NON- REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 302 OF 2014

NARENDRA SINGH …APPELLANT(S)

VERSUS

THE STATE OF MADHYA PRADESH …RESPONDENT(S)

WITH
CRIMINAL APPEAL NO. 307 OF 2014

WITH
CRIMINAL APPEAL NO. 309 OF 2014

J U D G M E N T

ARAVIND KUMAR, J.

1. Three Criminal Appeals have been filed against the order of the High Court of Madhya Pradesh at Jabalpur in Criminal Appeal No. 1248 of 2002, wherein the High Court was pleased

to set aside the conviction of the accused persons namely Nagendra Singh (Husband), Narendra Singh (Father-in-Law) and Lila Singh (Mother-in-Law) u/s 302 of the Indian Penal Code (IPC) acquitting them of the charge u/S. 302 of IPC. However, the High Court upheld their conviction u/s 498A of IPC, reduced the sentence to the period they have already undergone and maintained the fine of Rs. 1000/- each as imposed by the Learned Additional Sessions Judge.

2. Criminal Appeal No. 302 / 2014 has been filed by Narendra Singh, the father-in-law of the deceased challenging his conviction u/s 498A IPC. Criminal Appeal No. 309 / 2014 has been filed by Pushp Raj Singh Baghel, the brother of the deceased (defacto complainant) against all three accused persons challenging their acquittal u/s 302 IPC and Criminal Appeal No. 307 / 2014 has been filed by the State of Madhya Pradesh against all three accused persons challenging their acquittal u/s 302 IPC. Hence, all these three criminal appeals are taken up together and disposed of by this common order.

3. The case of the prosecution as laid in the charge-sheet is that the deceased woman had tied the matrimonial knot with Nagendra Singh on 12.07.2000. To fulfill the burgeoning demands of dowry, she was subjected to taunts and cruelty by

her in-laws. Things took a steep turn for her on 15.04.2001 when she sustained burn injuries in the kitchen, i.e., within nine months of the marriage. As per the prosecution, the husband of the deceased had stuffed cloth in her mouth, poured kerosene oil all over her body and set her on fire and was immediately rushed to the Primary Health Center, Devlond, Madhya Pradesh for treatment. She was examined by PW-6 / Dr. Rajesh Mishra, who reported that 55% of her body was burnt, and it was fatal to her life. There was a smell of Kerosene oil emanating from her clothes.

4. Legal proceedings were put into motion. The next day, i.e., on 16.04.2001, her dying declaration came to be recorded by the Executive Magistrate Shri Prabha Shankar Tripathi wherein the victim stated that her husband, her mother-in-law and her father-in-law used to demand car and on the day of the incident, they stuffed cloth into her mouth and poured kerosene and set her on fire. The same day, the police reached the residence of the respondents, seized a burnt iron bucket, two plastic boxes which smelt of kerosene and other oil, burnt jute bag, matchsticks and burnt pieces of paper. Thereafter they seized the place of occurrence, i.e. the kitchen. Since her condition continued to worsen, on 17.04.2001 she was shifted to Gandhi

Medical Hospital, Rewa for treatment. A second dying declaration was recorded by Shri KL Suryavanshi who was the Deputy Superintendent of Police. In the second dying declaration, there was a contradiction and the victim this time stated that since her in-laws used to quarrel with her over insufficiency of dowry, she poured Kerosene on herself and set herself on fire.

5. On 18.04.2001, FIR No. 51 / 2001 was registered u/s 306 / 498A / 34 IPC and S. 3 / 4 of the Dowry Prohibition Act, 1961 (in short DP Act). She died while being treated in hospital on 22.04.2001. The next day, post-mortem was conducted by PW-17 / Dr. SK Pathak, who stated that death was caused due to cardio-respiratory failure as a result of ante mortem burn injuries on her person. After completion of investigation, chargesheet came to be filed against all the accused persons u/S. 302 / 304 / 498A IPC and S. 3 / 4 of DP Act.

6. Ld. Additional Sessions Judge, Beohari (in short Sessions Court) framed charges u/s 498A/304B and in the alternative u/s 302 / 34 IPC against all the accused persons.

7. The prosecution examined 23 witnesses. The accused persons denied the prosecution case and they examined two defence witnesses who deposed that the victim had locked the door of

the kitchen from inside and committed suicide or that this incident had taken place accidentally in the kitchen.

8. The Sessions Court convicted the three accused persons u/S. 498A / 302 r/w 34 IPC. However, the accused persons were acquitted from the charge of S. 304B IPC. They were punished with rigorous imprisonment for a period of two years and a fine of Rs. 1,000/- each in default of payment of fine to further undergo rigorous imprisonment for two months u/S. 498A IPC and imprisonment for life along with a fine of Rs. 5,000/- each, in default rigorous imprisonment for ten months u/s 302 r/w 34 IPC. Both the sentences were ordered to run concurrently.

