
(2016) 04 BOM CK 0096
In the Bombay High Court
Case No : Criminal Appeal No. 587 of 2003

State of Maharashtra

APPELLANT

Vs

Dharampal

RESPONDENT

Date of Decision : 27-04-2016

Acts Referred:

Penal Code, 1860 (IPC) — Section 498A

Citation : (2016) ALLMRCri 2595

Hon'ble Judges : Z.A. Haq, J.

Bench : Single Bench

Advocate : S.M. Bhagde, Additional Public Prosecutor, for the Appellant; None for the Respondent, for the Respondent

Final Decision : Dismissed

Judgement

Z.A. Haq, J.(Oral) - Heard Shri S.M. Bhagde, Additional Public Prosecutor for the appellant.

2. The State of Maharashtra has filed this appeal challenging the judgment passed by the learned Magistrate acquitting the respondent-accused of the offence punishable under Section 498-A of the Indian Penal Code.

3. The case of the prosecution is :

The complainant Alka Dharampal Gadpayale lodged complaint that she was subjected to cruelty, mental and physical ill-treatment by her husband-accused.

On the basis of the complaint, crime came to be registered, investigation was conducted and charge-sheet was filed before the learned Magistrate.

The charge came to be framed and explained to the accused.

The accused did not accept the guilt and claimed to be tried.

The learned Magistrate conducted the trial and by the impugned judgment concluded that the prosecution failed to prove that the accused subjected his

wife-complainant to cruelty as his illegal demand of money was not fulfilled. The learned Magistrate acquitted the accused.

4. The learned Magistrate has considered the evidence of the complainant and has found that the complainant has attempted to develop her evidence and the omissions go unexplained. The complainant stated in her evidence that at the time of Nagpanchami, after her marriage, the accused had demanded money under the influence of liquor and when the complainant asked him from where she will bring the money, the accused tried to pour kerosene on her person. However, this incident was not referred by the complainant in the First Information Report (Exhibit No. 25) and the prosecution has not given any explanation for this.

According to the complainant, she was beaten by her husband on 26-11-2000 at about 9-00 a.m. According to the prosecution, the complainant lodged the report and then she was referred for medical examination. The prosecution has relied on the medico legal certificate (Exhibit No. 39) and the evidence of Dr. Dayal Tularam Nagdeote (P.W.7) to prove that the complainant suffered injuries. The medico legal certificate (Exhibit No.39) shows that the doctor had examined the complainant on 26-11-2000 at 8.30 p.m. Dr. Dayal Tularam Nagdeote (P.W.7) has given the opinion that the injuries suffered by the complainant may be caused by hard and blunt object. In cross-examination, the witness has accepted that injuries are possible due to fall on the ground.

5. The most important circumstance which weighed with the learned Magistrate is that, according to the complainant, she did not inform her parents about the ill-treatment by her husband. The statements of the parents of the complainant were not recorded during the investigation. The parents of the complainant are not examined as witnesses. It is not the case of the complainant that her relations with her parents were strained. The prosecution has examined Sita Bhimrao Pichake (P.W.2)-neighbour of the accused. This witness has admitted in the cross-examination that the complainant had never told her about ill-treatment by her husband.

6. The prosecution has examined Jaidev Pundlik Tichkule (P.W.3)-neighbour of parents of the complainant. The learned Magistrate has doubted the credibility of this witness.

7. I find that the learned Magistrate has assessed the evidence on record properly and the conclusions of the learned Magistrate are based on proper appreciation of the material on record and they cannot be faulted.

8. I see no reason to interfere with the judgment. The appeal is dismissed.