

Rishiram Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Jan-20-1995

Reported in : I(1995)DMC558

Judge : N.P. Singh, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 304B, 306 and 498A

Appeal No. : Criminal Appeal No. 1097 of 1990

Appellant : Rishiram

Respondent : State of M.P.

Advocate for Def. : R.K. Khare, Gov. Adv.

Advocate for Pet/Ap. : S.C. Datta, Adv.

Disposition : Appeal allowed

Judgement :

N.P. Singh. J.

1. The appellant was tried for the offence under Sections 304B and 306 of the IPC by the Sessions Judge. Betul in Sessions Trial No. 78/89, on the allegation that he had subjected his wife to harassment and torture to bring more dowry, as a result of which she committed suicide by burning herself. The appellant was acquitted of

the charge under Sections 304B and 306 of the IPC but he was convicted for the offence punishable under Section 498A of the IPC and sentenced to undergo R.I. for 2 years and to pay fine of Rs. 2000/- in default to undergo R.I. for further 3 months.

2. Shri S.C. Datta Learned Counsel for the appellant has contended that there is no legal evidence to sustain the conviction of the appellant. The appellant has been convicted on mere conjecture and surmises. There is no evidence of PWs on the record to prove that there was any demand of dowry by the appellant and the deceased was subjected to cruelty and harassment by the appellant for not bringing the dowry.

3. The prosecution examined in all 9 witnesses at the trial. Out of them PW 5 is the brother of the deceased, PW 7 is the Aunt of the deceased and PW 8 is the mother of the deceased. Out of these 8 witnesses, PW 8 the mother of the deceased has deposed that after the marriage of the deceased with the appellant there was some demand of dowry in the beginning, which she had fulfilled.

4. The prosecution has also not led any evidence that the deceased was subjected to mental and physical torture by the appellant for not bringing the dowry.

5. On perusal, of the evidence Ex. P. 4 dated 12.10.84, it appears that the deceased and the appellant had dissolved their marriage by mutual consent of divorce, but they again re-united and started living as husband and wife.

6. It is evident, on perusal of Ex. P. 23 that the deceased had made up her mind to commit suicide, and she was in habit of writing suicidal notes. She however, admitted her mistake for giving talak, before the Panch on 3.2.85, and had agreed to live with the appellant as his wife.

7. On perusal of the evidence available on the record, it is obvious that no offence under Section 498A IPC is made out against the appellant, therefore, the conviction and sentence of the appellant cannot be sustained. Accordingly it is set-aside. In the result, the appeal is allowed.

