
(2013) 09 MP CK 0256
In the Madhya Pradesh High Court
Case No : Criminal A. No. 1737 of 2012

Rashmi Chourasia

APPELLANT

Vs

The State of Madhya Pradesh

RESPONDENT

Date of Decision : 23-09-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3), 164, 372
Penal Code, 1860 (IPC) — Section 307, 498A

Citation : (2013) 09 MP CK 0256

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

Bench : Single Bench

Advocate : Ashok Lalwani, for the Appellant;

Final Decision : Dismissed

Judgement

B.D. Rathi, J

1. Heard on admission. This appeal has been preferred u/s 372 of the Code of Criminal Procedure (hereinafter referred to as "the Code") being aggrieved with the judgment dated 13.6.2012 passed by I Additional Sessions Judge, Balaghat, in Sessions Trial No. 164/2009, whereby respondent nos. 2 to 6 namely Kanhaiyalal, Ajay, Mukesh, Kalabai and Chetnabai have been acquitted of the offence punishable u/s 498A of the Indian Penal Code ("IPC" for short), whereas respondent no. 1 Ajay has also been acquitted of the offence u/s 307 of the IPC. Marriage of complainant Rashmi Chourasiya was solemnized with respondent no. 2 Kanhaiyalal on 22/12/2004.

2. Prosecution case, in brief, is that respondents were involved in subjecting the complainant to cruelty and harassment due to non satisfaction of demand for dowry and on 2/4/09, she was admitted for treatment of burn injuries at District Hospital, Mandla, where having suffered burn injuries to the extent of 80%, she was referred to Jabalpur. It was also the prosecution version that she was brutally beaten by respondent no. 2 upon instigation of other respondents.

Written report (Ex. P/4) was lodged by her father at Police Station Lordganj, Jabalpur and, accordingly, First Information Report (Ex. P/10) was recorded at Police Station Lamta and after investigation, charge-sheet was filed.

3. Learned counsel for the appellant submitted that the trial Court had erred in appreciating the evidence on record and the judgment of acquittal deserved to be interfered with. According to him, trial Court should have remanded the case u/s 156(3) of the Code for re-investigation. To buttress the contention reliance was placed on decision of the Apex Court in Sakiri Vasu Vs. State of U.P. and Others,

4. Having regard to the arguments advanced by learned counsel for the appellant, impugned judgment and record of the trial Court were perused.

5. Trial Court after considering the evidence of as many as 11 prosecution witnesses, and other material available on record, held that prosecution had failed to prove its case beyond reasonable doubt because injured victim Rashmi Chourasiya (PW5) admitted in statement (Ex. D/3) recorded u/s 164 of the Code by Executive Magistrate on 2/4/09 that, being enraged, she had set herself ablaze, whereas, in her police statement (Ex. D/7) recorded on the same day, she stated that her Sari had caught fire from the Chimney.

6. Learned counsel, at this stage, argued that case under S. 498A of the IPC was proved by the prosecution, in as much as, complainant was not immediately taken to Hospital after sustaining burn injuries, but instead was sent to her parental home.

7. We agree with the findings recorded by the trial Court and are not inclined to accept the contention of the learned counsel because primarily there was no charge u/s 498A on the facts as contended above by the learned counsel, and further because as per the First Information Report, on 1/4/09, respondent no. 1 Kanhaiyalal had telephonically informed her father about the incident and upon insistence of her father, she was taken to Mandla for treatment and, therefore, it cannot be inferred that she was taken to her parental home at Mandla for avoiding immediate treatment. Manmohan (PW7), father of complainant, admitted that other respondents were residing separately and none other than respondent Kanhaiyalal was having any intervention in her life. Further, the precedent cited above is also of no avail, as the same is not applicable to the facts of the instant case.

8. It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

9. Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view. As such, no interference is called for with the judgment of acquittal in question. The appeal, being devoid of

merit and substance, stands dismissed.