

Form No.J(1)

IN THE HIGH COURT AT CALCUTTA
Criminal Appellate Jurisdiction
Appellate Side

Present :

The Hon'ble Justice Rabindranath Samanta

C.R.A. 235 of 1990

Ashok Sanyal Appellant.

Versus

The State of West Bengal respondent.

For the State : Mr. Narayan Prasad Agarwala
Mr. Pratik Bose

Heard on : 27.01.2022.

Judgment on : 27th January, 2022.

Rabindranath Samanta, J:

None appears for the appellant despite service of administrative notice.

The respondent State of West Bengal is represented by the learned advocates Mr. Narayan Prasad Agarwala and Ms. Subhasree Patal. Their appointment is regularised.

Learned lawyer appearing for the State respondent submits that this Court may pass necessary order as the Court deems just after going through the evidence on record.

This appeal has been preferred by the appellant being aggrieved by the judgment and the order of conviction and sentence passed by the learned Additional Sessions Judge, 3rd Court, Barasat, North 24-Parganas, whereby the appellant was convicted for commission of the offence punishable under Sections 304B/498A of the Indian Penal Code and he was sentenced to suffer simple imprisonment of 7 years. By the judgment, the two other co-accused persons, namely Smt. Pratiksha Sanyal and Miss Swati Sanyal alias Buri, the mother-in-law and the sister-in-law of the deceased were acquitted of the charge.

To put briefly, the prosecution case may be stated as follows:-

Smt. Dipa Sanyal (nee Mukherjee), the youngest daughter of P.W.2, Sib Chandra Mukherjee of village - Hatkhola Para, Santipur, District – Nadia was given in marriage with the appellant Ashok Sanyal on 4th December, 1984. At the time of her marriage, the father of Dipa Sanyal gave bridal articles to the appellant and his family members. After her marriage, the appellant demanded a cash of Rs.20,000/- from the father of the deceased. Her father paid Rs.12,000/-, but he could not pay the rest amount of Rs.8,000/-. Over non-payment of such amount of money, the appellant and his family members subjected Dipa to cruelty, both physically and mentally. Ultimately, unable to bear with the torture, she ended her life on 25.06.1987.

On the allegations as above, an FIR was lodged on Bizpur Police Station and on the basis of the FIR, Bizpur Police Station Case No.19

dated 25.06.1987 under Sections 498A/304B of the Indian Penal Code was registered against the accused persons for investigation.

After completion of the investigation, the I.O. submitted charge-sheet against all the accused persons including the appellant under Sections 306/498A/304B of the Indian Penal Code.

Charge under Sections 498A/304B of the Indian Penal Code was framed against the accused persons who pleaded not guilty to the charge and claimed to be tried.

In order to bring home the charge, the prosecution examined as many as 29 witnesses and a number of documents were admitted in evidence.

On analysing the evidence on record, the learned Trial Judge found the appellant, Ashok Sanyal guilty of commission of the offence under the Sections 498A/304B of the Indian Penal Code, but rest of the accused persons, namely Smt. Pratiksha Sanyal and Miss Swati Sanyal alias Buri were acquitted of the charge.

Now the question is whether the conviction and sentence recorded by the learned Trial Judge is sustainable in law and on facts.

As it appears from the allegations in the FIR and the evidence of P.W.2, Sib Chandra Mukherjee, the victim Smt. Dipa Sanyal (nee Mukherjee) who was married on 4th December, 1984 breathed her last on 25.06.1987. Therefore, she died within 7 years of her marriage. As recorded by the learned Trial Judge, it appears that the concerned prosecution witnesses have unequivocally deposed before the Court

that before her death, the deceased Dipa Sanyal was subjected to cruelty, both physically and mentally on the demand for dowry.

Despite several opportunities given to the appellant, he did not turn up before the Court to point out either through his lawyer or himself what are the deficiency or weakness of the evidence of the prosecution witnesses by which the credibility of the evidence gets shaken.

However, as the appellant is not represented by anybody, this Court scrutinized and assessed the evidence of the prosecution witnesses with care and circumspection.

As the evidence on record shows, I do not find any justification to depart from the findings as recorded by the learned Trial Judge.

Therefore, I concur with the conviction as imposed by the learned Trial Judge upon the appellant.

According to Section 304B, whoever commits dowry death shall be punished with imprisonment for a term which shall be less than 7 years, but which may extend to imprisonment for life.

It is the fact that the appellant has gone through the mental pains and agony since 1987 for continuing criminal proceedings and thereafter the instant appeal is continuing for more than 34 years. But as the legislature has prescribed the minimum punishment for 7 years for the aforesaid offence, the hands of the Court are tied to reduce the sentence to any other extent.

Accordingly, the sentence as imposed by the learned Trial Judge sustains. In view of the above, the appeal is dismissed.

The judgment and the order of conviction and sentence passed by the learned Additional Sessions Judge, 3rd Court, Barasat, North 24-Parganas in Sessions Trial No.1(1) of 1990 arising out of Sessions Case No.24(8) of 1989 is hereby confirmed.

The appellant, Ashok Sanyal is directed to surrender before the learned Court below forthwith to serve out the remaining part of the sentence, if any. If he fails to surrender before the court of the learned Trial Judge, the learned Trial Judge is at liberty to issue non-bailable warrant of arrest so that the appellant serves out the remaining part of the sentence.

Send down the L.C.R. along with the copy of the judgment to the learned court below for information and compliance.

Urgent photostat certified copy of this judgment, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Rabindranath Samanta, J.)

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