

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.594 OF 2008

BHIMSHA AND ANR. .. APPELLANT(S)

VERSUS

STATE OF KARNATAKA .. RESPONDENT(S)

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Karnataka at Bangalore in Criminal Appeal No.1346 of 2000, dated 02.06.2006. By the impugned judgment and order, the High Court partly allowed the appeal by setting aside the conviction under Section 306 of the Indian Penal Code (for short, "the IPC") while upholding the conviction under Section 498-A of the IPC.

2. Brief facts of the prosecution case are: the deceased-wife in the present case was married to the appellant's son on 27.05.1988. After the marriage when the deceased-wife had visited her parent's house, she

informed them that the appellant was mistreating her and assaulting her on the ground of selling food grains of the house without permission and the appellant also abused the deceased saying that she is sterile and cannot beget children. The deceased-wife was extremely upset with the treatment meted out to her by the appellant and committed suicide on 01.06.1992 by consuming poison. Charges were framed against the appellant under Section 306 and Section 498A read with Section 34 of the IPC. The appellant pleaded not guilty and the case was committed to trial.

3. The Trial Court after detailed examination of the evidence on record had convicted the appellant under Section 306 read with Section 34 of the IPC and sentenced the appellant to rigorous imprisonment for a period of six years and imposed a fine of Rs.3,000/- in default of payment of fine to further simple imprisonment of three months. The Trial Court further under Section 498A read with Section 34 of the IPC

sentenced the appellant to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/- and in default of payment of fine to a simple imprisonment of two months.

4. Aggrieved by the aforesaid order, the appellant carried the matter in an appeal before the High Court. The High Court by a cryptic order had disposed of the appeal of the appellant by setting aside the conviction under Section 306 of the IPC and upholding the conviction under Section 498A sentencing the appellant to imprisonment for a period of one year and imposed a fine of Rs.25,000/-, in default of payment of fine to further undergo simple imprisonment for a period of six months.

5. We have heard learned counsel for the parties to the *lis*.

6. After going through the impugned judgment and order passed by the High Court we are of the considered opinion that the High Court before coming

to the conclusion that the Trial Court was justified in convicting the appellant herein ought to have appreciated the evidence on record.

7. Since the order passed by the High Court is passed without the appreciation of evidence on record, we have no other alternative but to set aside the judgment and order passed by the High Court and remand the matter back to the High Court for its consideration and decision in accordance with law.

8. Accordingly, we remand the matter back to the High Court and request the High Court to dispose of the matter as expeditiously as possible, at any rate, within six months from today.

9. However, the bail granted by this Court shall enure to the benefit of the appellant for a period of one month from today. However, the appellant is at liberty to file appropriate application before the High Court seeking for a regular bail. It is for the High Court to decide the application for bail on

merits.

10. All the contentions of both the parties are kept open.

11. The criminal appeal is disposed of accordingly.

Ordered accordingly.

.....CJI.
[H.L. DATTU]

.....J.
[ARUN MISHRA]

NEW DELHI,
SEPTEMBER 08, 2015.

ITEM NO.22

COURT NO.1

SECTION IIB

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 594/2008

BHIMSHA & ANR.

Appellant(s)

VERSUS

STATE OF KARNATAKA

Respondent(s)

(With office report)

Date : 08/09/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN MISHRA

For Appellant(s) Mr. P.Vishwanatha Shetty, Sr. Adv.
Mr. Mahesh Thakur, Adv.
Mr. Sharan Thakur, Adv.
Mr. vijay Kr. Pardeshi, Adv.
Dr. Sushil Balwada, Adv.
Mr. Pradeep Kumar Bakshi, Adv. (NP)

For Respondent(s) Ms. Anitha Shenoy, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal is disposed of in terms of the
signed order.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Vinod Kulvi]
Asstt. Registrar

[Signed order is placed on the file]