

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 695 of 2018

Dhubabrata Ray @ Praloy Roy

-Vs-

The State of West Bengal

For the Appellant : Mr. Malay Bhattacharyya, Adv.
Mr. Subhrojyoti Ghosal, Adv.

Judgment on : 27.07.2022

Joymalya Bagchi, J.:-

Appeal is directed against judgment and order of acquittal dated 29.06.2018 passed by the learned Additional District and Sessions Judge, Fast Track, 2nd Court, Jalpaiguri in Sessions Case No.197 of 2009.

Prosecution case levelled against the opposite parties is to the effect that on 08.03.2008 at 10.30 P.M. Jolly Bhowmick wife of opposite party No.2 committed suicide. It was alleged that she was subjected to mental and physical torture by her husband opposite party No.2 who had illicit association with opposite party No.6 herein. On the written complaint of the appellant (PW.1) Kotwali P.S. Case No. 392/2008 dated 09.03.2008 was registered. In conclusion of investigation charge-sheet

was filed under Section 498A/306 of the Indian Penal Code against the opposite parties.

Charges were framed under Section 498A/306 of the Indian Penal Code against the opposite party Nos. 2 to 5 and under Section 306 against the opposite party No. 6. On analysis of the evidence on record, the trial judge had acquitted the opposite party No.2 to 4 of all the charges leveled against them.

Learned counsel appearing for the appellant submits that he does not wish to proceed with the matter. Notwithstanding the aforesaid submission, as the appeal has been admitted we have examined evidence on record.

Appellant is the brother of the deceased and was examined as PW.1. PW.2 and PW.4 are the mother and brother of the deceased while PW.13 is her daughter. PWs. 3,5,6,7,8,9,10 and 11 & 21 are the neighbours of the couple. PW.22 is the friend of the deceased. PWs.17 and 18 are the cousin of the deceased. PW.12 is a medical officer who recorded the dying declaration of the deceased. PW.19 also recorded her dying declaration.

On an analysis of the aforesaid witnesses, it appears two statements of the deceased were recorded by PWs. 11 and 19 namely Ext. 6 and Ext. 11. The trial court found there were irregularities in the recording of the aforesaid dying declarations and they were at variance to one another. In the first dying declaration Ext.11 the victim had merely

referred to family disturbance but in the subsequent dying declaration she stated her husband had extra marital affair with another women.

In view of the aforesaid contradictions, the trial court did not believe the dying declarations.

The aforesaid findings of the trial court cannot be said to be wholly perverse and as the appellant is unwilling to proceed with the appeal, we dismiss the appeal preferred by the appellant.

Let a copy of this judgment along with the lower court records be forthwith sent down to the trial court at once.

Photostat certified copy of this judgment, if applied for, shall be made available to the appellant upon completion of all formalities.

I agree.

(Ananya Bandyopadhyay, J.)

(Joymalya Bagchi, J.)