

(2014) 01 KAR CK 0173
In the Karnataka High Court
Case No : Criminal Appeal No. 294/2010

The State of Karnataka

APPELLANT

Vs

Manjunathachari and Rathnamma

RESPONDENT

Date of Decision : 16-01-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313, 378(1)
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 307, 34, 498A, 506

Citation : (2014) 01 KAR CK 0173

Hon'ble Judges : K.N. Keshavanarayana, J; K. Bhakthavatsala, J

Bench : Division Bench

Advocate : B.T. Venkatesh, S.P.P.-II, Advocate for the Appellant; T. Subramanya, Advocate for T. Subramanya and Associates, Advocate for the Respondent

Final Decision : Dismissed

Judgement

1. This is an Appeal filed by the State u/s 378(1) & (3) of the Code of Criminal Procedure, challenging the judgment dated 1.10.2009 made in S.C. No. 506/2004 on the file of Fast Track Court-VI, at Bangalore City.

2. For the purpose of convenience and better understanding, respondents 1 and 2 are hereinafter referred to as "accused Nos. 1 and 2", respectively, as arraigned in the Sessions Case.

3. Brief facts of the case leading to the filing of the Appeal may be stated as under:

Accused No. 1 is the son of accused No. 2. Accused No. 1 was working as a Constable in C.R.P.F. Marriage of P.W.1/Manjula was performed with accused No. 1 on 19.11.1999. It is alleged that there was a dowry demand and in that regard accused Nos. 1 and 2 harassed P.W.1/Manjula and also caused injuries to her. Initially, a complaint was lodged by P.W.1 against the accused. The matter was settled before Doddaballapur Police Station. Thereafter, P.W.1 came to the house

of accused on 31.1.2000 along with her younger brother-P.W..3/Gowri Shankar. On 11.3.2000, P.W. 2/Chandrashekar (father of the victim) lodged a written complaint as per Ex. P1 against the accused with Mahadevapura Police and the same was registered in Crime No. 40/2000 against accused Nos. 1 and 2 for the offences punishable under Sections 498A and 506 of IPC and under Sections 3 and 4 of Dowry Prohibition Act. F.I.R. (Ex. P6) was submitted to Court. Accused Nos. 1 and 2, who were arrested, were produced before the Court on 13.3.2000. After the investigation was over, the Investigating Officer laid charge sheet against the accused for the above-said offences. It was registered in C.C. No. 22389/2000 on the file of X Addl. Chief Metropolitan Magistrate at Bangalore City. Learned trial Judge framed charge against the accused for the offences punishable under Sections 3 and 4 of Dowry Prohibition Act and under Sections 498A and 506 of IPC. During the course of examining the alleged victim/Manjula as P.W.1 (before the X Addl. Chief Metropolitan Magistrate Court), she had deposed that accused No. 2 attempted to push her into the well in the house of accused. Learned Public Prosecutor filed an application praying the trial Court to commit the accused to the Sessions Court for trial as the offence u/s 307 of IPC which is exclusively triable by a Court of Session. Therefore, the accused was committed to Sessions Court for trial. On receipt of committal records, it was registered in S.C. No. 506/2004 on the file of City Civil Court at Bangalore. The Sessions Court framed charges against the accused for the offences punishable under Sections 498A and 307 r/w Section 34 of IPC and under Sections 3 and 4 of Dowry Prohibition Act. The accused pleaded not guilty and claimed to be tried. In support of the case of prosecution, it has got examined as many as 8 witnesses, got marked Exs.P1 to P7 and got exhibited a gold chain as MO-1. After the evidence on the side of prosecution was closed, statement of the accused u/s 313 of Cr.P.C. was recorded. The accused have denied all the incriminating circumstances appearing in the evidence of prosecution witnesses. After hearing arguments, perusing oral and documentary evidence on record, the trial Court came to a conclusion that the prosecution failed to bring home the guilt to the accused for the charges levelled against the accused and therefore recorded an order of acquittal in favour of the accused. This is impugned in this Appeal.

4. Learned Addl. S.P.P. submits that P.W.1/the victim and parents and elder and younger brother of the victim have deposed in support of the prosecution and as per Ex. P5/wound certificate issued by General Hospital at Doddaballapur, P.W.1/Manjula had sustained four simple injuries and as per another wound certificate at Ex. P7, she had sustained fracture of femur and pattella, but the trial Court erred in rejecting the evidence placed on record. He submits that the accused may be convicted for the charges levelled against them.

5. Learned Counsel appearing for the respondents/accused submits that the observation of the trial Court in para-21 of the impugned judgment may be perused. He further submits that accused No. 1's younger sister was given in marriage to the brother of P.W.1/Manjula by way of giving and taking and the

marriages were celebrated on the same day. But, on account of the rift between the two, both the marriages failed and there is no evidence on record to show that accused No. 2 pushed P.W.1/Manjula into the Well, but she herself attempted to commit suicide by jumping into the well when accused No. 2 was alone in the house and that it is accused No. 2, who made a hue and cry when P.W.1 attempted to commit suicide and the people from the locality got P.W.1/Manjula lifted from the well and there is no merit in the Appeal.

6. In view of the arguments addressed by the learned Counsel for the parties, the only point that arises for consideration is:

Whether the impugned judgment call for our interference?

7. Our answer to the above point is in the negative for the following reasons:

In para-21 of the impugned judgment, learned Sessions Judge has observed that P.W.1/Manjula supported the case when she was examined on 17.3.2001 before the X Addl. Chief Metropolitan Magistrate at Bangalore, but subsequently in view of the compromise reached between them and on 15.12.2001 she has turned hostile. Similarly, the other star witnesses to the case of prosecution. Under such circumstances, the learned Sessions Judge thought it fit to hold that there was no ring of truth in the case of prosecution and therefore recorded an order of acquittal in favour of the accused. In our view, the impugned judgment does not call for interference.

8. In the result, Appeal fails and the same is hereby rejected.