

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Order: 01.11.2007

Crl.Appeal No. 696/2004

Narender Kumar and Anr. ... Appellants Through: Mr. Atul Jain, Advocate

Versus

State (Govt. of NCT of Delhi) ... Respondent Through: Mr. Sunil K. Kapoor, Advocate

Crl.Appeal No. 748/2004

Vijay Kumar and Anr. ... Appellants Through: Mr. Atul Jain, Advocate

Versus

State (Govt. of NCT of Delhi) ... Respondent Through: Mr. Sunil K. Kapoor, Advocate

Crl.Appeal No. 787/2004

Gyan Prakash ... Appellant Through: Mr. Atul Jain, Advocate

Versus

State (Govt. of NCT of Delhi) ... Respondent Through: Mr. Sunil K. Kapoor, Advocate

Crl.Appeal No. 749/2004

Jeevani Devi @ Jamuna Devi ... Appellant Through: Mr. Atul Jain, Advocate

Versus

State (Govt. of NCT of Delhi) ... Respondent Through: Mr. Sunil K. Kapoor, Advocate

CORAM: JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporter or not ? Yes.
3. Whether judgment should be reported in Digest ? Yes.

JUDGMENT:

1. These appeals have been preferred against the judgment of learned Additional Sessions Judge dated 10th September, 2004 whereby he convicted the appellants under Section 498A read with Section 34 IPC and Section 307 read with Section 34 IPC and against the order of sentence dated 14th September, 2004 whereby he sentenced each of the appellants to undergo RI for 02 years and a fine of Rs.3,000/- under Section 498A and RI for 07 years and a fine of RS.5,000/- under Section 307/34 IPC.

2. The brief facts necessary for deciding these appeals are that complainant Veena Rani was married to accused Gyan Prakash on 24th November, 1997. She was admitted to Safdarjung Hospital on 9th May, 2002 by her husband at about 10.00 p.m. with 25 % burns. She told the doctor that she received burn injuries accidentally while she was cooking food on LPG stove and her dupatta caught fire accidentally resulting into burn injuries. Her MLC Ex. PW 3/1 shows that her pulse rate, Blood Pressure were normal her chest was clean she was oriented to time, place and persons. The injuries present on her body showed that she was having thermal burns on upper parts of the body i.e. upper extreme face, lower abdomen and some patches over the back. Police was informed of the admission by the duty constable in hospital vide DD No. 4A (Ex. PW 1/1) on the night of 9th and 10th May, 2002. The investigation was given to ASI Ramesh Chand, who requested SDM to come to hospital and record statement of Smt. Veena. Statement of Smt. Veena was recorded by SDM on 10th May, 2002. Doctor's endorsement of her being fit for giving statement is Ex. PW 12/1. In her statement given to SDM (Ex. PW 2/2) she stated that on previous night around 7.00 p.m. she was at home, her jethani and mother-in-law were also at home, LPG Stove was lying on floor. She was standing near the stove and food was being cooked. Her dupatta caught fire from the LPG stove and she cried of catching fire, her mother-in-law and jethani extinguished the fire. Her husband was on duty at the

time of incident. Thereafter, she was brought to hospital by her husband. She had been living happily with her family and was not being harassed for dowry, everybody in the family loved her. The incident was an accident and she had no doubt on anyone. She was in full senses and gave the statement without any pressure.

3. Father of complainant Roshan Lal came to see her on 10th May, 2002 itself. On 11th May, 2002, her father made an application Ex. PW5/1 to SDM wherein he stated that her daughter Veena was being mistreated by her in-laws. His son-in-law Gyan Prakash was having no business or work and due to this reason his family members used to throw him out of the house and on this attitude of family of his son-in-law, he had to bring his daughter to his own house sometime for four months and sometime for six months. His daughter was having one son, who was also living with him for about last three years. Due to unemployment of his son-in-law he got his daughter employed in a private firm as a labour, so that she could maintain herself. During this period he had also been sending his daughter to in-laws house with the help of inter-mediators. Mother-in-law of his daughter told him that he should get his son-in-law Gyan Prakash settled by opening a clothier shop for him. Since he (father-in-law) was not a rich person this was not possible for him. On 9th May, 2002 around 7.00 p.m. girl's two jeths (brothers-in-law) viz. Narender and Vijay, two jethanis (sisters-in-law) viz. Om Prabha and Nirmal and mother-in-law viz. Jeevani Devi @ Jamuna Devi and her husband Gyan Prakash poured kerosene oil on his daughter and set her on fire. He was not informed of the incident. However, he got information on 10th May, 2002 at 10.00 a.m. from some acquaintance that Veena had met with an accident. So, when he went to know well being of his daughter at her in-laws' house there her father-in-law Pandit Prabhati Lal told him that Veena was in burns ward of the Safdarjung Hospital. When he reached Safdarjung Hospital he learnt that SDM had already recorded his daughter's statement. His daughter told him that she made statement to SDM as per the wishes of her in-laws since her in-laws had threatened her that they would kill her and her son and that she would be divorced. By his application Ex. PW5/1 he requested SDM that another statement of his daughter Veena should be recorded.

