SUPREME COURT OF INDIA

Narsingh Prasad Singh

Vs.

Raj Kumar @ Pappu

Crl.A.No.453 of 2001

(M.B. Shah and S.N. Variava JJ.)

04.04.2001

JUDGMENT

M.B.Shah, J.

1. Leave granted.

2. It is virtually a matter of shame to the civilization that indiscriminate attacks and violence are directed against married women in certain quarters including so-called educated for obnoxious and anti-social demand of dowry and the accused are let off for various reasons. Result is violence against women continues unabated as law looses its deterrent effect. In some cases, flee bite sentence till rising of the Court or sentence already undergone is awarded without verifying whether the accused has undergone any sentence.

3. The prosecution case in nutshell is thaton 1.4.1994 at 11 a.m. Bilasa Devi and Neelam, mother in law and sister in law respectively of Kusum Kumari started beating complainants daughter with a burning wooden stick and she remained lying for some time at in-laws house. Thereafter, the mother-in-law again said burn her face, on which Kusum got scared and ran away from the place and reached the house of her Bua (fathers sister) at about 4 p.m. From there, message was sent to her parents house. Thereafter her father-PW1 reached Kanpur and gave a written complaint at the Police Station through his son. After appreciating the entire evidence, by judgment and order dated 12.11.1999, 1st Additional Chief Judicial Magistrate, Kanpur City convicted respondents for the offence punishable under Section 498A of the IPC each and sentenced them to suffer RI for one year and to pay a fine of Rs.1000/-, in default in payment of fine to further undergo RI for 3 months each, by holding that accused persons asked Kusum to bring money from her fathers house and when she could not arrange for money, all the accused mercilessly beat and planned to burn her with a burning wooden stick.

4. Against that order, accused preferred Criminal Appeal No.96 of 1999 which was heard by the 7th Additional Sessions Judge, Kanpur City, who after appreciating the entire evidence dismissed the appeal filed by the present respondents but allowed the appeal of Smt. Neelam

and set aside her conviction order. That order was challenged by the respondents by filing Criminal Revision No.1548 of 2000 in the High Court of Allahabad.

5. The Revision Application was heard by Mr. B.K. Rathi, J., who by cryptic order allowed the revision by holding as under: - Applicant no.1 is the husband and applicants no.2 and 3 are father-in-law and mother-in-law. The learned counsel for the applicants has not challenged the conviction and has argued only on the question of sentence.

6. In the circumstances, by maintaining the conviction for the offence under Section 498-A IPC, I modify the sentence and they are sentenced to undergo RI for the period for which they had been in jail and a fine of Rs.1000/- each. They shall be released forthwith on deposit of fine.

7. That order is under challenge. It has been submitted by the learned counsel that the order passed by the High Court is nothing but a mockery of justice. Without appreciating any evidence and recording any reasons, the High Court modified the sentence only on the ground that the learned counsel for the respondents has not challenged the conviction and has argued only on the question of sentence.

8. In our view, there is much substance in the contention raised by the learned counsel for the appellant. It is apparent that the High Court has modified the sentence without recording any reasons and without considering the crime prevalent in the society for unjustified demand of dowry. In any case, before exercising its revisional jurisdiction, the Court ought to have considered the facts and applied its mind as to whether it was a fit case for exercise of its revisional jurisdiction and for reducing the sentence. It has also been pointed out that without verifying the fact that respondents have not undergone any sentence, the Court has passed the order of reducing the sentence for the period for which they had been in jail. This Court has reiterated in a series of cases that it is the duty of the Court to pass appropriate order of sentence and not raising of any argument by counsel for the accused for acquittal is hardly any ground for reduction of sentence.

9. In the result, the appeal is allowed and the impugned order passed by the High Court is set aside. The High Court to decide the revision application afresh on merits.