

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 2768 of 1998

1. Rishi Kumar S/o. Ayodhya Prasad, Aged about 37 years,
2. Ramabai W/o. Bheekham
3. Kiranbai S/o. Kishanlal

All resident of village Watgan, Police Station Palari, District Raipur (C.G.)

---- Appellants

Versus

State of Madhya Pradesh through Police Station Palari, District Raipur (C.G.)

---- Respondent

For Appellant : Mrs. Renu Kochar, Advocate.

For Respondent : Ms. Shriya Mishra Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

07.08.2019

Appellants/accused herein are the husband and in-laws of the complainant (PW-3) and it is said that they started harassing her for demand of motorcycle just after the marriage which was solemnized in the month of May 1992. They are also alleged to have deprived the complainant of food and threatened of being killed in case she did not fulfill the demand raised by them. Allegedly, on account of beating at the hands of accused/appellants she had become unconscious and on regaining consciousness she felt burns on her body and resultant acute pain. It also emerges

from the record that during hospitalization of the complainant also, the accused/appellants had threatened her of dire consequences if she did not speak in the Court in their favour. On the basis of written report Ex.P-3 made by complainant herself, FIR (ExP-8) under Sections 498-A and 324/34 IPC was recorded and after completion of investigation charge-sheet was filed against them under Section 307 and 498-A/34 IPC followed by framing of charge accordingly.

2. After full fledged trial, the accused/appellants were acquitted of the charge under Section 307 but have been convicted under Section 498-A IPC and sentenced to undergo RI for 3 years with fine of Rs. 1000/- plus default stipulations vide impugned judgment dated 20.11.1998 passed in Sessions Trial No. 344/1993. Hence, this appeal.

3. Counsel for the appellants, at the outset, submits that as the parties have already compromised the matter amicably outside the Court, they do not wish to pursue this appeal. On their insistence, the parties also appeared before the Additional Registrar (J) and gave their statement to that effect. State counsel, however, supports the judgment impugned and submits that the offence alleged against the accused/appellants is not compoundable in nature as per section 320 of the Cr.P.C., the proposition made on behalf of the accused/appellants cannot be allowed.

4. Since the offence under Section 498-A IPC is not compoundable in nature, prayer made on behalf of the accused/appellants to this

effect cannot be acceded to and this Court has to decide their guilt or innocence on its own merits. It proceeded to do so.

5. From the evidence of the victim (PW-3), it is evident that just after months of marriage the accused/appellants started mentally and physically harassing her for demand of dowry and motorcycle. She was not even given proper food to eat and was being taunted for her complexion. Once on account of beating she had become unconscious and on regaining consciousness she was feeling burn injuries paining a lot. Even the surgeon (PW-2) has admitted that the complainant had suffered burn injuries and he had recorded her statement to the effect that she was mentally fit at that time. From the evidence of the victim, it also comes out that during her hospitalization also the accused/appellants were pressurizing her to speak in their favour or else she would be finished. Seizure witness (PW-1) has also supported the case of the prosecution stating that one Mo-bey oil container, match box and burnt pieces of *sarri* were seized from the spot under Ex.P-1. Other witnesses have also supported the case of the prosecution. In these circumstances, the allegations made against the accused/appellants are fully substantiated by the material on record in particular the evidence of the victim and therefore, their conviction under Section 498-A IPC is fully justified and it is hereby maintained.

6 As regards sentence, keeping in mind that the parties have given a statement to the effect that they have already compromised the matter amicably outside the Court and further that the accused/appellants have already remained in jail for about

6 months, this Court feels it proper and in the interest of justice to reduce the sentence imposed on them to the period already undergone.

7. In the result the appeal is allowed in part, upholding the conviction of the accused/appellants but reducing the sentence imposed on them to the period already undergone by them. The appellants are reported to be on bail and therefore, their bail bonds stands discharged.

Sd/-

(Vimla Singh Kapoor)

JUDGE