at village Shengaon. According to the prosecution, the mother of the appellant-accused insisted upon the appellant-accused to send his wife Mahananda to her father with a demand for money and as Mahananda refused to oblige, she was beaten by the accused and was sent to her parents' place. Once Mahananda visited her parents along with her mother-in-law and then returned to her husband. At this time, Mahananda had told her father Ram Bala Musale (P.W. 1) that she was not allowed to come back in the house for two days as she had not pressed for demand of money. It is in this background, the appellant-accused did not send Mahananda to her parents' place for a year or two and he used to beat Mahananda under influence of liquor as she did not put any demand for money. It is the prosecution case that a day prior to the incident, Mahananda had been to the Court in order to attend the case relating to her employment and from there she went to her parents' house at Gadchandur and stayed over night and returned to her husband's place on the next day, i.e. on 8.11.1994, in the morning, because of which her husband questioned her as to why she did not return on the day she had been to the Court, on which the deceased Mahananda told him that as it was getting dark she stayed at her parents' house because of which her husband attempted to assault her, and as she asked him not to beat her unnecessarily, he spared her and thereafter asked her to prepare tea. In order to prepare tea, she went out to get fuel, and when she came back in the house, appellant-accused poured kerosene on her person and set her on fire. On this deceased Mahananda rushed out of the house shouting "Fire -Fire". Neighbours extinguished her fire by pouring water and she was taken to hospital. Ram Bala Musale (P.W. 1), father of Mahananda got the information about the incident on 8.11.1994 at about 9.30 a.m. that Mahananda had received burn injuries and she was taken to hospital at Gadchandur. On this, he went to Gadchandur and came to know that Mahananda had been shifted to Chandrapur General Hospital. On meeting his daughter, he was informed that the appellant-accused had set her on fire for money and stated that her father had married her to a butcher. According to the prosecution, on 11.11.1994, Head Constable Kumbhare (P.W. 5) visited the hospital and recorded statement of Mahananda after obtaining certificate from the Medical Officer that the patient was fit to give statement. In her statement, Mahananda told that her husband had poured kerosene on her person and had set her ablaze with the help of stick from hearth. After recording statement of Mahananda, Head Constable Kumbhare got an endorsement from the doctor that the patient was conscious. Thereafter he prepared his report and submitted it to the Police Station, Chandrapur City with Police Constable Shailesh. The Police Constable Shailesh lodged First Information Report on behalf of Sau. Mahananda Amrut Hulgunde, which came to be registered vide Crime No. 0/ 1994 at 20.20 hours, on 11.11.1994, an offence under Sections 498-A and 307,1.PC. by the police against the appellant-accused. After registering the First Information Report, the police requisitioned Tahsildar, Chandrapur, to record dying declaration of Mahananda. Therefore, Shri Vishwanath Bagde (P.W. 9), Tahsildar, visited General Hospital, Chandrapur, and

after obtaining certificate from Medical Officer recorded her dying declaration Exh. 20. After the dying declaration came to be recorded by the Tahsildar, Chandrapur, the case was transferred to Police Station, Gadchandur on 12.11.1994 at 11.10 a.m. and fresh Crime NO. 113 of 1994 came to be registered against the appellant-accused having committed offence u/s 498-A and Section 307, I.P.C. vide FIR. Exh. 24. On 13.11.1994, PSI Vilas Narnavar (P.W. 11) who was attached to Police Station, Chandrapur City, received a Memo Exh. 33 to the effect that patient Mahananda has died. Therefore, on 14.11.1994, he went to hospital, examined the dead body of Mahananda and prepared Inquest Panchnama Exh. 34. He then sent the dead body for post-mortem examination.

4. At the Police Station, Gadchandur, PSI Karmarkar (P.W. 12) took over the investigation on 12.11.1994. He went to the spot and prepared the spot Panchnama Exh. 22. He recorded the statements of Balika (P.W. 2), daughter of the appellant-accused, Ram Musale (P.W. 1), father of deceased Mahananda, and one Laxmibai. He sent the articles seized from the spot to the Forensic Science Laboratory, Nagpur. He arrested accused and after completing the investigation, submitted the charge-sheet. The case of the appellant-accused was committed to the Court of Sessions for trial.

