

SUPREME COURT OF INDIA

State of Haryana

Vs.

Jasvinder Singh

(G.B. Pattanaik and S.V. Patil JJ.)

28.03.2000

ORDER

G.B. PATTANAİK, J.

1. This appeal is by the State of Haryana against an order of acquittal recorded by the High Court of Punjab & Haryana at Chandigarh interfering with the conviction of the respondents under Section 498A, I.P.C. by the learned Sessions Judge. On the basis of the First Information Report (F.I.R.) given by the brother of the deceased, the police initially registered a case under Section 302 I.P.C., but later on converted the same to one under Sections 306 and 498A, I.P.C. The prosecution case in nutshell is that the deceased was subjected to cruel treatment and harassed by the accused-respondents and she committed suicide on the fateful day on 3.8.1985 at 1 O' clock. The deceased was examined by the Doctor (PW-2) who found burn injuries to the extent of 90% as well as smell of kerosene oil from her body and after her death the post mortem was conducted by PW-1.

2. On completion of investigation, charge sheet having been filed under Sections 306 and 498A I.P.C. and the matter being committed, the accused persons stood their trial. The learned trial judge, on appreciation of the evidence on record, came to the conclusion that the prosecution has failed to establish the necessary ingredients of Section 306 I.P.C. to hold that the appellants abetted the commission of suicide in question and accordingly acquitted the accused-appellants of the said charge, but relying upon the testimony of the brother of the deceased (PW-9), brother-in-law of the deceased (PW-10), the maternal uncle of the accused (PW-8) and mother-in-law of PW- 9 (PW-11), came to the conclusion that the ingredients of Section 498A I.P.C. have been duly established and convicted the accused-respondents thereunder and sentenced them.

3. Against the conviction under Section 498A, I.P.C., the accused-appellants preferred appeal and against the acquittal of charge under Section 306 I.P.C., the State came up in appeal to the High Court. Both these appeals were heard together and the impugned judgment dated 27th August, 1991, the High Court on reappraisal of the evidence on record, reaffirmed the order of acquittal passed by the learned sessions judge of the charge under Section 306 I.P.C. So far as the conviction under Section 498A, I.P.C. is concerned, the High Court considered the evidence of PW-9 and being of the opinion that the said witness has not stated material part of the substantive evidence in Court while being examined under Section 161 Cr.P.C. particularly in respect of the alleged amount of dowry claimed to the tune of Rs. 10,000 and Rs. 5000, the High Court thought it fit not to rely upon the said testimony of PW-9. The High Court also considered the evidence of two other witnesses, PWs. 10 and 11 and abruptly came to the conclusion without any detailed examination of the same that

they are inimically disposed of and being related to the deceased and, therefore, their evidence does not stand the strictest scrutiny which is required to be made by a court of law before accepting the testimony in question. Ultimately, the High Court acquitted the accused persons of the charge under Section 498A, I.P.C. also.

4. The learned Counsel for the appellant seriously contended in this Court that the appreciation of evidence by the High Court is wholly perfunctory and, therefore, the order of acquittal cannot be sustained. So far as the order of acquittal under Section 306 I.P.C. is concerned, we do not find any force in the aforesaid contention. The learned trial judge considered the entire evidence at length and recorded the conclusion that the necessary ingredients to attract the provisions of Section 306 I.P.C. have not been established. The High Court also again re-appreciated the evidence and affirmed the said conclusion of the learned trial judge and came to hold that the deceased tried to commit suicide after sprinkling kerosene oil on her body on the day of occurrence which resulted in her death and the prosecution has totally failed to attract the ingredients of Section 306 I.P.C. inasmuch as there is not an iota of evidence to establish the case of instigation or abetment on the part of the accused persons to commit suicide. In view of the order of acquittal passed by the learned trial judge and reaffirmed by the High Court, we see hardly any justification for our interference with the same.

5. So far as the acquittal of the charge under Section 498A I.P.C. is concerned, it appears that out of the three relevant witnesses, PWs.-9, 10 and 11, the High Court examined the veracity of PW-9 with reference to the statement of the said witness made to the police under Section 161 Cr.P.C. and in view of material omission in the statement under Section 161 Cr.P.C. came to the conclusion that the witness is not reliable and, therefore, did not think it fit, and in our opinion rightly, to record any conclusion on the basis of such infirm evidence of PW-9. So far as PWs. 10 and 11 are concerned, the High Court has brushed aside their evidence on the ground that they are closely related and the evidence of PW-10 indicates that his wife - Gurvinder Kaur and mother-in-law Daljit Kaur has no joint account in the bank at Ambala from which account, it is alleged, that the money of Rs. 10,000 and Rs. 5,000 has been drawn. The discussion of the evidence of the aforesaid two witnesses by the High Court is rather scrappy, but when we asked the learned Counsel appearing for the State to place the evidence of those witnesses, he expressed his inability on the ground that he has not been able to procure a copy of the evidence of those two witnesses.

6. The appeal is of the year 1992 and more than seven years have elapsed in the meantime. It indicates the callousness with which the State has been pursuing the appeal in this Court in a matter like this. The Counsel did pray for adjourning this case in the midst of hearing, but we do not think it proper for this Court to adjourn the matter in the midst of hearing because of the failure on the part of the prosecution to place a copy of the evidence before the Court for its own appreciation to judge whether the appreciation of evidence made by the High Court is justified or not.

7. In the aforesaid circumstances and in the absence of any materials being produced before us to take a contrary conclusion than the conclusion arrived at by the High Court, we affirm the order of acquittal as recorded by the High Court and dismiss this appeal.

8. A copy of this order/judgment be sent to the Chief Secretary to the Govt. of Haryana for his perusal and appropriate action.