

A.Nagrajan Vs. State

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Court : Delhi

Decided On : Jan-06-2014

Judge : S. P. Garg

Appellant : A.Nagrajan

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI RESERVED ON :

7. h NOVEMBER, 2013 DECIDED ON :

6. h JANUARY, 2014 + CRL.A. 478/2000 A.NAGRAJAN Appellant Through : Mr. Tom Joseph, Advocate. VERSUS STATE Through : Respondent Mr.M.N.Dudeja, APP. CORAM: HON'BLE MR. JUSTICE S.P.GARG S.P.GARG, J.

1. A.Nagrajan (the appellant) questions the legality and correctness of a judgment dated 02.08.2000 of learned Addl. Sessions Judge in Sessions Case No.569/96 arising out of FIR No.232/88 PS Saraswati Vihar by which he was held guilty for committing offences punishable under Sections 498A/306 IPC. By an order dated 03.08.2000, he was awarded RI for three years with fine ` 5,000/under Section 306 IPC and RI for one and a half years with fine `1,000/- under Section 498A IPC. The brief facts which are relevant to dispose of this appeal are recapitulated as under :

2. Meena was married to the appellant (A. Nagarajan) and a male child was born to her out of this wedlock. Her parents had given various articles including gold ornaments, T.V., bed and almirah according to their financial capacity at the time of her marriage. On the night intervening 5/6.08.1988, Meena committed suicide at her matrimonial home. On the complaint of her brother Parama Swamy, the First Information Report was lodged under Sections 498A/302/34 IPC on 06.08.1988. During the course of investigation, statements of the witnesses conversant with the facts were recorded. Post-mortem examination on the body was conducted. After completion of investigation, a charge-sheet was filed against the deceaseds husband A.Nagarajan and her mother-in-law - Pawlai for committing offences under Sections 498A/304B IPC. Both of them were duly charged and brought to trial. The prosecution examined fifteen witnesses to establish their guilt. In their 313 statements, the accused persons denied their complicity in the crime and alleged false implication. After appreciating the evidence and considering the rival contentions of the parties, the Trial Court, by the impugned judgment convicted the appellant A. Nagarajan under Sections 498A/306 IPC. Needless to say that Pawlai was acquitted of the charges and the State did not prefer any appeal against her acquittal.

3. I have heard the learned counsel for the parties and have examined the record. Initially, the case registered was under Sections 498A/302 IPC whereby the complainant - Parama Swamy suspected murder of his sister at the hands of the accused persons. During investigation, the investigating agency was unable to collect any evidence to charge-sheet the accused persons for committing murder. Since Meenas death had occurred within seven years of her marriage, both the accused persons were charged for committing offences under Sections 498A/304B IPC. Again, the prosecution was unable to substantiate the charge under Section 304B IPC during trial. The observations of the Trial Court in the impugned judgment are relevant to note :

I fully agree with the contention of Ld.defence counsel. The evidence produced by prosecution to prove that Meena was being mal-treated or harassed for, or in connection with dowry soon before her death is very weak type of evidence, and is not sufficient to come to conclusion that Meena was being harassed or mal-treated

for, or in connection with dowry soon before her death. The prosecution has failed to prove the offence punishable u/s 304B IPC against accused persons.

4. It is significant to note that on the same set of evidence, co-accused Pawlai, deceaseds mother-in-law, was acquitted of the charges under Sections 498A/304B/306 IPC. The Trial Court observed :

In the present case sufficient evidence has not come on record against accused Pawlai whereby it could be held that she also abetted Meena to commit suicide. If accused Pawlai even had said anything to Meena even then she cannot be held guilty for any offence because crude and uncultured behaviour by mother-in-law towards her daughter-in-law is normal occurrence in Hindu families and it does not form and constitute abetment for the purpose of Section 306 IPC.

5. It is admitted position that Meena was married to A.Nagarajan (the appellant) about one and a half years prior to the incident and a male child was born to her out of this wedlock. It is also not disputed that on the night intervening 5/6.08.1988, Meena committed suicide by hanging. No injuries whatsoever on her body were noticed in the post-mortem examination report (Ex.PW-7/A). It is not denied by the appellant that ornaments given to the deceased at the time of the marriage were pledged. In 313 statement, he explained that the ornaments were pledged to perform mundan ceremony of his newly born son. Since they had not enough money to perform mundan ceremony, her wife had taken ornaments to her mother through her brother - Parama Swamy for pledging. She brought `3,500/- after pledging her jewellery. After mundan ceremony, her wife asked her mother money to get release the gold ornaments but she declined. Subsequently, she got money from her employer Ram Nath Sachdeva and handed over it to her mother for getting the ornaments released. The Investigating Officer admitted in the cross-examination that during investigation, he had come to know that deceased had taken ` 3,400/- from Ram Nath Sachdeva to get release her pledged jewellery. It is, however, unclear as to when the ornaments were got released. The Investigating Officer did not investigate as to what was the purpose to get the ornaments pledged. From the testimony of PW-3 (Ram Nath Sachdeva), in whose house Meena used to work as maid reveals that Meena had no resentment for

