

Krishna Lal Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Sep-06-2001

Reported in : 2002(3)WLN301

Judge : Jagat Singh, J.

Appeal No. : S.B. Criminal Jail Appeal No. 286 of 2000

Appellant : Krishna Lal

Respondent : State of Rajasthan

Judgement :

Jagat Singh, J.

1. Accused appellant Krishna Lal filed this appeal from jail assailing the conviction and sentence dated 23.5.2000 by which learned Special Additional Sessions Judge .(Atrocities to women and dowry cases), Sriganganagar in Sessions Case No. 244/97 convicted him Under Section 498A I.P.C. and awarded one year's rigorous imprisonment with a fine of Rs. 500/- Similarly he was also convicted Under Section 307 I.P.C. and awarded seven years rigorous imprisonment alongwith fine of Rs. 1000/-

2. Mr. B.L. Khatri has been appointed as amicus curiae. I have heard at length Mr. Khatri as also learned Public Prosecutor and have perused not only the impugned

judgment but also the evidence available in the file.

3. Though PW-1 Roshni was sprinkled kerosene oil by her husband and set to fire on 16.2.1995 yet F.I.R. Ex. P/I was lodged by her father PW-2 Ramlal on 26.2.1995. Thereafter Roshni was medically examined by PW-6 Dr. B.M. Sharma vide Ex. P/10 and thereafter usual investigation not only accused appellant but his other relatives were also charged and challaned under the above offences by the court below. Upon their pleading not guilty and claiming trial prosecution examined six witnesses and exhibited ten documents.

4. In statement Under Section 313 Cr.P.C. accused appellant denied all the incriminating evidence appearing against him and pleaded not guilty. In defence DW-1 Nand Ram was examined. Thereafter the learned trial court after threadbare discussion of the evidence gave benefit of doubt to remaining accused persons and acquitted then however appellant was convicted and sentenced as stated above.

5. The first submission of the learned amicus curiae was that the F.I.R. was delayed by ten days and no reasonable explanation has been given either in the F.I.R. Ex. P/I or in the evidence before the trial court. I am not convinced with this argument because admittedly on the day of occurrence PW-1 Roshni was residing in the house of the appellant as his wife and could not come out of the house against their wishes. When PW-2 Ramlal, father of the girl, came to know of the incident he reported the matter immediately to the police. On the above point not only PW-1 Roshni but also PW-2 Ramlal have been cross-examined at length and they have stated in unison that Roshni was not permitted to leave the house by the inlaws and therefore, neither she was given treatment of her burn injuries nor she was permitted to lodge the report. The learned trial court has rightly appreciated this aspect of the evidence and have turned down. In my view also the delay so caused in lodging the F.I.R. has been sufficiently explained.

6. Another submission of the learned amicus curiae was that Roshni married for the three time with the accused appellant. Families of both the parties are not well to do but are earning their daily wages to keep the wolf out. In such a situation there could be no question of demand of dowry nor the same was ever paid either

at the time of marriage or thereafter. Though the learned trial court has dealt this matter at length but could not appreciate it in right perspective because neither specific date of demand of dowry nor the place and time and the person in whose presence the alleged demand was made was stated by any of the prosecution witnesses in the trial court nor there was consistency in the testimony of PW-1 Roshni and her father PW-2 Ramlal. Even PW-5 Sahiram Investigating Officer has not corroborated the version of demand of dowry. Therefore, the learned trial court simply on the conjectures and surmises has held the accused appellant guilty Under Section 498-A I.P.C. When other co-accused have been given benefit to doubt why not on the same testimony as far as demand of dowry was concerned the benefit of doubt could be given to the accused appellant is beyond imagination. However, in my view the offence Under Section 498-A I.P.C. does not stand proved beyond reasonable doubt, therefore. I acquit him of this charge and set aside the conviction and sentence passed by the trial court Under Section 498-A I.P.C.

7. So far as conviction and sentence awarded Under Section 307 I.P.C. is concerned, the testimony of PW-1 Roshni and PW-2 Ramlal is not corroborated by medical evidence of PW-6 Dr. B.M. Sharma who examined Roshni on 25.2.1995 and found deep and superficial burn injuries which were at healing stage having scab over it. There was scaling over chest, anterior, abdomen and neck also. With regard to nature of injuries the medical officer was not very much sure, therefore, he has placed question mark in column No. 4 of injury report Ex. P/10. In the court testimony also PW-6 Dr. B.M. Sharma has not stated that injury found on the person of Roshni was grievous in nature or dangerous to life. Therefore, simply because PW-1 Roshni and PW-2 Ramlal have stated that with the intention to kill Roshni the kerosene oil was sprinkled over Roshni by her husband and set to fire is not tenable.

8. The possibility of sprinkling kerosene oil by Roshni herself upon her cannot be ruled out because there were material and significant contradictions on the testimony of PW-1 Roshni and PW-2 Ramlal as she has contradicted her police statement Ex.D/3 and so called dying declaration Ex.D/1 and D/2 in material particulars. She has falsely implicated her Jeth, Jethani and mother-in-law who

have been given benefit of doubt, There were many omissions amounting to contradictions in her previous statement Ex. D/1 and D/3 she had made significant improvements in court testimony yet the trial court has held her of sterling worth.

9. PW-2 Ramlal was not an eye witness to the occurrence. He has stated in the court what was told to him by his daughter. Therefore, the testimony of PW-2 Ramlal was based on hear say and was not to be relied upon. There is no other evidence corroborating the testimony of PW-1 Roshni and PW-2 Ramlal. Even PW-5 Sahi Ram Station House Officer has admitted in cross-examination that Nandram, Rajendra Shankarlal alias Amarnath and Kripa Ram were also examined by him but their statements recorded Under Sections 161 Cr.P.C. were not placed on the file because all these witnesses have stated that Roshni herself sprinkled kerosene oil on her and set on fire. When there were witnesses in the vicinity of the place of occurrence deposing contrary to the prosecution version, their testimony should have been placed on the file. It may seem that Station House Officer has also not conducted the investigation fairly. Be that as it may the fact that five witnesses of the vicinity of occurrence have supported the defence version that Roshni herself sprinkled kerosene and set her on fire cannot be said to be a figment of imagination.

10. All these factors have not been appreciated by the trial court who seems to have been led away by the fact that PW-1 Roshni and PW-2 Ramlal received burn injuries in her husband's house. Be that as it may, unless and until an offence is proved beyond reasonable doubt nobody can be convicted on the basis of conjectures and surmises.

11. Consequently, there is no merit in the impugned judgment. I accept this appeal, set aside the same and acquit the accused appellant of all the charges. He is in custody, be released forthwith, if not required in any other matter.