

State Vs. Dhruv Kumar Singh

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Court : Rajasthan

Decided On : Oct-12-2001

Reported in : 2002CriLJ1315; II(2002)DMC761

Judge : Sunil Kumar Garg, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 406 and 498A; [Hindu Marriage Act, 1955](#) - Sections 9

Appeal No. : Crl. A. No. 491 of 2000

Appellant : State

Respondent : Dhruv Kumar Singh

Advocate for Def. : P.R. Chaudhary, Adv.

Advocate for Pet/Ap. : Mahipal Bishnoi, P.P.

Disposition : Appeal dismissed

Judgement :

Sunil Kumar Garg, J.

1. This appeal has been filed by the State of Rajasthan against the judgment and order dated 21.4.2000 passed by the learned Additional Chief Judicial Magistrate No. 1, Jodhpur in Criminal Case No. 384/1992 by which the learned Judicial

Magistrate acquitted the accused-respondents for the offence under Sections 498A and 406, I.P.C.

2. This appeal arises in the following circumstances :

(i) That on 23.8.1992 P.W. 1 Rajshri lodged a written report Ex. P/I before Police Station, Shastri Nagar, Jodhpur stating that she was married with the accused-respondent No. 1 Dhruv Kumar Singh on 21.2.1985 at Jodhpur and thereafter she went to the house of her husband at Lucknow for living with him as he was working there and after marriage behaviour of her husband with her was good, but thereafter after some time, he started harassing her for demand of dowry. It was further stated in the report that sister of her husband was married to the brother of P.W. 1 Rajshri and she is accused-respondent No. 2 Smt. Vidhya Devi. It is further stated in the report that the accused-respondent No. 2 Smt. Vidhya Devi also started pursuing her brother against her. When her mother sold the plot, the accused-respondent No. 1 Dhruv Kumar asked her to bring her share and started beating her for not bringing Rs. 50,000/-. It was also alleged that whenever Smt. Vidhya Devi used to come to Lucknow, she used to motivate her husband against her. She was also called 'Kali' and accused respondents told her that she was not beautiful. Threat to her life was also given. She came to Jodhpur in the year 1989 and in the year 1990, the accused-respondent No. 1 filed a suit for divorce in the Family Court at Lucknow. That suit at Lucknow is still pending and the Judge, Family Court at Lucknow asked the complainant P.W. 1 Rajshri that she should live forcibly in the house of her husband and thereafter she went on 21.5.992 to her husband's house at Lucknow, but her husband accused-respondent No. 1 abused her and threatened her for grave consequences and she was ousted from the house. Thus, behaviour of her husband accused-respondent No. 1 was not cordial one and she was treated in cruel manner.

3. That on this report police registered a case and started investigation.

4. After usual investigation, police filed challan against the accused-respondents in the Court of Magistrate for offence under Sections 498A and 406, I.P.C.

5. On 22.1.1994, the learned Additional Chief Judicial Magistrate framed charges for offences under Sections 498-A and 406, I.P.C. against the accused-respondents. Both pleaded not guilty and claimed trial.

6. During trial, five witnesses were produced on behalf of the prosecution and statements of accused-respondents were recorded under Section 313, Cr. P.C. and accused-respondent No. 1 Dhruv Kumar himself appeared as defence witness.

7. The learned Judicial Magistrate vide judgment and order dated 21.4.2000 acquitted the accused-respondents for the offences charged against them inter alia holding :

(i) That the present complaint Ex. P/1 was filed after suit of divorce was filed by the accused respondent No. 1 in the Family Court at Lucknow.

(ii) In that divorce suit, reply was filed by the complaint P.W. 1 Rajshri, but in that reply, no allegation of cruelty or maltreatment was alleged by the complainant P.W. 1 Rajshri.

(iii) That the explanation that she did not mention the fact of cruelty in that reply on the ground that she was advised by the Judge, Family Court that compromise will take place was not found favour with the learned Additional Chief Judicial Magistrate.

(iv) That the fact that no complaint was made since 1985 to 1992 clearly goes to show that nothing sort of incidents as mentioned in the complaint Ex. P/1 happened and, thus, he acquitted the accused respondents for offence under Sections 498-A and 406, I.P.C.

8. Aggrieved from the said judgment and order dated 2.14.2000, this appeal has been filed by the State.

9. In this appeal, it has been argued on behalf of the State that the findings of learned Judicial Magistrate by which he acquitted the accused respondents for offence under Sections 498-A and 406, I.P.C. are erroneous one as they are

contrary to the evidence by the prosecution and furthermore non-mentioning of allegations of cruelty etc. in the reply to the divorce petition cannot be regarded as fatal to the present case and, thus, the State appeal be allowed and the accused respondents be convicted for the offences charged against them.

10. On the other hand, the learned Counsel for the respondents submits that the judgment of the Trial Court is based on correct appreciation of evidence and, thus, the State appeal is liable to be dismissed.

11. I have heard both and perused the record.

12. In my opinion after perusing the judgment and evidence on record, it does not appear that the learned Judicial Magistrate has committed any illegality as the findings of acquittal which have been recorded by the learned Judicial Magistrate are based on correct appreciation of evidence.

13. The marriage between the parties took place in the year 1985 and from the statement of P.W. 1 Rajshri it is also clear that the present complaint was filed the suit or divorce was filed by the accused-respondent No. 1 Dhruv Kumar and she has also admitted that the divorce petition has been decreed and their marriage has been dissolved. She has further stated that she filed an application under Section 9 of the Hindu Marriage Act for reconciliation of marriage and the same was also rejected by the Family Court, Jodhpur by order dated 1.10.1994 and in that order it was specifically held by the learned Judge, Family Court that since decree of divorce between the parties has been passed on 26.5.1994, therefore, no question arises for reconciliation of marriage. P.W. 1 Rajshri has further admitted that she is living now for long time with her mother. Therefore, these all are facts which further go to show that no case for offence under Sections 498-A and 406, I.P.C. can be held to be proved against the accused-respondents.

14. In these circumstances, the findings (of) acquittal recorded by the learned Additional Chief Judicial Magistrate appear to be correct one as they are based on correct appreciation of evidence and I see no reason to dissent from the findings arrived at by the learned Additional Chief Judicial Magistrate by which he acquitted the accused-respondents for offence under Sections 498A and 406, I.P.C.

Therefore, judgment and order dated 21.4.2000 passed by the learned Additional Chief Judicial Magistrate No. 1, Jodhpur do not require any interference of this Court and the order of acquittal is liable to be confirmed and the State appeal is liable to be dismissed.

Accordingly, the present State appeal is dismissed after confirming the judgment and order date 21.4.2000 passed by learned Additional Chief Judicial Magistrate No. 1, Jodhpur in Criminal Case No. 384/1992.

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