4. After the application made by father of complainant, SDM again recorded a statement of the complainant Venna (Ex. PW 2/1). In this statement complainant stated that her husband Gyan Prakash used to do a private job and she herself was doing a private job. She was having a child around 3 ½ years old. For about a month after her marriage she was kept by her in-laws properly thereafter her in-laws started harassing her on small things. She remained at her parents house for 8-9 months thereafter. She was again called by her in-laws after a compromise and she remained at her in-laws for about two months thereafter. After two months she was again harassed for dowry. She used to be told that she had no brother and she had brought so less dowry. She again went to her parents' house and lived there for about 8-9 months and again came back to her in-laws house after a compromise and she was living at her in-laws house since 8th December, 2001. About 15 days before the incident she had a quarrel with her Jeth and mother-in-law. Her in-laws had purchased a Maruti Car on the day of Holi Festival and they told her that in case she wanted to remain alive she should bring 2 ½ lac rupees or a clothier shop be opened for her husband in Chandni Chowk. She refused to accede to these demands telling her that her father had no money. On this she was told to pack up and go from the house. This quarrel continued till the days of the incident. On the night of Wednesday again a similar quarrel took place and her in-laws gave her beatings and all went for sleeping. On Thursday morning she got up and cooked meals and got ready for going to office. She was told by her in-laws that in case she wanted her safety, she should bring 2 ½ lac from her parents or she should call her father. She however, went to her office/job and after doing her job came back home. When she came back from office, all members of the family viz. both her jeths, jethanis and

mother-in-law were sitting in the house. Her in-laws asked her why she had not brought her parents. When she went to her room, she found that her goods were lying packed. Her mother-in-law and jethani abused her and told her that she should pick up her goods and go away. When she refused they bolted the main gate from inside and her jeth said that she should be beaten. Jethani said that she should be burnt and cremated. In the meantime her mother-in-law brought kerosene oil in a tin and poured kerosene oil on her. When she cried then her elder jethani lit fire and set her ablaze. She cried for being saved then all of them went away from there. A bucket full of water was lying there, she picked up the bucket, poured water on herself the fire got extinguished. She asked them to take her to hospital, on this they started beating her. She kept lying in the house for about two hours and they told her that they would take her to hospital only if she would not testify against them otherwise her son and father would be killed. When she agreed to this, she was removed to hospital. She was also threatened on the way to hospital and even beaten. She made her earlier statement under pressure. Her earlier statement was not correct. Since her parents had met her in the hospital now she was under no fear and had made the statement without pressure. Her mother-in-law her jeths viz. Narender and Vijay, her husband Gyan Prakash her jethanis Om Prabha and Nirmal had burnt her.

5. The accused persons were put to trial under Section 406/498/307/34 IPC. Smt. Veena appeared as PW 2 and testified against the accused persons more vehemently, making improvements even over her second statement given to the SDM. Her father and mother also testified against the accused persons and based on the statements, the appellants were convicted.

6. The learned Trial Court observed that the two contradictory statements made by Veena before SDM have been explained and the testimony of the complainant given in the Court was trustworthy and cannot be looked upon with suspicion. The Trial Court also observed that had the complainant been having nice time with her in-laws and been loved and respected as stated in the first statement, she would not have turned a somersault and implicated everyone of her family merely because her father had come to the hospital and met her. The Trial Court observed that earlier statement made to the SDM was under a threat and therefore could not be used to erase the credibility of complainant's testimony in the Court. The Trial Court also observed that had the incident been an accident only, the appellant would have not concealed the incident from the father of the complainant and would have immediately informed the father of the complainant. The fact that father of the complainant was not informed about the incident by the in-laws/appellants proves guilty mind of the appellants. The Trial Court brushed aside the contradictions in the ocular testimony of complainant and the medical evidence observing the same being inconsequential holding that the doctor who examined her had not taken the case of the complainant seriously and considered it as a case of accident and not a case of burning. Trial Court also brushed aside the contradiction in the stand taken by the complainant about the incident in her maintenance petition and in the Court on the ground that there must have been communication gap. There were other contradictions in the statement of complainant made in the Court and the earlier statement but all these were considered as immaterial by the Trial Court.