9. Against the aforementioned judgment, the accused persons preferred a Criminal Appeal No. 1248/ 2002 before the Hon'ble High Court of Madhya Pradesh at Jabalpur challenging the order of conviction and sentence.

10. The High Court set aside the conviction of the accused persons under S. 302 of IPC but upheld their conviction u/s 498A of IPC and reduced the sentence to the period they have already undergone and maintained the fine of Rs. 1000/- each as imposed by the Learned Additional Sessions Judge.

Submissions made by Narendra Singh, the father-in-law of the deceased person, the appellant in Criminal Appeal No. 302 / 2014

11. The Appellant - Narendra Singh contended that he was in service from 15.10.1970 to 10.02.2003 in the office of Land Acquisition and rehabilitation Division under the State of Madhya Pradesh. He has rendered a service of almost 32 years. After the conviction of the petitioner, he was dismissed from services. He has not received any service benefits nor is he getting any pension. If the conviction and sentence for the offence u/S. 498A IPC is not set aside, irreparable loss would be caused to the petitioner and he will not get any service and retirement benefits for the service he had rendered for 32 years. That the deceased was tutored by her parents to name the accused persons in the first dying declaration to fasten the guilt on the accused persons including the appellant. The material contradictions and omissions in the statements of PW-1 / Brijendra Singh, PW-2 / Sita Singh and PW-3 / Devendra Singh (father, mother and brother of the deceased person respectively) u/S. 161 CrPC in the Trial Court to the effect that the accused persons were demanding dowry. Further, they are all interested witnesses and their testimony ought not to be

believed and there is no corroboration. That the medical evidence has not established that the burns were homicidal.

Submissions made by Pushp Raj Singh Baghel (brother of the deceased person), the appellant in Criminal Appeal No. 309 / 2014

12. That both the dying declarations are inculpatory in nature, and in the light of the same, the accused persons could not have been acquitted from the charge of S. 304B or S. 302 IPC. There is no justification in discarding the dying declaration recorded by the PW-18/Executive Magistrate Sh. Prabha Shankar Tripathi. The dying declaration recorded at the first instance is always uninfluenced and free from concoction and embellishment. That High Court erred in acquitting the accused of offences under Section 302 by applying the principle of benefit of doubt. The accused persons had failed to discharge their legal burden as contemplated u/S. 113B of the Evidence Act.

Submissions made by the State (The Respondent in Criminal Appeals No. 302 / 2014 & 309 / 2014 who is the Appellant in Criminal Appeal No. 307 / 2014)

13. It is contended that first dying declaration of the deceased dated 16.04.2001 recorded by PW-18 / Executive Magistrate, Shri

Prabha Shankar Tripathi, it was explicitly mentioned that husband, father-in-law and mother-in-law of the deceased used to demand a car from her parents as dowry and on their failure to meet the said demand, they had stuffed cloth into her mouth and poured kerosene all over her and had set her on fire with the aid of a matchstick. The death had taken place within nine months of her marriage and presumption arising under Section 113B had not been rebutted by them. There are multiple infirmities and improbabilities which had crept in the evidence of the witnesses. The deceased had died of cardio-respiratory failure and suffocation due to the ante mortem burn injuries as per the report and there is no reason to disbelieve the same. The High Court had considered all the mitigative circumstances in detail and has also given the benefit of the circumstances to the accused and as such they pray for dismissal of the appeals filed by the accused and seek for allowing the States' appeal.

14. We have extensively heard the Learned Counsels and perused the record.

Analysis and Findings

15. What we have before us is an unfortunate tale of a young lady, who, standing at the summit of her youth and expecting a life of marital bliss and fortune, succumbed to flames within nine months of her marriage.

16. Initially, the Trial Court held the husband and his parents guilty of S.302 IPC by placing reliance on the first dying declaration of the deceased which was recorded on 16.04.2001, and holding that as per the first dying declaration, the accused persons were guilty of murdering the deceased by setting her on fire. However, the same was set aside by the High Court by observing that *firstly*, there are two contradictory dying declarations, and *secondly*, there is insufficient evidence to hold the accused persons guilty of murder.

