
(2013) 07 MP CK 0084

In the Madhya Pradesh High Court

Case No : Criminal Appeal No. 530 of 1998

Premlal alias Dadu and Premlal

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 107, 302, 306, 34

Citation : (2013) 4 MPJR 12

Hon'ble Judges : B.D. Rathi, J

Bench : Single Bench

Advocate : Surendra Singh and Mr. R.K. Shukla, for the Appellant; Amit Pandey, Panel Lawyer, for the Respondent

Final Decision : Allowed

Judgement

B.D. Rathi, J.—The appellants have been convicted u/s 306 of the IPC and sentenced to undergo R.I. for 5 years with fine stipulation, though they were acquitted of the offence u/s 302 of the Indian Penal Code (for short "IPC"). The impugned judgment dated 27/2/1998 was passed by VIII Additional Sessions Judge, Jabalpur, in Sessions Trial No. 444/96. Appellants are respectively brother and relative of Sonelal (since deceased). According to the prosecution case, on 20/02/1996 at about 10.45 Sonelal committed suicide by jumping into the Well. The appellants are said to have filthily abused and humiliated Sonelal to such an extent that he could not tolerate and committed suicide. After investigation, Crime No. 109/96 was registered for the offence punishable u/s 306 read with 34 of the IPC. After completion of investigation, charge-sheet was filed in respect of the offence u/s 306 /34 of the IPC and thereafter impugned judgment was passed.

2. Charges u/s 302 and 306 of the IPC were framed. Appellant pleaded false implication and not guilty.

3. Learned Senior counsel argued that the impugned judgment was passed

without proper appreciation of evidence on record. The appellants have denied these allegations totally and have submitted that Sonelal had fixed marriage of his son at Village Babatola, which was not acceptable to his wife. Sonelal, therefore, felt that he had lost his honour in the society and consequently committed suicide. He further submitted that even if the case of the prosecution was accepted at its face value, no offence would be made out against the appellants, as they had not abetted commission of suicide by the deceased.

4. In response, learned Government Advocate, while making reference to the incriminating pieces of evidence on record, submitted that the conviction was well merited and the impugned judgment does not deserve to be interfered with.

5. Having regard to the arguments advanced by the parties, record of the trial Court was perused.

6. In paragraph 55 and 56 of the impugned judgment, it was held by the trial Court that though Sarla Choudhary (PW3) and Roshni Bai (PW4) had deposed in their respective evidence that her father Sonelal was murdered by the appellants by beating and pushing him into the Well, yet the same did not inspire confidence in view of the prevailing enmity between the parties and, accordingly, the trial Court acquitted the respondent of the offence u/s 302 of the IPC. However, these findings and acquittal of appellants u/s 302 of the IPC, has not been challenged by the State.

7. In paragraph 59 of the impugned judgment, it was held by the trial Court that on 20/2/1996 at 10.45 a.m. at Polipathar Lalkua, appellants had cruelly treated Sonelal and filthily abused him and, thereby, abetted commission of suicide by him.

8. Now only question before the Court is whether the act of quarreling and abusing the deceased by the appellants, comes within the ambit of abetment to suicide?

9. The definition of abetment of a thing, contained in Section 107 of the IPC will show that a person abets the doing of that thing, if he (i) instigates (ii) conspires or (iii) aids in the doing of that thing. On perusal of the evidence on record, it is clear that at the relevant point of time, Sonelal was beaten and abused by the appellants near the Well and, thereafter, he had jumped into the Well and died. Therefore, in the opinion of this Court, this might have been reason for committing suicide, but it cannot be said that the act of the appellants amounted to abetment as it did not fall within the definition indicated above.

10. Accordingly, it is held that merely giving beating to the deceased or humiliating or harassing him in the course of beating and abusing him would not amount to an offence within the meaning of Section 306 of the IPC as the appellants did not abet commission of suicide by Sonelal. In the result, the appeal stands allowed. Impugned conviction and consequent sentence are hereby set aside. Bail bonds of the appellants stand discharged. Fine amount, if

deposited, be refunded. Copy of this judgment be sent to the trial Court for compliance.