

(2024) 10 SC CK 0029

Supreme Court Of India

Case No: Criminal Appeal No. 4278 Of 2024 (Arising Out Of Special Leave Petition
(Criminal) No. 8245 Of 2023)

Yashodeep Bisanrao Vadode

APPELLANT

Vs

State Of Maharashtra & Anr

RESPONDENT

Date of Decision: Oct. 21, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 304B, 306, 406, 498A

Hon'ble Judges: C.T. Ravikumar, J; Sanjay Kumar, J

Bench: Division Bench

Advocate: Shivaji M. Jadhav, Apurva, Adarsh Kumar Pandey, Vignesh Singh, Brij Kishor Sah, Arun Kanwa, Diwakar Sharma, Raunaq Singh Aulakh, Aaditya Aniruddha Pande

Final Decision: Allowed

Judgement

C.T. Ravikumar, J

Leave granted.

1. This appeal by special leave is directed against the judgment and order dated 15.12.2020, passed by the High Court of Judicature of Bombay at

Bombay in Criminal Appeal No.1014 of 2014, which was heard along with Criminal Appeal No.14/2015, both arising from a common judgment in two

Sessions Cases emerged from a single First Information Report. The appellant was the second appellant in Criminal Appeal No.1014 of 2014 which

was partly allowed under the impugned judgment whereunder, his conviction under Section 498-A of the Indian Penal Code, 1860 (for short, the

IPC) was confirmed and the sentence imposed therefor was commuted to the period of imprisonment already undergone.

2. The second respondent, who is the father of the deceased Renuka, lodged FIR No.87/11 before Wadala T.T. Police Station on 17.04.2011 on her unnatural death occurred on 16.04.2011. Two Sessions Cases viz., 621/2011 and 853/2011 emerged therefrom. The first and sixth accused in the crime faced trial in the former Sessions Case and the appellant herein along with others faced trial in the latter Sessions Case, for the offences punishable under Sections 498-A, 304-B, 306 and 406 read with Section 34, IPC. After the joint trial, all the accused were convicted for the offence punishable under Section 498-A read with Section 34, IPC, and sentenced to undergo rigorous imprisonment for 3 years each and to pay a fine of Rs. 1000/- each and in default of payment of fine to undergo rigorous imprisonment of 2 months. Since in this appeal we are only concerned with the appellant, the 3rd accused, we are not going to refer to the details of conviction of others except to the extent necessary, at the appropriate place. The appellant herein was the third accused in the said crime after subjected to trial in SC No.853/2011 and in respect of all the other offences he was acquitted. It is against the conviction and the modified sentence handed down for the aforesaid offence that he along with the co-convicts in the said Sessions Case filed Criminal Appeal No.1014 of 2014.

3. The case of the prosecution is as under: -

The daughter of the second respondent, Renuka-the victim, was married to the first accused Rajesh Jagan Karote on 11.12.2008 as per Hindu customs and rituals. The said Rajesh Jagan Karote and his relatives demanding dowry for purchasing a residential flat and used to torture her physically and mentally. On 16.04.2011 at about 9.00 pm the appellant herein, who is the husband of Savita, one of the sisters-in-law of the deceased, informed the second respondent that Renuka was admitted in Sion Hospital at Mumbai and by the time the second respondent along with his wife, children and other relatives reached the hospital Renuka breathed her last. On her body he noticed abrasion on forehead and ligature marks on the neck. Suspecting the death of his daughter as unnatural death, he lodged a complaint which resulted in the registration of the aforementioned FIR and ultimately, the consequential trial of the accused. The appellant herein was also implicated as one of the accused and as noted hereinbefore, he stood

the trial which culminated in his conviction under Section 498-A, IPC, and consequential imposition of sentence, as mentioned hereinbefore.

4. Heard the learned counsels appearing for the parties.

5. Manifold contentions were raised by the appellant to assail the judgment of conviction passed by the High Court confirming his conviction under

Section 498-A, IPC. Though the sentence imposed therefor by the trial Court was interfered with by the High Court in the appeal and converted it to

the sentence already undergone the appellant is aggrieved inasmuch as pursuant to his conviction and consequently imposed sentence he was

terminated from the post of Laboratory Attendant, Balbheem College, Beed, as per order dated 23.11.2015. It is the contention of the appellant that

the very case of the prosecution is that since January, 2010, the first accused and his relatives demanded dowry and started torturing Renuka

physically and mentally to fetch Rs. 5 lakhs for purchasing house under MHADA Scheme and the fact is that his marriage with the second accused

Savita was solemnised only on 26.10.2010 and hardly within five and half months the unfortunate incident occurred. According to the learned counsel

for the appellant the said indisputable facts obtained from the materials on record would reveal that the appellant had not even had opportunity to

interact with the deceased much less to harass or to show cruelty to her. The learned counsel would further contend that the said circumstances and

the conspicuous absence of specific accusation and lack of any specific evidence against the appellant would reveal that the implication of the

appellant in the case is because of the unwholesome attitude over implication, which was deprecated by this Court. Furthermore, it is submitted that

the implication of accused Nos.5 and 4, who are respectively another sister-in-law and husband of the deceased and their acquittal would fortify the

factum over implication. In short, it is the contention that during the alleged period of torture for dowry of Rs. 5 lakhs, which is the main alleged

cruelty, the appellant was not even a relative of the first accused and his family, to fall within the expression "relative" used in Section 498-A,

