

**SUPREME COURT OF INDIA**

Mst. Anusuiya @ Saraswatibai

Vs.

State of Madhya Pradesh

CrI.A.No.1224 of 2008

(Rajesh K.Abhay Manoha Sapre,JJ.,)

25.01.2018

**JUDGMENT**

**Abhay Manohar Sapre,J.,**

1. This appeal is filed by the two accused persons against the final judgment and order dated 14.02.2007 passed by the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 419 of 1992 whereby the High Court partly allowed the appeal and while upholding the judgment dated 02.04.1992 passed by the First Additional Sessions Judge, Chhindwara in Sessions Trial No.3/91 convicting the appellants-accused under Sections 306 and 498A of the Indian Penal Code, 1908 (hereinafter referred to as “IPC” ) reduced the period of their sentence awarded under Section 306 IPC from Seven years to five years and a fine of Rs.1000/- each, in default of payment of fine, to further undergo RI for three months and under Section 498A, from three years to two years. Both the sentences to run concurrently.

2. Brief facts:

The case of the prosecution is that the marriage of Rekhabei(deceased) and Chandrashekhar (appellant No.2) was performed on 12.05.1989, six months prior to her death. Appellant No.1 is the mother-in-law of the deceased.

3. On 21.11.1989, a Marg Report was recorded at Chandameta Police Station that Rekhabei was brought dead in W.C.L. Hospital Bandkuhee by Gajanand. After preparing the inquest panchanama(Ex.P/8), the dead body was sent for post mortem. Dr. R.K. Basor(PW-8) performed the post mortem and submitted the report (Ex.P/10). According to PW-8, the death of Rekhabei was quite unnatural. Thereafter the viscera collected from the dead body was sent to Forensic Science Laboratory for Chemical examination.

3. On 25.11.1989, Saligram (PW-1), father of Rekhabei(deceased), submitted a written report to the police station, Chhindwara mentioning therein that her daughter had committed suicide

because her in-laws were harassing her for not bringing dowry in marriage and demanding one Fan and Rs.500/- from her parents. He further said that on 19.11.1989, one day before the death of Rekhbai, his daughter and son-in-law came to his house and stayed there for the night and on the next morning, his son-in-law again demanded a Fan and Rs.500/- from him and on not being given the same, he started quarreling and went away saying that consequence would be heard of the next day. On the next day, when Rekhbai suddenly became ill, Surendra Pathak(CW-1) examined her on the request of Chandrashekhar and advised him to take her to the Hospital. On the way to Hospital, Rekhbai died.

4. On 30.03.1990, report of the Forensic Science Laboratory was received mentioning therein that the death of Rekhbai was caused by consuming rat poison.

5. After investigation, charge sheet was filed and by order dated 29.12.1990, the case was committed to the Court of Sessions. The accused persons(appellants) denied the charges.
6. By judgment dated 02.04.1992, the First Additional Sessions Judge, Chhindwara convicted the appellants for the offences punishable under Sections 306 and 498A IPC and sentenced both of them under Section 306 to undergo rigorous imprisonment of seven years and a fine of Rs.1000/- each and in default of payment of fine, to undergo further rigorous imprisonment for six months. So far as the sentence under Section 498A was concerned, both the appellants were sentenced to undergo rigorous imprisonment for three years. The sentences were to run consecutively.
7. Challenging the judgment of the Trial Court, the appellants (accused) filed appeal before the High Court.
8. The High Court, by impugned judgment dated 14.02.2007, partly allowed the appeal, upheld the conviction but modified the sentence awarded to the appellants under Section 306 from Seven years to five years and a fine of Rs.1000/- each, in default, to further undergo RI for three months and so far as sentence under Section 498A was concerned, it was modified from three years to two years. Both the sentences were to run concurrently.
9. Against the judgment of the High Court, the appellants (accused) have filed this appeal by way of special leave before this Court.
10. Heard Mr.Pradeep Misra, learned counsel for the appellants and Mr. B.N. Dubey, learned counsel for the respondent.
11. Having heard the learned counsel for the parties and on perusal of the record of the case, though we uphold the conviction of the appellants under both the Sections, namely, Section 306 and Section 498 IPC, but having regard to the peculiar facts and circumstances of the case as set out hereinbelow, modify the sentence and accordingly reduce the period of sentence of both the appellants as indicted below.
12. We have perused the evidence with a view to find out as to whether the prosecution was able to prove their case under the twin Sections, namely, Sections 306 and 498-A of the IPC, which resulted in death of Rekhbai and, if so, whether the two Courts below were justified in convicting both the appellants and awarding to them the sentence as detailed above.
13. Having gone through the evidence and examining the findings of the two Courts on all the material issues involved in the case, we are of the considered opinion that no fault can be found in the manner in which both the Courts below appreciated the evidence so also no fault can be found in their respective reasoning which resulted in convicting the appellants.
14. It is a settled principle of law that if there is no perversity noticed in the findings of the Courts below and more so when the findings of the two Court below are of concurrence then such findings would be binding on this Court while hearing the appeal under Article 136 of the Constitution. Such is the case here.