raising money on pledge of her ornaments. She was worried about the exorbitant interest being charged by the individual with whom the ornaments were pledged and for that reason, she had taken ` 3,400/- from Ram Nath Sachdeva to get release the ornaments to avoid payment of exorbitant interest and to repledge the ornaments with him. PW-3 (Ram Nath Sachdeva) deposed that on 05.08.1988, a day prior to the occurrence, Meena visited him and promised either to bring the money or to bring the ornaments to pledge or else her husband would bring money or ornaments. It did not happen. PW-3 (Ram Nath Sachdeva) did not reveal if Meena was depressed or stressed or had any grievance or complaint against her husband. She was working at PW-3 (Ram Nath Sachdeva)s house for about 3 to 4 years and nothing has emerged if she ever complained to him about cruelty or harassment at the hands of her in-laws on account of dowry demands. By no stretch of imagination, it can be inferred that pledging of the ornaments had any direct nexus with the suicide. Sufficient time had elapsed between the pledging of the ornaments and the date when Meena took the extreme step of putting an end to her life. The Investigating Officer did not investigate the surrounding circumstances which prompted the deceased to commit suicide on the night intervening 5/6.08.1988. In 313 statement, the appellant claimed that he was not present in the matrimonial home at that time. The Investigating Officer did not investigate about the presence of the appellant at a specific place at the time of occurrence. In the cross-examination, he admitted that enquiries were made from the neighbours about the quarrel. However, no neighbour was examined to prove that the appellant used to harass or torture the deceased during her stay at the matrimonial home on account of non-fulfilment of dowry demands. Admittedly, all these allegations of her family members have emerged after the sad demise. Prior to the incident, no complaint whatsoever, was ever lodged by the deceased or her family members against the appellant and his mother for their conduct and attitude. The deceased was never taken for medical examination for the beatings inflicted to her any time. The prosecution witnesses have given divergent and conflicting version about the demand of dowry articles and money by the appellant. They have made vital improvements in their deposition before the Court. In the complaint PW-5 (Parama Swamy) alleged that the appellant and his mother used to harass and torture Meena in connection of dowry demands including T.V.

from the very inception. It has come on record that T.V. was given at the time of marriage to the deceased and she was kept properly initially by the appellant and his mother. The allegations are vague and uncertain. No specific date has been given when Meena was given physical or mental torture or harassment. It is on record that the parents of the deceased used to live at a short distance from her matrimonial home. At no stage, they confronted the appellant and his mother for the cruelty meted out to the deceased. Simply because the appellant was obsessed with vice of drinking and used to waste money is not enough to infer that he was instrumental in her death. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. There is no evidence that Meena was harassed, tortured, assaulted or there was continuous and incessant harassment driving her to commit suicide. The cruelty established has to be of such a gravity as is likely to drive a woman to commit suicide. The mere fact that Meena committed suicide within seven years of her marriage and that she had been subjected to cruelty by her husband, does not automatically give rise to the presumption that the suicide had been abetted by her husband. The Court is required to look into all other circumstances of the case. One of the circumstances which has to be considered by the Court is whether the alleged cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman. A reasonable nexus has to be established between the cruelty and the suicide in order to make good the offence of cruelty which is lacking in the instant case.

6. Observations of Supreme Court in case Gangula Mohan Reddy vs. State of Andhra Pradesh, 2010 (1) SCC750 are relevant to note :

In State of West Bengal v. Orilal Jaiswal and Anr. : (1994) 1 SCC73 this Court has cautioned that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life quite common to the society to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly

circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

7. In the light of above discussion, the prosecution has failed to prove its case beyond reasonable doubt. Benefit of doubt is given to the appellant and he is acquitted. The appeal is accepted. Conviction and sentence of the appellant are set aside. Bail bond and surety bond stand discharged.

8. Trial Court record be sent back forthwith. (S.P.GARG) JUDGE JANUARY06 2014/tr

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