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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 636/2008 & CRL.M.A. 19137/2011

LAXMI NARAIN Appellant
Through Mr. R.N. Mittal, Senior Advocate
with Mr. Pankaj Kumar and Mr.
Manoj Kumar, Advocates.

versus

STATE OF NCT OF DELHI Respondents
Through Mr. Manoj Ohri, APP for State.

% Date of Decision: 20th December, 2012

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J. (Oral)

1. Present appeal has been filed under Sections 374 and 382 Cr.P.C. challenging the judgment dated 05th July, 2008 and order on sentence dated 08th July, 2008 whereby the appellant- father in law of Ms. Sangeeta (hereinafter referred to as 'the deceased') was convicted under Sections 498A/34 and 304B /34 of the Indian Penal Code, 1860 (for short 'IPC') and sentenced to undergo rigorous imprisonment for three and ten years respectively. A fine was also imposed in respect of both the convictions.

2. The prosecution's case in nutshell is that deceased married Mr. Deepak, the son of the appellant on 09th February, 2000. The appellant and his son, namely, Deepak had demanded dowry at the time of fixation of marriage. Even after solemnization of the marriage, the appellant and his son had continued to harass the deceased for dowry. The appellant used to demand money from the father of the deceased on one pretext or another. As per the prosecution's case on 28th March, 2004, appellant demanded ₹ One lac from Mr. Hari Kishan, the father of the deceased which was refused. On this, the appellant threatened the father of the deceased that he would not see his daughter alive. On 04th April, 2004, Police received information from the appellant that his daughter-in-law had committed suicide.

3. In rejoinder, Mr. Mittal states that he does not wish to challenge the judgment convicting the appellant under Sections 304B and 498A IPC.

4. Consequently, the conviction of the appellant is upheld under Sections 498A and 304B IPC.

5. However, Mr. Mittal challenges the order on sentence on the ground that the appellant is old and is a heart patient.

6. Having heard Mr. Mittal and after perusal of the paper book, this Court finds that the appellant has already undergone around seven years of imprisonment and the appellant's behavior in jail has been satisfactory. This Court also takes notice of the fact that the appellant has been undergoing medical treatment for various ailments. The medical report of the Senior Medical Officer, Tihar Jail is reproduced hereinbelow:-

“With reference to the above cited inmate patient, it is submitted that the inmate patient is a follow up case of Right

inguinal Hernia with Prostatomegaly with Back Ache under treatment from DDU & Safdarjung Hospital. The inmate was also under treatment with Jail visiting Psychiatric Specialist for complaint of Decreased Sleep.

The inmate was under treatment from Urology Department, Safdarjung Hospital for complaint of Prostatomegaly and was prescribed oral medications.

The inmate was under treatment from Surgery Department, DDU Hospital for complaint of Right Inguinal Hernia the inmate was planned for Hernioplasty, but the inmate refused for surgery at DDU Hospital as he wanted to get operated at private Hospital, (photocopy attached).....”

7. Consequently, in view of aforesaid facts, the order on sentence is modified to the extent that sentence under Section 304B IPC is reduced to seven years with fine as awarded by the trial court. However, the sentence as awarded under Section 498A IPC is maintained. It is clarified that appellant would be entitled to remission in accordance with law. With the aforesaid observations, present appeal and application stand disposed of.

MANMOHAN, J

DECEMBER 20, 2012

ms/js/rn