

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1863 OF 2008

ASS00

... APPELLANT

VERSUS

STATE OF MADHYA PRADESH

.... RESPONDENT

O R D E R

1. This appeal, by way of special leave, arises out of the following facts:

1.1 Jummi Bai deceased had been married with the appellant Assoo, about five years prior to the incident. At the time of the marriage, her parents had promised to give her a radio- set and watch in the dowry. It appears, however, that due to their poor financial condition, they were not able to fulfill the demand. The appellant was, accordingly, upset with this refusal and started harassing the deceased to bring the aforesaid articles. Frustrated thereby, on 21st April, 1990 at about 6.30 p.m., Jummi Bai committed suicide by setting herself on fire. The fact that she had committed suicide was reported to the police by the appellant himself. A daily diary entry was, accordingly, made. The dead body was also sent for its

post mortem examination and the doctor opined that the cause of the death was complications arising out of 100% burn injuries. On investigation, however, the police found that a case under Section 304-B IPC was made out against the appellant as he had made repeated demands for the aforesaid articles and on the inability of her parents to meet the demand he had harassed her and driven her to suicide.

1.2 The prosecution in support of its case placed reliance on the evidence of PW1 Rajjab Khan and PW2 Peer Khan, the father and brother of the deceased respectively. The trial court, on a consideration of the aforesaid evidence, found that a case under Section 304-B IPC was proved against the appellant and, accordingly, convicted him under that provision and sentenced him to seven years rigorous imprisonment. An appeal was thereafter taken to the High Court. The High Court, vide judgment dated 13th December, 2006, partly allowed the appeal and set-aside the conviction and sentence awarded by the trial court and convicted the appellant under Section 306 IPC instead and sentenced him to undergo rigorous imprisonment for three years. Hence, this appeal by way of special leave.

2. The learned counsel for the appellant has at the very outset, pointed out that the evidence of PWs 1 and 2 could not be believed as they were relatives of the deceased and that PW3 None Lal, another prosecution witness, had completely disowned the prosecution story and had given a different version all together, which, if accepted, would absolve the appellant of any misconduct. He has further argued that even assuming that there had been a quarrel between the appellant and his wife, it was not of such a nature which would have led her to commit suicide as envisaged under Section 306 IPC.

3. Mr. Vibha Dutta Makhija, the learned counsel appearing for the State has, however, supported the judgment of the High Court and submitted that the evidence clearly showed that appellant had harassed his wife on account of her inability to bring the radio and the watch as demanded and that the ill-treatment had driven her to suicide.

4. We have considered the arguments advanced by the learned counsel. At the very outset we must note that the appellant has been acquitted by the High Court of the charge under Section 304-B IPC. The question now

arises as to his culpability under Section 306 of the IPC. We have perused the evidence of PWs 1 and 2, the father and brother of the deceased . PW - 1 testified that his daughter had been reprimanded by the appellant as she was not manufacturing enough beedis and that he had also beaten her as she was not able to fulfill his demand for a watch and a radio. PW2 Peer Khan, the brother of the deceased, however, admitted in his cross-examination that the appellant had not made a demand for a radio and watch but they had themselves promised to supply these items although they had not been able to keep their word.

5. We are of the opinion that besides the evidence of Pws 1 and 2, which itself is extremely shaky, there is no other statement to show any misbehaviour or demands for dowry. There is also no indication as to when these demands had been made. It must be noted that every quarrel between a husband and wife which results in a suicide cannot be taken as an abetment by the husband and the standard of a reasonable and practical woman as compared to a headstrong and over sensitive one, has to be applied. Taking the evidence against the appellant, as it is, we find that no abetment of suicide is made out. We have also perused the evidence

of PW 3 None Lal, a neighbour, and one of the first to arrive at the spot. He gave a story which completely dislodges the statements of PWs 1 and 2. He deposed in his cross-examination that Shri Bai, a neighbour of the appellant, had made allegations against the deceased in the presence of Ghaffoor and Ishaq that she was involved in illicit activities while her husband was away and that she would reveal all to her husband when he returned home and that immediately after these remarks the appellant had returned home on which the deceased had gone inside and set herself ablaze. We take it, therefore, as if the prosecution had accepted the statement of PW3 as true, as the witness had not been declared hostile.

6. We, accordingly, set-aside the impugned judgment and allow the appeal. The appellant stands acquitted.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI.
APRIL 26, 2011.