
(2010) 01 CHH CK 0008
In the Chhattisgarh High Court
Case No : Criminal Appeal No. 311 of 1999

Chenuram and Others

APPELLANT

Vs

State of Madhya Pradesh now Chhattisgarh

RESPONDENT

Date of Decision : 14-01-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 107, 306, 34, 406, 498A

Citation : (2010) 01 CHH CK 0008

Hon'ble Judges : Pritinker Diwaker, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Pritinker Diwaker, J.—This appeal is directed against the judgment dated 23.1.1999 passed by the Additional Sessions Judge, Baloda Bazar, in Sessions Trial No. 105/1992 convicting the accused/appellants for the offences punishable under Sections 498-A and 306/34 of the Indian Penal Code and sentencing each of them to undergo rigorous imprisonment for ten years and pay fine of Rs. 5000, in default of payment of fine to further undergo rigorous imprisonment for one year u/s 306/34 IPC.

2. Case of the prosecution in brief is that on the basis of merged intimation dated 10.10.1991 (Ex. P- 12), FIR (Ex. P-13) was registered against the accused/appellants for the offences under Sections 498 and 406 IPC. It is alleged that marriage of the deceased namely Chandrika Bai with accused/appellant Loknath was solemnized one year prior to the date of incident and she died after receiving burn injuries. It is alleged that the accused/appellants used to torture the deceased and being fed up by the same she was impelled to take such a drastic step of committing suicide.

3. So as to hold the accused/appellants guilty, prosecution has examined 26 witnesses in support of its case. Statements of the accused/appellants were also recorded u/s 313 of the Code of Criminal Procedure in which they denied the

charges levelled against them and pleaded their innocence and false implication in the case.

4. After hearing the parties the trial Court has convicted and sentenced the accused/appellants for the offences as mentioned above.

5. Heard counsel for the parties and perused the material available on record including the judgment impugned.

6. Counsel for the accused/appellants submits that even if the entire case of the prosecution is taken as it is, the appellants cannot be convicted u/s 498-A and 306/34 IPC. He submits that even in the statements of Sukhbati (PW-1) the mother of the deceased, Rukmanibai (PW-2) sister in law of the deceased, Jhagru (PW-3) father of the deceased and Toranlal (PW-4) brother of the deceased, there is no specific allegation against the accused/appellants. According to him, present is a case where the deceased could not settle in her matrimonial home and therefore, ended her life by way of committing suicide.

7. On the other hand counsel for the respondent/State supports the impugned judgment and submits that the deceased was subjected to cruelty by the accused/appellants to such an extent that she was left with no other option but to commit suicide. According to him, the impugned judgment being based on the evidence available on record is just and proper and does not call for any interference in this appeal.

8. Sukhbati (PW-1) the mother of the deceased has stated in her evidence that the deceased had told her that accused/appellant Sukhram - brother in law of the deceased used to ask her to press his legs after applying oil. She has stated that once when the deceased was sleeping in her room, accused/appellant Chenuram who happens to be the father in law of the deceased, had entered her room after dismantling the tiled roof but as her husband was already there, he had left the room. Except this, there is no allegation against any of the accused/appellants. Rukmani Bai (PW-2) - the sister in law of the deceased has stated that father in law and brother in law of the deceased used to keep watch on her and when she used to take bath in the pond, they used to object to the same. This witness has also not made any specific allegation against the accused/appellants. Jhagru (PW-3) - the father of the deceased has merely stated that father in law of the deceased used to express his angry mood and once he had got over the cot in which she used to sleep. Toranlal (PW-4) brother of the deceased has stated in his evidence that father in law of the deceased used to harass her. This witness has also not made any specific allegation against any of the accused persons. Dr. G.R. Agrawal (PW-5) who has conducted post mortem examination on the body of the deceased has stated that he had found 90-95 per cent burn injuries on the body of the deceased. Kesoram (PW-7) has been declared hostile and not supported the case of the prosecution. Similarly, Thakur Ram (PW-8) has also not supported the case of the prosecution.

9. Evidence of the witnesses particularly that of mother, father and brother of the

deceased as discussed above does not spell even a single specific allegation on the basis of which it could be said that any of the accused/appellants had ever subjected the deceased to cruelty which had culminated in compulsion to the deceased to commit suicide. Factual matrix if read in the light of the evidence led by the prosecution including that of the mother, father and brother of the deceased does not bring the abetment defined u/s 107 IPC into play. On the contrary the record makes this Court to presume that because of her temperament diametrically opposite to that the accused/appellants, she was unable to adjust herself in her matrimonial home and ultimately go for ending her life. The prosecution has also failed to establish that any of the accused/appellants had at any point of time harassed the deceased to meet any unlawful demand and therefore, the appellants cannot be said to have committed an offence u/s 498-A IPC also. Thus in the absence of any specific allegation against any of the accused/appellants that the deceased was subjected to harassment or cruelty to such an unbearable extent which did not leave any other option before her but to commit suicide, this Court feels it difficult to sustain the findings recorded by the Court below convicting and sentencing the accused/appellants as mentioned above.

10. In the result, the appeal is allowed. Impugned judgment convicting and sentencing the accused/appellants is hereby set aside. The accused/appellants be set free at once if not required in any other case.