
(2007) 12 JH CK 0047
In the Jharkhand High Court

Ram Piyari Devi and Sunil Kumar Singh	APPELLANT
Vs	
The State of Jharkhand	RESPONDENT

Date of Decision : 12-12-2007

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B, 306, 34, 494, 498A

Citation : (2007) 12 JH CK 0047

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—The appellants were convicted by the 3rd Additional Session Judge, Hazaribagh in Sessions Trial No. 378 of 1990 for the offence u/s 498A of the IPC and sentenced to undergo imprisonment for three years.

2. Appellants were charged for the offence under Sections 304B of the IPC beside Section 498A of the IPC and put on trial. However, the trial court finding tin evidence deficient in respect of the offence u/s 304B of the IPC, acquitted both the appellants for the said offence, but proceeded to convict the appellants for other remaining offences. In course of trial, the trial court framed fresh charges against the appellants for the offence under Sections 306/34 of the IPC read with Section 494 of the IPC, but in absence of adequate evidence in support o the two additional charges appellants were acquitted from the said offence.

2. The case against the appellants and other co-accused persons was instituted on the basis of the FIR lodged by the informant Jairam Mahto (PW6) alleging therein that his daughter Neelam Kumari (deceased) was married to the .appellant No. 2 Sunil Kumar Singh on 10.6.1987. For a few months after the marriage, couple led their life happily at the house of the appellants, thereafter, the girl suffered ill-treatment, cruelty, neglect and torture at the hands of her husband and in-laws besides other members of the family on account of non-fulfillment of the (sic) for a T.V. Set and a refrigerator. The accused persons had allegedly issued threats to the informant that if their demands were not met, they will proceed to solemnize second marriage of the appellant No. 2 Sunil

Kumar Singh with another girl. The accused husband carried out his threats by marrying another girl namely Saroj Kumari sometimes in December 1989, whereafter ill-treatment of the deceased intensified, about which the deceased had informed her father namely, the informant and her sister through letters and unable to bear the torture, she ended her life by committing suicide on 27.5.1990 at her matrimonial house.

3. As many as nine witnesses were examined by the prosecution at the trial and the list includes the informant (PW7), sister (PW4) of the deceased, brother (PW2) and brother-in-laws (PWs 3 and 5). Besides oral evidence, prosecution has also adduced few letters (Ext.-4 and 4/3) purportedly written by the deceased to her father and to her sister Malti Kumari and also carbon copy of the letter addressed by the deceased to the police (Ext.-6). The appellants in their defence had also adduced evidences including the doctor (DW3).

4. The specific case of the appellants in their defence was that the deceased was suffering from mental depression and schizophrenia for which she was provided with medical treatment and this fact has been confirmed by the attending doctor Dr. A.K Gupta (PW3).

5. Learned Counsel for the appellants submits at the outset that though appellants have been convicted by the trial court for the offence u/s 498A of the IPC, but the appellants have confined their prayer in this appeal only to the quantum of sentence as imposed by the trial court for the said offence and not against the order of conviction. Learned Counsel explains that even though, the trial court has recorded its findings, there are evidences to suggest that the demand or dowry used to be made by the present appellants and that the deceased has suffered ill-treatment and cruelty at the hands of her husband and mother-in-law, but the findings of the trial court also contain observations that the deceased used to suffer mental depression as a result of shock and feelings of stigma on being informed by her sister that her father had solemnized marriage with a young girl of the age of the deceased, learned Counsel refers in this context to the letters written by the younger sister of the deceased conveying the above information to the deceased. Learned Counsel also invites attention to Ext.-A/1 and A/2 which are similar letters written to the deceased by her sister. Learned Counsel argues that on the basis of the aforesaid evidences that the cause of the mental depression was not on account of the purported cruelty meted out to her by her husband and in-laws, but it was more on account of the ignominious conduct of her own father who had married a girl of the age of the deceased herself and the ignominy which she had suffered. Learned Counsel adds that the appellants have already undergone more than six months in custody during trial and I have faced sufficient punishment.

5.1. Counsel for the State, on the other hand, invites attention to the evidence of the informant (PW6), the father and the sister (PW4) of the deceased and pointed out that according to the evidences of these witnesses, the deceased used to be subjected to persistent ill-treatment by her husband and in-laws and

it has come in the evidence of the informant that the mother-in-law of the deceased used to express her dissatisfaction with the deceased and even wanted the deceased to give her consent for the re-marriage of her son namely, the appellant Sunil Kumar Singh. Learned Counsel adds further that cruelty was to such an extent that the deceased was forced by the appellants to terminate her pregnancy against her will.

5.2. Counsel for the appellants, at this juncture, intervenes and submits that there is no evidence brought on record by the prosecution to confirm that there was termination of pregnancy and that too, against the will of the deceased. Counsel adds that, though the prosecution has brought some letters purported to have been written by the deceased to her sister, but such letters have not been proved in evidence by comparing the hand writing contained in the letter with the admitted hand writing of the deceased (sic) the appellants have firmly denied the hand writing in the letter to be of the deceased.

6. From the entire facts and circumstances and observations recorded by the trial court in the impugned judgment, there is definite allegation that the deceased was suffering from mental depression and cause of such mental depression, as pointed out (sic) the learned Counsel for the appellants, was not entirely on account of the alleged (sic) treatment meted out to her by the appellants. Rather, the shameful happenings at (sic) parent's house were equally responsible for intensifying her mental depression. It also appears from the record that the appellant No. 1 is an old lady of the age of 67 years and on the date of impugned judgment i.e. on 3rd May 2000, her age was assessed at 61 years.

7. It appears from the impugned judgment that while imposing the sentence against the appellants for the offence u/s 498A of the IPC, the trial court has confined its attention only to that part of the evidence of the prosecution witnesses suggesting cruelty, but has ignored the fact that the mental depression of the deceased which had prompted her to commit suicide is accentuated on account of the unbecoming conduct of her own father. The trial court also appears to have ignored the age of the appellant No. 1 and other mitigating circumstances, in awarding the sentence.

8. Regard being had to the facts and circumstances of the case, prayer of the appellants for reduction of the sentence is allowed. The sentence imposed by the trial court against the appellants for the offence u/s 498A of the IPC is reduced to the period undergone by the appellants as under trial prisoners. Since the appellants are on bail, they are absolved from the liability of their respective bail bonds.

With the aforesaid modification in the penalty of sentence, this appeal is disposed of.