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LAXMAN RAM MANE

v.

STATE OF MAHARASHTRA  
(Criminal Appeal No. 19 of 2005)

B

OCTOBER 7, 2010.

[HARJIT SINGH BEDI R.M. LODHA, JJ.]

*Penal Code, 1860:*

C

*ss. 498-A and 306 – ‘Cruelty’ – Abetment of suicide – A woman drowned in river after one and a half years of marriage – Prosecution case of harassment of the victim by her husband and his sisters – Allegation of illicit relationship between husband of deceased and another woman –*

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*Conviction of husband – HELD: First and foremost, this is an appeal under Article 136 of the Constitution by way of special leave – Two courts, on a minute appreciation of the evidence, have found against the accused – There is no reason to hold otherwise – Nonetheless, on merits, it has come in the*

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*evidence of PW.2, PW.3 and PW.4 that the accused and his sisters had been misbehaving with the victim – Harassment meted out to the deceased has been clearly revealed and a presumption u/s 113-A of the Evidence Act must, therefore,*

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*be raised against the accused as admittedly the incident happened about one and a half years after the marriage – On the facts and circumstances, it was a case of suicide on account of harassment meted out to the deceased and not a case of accident – Appeal dismissed – Constitution of India, 1950 – Article 136 – Evidence Act, 1972 – s.113-A.*

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*s.498-A – ‘Cruelty’ – Evidence of illicit relationship between husband of deceased and another woman – HELD: An illicit relationship of a married man with another woman would clearly amount to cruelty within the meaning of s. 498-A – Even assuming that this did not amount to cruelty within*

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*the meaning of s. 498-A, it could still be used as a piece of evidence of harassment and misbehaviour of the accused towards the deceased – Evidence.*

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 19 of 2005.

B

From the Judgment & Order dated 21/22.09.2004 of the High Court of Judicature at Bombay in Criminal Appeal No. 130 of 1995.

Vinay Navare, Keshav Ranjan, Naresh Kumar for the Appellant.

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Sushil Karanjakar, Sanjay Kharde, Asha Gopalan Nair for the Respondent.

The following order of the Court was delivered

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### ORDER

This appeal by way of special leave arises out of the following facts:

The deceased Vasudha @ Sangeeta was the daughter of Chandrakant Kumbhar (PW.4) a resident of Tupgaon. Vasudha had married to the appellant, Laxman Ram Mane, on 16th May, 1990, that is about one and a half years prior to the date of incident, and after the marriage the couple resided in the matrimonial home at Vitthalwadi, Pali in Raigad District. As per the prosecution story Vasudha had gone to her parents' home about one month prior to the incident and had disclosed to her father and brother of her husband's dalliance with a girl Pragati by name, and that he would often abuse and beat her. Chandrakant told Vasudha that he would talk to her husband on this issue after the harvesting season was over. A few days after this visit Chandrakant received a message that his daughter had drowned in the river. He along with his son (PW.3) Vilas and Pandharinath and other relatives then rushed to Pali and a complaint of a missing person was lodged at the Pali

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A police station by Pandharinath. On the 9th August 1994 the police informed PW.4 that a dead body had been found near village Shiloshi about 6 k.m. away from the village of the appellant and the deceased. API Ramesh Deshmukh who was then attached to the Pali police station, recovered the dead body which was identified by Chandrakant and Vilas. After the completion of the investigation, a charge-sheet was filed against the appellant and his two sisters for offences punishable under Section 498-A and Section 306 read with Section 34 of the IPC. The accused pleaded not guilty and were brought to trial. In the cross examination the suggestion made by the defence was that the deceased had gone out to answer the call of nature near the river and had accidentally slipped in and had been drowned.

The Trial Court examined the various pieces of evidence, they being (1) the evidence of the brother and the father of the deceased PW.3 and PW.4 respectively; (2) the evidence of Sunita Birwadkar (PW.2) a cousin of the deceased who deposed about the cruelty and harassment by the accused and (3) the evidence of photographer S.N. Dadholkar (PW.5) who deposed that he had taken the photograph of the appellant with a young girl and that girl was identified as Pargati. In the light of the aforesaid circumstances the Trial Court convicted the appellant for offences under Section 306 and Section 498-A of the IPC but acquitted his sisters. This judgment has been affirmed by the High Court in appeal.

Before us today, Mr. Vinay Navare, the learned counsel for the appellant, has reiterated the arguments that had been raised earlier. He has submitted that a perusal of the Panchnama and the site plan revealed that the deceased could not have committed suicide but had in fact drowned in an accident when she had fallen into the river while answering the call of nature. He has finally argued that no offence under Section 498-A of the IPC was made out and that a mere illicit relationship of a husband with another woman did not amount to cruelty to the wife.

We have considered the arguments advanced very carefully. First and foremost this is a matter under Article 136 of the Constitution by way of special leave. Two courts have found against the appellant on a minute appreciation of the evidence. We see no reason to hold otherwise. Nonetheless we have gone into the evidence referred to us by the learned counsel. The fact that the appellant had been misbehaving with his wife is in the evidence of PW.2 and PW.3 and PW.4. It has come in their statements that she was being harassed by the appellant and his sisters for various reasons and that the appellant would also side with his sisters. Be that as it may, the sisters have already been given the benefit of doubt by the Trial Court and we have nothing more to say on this aspect. It is clearly revealed that harassment meted out to the deceased and a presumption under Section 113-A of the Evidence Act must therefore be raised against the appellant as admittedly the accident happened about one and a half years after the marriage.

We are of the opinion that an illicit relationship of a married man with another woman would clearly amount to cruelty within the meaning of Section 498-A. Even assuming for a moment that this did not amount to cruelty within the meaning of Section 498-A it could still be used as a piece of evidence of harassment and misbehaviour of the appellant towards the deceased.

We have also perused the Panchnama and the site plan. We find it difficult to believe that a woman who had been living in the area would have gone to answer the call of nature at a place where the water was 9 ft. deep and at a confluence of two rivers. It appears to us, therefore, that this was a case of suicide on account of harassment meted out to the deceased.

The appeal is accordingly dismissed.

R.P.

Appeal dismissed.