



***IN THE HIGH COURT OF MADHYA
PRADESH***

**AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

CRIMINAL APPEAL No. 2635 of 2019

PINTU @ HARVANSH SINGH

Versus

THE STATE OF MADHYA PRADESH

Appearance:

The appellant is present in person.

Shri H.S. Rathore, learned Government Advocate for the respondent/State.

The complainant is present in person.

Heard on : 07.08.2024

Pronounced on : 22.08.2024

This criminal appeal having been heard and reserved for judgment, coming on for pronouncement this day, the court passing the following :

JUDGMENT

The present appeal has been filed on behalf of the appellant under Section 374 being crestfallen by the order dated 27.02.2019



passed in Sessions Trial No. 682/2015, whereby the appellant has been convicted for the offence under Sections 498-A and 307 of the Indian Penal Code, 1860 (hereinafter referred as to 'IPC') for 1 year & 6 months R.I. and 03 years R.I. with fine of Rs.500/- and Rs.1,000/- and default stipulations.

2. The Prosecution case in a nutshell is that on 07.05.2015 at night from 01:30 to 02:00, the husband/Pintu @ Harvanshsingh of Kavita strangulated her neck with intention to kill her. Due to which, her breathing was stopped. After too much struggle, she released herself from Pintu/husband and on shouting her, Manjeet Kaur, Manpreet Kaur, Jasveer kaur reached on the spot, who interfered and safe Kavita. They admitted her in the hospital. An FIR was lodged by the complainant bearing Crime No. 319/2015 for the offence punishable under Sections 307 & 498-A of IPC at Police Station Pardeshipura, District Indore. After completion of investigation, charge-sheet was filed and the case was committed to the Session Judge. Thereafter, the learned trial Court has framed charges against the appellant under Sections 307 and 498-A of IPC. In turn, the accused/appellant abjured his guilt and prayed for trial.

3. In order to bring home the charges, the prosecution has adduced as many as 12 witnesses namely the Kavita, complainant (PW-1), Manpreet (PW-2), Ramesh Kumar (PW-3), Jasbeer (PW-4), Manjeet Kaur (PW-5), Mahanand Sharma (PW-6), Mahendra Singh (PW-7), Ramkishan Chouhan (PW-8), Pinki Singh (PW-9), R.R.



Gamad, ASI (PW-10), Dr. Vikas Mishra (PW-11) and R.C. Khadetiya (PW-12). On behalf of defence, no witness was furnished.

4. Learned counsel for the parties have submitted that during the pendency of this appeal, the complainant and petitioner have jointly filed an I.A. No. 2842/2019 under Sections 320(2) read with Section 488 of Cr.P.C. stating that the dispute between them has been resolved and they have entered into compromise with no intention to pursue the matter further. In compliance of the order dated 29.07.2024 passed by this Court, the factum of compromise has been verified by the Principal Registrar of this Court and has submitted a report on 29.07.2024 that both the parties have arrived at compromise voluntarily without any threat, inducement and coercion. The offence under Sections 498A and 307 of IPC are non-compoundable and Kavita is the injured person. Therefore, the aforesaid compromise is accepted and on virtue of this compromise, I.A. No. 2842/2019 stands allowed to the extent of discharging the appellant from the charges under Section 498A and 307 of I.P.C.

5. Learned counsel for the appellant submits that so far as sentence is concerned, the appellant has already undergone jail sentence of **approximately four months**. The incident had taken place in the year 2015. It is further submitted that both the parties have amicably settled their dispute and therefore, while maintaining the conviction, the jail sentence of the appellant may be reduced to the period already undergone and the fine amount may be reasonably enhanced which may be directed to be paid to the complainant.



6. Learned counsel for the respondent/state has opposed the appeal.

7. Looking to the fact that both the parties have entered into compromise. Nevertheless, the appellant has not impugned the merits of conviction and confined his arguments as to sentencing of the appellant on the basis of compromise application, but still this appellate Court is of the view to examine the sanctity of conviction. On this aspect, I have gone through the order of the trial Court. The prosecution case is not only fortified by the statement of the witnesses but also well supported by documentary evidence adduced before the trial Court. In view of the whole evidence produced by the prosecution, conclusion of learned trial Court regarding conviction appears to be on sound reasoning, it does not warrant any interference. Accordingly, this finding with regard to conviction under Sections 498A and 307 of IPC, is hereby affirmed.

