

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.1156 OF 2002

The State of Maharashtra	...	Appellant
V/s.		
Sunil Surendra Hapase		
Age about 31 yrs., Occu.Service,		
R/at Sneha Apartment,		
Anandnagar, Pune.	...	Respondent

.....
Mr.Deepak Thakre, APP for the Appellant.
Ms.Susan Abraham, Advocate for the Respondent/State.

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CORAM : ABHAY M. THIPSAY J.

DATED : 29TH JULY 2015

ORAL JUDGMENT :

1. This appeal is directed against the Judgment and Order dated 07/06/2002 passed by the Judicial Magistrate First Class, Pune acquitting the appellant, who was an accused in Regular Criminal Case No.147 of 2000, of offences punishable under Section 498A of the Indian Penal Code (For short, "the IPC), Section 323 of the IPC and Section 506(II) of the IPC. Being aggrieved by the said Judgment and Order, the State of Maharashtra, after obtaining special leave of this court, has filed the present appeal.

2. I have heard Mr.Deepak Thakre, the learned Additional Public Prosecutor for the appellant/State. I have heard Ms.Susan Abraham, the learned counsel for the respondent.

3. For the sake of convenience and clarity, the respondent shall, hereinafter, be referred to as “the accused”.

4. I have gone through the evidence adduced during the trial. I have also carefully gone through the impugned Judgment.

5. The case against the accused was registered on the basis of a report lodged by his wife – Manisha, which was initially registered at Sarkarwada Police Station, Nashik and then was forwarded to the Haveli Police Station, Pune. After investigation, a charge sheet alleging commission of aforesaid offences by the accused was filed and the prosecution of the accused, as aforesaid, resulted in his acquittal.

6. The prosecution had examined four witnesses during the trial. Manisha – wife of the accused was the first witness and her father – Suryakant Nagarkar - was the second witness for the prosecution. The third witness was Dr.Laxman Chavan and the fourth was Ramchandra Kadam – ASI attached to the Haveli Police Station, at the material time, who had investigated into the matter and had filed charge sheet against the accused.

7. The case of the First Informant Manisha was to the effect that after her marriage with the accused on 07/03/1996, for an initial period about 5-6 months, she was well treated. However, thereafter the accused started demanding an amount of Rs.4,00,000/- saying that she should bring this amount from her father. When Manisha used to tell the accused that her father had no capacity to pay such a huge amount, the accused used to be annoyed and used to beat her. That, in the month of March 1997, Manisha was driven out of the matrimonial house by the accused. Therefore, she started residing with her parents at Nashik. The matter was thereafter settled and Manisha came back in her matrimonial house in the month of February 1999. Again for about 2-3 months she was properly treated, but thereafter the accused again started demanding an amount of Rs.4,00,000/-. The accused again started ill-treating and beating Manisha. On 11/03/2000, Manisha left the matrimonial house and went to her parents' house.

8. The learned Magistrate observed that though in her testimony, Manisha had stated that the accused had been demanding an amount of Rs.4,00,000/- from Manisha expecting her to bring the same from her father, according to the father of Manisha, the demand - that was conveyed to him by Manisha - was of Rs.2,00,000/-. Because of this variation in the version of

Manisha and that of her father, the Magistrate felt a doubt about the truth of this allegation. The Magistrate also observed that the accused was having T.V., Fridge, Furniture, etc. in the house and, therefore, was unlikely to make a demand of money, which was said to be for these articles only. The Magistrate also observed that Manisha had not stated any specific instances of ill-treatment or cruelty.

9. The Magistrate noted that there was absolutely no medical evidence to support the charge of beating.

10. The Magistrate also observed that after the marriage, Manisha had actually spent very little time with the appellant. Out of that also, for a certain period, admittedly, she was treated well. The Magistrate was right in observing that Manisha had cohabited with the accused hardly for two years, and that too, not continuously.

11. The Magistrate has meticulously discussed the evidence adduced before him during the trial, and has come to the conclusion that the evidence of Manisha was not reliable. He also discussed the concept of 'cruelty' in criminal law and held that no case of an offence punishable under Section 498A of the IPC had been made out.

12. The appreciation of the evidence, as done by the Magistrate, is proper and the conclusion arrived at by him does not suffer from any infirmity or illegality.

13. The learned counsel for the accused also submits that subsequent to the acquittal of the accused, the parties have secured dissolution of their marriage by mutual consent.

14. In any case, the Judgment and Order of acquittal passed by the Magistrate being proper and legal, there is no scope for interfering in the matter.

15. The appeal is dismissed.

(ABHAY M. THIPSAY J.)