15. It is not in dispute that Rekhabei died within six months from the date of her marriage. The date of marriage is 12.05.1989 whereas the death occurred on 21.11.1989. It is not in dispute that Rekhabei died due to consuming the poison. It is also not in dispute that the two Courts, on appreciating the evidence, recorded a categorical finding that appellant No. 1, mother-in-law and the husband (appellant No. 2) had demanded dowry from the parents of the deceased and when they did not accede to the dowry demand, appellant No.2- husband threatened the father of the deceased and deceased herself of the dire consequences for not acceding to his demand of dowry.

16. It has also come in the evidence of the deceased's father (PW-1), which found acceptance to the two Courts and, in our opinion, rightly that the appellants used to beat the deceased soon after their marriage till her death.

17. In the light of the aforementioned findings of the two Courts below to which we concur, a case under Section 306 and Section 498-A IPC was rightly held made out against appellant No. 1- mother-in-law and appellant No. 2-husband.

18. Indeed when an unnatural death of the married woman takes place within seven years of her marriage then a presumption, as envisaged in Section 113-A of the Evidence Act,1972 against the husband and his relatives is made out. In this case, the same was duly made out with the aid of evidence adduced against the appellants. The appellants, however, in their defense failed to rebut the presumption and whatever evidence they adduced in defense was not held enough to give them the benefit of doubt or clean acquittal.

19. We, therefore, uphold the conviction of both the appellants under Section 306 and Section 498-A of IPC

20. This takes us to the next question about the award of sentence to the appellants under both the Sections. We may state here that there is no appeal filed by the State for enhancement of the period of sentence. In other words, the State or/and Complainant accepted the jail sentence, which was awarded to the appellants by the Courts below.

21. It is not in dispute that the appellant No.1-mother-in-law has undergone total jail sentence for a period of 9 months or so out of the jail sentence awarded to her, during the pendency of the appeal. It is also not in dispute that she is now around 75 years of age and is not keeping well. It is also not in dispute that she is presently on bail granted by this Court.

22. So far as appellant No.2-husband is concerned, he too has undergone around 1 year 1 month approx.

23. Apart from what is taken note of above, learned counsel for the appellants made a statement at the bar that appellant No. 2 has remarried with a girl from the family of deceased, i.e., the deceased's aunt's daughter and since then the relations between the two families have become quite cordial.

24. Taking into consideration the totality of aforementioned facts and, particularly the circumstances, we are inclined to modify the sentence of the appellants as under.

25. So far as appellant No. 1-mother-in-law is concerned, we modify her sentence and reduce the same to already undergone. In this view of the matter, appellant No. 1-mother-in-law is not required to undergo any more jail sentence.

26. So far as appellant No. 2-husband of the deceased, Rekhabei, is concerned, his sentence is reduced from 5 years to 2 years under Section 306 IPC. So far as sentence of 2 years awarded under Section 498-A is concerned, it is upheld. The fine amount awarded in both is also upheld. Both the sentences are to run concurrently.

27. In view of this, appellant No. 2, who is also on bail by the order of this Court, has to surrender to undergo remaining period of jail sentence awarded to him by this Court. The bail granted to appellant No. 2 is, therefore, cancelled to enable him to surrender and undergo remaining period of jail sentence awarded by this Court.

28. With the aforementioned modification, the appeal stands allowed in part and the impugned judgment stands modified accordingly to the extent indicated above.