8. Now, the Court is turning to the sentencing part and effect of compromise placed by the complainant/injured and accused person. In the case of **Narinder Singh and Ors Vs. State of Punjab And Anr, 2014 (6) SCC 466** relying on the various judgments, the Apex Court permitted the compounding in a non-compoundable case and quashed the criminal proceedings. The Hon'ble Apex Court in para no.21 has observed as under:-

"21. However, we have some other cases decided by this Court commenting upon the nature of offence



under Section 307 of IPC. In Dimpey Gujral case (supra), FIR was lodged under sections 147, 148, 149, 323, 307, 552 and 506 of the IPC. The matter was investigated and final report was presented to the Court under Section 173 of the Cr.P.C. The trial court had even framed the charges. At that stage, settlement was arrived at between parties. The court accepted the settlement and quashed the proceedings, relying upon the earlier judgment of this Court in Gian Singh vs. State of Punjab & Anr. 2012 AIR SCW 5333 wherein the court had observed that inherent powers under section 482 of the Code are of wide plentitude with no statutory limitation and the guiding factors are: (1) to secure the needs of justice, or (2) to prevent abuse of process of the court. While doing so, commenting upon the offences stated in the FIR, the court observed:

“Since the offences involved in this case are of a personal nature and are not offences against the society, we had enquired with learned counsel appearing for the parties whether there is any possibility of a settlement. We are happy to note that due to efforts made by learned counsel, parties have seen reason and have entered into a compromise.” This Court, thus, treated such offences including one under section 307, IPC were of a personal nature and not offences against the society.”

9. Here, it is also poignant that this compromise has been filed at the stage of appeal before this Court. On this point, the view of Hon'ble Apex Court in the **Unnikrishnan alias Unnikuttan versus State of Kerala reported in AIR 2017 Supreme Court 1745** is worth referring in the context of this case as under:-

"10. In series of decisions i.e. **Bharath Singh vs. State of M.P. and Ors., 1990 (Supp) SCC 62,**



Ramlal vs. State of J & K, (1999) 2 SCC 213, Puttaswamy vs. State of Karnataka and Anr, (2009) 1 SCC 711, this Court allowed the parties to compound the offence even though the offence is a non-compoundable depending on the facts and circumstances of each case. In some cases this Court while imposing the fine amount reduced the sentence to the period already undergone."

11. What emerges from the above is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrive at between the parties, reduce the sentence imposed while maintaining the conviction."

10. Similarly, considering the facts of compromise for the offence under Section 498A alongwith other sections, the following extracts of Hon'ble the Apex Court rendered in the case of ***Ruchi Agrawal Vs. Amit Agrawal [(2005) 3 SCC 299]***, wherein it is viewed as under :-

"In view of the above said subsequent events and the conduct of the appellant, it would be an abuse of the process of the court if the criminal proceedings from which this appeal arises is allowed to continue. Therefore, we are of the considered opinion to do complete justice, we should while dismissing this appeal also quash proceedings arising from the Criminal Case No.Cr.No.224/2003 registered in Police Station, Bilaspur, (Distt. Rampur) filed under Sections 498A, 323 and 506 IPC and under Sections 3



and 4 of the Dowry Prohibition Act against the respondents herein. It is ordered accordingly. The appeal is disposed of.”

11. However, In the case of *Manohar Singh.Vs. State of Madhya Pradesh and Another* reported in [(2014) 13 SCC 75], the Hon'ble Apex Court has specifically considered the issue as to whether a conviction can be quashed on the ground that the parties have compromised the matter in exercise of the inherent jurisdiction under Section 482 'the Code'. In this case the offence involved was under Section 498 (A) of IPC and Section 4 of the Dowry Probation Act. The Hon'ble Supreme Court has held in para 6 and 8 as follows :-

“06. Section 498-A IPC is non-compoundable. Section 4 of the Dowry Act is also non-compoundable. It is not necessary to state that non-compoundable offences cannot be compounded by a court. While considering the request for compounding of offences that court has to strictly follow the mandate of Section 320 of the Code. It is, therefore, not possible to permit compounding of offences under Section 498-A IPC and Section 4 of the Dowry Act. However, if there is a genuine compromise between husband and wife, criminal complaints arising out of matrimonial discord can be



quashed, even if the offences alleged therein are non-compoundable, because such offences are personal in nature and do not have repercussions on the society unlike heinous offences like murder, rape, etc. (see *Gian Singh .v. State of Punjab*). If the High Courts forms an opinion that it is necessary to quash the proceedings to prevent abuse of the process of any court or to secure ends of justice, the High Court can do so. The inherent power of the High Court under Section 482 of the Code is not inhibited by Section 320 of the Code. Needless to say that this Court can also follow such a course.