5. The trial of the appellant-accused was taken up by the Sessions Judge, Chandrapur and charge Ex. 2 was framed against the appellant-accused for having committed offences u/s 498-A and so also Section 302 of I.P.C. The appellant-accused pleaded not guilty to the charge and claimed to be tried. According to the plea taken by the appellant-accused in his defence, after Mahananda returned from her parents' house, she was working inside the house and he was sitting outside. After sometime, he heard shouts and immediately Mahananda came out of her house and she fell on him. As he rushed to her, he received burn injuries to his hands and legs and tried to extinguish fire. On conclusion of the trial the learned Additional Sessions Judge found that Mahananda died homicidal death and that the appellant-accused who had set her ablaze, committed her murder. Trial Court also found that the prosecution has proved that the appellant-accused subjected Mahananda to cruelty and, therefore, found him guilty of having committed offence u/s 302, I.P.C. and Section 498-A of I.P.C., and that is how the appellant-accused came to be convicted and sentenced.

6. Mr. Daga, the learned Counsel for the appellant-accused Submitted that the appellant-accused has been falsely implicated in the case by his father-in-law, taking advantage of the fact that his daughter suffered an accidental death due to burn injuries. Mr. Daga submitted that Mahananda on suffering burn injuries, was admitted to hospital on 8.11.1994 and it was for the first time that her statement came to be recorded on 11.11.1994 by the Head Constable Dadaji Kumbhare (P.W. 5) and that too when father of the deceased Mahananda i.e. Ram Musale (P.W. 1) approached him on 11.11.1994 and asked him to record

statement of Mahananda as she was ready to give her statement. This itself shows that till 11.11.1994, Mahananda was not ready to give statement against the appellant-accused.

7. Mr. Daga submitted that the appellant-accused has been falsely implicated by his father-in-law Ram Bala Musale (P.W. 1), inspite of knowing the fact that Mahananda suffered burn injuries accidentally and not because of the appellant accused. Mr. Daga pointed out that once evidence of Ram Musale (P.W. 1) before the Court on this point has been discredited by confronting him with portion marked "A" of his statement to the police wherein he has specifically stated that Mahananda told him about her statement before the police that her Padar" fell in oven and received fire, and further the various improvements made by him in his evidence before the Court, has been also brought on record by way of omissions in the cross-examination of the said witness, the evidence of Ram Musale (P.W. 1) cannot be relied upon as he is not only interested witness, but has tried to falsely implicate the appellant-accused as his relations with the appellant-accused i.e. his son-in-law were not cordial.

8. Mr. Daga submitted that Balika (P.W. 2) who is the eldest daughter of the appellant-accused, was examined as prosecution witness and her evidence clearly goes to show that she was tutored by her grandfather i.e. Ram Musale (P.W. 1), that she had not seen as to how her mother caught fire and it is only when her grand parents told her that her mother was burnt by her father, she deposed that the appellant-accused poured kerosene on the person of her mother and set her on fire with the help of lighted stick from the hearth, and, therefore, the evidence of this child witness cannot be accepted. Mr. Daga submitted that the incident occurred on 8.11.1994, however, the investigation in the case commenced after 11.11.1994. There has been inordinate delay in recording statements and dying declaration of the victim and other material witnesses and, therefore, as the prosecution has failed to explain this inordinate delay in initiating the investigation, the plea taken by the appellant-accused that he was falsely implicated and that he was sitting out when his wife caught fire and came out shouting, is quite probable. Mr. Daga submitted that even the conduct of the appellant-accused in trying to extinguish the fire and in that process, suffered burn injuries on his person, clearly goes to show that the appellant-accused is not responsible for the burn injuries suffered by his wife Mahananda and he deserves to be acquitted.

9. Mr. Daga submitted that insofar as the prosecution case that the appellant accused treated his wife with cruelty in order to extract money from her parents, is concerned, it is also an afterthought as no complaint of such ill-treatment has been made by the victim Mahananda or her relatives to any independent person or the police, and it is for the first time that such accusations were made by Ram Musale (P.W. 1), father-in-law of the appellant before the Court so as to falsely implicate him into the case and, therefore, in the absence of any independent evidence on this count, it will be most unsafe to convict the appellant-accused for

having committed offence u/s 498-A, I.P.C.

