

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.995 of 2006

1. Baljit Soni son of Late Baijnath Prasad, Resident of Village Maharajganj, P.S. Tilauthu, P.O. Maharajganj, Distt. Rohtas
2. Anirudh Prasad Soni, son of Sri Ram Kishun Soni, Resident of Mohalla Mahajani Toli, Sasaram, P.S. Sasaram, Distt. Rohtas
3. Debanti Devi, wife of Sri Anirudh Prasad Soni
4. Ranjit Kumar Soni, son of Sri Anirudh Prasad Soni
5. Reshmi Kumari, daughter of Sri Anirudh Prasad Soni
Sl. No. 3 to 5 are residents of Mahajan Police Station Sasaram, Distt. Sasaram
6. Usha Devi, wife of Late Madan Prasad Soni, Resident of Village Mahajan Toli, P.S. Sasaram, Distt. Sasaram. ... Appellant/s

Versus

STATE OF BIHAR ... Respondent/s

Appearance :

For the Appellant/s : Mr. Ajay Kr. Thakur, Adv.
Ms. Vaishnavi Singh, Adv.
For the Respondent/s : Mrs. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
CAV JUDGMENT

Date : 30-04-2024

Heard Mr. Ajay Kumar Thakur and Mrs. Vaishnavi Singh, learned counsel appearing for the appellants as well as Ms. Anita Kumari Singh, learned Additional Public Prosecutor for the State.

2. This appeal has been preferred by the appellants challenging the judgment of conviction and order of sentence dated 22nd November, 2006 passed by Sri. Sunil Kumar Srivastava, learned Additional District and Sessions Judge-cum-Fast Track Court No. II, Aurangabad in Sessions Trial No. 345/2003 and 145 of 2004 arising out of Kutumba (Amba) P.S. Case No. 19 of 2003, whereby and



whereunder appellant Baljit Soni under Sections 312, 315 and 498A of the IPC and the rests of the appellants were convicted u/s 498A of the IPC and acquitted them under Sections 312 and 315 of the IPC. Appellant Baljit Soni was sent to go rigorous imprisonment for 10 years u/s 315 IPC, rigorous imprisonment for 3 years u/s 312 IPC and three years u/s 498A of the IPC and a fine of Rs. 10,000/- and the rests of the appellants were sent to rigorous imprisonment for three years u/s 498A of the IPC alongwith a fine of Rs. 10,000/- each and in default of fine one year imprisonment was imposed separately.

3. Complainant Sanju Devi filed a complaint petition in the court of learned CJM, Aurangabad being Complaint Case No. 105 of 2003. The said complaint was forwarded to Kutumba (Amba) police station for instituting a case and a case being Kutumba (Amba) P.S. Case No. 19 of 2003 dt. 16.3.2003 for the alleged offence u/s 498A, 376, 312 and 315 of the Indian Penal Code was registered.

4. As per prosecution story, Sanju Devi (informant) was married to Sanjay Prasad Soni in the year of 1991. At the time of her marriage, sum of Rs. 70-80



thousands were spent over her marriage. Out of the said wedlock, she was blessed with three children. After about eight and half year, her husband Sanjay Prasad Soni died in motorcycle accident.

5. After death of her husband, her sasural members (accused persons) have offered her to marry with her own dever, namely, Ranjit to which she accepted seeing the fate of her three children. Accused persons took her (complainant) in their confidence and took the accidental death compensation amount of Rs. 3 lac and thereafter their behavior changed towards her and they declined the proposal of marriage of complainant with Ranjit (dever of complainant). Pacifying the matter, accused persons compelled her to marry with their cousin Baljit Soni and thereafter complainant was married with Baljit on 1.7.2002 at Sasaram in Shivji temple.

6. After her marriage with Baljit Soni, behavior of accused persons become aggressive and they started demand of dowry of Rs. 1 lac and a motorcycle. Whenever, complainant asked for Rs. 3 lac (compensation amount), they denied to give money. Baljit Soni cohabited with his



wife (complainant) resulting into her pregnancy. She provided information about her three months pregnancy to her sasural members (accused persons), then they advised her to terminate it but she denied. One day Baljit Soni, in connivance with other accused persons, administered a medicine to her saying that the same is vitamin tablet. After taking medicine, she became unconscious and abortion took place. Day by day she was getting weak and proper treatment was provided to her by her husband or sasural members. A message in respect of her illness was sent to her maike and they called her parents to take her back. On this information her father and brother came there. Accused persons told them to give a sum of Rs. 1 lac and a motorcycle for the sake of dowry otherwise take the daughter back. Her father and brother tried best to pacify the matter but they failed. On 28.01.2003, they snatched all her belongings and ousted her from her matrimonial house.

