
(2013) 08 MP CK 0052

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 6234 of 2009

The State Of Madhya Pradesh

APPELLANT

Vs

Betulal Ahirwar

RESPONDENT

Date of Decision : 14-08-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378(3)
Limitation Act, 1963 — Section 5
Penal Code, 1860 (IPC) — Section 304B, 498A

Citation : (2013) 08 MP CK 0052

Hon'ble Judges : B.D. Rath, J;Ajit Singh, J

Bench : Division Bench

Advocate : A.K. Sharma, for the Appellant;

Final Decision : Dismissed

Judgement

B.D. Rath, J.—Heard on I.A. No. 8398/2009, which is an application u/s 5 of the Limitation Act for condonation of delay in preferring this appeal. As per Office note, the appeal is barred by 238 days.

2. Considering the reasons assigned therein, the I.A. is allowed and the delay in filing the leave application is, hereby condoned.

3. Heard on admission.

4. This is an application for grant of leave to appeal u/s 378(3) of the Code of Criminal Procedure ("Code" for short) against the acquittal of respondents 1 to 3 of the offences punishable under Sections 304B and 498-A of the IPC. The corresponding judgment was passed by Session Judge, Panna, in S.T. No. 27/2008 on 2.8.2008. Marriage of Bhuribai (since deceased) was solemnized with respondent no. 1 Betulal Ahirwar two years prior to the date of incident. Respondent nos. 2 and 3 are respectively his mother and relative.

5. As per the prosecution story, respondents were involved in subjecting Bhuribai to cruelty and harassment due to non satisfaction of demand for dowry and,

ultimately, on 4.12.2007 dead body of Bhuribai, under suspicious circumstances, was found hanging in her matrimonial house only.

6. Learned Government Advocate submitted that the trial Court had not properly appreciated the evidence on record and the judgment of acquittal deserved to be interfered with.

7. Having regard to the arguments advanced by learned Government Advocate, we have perused the impugned judgment and record of the trial Court.

8. After appreciation of evidence and material available on record, trial Court has held that Bhuribai was not subjected to cruelty by the respondents. From the evidence of Biharilal (PW4), Investigating Officer Pradeep Shinde (PW9), witnesses Pyarelal and Prabha, Nandu (DW1), trial Court found that in fact behaviour of respondents with Bhuribai was good. Trial Court discarded the evidence of Gorelal (PW1) and Kusumbai (PW2), parents of Bhuribai, on the ground that the same was fraught with contradictions, omissions and exaggerations and, accordingly, held that the prosecution had failed to prove its case beyond a reasonable doubt.

9. We agree with the findings recorded by the trial Court.

10. It is well settled that the judgment of acquittal should not be disturbed unless the conclusions drawn on the basis of evidence brought on record are found to be grossly unreasonable or manifestly perverse or palpably unsustainable.

11. Taking into consideration the reasons assigned on the face of evidence on record establishing the aforesaid facts and circumstances, the view taken by the learned trial Court was apparently a possible view. As such, no interference is called for with the judgment of acquittal in question. The application, therefore, stands dismissed in limine.