

State of Rajasthan Vs. Chhagan Lal

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Court : Rajasthan

Decided On : Oct-29-1999

Reported in : II(2000)DMC700; 2000(2)WLC191; 2000(2)WLN70

Judge : B.J. Shethna, J.

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

Appeal No. : Crl. Leave to Appeal No. 218 of 1999

Appellant : State of Rajasthan

Respondent : Chhagan Lal

Advocate for Def. : None

Advocate for Pet/Ap. : R.K. Soni, P.P.

Disposition : Appeal dismissed

Judgement :

B.J. Shethna, J.

1. Learned Public Prosecutor Mr. Soni submitted that the learned trial Judge committed an error in acquitting the accused-husband for the offence punishable under Sections 306, 498A, I.P.C. He submitted that dying declaration of Sayari wife of accused Chhagan LaL was sufficient to convict the accused.

2. It is true that in her dying declaration, she had stated that since their marriage, her husband was continuously beating her and torturing her and telling that she had paramour, therefore, in the morning at about 6.30 a.m. she poured kerosene on her and burnt herself. However, this statement does not bear signature of the deceased. The reason given was that she was fully burnt and could not even put up her thumb impression. From that so-called dying declaration, it also appears that 15 years have passed after their marriage and out of their wedlock they got two sons and one daughter. If her husband was really torturing her right from the day one of their marriage then it would not have been possible. The learned Judge was very much right in observing that if she was harassed and beaten for all these 15 years then she would have atleast informed somebody about this type of ill-treatment meted out to her by her husband. That apart, it has come on record that real dispute between the accused-husband and deceased wife was that wife wanted to go and stay with her husband, who was serving at Gujarat, whereas, the husband wanted his wife to stay at village for sometime more. It is also clear that just a day before the incident accused Chhagan Lal came from Gujarat and she insisted that she will go with him to Gujarat, but the accused refused. This seems to be the real reason that in the early morning she committed suicide. If the accused had any other intention then he would not have immediately took his wife to the hospital and made an attempt to save her. The conduct of the accused was also natural.

3. Having regard to all these, if the learned Judge thought it fit to give benefit of doubt to the accused then certainly this Court will not interfere with such order of acquittal.

4. In view of the above discussion, leave refused appeal dismissed.