7. She was being mentally and physically tortured by the hands of accused persons after the death of her first husband. Finding no way, the present complaint petition is filed by the victim/complainant.



8. After completing the investigation, Investigating Officer has submitted chargesheet against the accused persons. Thereafter cognizance was taken and accused persons were summoned for trial. The case was committed to the court of Sessions for trial and disposal.

9. Trial court has explained the charges to all the six accused persons to which they pleaded not guilty and claimed to be tried.

10. To substantiate the charges leveled against the accused person, altogether nine witness were examined by the prosecution. P.W.-1 Ram Bali Sonar, P.W.-2 Ramesh Pd. Sonar, P.W.-3 Ram Roop Mishra, P.W.-4 Keshav Giri, P.W.-5 Deepak Kumar Soni, P.W.-6 Chandradeo Prasad, P.W.-7 Sanju Devi (informant), P.W.-8 Ashok Pd. Soni and P.W.-9 Ram Narain Singh. From defense side, three witnesses were examined as D.W.-1 Ashok Thakur, D.W.-2 Jagdish Prasad and D.W.-3 Dinesh Singh.

11. P.W.-1 and 2 namely, Ram Bali Sonar and Ramesh Prasad Sonar, respectively, are hearsay witnesses. P.W.-1 in para-6 in examination-in-chief has stated that he learnt about the occurrence through Sanju Devi and in para-



8 he has stated that on which day, day, month and year Sanju Devi disclosed the incident he can not say.

12. Similarly, P.W. 2 in para-7 has stated that the entire fact was disclosed to him by Sanju Kumari in her Maikhe and he has further stated in para-3 that mamera brother of Ranjeet, namely Baljit Soni started saying about marriage with the informant and on the pretext of marriage, he established physical relation with Sanju Kumari as a result of which, she became pregnant which was aborted.

13. That P.W.-3 has stated that he performed the first marriage and subsequently heard that her husband died in accident and she married with mamera brother of Sanjay in Sasaram temple and also learnt that she was aborted. In para-7 he stated that in his presence no demand of dowry was made. In para-13 he has stated that whatever he has deposed, all the matter he heard in the naihar of Sanju Devi.

14. That P.W.-4 Keshav Giri has stated that on 1.6.2002 in his temple Baljit Soni and Ranju Devi was married. He is cross examination in para-6 has admitted that there is register in the temple of marriage and marriage certificate are also being issued and when the said



documents were demanded in para-9 he stated that in his house a fire broke out and all receipts were burnt and he has not lodged any case for burning of her house.

15. That P.W.-5 is brother of the informant who has stated that his sister was married in the year 1991 with Sanjay Kumar Soni and he died subsequently in motorcycle accident and thereafter, father-in-law, mother-in-law, sister-in-law and brother-in-law stated that they will remarry Sanju with Ranjit Kumar but after getting Rs. 3 lac of the claim case, they refused to perform marriage with Ranjit and started saying that she will marry with Baljit Soni and on the pretext of marriage Baljit established physical relation with his sister and on 1.6.2002 marriage was performed in Shiv temple and she was also aborted and finally on 28.1.2003, they brought his sister to his house and since then she is living there. He further stated that his sister has also filed complaint case against accused persons but the same was withdrawn. In para-14 he stated that during life time of Sanjay Soni, there was no complaint with her sasural and first of all they have given the proposal to perform her marriage with Ranjeet Soni and his sister



was liking Ranjit Soni. In para-15 he has stated that Baljit is resident of village Tilauthehu P.S. Rohtas District and he is Mamera brother of Sanjay Soni. In para-16 he has stated that earlier Baljit Soni is liking his sister but now he is disliking her for which complaint was lodged by the mother and brother. In para-18 he has stated that he and others learnt subsequently about the marriage of his sister with Baljit Soni. His sister has gone to village Tilauth in the village of Baljit.