7. It is argued by the counsel for the appellants that the Trial Court had grossly ignored the entire sequence of the evidence and the circumstances which proved that the complainant had made false statement in the Court out of vengeance, only to see that her husband, who was not earning well and was not able to maintain her properly and the in-laws should be taught a lesson.

8. As per testimony of PW 2 complainant, made in the Court after marriage, the accused started asking her to bring 2 ? lac from her father or to get a shop opened for her husband. This part of the testimony is contrary to Ex. PW 5/1, a written application made by her father to SDM wherein her father had clearly stated that her son-in-law Gyan Prakash was unemployed and for this reason he was

turned out by his family and he (PW 5) was forced to keep his daughter with him sometime for 04 months and sometime for 06 months and he also had to get his daughter employed as a labour in a private company. She in her statement to SDM and in court tried to make out a case as if she lived at her parents' house for 8-9 months together due to dowry demands. Her statement in Court is also contrary to her second statement made to SDM implicating her in-laws. In Ex. PW 2/1 she talked of demand of Rs. 2 ? lac after purchase of a car by in-laws on Holi festival of 2002 while deposing in Court she alleged of this demand from day one of her marriage. It is clear that it was not a case where the in-laws were demanding 2 ? lac after marriage of the girl but it was a case where the girl was married with a boy who was practically unemployed and had no source of earning. The boy must have been unable to earn livelihood and for this reason he was being turned out from the house by his own family members. Had the in-laws been trying to extract money and been asking Rs. 2 ? lac from the parents of the girl, they would not have turned out their own son. Once a person grows up and attains age of majority, gets married, he has to earn for himself and his wife. His elder brothers or parents cannot be expected to sustain him and his family even after his marriage. Because of joint family system prevalent in India sometimes the parents go out of way to help such of their sons, who are not able to earn properly and do establish them in business or help them to earn livelihood but that is possible only if the parents are having enough money for this. Where the parents belong to poor or middle class and do not have enough money to extend this help, they have no alternative but to turn out such non-earning persons hoping that this would compel him to sustain himself by striving and struggling. Ex. PW 5/1 is the first admitted written account from complainant's father that Gyan Prakash was being turned out from house time and again, so that he was able to sustain himself and struggle for himself and it seems ultimately Gyan Prakash got some private job and started going on work. Complainant in order to sustain herself also got a private job with the help of her father and the couple left their son with maternal grand parents out of poverty. The initial period of their married life went like that. It has come in evidence that father of the girl was running a clothier shop in Gurgaon. It is possible that the parents of Gyan Prakash had asked father of the complainant to help Gyan Prakash in opening a clothier shop when he was unemployed however, there was no dowry demand alleged by PW 5 in his application Ex. PW 5/1. Had there been any persistent dowry demand as testified by PW 2, nobody stopped PW 5 from writing the same in his application made to SDM.

9. Let me consider the different statements made by the complainant in this case. In her first statement, she told SDM that she met with an accident. Presuming that this statement and the story of accident told by the complainant to the SDM was made under pressure but there was no pressure on the complainant as far as other facts are concerned. In her first statement, made to SDM she stated that her husband was on duty at the time of incident and at that time her mother-in-law and jethani were at home. One may consider that there may be pressure on her to say that she had caught fire by accident but there could be no pressure on her to mis-state about the presence of persons in the house at the time of the incident. As per her first statement, except her mother-in-law and one jethani, no one was present at home at the time of incident. However, in the second statement Ex. PW 2/1 she stated that her mother-in-law, two jeths and two jethanis were present at the time of incident and her husband was not there when incident of burning took place. Her jethani and mother-in-law bolted the outer door from inside. In her statement before the Court she went further and made her husband also present at the time of incident and stated that it was her husband who bolted the door from inside at the time of incident. It is obvious that her testimony in respect of presence of persons at the time of incident is changing from one statement to other and the effort was gradually to implicate every member of the family. This reflects the mental process of the

