

Bablu @ Devkaran Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Sep-21-2012

Appellant : Bablu @ Devkaran

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Narendra Nikhare

Judgement :

1 Criminal Appeal No.971/2011 HIGH COURT OF MADHYA PRADESH
JABALPUR Criminal Appeal No.971/2011 Bablu @ Devkaran Vs. State of Madhya Pradesh ----- Present

: Hon'ble Shri Justice N.K. Gupta.

----- Name of counsel for
the parties: Shri Narendra Nikhare, counsel for the appellant. Shri G.S. Thakur,
Panel Lawyer the respondent/State.

JUDGMENT

(Delivered on 21st day of September, 2012) The appellant has preferred this appeal against the judgment dated 30.3.2011 passed by the 1st Additional Judge to the 1st Additional Sessions Judge, Raisen in S.T. No.20/09, whereby the appellant was convicted for the offence punishable under Section 498-A of IPC and sentenced for two years' R.I. with fine of `2,000/-. In default of payment of fine, three months' R.I. was directed.

2. The prosecutions case in short is that, on 5.7.2008 the deceased Dashoda Bai was found dead in her house. An intimation was given to the Police Station, Udaipura. A Panchnama-lash was prepared and the dead body of the deceased Dashoda Bai alongwith the dead body of her child 2 Criminal Appeal No.971/2011 Jaya was sent for the postmortem. Dr. S.N. Singh (PW-3) did the postmortem upon the bodies of the deceased Dashoda Bai and Jaya @ Guddi. He found that both the deceased were died due to burn injuries. During investigation, the parents and relatives of the deceased had alleged against the appellant and his relatives about the cruelty and harassment done with the deceased Dashoda Bai. After due investigation, a charge sheet was filed before the J.M.F.C. Udaipura, who committed the case to the Sessions Court, Raisen and ultimately, it was transferred to the 1st Additional Judge to the 1st Additional Sessions Judge, Raisen.

3. The appellant abjured his guilt. He did not take any specific plea in the matter but he has submitted that since the deceased died due to an accident within seven years of her marriage, the parents and relatives of the deceased had made omnibus allegations against him about harassment and cruelty. However, no defence evidence was adduced.

4. The learned Additional Sessions Judge, Raisen after considering the evidence adduced by both the parties, acquitted the appellant for the offence punishable under Section 304-B of IPC, whereas remaining accused persons were acquitted from all the charges but the appellant was convicted for the offence punishable under Section 498-A of IPC and sentenced as mentioned above.

5. I have heard the learned counsel for the parties. 3 Criminal Appeal No.971/2011

6. The learned counsel for the appellant has submitted that there was no demand of dowry from the side of the appellant and therefore, the trial Court has acquitted him from the charge of offence punishable under Section 304-B of IPC. It could be established against the appellant that he assaulted the deceased for once or twice. Though, other accused persons were acquitted on the similar circumstances but the appellant was convicted. However, the overt act of the appellant was not so grave, so that he could be sentenced for two years R.I. At present, he remained

in the custody for more than 18 months and therefore, looking at the overt act of the appellant, his sentence may be reduced to the period, which he has already undergone in the custody.

7. On the other hand, the learned Panel Lawyer has submitted that the conviction as well as sentence directed by the trial Court appears to be appropriate.

8. After considering the submissions made by the learned counsel for the parties and looking at the facts and circumstances of the case, it appears that the appellant does not challenge his conviction and therefore, there is no need to discuss the matter on the merits of the case.

9. So far as the sentence is concerned, it is apparent that the allegations made by the witnesses about demand of money were not proved and therefore, the appellant was acquitted from the charge of offence punishable under Section 4 Criminal Appeal No.971/2011 304-B of IPC. It is established that the appellant had assaulted the victim by once or twice in his life time. Under such circumstances, the cruelty proved against the appellant was not grave so that he could be sentenced for two years' R.I. Looking to the overt act of the appellant, one year's imprisonment could be a sufficient sentence and, when he remained in the custody for more than 18 months, it would be proper that his sentence may be reduced to the period, which he has already undergone in the custody.

10. On the basis of aforesaid discussion, the appeal filed by the appellant is hereby partly allowed. The conviction directed for the offence punishable under Section 498-A of IPC is hereby maintained, but the sentence is reduced to the period, which he has already undergone in the custody. The appellant has deposited the fine amount before the trial Court. There is no change in the fine amount.

11. The Registry is directed to issue a supersession warrant so that the appellant may be released forthwith.

12. Copy of the judgment be sent to the trial Court alongwith its record for information. (N.K. GUPTA) JUDGE 21 09.2012 pnkj

