

Mukund Martand Chitnis

Vs

Madhuri Mukund Chitnis and another

Criminal Appeal Nos.320-21 of 1991

(A. M. Ahmadi, V. Ramaswami, K. Ramaswamy JJ)

23.04.1991

### JUDGMENT

1. Special leave granted in both the matters. Heard Mr. U. R. Lalit, learned counsel for the appellant, the 1st respondent in person and counsel for the State Government who states that the disputes essentially between the appellant and the respondent and the State Government will abide by such orders as this Court may deem appropriate to pass.
2. Ironically in the life of the appellant and the 1st respondent their marriage at Pune on 15th July, 1983 opened a sad and unfortunate chapter in life. On the wedding night itself the husband suspected the chastity of the wife. The bitterness that commenced soon culminated into a separation within less than a month's time. Allegations and counter-allegations came to be made. The husband resorted to mud-slinging and character assassination. A complaint of theft was also lodged against the wife. A search warrant was taken out. The wife's residence was searched for ornaments alleged to have been stolen by her and an inventory was prepared. This was unfortunate and ill-advised. All this added to the bitterness which led to the filing of two separate complaints of defamation under S. 500, Indian Penal Code by the wife. In addition thereto a complaint was also lodged under S. 498A, Indian Penal Code, which has ended in a conviction. In that complaint, while convicting the husband under S. 498A, the High Court has sentenced him to pay a fine of Rs. 30,000/- in default to suffer Rigorous Imprisonment for six months. In the two complaints lodged under S. 500, Indian Penal Code, the husband was acquitted by the trial Court but on appeal he came to be convicted by the High Court and has been sentenced to suffer simple imprisonment for two months and to pay a fine of Rs. 3000/-, in default to suffer simple imprisonment for one month, in each case. The substantive sentences are to run concurrently. It is against the said order of conviction and sentence that the present two appeals have been filed. We are told by Mr. U. R. Lalit, learned counsel for the appellant husband, that the fine of Rs. 3,000/- in each case, that Rupees 6,000/- in both the cases has been paid as ordered. The Court has directed that out of the fine of Rs. 6,000/- a sum of Rs. 3,000/- should be paid to the complainant-wife by way of compensation.
3. When these two appeals were taken up for hearing we were taken through the unsavoury past and we thought that it was in the interest of both the husband and the wife that the series of allegations and counter allegations between the two and their family members should come to an end. We also felt that it was essential to ensure the wife's economic rehabilitation so that she may be able to live the rest of her life peacefully. The marriage has already ended in a divorce. In the divorce proceedings she has been awarded maintenance at the rate of Rs. 500/- per month. We, therefore, thought it proper to suggest to the parties if they could work out an amicable settlement which would permit the wife to live the rest of life without being dependent on the appellant-husband and without being required to make her rounds to courts.. Counsel for the appellant also adopted a very

positive attitude and shared our anxiety to ensure that the wife was adequately compensated for the mental agony, strain and stress that she had undergone on account of the allegations made against her. After some discussion, the parties arrived at a settlement whereunder the appellant-husband agreed to acquiesce in the decision of the High Court convicting him under S. 498A, Indian Penal Code and to pay a fine of Rs. 30,000/- within the time allowed by the High Court. In other words, he has agreed not to appeal against the said order of the High Court in C.R.A. No. 98/90 convicting him under S. 498A, Indian Penal Code. He has agreed that he will deposit the fine within the time allowed by the High Court and it would be open to the wife to withdraw that amount as per the High Court's order. That would put an end to that proceeding, once and for all.

4. It appears that the wife had also filed a suit for damages alleging that her house was illegally searched pursuant to the search warrant wrongly obtained by the husband. That suit was dismissed by the trial Court against which she had preferred an appeal which she later withdrew. Thus, those proceedings have also ended.

5. The only proceedings which now survive are the present two appeals in which the appellant has been convicted for defamation as stated earlier. So far as these appeals are concerned, it is now agreed between the parties that on the appellant depositing a sum of Rs. 1 lakh (Rupees one lakh) in the trial Court at Pune on or before 31st August, 1991 and on his complying with the other stipulations hereinafter provided the present appeals will stand compounded by and between the parties and the order of the High Court convicting the appellant under S. 500, Indian Penal Code will stand set aside with the stipulation that the fine already paid will not be refunded to the husband but instead the said amount will be paid to the wife. We would like to make it clear that the sum of Rs. 1 lakh (Rupees one lakh) to be deposited by the appellant-husband is in addition to the fine amount of Rs. 30,000/- to be paid pursuant to the High Court's order convicting him under S. 498A, Indian Penal Code as well as the fine of Rs. 6,000/- paid under the impugned orders. In addition thereto, the appellant will file an unqualified apology in this court for the mental strain and stress caused to the wife on account of the various defamatory allegations made against her. This apology will be filed in this Court within one week from today. In addition thereto, to alleviate the respondent's fear, counsel for the appellant has also agreed that the appellant's brother will also file an undertaking in this Court within even time to the effect that he will take no proceedings, civil. or criminal, against the respondent for any averments, allegations or statements made by her in any of the proceedings filed till this date. The filing of the apology and undertaking are an integral part of the settlement. If the appellant-husband fails to file the unqualified apology or his brother fails to file the undertaking within the time permitted or the appellant fails to deposit the amount of Rs. 1 lakh within the time allowed by this Court, his present two appeals will stand dismissed and the convictions recorded and sentences awarded by the High Court in both the cases will stand confirmed and he will be liable to be arrested for serving out the sentences. We also clarify that on the appellant-husband depositing the amount of Rs. 1 lakh and complying with the other stipulations, the order regarding maintenance or alimony passed in favour of the respondent-wife in the divorce proceedings will stand terminated or fully satisfied with no future liability. To make the position clear, we may state that in determining the amount of compensation payable by the husband to the wife, the amount of maintenance or alimony granted in the divorce proceedings has been capitalised with a view to ensuring that there remains no possibility for bitterness in future with the relations between the two totally and finally snapped. As and when the amount of Rs. 1 lakh is deposited pursuant to this order, the respondent-wife will be entitled to withdraw the same.

6. We conclude by holding that on the appellant-husband filing an unqualified apology as indicated earlier and on his brother filing an undertaking within the time allowed and on the appellant-

husband depositing the fine amount in the proceedings under S. 498A, and on his further depositing a sum of Rs. 1 lakh (one lakh) within the time allowed hereinbefore, the present two appeals will stand compounded by and between the parties and the order of conviction and sentence in each case will stand set aside and the appellant will stand acquitted but if the appellant fails to comply with any of the aforesaid conditions or stipulations both the appeals will stand dismissed and his convictions and sentences will stand affirmed. In the event the appellant-husband complies with the settlement terms, the respondent wife will be entitled to withdraw the sum of Rs. 6,000/- paid by way of fine in the present proceedings. This amount she may withdraw after all the conditions of the settlement are fully met. Both the appeals are disposed of accordingly.

7. Before we part we may state that we are happy that the High Court took a serious view of the husband's conduct. But for that the respondent-wife would not have been able to vindicate her honour and receive compensation for the defamatory statement. This should prove to be an eye opener to those who believe that they can get away by casting aspersions on a woman to serve their ends and to silence her.

8. A copy of this order may be given to the respondent-wife free of cost as soon as it is signed.

Order accordingly.

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