

(2012) 07 AHC CK 0148

In the Allahabad High Court

Case No : Government Appeal No. 6130 of 2011 connected with Criminal Revision No. 2697 of 2010

State of U.P.

APPELLANT

Vs

Raghvendra Tiwari and Others

RESPONDENT

Date of Decision : 05-07-2012

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 304B, 498A

Citation : (2012) ACR 3048 : (2012) 8 ADJ 622

Hon'ble Judges : Ramesh Sinha, J; Dharnidhar Jha, J

Bench : Division Bench

Advocate : Archana Singh, for the Respondent

Final Decision : Dismissed

Judgement

1. We have heard Sri D.I. Fareedi, learned AGA on admission of the present Government appeal which has been directed against judgment of acquittal dated 3.5.2010 passed by learned Additional Session Judge/Special Judge, (E.C. Act), Ghazipur in Session Trial No. 163 of 2008, acquitting the accused respondents of the charges under Sections 498A, 304B I.P.C. and Section 3/4 Dowry Prohibition Act.

None appears to press the connected Criminal Revision No. 2697 of 2010 filed on behalf of the informant.

Suman was married to accused respondent, Raghvendra Tiwari and undisputedly she was at her matrimonial house on 23.12.2007 when she was found having burnt herself after poring kerosene oil inside the room. This appears narrated by the Naib Tehsildar, PW-4 who scaled the wall of the house and went inside the room to retrieve the dead body. He found the doors of the house bolted from inside. The allegation was that after about two years of the marriage, Suman was complaining to her parents and other family members that the accused persons were pestering her for an Alto car as dowry. The learned trial judge has analysed

and discussed the evidence of the two witnesses and affect thereof in para 29 of the judgment and we find from that discussion that infect there was never any demand of any article or thing placed by the accused persons before PW-1, Ram Sajiwan Upadhyay, the informant of the case and father of the deceased. In fact, when Ram Sajiwan Upadhyay was firstly knowing about the fact then he was giving a ring to the accused person, i.e., Prem Shankar Tiwari and Raghvendra Tiwari but again they were not speaking about demand of dowry which appears recorded by the learned trial judge by virtue of evidence of PW-1 at page 2 of his deposition sheet. Not only that, PW-2 who was the brother of the deceased, had admitted that Suman had come and remained in his house for 2-3 months and thereafter had gone back and had written certain letters. But the learned trial judge could not refer to any of the letters or anything out of the call details which point out that Suman had really complained about ill-treatment or torture on account of demand of dowry.

2. Likewise, we find that there is no evidence indicating that she was ill-treated or tortured for demand of any dowry prior to her death. Thus we find that the most important ingredients of offence u/s 304-B were not established on facts of the case and the defence suggestion that infect Suman was in love with Pankaj, but the lady was married to Raghvendra Tiwari and it was found from one particular document that he had forbidden her husband from touching her also. We have referred to the evidence of Naib Tehsildar, PW-4 and that evidence has been discussed in detail in paragraph 37 of the judgment and this is a clear pointer as to how the deceased had killed herself on being married to a person whom she did not like.

For the above reasons, the present appeal appears of no merit. Dismissed.

As regards connected criminal revision filed by Ram Sajiwan Upadhyay, we dismiss the same also for the above reasons.

Let a copy of this order be also placed in the record of connected criminal revision.