

[2009] 8 S.C.R. 278

A SHINDHU & ORS.
v.
STATE OF KARNATAKA
(Criminal Appeal No. 264 of 2003)

MAY 6, 2009

B [DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]

C *Penal code, 1860 – ss. 498 A and 306 r/w s. 34 –
Prosecution under – Of five accused – acquittal by trial court
– conviction by High Court – Appeal against one accused
abated due to death – SLP filed by accused-husband
dismissed – On the appeal by three accused, Held: In the
absence of any material to show involvement of the
D appellants-accused, their conviction cannot be upheld –
Acquittal ordered.*

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No. 264 of 2003.

E From the Judgment & Order dated 29.07.2002 of the High
Court of Karnataka at Bangalore in Crl. A.No. 348 of 1997.

G.V. Chandrashekar, N.K. Verma and P.P. Singh for the
Appellants.

F Anil Kr. Mishra, Sanjay R.Hegde and A.Rohan Singh for
the Respondent.

The Judgment of the Court was delivered by

G DR. ARIJIT PASAYAT, J. 1. Heard.

2. Challenge in this appeal is to the judgment of a learned
Single Judge at Karnataka High Court upholding the conviction
of the appellants for offences punishable under Sections 498-

H

A and 306 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC'). Learned Principal Sessions Judge, Bijapur had directed acquittal of the five accused persons. A-1 is the father-in-law, A-2 is the mother-in-law, A-3 is husband, A-4 is the brother-in-law and A-5 is the sister-in-law of Sharada (hereinafter referred to as the deceased).

3. It was the prosecution version that because of the cruelty, the deceased committed suicide by jumping into the well. The Trial Court on consideration of the evidence on record came to hold that accusations have not been established. An appeal was filed by the State under Section 378 (1) and (3) of the Code of Criminal Procedure, 1973 (in short the Code). The High Court set aside the impugned judgment of the Trial Court and recorded conviction in terms of Sections 498-A and 306 read with Section 34 of the IPC.

4. During the pendency of the appeal before the High Court A-1 died. The High Court passed the judgment affirming the judgment of conviction passed by the Trial Court convicting A-2, A-3, A-4 and A-5. Questioning the correctness of the said judgment, they have filed this appeal. It is to be noted that though A-3 had filed the special leave petition, the same was dismissed.

5. Learned Counsel for the appellants submitted that there is no material to show any involvement of A-2, A-4 and A-5.

6. Learned Counsel for the respondent, on the other hand, supports the impugned judgment stating that Trial Court did not analyse the evidence and therefore High Court interfered.

7. It needs to be noted that there is no reference by the High Court to any material to connect the appellants with the alleged crime. The Trial Court had referred to the evidence elaborately to conclude that prosecution has failed to prove its case.

A 8. On going through the judgment of the High Court and
the Trial Court, it appears that the High Court did not refer to
any circumstance which would establish the connection of the
present appellants with the alleged crime. In fact, A-3 - the
husband has suffered the sentence imposed upon him and in
B an event the special leave petition had been dismissed so far
as the husband is concerned.

C 9. In the absence of any material on record which would
establish the guilt of the accused and absence of any material
to show involvement of the appellants, their conviction cannot
be upheld and the impugned judgment is set aside and their
acquittal is directed. Bail bonds executed to give effect to the
order of bail dated 24-02-2003 shall stand discharged.

The appeal is allowed accordingly.

D K.K.T.

Appeal allowed.