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v.

STATE BY THE INSPECTOR OF POLICE THIRUVOTRIYUR
POLICE STATION CHENNAI

(Criminal Appeal No. 31 of 2022)

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JANUARY 11, 2022

[M. R. SHAH AND B.V. NAGARATHNA, JJ.]

Penal Code, 1860: s.498A – Death of married woman due to self-immolation – Allegation of dowry demand against in-laws – Conviction of mother-in-law and one year RI – Challenged – Held: Deceased was staying with her in-laws, while husband of deceased was staying abroad – It was established and proved that deceased was subjected to torture/cruelty by her mother-in-law (appellant) regarding jewellery – Conviction of appellant u/s.498-A was, therefore, justified – As regards the plea of lenient view in sentencing, incident having occurred in 2006 and appellant presently about 80 years old, as a mitigating circumstance, her sentence reduced from one year RI to 3 months RI – Crime against women.

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Partly allowing the appeal, the Court

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HELD: 1. It was established and proved that the deceased was subjected to torture/cruelty by the appellant – mother-in-law with regard to jewels. PW-1 – mother of the victim in her evidence clearly stated that her daughter was frequently subjected to harassment by her mother-in-law for not adorning jewels. Similar was the deposition of PW-2 – father of the victim. Both the witnesses were subjected to cross- examination. However, after detailed cross-examination, they stood by what they had stated. Therefore, both of them and even PW-3 fully supported the case of the prosecution. There were concurrent findings of facts recorded by both the Courts below on the harassment and/or torture and/or cruelty by the appellant – accused No. 2 with regard to jewels. The findings recorded by both the Courts below were on appreciation of evidence, therefore, the appellant was rightly held guilty for the offence under Section 498A IPC. [Para 7] [227-D-F]

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- A 2. The Trial Court imposed the sentence of one year R.I. for the offence under Section 498A. The incident is of the year 2006. Therefore, merely because long time has passed in concluding the trial and/or deciding the appeal by the High Court, is no ground not to impose the punishment and/or to impose the sentence already undergone. It is to be noted that the appellant – mother-in-law is held to be guilty for the offence under Section 498A of IPC. Being a lady, the appellant, who was the mother-in-law, ought to have been more sensitive vis-à-vis her daughter-in-law. When an offence has been committed by a woman by meting out cruelty to another woman, i.e., the daughter-in-law, it becomes a more serious offence. In the present case, even the husband of the victim was staying abroad. The victim was staying all alone with her in-laws. Therefore, it was the duty of the appellant, being the mother-in-law and her family to take care of her daughter-in-law, rather than harassing and/or torturing and/ or meting out cruelty to her daughter-in-law regarding jewels or on other issues. Therefore, as such, no leniency is required to be shown to the appellant in this case. However, considering the fact that the incident is of the year 2006 and at present the appellant is reported to be approximately 80 years old, in the peculiar facts and circumstances of the case, as a mitigating circumstance, the sentence is reduced from one year R.I. to three months R.I. with fine imposed by the Trial Court to be maintained. [Para 8][227-G-H; 228-A-D]

F CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 31 of 2022.

F From the Judgment and Order dated 30.04.2019 of the High Court of Judicature at Madras in Crl.A.No.748 of 2010.

G S. Nagamuthu, Sr. Adv., M. P. Parthiban, A. S. Vairawan, R. Sudhakaran, Mrs. Shalini Mishra, T. Hari Hara Sudhan, Vikash G. R., Advs. for the Appellant.

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The Judgment of the Court was delivered by
M. R. SHAH, J.

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1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Judicature at Madras dated 30.04.2019 passed in Criminal Appeal No. 748 of 2010 by which the High Court has dismissed the said appeal so far as the appellant – original accused No.2 is concerned, upholding the judgment and order passed by the Trial Court convicting her for the offence under Section 498A of the Indian Penal Code (IPC), the original accused No.2 – mother-in-law of the deceased has preferred the present appeal.

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2. As per the case of the prosecution, a complaint was lodged by PW-1 Ramathilagam, mother of the victim therein alleging that all the accused – her son-in-law, his mother, her daughter and father-in-law were harassing the deceased and she was subjected to torture/cruelty for want of jewels. It was alleged that due to which her daughter had immolated herself. She was taken to the hospital, however, she succumbed to the injuries. All the accused were charged for the offences under Sections 498A and 306 IPC. After investigation, the Investigating Officer filed the charge sheet against accused Nos. 1 to 4 for the offences under Sections 498A and 306 of IPC.

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2.1 The case was committed to the Court of Sessions, which was numbered as Sessions Case No. 203 of 2008. The Trial Court framed the charge against the accused for the aforesaid offences. The accused pleaded not guilty and, therefore, they claimed to be tried by the Trial Court for the aforesaid offences.

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2.2 To bring home the charges against the accused, the prosecution examined in all 16 witnesses. The prosecution also brought on record documentary evidence through the aforesaid witnesses. After completion of the evidences on the side of the prosecution, the statements of the accused under Section 313 Cr.P.C. were recorded. The accused pleaded total denial and stated that they had been falsely implicated in the case. The Trial Court on appreciation of evidence acquitted accused No. 4, however, it convicted accused Nos. 1 to 3 for the offences punishable under Sections 498A and 306 IPC. The Trial Court sentenced the accused to undergo one year R.I. with a fine of Rs.1,000/- for the offence under Section 498A IPC and three years R.I. with a fine of Rs.2,000/- for the offence under Section 306 IPC. The Trial Court also imposed default sentence in case of failure to pay the fine.

