

State Vs. Sunil

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IN THE COURT OF ARVIND KUMAR, ADDL. CHIEF JUDICIAL
MAGISTRATE, SONEPAT.

HRSO030062832016



Presented on : 29-08-2016
Registered on : 29-08-2016
Decided on : 04-10-2021
Duration : 5 years, 1 months, 6
days

IN THE COURT OF
Additional Chief Judicial Magistrate AT Sonipat, Sonipat
Presided Over by Sh. Arvind Kumar

CHI/1010/2016

State	Versus	Sunil s/o Om Parkash s/o Nafe Singh r/o Busana, PS Sadar, Gohana, Sadar, Sonapat.
		Accused-Persons

FIR No.0035 dated 11.6.2016
Under Sections: 323, 34, 354, 406,
498-A & 377 of IPC
P.S.Women, District Sonapat.

Present: Sh. Anuj Malik, Ld. APP for the State.
Accused Sunil on bail with Sh. Parveen, Advocate.
Remaining accused discharged vod 5.12.2017.

JUDGMENT:

The above named accused has been sent for trial up by the SHO
of Police Station Women, Sonapat to face trial for the commission of offence
punishable under Sections 323, 34, 354, 406, 498-A & 377 of IPC.

2. The case of the prosecution is that the present case was registered
on the complaint of complainant Sweety d/o Suresh r/o Village Murthal,
Sonapat who alleged that her marriage was solemnized in Arya Samaj Mandir
on 18.07.2015 with Sunil Rathee @ Rinku with her own will. After some time

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of her marriage her inlaws namely Om Parkash, Nirmala, Rajesh @ Bunty, Rakesh and Sunil i.e. her husband started beating her and used abusive words with her. She married against the will of her parents but her mother-in-law and husband dropped her to her parents home for the sake of dowry. A prayer for taking necessary legal action against the accused was made.

3. On the basis of this complaint, FIR under Sections 323, 34, 354, 406, 498-A & 377 of IPC was registered and investigation was commenced. During investigation, the accused was arrested and investigating officer recorded the statements of witnesses etc. After completion of the investigation and legal formalities, challan was prepared and forwarded to the court for taking cognizance of offences.

4. Copy of Challan and other relevant documents were supplied to the accused free of cost as envisaged under Section 207 of Cr.P.C.

5. A prima facie case under Sections 323, 34, 354, 406, 498-A & 377 of IPC was found to exist against the accused Sunil and he was charge sheeted accordingly to which he pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution has examined following witnesses:-

PW1	ASI Santosh
PW2	L/HC Meenakshi 1383
PW3	Sweety

Thereafter, evidence of the prosecution was closed by vide separately recorded statement of ld. APP dated 15.9.2021.

7. On conclusion of prosecution evidence, all the incriminating material was put to the accused while he was examined under Section 313 Cr.P.C. wherein he denied each of the prosecution allegation and pleaded to be innocent. Accused opted to lead evidence in his defence, but no evidence was led by accused in his defence and thereafter, ld. counsel for accused closed defence evidence on behalf of accused, vide his separately recorded statement of even date.

8. The point for determination in the present case is as under:-

1. *Whether the accused voluntarily caused simple hurt to complainant Sweety and thereby committed the offence punishable under Section 323 of IPC?*
2. *Whether the accused committed carnal intercourse which is against the order of nature, with complainant Sweety and thereby committed the offence punishable under Section 377 of IPC?*
3. *Whether the accused was entrusted with certain property i.e. dowry articles belonging to complainant Sweety and you convert the same to your use and thereby committed the offence punishable under Section 406 of IPC?*
4. *Whether the accused being the husband of the complainant subject the complainant Sweety with cruelty due to non-*

fulfillment of your unlawful demand of dowry and thereby committed the offence punishable under Section 498-A of IPC?

9. Ld. APP for the State has argued that the accused had committed the offence punishable under Sections 323, 34, 354, 406, 498-A & 377 of IPC. Though the material witnesses have turned hostile but from the other material available on the file the prosecution has successfully proved its case beyond all reasonable doubts against the accused and as the guilt of the accused has been established from the other material available on the file, so the accused be convicted.

