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State Of Chhattisgarh Vs Ramesh Kumar Jatwar And Ors

Acquittal Appeal No. 150 Of 2014

Court: Chhattisgarh High Court

Date of Decision: Sept. 14, 2018

Acts Referred:
Indian Penal Code, 1860 â€" Section 34, 313, 498A#Code Of Criminal Procedure, 1973 â€" Section 313

Citation: (2018) 09 CHH CK 0248

Hon'ble Judges: Pritinker Diwaker, J; Gautam Chourdiya, J

Bench: Division Bench

Advocate: Ravindra Agrawal, Vimlesh Bajpai

Final Decision: Dismissed

Judgement

Pritinker Diwaker, J

1. This appeal has been filed by the State against the judgment dated 17.01.2014 passed by Additional Sessions Judge, Bilaspur in Sessions Trial No.

75/2013 acquitting the accused/respondents of the charge under Sections 498-A/34 and 313/34 IPC.

2. Facts of the case in brief are that on 26.07.2012 written report (Ex.P-3) was lodged by complainant Anita Jatwar (PW-5) stating that she was

married to respondent/accussed namely Ramesh Kumar Jatwar about 11 years prior thereto and had two issues out of the wedlock. It is alleged that

she was subjected to harassment and ill-treatment by her husband in collusion with the other accused persons who happen to be her in-laws.

Allegedly, she was even made to abort twice by them against her wishes. Based on this written report, FIR (Ex.P-4) was registered against the

respondents/accused for the offences punishable under Sections 498-A, 313, 34 IPC. Thereafter, the Court below framed the charge against them

accordingly.

3. So as to hold the accused/respondents guilty, prosecution has examined 08 witnesses in support of its case. Statements of the accused/respondents

were also recorded under Section 313 of the Code of Criminal Procedure in which they denied the allegations made against them and pleaded

innocence and false implication in the case.

4. After hearing the parties and appreciating the evidence on record the Court below has acquitted the accused/respondents of the charges levelled

against them and therefore, the State has preferred this appeal against the judgment of acquittal.

5. Counsel for the appellant/State submits that the Court below has committed an error of law in acquitting the respondents/accused of the charges

levelled against them by ignoring the evidence adduced by the prosecution.

6. Counsel for the respondents/accused however supports the judgment impugned and submits that while recording the finding of acquittal, the Court

below has taken note of the evidence on record in proper perspective and there is no infirmity in the same warranting interference by this Court.

7. Heard counsel for the parties and perused the material on record.

8. Complainant (PW-5)) has stated that for about a year after marriage she was quite well in her matrimonial home but thereafter her husband started

harassing her after consuming liquor. Other accused persons were also the supporters of her husband when he ill-treated and harassed her. The

reason for harassment has been attributed to the demand of dowry made by the accused persons. According to her, when she informed her mother of

the act of the accused persons she made her understand saying that everything would be alright with the passage of time and then acting upon the

advice of her mother, she returned to her matrimonial home and gave birth to two issues. Thereafter, according to this witness, when she again

became pregnant, the accused persons gave her certain medicines for abortion but as she did not abort completely, bleeding had started for which she

was hospitalised and the expenses thereof were born by her parents and not by the accused persons. Now if the statement of the doctor (PW-1) who

did the complete abortion is seen, it becomes apparent that the complaintant had informed her about consuming the medicines for abortion of her own

and it is on account of that she started bleeding. Babulal Lahre (PW-3) - the father of the complainant has stated that he was not aware as to for

what the accused persons were harassing the complainant. Dilip Kumar Kosle (PW-2) - the maternal uncle of the complainant has turned hostile.

9. All this factual scenario makes this Court to hold that there are material inconsistencies in the statements of the witnesses. Had there been any

harassment or cruelty to the complainant at the hands of the accused persons, she would have informed the same to her parents who in turn would

have lodged the report with the police in this regard. However, nothing as such is on record.

Statement of doctor (PW-1) makes it clear that when she asked the complainant as to who administered the medicines for abortion to her, she told her

that she herslef had taken the same. Record also shows that the complainant lodged the written report about 11 years after the marriage and for such

a long span of time neither she nor her parents made any complaint to the police regarding the alleged harassment by the accused persons. Trial Court

thus appears to be fully justified in recording the finding of aquittal on the basis of material on record and there is no illegality or infirmity in the

judgment giving acquittal. Even otherwise, as regards appeal against the judgment of acquittal, it is a settled position of law that if on the basis of

material on record two views can be drawn then the preference has to be given to the one favouring the accused.

10. On viewing the evidence as above and being conscious to the existing legal position referred to above, this Court finds no substance in the appeal

and accordingly the same is dismissed. Judgment impugned is affirmed.