10. Mr. Loney, the learned A.P.P. appearing for the State, submitted that the prosecution has proved its case against the appellant-accused beyond reasonable doubt. It is submitted that the statement of victim Mahananda was recorded by Head Constable Kumbhare after obtaining certificate from the doctor that the patient was fit to give statement, in which she has clearly indicated that the appellant-accused having poured kerosene on her person, set her ablaze. The said statement has been treated as the First Information Report and as Mahananda died subsequently, it can be relied upon as the dying declaration. Mr. Loney submitted that after report of the victim Mahananda came to be registered at Police Station, the police immediately requisitioned Tahsildar and Special Executive Magistrate for recording dying declaration of Mahananda. Accordingly, Shri Vishwanath Bagde (P.W. 9) recorded dying declaration of Mahananda after obtaining the necessary certificate from the Medical Officer that the patient was fit to give statement and the said dying declaration is proved by the prosecution by not only examining Shri Bagde (P.W. 9) but also the Medical Officer and the said dying declaration is Exh. 20 before the Court. Mr. Loney submitted that the statement recorded by the Head Constable Kumbhare (P.W. 5), which is at Exh. 17 and dying declaration Exh. 20 is consistent and clearly implicate the appellant-accused. It is submitted that in addition to these two dying declarations which are in writing, there is also oral dying declaration made by deceased Mahananda to her father Ram Bala Musale (P.W. 1), wherein she has clearly stated that it is the appellant-accused who had set her on fire for money and that he had married her to a butcher. Mr. Loney submitted that in addition to these three dying declarations, evidence of Balika, the eldest child of the deceased, who was present at the time of incident, also shows that the appellant-accused is responsible for pouring kerosene on his wife and setting her on fire.

11. Mr. Loney submitted that the prosecution has examined the Medical Officers who had certified that the patient was in fit condition to give statement and so also Dr. Sadanand Gandhe (P.W. 3), who has conducted post-mortem examination of which report is Exh. 13 and in his opinion, the cause of death was septicemia shock due to 90% burn injuries.

12. Mr. Loney submitted that the prosecution case further stands corroborated by the scene of offence Panchnama, from where articles like burn pieces of sari were seized and forwarded to Chemical Analyser for his report and the Chemical Analyser has given a positive report. Therefore, it cannot be said that the prosecution has failed to prove its case against the appellant-accused.

13. Mr. Loney, the learned A.P.P. has no answer to the contention raised by Mr. Daga, the learned Counsel for the appellant, as to what transpired between 8.11.1994 till 11.11.1994 and has no explanation to offer as to why the police did not take prompt action in the matter of investigation when they were informed on 8.11.1994 itself that Mahananda has been admitted in General Hospital at Chandrapur with burn injuries.

14. The appellant-accused has been tried on two counts, firstly for having committed offence u/s 498-A of I.P.C., i.e. for treating his wife Mahananda with cruelty with a view to coercing her to bring money from her father, and secondly, for having committed her murder by pouring kerosene on her and setting her ablaze on 8.11.1994 at 8 a.m. as a consequence of which, she succumbed to her burn injuries and died due to septicemia shock due to 90% burn injuries.

15. Let us first examine whether the prosecution has proved its charge against the appellant-accused for having committed offence u/s 498-A, I.P.C. The only witness examined by the prosecution in support of its case on this count is the father of deceased /".(" Ram Musale (P.W. 1). According to him, his daughter was married to accused about 8 years before she was murdered and during this time, he had paid some amount to his daughter and the appellant-accused. It was his case that the mother of the appellant-accused rather asked the appellant-accused to send Mahananda to him with a demand for money. As Mahananda refused, she was beaten by the accused and sent back twice. On one occasion, her mother-in-law accompanied by Mahananda, came to his place, but went back without putting any demand and it is his case that Mahananda told him that she was beaten and was not allowed to enter the house for two days as she did not demand money from him. In addition to this accusation, he has also stated that the appellant-accused used to beat Mahananda under the influence of liquor as she did not get money from him. In his cross-examination, this witness is exposed by discrediting him on account of improving his case before the Court to the extent that mother-in-law of Mahananda accompanied her to his house to demand money and that she was beaten and was again sent to him as she did not put a demand and that he learnt all this from Mahananda, was not stated by him in his statement before the police. Even the allegations that the appellant-accused used to consume alcohol is also missing. This witness has, for the first time, tried to come up with a story that Mahananda was treated with cruelty by her husband in order to press his demand to bring money from her father. This fact of illegal demand for money has not only been brought before the Court for the first time in his evidence, but is also not spoken up by Mahananda herself in the so called F.I.R. Exh. 17, which is treated as dying declaration recorded by the Head Constable Kumbhare (P.W. 5) or by Shri Bagde, Tahsildar (P.W. 9). Therefore, we have no hesitation to hold that this was an attempt on the part of Ram Musale (P.W. 1), father of the deceased, to falsely implicate the appellant-accused for having committed offence u/s 498-A of I.P.C.