10. On the other hand, submissions made by learned APP for the State have been strongly resisted by the defence counsel while submitting that the prosecution has miserably failed to prove the guilt of the accused beyond the shadow of reasonable doubt. Ld. defence counsel has submitted that the prime/star witness of the prosecution has not supported the case of the prosecution and the other witnesses examined by the prosecution are those who had taken part in the investigation at the later stage and had not witnessed the alleged incidence. The accused has been falsely implicated and the prosecution has miserably failed to prove its case beyond all reasonable doubts, so the accused be acquitted.

11. I have perused the case file and gone through the deposition and other evidence led by the prosecution. In the present case the allegations against the accused are qua the commission of the offence punishable under Sections 323, 34, 354, 406, 498-A & 377 of IPC. To bring home the guilt of the

accused the prosecution has relied upon the deposition of as many as **four** witnesses. In the present case the criminal law was set into motion on the application Ex.PW1/A moved by the complainant/PW3/Sweety wherein the complainant had averred that Sweety d/o Suresh r/o Village Murthal, Sonapat who alleged that her marriage was solemnized in Arya Samaj Mandir on 18.07.2015 with Sunil Rathee @ Rinku with her own will. After some time of her marriage her inlaws namely Om Parkash, Nirmala, Rajesh @ Bunty, Rakesh and Sunil i.e. her husband started beating her and used abusive words with her. She married against the will of her parents but her mother-in-law and husband had left her to her parents home for the sake of dowry.

12. When the PW3/Sweety (complainant) stepped into the witness box she did not support the case of the prosecution then on the request of the Id. APP, he was declared hostile and the Id. APP for the State was allowed to cross-examine her. But even after detailed cross-examination nothing useful to the case of the prosecution could be elicited from her. She was confronted with her earlier statement Ex.PW1/A but she has denied to have given any such statement to the police. The prosecution has also examined PW4/Sumitra mother of the complainant and she deposed that the marriage of her daughter was solemnized with Sunil on 18.7.2015 and the accused Sunil has good relations with her family. Both of these two witnesses were the essential witnesses but as they did not support the case of the prosecution so their deposition also pales into insignificance qua the guilt of the accused. Other witnesses examined by the prosecution are those who had taken part in the investigation and had not witnessed the alleged incidence and from their

deposition also the guilt of the accused has not been proved beyond all reasonable doubts.

13. It is cardinal principle of law that it is for the prosecution to prove the charges against the accused beyond the shadow of all reasonable doubt by adducing cogent and convincing evidence. For the reasons mentioned above it is held that the story of the prosecution has failed to do so and hence while giving the benefit of doubt to the accused he is acquitted of the charges framed against him. His bail bond and surety bond stands discharged. Case property (if any) be dealt with/disposed of as per rules, subject to the decision of appeal or revision, if any. File be consigned to record room after due compliance.

Pronounced in open Court
4.10.2021.

(Arvind Kumar)
Addl. Chief Judl. Magistrate,
Sonapat.
(UID No.HR0257)

Note: It is certified that this order contains **six** pages and each page has been signed by me.

Sonal

(Arvind Kumar)
Addl. Chief Judl. Magistrate,
Sonapat (UID No.HR0257)
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Present: Sh. Anuj Malik, Ld. APP for the State.
Accused Sunil on bail with Sh. Parveen, Advocate.
Remaining accused discharged vod 5.12.2017.

No defence evidence is present. Defence evidence closed by accused by making statement to this effect. Arguments heard. Judgment pronounced. Vide my separate judgment of even date, the accused **Sunil** has been acquitted of the charges framed against him. His bail bonds and surety bonds are discharged from his liability. After the expiry of the period of filing of appeal against the present judgment, the case property (if any) be disposed of as per rules.

File be consigned to record room after due compliance (if any).

Pronounced in open Court
4.10.2021.

Sonal

(Arvind Kumar)
Addl. Chief Judl.Magistrate,
Sonapat.
(UID No.HR0257)

(Arvind Kumar),
ACJM, Sonapat
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