

(2000) 05 MP CK 0034

Madhya Pradesh High Court

Case No: Criminal A. No. 813 of 1989

Laxmi Bai

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision: May 11, 2000**Acts Referred:**

- Evidence Act, 1872 - Section 113A
- Penal Code, 1860 (IPC) - Section 306, 498A

Citation: (2000) CriLJ 3597 : (2001) 1 DMC 202 : (2001) 2 MPLJ 80 : (2000) 4 RCR(Criminal) 291**Hon'ble Judges:** S.P. Khare, J**Bench:** Single Bench**Advocate:** Jagdish Tiwari, for the Appellant; Raj Kumar, for the Respondent**Final Decision:** Allowed

Judgement

S.P. Khare, J.

Appellants Laxmi Bai and Mina have been convicted under Sections 306/34, I.P.C. and sentenced to rigorous imprisonment for ten years.

After hearing the learned Counsel for both the sides and after careful scrutiny of the evidence on record this Court is of the opinion that the conviction of the appellants for the aforesaid offence is not sustainable. Appellants-Laxmi Bai and Mina are the sisters of the husband of deceased Chanda Bai. The appellants were aged 22 years and 18 years at the time of the incident. Chanda Bai was married to their brother Kachrual on 26.1.1987. She was living with him in Bairagarh. The appellants were also living with their brother. It is not disputed now that Chanda Bai committed suicide by burning herself in that house on 22.9.1987 at about 1.00 a.m. At that time her husband was not in the house.

The prosecution case rested mainly on the evidence of neighbours. They are Pushpa (P.W. 1), Mina (P.W. 2), Padmakshi (P.W. 3) and Dilip (P.W. 4). It appears that there was a domestic quarrel between deceased Chanda Bai with the appellants at 8.00 a.m. on 22.9.1987. It was on a very minor issue of the consumption of a small quantity of milk. Pushpa (P.W. 1) has deposed that the appellants were abusing Chanda Bai. One of the two appellants pushed Chanda Bai and she fell in the drain near the courtyard of the house. Mina (P.W. 2) has deposed that the appellants were complaining as to why Chanda Bai had thrown a screw driver on them. She has further stated that the appellants dragged Chanda Bai from her house to the courtyard and they were saying that Chanda Bai should be burnt. But this part of the deposition of Mina (P.W. 2) has to be excluded as it is an improvement over her statement u/s 161, Cr.P.C. marked Ex. D/1. In that statement which was recovered a few days after the incident she did not say that the appellants had dragged Chanda Bai to the courtyard or they had said that she should be burnt. Padmakshi (P.W. 3) and Dilip (P.W.4) have also stated that there was a quarrel between the deceased and the appellants and they had abused her.

It is found from the evidence of the four witnesses mentioned above that there was a domestic quarrel between the deceased and the appellants over some milk. The question is whether it amounts to cruelty within the meaning of the Explanation (a) to Section 498A, I.P.C. so as to attract Section 113A of the Evidence Act giving rise to a presumption that the appellants abetted the commission of suicide by the deceased. On a dispassionate consideration of the evidence, this Court is of the opinion that there was no "wilful conduct" on the part of the appellants which could ordinarily drive the deceased to commit suicide. The alleged cruelty was not of sufficient gravity. In the ordinary course such quarrels, abuses or even pushing the woman do not drive her to take extreme step of committing suicide. There was no grave and serious provocation by the appellants. They cannot be held to have abetted the commission of suicide by the deceased.

The Supreme Court has observed in [State of West Bengal Vs. Orilal Jaiswal and another](#), that the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.

The appeal is allowed. The conviction and sentence are set aside and the appellants are acquitted of the charge under Sections 306/34, I.P.C.