
(2013) 01 MP CK 0065

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 99 of 2000

Kamal Singh, Suresh Kumar and Krishna Bai

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 15-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 374
Penal Code, 1860 (IPC) — Section 304B, 306, 498A, 498A
Probation of Offenders Act, 1958 — Section 4

Citation : (2013) 01 MP CK 0065

Hon'ble Judges : Brij Kishore Dube, J

Bench : Single Bench

Advocate : Rajesh Pathak, for the Appellant; Prabal Solanki, Public Prosecutor for State, for the Respondent

Judgement

Brij Kishore Dube, J.—Feeling aggrieved by the judgment of conviction and order of sentence dated 25/01/2000 passed in Sessions Trial No. 50/1999 (State of M.P. v. Kapoori Bai & ors.) by II Additional Sessions Judge, Vidisha, convicting the appellants u/s 498A of IPC and thereby imposed sentence of two years rigorous imprisonment with fine of Rs. 500/- each to appellants No.1 & 3, however, the appellant No. 2, Suresh Kumar has been extended the benefit of Section 4 of the Probation of Offenders Act, the appellants have preferred this appeal u/s 374 of Cr. P.C., 1973. The prosecution case, in brief, is that the marriage of Roopwati (since deceased) has been solemnized with the appellant No. 1, Kamal Singh in the month of May 1995. At the time of marriage, Roopwati was a student, therefore, she could not be sent to her in-laws house, after passing the Class 10th examination, she has been sent to her in-laws house where she for the first time remained for a period of 21 days. During the said period, she has been treated with cruelty due to demand of dowry by her husband, saas, devar and nanand. Thereafter, she went to her parental house and stayed for a period of 15 months. Then, her husband and other persons brought her to her in-laws house. On 14.10.1998, she herself set to fire. She was

taken to hospital by her husband, Kamal Singh and after some time, she had died there. On receiving the information from Dr. Shrivastava, the police registered the case and investigated it and after due investigation, charge-sheet was filed against the appellants and one, Kapoori Bai before the Committal Court, which on its turn committed the case to the Sessions Court from where it was received by the Trial Court for trial.

2. Learned Trial Judge on the basis of the material placed on record framed the charge punishable under Sections 304-B in alternative 306 and 498-A of IPC against the appellants as well as mother-in-law, Kapoori Bai. All the accused persons denied the charge and claimed to be tried. The defence of the accused persons is of false implication and the same defence was set forth in their statements recorded u/s 313 of Cr.P.C.

3. To bring home the charge, the prosecution has examined as many as seven witnesses and placed Exhibits P-1 to P-14, the documents on record. None has been examined by the accused in their defence.

4. Learned Trial Judge on the basis of the evidence placed on record came to hold that charge u/s 304-B & 306 of IPC has not been proved against the appellants, eventually, acquitted them from these offences, however, charge u/s 498A of IPC has been found proved against them as a result of which convicted them and passed the sentence as mentioned here-in-above. State has not challenged the acquittal of the appellants in respect of the aforesaid charge, hence, it attained finality.

5. During pendency of the appeal, the appellant, Kapoori Bai who was mother-in-law of the deceased, Roopwati had died and her name has been deleted from the cause title as the appeal stood abated against her.

6. Learned counsel appearing on behalf of the appellants submitted that the appellants are not challenging the finding of the conviction recorded by the learned Trial Court. It is further submitted that the appellant No.1, Kamal Singh has undergone about eight months imprisonment and still serving the sentence. Appellant No. 2, Suresh Singh has been given the benefit of Section 4 of the Probation of Offenders Act. The appellant No. 3, Krishna Bai has remained about four days in jail. Learned counsel prayed for reduction of the jail sentence to the period of already undergone by the appellants No.1 & 3.

7. Learned Public Prosecutor has supported the impugned judgment and prayed for dismissal of the appeal.

8. Admittedly, appellant No.1, Kamal Singh is the husband, appellant No. 2, Suresh Kumar is the devar and appellant No. 3, Krishna Bai is the nanand of the deceased Roopwati. The marriage of Roopwati has been solemnized in the month of May 1995 with the appellant No.1, Kamal Singh.

9. P.W. 1, Gomti Bai is the bua (father's sister), P.W. 2, Parvati Bai is the elder sister, P.W. 3, Bala Singh is the mother and P.W. 4, Khilan Singh is the father of

the deceased, Roopwati.

10. On bare perusal of the statements of the aforesaid witnesses, it is clear that the appellants made demand of T.V. and fan as dowry. They also often caused marpeet and quarrel with her. This fact was narrated by her to her parents and other relatives when she did go to her parents house.

11. To constitute an offence u/s 498-A of IPC, it should be proved by prosecution;

(i) the woman is a married woman;

(ii) she must be subjected to cruelty or harassment; and

(iii) such cruelty or harassment must have been shown either by husband of the woman or by the relative of her husband.

In the present case, all the above-said three ingredients were found to be proved by the Trial Court after appreciation of the evidence.

12. I have given my anxious and bestowed consideration to the reasonings assigned by the Trial Court holding appellants to be guilty u/s 498-A of IPC. The reasonings assigned are based on the evidence placed on record and I do not find any perversity in the judgment. The findings of conviction recorded by the learned Trial Court against the appellants have not been challenged by the appellants, hence, the conviction u/s 498-A of IPC is hereby affirmed.

13. With regard to the sentence awarded is concerned, the appellants No. 2, Suresh Kumar has been extended the benefit of Section 4 of the Probation of Offenders Act.

14. Appellant No. 3, Krishna Bai who is nanand of the deceased has remained in jail for four days. The appellant No. 1, Kamal Singh undergone about eight months sentence and still serving the sentence. No previous criminal conduct of these appellants has been proved by the prosecution. The alleged incident took place on 14.10.1998 i.e. about 14 years back.

15. Under these circumstances, the interest of justice would be sub-served, if the jail sentence of appellants No.1 & 3 is reduced to the period already undergone by them.

16. Consequently, this appeal is allowed partly. The conviction of the appellants passed by the learned Trial Court u/s 498-A of IPC is hereby affirmed, but the sentence is set-aside and instead thereof, the appellants No.1 & 3 are sentenced to the period already undergone by them with fine of Rs. 500/- each and in default of payment of fine, they shall suffer additional simple imprisonment for one month.

17. The conviction of appellant No. 2 is also affirmed. He has been granted the benefit of Section 4 of the Probation of Offenders Act.

18. The bail bonds of appellants No. 2 & 3 stands discharged. The appellant No.

1 is directed to be released forthwith, if not required in any other case. With the aforesaid modification in sentence, the appeal is disposed of finally.