

(2017) 06 RAJ CK 0034
In the Rajasthan High Court
Case No : 569 of 1994

Tulchha Ram @ Tila Ram S/o Gena Ram	APPELLANT
Vs	
State of Rajasthan	RESPONDENT

Date of Decision : 06-06-2017

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 374](#) - Appeals from convictions
[Indian Penal Code, 1860](#), [Section 498A](#)/
[Section 306](#) - Husband or relative

Citation : (2017) 06 RAJ CK 0034

Hon'ble Judges : Vijay Bishnoi

Bench : SINGLE BENCH

Advocate : Vineet Jain, K.V. Vyas

Final Decision : Allowed

Judgement

1. This criminal appeal under Section 374 Cr.P.C. has been preferred by the appellant being aggrieved with the judgment dated 11.11.1994 passed by the Sessions Judge, Jodhpur (hereinafter referred to as "the trial court") in Sessions Case No.77/94, whereby the trial court while acquitting the appellant for the offence punishable under Section 306 IPC has convicted and sentenced him for the offence punishable under Section 498-A IPC as under :

Offence U./Sec.: Sentence awarded:- 498-A IPC 1 year's rigorous imprisonment and a fine of Rs.500/- and in default of payment of fine, further undergo 1 month's simple imprisonment.

2. At the outset, learned counsel for the appellant has submitted that he is not challenging the findings of the trial court regarding conviction of the appellant for the aforesaid offence, however, prayed that the sentence awarded to the appellant by the trial court for the aforesaid offence be reduced to the sentence already undergone by him.

3. It is contended by learned counsel for the appellant that the appellant remained in custody from 06.04.1994 to 01.07.1994 and as such he has already served out almost 3 months sentence out of the total sentence of 1 year, awarded to him by the trial court.

4. Learned counsel for the appellant has submitted that the incident, for which the appellant has been convicted and sentenced, took place on 01.03.1994 and around 23 years have been passed to that incident and at this stage, it is not in the interest of justice to send the appellant behind the bars. Learned counsel for the appellant has, therefore, argued that the appeal filed by the appellant may kindly be partly allowed and the sentence awarded to him by the trial court for the offence punishable under Section 498-A IPC may kindly be reduced to the sentence already undergone by him.

5. Per contra, learned Public Prosecutor has opposed the prayer made on behalf of the appellant for reducing the sentence awarded by the trial court and argued that the prosecution has sufficiently proved his guilt before the trial court, the sentence awarded by the trial court is not liable to be reduced.

6. Heard learned counsel for the parties and carefully scrutinized the record.

7. Though, the learned counsel for the appellant is not challenging the findings of the trial court of convicting the accused

appellant, however, this Court, in the interest of justice, has scrutinized the record to find out whether the trial court was justified in convicting the accused appellant for the offence punishable under Section 498-A IPC.

8. As per the prosecution story, the appellant has treated his wife with cruelty for the purpose of dowry and on account of the said harassment his wife committed suicide on 01.03.1994.

9. The trial court, after pondering over the evidence produced by the prosecution, has acquitted the accused appellant for the offence punishable under Section 306 IPC, however, convicted him for the offence punishable under Section 498-A IPC.

10. The mother of the deceased was examined as PW-7, who in her court statement has deposed that the deceased was harassed by the appellant for the purpose of dowry. Similarly, the father of the deceased PW-9 has also stated that the accused appellant used to harass the deceased for dowry. PW-10 Dana Ram has also stated the similar facts.

11. The accused appellant has failed to offer any explanation regarding the charge of harassment on his behalf to the deceased.

12. Having carefully scrutinized the record of the case, I am convinced that the trial court has not committed any illegality in convicting the accused appellant for the offence punishable under Section 498-A IPC.

13. So far as the sentence part is concerned, it is to be noticed that the incident took place on 01.03.1994 and the accused appellant remained in custody from 06.04.1994 to 01.07.1994 during the course of trial.

14. As per the arrest memo, at the time of incident the age of the accused appellant was around 21 years and by this time he might have settled in his life, therefore, it would be harsh to send

him behind the bars at this stage.

15. Looking to the peculiar facts and circumstances of the case, this Court is of the view that the ends of justice would be met if the sentences of imprisonment of the accused appellant awarded by the trial court for the offence punishable under Section 498-A IPC are reduced from 1 year's rigorous imprisonment to the sentence already undergone by him.

16. Consequently, this appeal is allowed in part. While maintaining the conviction of appellant - Tulchha Ram @ Tila Ram S/o Gena Ram recorded by the trial court for the offence punishable under Section 498-A IPC, his sentence is reduced from 1 year's rigorous imprisonment to the sentence already undergone by him.

17. The impugned judgment dated 11.11.1994 passed by the trial court is modified accordingly.