

Khushal Singh and ors. Vs. the State of Madhya Pradesh

Khushal Singh and ors. Vs. the State of Madhya Pradesh

SooperKanoon Citation : sooperkanoon.com/1089974

Court : Madhya Pradesh

Decided On : Oct-03-2013

Appellant : Khushal Singh and ors.

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. Siddharth Datt

Judgement :

1 HIGH COURT OF MADHYA PRADESH JUDICATURE AT JABALPUR (M.P.)
SINGLE BENCH Criminal Appeal No.1776/1999 Khushal Singh and others Vs.
State of Madhya Pradesh Shri Siddharth Datt, learned counsel for the appellants.
Shri Y.D. Yadav, learned PL for the State. Date of hearing :

05. 09/2013 Date of Judgement :

03. 10/2013

JUDGMENT

Appellants have preferred this appeal under Section 374(2) of the Code of Criminal Procedure, being aggrieved by the judgment dated 28.6.1999 passed in S.T. No.12/1993 by Third Additional Sessions Judge, Chhindwara, whereby the appellants have been convicted under Section 498-A/34 of IPC and sentenced them to undergo rigorous imprisonment for 1 year with fine of Rs. 3,500/- (each), with default stipulations.

2. Facts, in short, giving rise to this appeal are that appellant No.1 Khushal Singh, husband of deceased Padmabai, on 10.9.1998 has informed the police at Police Station Tamiya that for a while at about 4.15 pm he went upto the bus stand and when he returned back, he found that his wife Padma was fallen on the ground. He called the neighbors. Wife of one Pawar Babu inspected the body of Padma, then they rushed to the hospital for her checkup where doctor declared her brought dead. Thereafter a marg 2 was registered and during enquiry it was found that appellant Kushal Singh and other appellants (relatives of Kushal Singh) were used to torture Padma, they committed cruelty on her, therefore, she committed suicide. On the basis of aforesaid enquiry, the offence was registered against the appellants and they have been arrested.

3. After usual investigation, appellants were charge sheeted before the committal court, who committed the case to the Court of Session. Learned Sessions Judge framed the charges against the appellants under Sections 498-A and 306 read with Section 34 of IPC. Appellants abjured their guilt and pleaded false implication. They examined as many as eight witnesses as defence witnesses in their favour.

4. On appraisal of evidence on record, though the appellants have been acquitted to the charge under Section 306/34 of IPC however, they have been convicted under Section 498-A/34 of IPC by the trial Court and sentenced the appellants as mentioned hereinabove. Hence this appeal.

5. Learned counsel for the appellants submitted that trial Court has committed illegality in not appreciating the evidence on record in its proper perspective. He further submitted that the appellant no.2, Damodar S/o Mahadev Bagde has already been died during pendency of this appeal on 14.6.2003. It is further submitted that appellant No.3 Prabhabai W/o Damodarav Bagde is sister-in-law (Nand) and Janabai W/o Shankerrav Dhoke is mother-in-law of deceased Padmabai. There was no direct evidence against these two appellants that they assaulted deceased Padma. The 3 allegation against relatives of the husband of the deceased should be carefully examined by the trial Court in a matrimonial case particularly when they were living in different cities and never visited or rarely visited the matrimonial home of the deceased. Learned counsel for the appellants

has placed reliance on (2010) 7 SCC667 Preeti Gupta and another Vs. State of Jharkhand and another. It is further submitted that appellant no.1 is husband of deceased Padma, who has already suffered the jail sentence of more than 3 months. Ends of justice would be met, if he is sentenced to the period already undergone and fine amount may be enhanced.

6. On the other hand, learned counsel for the State has supported and justified the impugned judgment and finding of the Trial Court.

7. I have perused the impugned judgment, evidence and other material on record, specially the statements of Girjabai (PW4), mother and Mahendra Kumar (PW8), brother, of deceased Padma and letters which said to have been written by the appellant no.1 Khushal Singh to his father-in- law.

8. On perusal of record it reveals that allegations against appellant no.3 Prabhabai and appellant no.4 Janabai are that they were used to instigate the appellant no.1 Khushal Singh to commit cruelty on Padma. Thereafter, Khushal Singh assaulted the deceased and subjected her to cruelty. Once upon a time, due to torture and assault made by appellant no.1 Khushal Singh, deceased Padma left her home and went to the jungle.

9. Appellant No.3 Prabhabai is a married sister-in- law (nand) of deceased Padma. She lived with her husband, she occasionally visited to the matrimonial house of deceased Padma. As far as appellant no.4 Janabai, mother-in-law of deceased Padma is concerned, there is general statement of Girjabai (PW4) against her for subjecting cruelty on the deceased. It is further stated by Vaijantibai (PW11), who is an independent witness and neighbour of father of the deceased, Gendalal, that Padma told her that her husband Khushal Singh assaulted her and subjected cruelty to her. In these circumstances, trial Court has committed illegality in recording the conviction under Section 498-A/34 of IPC against the appellants no.3 and 4, namely Prabhabai and Janabai, therefore, same is liable to be set aside.

10. As far as conviction recorded against appellant no.1 Khushal Singh is concerned, it is an ample evidence on record that he was the person who

harassed the deceased and subjected cruelty to her. In these circumstances, trial Court has not committed any illegality in recording the conviction under Section 498-A of IPC against the appellant no.1 Khushal Singh.

11. Since the incident took place in the year 1989, i.e. 24 years have elapsed, no fruitful purpose will be served by sending the appellants again to jail. Ends of justice would be met, if the jail sentence is reduced to the period already undergone which is more than three months and fine amount is enhanced. 5 12. In the result, this appeal is partly allowed. The conviction recorded against the appellants no.2 and 3, namely Prabhabai and Janabai is set aside and they are acquitted for offence punishable under Section 498-A/34 of IPC. The conviction recorded against the appellant no.1 Khshal Singh by the trial Court, is affirmed. His jail sentence is reduced to the period already undergone and fine amount is enhanced from Rs. 3500/- to Rs. 5000/-. Appellant No.1 Khushal Singh is directed to deposit the fine amount within two months from the date of judgment. In the event of default, he will suffer further simple imprisonment for one month.

13. As far as appellant no.3, Damodar S/o Mahadev Bagde is concerned, he was died on 4.6.2003, therefore, the appeal against him stands abated.

14. Appellants are on bail. Their bail bonds and surety bonds stand cancelled.

15. Record of the trial Court be sent back alongwith copy of this judgment immediately for compliance and necessary action. (G.S. SOLANKI) JUDGE ravi

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com