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ABC 2020 (I) 1 SC
ACQUITTAL & BAIL CASES
SUPREME COURT OF INDIA
(L. Nageswara Rao & Hemant Gupta, JJ.)
Criminal Appeal No. 1519 of 2019
(Arising out of S.L.P. (Crl.) No. 1959 of 2019)
(From Gujarat High Court)
Decided on 04 October 2019

KANTILAL

- Appellant(s).

Versus

STATE OF GUJARAT

- Respondent(s).

Law Covered:- *Indian Penal Code, 1860 – Sections 114, 323 & 498 – Physical assault attributed to accused – Allegation reported in FIR – deposed by witness but not corroborated by other witness – Held, Reliance cannot be placed on the sole testimony of the witness in the absence of corroboration by the witness who allegedly given the information to him – acquittal. (Para 5)*

Held:- As stated earlier, Accused No.2 who is the husband of the deceased accepted the conviction and served out the sentence imposed upon him and the conviction and sentence of Accused Nos. 3 and 5 were set aside. Apart from the allegation that the entire family harassed the deceased, the overt act attributed to the Appellant is that he had physically assaulted the deceased on two occasions. This allegation finds place in the FIR. PW-1 deposed in court about the Appellant beating the deceased on two occasions. PW1 stated that he was informed by PW4 about the incident of Appellant beating his deceased daughter. However, PW 4 did not speak of any such incident of the Appellant beating the deceased on two occasions. Reliance cannot be placed on the sole testimony of PW1, on the basis of which the Appellant was convicted under Sections 498A, 114 and 323 as there is no corroboration by PW4 who is alleged to have given the information to him. Other than the above allegation, the Appellant stands on the same footing as Accused Nos. 3, 4 and 5 who have been acquitted by the High Court. As the accusation of the physical assault by the appellant on the deceased is not proved, he is entitled to be acquitted. (Para-5)

Counsel:- **For Appellant(s):** Jaikriti S. Jadeja, Adv.

For Respondent(s): Aniruddha P. Mayee, Adv.

JUDGMENT

L. NAGESWARA RAO, J.: - 1. On 02.10.2013, Maheshwari committed suicide by jumping from Jamalpur Bridge into Sabarmati River. FIR was registered on a complaint filed by her father (PW-1) that Maheshwari was being harassed by her husband - Suhag Kantibhai Parmar and his family members for not complying their demand of dowry. He further alleged that Suhag Kantibhai Parmar had an illicit relationship with another lady. Appellant- Kantilal Laxman Parmar, father-in-law of the deceased, was also accused of physically assaulting Maheshwari. Allegations of physical and mental cruelty were made against Pratik @ Pintoo Kantibhai Parmar - brother-in-law, Bhavnaben Kantibhai Parmar - sister-in-law and Manoramaben Kantibhai Parmar - mother-in-law of Maheshwari. According to the FIR, the informant came to know about the suicide committed by his daughter. He reached the hospital and found her body lying on a stretcher. FIR was registered under Sections 498A, 306, 323 and 149 of the Indian Penal Code, 1860 (for short, "the IPC") and Sections 3 and 7 of the Dowry Prohibition Act, 1961.

2. On completion of the investigation, charges were framed against all the accused. After conducting trial, the City Sessions Court, Ahmedabad convicted all the accused under Sections 498A and 114 IPC. Accused No.2-Suhag Kantibhai Parmar was further convicted under Section 306 IPC read with Sections 3 and 7 of the Dowry Prohibition Act. Accused No.1- the Appellant and Accused No.3 - Pratik @ Pintoo Kantibhai Parmar were also convicted under Section 323 IPC. Accused No.2- Suhag Kantibhai Parmar was sentenced to suffer rigorous imprisonment for five years and a fine of Rs.2000/- for the offence punishable under Section 306 IPC. He was further sentenced to five years for the offences punishable under Sections 3 and 7 of the Dowry Prohibition Act and three years for the offence punishable under Section 498A IPC. The Appellant and Accused No.3 Pratik @ Pintoo Kantibhai Parmar were sentenced to undergo three years imprisonment for the offences punishable under Sections 498A and 114 IPC and six months for the offence punishable under Section 323 IPC. Accused No.4- Bhavnaben Kantibhai Parmar and Accused No.5- Manoramaben Kantibhai Parmar were sentenced to undergo one year rigorous imprisonment for the offence punishable under Section 498A.

