

Ramesh Kumar and ors. Vs. State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : May-10-2000

Reported in : I(2001)DMC67

Judge : S.P. Khare, J.

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

Appeal No. : Criminal Appeal No. 3124 of 1998

Appellant : Ramesh Kumar and ors.

Respondent : State of Madhya Pradesh

Advocate for Def. : S.K. Rai, Panel Lawyer

Advocate for Pet/Ap. : Om Prakash Singh, Adv.

Disposition : Appeal allowed

Judgement :

S.P. Khare, J.

1. The appellants have been convicted under Sections 498A and 306, I.P.C. and sentenced to rigorous imprisonment for two years and seven years respectively. They have also been sentenced to pay a fine of Rs. 500/- each for the first offence and Rs. 1,000/- each for the second offence.

2. Deceased Saraswati Bai was wife of Manrakhan (P.W. 6). Accused Ramesh is his brother. Accused Ramwati is wife of Ramesh. Accused Sushila Bai is wife of another brother of Manrakhan (P.W. 6). Accused Mayaram and Bhag Bai are his parents. Accused Beniram is father of Ramwati.

3. A gruesome incident took place in the house of Saraswati Bai in village Chhatod on 18.2.1998 at 9.00 p.m. Not only she set herself on fire but at the same time she poured kerosene on her three children and set them ablaze. All the four have died. Saraswati Bai was admitted in the Mission Hospital at Tilda on 18.2.1998. Her dying declaration was recorded by Baleshwar Ram (P.W. 32) on 19.2.1998 at 1.10 a.m., that is Ex. P/47. Saraswati Bai was then shifted from Tilda to Bhilai Hospital. On 20.2.1998 at 8.00 p.m. another dying declaration of Saraswati Bai was recorded by S.R. Mandai (P.W. 26), Naib Tahsildar and Executive Magistrate, Durg. It was done at Bhilai Hospital. There is no dispute that Saraswati Bai committed suicide.

4. The question is whether the appellants treated deceased Saraswati Bai with cruelty and abetted the commission of suicide by her. On this point the two dying declarations of the deceased have been pressed into service by the prosecution. After going through the judgment of the Trial Court and the evidence on record, this Court is of the opinion that the rest of the material is a heap of scrap.

5. The dying declaration (Ex. P/47) recorded on 19.2.1998 is as under :

'xxx xxx xxx xxx xxx xxx'

6. A close scrutiny of the two dying declarations shows that there used to be a quarrel between Saraswati Bai and other family members. There were abuses and exchange of hot words from both the sides. The deceased herself was hot-tempered. She used to get angry. The very fact that she poured kerosene on her three children and set them ablaze shows the type of woman she was. She was definitely of low tolerance. She has clearly stated in her dying declaration that she set herself on fire when she was raging with anger. The dying declarations show that there was quarrel between Jethani and Devranis. That is the usual feature amongst the persons belonging to the social and economic status to which the

parties belong. In the first dying declaration (Ex. P/47) it is mentioned that accused Ramesh Kumar had hurled 2-3 Chappal blows on her. In the dying declaration (Ex. P/37) it has been stated that accused Beniram threatened to beat her and caused injury to her. That is conspicuously absent in the dying declaration Ex. P/47. In the statement the only allegation attributed to accused Beniram is that there was a quarrel between him and Saraswati Bai. In Ex. P/37 it has been stated at the end that the accused persons used to quarrel in the past also. That is missing from the earlier dying declaration Ex. P/47.

7. After considering the two dying declarations of the deceased this Court is of the opinion that the conduct of the accused persons was not of such a nature which could drive the deceased to commit suicide. It was not of sufficient gravity. It appears that the deceased lost her mental equilibrium and self-control because she was filled with anger. There was no grave and serious provocation by the appellants. They cannot be held liable for the unusual and extreme step taken by the deceased.

8. The Supreme Court has observed in *State of West Bengal v. Orilal Jaiswal*, AIR 1994 SC 1418=I (1994) DMC 138 (SC)=IV 1993) CCR 393 (SC), 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 transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance discord and differences in domestic life quite common to the society to which the victim belonged and such petulance discord and differences 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. In the present case, on a dispassionate consideration of the material on record it is found that the charges against the appellants are not established. As mentioned above the deceased had lost her normal frame of mind and being overcome by unusual psychic imbalance, decided to end her life by committing suicide. The alleged acts of cruelty on the part of the appellants were of not such a nature which could drive a normal woman to commit

suicide.

9. The appeal is allowed. The conviction and sentence are set aside and the appellants are acquitted of the charges under Sections 498A and 306, I.P.C.

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