

(2011) 03 SC CK 0016

In the Supreme Court Of India

Case No : Criminal Appeal No"s. 761 with 968 of 2005

Mool Chand and Another

APPELLANT

Vs

State of Rajasthan.

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304B, 498A

Citation : (2013) 2 AJR 417 : (2012) CriLJ 1881

Hon'ble Judges : Harjit Singh Bedi, J; Chandramauli Kr. Prasad, J

Bench : Division Bench

Advocate : B.D. Sharma, for the Appellant; Milind Kumar, for the Respondent

Judgement

Criminal Appeal No. 968 of 2005

1. Mr. Calla. learned Senior counsel appearing on behalf of the Appellant states that the Appellant has already undergone the sentence awarded to him and he has since been released, he does not press this appeal. This Appeal stands dismissed as not pressed.

Criminal Appeal No. 761 of 2005

Appellants are father-in-law and mother-in-law of the deceased Premlata. They along with the husband of the deceased namely Virendra Kumar and their daughter Alka were put on trial for the offences under Sections 302, 304B and 498A of the Indian Penal Code. The trial court by its judgment dated 7th February, 2001, acquitted the Appellants and their daughter of all the charges levelled against them. However, the husband Virendra Kumar was found guilty of offence under Sections 304B and 498A of the Indian Penal Code. The State of Rajasthan aggrieved by the acquittal of the Appellants and Alka preferred an appeal before the High Court. Virendra Kumar, aggrieved by his conviction had also preferred an appeal. Both the appeals were heard together by the High Court and disposed of by a common judgment. The appeal preferred by the State against the acquittal of the Appellants and Alka was partly allowed. The High

Court maintained the acquittal of Alka but set aside the order of acquittal of the Appellants and convicted them for offences under Sections 304B and 498A of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for seven years and three years respectively besides the fine.

Appellants, aggrieved by the same have preferred this appeal.

2. The prosecution commenced on the basis of a report given by the father of the deceased P.W. 1 Ramesh Chander on 16.7.1998 alleging therein that his daughter Premlata was married to accused Virendra Kumar about four years ago. He received an information on phone from the co-accused Alka (since acquitted) that the deceased, his daughter-Premlata, had committed suicide by hanging herself. According to the report, after ten minutes of the aforesaid telephonic conversation, he received another telephone call from the Appellant-Sunita, mother-in-law asking him to come immediately to take the dead body of his daughter. On the telephonic communication the informant Ramesh Chand along with his other family members and friends reached at the matrimonial home of their daughter and found the dead body hanging with a sari. It has been alleged by the father of the deceased that the accused persons had hanged his daughter and further that the Appellants were regularly making demands for dowry and due to the harassment meted out to her, she committed suicide.

3. The trial court on perusal of the evidence came to the conclusion that there is no evidence to show that these Appellants harassed the deceased for demand of dowry soon before the death and, accordingly, acquitted these Appellants. In this connection, the trial court observed as follows:

There is no evidence of the prosecution side to prove the offence u/s 498A of the Indian Penal Code. In Ex. P-I there is no such evidence that the deceased was used to be harassed or distressed or used to be taunted or subjected to cruel behaviour and nor in the police statement, there is any such statement. Even to the extent that in the statement recorded before the court, it has not been revealed that as to what ill-treatment or cruelty was subjected with the deceased Smt. Premlata by her in-laws for dowry demand

4. The High Court, however, in appeal without assigning any reason came to the conclusion that the finding of acquittal recorded by the trial court is not based on correct appreciation of evidence. We have been taken through the evidence of the prosecution witnesses and from that it cannot be inferred that these Appellants subjected the deceased to cruelty in connection with the demand of dowry soon before the death.

5. In our opinion, the trial court while giving the Appellants benefit of doubt assigned good and cogent reasons and in any view of the matter the conclusion arrived at by it was one of the possible conclusion. That being the position, the High Court erred in reversing the judgment of acquittal to that of conviction. In the result, the appeal is allowed, impugned judgment of conviction and sentence is set aside. The Appellants are on bail. They are, discharged of their bail bonds.