

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 733 OF 2010

MANIVANNAN & ORS.

Appellant(s)

VERSUS

KARUPPIAH & ANR.

Respondent(s)

O R D E R

1. Heard counsel for the parties.
2. This appeal is directed against the order of the High Court dated 21.04.2008 passed in CrI. R.C. No.790 of 2003. By the impugned order the High Court while setting aside the judgment of the Trial Court date 26.3.2003 passed in S.C. No.343 of 2002 remitted the file back to the Trial Court to decide the same merits within a period of three months. While remitting the case back to the Trial Court the appellants were permitted to mark pay slips of the appellant No.1 by examining relevant witnesses and the prosecution also permitted to cross examine any such witnesses that may be examined on behalf of appellant No.1. The Trial Court was directed to examine the testimonies of all the witnesses on record properly and pass judgment on merits.
3. When this appeal was pending the appellant No.2 died on 22.3.2014, therefore, the appeal qua appellant No.2 stands abated.
4. Appellant No.1 is the husband of the deceased and

Signature Not Verified

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Narendra Prasad

Respondent No.3 is the mother-in-law of the deceased.

Date: 2015.01.17

13:07:43 IST

Reason:

The case of the prosecution was that the deceased got married to the appellant on 22.8.1993 and out of the

wedlock two children were born. The deceased was employed as a teacher. PW.1 is the father of the deceased, who was the complainant. The allegation was

that at frequent intervals appellants used to torture the deceased and demanded dowry, that PW.1 gifted 35 sovereigns of gold ornaments along with household articles at the time of the marriage and subsequently deposited a sum of Rs.90,000/- in the name of the deceased and her children. It was also claimed that a

further sum of Rs.25,000/- was paid to appellant No.1 on his demand and after obtaining the same he continued to make further demands by torturing the deceased.

5. It was in the above stated background, the prosecution alleged that the deceased committed suicide on 2.5.2000, unable to bear the unsurmountable torture inflicted upon her by appellant No.1. PW.1 to PW.17

were examined on the side of the prosecution apart from marking exhibits P1 to P10. On the side of the appellants, DW.1 to DW.3 were examined and exhibit D1 was marked. The appellants were charged for offences punishable under Sections 498A and 304B read with Section 34 IPC. The Trial court by its judgment dated 26.3.2003 acquitted all the appellants of all the charges. PW.1, the de facto complainant, preferred the present criminal revision being Criminal R.C. No.790 of 2003 before the High Court, wherein the impugned order came to be passed on 21.4.2008.

6. We heard Mr. B. Raghunath, learned counsel appearing for the appellants and Mr. Rajiv Dalal, learned counsel appearing for the respondent-State on behalf of Mr. Yogesh Kanna, Advocate-on-Record. There is no representation for the de facto complainant-Respondent No.1.

7. At the very outset, it will have to be stated that the contention of the learned counsel for the

2

appellants, insofar as it related to appellant No.3 that there was absolutely no evidence to implicate her in the alleged offences under Section 498A as well as Section 304B was well founded. According to the learned counsel, the deceased, appellant No.2 and appellant No.3 were living separately. While appellant No.1 was living along with the deceased-wife and their children independently. In fact, there is no evidence to state that appellant Nos.2 and 3 were also living along with the family of appellant No.1. A perusal of the oral evidence including the key witnesses, namely, PWs.1, 4 and 8 also did not even remotely suggest that appellant Nos.2 and 3 were involved in any of the alleged torture or demand of dowry meted out to the deceased.

8. In the said circumstances, we find force in the contention of the learned counsel for the appellants that the acquittal of appellant No.3 ordered by the Trial Court, does not call for interference. Therefore, the impugned order of the High Court insofar as it relates to appellant No.3 cannot be sustained.

9. As far as the impugned order of remittal concerning appellant No.1 is concerned, we find that there is no scope for interference. The learned counsel for the appellants took us through the evidence of main witnesses, namely, PWs. 1, 4 and 8. It must be stated that reading of the said evidence disclose the nature of torture alleged to have been inflicted by appellant No.1 on the deceased. We are not making any attempt to analyse the said evidence in order to reach any definite conclusion as that may seriously impede the right of the appellant No.1 when the matter goes before the Trial Court on remittance. It is for the Trial Court to appreciate the said evidence for reaching its own conclusion. But when we examined the ground which weighed with the High Court while ordering the revision

3

and thereby remitting the case back to the Trial Court, we are convinced that reliance placed upon on some pay slips produced by appellant No.1, which were not marked before it, was certainly a serious infirmity while dealing with the charge under Section 498A along with 304B against appellant No.1. As against the evidence of PWs.1, 4 and 8 as regards the alleged torture and demand of dowry by appellant No.1 on the deceased, when some pay slips which were not marked were relied upon by the

Trial court; apparently to show that appellant No.1 had the necessary money power and, therefore, he was not in dire need to make any demand of dowry; the Trial Court ought to have ensured that such documents were marked in the manner known to law.

10. Therefore, the conclusion of the High Court in having found and held that the reliance placed upon by the Trial court on the unmarked documents for acquitting appellant No.1 was a serious error committed by the Trial Court which warranted interference. Though, learned counsel for the appellants while taking us through the evidence of PWS.4 and 8 made his submission as to how their evidence would support the case of appellant No.1, we do not wish to make any comment or discussion. As stated by us earlier, any such discussion at our instance may cause serious prejudice to the appellant No.1 as well as the Prosecution when the matter goes back to the Trial Court for consideration as per the remittal order of the High Court. Therefore, leaving it open for the Trial Court to consider, the entire evidence again, as directed by the High Court in the order impugned, this appeal only stands partly allowed and the acquittal insofar as it related to appellant No.3 made by the Trial Court shall stand affirmed and the remittal order of the High Court relating to appellant No.1 shall remain.

4

11. The Trial Court shall comply with the directions of the High Court in the last paragraph of the impugned order within three months from the date of receipt of a copy of this order. It is needless to state that the Trial Court should pass its judgment uninfluenced by whatever stated by the High Court in the impugned order as well as by this Court in this order.

.....J.  
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.  
[ABHAY MANOHAR SAPRE]

NEW DELHI;  
JANUARY 14, 2015

5

ITEM NO.101 COURT NO.8 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). 733/2010

MANIVANNAN & ORS. Appellant(s)

VERSUS

KARUPPIAH & ANR. Respondent(s)

(With appln(s) for raising addl. Grounds and office report)

Date : 14/01/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA  
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s)            Mr. B. Ragunath,Adv.  
   Mr. Vijay Kumar,Adv.

For Respondent(s)         Mr. Rajiv Dalal,Adv.  
   Mr. M. Yogesh Kanna,Adv.

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

Heard counsel for the parties.  
The appeal is partly allowed in terms of the signed order.

(NARENDRA PRASAD)  
COURT MASTER

(SHARDA KAPOOR)  
COURT MASTER

(Signed order is placed on the file)