

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2461 OF 2009

Ram Mani & Ors.

Appellant (s)

VERSUS

State of M.P.

Respondent(s)

O R D E R

Heard learned counsel for the parties.

This appeal is directed against the order of conviction for the charge under Section 498-A and 306 of Indian Penal Code (in short 'I.P.C.') by which the appellants were sentenced to R.I. for one year with fine of Rs.500/-, in default of payment of fine, R.I. for three months and R.I. for 3 years with fine of Rs.1000/-, in default of payment of fine, R.I. for 6 month, each respectively. The sentences were ordered to run concurrently.

The charge against all the three appellants was under Section 304B of the I.P.C. The prosecution examined 9 witnesses to prove the charge against the appellants. The trial Court on proper analysis of evidence on record came to the conclusion that the charge under Section 304-B is not proved and held that the dying declaration on record

by the Naib Tehsildar is not proved. Therefore, the finding of fact is recorded holding charge under Section 306 of the I.P.C. against the appellants. Having said so, the trial Court arrived at the conclusion that the charges under Section 498-A and 306 are proved and the finding on conviction and sentence was recorded, as stated above. The reason given by the learned trial Judge is based on the evidence of PW.2 with regard to the cruelty to record the finding under Section 498-A. Though the charge is not framed under Section 306 of the I.P.C. but the finding is recorded under Section 306 of the I.P.C. The correctness of the same is questioned before the High Court urging various legal contentions.

The High Court after adverting to the rival legal submissions urged on behalf of the parties, examined the correctness of the finding of the guilt recorded for the charge under Section 498-A and 306 of the I.P.C. The Appellate Court in exercise of its appellate jurisdiction was required to re-appreciate the evidence on record. The Appellate Court has examined the correctness of the finding of guilt on the charges under Sections 498-A and 306 of the I.P.C. The High Court has noticed that the appellants are acquitted for the charge under Section 304-B of the guilt by placing reliance upon the judgment of this Court in the case of Hira Lal Vs. State (NCT) of Delhi (reported in AIR 2003 SC 2865). In the said case the charge under Section 304-B was framed but no charge under Section 306 was

framed. The accused being guilty under Section 304-B was not proved, even though it is not proved it was held in the said case that no charges were framed against the accused under Section 306 read with 498-A but proved. The cruelty is essential to be proved under both Sections 498-A and 306. The finding of conviction can be recorded under Section 498-A and the said ratio can be applied to the fact and situation for recording the concurrent finding of guilt for the charge under Sections 498-A and 306. The correctness of the same is questioned by the appellants in this case. The finding recorded by the trial Court on the aforesaid terms has yet to be examined. The evidence of PWs. 1 and 2 is only the evidence with regard to the demand of dowry made by the husband, the appellant herein, demanding the dowry of scooter but given Luna. That was not acceded to. Therefore, it amounts to cruelty. The said evidence is accepted by the trial Court for recording the finding under Section 498-A and for the reasons stated that the cruelty under Sections 306 and 498-A is common. Therefore, the finding and reasons recorded for holding the charge is proved.

We have very carefully gone through the finding and reasons both by the trial Court and the Appellate Court. We have examined the correctness of the same. After going through the same, we find that both the Courts also have failed to appreciate the evidence on record to be applied to the situation, particularly, that the charge under

Section 304-B is not proved against the appellants.

In our considered view we do not find any good reason to sustain the order of the Appellate Court with regard to the finding of guilt recorded under Section 498-A and 306. We are of the view that the impugned judgment of conviction and sentence for the aforesaid charge liable to be set aside and accordingly set aside.

The appeal is accordingly disposed of.

The appellants are on bail, their bail bonds are discharged.

.....J.
(V. GOPALA GOWDA)

.....J.
(C. NAGAPPAN)

New Delhi;
Date: 6.4.2016.

ITEM NO.106

COURT NO.3

SECTION IIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2461/2009

RAM MANI & ORS.

Appellant(s)

VERSUS

STATE OF M.P.

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(with appln. (s) for exemption from filing O.T. and taking additional document on record and office report)

Date : 06/04/2016 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. GOPALA GOWDA

HON'BLE MR. JUSTICE C. NAGAPPAN

For Appellant(s)

Mr. Shiv Sagar Tiwari,Adv.

For Respondent(s)

Mr. Arjun Garg,Adv.

Mr. manish Yadav,Adv.

Mr. Mishra Saurabh,Adv.

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

The appeal is disposed of in terms of the signed order.

The appellants are on bail, their bail bonds are discharged.

Pending applications, if any, stand disposed of.

(SUMAN WADHWA)

AR-cum-PS

(RENUKA SADANA)

COURT MASTER

Signed order is placed on the file.