16. In respect of charge for having committed offence u/s 302 of I.P.C, the prosecution has led evidence of Ram Musale (P.W. 1) to whom oral statement was made by his daughter Mahananda that the appellant-accused had poured kerosene on her and set her ablaze, so also by leading evidence of Ku. Balika (P.W. 2), the eldest child of the appellant-accused and his wife Mahananda. In addition to these two witnesses, there is evidence of Head Constable Kumbhare (P.W. 5) and Shri Bagde, S.E.M. (P.W. 9), as regards the two dying declarations. If we examine the evidence of Ram Musale (P.W. 1) on this count, he states that

on coming to know that Mahananda was admitted in the General Hospital, Chandrapur, he came to General Hospital, Chandrapur but on Tuesday, did not talk to her, and on Wednesday, Mahananda told him that her husband-accused set her on fire and that he married her to a butcher. This fact stated by the witness is nullified by bringing omission on record in his cross-examination where he stated that he did tell before the police that Mahananda told him that he married her to a butcher and that she was burnt for money, but accepted that he could not tell why it is not mentioned in his statement. Therefore, this evidence of the father also does not stand to the scrutiny of law and his claim of Mahananda having told him that it is the appellant-accused who set her on fire for money, will be unsafe to accept. Not only this, but it has come in the cross-examination of this witness when it was put to him that Mahananda told him that she informed the police that her "Padar" fell in the "Chul" and caught fire, and that he also told before the police that Mahananda told him about her statement before the police that her "Padar" fell in oven and received fire, though the witness has denied to have stated so to the police, it has been contradicted by pointing out to him the portion "A" in his statement and in answer to it he stated that he was unable to say why it was so recorded. Before we part with this witness, we may take note of the fact that in his cross-examination, this witness has categorically admitted that he called police and asked them to record the statement of Mahananda. This part of the evidence before the Court assumes importance So as to explain the delay on the part of the police in initiating investigation and it can be safely concluded that it is only after Ram Musale (P.W. 1) could make his daughter Mahananda agree to implicate the appellant-accused as the person who poured kerosene on her and set her ablaze, that he approached the Head Constable Dadaji Kumbhare (P.W. 5). The evidence of Head Constable Dadaji Kumbhare (P.W. 5) confirms this, as in his cross-examination he has admitted the fact that father of patient had come to him on 11.11.1994, her father asked him to record statement of Mahananda with the say that she is ready to give statement. He asked him to secure direction of P.I. City Police Station, Chandrapur, who informed him on phone to do so and that is how Head Constable Kumbhare visited General Hospital, Chandrapur on 11.11.1994 to record statement of Mahananda who was admitted in the hospital and that is how her statement came to be recorded by the Head Constable Kumbhare (P.W. 5), after getting the requisite certificate from Dr. Ajay Dudhalwar (P.W. 6) and the same is before the Court as Exhs. 17-A to 17-D. It is only after recording the statement, Head Constable Kumbhare (P.W. 5) gave it to the Police Station, Chandrapur City and it was taken as First Information Report supposed to have been received at Police Station, Chandrapur on 11.11.1994 at 20.20 hours and an offence under Sections 307 and 498-A, I.P.C. came to be registered vide Crime No. 0/94. We may note here that though there is not a whisper in the statement of Sau. Mahananda Amrut Hulgunde recorded by the Head Constable Kumbhare about the cruel treatment by her husband in order to extract money, the police had registered offence u/s 498-A, I.P.C. on the basis of that statement. Thereafter, a requisition came to be sent to Shri Bagde, (P.W. 9) Tahsildar and