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- A 2.3 Feeling aggrieved and dissatisfied with the judgment and order of conviction and sentence imposed by the Trial Court, accused No. 1, husband of the deceased, accused No.2, mother-in-law of the victim and accused No.3,sister-in-law of the victim preferred the appeal before the High Court. By impugned judgment and order, the High Court has partly allowed the said appeal and has acquitted all the accused for the offence under Section 306 IPC. By the impugned judgment and order, the High Court has also set aside the conviction in respect of accused Nos.1 and3 for the offence under Section 498A IPC.However, the High Court has maintained the conviction and sentence in respect of accused No.2 for the offence under Section 498A IPC.
- C 2.4 Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court, dismissing the appeal of accused No.2 and confirming the judgment and order passed by the Trial Court convicting her for the offence under Section 498A IPC, the original accused No.2, mother-in-law of the victim has preferred the present appeal.
- E 3. We have heard Shri S. Nagamuthu, learned Senior Advocate appearing on behalf of the appellant – original accused No.2. Though served, nobody has appeared on behalf of the respondent State.
- E 4. Shri Nagamuthu, learned Senior Advocate appearing on behalf of the appellant has vehemently submitted that in the facts and circumstances of the case, both, the Trial Court as well as the High Court have erred in holding the appellant guilty for the offence under Section 498A of the IPC.
- F 4.1 It is submitted that considering the fact that the injuries sustained by the deceased were deep and to the extent of 96%, she would not have been in a position to make any statement. It is submitted that the Hon'ble High Court when disbeliefing the evidence of PW-1 to PW-3 while acquitting the other accused, the same yardstick ought to have been applied in the case of the appellant also.
- G 4.2 It is submitted that in fact the deceased did not want her husband -A1 to go back to Saudi Arabia and for that she quarreled with her husband and other family members, which was the root cause of dispute/quarrel, which led to her committing suicide. It is submitted that the domestic quarrel on account of the insistence of the deceased that her husband -accused No.1 should not go back to Saudi Arabia would not amount to harassment in terms of Section 498A IPC.

4.3 In the alternative, it is prayed by Shri Nagamuthu, learned Senior Advocate appearing on behalf of the appellant – mother-in-law of the victim that the appellant is an old lady, who is now 80 years old and, therefore, if this Court is not inclined to interfere with the conviction, in that case, a lenient view may be taken while imposing the sentence.

5. We have heard Shri Nagamuthu, learned Senior Advocate appearing for the appellant at length.

6. We have also gone through and considered the judgment and order of conviction passed by the Trial Court as well as the impugned judgment and order passed by the High Court holding the appellant – accused No.2 – mother in-law guilty for the offence under Section 498A IPC. We have also gone through the depositions of relevant witnesses namely PW-1 to PW-3.

7. Having gone through the material on record and the findings recorded by the Trial Court, we are of the opinion that it has been established and proved that the deceased was subjected to torture/cruelty by the appellant – mother-in-law with regard to jewels. PW-1 – mother of the victim in her evidence has clearly stated that her daughter was frequently subjected to harassment by her mother-in-law for not adorning jewels. Similar is the deposition of PW-2 – father of the victim. Both the aforesaid witnesses were subjected to cross-examination. However, after detailed cross-examination, they have stood by what they have stated. Therefore, both of them and even PW-3 have fully supported the case of the prosecution. There are concurrent findings of facts recorded by both the Courts below on the harassment and/or torture and/or cruelty by the appellant – accused No.2 with regard to jewels. The findings recorded by both the Courts below are on appreciation of evidence, therefore, we are of the opinion that the appellant has been rightly held guilty for the offence under Section 498A IPC.

8. Now, insofar as the alternative submission made on behalf of the accused to take a lenient view looking to the age of the appellant is concerned, it is required to be noted that as such the Trial Court has imposed the sentence of one year R.I. for the offence under Section 498A. However, the punishment could have been upto three years R.I. At the time when the incident occurred, the appellant was approximately between 60-65 years. The incident is of the year 2006. Therefore, merely because long time has passed in concluding the trial and/or deciding the appeal by the High Court, is no ground not to impose the punishment

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- A and/or to impose the sentence already undergone. It is to be noted that the appellant – mother-in-law is held to be guilty for the offence under Section 498A of IPC. Being a lady, the appellant, who was the mother-in-law, ought to have been more sensitive vis-à-vis her daughter-in-law. When an offence has been committed by a woman by meting out cruelty to another woman, i.e., the daughter-in-law, it becomes a more serious offence. If a lady, i.e., the mother-in-law herein does not protect another lady, the other lady, i.e., daughter-in-law would become vulnerable. In the present case, even the husband of the victim was staying abroad. The victim was staying all alone with her in-laws. Therefore, it was the duty of the appellant, being the mother-in-law and her family to take care of her daughter-in-law, rather than harassing and/or torturing and/or meting out cruelty to her daughter-in-law regarding jewels or on other issues. Therefore, as such, no leniency is required to be shown to the appellant in this case. There must be some punishment for the reasons stated hereinabove. However, considering the fact that the incident is of the year 2006 and at present the appellant is reported to be approximately 80 years old, in the peculiar facts and circumstances of the case, as a mitigating circumstance, we propose to reduce the sentence from one year R.I. to three months R.I. with fine imposed by the Trial Court to be maintained.
- E 9. In view of the above and for the reasons stated above, the present appeal succeeds in part. The conviction of the appellant – original accused No. 2 – mother-in-law is hereby confirmed/maintained. However, instead of one year R.I. for the offence under Section 498A IPC, the appellant is directed to undergo imprisonment of three months R.I. with fine and the default sentence as imposed by the Trial Court. As the appellant is on bail, her bail bond stands cancelled and the appellant shall now surrender before the appropriate Court/jail authority to undergo the sentence as per the present order within a period of four weeks from today. The present appeal is partly allowed to the aforesaid extent. Pending applications, if any, also stand disposed.