

SUPREME COURT OF INDIA

Balwant Singh

Vs.

Partap Singh

(G.B. Pattanaik, R.P. Sethi and S. V. Patil JJ.)

29.03.2000

ORDER

G.B. PATTANAİK, J.

1. This appeal is by the informant against an order of acquittal recorded by the High Court of the charges under Sections 304B and 201, I.P.C. Six accused persons stood charge and were tried for having committed an offence under Sections 304B and 201, I.P.C. on the allegation that the deceased, Rajbala, died on account of electrocution within 7 years of her marriage and she had been subjected to cruelty and harassment by her husband as well as in-laws for demand of dowry, and that the dead body was disposed of without waiting for the parents of the deceased to arrive at the place of occurrence. PWs.1 and 2, the brother of the deceased and cousin of the deceased were two witnesses examined by the prosecution in support of the case of harassment and cruelty meted out to the deceased by her husband as well as in-laws. The learned Sessions Judge on conclusion of the trial came to the conclusion that there exists no material as against accused Nos. 5 and 6, and therefore, without examining them under Section 313 acquitted them of the charges leveled against them. Relying upon the evidence adduced by the prosecution, particularly, that of PWs. 1 and 2, learned Sessions Judge came to the conclusion that the prosecution case has been proved beyond reasonable doubt so far as accused Nos. 1,2 and 4 are concerned. So far as accused No. 3 is concerned, the learned Sessions Judge acquitted him of the charge and that order of acquittal became final not being assailed by the State by preferring an appeal in the High Court. The convicted accused persons, namely, accused Nos. 1,2 and 4 who are the mother-in-law, husband and father-in-law respectively, of the deceased preferred appeal against their conviction and sentence. The High Court by the impugned judgment came to a positive finding that the evidence on record is sufficient to establish that Rajbala during her lifetime used to be harassed by her husband and in-laws on account of insufficient dowry, and further demands used to be made. Notwithstanding the aforesaid finding being arrived at, since the prosecution evidence did not establish any unnatural circumstance for the death of the deceased, the High Court acquitted accused Nos. 1,2 and 4 of the charge under Sections 304B and 201, I.P.C. The High Court, however, convicted the accused persons under Section 498A in view of the conclusion referred to earlier and sentenced them for the period already undergone. It is this order of acquittal of accused Nos. 1,2 and 4 for the offence under Sections 304B and 201, I.P.C. which is the subject matter of appeal.

2. Learned Counsel for the appellant contends that the death of the deceased undoubtedly having taken place within 7 years of marriage and that the death being on account of electrocution which is a burnt injury, and the finding of the High Court being that the husband and in-laws had harassed

deceased, Rajbala, on account of insufficient dowry, and further demands used to be made, the ultimate conclusion of the High Court that the ingredients of offence under Section 304B has not been established, is unsustainable in law, therefore, the order of acquittal is wholly unjustified. Learned Counsel appearing for the accused-respondents, however, submitted before us that the High Court having appreciated the evidence and having reached the conclusion that the prosecution has failed to establish the necessary ingredients of the offence under Section 304B, and having acquitted the same should not be interfered with by this Court after this length of time. In view of the rival submission, the question that arises for consideration is whether the ultimate conclusion of the High Court can be held to be in accordance with law. A bare perusal of Section 304B would indicate that the necessary ingredients must be held to have been established by the prosecution beyond reasonable doubt, once the High Court comes to the conclusion on the basis of evidence adduced that Rajbala during her lifetime used to be harassed by her husband and in-laws on account of insufficient dowry, and further demands used to be made, concededly when the death occurred within 7 years from the date of marriage and that the death was on account of serious electrocution, the High Court appears to have been swayed away by the fact since the in-laws of the deceased had sent intimation to the parents of the deceased that would indicate that they did not have any ill motive but that would not absolve the accused persons if on the evidence adduced all the necessary ingredients are found to have been established. On the basis of the finding of the High Court, as already arrived at in the facts and circumstances, we have no hesitation to hold that the High Court committed serious error in acquitting the accused persons of the charge under Section 304B, I.P.C. So far as the offence under Section 201, I.P.C. is concerned, we do not find any material to interfere with the order of acquittal recorded by the High Court thereunder. In the circumstances, we set aside the order of acquittal passed by the High Court of the offence under Section 304B, I.P.C. and hold that the accused Nos. 1, 2 and 4 committed offence under Section 304B, and therefore, they are convicted thereunder and sentenced to 7 years rigorous imprisonment. They must now surrender to undergo balance period of sentence. This appeal is allowed.