Special Executive Magistrate to record dying declaration of Mahananda in the hospital, and then Shri Bagde went to the General Hospital, Chandrapur, got the requisite certificate from Dr. Dudhalwar (P.W. 6) and recorded her dying declaration which is Exh. 20. Even in the dying declarations Exhs. 20A to 20C recorded by Shri Bagde, there is no mention that the appellant-accused treated Mahananda with cruelty in order to extract money from her father. Taking into consideration the fact that though police has received a memo Exh. 18 on 8.11.1994 at 4 p.m. from the Medical Officer, General Hospital, Chandrapur, to arrange for her dying declaration, police did not take any steps till Mahananda's father Ram Musale (P.W. 1) approached Head Constable Kumbhare on 11.11.1994 and told him that she is ready to give her statement. Therefore, in our opinion, it would be most unsafe to rely upon the statement recorded by Head Constable Kumbhare and it has been treated as F.I.R. Exh. 48 and so also the dying declarations recorded by Shri Bagde (P.W. 9), which is Exhs. 20-A to 20-C, as evidence of the fact that the appellant-accused poured kerosene on his wife Mahananda and set her ablaze. As these statements are procured from Mahananda at the behest of her father Ram Musale (P.W. 1) who tutored her to say so against her husband, it cannot be said that the dying declarations made to a Head Constable Dadaji Kumbhare and Shri Bagde, S.E.M. (P.W. 9) are true and voluntary.

17. Another main piece of evidence which requires consideration is that of Ku. Balika (P.W. 2), the eldest child of Mahananda. It appears that at the time of the incident, she was less than 8 years old. In her evidence before the Court, she has stated that when her mother returned on the next day in the morning, the accused beat her on the pretext that she had stayed with her father. Balika was present in the house with her brother. According to her, her mother said that now she would not live there and shall go. Accused threw and poured Rockel (Rock oil) over the person of her mother and set her on fire with the help of lighted stick from "Chul". The person of her mother got ablaze and she started weeping. In her cross-examination, she has stated that during the quarrel, her father asked her to go out and so she went to mandav and started weeping, her brother came near her. Her father and mother only were inside the room and were quarreling loudly. Her mother came out in burning condition. She was called to the Police Station 3 to 4 days after the incident. Her grandfather was with her. She was informed about the death of her mother. Her grandparents told her that her mother was burnt by her father. We do not find that the evidence of Balika who was child witness, helps the prosecution in any manner as she had not seen her father pouring kerosene on her mother and setting her ablaze. If she has to be believed, she only noticed her mother coming out of the room in burning condition and before her statement came to be recorded, her grandparents told her that her mother was burnt by her father. We have already found that Ram Musale (P.W. 1), father of Mahananda, in all probabilities, prevailed upon his daughter to implicate the appellant-accused and, therefore, possibility of tutoring this child witness by him, cannot be failed out, particularly when she admits

being told by her grandparents that her mother was burnt by her father and it is in this state of mind that the witness implicated her father as the person who had poured kerosene on her mother and set her ablaze with the help of lighted stick from "Chid" when, in fact, she had not seen such things happening. Therefore, even the evidence of this witness will have to be discarded.

18. There is no dispute about the fact that Mahananda died unnatural death as can be seen from the evidence of Dr. Gandhe (P.W. 3), who conducted postmortem report. Dr. Gandhe, in his cross-examination, has clearly accepted that he will not be able to tell whether the victim has committed suicide or it is homicidal death or accident. So it is doubtful whether Mahananda died a homicidal death. It is in this background that we find the plea taken by the appellant-accused appears to be probable when he stated in his examination u/s 313, Cr.P.C. to last question put by the Trial Court that whether he wants to say anything more, that on return of Mahananda, she was working inside the house, he was sitting out side. After some time, he heard shouts and immediately Mahananda came out in flames. Her person fell on his person as he rushed towards her and he received burn injuries to his hands and legs. He tried to extinguish the fire. The fact that the accused received burn injuries is not disputed by the prosecution.

