
(2014) 10 SHI CK 0028
In the High Court Of Himachal Pradesh
Case No : Cr. Appeal No. 333 of 2008

State of Himachal Pradesh

APPELLANT

Vs

Madan Lal

RESPONDENT

Date of Decision : 13-10-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 313
Penal Code, 1860 (IPC) — Section 34, 498A

Citation : (2015) 2 Crimes 536 : (2014) 3 ShimLC 1655

Hon'ble Judges : Sureshwar Thakur, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Ramesh Thakur, Asstt. Advocate General, Advocate for the Appellant; T.S. Chauhan, Advocate for the Respondent

Judgement

Rajiv Sharma, J.—The State has instituted this appeal against the judgment dated 23.2.2008, rendered by the learned Addl. Sessions Judge, Ghumarwin, Distt. Bilaspur, H.P. in Sessions Trial No. 12/7 of 2006/05. The respondents-accused (hereinafter referred to as the accused) who were charged with and tried for offences under Sections 498-A and 306 read with Section 34 IPC, were acquitted by the learned trial Court.

2. The case of the prosecution, in a nut shell, is that the marriage of the deceased Meeran Devi was solemnized with accused No. 1 Madan Lal, resident of Village Kothi, PO Chandpur, Distt. Bilaspur. She gave birth to two sons. She was subjected to cruelty by the accused. The complainant PW-4 had gone to purchase domestic articles at Bilaspur Bazar where she was told by one Ram Singh resident of Tared that her daughter Meeran Devi was admitted in the Hospital and when she arrived there she found her daughter dead. The statement of PW-4 Dashodhan Devi was recorded under Section 154 Cr.P.C. vide memo Ext. PW-4/A on 20.6.2002. On the basis of the statement Ext. PW-4/A, FIR Ext. PW-6/A was registered. The plastic bottle was seized from the spot. The site plan was prepared and the deceased was medically examined on 20.6.2002

at Zonal Hospital, Bilaspur by Dr. Anita vide MLC Ext. PA. The post mortem was conducted on 21.6.2002. The viscera etc. was also sent for chemical examination at FSL Junga. The report is Ext. PC. According to the doctor, Meeran Devi died due to asphyxia due to consumption of phosphite poisoning. The matter was investigated and the challan was put up after completing all the codal formalities.

3. The prosecution has examined as many as 8 witnesses to prove its case. The accused were also examined under Section 313 Cr.P.C. to which they pleaded not guilty. The learned Trial Court acquitted the accused on 23.2.2008. Hence, the present appeal.

4. Mr. Ramesh Thakur, learned Asstt. Advocate General has vehemently argued that the prosecution has proved its case. On the other hand, Mr. T.S. Chauhan, Advocate, appearing for the accused has supported the judgment of the learned trial Court dated 23.2.2008.

5. We have gone through the impugned judgment dated 23.2.2008 and records of the case carefully.

6. PW-1 Kasu Ram, is the grand father of the deceased. He deposed that the deceased was married 2-2 ? years back. According to him, when Meeran used to meet him, she used to tell him that her father-in-law, mother-in-law, and sister-in-law torture her and also used to beat her. In his cross-examination, he admitted that he did not lodge any complaint with the Gram Panchayat, Pradhan or Namberdar etc. He also admitted that the father of the Madan Lal had made a "Will" in favour of his grand sons.

7. PW-2 Hans Raj, deposed that Meeran was his aunt's daughter. Meeran told him that her in-laws used to beat her. She has told him that she was beaten up since she did not do domestic work at home. In his cross-examination, he admitted that he has never worked in the house of Prem Lal at Village Balh.

8. PW-3 Asha Ram, deposed that the police has recovered a bottle from the sleeping room in upper storey of the house of Meeran Devi in his presence. It was seized vide seizure memo Ext. PW-3/A.

