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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

DECIDED ON : 1st AUGUST, 2013

+ **CRL.A.34/2011**

PARVEZ

..... Appellant

Through : Mr.Salim Malik, Advocate.

versus

STATE

..... Respondent

Through : Mr.M.N.Dudeja, APP.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

S.P.Garg, J. (Open Court)

1. Parvez (the appellant) impugns judgment dated 06.10.2010 of learned Additional Sessions Judge in Sessions Case No. 74/2008 arising out of FIR No. 248/2006 PS Gokalpuri by which he was convicted under Sections 498A/304B IPC. By an order dated 13.10.2010 he was sentenced to undergo RI for ten years under Section 304B IPC and RI for three years with fine ₹ 20,000/- under Section 498A IPC.

2. Allegations against the appellant were that he was married to Smt.Anisa on 20.11.2005. On 03.04.2006 Anisa committed suicide at the matrimonial house No.114, New MUstafabad, Eidgah Gate. Daily Diary (DD) No. 18A was assigned to SI Imadul Islam who with Const.Virender went to the spot. SDM was informed. The body was sent to mortuary, GTB Hospital. On 07.04.2006, Abida Begum (victim's mother) got her statement recorded and the First Information Report was lodged. Parvez, Nawab, Nazma and Chand Bibi were suspected for committing the offence. Abida Begum leveled allegations against them for harassment to her daughter- Anisa on account of dowry demand. During the course of investigation, statements of the witnesses conversant with the facts were recorded. The accused persons were arrested. After completion of investigation, a charge-sheet was submitted against all of them. They were duly charged and brought to trial. The prosecution examined eleven witnesses. In their 313 statements, the accused persons pleaded false implication. After considering the rival contentions of the parties and appreciating the evidence on record, the Trial Court, by the impugned judgment, held only Parvez guilty for the offence mentioned previously and sentenced him accordingly. Three others - Nawab, Nazma and Chand Bibi were acquitted of the charges. It is significant to note that the State

did not prefer any appeal against their acquittal. Being aggrieved, the appellant has preferred the appeal.

3. During the course of hearing, appellant's counsel on instructions stated at Bar that the appellant – Parvez has opted not to challenge his conviction under Sections 498A/304B IPC and accepts it voluntarily. He however, prayed to take lenient view as he has already undergone the substantial period of substantive sentence awarded to him and he is not a previous convict.

4. I have heard the learned counsel for the parties and have examined the record. Since the appellant has not opted to challenge findings of the Trial Court on conviction under Sections 498A/304B IPC, his conviction stands affirmed. The appellant – Parvez was sentenced to undergo RI for ten years with fine ₹ 20,000/-. Nominal roll dated 24.07.2013 reveals that he has already undergone seven years, three months and sixteen days incarceration as on 24.07.2013. He also earned remission for ten months and fifteen days. Nominal roll further reveals that he is not a previous convict and is not involved in any criminal case. His overall jail conduct is satisfactory. He is in custody from the inception. His other relatives who were impleaded in the case succeeded in getting acquittal. He is the sole bread earner of the family and has clean

antecedents. He is to take care of his old aged parents who are suffering from various ailments. The injuries on the victim's body depicted in the post-mortem report were 'bruises' which show that she was given beatings prior to the incident. However, the beatings given to the victim are covered under Section 498A IPC whereby she was treated with cruelty by the appellant – Parvez. Those injuries were not sufficient to cause death in the ordinary course of nature.

5. Taking into consideration all these mitigating circumstances, the order on sentence is modified and the appellant – Parvez is sentenced to undergo RI for eight and a half year with fine ₹ 5,000/- and failing to pay the fine to undergo SI for one month under Section 304B/498A IPC.

6. Appeal stands disposed of in the above terms. Trial Court record be sent back forthwith along with copy of the order.

(S.P.GARG)
JUDGE

AUGUST 01, 2013
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