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CrI.A.No. 860 OF 1997
ITEM No.106

Court No.4

SECTION IIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.860 OF 1997

S.N. Datal
Appellant (s)

VERSUS

State of Maharashtra Respondent (s)
(With office report)

Date : 09/12/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mrs. V.D. Khanna,Adv. (N.P.)

For Respondent (s)Mr. Ravindra Keshavrao Adsure,Adv.

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

The appeal is allowed in terms of the signed order.
The appellant shall stand acquitted in respect of charge under Section 498-A, IPC as well. The bail bonds of the appellant shall stand cancelled.

(Neena Verma)

(Vijay Aggarwal)

Court Master

Court Master

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.860 OF 1997

S.N. Datal
...Appellant

Versus

State of Maharashtra
...Respondent

O R D E R

The above appeal has been filed challenging the conviction of the appellant-husband, who has been charged with the offence under Section 498-A and 306 IPC for having been said to be responsible for the death of his wife Sunita, by the High Court under Section 498-A of IPC with sentence of one years rigorous imprisonment, in addition to the levy of a fine of Rs.1,000/- with a default clause.

The case of the prosecution rested on the basis of two dying declarations, one recorded on 18.07.1988 and the second one recorded on 29.07.1988, marked as Exhibits 14 and 20 respectively. In addition thereto, the evidence of PW-1, the brother, PW-2, the mother, PW-5, the child witness and certain letters marked as Exhibits 11 to 13, were also relied upon for the prosecution. After trial and on consideration of the materials on record, the learned Additional Sessions Judge, Pune, while placing reliance on Exhibit 20, the second dying declaration and the ora

l evidence as well as the letters noticed above found the appellant guilty of the offence both under Section 498-A and 306 IPC and sentenced him for one year rigorous imprisonment on different counts with a fine of Rs.1,000/- also separately for both the offences with a default clause therefor making the sentences to run concurrently. Aggrieved, the appellant pursued the matter on appeal before the High Court.

The learned Single Judge in the High Court, who undertook a re-appreciation of the materials on record ultimately found that the offence under Section 306 IPC has not been made out and it is only the offence under Section 498-A IPC was proved and sustained the conviction sentence imposed in respect of the same. Hence this appeal.

We have gone through the relevant materials on record with the assistance of learned counsel for the respondent-State, who invited our attention at length to the relevant portions of the judgment as well as the evidence on record. In our view, except the fact that the lady Sunita, the wife of the appellant lost her life, we find conspicuous absence of any legally acceptable material to fix the responsibility for the death of the lady on the appellant in any manner. Though, the first dying declaration marked as Exhibit-14 was considered by the Trial Court to be not truthful, we find no proper or sufficient reasons assigned therefor which could be sustained in law to substantiate or justify such a conclusion. If at all, it is only the second dying declaration, marked as Exhibit 20, on which reliance was sought to be placed by courts below that could be said to be vulnerable for being genuinely and reasonably doubted as one brought about by tutoring or even by way of improvement at the instigation of the relatives. The relationship of the husband and wife are not shown to be that strained with any concrete materials to justify the claim of the prosecution that the appellant was bent upon totally eliminating his wife, the deceased. The time lag in the lodging of the FIR as well as the factum of the investigating officer being found getting blank signatures from the persons who have been enquired during investigation, all lend strong credence to throw reasonable suspicion as to the case pleaded by the prosecution. In our view, the findings of the courts below on such nebulous and suspect evidence totally lacking any credence in law, and where sufficient scope was shown to have existed for manipulations and improvements despite such findings being concurrent, could not commend for approval in our hands. The judgment of the courts below, consequently, could not be sustained even in respect of the charge under Section 498-A IPC and are hereby set aside.

The appeal is allowed and the appellant shall stand acquitted in respect of charge under Section 498-A, IPC as well. The bail bonds of the appellant shall stand cancelled. The fine, if any remitted, shall be refunded to him.

.....J.

(DORAISWAMY RAJU)

.....J.

(ARIJIT PASAYAT)

New Delhi,
December 09, 2003.