

SUPREME COURT OF INDIA

Manoharan

Vs.

State Rep. by Inspector of Police

CrI.A.No.1340 of 2013

(Arun Mishra and Uday Umesh Lalit, JJ.,)

09.05.2018

JUDGMENT

Uday Umesh Lalit, J.,

1. In this appeal by special leave, appellants (original accused Nos.2 and 3) question the correctness of the judgment and order dated 04.12.2007 passed by the High Court of Judicature at Madras dismissing Criminal Appeal No.843 of 2006 and thereby affirming conviction and sentence of appellants under Section 498A IPC.

2. A-1 Karuppaya, son of appellants got married to one Malathi, daughter of Karuthekannan and Vellathai (PWs 9 and 15 respectively) on 26.02.2001. According to the prosecution, at the time of marriage there were dowry demands and accordingly 50 sovereigns of gold, 2 sovereigns of hand chain, 3 sovereigns of gold chain, cash of Rs.50,000/- and certain household articles were given by the parents of Malathi. After marriage the couple started living at Cuddalore. In June 2002 the couple was blessed with a child. It is alleged that thereafter A-1 prevented said Malathi to enter the matrimonial home unless demands for additional dowry were satisfied. Panchayat meeting was held on 26.04.2003 but no compromise could be arrived at. A petition was sent by Malathi to the office of Chief Minister on 18.07.2003 whereafter Cuddalore police conducted inquiry. A-1 gave an undertaking that he would live with Malathi and accordingly he brought Malathi to the matrimonial home at Cuddalore on 08.12.2003.

3. On the intervening night of 8th and 9th of December, 2003, there was a quarrel between A-1 and Malathi and thereafter A-1 is said to have attacked her brutally with a ruval. On 09.12.2003 at about 10.00 A.M. A-1 confessed his guilt before PW-1 Village Officer and surrendered himself. Crime No.1587 of 2003 was registered pursuant to the information given by PW-1, Village Officer and the investigation was undertaken.

4. PW-20 the Investigating Officer inspected the place of occurrence and recorded statement of A-1 in the presence of PW-19 and one Ramalingam under Exh.P-23 pursuant to which a

knife was recovered. Body of Said Malathi was sent for post mortem which was conducted by PWs 10 and 11 who found following injuries:

- “(1) Left side scalp there is an incised injury extending from the forehead to middle line of scalp about 9-10 x 1-4cm x bone depth.
- (2) There is an incised wound mid line of scalp about 10 x 2 cm x bone depth.
- (3) There is an incised wound right side forehead near the hair line about 6 x 3 x 2 cm.
- (4) There is an incised wound just below the left eye 7 x 2cm x bone depth.
- (5) There are two incised wounds place on lower jaw eloquently placed 6 x 1 cm upto bone depth other 4 x 1 cm x bone depth.
- (6) There is 3 x 1 x b one depth below the 5th injury.
- (7) There is incised wound from the ankle of the mouth obliquely placed 5 x 1 cm upto muscle.
- (8) Missing of the lower jaw teeth left incised and canine.
- (9) Fracture left side of mandible.
- (10) Deep incised lacerated wound, right side of the neck extending from 4 cm away from the occipital prominence upto middle of the neck, obliquely placed 10 x 1 x 3 cm upto muscle depth.
- (11) Middle of the neck incised wound 4 x 2 cm x muscle depth.
- (12) Abrasion over left side of the neck 2 x 1 cm.
- (13) Incised wound right index finger, obliquely placed 3 x 2 x upto bone depth. Fracture of bone of Phalanx.
- (14) Incised wound on the dorsum of right hand 4 x 2 x 1 cm.
- (15) There is lacerated injury on the (n.c.) about 3 x 1 x 1 cm left.
- (16) Dorsum of left hand about 3 x 2 x 1 cm incised wound.
- (17) There is incised wound varying in size left shoulder 4 to 6 cm x 1 x 1 cm.
- (18) Incised wound left forearm 4 x 2 x 1 cm.

