

**2009 (8) SCR 278
SHINDHU & ORS.**

v.

**STATE OF KARNATAKA
(Criminal Appeal No. 264 of 2003)**

MAY 6, 2009

[DR. ARIJIT PASAYAT AND ASOK KUMAR GANGULY, JJ.]

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Heard.

2. Challenge in this appeal is to the judgment of a learned Single Judge at Karnataka High Court upholding the conviction of the appellants for offences punishable under Sections 498-A and 306 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC'). Learned Principal Sessions Judge, Bijapur had directed acquittal of the five accused persons. A-1 is the father-in-law, A-2 is the mother-in-law, A-3 is husband, A-4 is the brother-in-law and A-5 is the sister-in-law of Sharada (hereinafter referred to as the deceased).

3. It was the prosecution version that because of the cruelty, the deceased committed suicide by jumping into the well. The Trial Court on consideration of the evidence on record came to hold that accusations have not been established. An appeal was filed by the State under Section 378 (1) and (3) of the Code of Criminal Procedure, 1973 (in short the Code). The High Court set aside the impugned judgment of the Trial Court and recorded conviction in terms of Sections 498-A and 306 read with Section 34 of the IPC.

4. During the pendency of the appeal before the High Court A-1 died. The High Court passed the judgment affirming the judgment of conviction passed by the Trial Court convicting A-2, A-3, A-4 and A-5. Questioning the correctness of the said judgment, they have filed this appeal. It is to be noted that though A-3 had filed the special leave petition, the same was dismissed.

5. Learned Counsel for the appellants submitted that there is no material to show any involvement of A-2, A-4 and A-5.

6. Learned Counsel for the respondent, on the other hand, supports the impugned judgment stating that Trial Court did not analyse the evidence and therefore High Court interfered.

7. It needs to be noted that there is no reference by the High Court to any material to connect the appellants with the alleged crime. The Trial Court had referred to the evidence elaborately to conclude that prosecution has failed to prove its case.

8. On going through the judgment of the High Court and the Trial Court, it appears that the High Court did not refer to any circumstance which would establish the connection of the present appellants with the alleged crime. In fact, A-3 - the husband has suffered the sentence imposed upon him and in an event the special leave petition had been dismissed so far as the husband is concerned.

9. In the absence of any material on record which would establish the guilt of the accused and absence of any material to show involvement of the appellants, their conviction cannot be upheld and the impugned judgment is set aside and their acquittal is directed. Bail bonds executed to give effect to the order of bail dated 24-02-2003 shall stand discharged.

The appeal is allowed accordingly.