3. On appreciation of the evidence, the trial court was convinced that deceased-Maheshwari committed suicide due to the

a harassment that she suffered at the hands of the accused for not satisfying the demand of dowry. The evidence of PW- 1 and PW-4, who are the father and mother of the deceased, was found to be reliable. The trial court was convinced that the charges against the accused were proved on the basis of the evidence available on record. In the Appeal filed by the accused, the High Court acquitted Accused b Nos.3, 4 and 5, but upheld the conviction of the Appellant for committing offences under Sections 498A, 114 and 323 IPC. The conviction and sentence of Accused No.2-Suhag Kantibhai Parmar-husband of the deceased, was also confirmed by the High Court. We are informed that Accused No.2- Suhag Kantibhai Parmar has c undergone the sentence. We are only concerned with the Appeal filed by Accused No.1. The High Court upheld the conviction and sentence of Accused No.1- Kantilal Laxmanbhai Parmar on the basis of the evidence of PW-1, that he was informed by the deceased that she was d beaten up twice by the Appellant. Ms. Jaikriti S. Jadeja, learned counsel appearing on behalf of the Appellant submitted that the evidence of PW-1 could not have been relied upon by the trial court and the High Court to hold the Appellant guilty of the charges. PW-1 e deposed that the deceased-Maheshwari as well as his wife (PW-4) informed him that the Appellant had beaten the deceased-Maheshwari twice. Whereas, PW-4 was silent about the Appellant causing any physical violence on her daughter.

f 4. Ms. Aastha Mehta, learned counsel appearing on behalf of the State submitted that the suicide committed by the deceased was due to harassment by the Accused and his son Suhag Kantibhai Parmar. The medical evidence disclosed that the deceased was pregnant at the time of her death. The extreme step had been taken by the deceased due to unbearable torture at the hands of the Accused. She submitted that the evidence of PW1 is sufficient to uphold the g conviction of the Appellant who was also responsible for driving the deceased to commit suicide.

h 5. As stated earlier, Accused No.2 who is the husband of the deceased accepted the conviction and served out the sentence imposed upon him and the conviction and sentence of Accused Nos. 3 and 5 were set aside. Apart from the allegation that the entire family harassed the deceased, the overt act attributed to the Appellant is that he had physically assaulted the deceased on two occasions. This allegation finds place in the FIR. PW-1 deposed in court about the Appellant beating the deceased on two occasions. PW1 stated that he

was informed by PW4 about the incident of Appellant beating his deceased daughter. However, PW 4 did not speak of any such incident of the Appellant beating the deceased on two occasions. Reliance cannot be placed on the sole testimony of PW1, on the basis of which the Appellant was convicted under Sections 498A, 114 and 323 as there is no corroboration by PW4 who is alleged to have given the information to him. Other than the above allegation, the Appellant stands on the same footing as of Accused Nos. 3, 4 and 5 who have been acquitted by the High Court. As the accusation of the physical assault by the appellant on the deceased is not proved, he is entitled to be acquitted.

6. In view of the aforesaid, the Appeal is allowed and the Appellant is acquitted of the charges under Sections 498A, 114 and 323 of the IPC. The Appellant is directed to be released forthwith if he is not required in any other case.

Result:- Appeal allowed.

ABC 2020 (I) 4 SC

ACQUITTAL & BAIL CASES

SUPREME COURT OF INDIA

(Deepak Gupta & Aniruddha Bose, JJ.)

Criminal Appeal No(S). 1560 of 2019 With

Criminal Appeal No(S). 1561 of 2019

(From Punjab & Haryana High Court)

Decided on 17 October 2019

PREM SINGH

- Appellant(s).

Versus

SUKHDEV SINGH & OTHERS

- Respondent(s).

Law Covered:- (A) Indian Penal Code, 1860 – Sections 302, 148 & 149 – Arms Act, 1959 – Section 25 – Acquittal by High Court – Appeal against – Assault by gun-fire & knives – allegation of – Injury attributed by knife were postmortem – Held, a major discrepancy in the statement of eyewitnesses – Medical evidence does not support the prosecution – Acquittal upheld. (Para 6 & 9)

(B) Indian Evidence Act, 1872 – Section 3 – Relevant fact – Conduct of close relatives of the victim – Place of occurrence – No attempt was made to take deceased inside the Hospital for treatment – The first reaction of close relatives would be to try & save their

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