
(2011) 04 PAT CK 0264

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 192 of 1995

Ravi Kumar Das, Sagar Das, Lakhpatia Devi and Bishwanath Das

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 21-04-2011

Acts Referred:

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

Citation : (2011) 04 PAT CK 0264

Hon'ble Judges : Anjana Prakash, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Anjana Prakash, J.—The Appellants have been convicted u/s 304B and 498A IPC and sentenced to RI for ten years and two years respectively by a judgment dated 24.07.1995 passed by the Sessions Judge, Katihar in Sessions Case No. 29 of 1992.

2. The prosecution case according to the informant who is the Dafadar of the village is that on 28.04.1991 he learnt that the deceased had committed suicide and when he went to the hospital he found her dead and the Appellant No. 3 sitting by her side. He learnt that the Appellant No. 1 used to assault the deceased and had generally stated that he would kill her as also that 2 to 3 days before there was a fight between spouses on account of which she had committed suicide.

3. The prosecution in all examined twelve witnesses out of whom P.W. 2 is the father of the deceased, P.W. 3 her mother, P.W. 4 her sister, P.W. 5 her brother and P.W. 10 is the informant who is the Dafadar of the village. P.W. 1 and P.W. 12 are the same person on the formal proof of some documents. P.W. 11 is the Doctor who conducted post-mortem on the dead body of the deceased and found extensive burn injuries on her person. P.W. 6 and P.W. 9 are tendered. P.W. 7 has been declared hostile and P.W. 8 and P.W. 10 are formal witnesses.

4. Admittedly, no family member of the deceased was an eye-witness to the actual assault and even initial story of the prosecution was that the deceased had been carried to the hospital before her death. None of the family members of the deceased conclusively deposed that soon before her death the deceased had been subjected to torture for ends of dowry and the fact that effort was made by the accused to get her treated at the Hospital can not be denied. In fact according to P.W. 5 the deceased had come to her matrimonial house even fifteen days before the occurrence and he was merely hearsay on the point of demand of dowry. Neither P.W. 2 nor P.W. 3 have stated as to when the pancayati was held to prove the ingredient of Section 304B IPC that demands of dowry has been made soon before her death.

5. Under the circumstances, even accepting the unfortunate death of the deceased it is difficult to conclude that the prosecution has proved its case beyond all reasonable doubt for an offence u/s 304B IPC. In the result, the appeal is allowed and the judgment dated 24.07.1995 passed by the Sessions Judge, Katihar in Sessions Case No. 29 of 1992 is set aside. The Appellant is discharged of the liability of his bail bond.