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Ramlal Vs. the State of M.P.

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Court : Madhya Pradesh

Decided On : Jul-19-2013

Appellant : Ramlal

Respondent : The State of M.P.

Judgement :

HIGH COURT OF MADHYA PRADESH AT JABALPUR Criminal Appeal No.351/1998 Appellant : Ramlal S/o Gulab Lodhi aged about 28 years, R/o Village Gurjikala, P.S. Rithi, Katni (M.P.) Vs. Respondent : The State of Madhya Pradesh Through P.S. Rithi, Katni (M.P.) For appellant : Shri G.S.Baghel, Advocate For the respondent : Shri B.D.Singh, Govt. Advocate

JUDGMENT
(19 /7/13) The appellant has been convicted under Section 498A of the IPC and sentenced to undergo R.I. for 3 years with fine stipulation, though he was acquitted of the offence under Section 306 of the Indian Penal Code (for short IPC.). The impugned judgment dated 23/1/1998 was passed by I Additional Sessions Judge, Katni in Sessions Trial No.250/96. Appellant is husband of Godabai (since deceased). Their marriage was solemnized ten years prior to the date of incident.

2. According to the prosecution case, appellant Ramlal persistently subjected Godabai to cruelty and harassment on the ground of her dark complexion and disinclination towards work, to such an extent that she was left with no other

option, except to commit suicide by consuming poisonous substance. She died on 6/3/96 at 10 p.m. in her matrimonial home at Village Gurjikala. Morgue intimation Report No.0/96 (Ex.P/5) was registered at Police Outpost Salaiya, on 7/3/96 at 8.30 p.m. Thereafter, original morgue no.7/96 (Ex.P/11) was registered at Police Station Rithi on 8/3/96 and after investigation, Crime No.46/96 (Ex.P/12) was registered for the offence punishable under Section 306 of the IPC. After completion of investigation, charge-sheet was filed and thereafter impugned judgment was passed.

3. Charges under Section 498A and 306 of the IPC were framed. Appellant pleaded false implication and not guilty.

4. Learned counsel for the appellant argued that the impugned judgment was passed without proper appreciation of evidence on record. He submitted that even if the entire prosecution case is accepted at its face value, then too the appellant cannot be convicted. 2 Cr.A. No.351/1998 5. In response, learned Government Advocate, while making reference to the incriminating pieces of evidence on record, submitted that the conviction was well merited and the impugned judgment does not deserve to be interfered with.

6. Having regard to the arguments advanced by the parties, record of the trial Court was perused.

7. In the impugned judgment, on the basis of evidence of Siyaram (PW6) father of Godabai, mother Paanbai (PW9) and brother Moorat Singh (PW7), it was held by the trial Court that the appellant used to tell Godabai that Tu Kaali hai aur kaam nahin karti hai.. However, there are material omissions in his court statement vis-a-vis Police statement (Ex.D/1). Similarly Paanbai testified that appellant also used to beat Godabai on the aforesaid ground and Godabai had informed her about the maltreatment, six months prior to the date of incident, but on the contrary, Moorat Singh deposed in paragraph 5 of his evidence that Godabai had narrated about the same three years before. However, no report was ever lodged by parents of Godabai regarding the alleged cruelty meted out to Godabai at the hands of appellant.

8. Siyaram deposed in paragraph 3 that despite the alleged cruelty, Godabai used to return to her matrimonial house. He further deposed that Godabai was residing in her matrimonial home for 2 months from the day when she breathed her last. It clearly shows that Godabai returned to her matrimonial home forgetting all the alleged incidents of cruelty and ill- treatment. On this very concept, doctrine of condonation has been developed from the provision of Section 23(1)(b) of the Hindu Marriage Act,1955. In other words, it can be deduced that the behaviour of appellant was not so bad that it can be termed as physical or mental cruelty, otherwise she would not have returned to her matrimonial home.

9. Appellant was acquitted of the charge of 306 of the IPC. As per the autopsy report (Ex.P/1), external injuries were not found on the body of Godabai. It also shows that she was not subjected to physical cruelty before her death.

10. The term cruelty. within the meaning of Section 498A of the IPC has been explained in the Explanation appended thereto. It consists of two clauses namely clause (a) and (b). To attract section 498A of the IPC, it must be established that cruelty or harassment to wife was to force her to cause grave bodily injury to herself or to commit suicide or the harassment was to compel her to fulfill illegal demand for dowry. It is not every type of harassment or cruelty that would attract section 498A of the IPC. Sporadic incidents of ill- treatment by husband or relatives do not attract definition of cruelty. Therefore, even if the prosecution story is accepted as it is, then too, no case would be 3 Cr.A. No.351/1998 made out against the appellant under Section 498A of the IPC. Moreover, prosecution has failed to prove the charge under Section 498A of the IPC against the appellant, beyond a reasonable doubt.

11. In the result, the appeal stands allowed. Impugned conviction and consequent sentence are hereby set aside. Bail bonds of the appellant stand discharged. Fine amount, if deposited, be refunded. (B. D. RATHI) JUDGE 19 7/13 (and)

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