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SIDDALING

v.

THE STATE, THROUGH KALAGI POLICE STATION

(Criminal Appeal No. 1606 of 2009)

B

AUGUST 09, 2018

[R. BANUMATHI AND VINEET SARAN, JJ.]

C *Penal Code, 1860 – ss.498-A, 306 – Wife of appellant-accused committed suicide within four months of marriage – Prosecution alleged that such extreme step was taken by the victim due to dowry harassment and cruelty meted out to her, as appellant was having illicit relationship with another woman – Trial Court convicted appellant-accused – Conviction maintained by the High Court – On appeal, held: High Court rightly maintained the conviction of the appellant-accused – Prosecution had adduced documentary evidence vide which appellant-accused had admitted before*
D *panchayat that he was living with another woman and had agreed to sever his relation with the said woman – Furthermore, prosecution witnesses had clearly stated in their statements that thereafter appellant-accused continued his relationship with that woman, which would have definitely created the psychological imbalance to the victim which led her to commit suicide.*
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Dismissing the appeal, the Court

F **HELD: 1. In instant case, the prosecution has additionally adduced the documentary evidence viz. Agreement executed before the *Panchayat* thus whereof the appellant has admitted to be living with another woman and that was seen by his wife. In the said *panchayat* it was agreed that the appellant will sever his relation with the said woman and agreed to live with his wife in the house of his wife. The witnesses-PW-1, PW-6, PW-10 and PW-22 have clearly in their statement stated that the appellant**
G **continued his relation with another woman. The appellant’s illicit relation with another woman would have definitely created the psychological imbalance to the deceased which led her to take the extreme step of committing suicide. The High Court has rightly maintained the conviction of the appellant under Sections 498-A and 306 I.P.C. [Paras 6, 9 and 10] [908-C,G; 909-A]**
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Gurucharan Singh v. State of Punjab (2017) 1 SCC 433 : [2016] 8 SCR 741; Randhir Singh v. State of Punjab (2004) 13 SCC 129 : [2004] 5 Suppl. SCR 351 – referred to. A

Case Law Reference

[2016] 8 SCR 741 referred to Para 7 B
[2004] 5 Suppl. SCR 351 referred to Para 8

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1606 of 2009

From the Judgment and Order dated 27.06.2007 of the High Court of Karnataka at Bangalore in Cr. A. No. 1642 of 2005. C

Girish Ananthamurthy, Mrs. Vaijyanthi Girish, Advs. for the Appellant.

Joseph Aristotle S., Ms. Anitha Shenoy, Advs. for the Respondent. D

The Judgment of the Court was delivered by

R. BANUMATHI, J. 1. The appellant, accused-husband, has been convicted under Section 498-A I.P.C. and 306 I.P.C. and sentenced to undergo rigorous imprisonment for two years and five years respectively. E

2. Marriage of the appellant-Siddaling was solemnized with the deceased-Kavitha on 6th May, 2002. Within four months of the marriage, on 17th September, 2002, Kavitha committed suicide by jumping into a well of the village. Reason for such extreme step, taken by Kavitha, is stated to be the harassment due to the alleged dowry demand and also cruelty meted out to the deceased-Kavitha, as the appellant was having illicit relationship with one woman. F

3. The trial court convicted the appellant-accused and also his father under Sections 498-A and 304-B r/w 34 I.P.C. and Sections 306 r/w 34 I.P.C. and Sections 3, 4 and 6 of the Dowry Prohibition Act. G

4. The High Court partly allowed the appeal and acquitted the appellant's father of all the charges/offences. So far as the appellant is concerned, the High Court maintained the conviction under Sections 498-A I.P.C. and 306 I.P.C.; but acquitted the appellant for the other offences. H

A 5. We have heard Mr. Girish Ananthamurthy, learned counsel appearing for the appellant, and Mr. Joseph Aristotle S., learned senior counsel appearing for the respondent-State.

B 6. The facts in a nutshell are as follows. The appellant was having illicit relationship with one woman which fact has been proved by the prosecution by the evidence of PW-1, Shankar s/o Harishchandar, father of the deceased; PW-10, Jamakibai, mother of the deceased; PW-6, Sevu and PW-22, Hemla both brothers of the deceased. The prosecution has additionally adduced the documentary evidence viz. Agreement dated 22nd June, 2002, executed before the *Panchayat* thus whereof the appellant has admitted to be living with another woman and that was seen by his wife-Kavitha. In the said *panchayat* it was agreed that the appellant will sever his relation with the said woman and agreed to live with his wife in the house of his wife-Kavitha. It has been brought in evidence by the evidence of the prosecution witnesses, mentioned above, that the appellant continued his relation with another woman which definitely caused mental agony to his wife-Kavitha.

C 7. Mr. Ananthamurthy has submitted that there has to be a *mens rea* to commit the offence punishable under Section 306 I.P.C. and that there ought to be active or direct act leading to the deceased to commit suicide, which is lacking in the present case. In support of his contention, learned counsel placed reliance upon judgment of this Court in Gurucharan Singh v. State of Punjab, (2017) 1 SCC 433.

D 8. As held in Randhir Singh v. State of Punjab, (2004) 13 SCC 129 vide para 12, abetment involves a mental process of instigating a person or in any manner aiding that person in doing of the thing. Courts should carefully assess the facts of each case before deciding whether the cruelty meted out to the victim which induces her to commit suicide.

E 9. In the case in hand, the witnesses - PW-1, PW-6, PW-10 and PW-22 have clearly in their statement stated that the appellant continued his relation with another woman. The appellant's illicit relation with another woman would have definitely created the psychological imbalance to the deceased which led her to take the extreme step of committing suicide. It cannot be said that the appellant's act of having illicit relationship with another woman would not have affected to negate the ingredients of Sections 306 I.P.C.

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10. In our considered view, based upon the evidence and also Agreement dated 22nd June, 2002, the High Court has rightly maintained the conviction of the appellant under Sections 498-A and 306 I.P.C. A

11. Insofar as the submission of learned counsel for the appellant, praying for leniency in the quantum of sentence, we are unable to accept the same. Keeping in view the fact that within four months of her marriage, the deceased-Kavitha has taken the extreme step of putting an end of her life and also within three months of convening the panchayat, the deceased-Kavitha has committed suicide, showing any leniency would be a misplaced one. Considering the facts and circumstances of the present case, in our view, this is not a fit case for reducing the quantum of sentence of the appellant. B C

12. The appeal is accordingly dismissed.

Ankit Gyan

Appeal dismissed.