complainant who seems to wrack vengeance against the family by implicating one after statements of the family members in successive. 10. In her testimony, she alleged that a number of times she used to be confined in a room under lock and sometimes she used to be kept hungry for two days at stretch and sometimes she used to be turned out of the house. She has not stated any such thing in Ex. PW 2/1 her second statement to SDM. Moreover, she was a working girl. She was attending her office at Gurgaon and used to commute by the conveyance provided by the company, as is admitted by her in her cross examination. She was working as a labour. If she had been confined in the room for a number of days she would not have been able to attend office and would have been terminated from service for regular absence from the office. This aspect of her testimony whether she was attending office regularly or not could not be verified by the IO because she in her statement to the SDM had not stated that she was confined by her in-laws in the room. Keeping her hungry is also not believable since she was living with her husband in a separate room, as is admitted by her in cross-examination and she was going to office daily. She herself stated that on the day of incident she had cooked meal in the morning and went to office. A lady who used to cook food herself cannot be kept hungry by others. Moreover, she had every opportunity of taking meals at her work place. Her purse recovered from the room contained Rs.1,500/- showing she used to carry sufficient money to enable her to meet her requirements. In her statement before the SDM she stated that her husband was doing a private job, while in her testimony before Court she stated that her husband was not working anywhere. In her statement before the SDM she stated that she was being taunted by in-laws that she had no brother while in her testimony she admitted that she had a brother. In such a case nobody could have taunted her that she had no brother. In her testimony she stated that there was no telephone at her parents' house and telephone was installed only after the incident. However, her father PW 5 in his testimony stated that there was a telephone in house even before the incident and demand of Rs. 2 ? lac was made by mother-in-law on telephone and accused Narender and Vijay also talked on telephone. He also asserted that he was informed about the incident by some acquaintance on telephone.

11. Her testimony seen in the light of previous admitted statement shows that in order to implicate each member of the family she changed the version of incident. In her testimony in the Court she described the incident of burning her differently. She stated that her mother-in-law Jeevani Devi @ Jamuna brought Kerosene Oil and when she tried to save herself running here and there, she was held by her both jeths (brothers-in-law) and her sisters-in-law Nirmal pressed her hand against her mouth to prevent her from raising alarm and then mother-in-law poured kerosene oil and her elder sister-in-law Om Prabha set her ablaze. Her husband had bolted the main door from inside and did not try to save her. After she was set ablaze, she rushed to tap and poured water kept in a bucket on her. She also tore her clothes and extinguished the fire, of her own efforts. Her testimony in the Court was recorded on 1st May, 2003. She was in a better position to remember the details on 11th May, 2002 i.e. soon after the incident when she described the incident to SDM in Ex. PW 2/1. The description of incident given by her in her statement to SDM on 14th May, 2002 is altogether different from the description given by her in the statement given in the Court. She has nowhere stated in her earlier statement that she had torn her clothes. She did not state that she was held by her two jeths or her mouth was gagged by her jethani Nirmal or her husband bolted the door from inside and kept watching but did not try to save. In a case of maintenance her allegations changed. Her unemployed husband suddenly started earning Rs.8,000/- p.m. and she was set ablaze by her jethani Nimal and not Om Prabha. All these improvements and changing versions have been made by her just to see that entire family is implicated.

12. It is her own case that a container of 05 litres of kerosene oil was poured on her. 05 litres of kerosene oil is an enormous quantity of oil and if this quantity is poured on a person and fire is lit, he/she will immediately turn into a fire ball. Presuming that the complainant had extinguished the fire immediately by pouring a bucket full of water on herself and by tearing her clothes, in that case the unburnt kerosene oil would remain on clothes and she would have been profusely smelling of kerosene oil. Not only her clothes but her entire body would have been drenched with kerosene oil and her clothes would have been drenched with kerosene oil and water. It is not her case that when she was removed to hospital her clothes were changed or she was washed off and bathed, rather her allegations are that she was continuously beaten for two hours before having been removed to the hospital and she kept lying there for two hours in kerosene oil and water. It cannot be believed that on seeing a patient in such a condition, doctor would have closed his eyes and would not record the condition in the MLC. There is no mention of smell of kerosene oil coming from her body in MLC, there is no mention of traces of kerosene oil on her clothes, there is no mention of her clothes being torn, there is no injury on any part of her body except the burn injuries in the MLC. A woman, who had been continuously beaten for about two hours definitely would receive some injury on some part of the body but no injury of the nature was found on her body as per MLC. The oral testimony of Smt. Veena/complainant is totally in contradiction with the medical testimony. 13. It is rightly said that men may lie but circumstances do not. Her lies have been nailed down by the circumstances. There is no seizure of torn clothes soaked with kerosene oil or water, there is no seizure of kerosene oil container by the IO moreover, there is no mention of kerosene oil smell either from body or from clothes and there is no mention of torn clothes by the doctor in the MLC. All these circumstances show that the entire story put forward by the complainant was a cooked up story and no kerosene oil was poured on her.