(19) There is incised wound left shoulder 6 x 1 x 1 cm.

(20) Abrasion over right knee 4 x 2 cm.”

5. Charges were framed against A-1, A-2 and A-3 for offences punishable under Sections 498A, 302 read with Section 34 IPC and also under Section 4-A(1)(2)(i) of the Tamil Nadu Prohibition of Harassment of Women Act, 1998 (1998 Act, for short). Court of Sessions at Cuddalore by its judgment and order dated 11.09.2006 in Sessions Case No.82/2006 found A-1 guilty of offences punishable under Section 302, 498A IPC and under Section 4-A(1)(2)(i) of 1998 Act. The appellants were acquitted of the charges under Section 302 IPC and Section 4-A(1)(2)(i) of 1998 Act but were convicted for the offences under Section 498A IPC and sentenced to undergo three months rigorous imprisonment and to pay fine of Rs. 1000/-, in default whereof to undergo rigorous imprisonment for one month. During the course of its judgment, the trial court observed:

“P.W.27 in her deposition would state that on 11-10-2003 relating to the letter forwarded from the Chief Minister’s Cell to the all Women Police Station, Cuddalore, an enquiry was conducted by her and at that time the deceased Malathi, A.1 and the parents of both sides were present, however, on the accused side time was sought for taking back Malathi. From her deposition it is clear that on 11-10-2003 there was no talk about the dowry problem. Hence, in such a case, in the absence of the letter sent to the Chief Minister’s Cell having been filed before this Court, the defence theory has to be accepted to the effect that in the letter sent to the Chief Minister’s Cell there was no reference about the dowry problem and the enquiry at the police station also was not on dowry problem and to that much extent the benefit of doubt has to be given to the accused relating to dowry problem. As such, the evidence of PWs 26 and 27 in no way show that there was any talk regarding dowry problem. In such a case there is force in the contention of the defence side that the problem between the parties is not mainly centered on dowry, even though as per the evidence discussed supra there were talks about the gold jewels and payment of money.”

6. The appellants challenged their conviction and sentence by filing Criminal Appeal No.843 of 2006 while A-1 preferred Criminal Appeal No. 1050 of 2006. Both the appeals were disposed of by common judgment and order dated 04.12.2007, which is presently under appeal. The High Court affirmed the view taken by the trial court and maintained the conviction and sentence of all three accused.

7. The appellants being aggrieved, preferred this appeal by special leave. Initially, the appellants were granted exemption from surrendering and later they were ordered to be released on bail to the satisfaction of the trial court, which benefit the appellants have enjoyed all through. It appears that the conviction and sentence recorded against A-1 has attained finality and in this appeal we are concerned only with conviction and sentence of appellants under Section 498A IPC. Appearing for the appellants, Mr. V. Prabhakar, learned Advocate invited our attention to the observations of the trial court as quoted hereinabove. In

his submission the appellants were entitled to acquittal. Mr. M. Yogesh Kanna, learned Advocate for the State, however, supported the judgments rendered by the courts below.

8. The evidence in the present case shows that after the letter was sent by Malathi to the office of Chief Minister, inquiries were conducted by the police. The evidence further indicates that at that juncture, no complaint was made by Malathi or her parents regarding any dowry related harassment. Further, she was brought to Cuddalore on 08.12.2003 where the couple used to live separately and the incident in question occurred on the intervening night between 8th and 9th December, 2003. In the circumstances, the evidence on record is completely inadequate to bring home the charge against the appellants. We have gone through the entirety of the matter and in our considered view, both the appellants are entitled to acquittal.

9. We, therefore, allow this appeal and set aside the judgment and order of conviction and sentence as recorded against the appellants. The appellants are acquitted of the charge of Section 498A IPC leveled against them. The appellants are on bail. Their bail bonds stand discharged.