

Ramesh Chandra Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Jul-29-1997

Reported in : II(1998)DMC662; 1997(3)WLC516; 1997(2)WLN172

Judge : Mohd. Yamin, J.

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

Appeal No. : Crl. Misc. Petition No. 394 of 1996

Appellant : Ramesh Chandra

Respondent : State of Rajasthan

Advocate for Def. : Pradeep Shah, Adv. for Respondent No. 2. and; D.R. Bohra, P.P.

Advocate for Pet/Ap. : Manish Shishodia, Adv.

Disposition : Petition dismissed

Judgement :

Mohd. Yamin, J.

1. This is a petition under Section 482, Criminal Procedure Code against the order dated 30.1.1996 passed by the learned Sessions Judge, Rajsamand in Cr. Regular Case No. 14/96 pending in the Court of the Chief Judicial Magistrate,

Rajsamand.

2. I have heard learned Counsel for the petitioner as well as Counsel for non-petitioner No. 2 Smt. Tamu Bai and the learned Public Prosecutor.

3. Facts may be briefly stated. Smt. Lila was admitted in General Hospital, Udaipur and she gave statement to the Station House Officer, Rajsamand on 10.1.1994 to the effect that she was married to Madhav Lal and was happy living with him. Smt. Tamu Bai was her mother-in-law. She used to harass her and even gave beatings on account of household chores. She decided to live separately in the same house. On 15.1.1994 when she was cooking vegetables in kitchen, she poured kerosene oil from the stove and burnt herself. After investigation challan was presented under Sections 306 and 498A of Indian Penal Code. The case was committed to the learned Sessions Judge and after hearing arguments on charge, he discharged the petitioner from the offence under Section 306, Indian Penal Code but found that a case under Section 498A, Indian Penal Code was made out against the petitioner. He therefore passed an order under Section 228, Criminal Procedure Code and remitted the case to the Chief Judicial Magistrate, Rajsamand to try Tamu Bai under Section 498A, Indian Penal Code. Ramesh Chandra, brother of Lila, submitted this petition under Section 482, Criminal Procedure Code. Counsel - the petitioner submitted that the learned Sessions Judge committed an error discharging Tamu Bai from the offence of Section 306, Indian Penal Code. It is so submitted that the learned Sessions Judge has not correctly appreciated, the ruling relied by him, 1995 Supp. (3) SCC 731, Mahendra Singh & Anr. v. State of M.P., is not applicable. In this citation, the deceased committed suicide and her dying declaration reads as follows :

'My mother-in-law and husband and sister-in-law (husband's elder brother's wife) harassed me. They beat me and abused me. My husband Mahendra wants to marry a second time. He has illicit connections with my sister-in-law. Because of these reasons and being harassed I want to die by burning.'

4. In this citation word 'abetment' as used in Section 107, Indian Penal Code has been considered to mean that a person abets the doing of a thing who firstly instigates any person to do a thing, or secondly, engages with one or more other

person or persons in any conspiracy for the doing of that thing. If an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing, or thirdly, intentionally aids, by any act or illegal omission, the doing of that thing. The dying declaration was considered keeping in view of this provision. It was held that neither of the ingredients of abetment are attracted on the statement of the deceased. Therefore, the accused appellant was acquitted from the offence under Section 306, Indian Penal Code. Learned Counsel for the petitioner submitted that statement of Smt. Lila which comes within the definition of dying declaration is that her mother-in-law used to abuse her and her parents every day and quarrelled, she was not in a position to do agricultural work. She was married 8 years ago. She used to do agricultural work for two or two and a half years. Thereafter she stopped doing so. Her mother-in-law was not happy. On the day of incident her mother-in-law abused her parents which she could not tolerate, therefore, she poured kerosene oil on herself and burnt.

5. There appears to be no cause other than this for committing suicide by Smt. Lila on that day. Learned Counsel for the non-petitioner cited *Manish Kumar Sharma v. State of Rajasthan*, 1994 (2) Page 69, wherein it was alleged that on the evening of 22.5.1993, Kusum Devi and Anil were taking their meals on the roof of the house when the accused petitioner came. His house was adjoining to the house of Smt. Kusum. He demanded back his money and uttered the following words :

'xxx xxx xxx xxx xxx xxx xxx'

It was not sufficient incitement to compel suicide, and charge was quashed.

7. Applying these citations to the facts of the case in hand, I am of the view that Smt. Lila might be more abnormally sentimental and therefore could not bear the tens on. Tamu Bai cannot be held liable for offence under Section 306, Indian Penal Code and the learned Sessions Judge was right in discharging her. It is a fit case in which no interference is required. Consequently, the petition is dismissed.