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CrI.A.No. 1068 OF 1997
ITEM No.104

Court No.10

SECTION II

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.1068 of 1997

State of Rajasthan Appellant.

VERSUS

Jagdish & Ors. Respondents.

(With appln. for exemption from filing O.T.)

Date : 11/02/2004: 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) Ms. Sandhya Goswami, Adv.

For Respondent (s) Mr. Sushil Kumar Jain, Adv.

Ms. Anjali Doshi, Adv.

Ms. Ruchi Kohli, Adv.

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

Ms. Sandhya Goswami, learned counsel for the appellant-State started her arguments at 12.35 p.m. and concluded at 3.45 p.m.

The appeal is dismissed in terms of the signed order.

(R.K. DHAWAN) (VEERA VERMA)
COURT MASTER COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1068 OF 1997

State of Rajasthan Appellant.

Versus

Jagdish & Ors..... Respondents.

O R D E R

State of Rajasthan has filed this appeal against the acquittal of three accused persons who were charged under Sections 302, 304-B, 306 and 201 read with Section 511 IPC. These three respondents were alleged to have caused the death of Radha, the wife of accused Jagdish. Deceased Radha was married 4-5 years prior to her death to Jagdish and she was staying in his house.

Accused No.1 Nand Lal and accused no.3 Bhagwati Devi were parents of Jagdish. According to the prosecution, Radha was being subjected to cruelty and the respondents have been demanding dowry from the parents of Radha. On 18.7.1991, PW-7, a neighbour came to know that deceased Radha was no more and the accused were taking steps to dispose of her dead body. He went to the house of the accused and found some people have gathered there and steps were being taken for taking the dead body of Radha to burial ground. He raised objection and gave a complaint to the police on the same day. Police immediately came to the place of occurrence and held inquest over the dead body and registered a case against

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these respondents under Section 304 B and 306 IPC. The postmortem was conducted by medical board constituting a team of three doctors. They found strangulation marks on the dead body and the postmortem certificate indicated that Radha died of strangulation. On the side of the prosecution 18 witnesses were examined.

The main witnesses examined to prove the prosecution case are PW-7 Hiralal, PW-10 Kishna second wife of accused Jagdish and PW-14 Jagdish, the father of the deceased.

After the prosecution evidence was closed Sessions Judge found that the charge under Section 302 IPC was not framed against the accused and he amended the charge and included the offence punishable under Section 302 IPC. Though the accused was given an opportunity to recall all the prosecution witnesses for further cross examination, the respondents did not avail that opportunity. The Sessions Judge held that the respondents committed the offences punishable Section 302 IPC and also under Section 201 read with Section 511 IPC.

Aggrieved by the same, respondents filed appeal and the High Court was of the opinion that the evidence of the prosecution was not sufficient to prove the guilt of the accused. In order to prove the harassment to the deceased Radha, the prosecution placed reliance on Exhibit P-8 and P-9 allegedly written by deceased Radha. In P-8 nothing is stated about the harassment at the hands of the accused persons. In Ext.P-9 certain statements regarding the harassment and demand of dowry are there but unfortunately Ext P-9 does not contain postal seal and the High Court was in doubt regarding the genuineness of Ext.P-9 - letter. We do not think

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that the High Court erred in appreciating the evidence in that manner.

As regards the actual occurrence, there is no direct evidence as to who caused the death of deceased Radha. As the charge itself was not framed under Section 302 IPC from the initial stage, there was no fair trial. Even though they were given opportunity for further cross examining the witnesses, after the amendment of charge, the accused did not do that, possibly they had taken a different view regarding the original charge. In view of the medical evidence available on record, we are at loss to understand why charges were not framed for the offence under Section 302 IPC. There is only circumstantial evidence in support of the prosecution case and High Court refused to act on the same. Under these circumstances, we do not think that High Court seriously erred in reversing the conviction of the accused. We do not find any reason to interfere with such finding. The appeal is dismissed accordingly.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)

NEW DELHI;
FEBRUARY 11, 2004.