
(2017) 10 MP CK 0020
In the Madhya Pradesh High Court
Case No : 797 of 2001

RAGHUBIR SINGH MEENA

APPELLANT

Vs

THE STATE OF MADHYA PRADESH

RESPONDENT

Date of Decision : 13-10-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 313](#) - Power to examine the accused
[Indian Penal Code, 1860](#), [Section 498A](#)/
[Section 306](#) - Husband or relat

Citation : (2017) 10 MP CK 0020

Hon'ble Judges : Ved Prakash Sharma

Bench : Division Bench

Advocate : Manish Awasthy, Yogesh Dhande

Final Decision : Dismissed

Judgement

1. This appeal preferred by the State is directed against judgment and order dated 12.12.1990 passed by 2 nd Additional Sessions Judge, Damoh in S.T. No.9/1990 whereby respondent - Ujiyarsingh has been acquitted for offences u/s. 498A and 306 of the IPC .

2. It is not a matter of dispute that Maltibai (deceased), daughter of Jhurresingh (P.W.5) and Kusumbai (P.W.6) and grand daughter of Pritamsingh (P.W.1) was married sometimes in 1985 to respondent - Ujiyarsingh.

3. The prosecution story briefly stated is that sometimes in 1988, the marriage of Guddubai - younger sister of deceased Maltibai was solemnized. The marriage was attended by respondent - Ujiyarsingh and his wife Maltibai. In this marriage, Jhurresingh (P.W.5) had given Rs.8,000/- by way of dowry to the groom side. At that time, Ujiyarsingh complained to Jhurresingh (P.W.5) that no money was given in the dowry in his marriage.

The respondent further demanded Rs.3,000/- from Jhurresingh (P.W.5) by way of

dowry, however, he expressed his inability to pay the same stating that he has no capacity to pay. Thereafter, Maltibai went with the respondent to the respondent's house. The allegation is that the respondent was constantly inflicting cruelty and harassment upon deceased Maltibai, therefore, feeling harassed and humiliated, on 16.11.1989 she set herself ablaze by pouring kerosene oil on her body and thus committed suicide.

4. As per prosecution, in this regard, "Merg" No.32/1989 was registered at Police Station Tejgarh. During inquest proceedings, inquest memo (Ex. P/1) was prepared on 17.11.1989. The dead body was sent for postmortem examination to Primary Health centre, Tendukheda. Dr. J.P. Khare (P.W.7) conducted autopsy on the dead body on 18.11.1989. He found superficial 100% ante-mortem burns on the body and opined that death occurred due to shock as a result of 100% superficial burns and the same was within 36 to 48 hours of the postmortem examination. The parents and other relatives of the deceased were interrogated. On the basis of result of the "Merg" enquiry, first information report (Ex. P/3) was registered against the respondent on 10.12.1989 at Police Station Tejgarh, District Damoh. Spot map was prepared.

5. After usual investigation, the charge-sheet was laid before the competent Magistrate, who after complying with the provisions of Section 207 of the Cr.P.C. Committed the case to the Court of Sessions, from where it was made over to 2nd Additional Sessions Judge, Damoh. The learned trial Court framed the charges u/s. 498A and 306 of the IPC against the respondent, who abjured the guilt and claimed to be tried.

6. The prosecution, in order to bring home the guilt, examined as many as 8 witnesses including Jhuresingh (P.W.5), Kusumbai (P.W.6) Pritamsingh (P.W.1). Dr. J.P. Khare (P.W.7) is the autopsy surgeon while Bhaiyalal Yadav (P.W.8) is the investigating officer. Apart this, documents Ex. P/1 to P/3 were also marked in evidence. The respondent chose not to adduce any evidence in defence, however, documents Ex. D/1 and D/2 were marked in evidence during examination of the witnesses. The circumstances appearing against the respondent in the prosecution evidence were brought to his notice during examination u/s. 313 of the Cr.P.C ., he denied all the circumstances except the factum of marriage and further claimed that he has been falsely implicated in this case on account of enmity. The learned trial Court on the basis of evidence adduced before it vide the impugned judgment acquitted the respondent with regard to offences u/s. 498A and 306 of the IPC .

7. The finding of acquittal has been assailed in this appeal on the ground that the learned trial Court has not properly appreciated the evidence led by the prosecution. It is further contended that insignificant anomalies and omissions were given undue importance by the learned trial Court and hence, the finding of acquittal being not in accordance with law and facts of the case is liable to be reversed.

8. None appeared for the respondent.

9. Heard the learned counsel for the appellant and perused the record. The point for consideration is whether the acquittal recorded by the learned trial Court is contrary to law and evidence

on record?