16. That P.W.-6 is Chandradeo Prasad (informant's father) has stated about first marriage and death of her husband. They filed claim case in which Rs. 3 lacs was given and Baljit Soni on the pretext of marriage established physical relation and she became pregnant of three months and the marriage was performed on 1.6.2002 in Shiv Ghat Mandir and accused persons were demanding Rs. 1 lac and one motorcycle after the said marriage. In para-7 he has stated that the ancestral house of Ranjit Soni is in Mauza Murhajnagar, P.S. Tilauthu, Distt. Roh. In para-11, he stated that who gave Rs. 3 lacs as compensation to Sanju Devi, he does not know his name on which date



money was given to her, he has no knowledge. On which date her sasural people took Rs. 3 lacs he has no knowledge. In again 2nd para-11 he has stated that it is not a fact that claim case is still pending at Sasaram being M.V. Case No. 11/22 which was filed by his daughter Sanju Devi and it is not a fact that the said case, the vehicle owner and insurance company have not appeared and it is pending. In para-12 he has stated that there is no documentary proof of getting Rs. 3 lacs. In para 16, he stated that about abortion, he has heard from his daughter. He has no knowledge of the date of second marriage of abortion. He can not file any document in proof of abortion.

17. P.W.-7 is Sanju Devi the informant herself who has stated that in the year 1991 she was married with Sanjay Prasad Soni and she went to sasural and she has good relation with her husband and she gave birth to three children. After six years of the marriage, Sanjay Kumar died in motorcycle accident. A proposal was given by inlaws to her for marriage with Ranjeet. Rs. 3 lac was given in compensation by truck owner was retained by her father-in-law and mother-in-law and thereafter their behaviour was



changed and they started saying that she will be married with Baljit. She further stated that on 1.7.2002, she was forcibly married with Baljit and after the marriage, she became pregnant and accused persons were asking her to abort and Baljit gave vitamin to her and thereafter her condition deteriorated and abortion was done and finally she was ousted on 28.1.2003. In para-15 she stated that Baljit Soni is not a member of her sasural but he is nephew of her mother-in-law. In para-16 she stated that she received three lacs rupees in claim case and the parent of Sanjay Prasad Soni took the said money for doing business and their behavior was good, she gave the said amount to them for doing business. They went to Ambikapur, Chhatisgarh after taking the said money where their business was going on and thereafter she has not met them. She is meeting them in court after institution of the case. In para 17 it is stated that after the parent of Sanjay went to Ambikapur she was alone in the house and accordingly she came to maike. In para18 she stated that after death of Sanjay prasad Soni immediately she came to her nihar. In para-19 she stated that the money of claim case was received by her at



Sasaram court and after giving the said money at Sasaram court from that place she returned back to her naihar. In para-20 she stated that she alongwith her father came to Aurangabad court for lodging case and her father disclosed the matter regarding to case to Wakil Saheb. She has not got anything written and without reading she put her signature on the typed petition. In para-21 she stated that on the direction of her father, she is deposing. In para-22 she stated that business which was started with Rs. 3 lacs went in loss and from the said Rs. 3 lacs some money was returned to her. In para-23 she stated that she saw for the first time Baljit Soni in the court. In para-24 she stated that prior to the present case, she also lodged complaint case no. 3/2003 in the court of Chief Judicial Magistrate, Aurangabad with the same allegation and the said case was dismissed. On court question she stated that in examination in chief she correctly stated that earlier her parent-in-law after death of her husband were saying to get her marriage with Devar Ranjeet but purposely she was married with Baljit on 1.7.2002 and Baljit by duping gave her medicine saying that it is vitamin as a result of which abortion was done. She



