

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 36 OF 2017
(Arising out of SLP(CRL.) NO.6178 of 2016)

DEEPAK .. APPELLANT(S)

VERSUS

STATE OF CHHATTISGARH .. RESPONDENT(S)

O R D E R

1. Leave granted.
2. The appellant had been convicted for the offences under Sections 302 read with 34, 304-B, 306 and 498 A of the Indian Penal Code, (For Short, the IPC"). The First Additional Sessions Judge, Bilaspur had convicted the appellant under Sections 498-A and 304-B of the IPC and sentenced him to undergo rigorous imprisonment for one year with fine of Rs. 1000/- with default stipulation under Section 498-A IPC and life imprisonment with fine of Rs.5,000/- with default stipulation under

Section 304B of the IPC.

3. The High Court converted the conviction of the appellant under Section 304-B of the IPC to one under Section 306 of the IPC.

4. We have heard learned counsel for the parties.

5. The appellant got married on 05.02.1993. In the intervening night of 4th/5th.03.1995 the wife of the appellant Varsha @ Sadhana was found hanging from a ceiling fan in a room. The appellant was prosecuted under the aforesaid section and convicted as mentioned above.

6. The main contention advanced by Shri V.A. Mohta, learned senior counsel appearing for the appellant is that a conviction under Section 498-A of the IPC does not necessarily lead to an inference of the commission of an offence under Section 306 of the IPC unless it is

established that alleged cruel treatment which is said to have resulted in the death of the deceased, was meted out soon before the death. Shri Mohta, learned senior counsel relied upon a judgment of this Court in the case of Bakshish Ram and Anr. vs. State of Punjab, (2013) 4 SCC 131. In paragraph 19 of the aforesaid judgment, this Court observed that "the prosecution is obliged to show that soon before the occurrence, there was cruelty or harassment and only in that case presumption operates".

7. In the present case there is a conviction under Section 498-A which means that there was cruel treatment to the wife by the husband but there is no credible evidence that there was cruelty meted out to her soon before her death, so as to make the cruelty cause of her death. It is possible that the deceased decided to end her life because she was in a depressed state of mind as is apparent from the letter produced in evidence.

8. Without speculating any further, insofar as offence under section 498-A is concerned, we uphold the conviction and sentence awarded by the Trial Court as affirmed by the High Court. Since there is no direct cogent and credible evidence to link the actions of the appellant to the death of the deceased "soon before the death" as required under Section 306, IPC, we consider it appropriate to acquit the appellant under Section 306, IPC. The appellant is therefore directed to be released forthwith, if already served out the sentence under Section 498-A of the IPC. Bail bonds of the appellant shall stand discharged.

9. The appeal is disposed of, accordingly.

.....J.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

NEW DELHI,
JANUARY 05, 2017.

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[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

NEW DELHI,
JANUARY 05, 2017.

ITEM NO.49

COURT NO.9

SECTION IIC

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No. 6178/2016

(Arising out of impugned final judgment and order dated 28/04/2016 in CRLA No. 46/2001 passed by the High Court Of Chhatisgarh At Bilaspur)

DEEPAK

Petitioner(s)

VERSUS

STATE OF CHHATTISGARH
(With interim relief and office report)

Respondent(s)

Date : 05/01/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. V.A. Mohta, Sr. Adv.
Mr. Pratik R. Bombarde, Adv.
Mr. Nilkanta Nayak, Adv.
Mr. Praveen Chaturvedi, AOR

For Respondent(s) Ms. Bansuri Swaraj, Adv.
Mr. C.D. Singh, AOR
Ms. Sakshi Kakkar, adv.
Mr. Rahul Rajput, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appellant is directed to be released forthwith, if already served out the sentence under Section 498-A of the IPC in terms of the signed order.

[Charanjeet Kaur]
A.R.-cum-P.S.

[Indu Pokhriyal]
Court Master

[Signed order is placed on the file]