

**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**

Cr.A.No.76 of 2001

Reserved on 9.1.2008

Date of decision 11.1.2008

---

State of H.P.

Appellant

Versus

Karnail Singh and ors.

Respondents

---

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for reporting?<sup>1</sup> No.

For the appellant: Mr. M.A.Khan with Ms.Meenakshi Sharma,  
Deputy Advocate Generals.

For the respondents: Ms.Bindiya Sharma, Advocate, vice counsel.

---

**Rajiv Sharma,J.**

The respondents were prosecuted under Section 498-A and 34 of the I.P.C in Criminal Case No.5-II/2000 in the court of Judicial Magistrate Ist Class-II, Dharamshala and were acquitted on 27.7.2000. The State has filed the present appeal against the acquittal of the respondents.

The facts which can be culled out from the judgment of the trial court are that the marriage of complainant Smt. Naresh Kumari (PW-1) was solemnized with accused-respondent No.1 Karnail Singh in the year 1986 in accordance with Hindu rites and out of their wedlock two daughters and one son was born. After 3/4 months of their marriage altercations started between the husband (accused No.1) and mother-in-law of the complainant. In the year 1994, the complainant was thrown out of the house but the matter was compromised by the Gram Panchayat. The complainant stayed with her husband at Glaut in the year 1988, 1992 and 1997. It has further come in the prosecution story that in the month of

---

<sup>1</sup> Whether reporter of local papers is allowed to see the judgment? No.

May, 1997, when the complainant's husband came for five days leave, she demanded maintenance from him and he gave beatings to her and on the next day her mother-in-law also gave her beatings and threw kerosene lamp on her. Thereafter the complainant went to Pradhan Manohar Lal and narrated the whole story to him and consequently the matter was reported to the police and FIR was registered on 23.8.1999. After the completion of the investigation challan was prepared and presented before the Court. In order to prove its case, the prosecution has examined as many as eight witnesses. The statements of the accused were recorded under Section 313 Cr. P.C. The trial court acquitted the respondents on 27.7.2000. The State has filed this appeal against their acquittal.

I have heard learned counsel for the parties and have also gone through the record of the case meticulously.

Mr. M.A. Khan, learned Deputy Advocate General had strenuously argued that the prosecution has proved the case against the accused. He then contended that the trial court had not properly appreciated the evidence on record and has erred in acquitting the accused. Ms. Bindiya Sharma learned vice counsel appearing for the respondents had supported the judgment dated 27.7.2000.

PW-1 Smt. Naresh Kumari, the complainant, has categorically stated in her statement that when accused threw kerosene lamp on her on 15.6.1999, she reported the matter to the Pradhan and thereafter the matter was reported to the police on 16.6.1999. However, the FIR was registered on 23.8.1999. The delay in lodging the FIR after incident dated 15.6.1999 has not been explained by the prosecution at all. There are material contradictions and inconsistencies in the statements made by the witnesses examined by the prosecution. PW-1 herself has stated in the FIR Ex.PW-7/A that it was in the month of May, 1999 the accused threw kerosene lamp on her, but she has stated before the court that it was on 15.6.1999 when the accused persons threw kerosene lamp on her.

Before this incident the only incident which has taken place as per the statement of the PW-1 was in the year 1994 when she was thrown out of the house but the matter was compromised at the instance of the Pradhan. PW-2 is the father of the complainant. He has stated that he neither reported the matter to the Police nor to the Panchayat about the mal-treatment meted to her daughter by the accused. PW-3 Smt. Bimla Pradhan has testified that PW-2 told her that the accused person used to beat his daughter and demand more dowry. Neither the complainant PW-1 nor PW-2 Chuher Singh has stated that the accused persons have ever demanded the dowry. PW-4 Manohar Lal has stated that efforts were made in the year 1994 to patch up the matter between the complainant and the accused. PW-5 Subhash Chand has only referred to the incident to the year 1994. PW-6 Balkar Singh brother of the complainant has also narrated the incident which happened in the year 1994. Dr. R.K.Mehta (PW-8) has examined the complainant on 28.11.1994 and had noticed injuries on the body of the complainant. The medical also pertains to the year 1994. What happened between 1994 to 1999 has not been explained in any manner by any of the witnesses. No witness has stated that the relations between the parties were not cordial between 1994 and 1999 except the alleged incident which took place in the month of June, 1999. There are material contradictions and inconsistencies in the statements of the witnesses with regard to the date of incident. No explanation has been given by the prosecution why the FIR was registered after considerable delay of more than two months.

The prosecution has failed to bring home the guilt of accused beyond reasonable doubt. The accused have rightly been acquitted by the trial court. Therefore, the judgment passed by the trial court calls for no interference. The appeal is accordingly dismissed. The bail bonds furnished by the accused are discharged.

January 11, 2008(g)

( **Rajiv Sharma** ), J.