19. The Trial Court, while evaluating the evidence led by the prosecution, has failed to take into consideration the aforesaid glaring defects pointed out by us by analysing evidence of witnesses. The Trial Court went on to accept the prosecution case without even trying to find out the reason as to why there was a delay of three days in lodging report in such a serious case and overlooked the tampering of the investigation by police in connivance with Ram Musale (P.W. 1), father of victim Mahananda. The Trial Court even did not feel it necessary to examine the case diary in order to ascertain the truth which could have easily disclosed tampering of investigation by the police. If we take into account the scene of offence Panchnama Exh. 22, which has been proved by examining Uttam (P.W. 7), the Panch witness, we can see that it was planted by the Investigating Officer as the scene of offence which is nothing but a small hut of Kud (Wattle and daub) belonging to the accused, is not disturbed from 8.11.1994 in the morning when the incident occurred till 11.11.1994 when the Investigating Officer reached the scene of offence and recorded the spot Panchnama in the presence of Panchas. It is only the articles collected from the scene of offence, which were sent to the Chemical Analyser and the C.A.'s report Exh. 43 records partly burnt sari, blouse, piece of cloth and petticoat and one tin dubba were all put to test for the detection of kerosene residue which were found to be positive. The chances of sprinkling kerosene on these articles and despatching same to Forensic Laboratory, cannot be ruled out considering the delay in conducting scene of offence Panchnama, after the police were able to get statement of the deceased recorded implicating the appellant accused.

20. In order to clear our conscience and with a view to understand as to why

there was a delay of 3 days in taking cognizance of the offence and recording the statement of the victim inspite of the fact that the police were informed by the Medical Officer, General Hospital, Chandrapur on 8.11.1994 itself at 4 p.m. that a patient with burn injuries was admitted in the hospital and arrangement should be made to record her dying declaration, for the first time, Head Constable Kumbhare (P.W. 5) went to hospital on 11.11.1994 and recorded her statement at 1600 hours, we have examined the case diary which was fortunately available with the record and proceedings of the Trial Court and we found that on 8.11.1994 itself at 6 p.m. Head Constable Buckle No. 1016 who was on duty in the Police Booth in the Hospital, had recorded the dying declaration of Mahananda wherein she had clearly stated that on 8.11.1994 at about 1000 hours when she was trying to light hearth in her house by pouring kerosene in it, she got accidentally burnt as her sari caught fire. Similarly, on 9.11.1994 at about 8.20 a.m., Executive Magistrate, Chandrapur, also recorded her dying declaration in which she stated same thing. These two statements are duly attested by Medical Officer on duty and that is why as the victim did not give any statement implicating the appellant-accused, the police did not register any offence till 11.11.1994 when Ram Musale (P.W. 1), father of Mahananda, was able to prepare her to give statement implicating the appellant-accused and it is thereafter the investigating machinery came into motion and the investigation is directed in a manner so as to imp Mcate the appellant-accused not only for the offence u/s 302, I.P.C, but also u/s 498-A, I.P.C. We could also get the supplementary statement of Ku. Balika (P.W. 2) recorded by the police on 5.12.1994, exonerating her father.

21. We are conscious of the fact that the Courts should be slow in castigating Investigating Officers, but this is a case where the prosecution has. suppressed from the Court the true facts and tampered the investigation so as to implicate the accused in the case. In our considered opinion, this is a fit case where the State should examine the conduct of Police Officers involved in the investigation of the case, and take appropriate departmental action against them and for that purpose, we direct the respondent-State to place the record and proceedings of this case along with the copy of our judgment, before the Director of Public Prosecutions, who should hold enquiry against all the Police Officers concerned with the investigation of the case and after examining all concerned with the investigation right from 8.11.1994 till the charge-sheet was filed, recommend appropriate action against the Police Officers found tampering with the investigation and for misleading the Court by suppressing the investigation conducted by them from 8.11.1994 till 11.11.1994 and for creating evidence against the appellant-accused from 11.11.1994 till filing of the charge-sheet, so that in future such miscarriage of justice does not occur. We also direct the State to appropriately compensate the appellant-accused for undergoing imprisonment from the date of his arrest till he is released by us, on receiving the findings of Director of Public Prosecutions. The respondent-State would inform this Court of the action taken as directed by this Court within a period of six months from the

date the matter is placed before the Director of Public Prosecution for conducting enquiry.

22. We have already held that the appellant-accused cannot be found guilty of having committed offence either u/s 498-A or Section 302, I.P.C. for the aforesaid reasons and, therefore, we allow the appeal, quash and set aside the conviction and sentence imposed by the Trial Court vide judgment and order dated 15.12.1995, and direct that the appellant-accused be forthwith set at liberty if not required in any other case.