

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 333 OF 2011

|Raju @ Rajesh | Appellant(s) |

Versus

|State of Rajasthan | Respondent(s) |

O R D E R

1. This appeal is directed against the judgment and order passed by the High Court of Judicature for Rajasthan at Jodhpur in Criminal Appeal No. 342 of 2003, dated 06.08.2007. By the impugned judgment and order, the High Court has confirmed the judgment and order passed by the Trial Court in Sessions Case No. 50 of 2001, dated 03.02.2003.
2. The facts in nutshell are: One Seema (for short 'the deceased') was married to the appellant-accused herein. They continued to lead peaceful marital life for a period of one and a half months, whereafter, the appellant and his parents raised demands for dowry and started harassing the deceased. Aggrieved by such demands and continued harassment, the deceased used to often return to her parental home. In May, 1998 the deceased had again returned to her matrimonial home at the instance of elders in the society. This state of affairs had resulted in bitter feelings between the appellant and the deceased. The prosecution story is that on the fateful day, at 9.00 AM, while the deceased was working in the kitchen the appellant came and scolded her asking as to what was she doing uptill then. She replied that she was going to take bath. Upon her answering to his question, the accused poured kerosene oil on the deceased and set her ablaze. The deceased, on catching fire, started screaming and rushed outside the house for help. The appellant tried to douse the fire by pouring water over her and immediately thereafter, took the deceased to the hospital where, at the request of the Investigating Officer, the Judicial Magistrate (PW-8) had visited twice and after being satisfied that the injured was fit enough to make statement, recorded her dying declaration.
3. The FIR was lodged by the deceased's father on the same day at 10:00 PM for offence punishable under Section 498-A of the Indian Penal Code, 1860 (for short 'the IPC') against the appellant and his parents. During the course of the inquiry, the deceased succumbed to death. Thereafter, the appellant was charged for offences punishable under Sections 302, 340-B and 498-A of the IPC and his parents were charged for offence under Section 498-A of the IPC.
4. During the trial, the prosecution has produced 16 witnesses, including PW-8 and exhibited 51 documents, including the dying declaration (Exhibit P-7) while the defense has produced 9

witnesses and exhibited 7 documents. The Trial Court, relying upon Exhibit P-7, the evidence of PW-8 and other evidence led by the prosecution, has concluded towards their conviction and sentenced the appellant to imprisonment for life alongwith a fine of Rs. 5000/- and rigorous imprisonment of 3 years alongwith a fine of Rs. 5000/- for offences punishable under Sections 302 and 498-A of the IPC, respectively and his parents to simple imprisonment of one year with a fine of Rs. 5000/- each for offence punishable under Section 498-A of the IPC.

5. Aggrieved by the aforesaid, the appellants filed an appeal before the High Court. The High Court, in the impugned judgment and order, has partly allowed the appeal in respect of the appellant's parents and modified their sentence to period already undergone by them but confirmed the conviction and sentence of the appellant for the aforesaid offences. It is against that order of the High Court, the appellant is before us in this appeal.

6. We have heard Ms. Anu Gupta, learned counsel for the appellant and Dr. Manish Singhvi, learned Additional Advocate General for the State of Rajasthan. We have carefully perused the evidence on record including Exhibit P-7 and the evidence of PW-8 and also the judgments and orders of the Courts below.

7. Ms. Gupta would assail the dying declaration (Exhibit P-7) recorded by PW-8 and would submit that the Courts below should not have relied on the aforesaid evidence to convict the appellant since at the time of recording the dying declaration, the deceased was not in a medically fit condition to make such statement before PW-8.

8. It has come on record that the said dying declaration was recorded by PW-8 when she was in a fit condition to make such a statement. After going through Exhibit P-7 and the evidence of PW-8, the Trial Court and the High Court have found the evidence of PW-8 in respect of recording of dying declaration and the condition of the deceased as being fit to make such statement and thereafter, unequivocally accepted it. Upon perusal of the said evidence, we are of the considered opinion that the Trial Court and the High Court have not committed any legal error, whatsoever, which would call for our interference in this appeal and therefore, the appeal requires to be dismissed.

9. In the result, the appeal is dismissed.
Ordered accordingly.

.....J

[H.L. DATTU]

.....J.

NEW DELHI,
MARCH 05, 2013.
ITEM NO. 102

COURT NO.6

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. 333 OF 2011

RAJU @ RAJESH

Appellant (s)

VERSUS

STATE OF RAJASTHAN

Respondent(s)

(With appln(s) for bail,permission to file additional documents)

Date: 05/03/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.L. DATTU
HON'BLE MR. JUSTICE DIPAK MISRA

For Appellant(s)

Ms.Anu Gupta,Adv.
Mr. Devesh Singh, Adv.

For Respondent(s)

Dr. Manish Singhvi, AAG
Mr. Irshad Ahmad,Adv.

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

The appeal is dismissed in terms of the signed order.

| [Charanjeet Kaur] | | [Vinod Kulvi] |
|Court Master | |Court Master |

[Signed order is placed on the file]