17. The main witnesses of this case are the family members of the girl, i.e. PW-1 / Brijendra Singh (Father), PW-2 / Sita Singh (Mother), PW-3 / Devendra Singh (Uncle) and PW-5 / Pushpraj Singh (Brother) who have concurrently stated that the deceased woman was being tortured and harassed for dowry, particularly demanding a Maruti Car. However, their examination could not withstand the test of the cross-

examination. Many contradictions have emerged. Firstly, the witnesses did not state the factum of demand of dowry, or the fact that the girl was being tortured at the hands of her in-laws before the police, and secondly they did not have a proper explanation as to why the said facts were missing from their statements made before the police. It appears that the testimonies rendered before the Court were an afterthought, as the same improvements appear across the statements of all the witnesses, with a jarring accuracy which was hitherto missing in the statements recorded before the Police. Another reason why the testimonies are doubtful is that apart from the family members, there is not a single witness who can corroborate the version of the prosecution. While in usual cases, the testimonies of the family are enough to convict an accused person, however, as a rule of caution, if there are improvements or contradictions in the testimonies of the prosecution, then the Courts must look for corroboration through other evidence, which unfortunately is missing in this case.

18. Interestingly, the prosecution had produced a letter Ex. P-3 which was allegedly written by the deceased lady to her brother PW-5 / Pushpraj Singh. It reveals her inner state of mind, the stress of her married life, her discontentment with her in-laws,

strong enough to pull on one's heartstrings, but of little evidentiary value, as the said letter was not subjected to forensics and was not proved by a Handwriting Expert. The letter remains unproved, and hence, unreliable.

19. PW-6 / Dr. Rajesh Mishra, working on the post of Assistant Surgeon at Primary Health Center, was available on duty on 15.04.2001 at 7 AM when deceased lady was brought in a burnt and unconscious state by the accused persons. If the accused persons wanted the girl to die, there is no reason for them to take the deceased lady to the hospital in the first place.

20. The prosecution has also examined the Neighbours, namely PW-7, PW-8 and PW-9, who have all turned hostile before the Court and not much could be deciphered from their testimonies except that the neighbours were of the opinion that the deceased victim had cordial relations with her in-laws.

21. Whatever may be the cause of her unhappiness, the reason for her discontent, unless it is directly established that her in-laws have done something so cruel in nature that she felt, they cannot be held responsible or liable for abetting her causing cruelty in the nature of abetting suicide.

22. The lady was in a distressed state of mind, no doubt about that. Even the neighbour, i.e. PW-10 / Uma Devi had stated that

whenever she met the deceased, she would complain about how she doesn't like living in a small town. Interestingly, it has also been elicited in the cross-examination of PW-10 / Uma Devi, who was the neighbour of the accused persons, that on the date of incident, the accused Narender Singh and Leela Singh went for a walk with her husband Hari Bhagat Singh. This corroborates the accused persons' version of the story and shows their inability to cause any harm to the girl at the given point of time.

23. The settled law is that a dying declaration is regarded with utmost evidentiary value, because it is believed that a person will not meet the maker with lies in his mouth. However, as a matter of prudence, if there are some suspicious circumstances related to a dying declaration, then in that case, the same can be rejected. Now turning our attention to the facts on hand we notice that there are two dying declarations on record, one recorded 16th April, 2001 by PW-18/ Prabha Shankar Tripathi, the Nayab Tehsilar and Executive Magistrate and the other one recorded 17th April, 2001 by PW-22/KL Survanshi which came to be marked as Ex.P-22 & Ex.P-30 respectively. In the first dying declaration Ex.P-22, the victim says that her in-laws set her ablaze due to insufficient dowry. The said declaration

was recorded by PW-18/ Prabha Shankar Tripathi, the Tehsildar. In the cross-examination, the Tehsildar has deposed that there were about 4-5 persons who were there with the deceased in the hospital, and one of them had told the deceased to depose in a certain way at the time her Dying Declaration being recorded. This casts a shadow of doubt on the veracity of the dying declaration. In the second dying declaration, which was recorded by PW-22/KL Suryavanshi, the deceased changes her stance and stays that she poured the Kerosene herself and set herself on fire and thereby committing suicide. The variation in the two dying declarations in the manner she died casts doubt on their veracity, but we find the second declaration more believable than the first one because it appears that the first one was recorded after the deceased was tutored to give statement in a particular manner.