further stated that out of three lacs, one lac was given back to her. In para-28 she stated that she has no knowledge that by which doctor her abortion was doen. She stated that abortion was done at Sasaram. In para-29 she stated that she has not disclosed to anyone about the abortion. In para-30 she stated that when she filed case her youngest child was 5 years. In para 31 she stated that at the time of marriage with Baljit in temple vermilion was put, no priest was present nor any Hindu Rituals were followed. She has not disclosed anyone about her marriage with Baljit. In para-33 she stated that in the earlier complain, she has written that accused ousted her on 28.12.2002 but in the said complain she has not stated that by giving medicine her abortion was done. In para 34 she stated that she did not remember that in earlier complain, she has written that she has physical relation with Baljit prior to marriage. In para-35 she has stated that she has no reason to lodge the present case. She further stated that earlier case was dismissed on 28.1.2003 and on that day she was present in the court. In para-37 she stated that her father has brought her who is present in the court and in para-38 she stated that in her deposition a day earlier her



father was present and by giving the reply to her father she has deposed. In para-39 she stated that she has not given any statement to police. In para- 41 she stated that she did not want to go at the house of parents of Sanjay or Baljit.

18. P.W. 8 was declared hostile.

19. P.W.-9 is Advocate clerk who has proved the typing of complaint case no. 105 of 2003.

20. The ordersheet of claim case no. 3/2003 being M.V. Claim Case No. 11/2002 was exhibited as Ext-B which will go to show that Sanju Devi filed the said claim case on 4.2.2002 and on 17.5.2003 no one has appeared on behalf of O.P. i.e. owner of the Insurance and no money whatsoever was given to the complainant.

21. Learned APP appearing for the state argued that impugned judgment in question is based on cogent and consistent evidence. FIR is fully corroborated by the deposition of P.W.-7 as well as other witnesses. The defense failed to discredit the evidence of the prosecution witnesses. He further submitted that the prosecution has been able to prove its case beyond all reasonable doubts, and therefore, learned trial court has rightly convicted the appellants. It



has been contended that minor contradictions and variations in the testimony of the witnesses cannot be a ground to discard their evidence as a whole. Therefore, the judgment and order assailed in this appeal requires no interference and appeal is liable to be dismissed.

22. I have gone through the entire prosecution evidence and exhibits which are available on record adduced by the prosecution to prove the charges levelled against the appellants/accused. It is also pertinent to mention here that from the statement of the informant herself it is evident that no case is made out u/s 315 of the IPC against the appellants as in proof of abortion neither any doctor has been examined by the prosecution nor the prosecution has produced any chit of paper. Section 498A will also not attract against appellant nos. 2 to 6 as they are not the family members of the so called second husband of the complainant/informant. The informant herself has stated that after death of her first husband she left her sasural and started residing in her Naihar and since then she is there. She further stated that father-in-law Anirudh Prasad Soni and mother-in-law Devwanti Devi started living at



Ambikapur, Chhatisgarh and she started living in her Naihar and thereafter she met them in Aurangabad Court. From her deposition, it appears that she has not lodged the complain but the complain was lodged at the dictate of her father on which without reading the same she put her signature. Father of the complainant has made a vague allegation with regard to alleged demand of Rs. One lac and motorcycle without specifying that who has demanded, on which date the demand was made and what torture was given to the complainant for non-fulfillment of said demand. It is undisputed fact that from the first husband there are three children and they are residing with their grand parents. The evidence of informant/P.W.-7 is not corroborated by any independent witnesses. The informant is interested witness and it is a Rule of Prudent that interested witness should be corroborated by other cogent and consistent evidence and without corroboration, evidence of P.W.-7 would not be safe to convict the appellants. The prosecution is not able to prove its case beyond reasonable doubt.

23. It is established that prosecution evidence which have been brought on record, as discussed above, is



not sufficient to come a conclusion that the appellants have tortured the complainant for dowry demand or forcefully they got her pregnancy terminated. The prosecution has failed to establish its case beyond the shadow of all reasonable doubts and the appellants are entitled to get the benefits of doubt.

24. In the present case, Investigation Officer has not been examined caused prejudiced.

25. Thus, on consideration, as discussed above, I am of the view that the prosecution has failed to establish its case and as such the conviction of the appellants cannot be upheld. The impugned judgment of conviction and order of sentence is hereby quashed and set aside.

26. The appellants, who are on bail are acquitted by giving them the benefits of doubt and they are discharged from the liabilities of the bail bonds.

27. Accordingly, the appeal stands allowed.

(Sunil Kumar Panwar, J)

sushma/-

AFR/NAFR	NAFR
CAV DATE	23.4.2024
Uploading Date	1.5.2024
Transmission Date	1.5.2024

