

Rajkumar Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Feb-13-1995

Reported in : I(1995)DMC577

Judge : N.P. Singh, J.

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

Appeal No. : Crl. Appeal No. 712 of 1992

Appellant : Rajkumar

Respondent : State of M.P.

Advocate for Def. : None

Advocate for Pet/Ap. : S.K. Verma, Adv.

Judgement :

N.P. Singh, J.

1. The appellant alongwith three others were prosecuted for the offences under Sections 306 and 498A of the Indian Penal Code before the Sessions Judge, Sehore in Sessions Trial No. 44 of 1990 of the allegation that the deceased committed suicide by hanging herself with the ceiling of the house on 6.9.1989 at the house of the appellant/husband on account of cruelty and harassment

subjected to her for not bringing desired demand of dowry.

2. The appellant was convicted under Sections 306 and 498A of the Indian Penal Code and was sentenced to undergo R.I. for seven years under Section 306 and three years under Section 498 of the Indian Penal Code while other co-accused were acquitted.

3. On a written report (Ex. P-1) submitted by Ramdayal (PW-1) father of the deceased F.I. R. (Ex. P-14) was recorded by A.S.I. Shri R.S. Chaudawat (PW-17) and a case was registered and the investigation proceeded.

4. After the charge-sheet, cognizance and the commitment the case came up for disposal before the Sessions Judge, Sehore.

5. The defence was innocence and false implication.

6. The prosecution examined in all 17 witnesses at the Trial, out of whom PW-1 Ramdayal is the father of the deceased, P-W2 Shantibai is the mother and P-W3 Ashok is the brother of the deceased, PW-4 Manohar, PW-6 Chandumiya, PW-7 Munnemiya, PW-8 Constable Devilai, PW-9 Constable Rambharose PW-10 Constable Asharam, PW-11 Chamanlal, PW-12 Leeladhar, PW-13 ASI Abdul Mazid Khan, and PW-16 Rakesh Kumar are all formal witnesses PW-5 Dr. A.B. Niyazi had held autopsy on the dead body of the deceased and has proved post mortem report (Ex. P-5). PW-14 Beniprasad is the neighbour of the appellant, who has deposed that there was always quarrel in the house of the appellant with the deceased. PW-15 Suil Kumar Gupta has proved the report (Ex. P-12) of the F.S.L. and PW-17 R.S. Chudawat is the I.O. of this case.

7. The deceased committed suicide by hanging herself at the house of the appellant is not disputed and denied by the defence. PW-1 Ramdayal, PW-2 Shantibai; PW-3 Ashok who are parents and brother of the deceased and PW-14 Beniprasad, neighbour of the appellant are the only material witnesses in this case.

8. On perusal of the evidence of PW-1, 2 and 3 there is nothing that there was any demand of dowry by the appellant or his parents. The prosecution has also not led

any evidence that the appellant had abetted, aided or instigated the deceased to commit suicide, therefore, the ingredient of the offence under Section 306 of the Indian Penal Code is not established. The conviction and sentence of the appellant for the offence under Section 306 of the Indian Penal Code cannot be sustained. Accordingly they are set aside.

9. However, offence under Section 498A of the Indian Penal Code is clearly made out on the basis of the evidence of PW-8 Ramdayal, PW-2 Shantibai, PW-3 Ashok and PW-14 Beniprasad that the deceased was subjected to cruelty and harassment by the appellant. The conviction and sentence of the appellant under Section 498A of the Indian Penal Code does not suffer from any legal infirmity. Accordingly they are upheld.

10. For the reasons mentioned aforesaid, the appeal is allowed in part.

Appeal partly allowed.

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