9. PW-4 Dashodhan Devi, is the material witness. According to her, the marriage of Meeran was solemnized 12 years back with Madan Lal. Whenever her daughter used to visit her house, she used to say that her in-laws subject her to cruelty as she did not work. Her sister-in-law Nirmala and the husband after taking wine used to subject her to cruelty. Her daughter has prevented her from lodging any report with the police. Her daughter had visited her house for the last time two days before her death. She did not stay at her house. She had come to Pansari's shop at Bilaspur to purchase medicine during day time. Ram Singh told her that her daughter was admitted in the hospital at Bilaspur. She visited the hospital and found her daughter dead. She asked the accused Madan as to how her daughter died. Accused Madan told her that she had consumed poison. Her daughter consumed poison as she was subjected to cruelty. The police recorded

her statement in the hospital Ext. PW-4/A. In her cross-examination, she admitted that accused Nirmala was married five years before the marriage of her daughter at village Delag. Accused Nirmala was living with her husband at Nalagarh for the last 10-12 years. She also admitted that the father of the accused had bequeathed his entire property to his wife and grand sons. Her daughter was not happy finding that her father-in-law had not given any property to her husband. Her father-in-law has died. She also admitted that the accused Madan Lal immediately rushed Meeran Devi to hospital on the day she became ill. She also admitted that her daughter was simpleton and used to get angry. She also admitted specifically that father and mother-in-law did not beat her. Her daughter has never told her that her husband Madan used to beat her. Towards the end of her cross-examination, she deposed that she did not want to lodge case with the police but because she was not told about the incident, hence she had instituted the case due to anger.

10. PW-5 Ramesh Kumar, testified that his sister was married with accused Madan Lal 12 years back. Whenever she used to visit their house, she used to tell that her father-in-law, mother-in-law and sister-in-law subject her to cruelty. In his cross-examination, he admitted that her sister used to get angry when her in-laws used to point out the shortcomings.

11. PW-6 HC Ram Lal and PW-7 SI Ram Swaroop are formal witnesses.

12. PW-8 Nazirkhan, has carried out the investigation of the case. He visited the spot. He took into possession the bottle vide memo Ext. PW-3/A. He recorded the statement of the witnesses. He obtained post mortem report, MLC and FSL report from Junga. He admitted in his cross-examination that he did not record the statement of any witness from Village Kothi. He also admitted that as per the report of the FSL Ext. P-1 was found containing Mobile oil.

13. The marriage of Meeran Devi and Madan Lal was solemnized 12 years back. However, according to PW-1 Kasu Ram, the grand father of the deceased, the marriage was solemnized 2-2 ? years back. Similarly, PW-2 Hans Raj deposed that marriage of Meeran and Madan Lal was solemnized approximately 7-8 years back. PW-1 Kasu Ram has admitted in his cross-examination that he has not lodged any complaint with the Gram Panchayat or Pradhan or Nambardar about the cruelty meted out to his grand daughter. PW-4 Dashodhan Devi, as noticed by us hereinabove, has admitted in her cross-examination that her daughter was not happy since her father-in-law has not given the property to her husband. He has given the property to his wife and grand maternal sons Om Prakash and Som Prakash. She also admitted that her daughter was short tempered. She also admitted that the father and mother-in-law of the deceased did not beat her though stated in PW-4/A. According to her she lodged a report with the police out of sheer anger as she was not told about the incident. Similarly, PW-5 has also deposed that her sister used to get angry when shortcomings were pointed out by her in-laws. According to the post mortem report Ext. PB also, the deceased has died due to asphyxia by consuming phosphite.

14. The accused Nirmala was staying with her husband at Nalagarh. She used to visit her parents only on festivals. PW-4 has stated that her father-in-law and mother-in-law have never beaten her daughter. Even her daughter has never told that accused Madan Lal has ever beaten her. Rather Madan Lal had taken the deceased immediately to the hospital. The accused have never aided nor abetted the commission of suicide by the deceased.

15. The prosecution has thus miserably failed to prove that the accused had subjected the deceased to cruelty. There is no occasion for this Court to interfere with the well reasoned judgment of the learned trial Court. Accordingly, there is no merit in this appeal and the same is dismissed.