IPC. That apart, it is the contention of the appellant that there is absolute absence of any evidence against the appellant to connect him with the

alleged crime and it is only because he being the husband of the second accused who is the sister of the first accused, the husband of the deceased

that he was implicated. Yet another contention was taken to the effect that in the absence of any evidence against the appellant he ought to have been

acquitted extending, at least the benefit of doubt granted in the case of accused No.4 and 5 who are respectively the husband of Kavita and Kavita,

another sister of accused No.1. As per the impugned judgment, Harinarayan Raja Ram Kurane (accused No.4) and Kavita Harinarayan Kurane

(accused No.5) were acquitted by the High Court under Section 498-A, IPC. It is also the contention of the appellant that there is absolutely no basis

for the finding in paragraph 42 of the impugned judgment, which reads thus:-

“In view of the specific material evidence against accused No.2, 3, 6 and 7 in respect of subjecting the deceased to harassment and cruelty on account of

demand of dowry till her last breath would make them liable for an offence punishable under Section 498-A of the Indian Penal Code.”

(Underline supplied)

6. A scanning of the impugned judgment would reveal that even after detailed discussion of the oral testimonies of the prosecution witnesses nothing

specific was unearthed against the appellant herein, by both the trial Court and the High Court.

7. Per contra, the learned counsel appearing for the respondents would submit that the trial Court as also the High Court carefully examined the

evidence and arrived at the finding of guilt against the appellant based on proper appreciation of evidence.

8. A bare perusal of Section 498-A would reveal that the following as the essential ingredient to attract the said offence :-

(a) The victim was a married lady (may also be a widow);

(b) That she has been subjected to cruelty by her husband or relative(s) of her husband;

(c) That such cruelty consisted of either (i) harassment with a view to coerce meeting a demand for dowry, or (ii) a wilful contact by the husband or his relative of

such a nature as is likely to lead the lady to commit suicide or to cause grave injury to her life, limb or health;

(d) That such injury as aforesaid may be physical or mental.

9. On an anxious consideration of the materials on record would reveal that the main instance of demand for Rs. 5 lakhs for the purpose of purchasing residential flat was allegedly occurred since January, 2010 onwards. But then, the evidence on record would show that the marriage between the appellant and Savita (accused No.2) who is one of the sisters of the first accused was conducted much later viz., only on 26.10.2010. The unfortunate incident resulting in her death occurred hardly within five and half months since he became a relative of the family of the husband of the deceased. It is a fact that despite the general, vague allegation no specific accusation was raised against the appellant. That apart, despite our microscopic examination, we could not find any specific evidence brought out by the prosecution against the appellant herein through anyone of the witnesses. In other words, the fact discernible from the impugned judgment is that none of the prosecution witnesses had specifically deposed against the appellant herein of his having committed any cruelty which will attract the offence under Section 498-A, IPC, against him. There is also no case that no complaints were filed implicating the appellant earlier to the subject FIR. In short, we find that there is no scintilla of evidence against the appellant herein to hold that he has committed the offence under Section 498-A, IPC, even with the aid of Section 34, IPC. Being the husband of the second accused, Savita, who was found guilty by the courts below for the aforesaid offence cannot be a ground to hold the appellant guilty under the said offence in the absence of any specific material on record.

10. Para 35 and 36 of the judgment of the trial Court would reveal the manner how the appellant was found guilty. They read thus:

“35. It is brought into the argument that there are no specific allegations against rest of the accused except husband and mother-in-law, However they were staying and witnessing all the incidents in the house, Though specific act of the other accused is not there in evidence making the victim to work like servant and allowing the accused no.1 to 6 do cruelty is also not different than assisting them. However the gravity of ill-treatment to which Renuka was subjected is due to the acts of Accused No.1 and 6. They repeatedly assaulted and subjected Renuka cruelty Old burn marks clearly point out the previous incident of cruelty.

36. Thus, considering the circumstances it is found that prosecution has clearly proved the guilt of all the accused punishable under section 498-A r/w. 34 and 304-B of Indian Penal Code 1860 against accused No.1 and 6. Hence point No.2 and 3 are answered in the affirmative.â€

We have already referred to and extracted paragraph 4 of the impugned judgment in the appeal.

11. In the contextual situation, it is only appropriate to keep reminded of the observations of this Court in the decision in Preeti Gupta v. State of

Jharkhand (2010) 7 SCC 667. This Court observed that it is a matter of common knowledge that exaggerated versions of the incident are reflected in

a large number of complaints and the tendency of over implication is also reflected in a large number of cases.

12. We are of the view that in view of such circumstances, the courts have to be careful to identify instances of over implication and to avert the suffering of ignominy and inexpiable consequences, by such persons.

13. The upshot of the discussion is that the finding of guilt against the appellant by the courts below for the offence under Section 498-A, IPC, with the

aid of Section 34, IPC, is absolutely perverse in view of the absolute absence of any evidence against him to connect him with the said offence in any manner.

14. For the reasons given above the conviction of the appellant under Section 498-A, IPC, and the consequential imposition of sentence therefor

cannot be sustained. Hence, the appeal is allowed, consequently, the impugned judgment and order dated 15.12.2020, passed by the High Court of

Judicature of Bombay at Bombay in Criminal Appeal No.1014 of 2014, and the judgment of the trial Court dated 09.12.2014 in Sessions Case

No.853/2011, qua the appellant are set aside and the appellant is acquitted of the offence under Section 498-A, IPC.