

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.863 OF 2004

LAXMIBAI

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

O R D E R

The appellant Laxmibai was the third accused in a Criminal Case registered against her

and her two sons and daughter. The Sessions Judge found guilty of all the* accused for the offences

punishable under Sections 498-A, 304-B, 306 read with Section 34 of the Indian Penal Code. The

accused persons preferred an appeal before the High Court of Bombay at Aurangabad and the second

accused Angad and the fourth accused Sunanda were acquitted by the High Court and the present

appellant Laxmibai and the first accused Yuvraj were found guilty and the conviction and sentence

entered against them by the Sessions Court was confirmed. The third accused Laxmibai alone

challenged her conviction and sentence before us.

We have heard the appellant's counsel and the counsel for the State. The prosecution case

is that the deceased Usha @ Surekha was given in marriage to the first accused Yuvraj and at the time

of marriage PW3, father of the deceased Usha agreed that he would pay Rs.11,000/- and a gold ring

weighing 5 gms. as dowry. PW3 paid the amount in installments and was unable to give the golden

ring. According to prosecution, all the accused persons were ill-treating the deceased Usha to get the

balance dowry and the life of the deceased at the house of the accused was

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miserable and on 14.09.1994 the deceased Usha committed suicide by jumping into a well.

On the side of the prosecution PWs 1 to 6 were examined and the Sessions Court placed

reliance on PW1, PW 4 and PW 6 and found the present appellant guilty of offence punishable under

Sections 304-B read with section 34, 306 and 498-A of the I.P.C. We have carefully considered the

evidence on record and we find it difficult to accept the finding of the Sessions Court as well as that of

the High Court. PW 3, PW 4 and PW 6 deposed that on 22.2.1994 PW 3 met with an accident and he

was hospitalised then the deceased Usha wanted to go to her parental house to meet her father but that

was prevented by the accused persons. There is no specific evidence as to whether the present appellant

had done anything to prevent the deceased Usha from going to her parental house. PW 4, who went to

the house to fetch the deceased Usha, deposed that the accused persons stated that she would not be

permitted to go and meet her father. Apart from this, there is no finding to the effect that the present

appellant caused any harassment to the deceased on account of the non-payment of dowry.

Unfortunately, the High Court adverted to some of the statements made in the F.I. statement which is not

a substantive evidence. PW 3 made various statements contradicting his earlier statements made to the

police while giving F.I. statement. The High Court should not have placed reliance on the statements

found in the F.I. Statement. Thus the finding of the High Court is erroneous. Hence, we set aside the

finding and hold that the appellant has not committed any offence as challenged by the prosecution. In

the result, we set aside the conviction and sentence entered against the appellant and acquit her of

all the charges framed against her.

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Accordingly, the appeal is allowed. The appellant is in custody. She is directed to be released forthwith,

if not required in any other case.

.....J.

HNAN)

(K.G. BALAKRIS

.....J.

KRISHNA)

(B.N. SRI

NEW DELHI;

10TH MARCH, 2005

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ITEM NO.102

COURT NO.5

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(s). 863 OF 2004

LAXMIBAI

Appellant (s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With office report)

Date: 10/03/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s)

Mr.B.N.Deshmukh, Sr. Adv.

Mr. Venkateswara Rao Anumolu, Adv.

For Respondent(s)

Mr.S.S.Shinde, Adv.

Mr.Ravindra K.Adsure, Adv.

UPON hearing counsel the Court made the following

O R D E R

Appeal allowed in terms of the signed order.

(G.V.Ramana)

Court Master

(Veera Verma)

Court Master

(Signed order is placed on the file)