

Basant Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Jan-14-1999

Reported in : II(1999)DMC398

Judge : S.P. Khare, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 307 and 498A

Appeal No. : Criminal Appeal No. 1158 of 1996

Appellant : Basant

Respondent : State of M.P.

Advocate for Def. : P.C. Jain, Panel Lawyer

Advocate for Pet/Ap. : Narendra Sharma, Adv.

Disposition : Appeal allowed

Judgement :

S.P. Khare, J.

1. Appellant Basant has been convicted under Section 498A, Indian Penal Code for treating his wife Jaswantabai with cruelty and he has been sentenced to rigorous imprisonment for three years and to a fine of Rs. 1,000/-.

2. Smt. Jaswantabai and appellant Basant have filed a petition stating therein that they want to compromise this matter. Section 498A, IPC is non-compoundable and, therefore, permission to compound the offence cannot be given.

3. On a perusal of judgment of the Trial Court it is found that it is wholly unsustainable. The police had filed a charge-sheet under Section 307, IPC against Jaswantabai on the ground that she jumped into the Well with her two minor children. She has been acquitted of that charge. In this charge-sheet the husband was also impleaded as accused. The wife has not made any complaint against her husband. She has also not appeared as a witness against him. Therefore, in the absence of any evidence regarding the cruelty to the wife by the husband, there can be no conviction under Section 498A, Indian Penal Code..

4. This appeal is allowed. The conviction and sentence of appellant Basant are set aside. The fine amount, if deposited, be refunded to the appellant.

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