

(1990) 08 RAJ CK 0037

In the Rajasthan High Court

Case No : Criminal Leave to Appeal No. 148 of 1989

State of Rajasthan

APPELLANT

Vs

Sant Kumar

RESPONDENT

Date of Decision : 28-08-1990

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B, 306, 498

Citation : (1990) 2 RLW 87 : (1990) 2 WLN 174

Hon'ble Judges : Y.R. Meena, J; V.S. Dave, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This is an application for leave to appeal against the-judgment of learned Sessions Judge, Sri Ganganagar who acquitted the respondents of charges Under Sections 304B and 306, IPC along with Section 498" IPC and sec 4 of the Dowry Prohibition Act, 1961, The case started on an. F.I.R. Ex. P. 20 lodged at police station, Hindumalkote on 27-2-1987 at 11.30 a.m. submitted by one Shri Nanuram, P.W. 8, wherein the allegations were levelled against the respondents, on the basis of which a case was registered for various offences. It is pertinent to mention here that earlier to this report the matter had already been reported to the police station by Santram, informing about the burns having been sustained by the deceased Dropadi. After investigation the prosecution submitted a charge sheet against both the respondents who were committed to the court of Sessions. The prosecution had examined 14 witnesses in support of its case and the accused examined Dr Dhameeja in their defense. Learned Sessions Judge acquitted the respondents after elaborate discussion of the evidence. We have gone through the reasonings given by the learned Sessions Judge acquitting the accused respondent, which could not be successfully assailed by the learned Counsel for the State. Learned Counsel submits that no cogent reasons have been given to discard the statement of Dr. Pratap Singh Bhatia, P.W. 4, and Dr. Indra Kumar Jain, P.W. 7 and so also the statement of Nanu Ram. We have read

the statements of these witnesses. Apparently the arguments advanced by the learned Counsel for the State appear to have some substance but if they are analyzed & tested in light of the other evidence available on record, it cannot be said that the view taken by learned Sessions Judge is. Totally perverse. May be that, another view of the evidence could have been taken but that is not a ground for interference in the order of acquittal. There is one important factor in the case and that is there was no intervening factor to stop the accused-respondents from letting the deceased completely burn before raising an alarm. Their action of putting off fire and taking her immediately to the hospital and her statement given to the Doctors where she has stated that the fire was accidental is in consonance with other circumstances available on the record in as much as the site inspection memo shows that even the bottle of kerosene was found duly filled in and was still lying there and there were no signs of extensive burns in the room, which fact also corroborates the defense version. Besides this there is one more factor that in the earlier dying declaration, according to the investigation, she implicated only her mother-in-law and when the father and the brother of deceased came it was thereafter that the son-in-law is also introduced as an accused in the case. Thus there are three dying declarations and each one gives different story. Another evidence produced to establish the prosecution story is that of the parents of the earlier wife of accused respondent Santram who had taken divorce on the ground that he had assaulted her mother. In these circumstances their testimony also could not have been said to be not tainted. Considering the arguments and the application for leave to appeal in the background of law Laid down by their Lordships of the Supreme Court in appeal against acquittal we are not inclined to interfere with the order of acquittal.

2. The application for leave to appeal is rejected.