“8. In the instant case, the appellant is convicted under Section 498-A IPC and sentenced to undergo six months imprisonment. He is convicted under Section 4 of the Dowry Act and sentenced to undergo six months imprisonment. Substantive sentences are to run concurrently. Even though the appellant and Respondent 2 wife have arrived at a compromise, the order of conviction cannot be quashed on that ground because the offences involved are non-compoundable. However, in such a situation if the court feels that the



parties have a real desire to bury the hatchet in the interest of peace, it can reduce the sentence of the accused to the sentence already undergone. Section 498-A IPC does not prescribe any minimum punishment. Section 4 of the Dowry Act prescribes minimum punishment of six months but proviso thereto states that the court may, for adequate or special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term which may be less than six months. Therefore, sentence of the appellant can be reduced to sentence already undergone by him.”

12. Even this Court in Cr.A. No.268/2016 (**Kanha @ Mahesh v/s The State of Madhya Pradesh**) decided on 24.08.2017 as well as in Cr.A. No.561/2010 (**Radhakrishnan & 3 Others v/s The State of Madhya Pradesh**) decided on 18.04.2017 and in Cr.A. No.604/2000 (**Aaram Singh vs. The State of Madhya Pradesh**) decided on 08.08.2019, **Sohan Jangu & others vs. State of Madhya Pradesh [2023 LawSuit (M.P) 392]** and **Mahendra Vs. State of Madhya Pradesh [2023 LawSuit (MP) 502]**, has taken a similar view.

13. On this point, this Court is also inclined to quote the excerpt of the judgment rendered by Hon'ble Apex Court in the case of



Bhagwan Narayan Gaikwad vs. State of Maharashtra; [2021 (4)

Crimes 42 (SC) which is as under:-

"28. Giving punishment to the wrongdoer is the heart of the criminal delivery system, but we do not find any legislative or judicially laid down guidelines to assess the trial Court in meeting out the just punishment to the accused facing trial before it after he is held guilty of the charges. Nonetheless, if one goes through the decisions of this Court, it would appear that this Court takes into account a combination of different factors while exercising discretion in sentencing, that is proportionality, deterrence, rehabilitation, etc.

29. The compromise if entered at the later stage of the incident or even after conviction can indeed be one of the factor in interfering the sentence awarded to commensurate with the nature of offence being committed to avoid bitterness in the families of the accused and the victim and it will always be better to restore their relation, if possible, but the compromise cannot be taken to be a solitary basis until the other aggravating and mitigating factors also support and are favourable to the accused for molding the sentence which always has to be examined in the facts and circumstances of the case on hand."



14. As the offence under Sections 498A & 307 of IPC, is not compoundable under Section 320 of the Code of Criminal Procedure, 1973, it is not possible to pass the order of acquittal on the basis of compromise but since the offences involved in this case are of personal nature and are not against the society, it is by now well settled that such a compromise can be taken into account for reduction of sentence. The appellant and the complainant are living in the same society and they want to live with peace, therefore, to meet the ends of justice, the sentence of imprisonment awarded against the appellant under Sections 498A & 307 of IPC may be reduced to the period already undergone.

15. In view of the aforesaid principles laid down by Hon'ble Apex Court and by this Court taking into consideration that the incident had taken place in the year 2015 and further the appellant has already undergone jail sentence of approximately four months of his jail incarceration, no fruitful purpose would be served in keeping the appellant in jail even after the compromise between the parties, this Court is of the view that while maintaining the conviction under sections 498A & 307 of IPC, the jail sentence under this offence is reduced to the period already undergone by enhancing the fine amount from Rs.500/- to Rs.5,000/- (under Section 498A of IPC) & from Rs.1,000/- to Rs.10,000/- (under Section 307 of IPC) for payable within a period of one month from today.



16. Out of the total fine amount Rs.10,000/- be paid to complainant/injured Kavita. Fine amount and compensation already paid, if any, shall be adjusted.

17. The bail bond of the appellant shall be discharged after depositing the fine amount. In case of default of payment of fine amount, the appellant shall undergo further two months S.I., Thereafter, after completing the same, he be released on bail, if not required in any case.

18. The judgment of learned trial Court regarding seized property stands confirmed.

19. A copy of this order be sent to the trial Court concerned for necessary compliance.

20. With the aforesaid, the present appeal stands disposed off.

21. Pending application, if any, stands closed.

Certified copy as per rules.

(PREM NARAYAN SINGH)

JUDGE

Vindesh