

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.551-552 OF 2010

LALITABEN @ HIRABEN & ORS. .. APPELLANT(S)

VERSUS

STATE OF GUJARAT .. RESPONDENT(S)

O R D E R

1. These appeals are directed against the common judgment and order of the High Court of Gujarat at Ahmedabad in Criminal Appeal Nos.1174 and 1629 of 2005, dated 11.08.2009. By the impugned judgment and order the High Court has confirmed the order of conviction and sentence for the offence punishable under Section 498-A of the Indian Penal Code, 1860 (for short, "the IPC"), and has confirmed the order of conviction but modified the order of sentence for the offence punishable under

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Section 306 of the IPC.

Charanjeet Kaur  
Date: 2015.09.14  
16:51:58 IST  
Reason:

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2. The brief facts of the prosecution case are that early morning on 14.10.1997 the deceased Shobhana committed suicide in her matrimonial home by taking poison. She was taken to the hospital where she was declared to have been brought dead. Thereafter, the father of the deceased lodged a complaint before the police wherein he stated that the husband, mother-in-law, father-in-law, sister-in-law and brother-in-law of the deceased, who are the appellants-herein, had subjected her to extreme physical and mental cruelty and thereby

compelled her to commit suicide.

3. The complainant stated that the deceased had been married for a period of two and a half years at the time of the commission of suicide, and had a ten month old son. Soon after her marriage, the appellants began to subject her to physical and mental cruelty and harassment. The sister-in-law of the deceased would taunt her. The husband of

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the deceased would bring home work involving the stitching of buttons, and the appellants would reprimand the deceased to complete the entire work of stitching buttons within the night. The son of the deceased was only a few months old, and as a result, she would have to attend to him at night, due to which she would be unable to complete the work of stitching buttons. Thereupon, the appellants would beat her. The sister-in-law and mother-in-law of the deceased would not allow the deceased to feed her son. On three occasions, when the deceased visited her maternal home, she narrated the instances of physical and mental cruelty she faced to the complainant.

4. On the basis of the complaint a First Information Report was registered for the offences punishable under Sections 306, 498-A and 114 of the IPC. After the completion of investigation charge-sheet was filed. The case was triable

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exclusively by the Sessions Court and therefore the case was committed to the Additional Sessions Judge, Fast Track Court, Rajkot. Thereafter, the appellants appeared before the Additional Sessions Judge and after both sides were heard, charges were framed against the appellants for the

offences punishable under Sections 306 and 498-A of the IPC. The charges were read over and explained to the appellants who pleaded not guilty. Accordingly, the case was committed to Trial.

5. In order to substantiate the charges framed against the appellants, the prosecution examined ten witnesses including the complainant, the Medical Officer who conducted post mortem, and panch witnesses and presented twenty one documents. After the completion of prosecution evidence, the statements of the appellants were recorded under Section 313 of the Code of Criminal Procedure (for short, "the Code") wherein they denied all allegations leveled against them. No evidence was led in defense of the appellants.

6. The counsel for the appellants would submit before the Additional Sessions Judge that the prosecution case suffered from numerous lacunae and failed to establish the guilt of the appellants beyond reasonable doubt. The counsel for the appellants would submit that no complaint about cruelty and harassment had been lodged before the police prior to the suicide of the deceased.

7. The counsel for the appellants would further submit that while the deceased committed suicide prior to 8:45 a.m., the First Information Report was lodged only at 11:30 p.m. and therefore there was unexplained delay in lodging of the First Information Report, and this would raise considerable doubt regarding the genuineness of

the complaint. The counsel for the appellants would further submit that the testimonies of the prosecution witnesses suffered from inconsistencies and contradictions, and further that there were no independent witnesses to corroborate their testimonies.

8. Upon a detailed examination of the evidence on record, the Additional Sessions Judge held that the charges against the appellants were proved beyond reasonable doubt. The testimonies of the prosecution witnesses were cogent and reliable and did not suffer from any material contradictions. The father, mother and sister of the deceased were natural witnesses, and their testimonies could be relied upon to establish the guilt of the appellants.

9. The Additional Sessions Judge further held that the delay in lodging of First Information

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Report had been duly explained by the prosecution.

The incident occurred prior to 8:45 a.m., thereafter inquest was conducted from 9:00 a.m. - 9:30 a.m., thereupon post mortem was conducted on the body of the deceased, after which the body was handed over to the family for cremation. It is only natural that the complaint would be lodged before the police after the last rites were performed. Thus, the Additional Sessions Judge did not find any merit in the arguments raised on behalf of the appellants.

