

CRIMINAL APPEAL NO. 215 OF 2008

Versus

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ORAL JUDGMENT :

Heard Shri Nawab, learned counsel for the
appellant and Shri Khan, learned APP for the respondents.

2. This is an appeal against the judgment and order dated 02.04.2008 in Sessions Trial No. 8 of 2005 passed by the Additional Sessions Judge, Darwha, by which the appellant is convicted for the offence punishable under Sections 306 of the Indian Penal Code,

sentencing him to suffer rigorous imprisonment for three years and to pay fine of Rs.1,000/-, in default of fine to suffer S.I. for one month; and under Section 498-A of the Indian Penal Code, sentencing him to suffer rigorous imprisonment for one year and to pay fine of Rs.500/-, in default of fine to suffer S.I. for 15 days, in Crime No. 248 of 2004 registered at Police Station Darwha, District – Yavatmal.

3. The prosecution story, in brief, is as under :

(i) The appellant is the husband of the deceased, who died of consuming poison on 12.11.2004. The marriage between the duo was solemnized in the year 1995. After nine years of her marriage, she committed suicide on the ground of continuous ill-treatment on the part of the appellant and his relatives.

(ii) The informant is the father of the deceased. The First Information Report is lodged on 13.11.2004 and accordingly crime came to be registered against the appellant and his relatives for the offence punishable under Sections 306 and 498-A read with Section 34 of the Indian Penal Code. It is alleged that the accused persons, after marriage of the deceased, treated her well for three years and thereafter they started harassing her on account of demand of

money.

(iii) After completion of investigation, charge-sheet came to be filed before the Court of Magistrate, who in its turn committed the case to the Sessions Court. The Sessions Court framed charge against the accused persons for the offence punishable under Sections 306, 498-A read with Section 34 of the IPC. The charge was explained and read over to the accused persons in vernacular, to which they pleaded not guilty and claimed to be tried. The plea of the accused persons was recorded.

(iv) To bring home the guilt of the accused, the prosecution examined in all five witnesses. PW-2 – Bhaskar Mahadeo Panchabudhe – informant and PW-4 – Amruta Mohan Zare – daughter of the deceased are the star witnesses and other witnesses are of formal in nature.

(v) The accused were asked questions by the Sessions Court with regard to incriminating material against them. Their answers were of total denial. They claimed their innocence.

(vi) The learned Sessions Court found the appellant guilty of the offence under Sections 306 and 498-A of the IPC. The Sessions Court sentenced and convicted the appellant – accused as above. However, other co-accused have been acquitted of all the charges. The appellant impugned this judgment before this Court.

4. I have heard Shri Nawab, learned counsel for the appellant and Shri Khan, learned APP for the respondent – State. I have also perused the record with their assistance.

5. At the outset, with regard to charge of abetment to suicide, PW-3 – the father of the deceased deposed with regard to harassment at the hands of the appellant and his family members to the deceased during the course of nine years. During this period, every time after the incident of harassment, the deceased used to come to her parents' place and the appellant used to come to take her. The appellant was more interested in consummation of marriage with the deceased. The harassment, as deposed by PW-3 is of general nature. No specific incident of harassment could be brought on record. As rightly pointed out by Shri Nawab, learned counsel for the appellant, the general allegations of harassment are common against all the accused persons, however, other co-accused

have been acquitted of the offence of Section 498-A of the IPC.

6. PW-4, the minor daughter of the deceased, deposed that she was present in the house and in her presence the appellant gave beating to her mother and also forced her to consume poison. However, as per prosecution, it is the case of suicide. Furthermore, the evidence is with regard to quarrel between the husband and wife and in that quarrel, he used to beat her for the demand of money. The demand of money is also a vague term and in the absence of other particulars to establish the link, the offence of harassment, as contemplated under Section 498-A of the Indian Penal Code, is not made out.

7. At the same time, general allegations of harassment are also not sufficient to rope in the appellant to the offence of abetment to suicide. There is absolutely no material which could be pointed out by the prosecution with regard to instigation by the appellant to the deceased to commit suicide. On the contrary, the conduct of the appellant throughout is sufficient to infer that he was more interested in company of the deceased than her elimination. From time to time he brought the deceased from her father's place and also issued notices for restitution of conjugal rights. Moreover,

he also took the deceased to hospital and refused to give body of the deceased for funeral to PW-3 – father of the deceased and the appellant himself performed the funeral at his place.

8. Considering the conduct and the nature of allegations against the appellant and also considering the fact that the similarly situated co-accused have been acquitted of the charges of harassment under Section 498-A of the Indian Penal Code, in the opinion of this Court, the appellant also deserves to be acquitted.

9. Hence, for the reasons aforesaid, Criminal Appeal needs to be allowed and the same is allowed. The judgment and order dated 02.04.2008 passed by the Additional Sessions Judge, Darwha, in Sessions Trial No. 8 of 2005 is hereby quashed and set aside. The appellant – accused is acquitted of the offence punishable under Sections 306 and 498-A of the Indian Penal Code. Bail bond of the appellant stands cancelled and surety stands discharged. Fine amount if paid, be refunded to the appellant.

10. Criminal Appeal is allowed and disposed of accordingly.

JUDGE
