
(2010) 04 SHI CK 0031

In the High Court Of Himachal Pradesh

Case No : Criminal Appeal No. 187 of 1998

State of Himachal Pradesh

APPELLANT

Vs

Shiv Gopal and Others

RESPONDENT

Date of Decision : 29-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 313
Penal Code, 1860 (IPC) — Section 306, 498A

Citation : (2010) 04 SHI CK 0031

Hon'ble Judges : Surjit Singh, J;Rajiv Sharma, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—This appeal has been directed against the judgment of the learned Sessions Judge in Sessions Case No. 7/1997, whereby Respondents charged with and tried for offences punishable u/s 306 and 498-A of the Indian Penal Code, have been acquitted.

2. Prosecution case, in a nutshell, is that Respondent No. 1 was married with Smt. Rani Devi in the year 1989. The relations between husband and wife were very cordial initially. According to prosecution version, Respondents started giving beatings to Rani Devi. Rani Devi died on 6.7.1997. PW-1 Lekh Raj, father of deceased Rani Devi, made a statement u/s 154 of the Code of Criminal Procedure, on the basis of which first information report (FIR) was registered. PW-4 Dr. A.K. Sharma conducted the postmortem at District Hospital, Una. The viscera was sent for Chemical Examination. According to the final opinion of PW-4 Dr. A.K. Sharma, cause of death was due to Aluminium Phosphate leading to respiratory failure. The matter was investigated and the challan was put up in the Court.

3. After the closure of the prosecution evidence, Respondents were examined u/s 313 of the Code of Criminal Procedure. They have pleaded not guilty. The learned trial court acquitted the Respondents.

4. Mr. Rajinder Dogra, learned Additional Advocate General has strenuously argued that the prosecution has proved its case against the Respondents.

5. Mr. H.K. Bhardwaj has supported the judgment of the learned trial court.

6. We have heard the learned Counsel for the parties and perused the record carefully.

7. The marriage between Respondent No. 1 and Rani Devi was solemnized in the year 1989. PW-1 Lekh Raj is the father of deceased Rani Devi. He has deposed that the relations between Respondent No. 1 and his daughter remained cordial for about 21/2 years and thereafter Respondent No. 1 started beating her. Respondents No. 2 and 3 also started giving beatings to Rani Devi. The reason assigned for beatings was that she could not conceive. Rani Devi remained with her parents for about two months. She was sent to the house of the Respondents and after six-seven days she died. In his cross-examination PW-1 has admitted that Rani Devi used to come with her husband to his house. She did not complain about beatings given to her except twice or thrice before her death. He had noticed wound on her head, but the matter was never reported to the police. This fact was not disclosed by him to any relative or villager. PW-2 Pyar Singh is the brother of PW-1 Lekh Raj. He was serving in the Army. He inquired from Rani Devi about her well being. She apprised him that the Respondents were maltreating her since she could not conceive. He consoled her. He has admitted in his cross-examination that no person, including Lekh Raj, had ever gone to the house of the Respondents to sort out the difference between the deceased and Respondent No. 1. PW-3 Hari Singh has deposed that the mother-in-law of deceased was massaging the feet of deceased. PW-6 Rukam Deen was declared hostile. PW-1 Lekh Raj and PW-2 Pyar Singh have not given any specific instances of maltreatment or cruelty. There is also variance in the statement made by PW-1 Lekh Raj vide Ex.PA and statement made before the Court. PW-1 has categorically deposed that Rani Devi used to come alongwith her husband to his house. Nether the father i.e. PW-1 Lekh Raj nor PW-2 Pyar Singh, uncle 4 of the deceased, have ever lodged any complaint with the police or Panchayat etc.

8. Consequently, in view of the above discussion, interference with the judgment of the trial court, is not warranted. Hence, the appeal is dismissed. Bail bonds furnished by the Respondent/accused stand discharged.