10. Accordingly, by order dated 30.05.2005, the Additional Sessions Judge convicted the appellants

for the offences punishable under Sections 498-A and 306 of the IPC. The Additional Sessions Judge sentenced the appellants to suffer rigorous imprisonment for a period of one year each, and also to pay a fine of Rs.1,000/- each, and in default to undergo imprisonment for a period of

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three months for the offence punishable under Section 498-A. Further, the Additional Sessions Judge sentenced the appellants to suffer imprisonment for a period of two years each, and also to pay a fine of Rs.2,000/- each, and in default to undergo imprisonment for a period of three months for the offence punishable under Section 306 of the IPC. Both sentences were to run concurrently.

11. Being aggrieved by the judgment and order passed by the Additional Sessions Judge, the appellants preferred Criminal Appeal before the High Court. Further, the respondent-State also preferred Criminal Appeal No.1629 of 2005 before the High Court for enhancement of sentence imposed on the appellants by the Additional Sessions Judge.

12. Upon a detailed consideration of the evidence on record including the judgment and order passed

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by the Additional Sessions Judge, and also the submissions of the parties, by judgment and order dated 11.08.2009, the High Court confirmed the order of conviction and sentence passed by the Additional Sessions Judge for the offence punishable under Section 498-A of the IPC. Further, while confirming the order of conviction passed by the Additional Sessions Judge for the

offence punishable under Section 306 of the IPC, the High Court was of the view that the sentence imposed by the Additional Sessions Judge was insufficient in view of the gravity of offence. In that view of the matter, the High Court enhanced the sentence for the offence punishable under Section 306 of the IPC to rigorous imprisonment for a period of five years each.

13. Being aggrieved by the said judgment and order passed by the High Court, the appellants are before us in this appeal.

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14. We have heard learned counsels for the parties to the lis.

15. The learned counsel for the appellants would assail the judgment and order passed by the High Court and submit that the prosecution has failed to prove the guilt of the appellants beyond reasonable doubt. The learned counsel for the appellants would inter alia submit that there was unexplained delay of 14 hours in lodging of First Information Report, and this would show that the complaint was lodged as an afterthought with the mala fide intention of harassing the appellants. The learned counsel for the appellants would further submit that no independent witnesses were examined by the prosecution, and the appellants could not be convicted solely on the basis of the testimonies of interested witnesses.

16. The learned counsel for the appellants would

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rely upon Exhibit 24 of the prosecution evidence, a letter written by the deceased prior to her

death. The learned counsel for the appellants would submit that in the absence of the deceased, this letter should be considered to be her testimony, and nowhere in this letter has she mentioned that she was being subjected to harassment or cruelty by the appellants. Apart from arguing on merits of the case, learned counsel for the appellants would submit that the harsh sentence of rigorous imprisonment for a period of five years ought to be reduced.

17. Per contra, the learned counsel appearing for the respondent-State would support the order of conviction and sentence passed by the High Court.

18. Having gone through the records of the case including the judgments and orders passed by the Courts below, we are of the considered view that there is no infirmity in the judgment of conviction passed by the High Court for the offences punishable under Sections 498-A and 306 of the IPC which requires our interference.

19. Further, in light of the serious nature of the offence involved, we are of the considered view that no occasion arises for reduction of the order of sentence confirmed by the High Court for the offence punishable under Section 498-A of the IPC. However, in our opinion the ends of justice would be met if we reduce the order of sentence passed by the High Court from five years to three years for the offence punishable under Section 306 of the IPC.

20. The Appeals are disposed of accordingly.

21. The appellants are directed to be taken into custody forthwith to serve out the remaining period of sentence.

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22. The order passed by us shall not be treated as precedent in any other case.

Ordered accordingly.

.....CJI.  
[ H.L. DATTU ]

.....J.  
[ ARUN MISHRA ]

NEW DELHI,  
SEPTEMBER 10, 2015.  
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ITEM NO.7

COURT NO.1

SECTION IIB

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). 551-552/2010

LALITABEN @ HIRABEN & ORS.

Appellant(s)

VERSUS

STATE OF GUJARAT

Respondent(s)

Date : 10/09/2015 These appeals were called on  
for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE ARUN MISHRA

For Appellant(s) Mr. Puneet Parihar, Adv.  
Mr. Shiv Mangal Sharma, Adv.  
Ms. Anjali Chauhan, Adv.  
Ms. Sharmila Upadhyay, Adv.

For Respondent(s) Ms. Jesal Wahi, Adv.  
Ms. Hemantika Wahi, Adv.  
Ms. Puja Singh, Adv.

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

The appeals are disposed of in terms of the signed order. The appellants are directed to be taken into custody forthwith to serve out the remaining period of sentence.

The order passed by us shall not be treated as precedent in any other case.

[ Charanjeet Kaur ]  
A.R.-cum-P.S.

[ Vinod Kulvi ]  
Asstt. Registrar

[ Signed order is placed on the file ]