

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPEAL NO. 171 OF 1995

1. Sidharam Shivsharnayya HiremathAppellants
2. Nilavvabai Shivsharanayya Hiremath

V/s.

The State of MaharashtraRespondent

Mr. M. V. Thorat Advocate for Appellant
Mrs. A. A. Mane APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : DECEMBER 11, 2015.

PC :

In the present case, appellants herein are convicted for offence punishable under section 304 (B) of Indian Penal Code. They were awarded a sentence of three years. By an order dated 27/04/1995 this Court (Coram: V. Sahai, J.) had issued notice of enhancement as minimum sentence prescribed for offence punishable under section 304 (B) of Indian Penal Code is 7 years. Appeal was finally heard on 26/11/2015. This Court had issued non-bailable warrants. Pursuant to the order dated 26/11/2015, appellants were taken into custody on 29/11/2015 and are in jail till today.

2) Upon perusal of records and proceedings and the evidence adduced by the prosecution, this Court was of the opinion that the prosecution has failed to establish the guilt of appellant no. 1 beyond reasonable doubt. Hence, appellant no. 1 deserves to be acquitted of all the charges levelled against him.

3) Appellant no. 2 deserves to be convicted for offence punishable under section 498 (A) of Indian Penal Code. Appellant no. 2 is acquitted of the offence punishable under section 304 (B) of Indian Penal Code. Appellant is convicted for offence punishable under section 4 of Dowry Prohibition Act and is sentenced to fine of Rs. 20,000/- to be deposited before Sessions Court within 8 weeks from the date of her release.

4) Appellant no. 2 is about 70 years old. Appeal is heard after a lapse of 20 years and this would be a sufficient reason to award a sentence less than the minimum prescribed under section 4 of the Dowry Prohibition Act.

ORDER

(i) Appeal is partly allowed.

(ii) Conviction recorded against appellant no. 1 by Sessions Judge Solapur in Sessions Case No. 111 of 1994 is hereby quashed and set

aside.

(iii) Appellant no. 1 is acquitted of all the charges levelled against him.

(iv) Fine amount, if paid by appellant no. 1 be refunded.

(v) Bail bonds of appellant no. 1 stand cancelled.

(vi) Appellant no. 2 is convicted for offence punishable under section 4 of Dowry Prohibition Act.

(vii) Appellant no. 2 is sentenced to the substantive sentence already undergone.

(viii) Appellant no. 2 is sentenced to fine of Rs. 20,000/- to be deposited before Sessions Court within 8 weeks from the date of her release.

(ix) Appellant nos. 1 & 2 be released forthwith, if not required in any other offence.

(x) Appeal stands disposed of.

(SMT. SADHANA S. JADHAV, J.)