

Sadhna Yadav Vs. Devendra Kumar

Sadhna Yadav Vs. Devendra Kumar

SooperKanoon Citation : sooperkanoon.com/1182640

Court : Madhya Pradesh

Decided On : Mar-26-2014

Judge : N.K. Gupta

Appeal No. : Criminal Revision No. 314 of 2000

Appellant : Sadhna Yadav

Respondent : Devendra Kumar

Judgement :

1. The applicant has preferred the present revision being aggrieved with the judgment dated 29.7.1999 passed by the learned JMFC, Jabalpur in criminal case No.76/1987, whereby the respondents No.1 to 3 were acquitted from the charges of offence punishable under Section 498-A of IPC.

2. The facts of the case, in short, are that, the applicant Sadhna Yadav (P.W.1) had lodged a typed FIR, Ex.P/1 against the respondents No.1 to 3 on 19.6.1987 to S.P., Jabalpur, which was ultimately marked to the Police Station Gorakhpur, District Jabalpur and case was registered at Police Station Gorakhpur, District Jabalpur. According to the applicant, her marriage took place with the respondent No.1 Mahesh on 23.6.1985. She was being tortured by the respondents No.1 to 3 for demand of dowry including a cash of Rs.10,000/-, Rajdoot motorcycle and golden bangles. She was being assaulted by her mother-in-law and in the last 3 months, she was given food only for once in the day. On 25.5.1986, her mother-in-

law took her to the house of her father by an autorickshaw and left her there, whereas all the ornaments and luggage of the applicant was kept by the respondents. Thereafter, on 7.5.1987, Kanhaiya Lal, brother-in-law of the applicant and Surendra, cousin of the applicant went to talk with the respondents but, the respondents abused them and thrown them away from their house. On 14.6.1987 again Ram Kumar, brother of the applicant, Rikhilal, brother-in-law of the applicant, cousins Surendra, Sant Lal, Subhas, Tejilal etc. went to the house of the respondents for compromise talks but, no compromise took place. On the contrary, the respondents directed them to leave the house. Ram Kumar had lodged an FIR at Police Station Gorakhpur on the same day. On the basis of the typed report lodged by the complainant, a case was registered. After due investigation, a charge-sheet was filed.

3. The respondents No.1 to 3 abjured their guilt. They did not take any specific plea in the matter. However, it was stated that it was the complainant who left the house on her own and no cruelty was done with her. However, no defence evidence was adduced.

4. The learned JMFC after considering the evidence adduced by the prosecution, acquitted the respondents No.1 to 3 from the charges of offence punishable under Section 498-A of IPC.

5. I have heard the learned counsel for the parties.

6. In support of the FIR, Sadhna Yadav (P.W.1), Ram Kumar Yadav (P.W.2), Bhulelal (P.W.3) were examined, whereas for the various meetings with the respondents, Surendra Kumar Yadav (P.W.4) was also examined. Sadhna Yadav, Ram Kumar Yadav and Bhulelal have stated that after 11 months of the marriage, the mother-in-law of the applicant Sadhna took her to the house of her father and left her there because there was a demand of cash of Rs.10,000/-, a big vehicle and golden bangles. Thereafter, the applicant did wait for one year with the pretext that the accused persons would take her back. After considering the cross-examination of these witnesses, it would be apparent that in the period of 11 months of her marriage, the applicant Sadhna visited her parents house for 8-9 times but, she did not inform her parents about that dowry demand in those 11

months. The conduct of the applicant Sadhna indicates that there was no dowry demand or harassment to her from the side of the respondents in those 11 months otherwise, she would have communicated the demand to her parents in her previous visits to her parents' house and if any talk for reconciliation was required then, it could have taken place. The complainant Sadhna could not tell any reason as to why no reconciliation steps were taken by her soon after the incident when her mother-in-law left her to the house of her father. According to the FIR itself, it appears that she was left to the house of her parents on 25.5.1986 and she did not take any step prior to the date 14.6.1987. Silence of the applicant and her parents for 13 months indicates that there was no problem to the applicant in the house of the respondents and therefore, the applicant and her parents did not take any step for 13 months to resolve that problem.

7. It is alleged that the witness Ram Kumar alongwith other persons including Surendra Kumar (P.W.4), went to the house of the respondents for a talk and reconciliation and Ram Kumar has stated that the respondents abused them and directed to go away and therefore, Ram Kumar had lodged an FIR against the respondents. However, no copy of that FIR was filed before the trial Court and therefore, an adverse inference was to be drawn that the contents of that FIR were not in favour of the applicant and her brother. On the contrary, Surendra Kumar had accepted in para 2 of his statement that the respondents did not abuse the witness Ram Kumar or anyone, who went to talk with the respondents. Surendra Kumar who was also the cousin of the applicant could not know the reason as to why the applicant was residing in her father's house. If the applicant was harassed by the respondents or dealt with cruelty for demand of dowry or otherwise then, such fact should be in the knowledge of the witness Surendra Kumar. The ignorance shown by the witness Surendra Kumar indicates that such allegation relating to cruelty etc. are hypothetical and therefore, could not be established.

8. The applicant Sadhna has also accepted that she had moved an application under Section 9 of the Hindu Marriage Act, which was duly rejected by the concerned Court, whereas her father Bhulelal had shown his ignorance that such an application was moved by his daughter, the applicant. Under such circumstances, looking to the conduct of the complainant/applicant that she never

informed about dowry demand or cruelty to her father and brothers in those 11 months when such alleged cruelty was done with her. She never informed her father about the dowry demand etc. She could not prove that she was dropped to the house of her father by her mother-in-law. She could not state any reason as to why no action for reconciliation was done in 13 months of leaving the house of the respondent. No reason of delay has been shown by the complainant as to why the FIR was lodged after 13 months. If the respondents were taking the complainant at cruelty due to dowry demand or otherwise then, either the complainant would have lodged the FIR within the reasonable period of the incident or reconciliation would have been initiated by her relatives. Under such circumstances, looking to the conduct of the complainant her allegations appear to be false and it was not proved beyond doubt that the respondents No.1, 2 and 3 dealt her with cruelty due to any reason including dowry demand. Hence, the learned JMFC has rightly acquitted the respondents No.1 to 3 from the charges of offence under Section 498-A of IPC. There is no illegality or perversity visible in the judgment passed by the learned JMFC in acquitting the respondents No.1 to 3 and therefore, there is no reason, so that any interference can be done in the impugned judgment, by way of a revision. Consequently, the revision cannot be accepted. Hence, it is hereby dismissed. No order as to costs.

9. A copy of the order be sent to the trial Court alongwith its record for information and compliance.

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