14. If two of her jeths had caught her so that she could be doused with kerosene oil and one jethani had gagged her mouth as alleged by her, nothing would have stopped them from burning her completely so that she did not survive. It only seems that none of the persons except mother-in-law and one jethani were even present when incident of burning took place and the incident seems to be an accidental burning and that is why she received only 25% burns at upper part of her body near neck. The nature of injuries confirms to her first version that her dupatta caught fire, fire travelled through dupatta to her upper portion. Since dupatta is normally worn by ladies around neck and keeps hanging the burns in this case seen to be due to presence of dupatta on the upper portion i.e. on neck and back that fire had travelled through dupatta on the upper parts of clothes worn by her.

15. Trial Court has heavily relied upon a presumption against the accused persons that parents of the girl were not informed. This is also belied by the witnesses. PW 13 (Raghubir Prashad) is brother-in-law of the complainant (sister's husband). He learnt about the incident on 9th May, 2002 i.e. on the day when the incident happened from his father-in-law who informed him on telephone about the incident. However, he did not visit Veena at the hospital and met Veena at her residence only after 5-7 days of the incident. This witness has not been cross examined by the APP on any point. He is a prosecution witness. This testimony cannot be brushed aside. This shows that father of girl was informed on 9th May, 2002 itself, that is why he could inform PW 13 on telephone on 9th May, 2002 but since the incident was not so serious and the burns were received accidentally and complainant was not in any danger of life, it was not taken seriously by this witness and he did not even visit his sister-in-law at the hospital and met her only when she came back home after 5 days. The non-serious nature of the incident is also reflected from the testimony of Smt. Kanta PW 6, who is mother of the complainant. She stated that she was informed about the incident by her husband, who made her a telephone call in the morning of Saturday i.e. 11th May, 2002 and

thereafter she went to hospital. Had the incident been serious her husband would have informed her at least on 10th May, 2002 when she claimed that he learnt about the incident and she also would have visited her on the same day along with her husband. 16. PW 2 testified in the Court that after getting her bandaged, none of her in-laws looked after her and all left the hospital. Her testimony is belied by the testimony of her own father. Her father stated that when he reached hospital on 10th May, 2002 her mother-in-law, brother-in-laws etc. all met him in the hospital. Similar is the testimony of her mother, who visited her on 11th May, 2002. It shows that PW 2 was out to speak patent lies in the Court.

17. There is another important factor in this case which shows that the case of dowry demand and breach of trust under Section 406 IPC was falsely foisted on the accused persons. PW 11 Sushma Rawat, SI CAW Cell, who investigated the case testified that she had visited the house along with the complainant and all her jewellery, dowry articles etc. were found in the room in which she was residing when she was living with her in-laws. It was her room and there was an almirah in the room and the key of the almirah was in the purse of the complainant. The purse was also lying in the same room and her entire jewellery and Rs.1500 were found in the almirah. That shows that complainant and her husband were living separate in one room and her entire dowry articles and istridhan was in her own custody and none of the other in-laws had any kind of greed to take away her jewellery or her articles neither her goods were lying packed. The story of demand of Rs.2 lac seems to be an invention made by the complainant and her father just to make a false case against the accused persons. Her father in his testimony stated that mother-in-law and brothers-in-law demanded Rs.2 lac from her on telephone much prior to the incident. Had it been so PW 5 in his written application Ex. PW 5/1 would have mentioned about this demand because in this application he has mentioned everything possible against the accused persons. A demand of Rs.2 lac seem to be invented in consultation before making statement to the SDM and that is why when subsequent statement was recorded by the SDM of complainant, her father and mother this demand was included in the statement while prior to that in Ex. PW 5/1 there is no mention of demand of Rs.2.5 lac neither it is mentioned that boy wanted a shop for him to be established in Chandni Chowk, what mentioned is the abject poverty of the boy and his inability to earn.

