
(2012) 09 UK CK 0025

In the Uttarakhand High Court

Case No : Government Appeal No. 2003 of 2001 (Old No. 3134 of 1999)

State of U.P. (Now State of Uttarakhand)

APPELLANT

Vs

Ajit Panwar

RESPONDENT

Date of Decision : 04-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 378
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 498A, 506
Uttar Pradesh Reorganisation Act, 2000 — Section 35

Citation : (2013) 1 DMC 525 : (2013) 1 NCC 229 : (2012) 3 UC 1953

Hon'ble Judges : Prafulla C. Pant, J

Bench : Single Bench

Advocate : Vinod Sharma, Deputy A.G. and Ms. Sangeeta Miyan, Brief Holder, for the Appellant; Kurban Ali, for the Respondent

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—This appeal, preferred u/s 378 of Code of Criminal Procedure, 1973, is directed against judgment and order dated 31.5.1999, passed by 1st Judicial Magistrate, Dehradun, in Criminal Case No. 41 of 1998, whereby said Court has acquitted the accused/respondents Ajeet Panwar, Prem Singh, Sanjay Singh, Dayawati and Sunita from the charge of offences punishable under Sections 498A, 506 of I.P.C., and one punishable under Sections 3/4, Dowry Prohibition Act, 1961. The appeal is received by this Court u/s 35 of U.P. Reorganization Act, 2000 (Central Act 29 of 2000) for its disposal from Allahabad High Court. Heard learned Counsel for the parties and perused the lower Court record.

2. Brief facts of the case are that the accused/respondent No. 1 Ajit Singh Panwar got married to complainant Usha Panwar (PW1) on 20.2.1992 at Dehradun. Her father Tara Chand gave sufficient dowry as his status allowed it. It is alleged that the accused/respondents were not happy with the dowry given by the father of the complainant and they demanded Rs. 25,000 for running

business by Ajit Panwar. It is also alleged by the complainant that the accused/respondent No. 2 Prem Singh (father-in-law) attempted to set her on fire. Accused/respondent No. 3 Sanjay is brother-in-law of the complainant, Accused/respondent No. 4 Dayawati is mother-in-law of the complainant and accused/respondent No. 5 Sunita is sister-in-law of the complainant. The complainant lodged First Information Report on 1.3.1993, after about a year of her marriage at Police Station Kotwali, Dehradun, complaining threat and harassment for non-fulfillment of demand of dowry against the accused/respondents. On the basis of her report Crime No. 231 of 1993 was registered in respect of the offences punishable under Sections 498A, 506 of I.P.C., and one punishable under Sections 3/4, Dowry Prohibition Act, 1961. After investigation, PW3 Sub-Inspector R.K. Kannojiya appears to have submitted charge sheet against the accused/respondents Ajeet Panwar and his father Prem Singh for their trial in respect of the aforesaid offences. Later, a separate charge sheet was filed for the trial of remaining accused/respondents relating to offences punishable under Sections 498A and 506 of I.P.C. and one punishable under Sections 3/4, Dowry Prohibition Act, 1961.

3. After giving necessary copies to the accused and hearing the parties, the Magistrate appears to have framed charge of offences punishable under Sections 498A and 506 of I.P.C. and one punishable under Sections 3/4, Dowry Prohibition Act, 1961, against the accused/respondents Ajit Singh Panwar, Prem Singh, Dayawati, Sunita and Sanjay Kumar on 14.10.1996, to which they pleaded not guilty and claimed to be tried. On this prosecution got examined PW/1 Usha (complainant), of August 1992 at Chandpur, away from Dehradun, PW2 Rajendra Prasad (brother of the complainant) and PW3 Sub-Inspector R.K. Kannojiya (who investigated the crime) the evidence was put to the accused u/s 313 of Cr.P.C. in reply to which, only the marriage between the accused Ajit Panwar and complainant Usha was admitted and rest of the allegations in the evidence were denied. In defence DW1 Furkan A. Alam (a employee of Sales Tax Department) was got examined to show that accused/respondent No. 2 Prem Singh was on sic is already exist in source.

4. Learned Counsel for the State argued before this Court that since PW1 Usha and PW2 Rajendra Prasad have corroborated the prosecution story, and the Magistrate has erred in law in disbelieving the same.

5. I have gone through the statements of the witnesses, recorded by the Trial Court, and also perused the impugned order challenged before this Court. I agree with the Trial Court that since PW1 Usha Panwar in her cross-examination failed to give details of the incident of cruelty and alleged threat, as such, her testimony is doubtful. PW2 Rajendra Prasad is not an eye-witness. The case hinges solely on the testimony of PW1 Usha Panwar. As to the demand of dowry also there is inconsistency in the statement of complainant given in examination-in-chief and one given in cross-examination. As to the incident dated 1.8.1992, in which, it is alleged by her that accused/respondent No. 2 Prem Singh poured

kerosene on her in an attempt to set her on fire, the same was also found doubtful as DW1 Furkan A. Alam has proved on the basis of the official record that said accused was on duty on that day in his office in Chandpur away from Dehradun. On going through the entire statement of PW1 Usha Panwar, it appears to be highly exaggerated one.

6. It is settled principle of law that in the case of appeal against acquittal, the appeal cannot be allowed, merely for the reason that different opinion can be formed on the basis of evidence on record. If two views are possible, and the Trial Court has taken one, which is based on the evidence on record, and cannot be said to be perverse, the appeal need not be allowed. The impugned judgment passed by the Judicial Magistrate, Dehradun, appears neither perverse nor without proper appreciation of evidence on record, as such, merely for the reason that he disbelieved the statement of a witness it cannot be said that the same is required to be disturbed. Accordingly, this appeal is liable to be dismissed. The same is dismissed. Lower Court record be sent back.