

the State (Nct of Delhi) Vs. Devender Singh and Ors

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Court : Delhi

Decided On : Dec-09-2014

Judge : Mukta Gupta

Appellant : the State (Nct of Delhi)

Respondent : Devender Singh and Ors

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI % Date of decision: December 09, 2014 + CRL.L.P. 728/2014 THE STATE (NCT OF DELHI) Represented by: Petitioner Ms.Aashaa Tiwari, APP for the State versus DEVENDER SINGH & ORS Represented by: Respondents None. CORAM: HON'BLE MR. JUSTICE PRADEEP NANDRAJOG HON'BLE MS. JUSTICE MUKTA GUPTA MUKTA GUPTA, J.

(ORAL) CrI.M.A.No.19083/2014 (Exemption) Allowed. CrI.M.A.No.19082/2014 (Delay) For the reasons stated in the application 27 days delay in filing leave to appeal petition is condoned. CRL.L.P. 728/2014 1. The State seeks leave to appeal against the judgment dated July 30, 2014 whereby the respondents who are the mother-in-law, father-in-law, brothers-in-law and sister-in-law have been acquitted of the charges levelled against them. Mukesh, the husband of the complainant Sarita died during the trial and thus proceedings qua him abated.

2. On March 20, 2008 at 11.32 PM an information was received at PS Narela with regard to admission of Sarita at Reena Hospital vide DD No.41A. The lady gave history of consumption of All Out. SI Mahipal Singh who reached the hospital along with Constable Naresh found Sarita unfit for statement. Later another information was received from Prashant Nursing Home on March 21, 2008 informing that callers daughter had been poisoned by her-in-laws. On March 22, 2008 Sarita was declared fit for statement. Statements of Sarita and her father Mahavir Singh were recorded by SDM on March 23, 2008. Sarita stated to the SDM that she was married to Mukesh on February 13, 2005 wherein her father spent around `10 to 12 lakhs. Mukesh, her husband and Devender, her father-in-law demanded dowry since the day of marriage. Mukesh demanded `4-5 lakhs from her father in April, 2006 but her father gave them only `1 lakh. She also alleged that her jewellery had been retained. She further stated that on March 20, 2008 at about 10.30 PM Dalbir, Tarif, Ashok Kumar, Devender, Sukhwanti and Mukesh put poisonous substance in her mouth forcibly due to which she became unconscious. Her father Mahavir Singh reiterated the version of his daughter and hence charge sheet was filed against the accused and charge under Sections 406/498A/307/34 IPC were framed against them.

3. During the course of trial prosecution examined 21 witnesses, however, no defence witness was examined but the counsel tendered in evidence the receipt Ex.D1 wherein all the jewellery articles had been returned by Devender Singh. The learned Trial Court held that from the evidence on record it was found that the complainant was living alone with her husband separately from her in-laws at rented house No.164-D in Keshav Puram, Lawrence Road. The brothers-in-law, Dalbir, Tarif, Ashok Kumar and Neelam wife of Ashok Kumar were all living separately. The mother-in-law and the father-in-law were also living separately. According to the learned Trial Court the version of Sarita who assigned specific roles to each accused by deposing that her left hand was caught by Devender, right hand by Ashok Kumar, her father-in-law closed her nostrils, her husband had closed her mouth and mother-in-law put the poisonous substance in her mouth cannot be relied upon as this was a material improvement from her earlier statement. Moreover when she reached the hospital and was conscious to make the statement, the history given by her was consumption of All Out. Moreover, the

name of Neelam did not even appear even in the improved statement. Dr.Naresh More, PW-17 who prepared the MLC of Sarita appeared in the witness box deposed that consumption of All Out liquid was told to him by the patient herself. He further deposed that he had never read or saw any person dying from the consumption of All Out liquid as it was not a very toxic material.

4. As regards the entrustment of articles Sarita deposed that on August 14, 2006 when a panchayat was convened at the house of Devender Singh at Sonapat, it was decided that Sarita and her husband would live together at rented house No.164-D in Keshav Puram, Lawrence Road and for that purpose Mukesh would come to her parental home to take her. Further the accused Dalbir and Ashok took all her dowry articles lying at Narela on April 08, 2008 itself and placed at her rented house at Lawrence Road. There were repeated letters by Sukhwanti and Devender for taking into possession the remaining dowry articles of the complainant as well. Thus, the Court came to the conclusion that there were no intention to misappropriate the dowry articles and hence the ingredients of Section 406 IPC were not made out.

5. As regards the allegations under Section 498A the learned Trial Court considered the letter exhibited by Sarita which she had written to her father and found strange that facts which occurred in the presence of her father were also noted in those letters. Thus, on the analysis of the said letters the Court came to the conclusion that the same were required to be ignored and we find no reason to differ with the said opinion. Though the complainant relied upon the tuition fees receipt of `50,000/- issued by Tika Ram Girls College for admission to B.P.Ed course however, the same did not prove that the payment of the fee was done by the father of the complainant. Sarita also alleged that on March 02, 2005 her married sister-in-law Santosh, gave a danda blow due to which her nose was fractured and she was treated at Narela till March 08, 2005. However, this incident was not stated by her in her statement on the basis of which FIR was registered and the Court found material improvements on this aspect. Thus the Trial Court held that the prosecution could not prove the offence under Section 498A IPC as well against the respondents.

6. The grievance of Sarita qua Mukesh principally was of his having illicit affair with one Chanchal and she relied upon some photographs to show that her husband Mukesh had gone to Agra to see Taj Mahal in company of Chanchal though the learned Trial Court has not considered this aspect as the negatives were not proved however, the same is immaterial as Mukesh had already died and proceedings qua him have already abated. Further the grievance that Mukesh had transferred his properties in the name of his family members for no consideration was also rejected as the documents itself showed that consideration from this transaction had flowed to Mukesh.

7. Thus the Court came to the conclusion that the prosecution has failed to prove the charges under Sections 307/406/498A/34 IPC against the accused and we find no perversity much less any illegality in the said decision.

8. Consequently, the leave to appeal is declined and the petition is dismissed.
(MUKTA GUPTA) JUDGE (PRADEEP NANDRAJOG) JUDGE DECEMBER09
2014 vn

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