18. I consider that the story of the complainant that she was threatened by her husband and in-laws for making statement to doctor and SDM about her accidental burning is palpably false. Her husband was not even at home when the incident took place. Her husband used to go for his job and perhaps come back home after the arrival of his wife. He was working as a labour. The son of parties was living at Gurgaon with father of the girl. Her husband was not a criminal neither it is alleged that he had any criminal background. A poor man who was starving for his survival and had to work as a labour from morning till evening for livelihood, could not have given threats to kill his own son and father-in-law. This story of threat seems to have been developed later on by the complainant in consultation with father. The question would arise why the complainant would falsely implicate her in-laws. It is undisputed that complainant was not happy with her matrimonial life. Her husband was an idle man, who earlier was not doing any job. Complainant had to live at her parents' house for 8-9 months together because of poverty of her husband. Complainant's son was also being brought up by her father because of the poor financial condition of her husband. Complainant herself had to take a job as a labour. She was living with her husband while her son was living with her father in Gurgaon, miles away. It seems that after the incident her father advised her to call it a day and break this relationship once for all. But simultaneously it seems that it was decided that the in-laws must be taught a lesson for ruining the life of the complainant as she was got married to a worthless boy. May be some false representations were made at the time of the marriage about the worth of the boy. It is

not uncommon that someone may decide to end the unhappy married life. It looks that the complainant made allegations of threat etc. only to turn a 'U' turn, as she and her parents had decided to call it a day for the unhappy married life of the complainant.

19. It must be understood that god had not made any two persons same and there is a mismatch not only in arranged marriages but even in love marriages. The mismatch is discovered during the continuation of married life. No doubt poverty is a curse and a poor man has to suffer in the society at different fronts but I consider that despite poverty being a curse, poverty cannot be made a crime. Neither the failed marriage can be made a crime. In this case, the poverty was not only a curse for the boy but it made to be a crime since due to his poor condition he could not provide all that which he should have provided to the wife and the wife ultimately saw to it that not only he but everyone of his other family members land in jail. Every marriage that fails does not fail due to dowry demand or cruelties. The marriages do fail for several other reasons including the reason of incompatibility of the persons. A failed marriage is not a crime however, the provisions of Section 498A are being used to convert failed marriages into a crime and the people are using this as tool to extract as much monetary benefit as possible. In many cases, where FIRs are filed under Section 498A IPC, petitions are being filed under Section 482 Cr.P.C. for quashing of FIRs after settlements between the parties and the allegations made of cruelties etc. are withdrawn the moment a lump sum payment is received. Involving each of the family members of the husband is another arm in the armory of the complainants of failed marriages. Not only close relatives but distant relatives and even neighbours are being implicated under Section 498A and other provisions of IPC in cases of failed marriages. The Courts must be very cautious during trials of such offences. In all these cases in the name of investigation, except recording statement of complainant and her few relatives nothing is done by police. The police does not verify any circumstantial evidence nor collect any other evidence about the claims made by the complainant. No evidence about giving of dowry or resources of the complainant's family claiming spending of huge amounts is collected by the police. This all is resulting into gross misuse of the provisions of law. The investigating agency in all such cases must collect all circumstantial and other evidence in respect of claims made by the complainant and similarly Courts should always be careful in considering the case with the same ideas, qualities and it must be acknowledged that marriages do (fail and verify?) feasibility and truthfulness of the statement of the complainant and relatives.

20. From the entire documents and the testimony of the witnesses I come to the conclusion that it is an unfortunate case where the complainant by making false statement implicated the entire family in offences of under Section 307 and 498 A IPC. The Trial Court was not cautious enough to even look to admitted documents on record before convicting the family on mere statement of an estranged wife. Trial Courts should guard themselves from being swayed by emotions. They should consider entire circumstances and should carefully analyze the entire evidence. Poverty should not be allowed to become a crime. Neither failed marriage be permitted to be a crime.

21 I allow these four appeals. All the persons/appellants are acquitted of Section 498A and Section 307 IPC.

22. The appellants, namely, Gyan Prakash in Crl.Appeal No.787/2004 and Smt.Jeevani Devi @ Jamuna Devi in Crl.Appeal No.749/2004 are directed to be released forthwith.

A copy of the judgment be sent to the Superintendent, Central Jail, Tihar.

SHIV NARAYAN DHINGRA, J.

November 01, 2007