24. The law relating to dying declaration has been succinctly summarised in the case of ***Khushal Rao v. State of Bombay***[1]**,** by this court by holding: **-**

> "**16.** On a review of the relevant provisions of the Evidence Act and of the decided cases in the different High Courts in India and in this Court, we have come to the conclusion, in

[1] **1957 SCC OnLine SC 20**

agreement with the opinion of the Full Bench of the Madras High Court, aforesaid,

(1) that it cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated;

(2) that each case must be determined on its own facts keeping in view the circumstances in which the dying declaration was made;

(3) that it cannot be laid down as a general proposition that a dying declaration is a weaker kind of evidence than other pieces of evidence;

(4) that a dying declaration stands on the same footing as another piece of evidence and has to be judged in the light of surrounding circumstances and with reference to the principles governing the weighing of evidence;

(5) that a dying declaration which has been recorded by a competent Magistrate in the proper manner, that is to say, in the form of questions and answers, and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character, and

(6) that in order to test the reliability of a dying declaration, the court has to keep in view, the circumstances like the opportunity of the dying man for observation, for example, whether there was sufficient light if the crime was committed at night; whether the capacity of the man to remember the facts stated, had not been impaired at the time he was making the statement, by circumstances beyond his control; that the statement has been consistent throughout if he had several opportunities of making a dying declaration apart from the official record of it; and that the statement had been made at the earliest opportunity and was not the result of tutoring by interested parties."

25. In the background of aforestated position of law, when the case on hand is examined, it clearly shows that while conviction can be solely based on a dying declaration, the court still has to weigh the same in the light of the surrounding circumstances and with reference to the principles governing the evidence tendered by the prosecution. In the present matter, the allegations made against the appellant - Narendra Singh are generic in nature. The first dying declaration wherein it was alleged that the in-laws burnt the deceased, falls foul with the second dying declaration, wherein the deceased says that she set herself on fire. It is a settled position of law that circumstances cannot take the place of proof and in a criminal trial, the guilt has to be proved beyond reasonable doubt. The golden principles for proof by way of circumstantial evidence, also known as the panchsheel principles, were laid down in the case of ***Sharad Birdhichand Sarda v. State of Maharashtra***[2], which reads as follows:

> "***153.*** A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:
> (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

---

[2] **(1984) 4 SCC 116**

(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
(3) the circumstances should be of a conclusive nature and tendency,
(4) they should exclude every possible hypothesis except the one to be proved, and
(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused."

26. In ***State of U.P. v. Ashok Kumar Srivastava***[3]**,** it was observed by this Court in para 9 that:

> "***9.*** This Court has, time out of number, observed that while appreciating circumstantial evidence the Court must adopt a very cautious approach and should record a conviction only if all the links in the chain are complete pointing to the guilt of the accused and every hypothesis of innocence is capable of being negatived on evidence. Great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. The circumstance relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet any and every hypothesis put forward by the accused however far-fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the

[3] **(1992) 2 SCC 86**

> slightest doubt because the law permits rejection if the doubt is reasonable and not otherwise."
>
> (Emphasis supplied)

27. Thus, in a criminal trial, in case there are two inferences possible, then the one favouring the accused must be followed. Herein, no direct evidence was produced by the prosecution on record to implicate the father-in-law for mental cruelty, or to show that he was somehow directly involved in torturing the deceased or raising the demand for dowry. It seems that the father-in-law was roped in the present matter by an extension of roping the husband of the deceased, as is the case in certain S. 498A matters. This Court has time and again issued directions in order to ensure that there is no misuse of this law, which was purported by the legislature as a tool to ensure the safety of women in their marital homes and not to take grudges against all the members of the family even in the absence of any role attributable to them.

28. It was noticed by this Court that the factum of dowry demand does not find presence in any of the testimonies of the family of the deceased. It appears that the same was added in their examination in chief as an afterthought so that they could strengthen their case against husband and his family members

which was standing on shaky legs due to insufficiency of evidence. It appears to be a legal gimmick rather than an honest contradiction caused due to lapse of time and erosion of the memory, because a fact as important as demand of dowry that was so traumatic so as to lead to a death of a young lady could not have been left out of the statement under Section 161 before the police at the first blush. Rather, had that been a case, the family of the deceased would have been so eager as to visit punishment upon the husband and the in-laws that they would have narrated the entire ordeal to the police in order to avoid any legal discrepancies later on. This does not seem to be the case at hand for the simple reason that when questioned in the cross-examination about the reason of this omission, all the family members of the deceased categorically pinned the blame on the police for the non-recording of the statement. Further, not a single independent witness could depose anything pertaining to the demand of dowry. In such a scenario it becomes unsafe for the Court to rely on contradictory statements of the interested witnesses to visit punishment upon the husband or the in-laws. For this reason, we are of the opinion that the demand of dowry was not proved.

29. In the light of the above analysis, the evidence is brought on record would not be sufficient to establish the charge of guilt under Section 498A of IPC against the Appellant - Narendra Singh. Accordingly, Criminal Appeal No. 302 / 2014 filed by Narendra Singh is allowed and his conviction u/s 498A IPC is set aside. Further, Criminal Appeal Nos. 309 / 2014 and 307 / 2014 are hereby dismissed.

……., J.
[ARAVIND KUMAR]

……., J.
[N.V. ANJARIA]

New Delhi;
April 30th, 2026.