

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.814 OF 2020

(Arising out of Special Leave Petition (Crl.) No.3198/2020)

RAM KUMAR @ NANKI

APPELLANT(S)

VERSUS

STATE OF MADHYA PRADESH NOW CHHATTISGARH RESPONDENT(S)

O R D E R

Leave granted.

This appeal challenges the judgment and order dated 19-12-2019 passed by the High Court of Chhattisgarh at Bilaspur dismissing Criminal Appeal No. 2541/1999.

The appellant was charged of having committed offences punishable under Sections 304-B read with 498A IPC, and was tried in Sessions Trial No.116/1999.

According to the prosecution, the appellant harassed his wife Raj Kumari with whom his marriage was solemnized about 1 ½ years ago; and on 02.10.1998, Raj Kumari set herself afire by pouring kerosene oil upon herself. When Raj Kumari was taken to the hospital, her statement (Exhibit P-2) was recorded by the

Assistant Civil Surgeon (later examined as PW-16 in the trial) as under:-

“Question No.1	What is your name?
Answer	My name is Ram Kumari
Question No.2	Where do you live?
Answer	I live in Masturi.
Question No.3:	Has anyone burnt you?
Answer	No.
Question No.4	Why you got burnt?
Answer	Due to the reason of household dispute, due to the reason of dispute with the husband (Gharwala)
Question No.5	How did you get burnt?
Answer	By pouring kerosene oil by myself, set on fire in the latrine-room
Question No.6	Are you deposing statement in yourself consciousness?
Answer	Yes”

After the death of said Ram Kumari, the matter was investigated into and charge-sheet was filed against the appellant for the aforesaid offences. In the trial that ensued thereafter, PWS 3 & 6 deposed to certain visits by Ram Kumari to her mayka/parents place and that she had disclosed to these witnesses that she was being harassed by the appellant-husband. PW-16 proved the dying declaration (Exhibit P-2) and stated:-

“In the dying declaration (statement prior to death) her name was asked by me; when she had disclosed her name as Ram Kumari. Thereafter I had asked from her that as to where she lives? Upon this, she had disclosed that I am living in Masturi. Thence I had asked that as to whether anyone has burnt you? Thence she had answered that – “No”. I had asked

from her that why you got burnt? She had replied that due to the reason of household dispute, and due to the reason of dispute with the husband (gharwala), thence I had asked from her that – whether you yourself burnt? She answered that she herself poured kerosene oil and burnt in the latrine-room. After this, I had asked from her that are deposing your statement in your consciousness/sense? Thence, she had answered – “Yes”.

Relying on the testimony of the concerned witnesses as well as Exhibit P-2, the Fifth Additional Sessions Judge, Bilaspur by his judgment and order dated 31.08.1999 convicted the appellant for the offences under Sections 304-B and 498-A IPC and sentenced him to suffer rigorous imprisonment for 10 years and two years on those counts respectively.

In the appeal preferred therefrom, the High Court dealt with the dying declaration of the deceased which was supported by the testimony of PW-16 and the other evidence on record. While noting the tenor of the dying declaration, it was observed:

“7. From the factual discussion made above in the light of the evidence of witnesses, it is clear that the deceased died on account of suffering burns within 7 years of marriage and there is evidence that on the date of incident also and a day prior thereto the deceased was beaten by the accused/appellant. Though the dying declaration suffers from some technical errors yet it cannot be ignored that while giving the dying declaration the deceased was fully conscious and has attributed the domestic dispute to be the reason for ending her life. In this case, the marriage of the deceased was performed nearly one year and a half before the occurrence, it is shown and prove that she was subjected to harassment before her death by her husband and his relatives for and in connection with the demand of dowry. There was 100% burns on her body, and thus it can be said that her death occurred otherwise than under the normal circumstances and being so it is, no doubt, a dowry death.”

The appeal was therefore dismissed."

In this appeal, we heard Mr. Akshat Shrivastava, learned Advocate for the appellant and Mr. Sourav Roy, learned Deputy Advocate General for the State. Mr. Shrivastava invited our attention to the dying declaration and submitted that the deceased herself poured kerosene oil upon her and set herself afire and that the dying declaration was well supported by the testimony of the concerned doctor. He further submitted that the depositions of PWs 3 & 6 made vague allegations against the appellant and could not be taken to be sufficient proof of dowry related harassment.

The dying declaration shows that the immediate cause for the deceased to set herself afire was the domestic quarrel with the husband. Not only does the dying declaration give details as to how the deceased suffered burn injuries but also discloses the immediate cause for her to take the extreme step. There is nothing on record to indicate that the dying declaration was obtained by fraud or misrepresentation or that the statement was not correctly recorded. It was recorded by a doctor, an independent person and satisfied all the requirements as stated by this Court in *Laxman vs. State of Maharashtra*¹

In the circumstances, the prosecution fell short of making good its case under Sections 304-B and 498-A IPC and the appellant is entitled to benefit of doubt. We, therefore, allow this appeal, set aside the orders of conviction and

¹ (2002) 6 SCC 710

sentence and direct that the appellant be set at liberty unless his presence is required in connection with any other offence.

The appeal is allowed accordingly.

.....J.
[Uday Umesh Lalit]

.....J.
[Vineet Saran]

.....J.
[S. Ravindra Bhat]

New Delhi;
26th November, 2020.

ITEM NO.7 Court 3 (Video Conferencing) SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (CrI.) No(s). 3198/2020

(Arising out of impugned final judgment and order dated 19-12-2019 in CRA No. 2541/1999 passed by the High Court Of Chhatisgarh At Bilaspur)

RAM KUMAR @ NANKI

Petitioner(s)

VERSUS

STATE OF MADHYA PRADESH NOW CHATTISGARH

Respondent(s)

(FOR ADMISSION

IA No. 85814/2020 - EXEMPTION FROM FILING O.T.

IA No. 63895/2020 - EXEMPTION FROM FILING O.T.

IA No. 85812/2020 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 26-11-2020 These matters were called on for hearing today.
CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Petitioner(s) Mr. Akshat Shrivastava, AOR

For Respondent(s) Mr Sourav Roy, Advocate, Deputy Advocate General(State of Chhattisgarh)
Mr Mahesh Kumar, Advocate, Standing Counsel(State of Chhattisgarh)
Mr Suushant Yadav, Advocate
Mr. Prabudh Singh, Advocate
Mr. Leela Dhar Prajapat, Advocate
Ms. Devika Khanna, Advocate
Mrs. V. D. Khanna, Advocate
M/s VMZ Chambers, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending applications, if any, shall stand disposed of.

(INDU MARWAH)
COURT MASTER (SH)

(PRADEEP KUMAR)
BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)