
(2015) 10 SC CK 0102
In the Supreme Court Of India
Case No : Crl. A. No. 1098 of 2011

Kunja Bai

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 29-10-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 304B, 306, 498A

Citation : (2016) ALLMR(Cri) 410 : (2015) 4 RCR(Criminal) 1037 : (2015) 12 SCALE 295

Hon'ble Judges : H.L. Dattu, C.J.I. and Arun Mishra, JJ.

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal is directed against the judgment and order passed by the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 148 of 1995, dated 14.10.2009. By the impugned judgment and order, the High Court has set aside the order of conviction and sentence of the Appellant for the offence punishable under Section 304-B of the Indian Penal Code, 1860 (for short, "the Indian Penal Code"). However, the High Court has confirmed the order of conviction for the offence punishable under Section 498A of the Indian Penal Code, but has reduced the sentence to imprisonment for a period of one year. The brief facts of the prosecution case are that the deceased was married in 1988, and soon after her marriage she was treated with cruelty and harassment by her husband, her father-in-law and her mother-in-law (the Appellant-herein). The father-in-law and Appellant ill-treated the deceased for bringing less dowry, and demanded gold ornaments and a tape recorder. The husband of the deceased threatened to remarry as he had not married the deceased by choice, and beat the deceased. On 23.03.1989, within one year of her marriage, the deceased poured kerosene oil on herself and committed self-immolation. The deceased died due to burn injuries.

2. The First Information Report was lodged, investigation was completed and a charge-sheet was filed against the husband, father-in-law and the Appellant for the offences punishable under Sections 498A, 306 and 304B of the Indian Penal Code.

3. Thereafter, the accused persons appeared before the Trial Court and after both sides were heard, charges were framed. The charges were read over and explained to the accused persons who pleaded not guilty. Accordingly, the case was committed to Trial.

4. In order to substantiate the charges framed against the accused persons, the prosecution examined twelve witnesses during the Trial, including the parents and other family members of the deceased. Further, a number of documents were presented in evidence including the Post Mortem Report, seizure memos by which burnt clothes of the deceased were seized from the place of incident, Roznamcha of investigation, etc. After the closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 of the Code of Criminal Procedure (for short, "the Code") wherein they pleaded innocence. No evidence was led in defense of the accused persons.

5. Upon detailed consideration of the evidence on record, the Trial Court found that the guilt of the accused husband of the deceased and the Appellant for the offences punishable under Sections 498-A and 304-B of the Indian Penal Code was proved beyond reasonable doubt. However, the Trial Court held that the prosecution had failed to prove the guilt of the accused father-in-law for the offences punishable under Section 498A, 306 and 304B of the Indian Penal Code beyond reasonable doubt. Further, the Trial Court held that the guilt of the accused husband and the Appellant for the offence punishable under Section 306 of the Indian Penal Code was not made out by the evidence on record.

6. Accordingly, the Trial Court convicted the accused husband and the Appellant for the offence punishable under Section 498-A of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for a period of two years each, and also to pay a fine of Rs. 1,000/- each, and in default to undergo simple imprisonment for a period of six months. Further, the accused husband and the Appellant were convicted for the offence punishable under Section 304-B of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of seven years each, and also to pay a fine of Rs. 3,000/- each, and in default to undergo simple imprisonment for a period of one year.

7. Aggrieved by the order of conviction and sentence passed by the Trial Court, the accused husband and the Appellant preferred an appeal before the High Court. Upon a close examination of the evidence on record including the judgment and order of the Trial Court, the High Court was of the considered opinion that the guilt of the accused husband for the offences punishable under Sections 498A and 304B was not proved beyond reasonable doubt. The High Court was of the view that the benefit of the doubt must be given to the accused

husband on the ground that the prosecution has been unable to prove the allegation that the accused husband beat the deceased, and further the accused husband was not present in the house when the deceased suffered burn injuries. In that view of the matter, the High Court set aside the order of conviction and sentence passed by the Trial Court against the accused husband for the offences punishable under Sections 498-A and 304-B of the Indian Penal Code

8. Further, after a detailed consideration of the evidence on record, the High Court was of the considered view that there was no evidence on record to suggest that the deceased was subjected to harassment in relation to a demand for dowry by the Appellant soon before her death. Therefore, the High Court was of the opinion that the order of conviction and sentence passed by the Trial Court against the Appellant for the offence punishable under Section 304-B of the Indian Penal Code deserves to be set aside.

9. However, the High Court was of the considered view that the evidence on record proved beyond reasonable doubt that the Appellant subjected the deceased to cruelty due to non-satisfaction of the demand for gold bracelets and tape recorder as dowry. Further, the Appellant was the best person to disclose the relevant facts solely within her knowledge as to the circumstances leading to the death of the deceased as she was present in the house at the relevant time. While committing the act of self-immolation, it was natural for the deceased to cry out in pain and agony, however the nature and extent of burn injuries suffered by the deceased gave rise to the inference that no attempt was made by the Appellant to save the deceased from the burn injuries. In that view of the matter, the guilt of the Appellant for the offence punishable under Section 498-A of the Indian Penal Code was proved beyond reasonable doubt. Therefore, the High Court confirmed the order of conviction passed by the Trial Court against the Appellant for the offence punishable under Section 498-A of the Indian Penal Code, but reduced the sentence to imprisonment for a period of one year.

10. Aggrieved by the judgment and order passed by the High Court, the Appellant is before us in this appeal.

11. We have heard Learned Counsels for the parties to the lis.

12. The Learned Counsel for the Appellant would assail the judgment and order passed by the High Court and submits that the prosecution has failed to prove the guilt of the Appellant beyond reasonable doubt.

13. Apart from arguing on merits of the case, Learned Counsel for the Appellant would submit that the harsh sentence of rigorous imprisonment for a period of one year ought to be reduced. The Learned Counsel for the Appellant would submit that the incident took place in the year 1989, and about 27 years had passed since then. The Learned Counsel for the Appellant would further submit that the Appellant was an elderly lady of over 65 years of age and suffering from various ailments associated with old age. The Learned Counsel for the Appellant would also submit that no minimum sentence was prescribed under Section 498-

A, and the Appellant had already undergone imprisonment for a period of one month. Keeping these aspects of the matter in view, the Learned Counsel for the Appellant would submit that the sentence ought to be reduced.

14. Per contra, Learned Counsel for the Respondent State, would support the judgment and order passed by the High Court.

15. After going through the records of the case including the judgments and orders passed by the Courts below, we are of the considered view that there is no infirmity in the well reasoned judgment of conviction passed by the High Court for the offence punishable under Section 498-A of the Indian Penal Code which requires our interference.

16. However, we are of the considered opinion that in the peculiar facts and circumstances of the case, the ends of justice would be met if we reduce the order of sentence passed by the High Court for the offence punishable under Section 498-A of the Indian Penal Code to the period already undergone by the Appellant. Accordingly, while confirming the order of conviction for the offence punishable under Section 498-A of the Indian Penal Code, we convert the sentence of the Appellant to the period already undergone. The Criminal Appeal is disposed of accordingly. Ordered accordingly.