10. The learned trial Court on the basis of testimony of Dr. J.P. Khare (P.W.7) and postmortem report Ex. P/2 in Para 5 of the impugned has recorded the finding that deceased Maltibai died because of the burns and that she had committed suicide by pouring kerosene oil on her body. The finding so recorded has not been assailed by the appellant-State. The same is otherwise substantiated from the evidence on record, therefore, this Court is in the agreement with the finding arrived at by the learned trial Court that Maltibai died because of bodily burns and that she committed suicide by pouring kerosene oil on her body and setting herself ablaze.

11. The question arises whether the respondent can be held liable for abetment to commit suicide and for inflicting cruelty upon the deceased? In this regard, the prosecution has relied upon the testimony of Pritamsingh (P.W.1) - the grand father of the deceased, Jhuresingh (P.W.5)-father of the deceased, and Kusumbai (P.W.6)-mother of the deceased. The learned trial Court on appreciation of evidence of these witnesses has come to the conclusion that the same suffers from serious anomalies, contradictions and omissions and, therefore, is not worthy of credence. In these premises, this Court is required to reappraise the testimony of Pritamsingh (P.W.1), Jhuresingh (P.W.5) and Kusumbai (P.W.6).

12. The testimony of Pritam Singh (P.W.1), who is the grand-father of deceased-Malti Bai and Jhuresingh (P.W.5), who is her father suffers from serious contradictions in respect of a

number of material points. Pritam Singh (P.W.1) in para-2 has deposed that Malti Bai came to their house about one month's before the marriage of Guddo Bai and at that time, she had told that the respondent quarrels with her and beats her and demands money from her. Noticeably there is a clear-cut omission on this point in police statement (Ex.D/1) of this witness, which has been elicited in para-6 of his statement. Apart this Jhuresingh (P.W.5) in para-5 and Kusum Bai (P.W.6) in para-2 have clearly stated that everything was going on well in the in-law's house of Malti Bai till the marriage of Guddo Bai and that she did not complain about anything till that time. This clearly shows that till the marriage of Guddo Bai, things in the in-laws house of Malti Bai were going on well and in a normal manner. This creates a serious doubt about truthfulness of the version put forth by Pritam Singh (P.W.1) in para-2 and Jhuresingh (P.W.5) in para-4 of their statement that Maltibai was being beaten by the accused even prior to the marriage of Guddo Bai.

13. With regard to the happenings after the marriage of Guddo Bai, Jhureesingh (P.W.5) says that Malti Bai never came to the parental house after the marriage of Guddo Bai. Pritam Singh (P.W.1) and Kusum Bai (P.W.6) have also not deposed that after the marriage of Guddo Bai, Malti Bai came to their house and had narrated about any cruelty or harassment allegedly being inflicted by her husband.

14. The prosecution evidence is also discrepant and contradictory as regards the quantum of money allegedly demanded by the respondent in dowry and the timing when such

demand was made. While Pritam Singh (P.W.1) has deposed in para-1 that the respondent came to their house in the month of "Bhagaon" about one month after the marriage of Gudda Bai and demanded money; Jhureesingh (P.W.5) and Kusum Bai (P.W.6) have deposed that the demand for dowry was made by the respondent when he came to attend the marriage of Gudda Bai. Kusum Bai (P.W.6) has gone to the extent of deposing that at that time itself the respondent while making demand for dowry threatened to put Malti Bai to fire. Noticeably, nothing of this sort has been stated by Jhureesingh (P.W.5). As regards quantum of money allegedly, demanded by the respondent, Pritam Singh says that demand was for Rs.3500/-, Jhureesingh (P.W.5) says that the demand was for Rs.3,000/-, while Kusum Bai (P.W.6) says that the demand was for Rs.4,000/-.

15. It is further noticeable that as per Jhureesingh (P.W.5), the respondent came to their house a day before the death of Malti Bai and while demanding Rs.3000/- as dowry threatened to put Malti Bai to fire if demand in this regard is not fulfilled, however, Kusum Bai (P.W.6) and Pritam Singh (P.W.1) have not deposed that the respondent came to their house a day before the death of Malti Bai and demanded money and also extended threats to put her afire. Thus, the version put forth by Jhureesingh (P.W.5) in this regard becomes highly doubtful.

16. In view of the aforesaid serious anomalies, omissions and contradictions present in the testimony of Pritam Singh (P.W.1), Jhureesingh (P.W.5) and Kusum Bai (P.W.6), it cannot be said to be proved beyond reasonable doubt that Malti Bai was

being subjected by the respondent to cruelty and harassment in connection with demand of dowry and that the respondent abetted her to commit suicide, therefore, the identical finding acquitting the respondent for offences under Section 306 & 498-A of IPC arrived at by the learned trial Court cannot be faulted with.

17. In view of the aforesaid, no ground is made out to interfere with the finding of the acquittal recorded by the learned trial Court, therefore, this appeal having no merits and is hereby dismissed.