2025 INSC 1121

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.3641-3642 OF 2025

JAMEELA & ORS. **... APPELLANTS**

VS.

THE STATE OF MADHYA PRADESH **...RESPONDENT**

J U D G M E N T

DIPANKAR DATTA, J.

1. Sheikh Akhtar[1] (since deceased) was convicted by the Sessions Court in S.T. No.378/2005 for commission of offence punishable under sections 305 and 506-B, Indian Penal Code 1860[2] and sentenced to rigorous imprisonment for ten years and two years, respectively, with fine together with default stipulations *vide* judgment and order dated 28th March, 2007.

2. The judgment of conviction and order on sentence was carried in appeal before the High Court of Madhya Pradesh, Principal Bench, at Jabalpur[3] under section 374(2), Code of Criminal Procedure 1973[4] by

[1] Akhtar
[2] IPC
[3] High Court
[4] Cr.PC

Akhtar in 2007 itself. During the pendency of the appeal, Akhtar passed away on 23rd April, 2015.

3. Prior to conviction, Akhtar was a public servant. He was the 'Naib Nazir' in the local court. He suffered an order of termination of service soon after the aforesaid conviction. In the normal course, the appeal preferred by Akhtar should abate in view of section 394, Cr.PC. However, the widow of Akhtar (Jameela) and their children (Amreen Khan, Naaz Khan, Aftab, and Shreen Khan) continued the appeal with the fervent hope that should the conviction and sentence be set aside, they would be entitled to the terminal benefits which had accrued to Akhtar by reason of his rendering more than 30 years of service.

4. Upon hearing the parties, the High Court *vide* its judgment and order dated 25th April, 2024 held that Akhtar cannot be held guilty for commission of offence under section 305 IPC; however, by reason of his acts of threatening the victim (a minor girl), Akhtar was guilty of the offence under section 195-A IPC. Accordingly, while setting aside the conviction under section 305 IPC, the High Court convicted Akhtar, in the alternative, under section 195-A IPC as well as section 506-B thereof and maintained the sentence imposed by the Sessions Court. The appeal was, accordingly, disposed of.

5. An application[5] for modification of the judgment and order dated 25th April, 2024 did not meet success. It was dismissed by an order dated 2nd August, 2024.

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[5] I.A. No.12367 of 2024

6. Aggrieved by the outcome of the appeal and the application before the High Court, the widow and children of Akhtar appealed to this Court whereupon leave was granted by us on 19th August, 2025.

7. We have heard learned counsel for the appellants and the respondent-State at some length.

8. The offence alleged in the First Information Report[6] lodged by the victim's mother (PW-4) is that the victim had been molested by co-convict Munna; that, Akhtar along with Munna, Bhadde and Mamu Gudda had been threatening the victim with dire consequences if she deposed in court against Munna; that, Akhtar, Munna, Bhadde, and Mamu Gudda had threatened to kill the victim and her father, unless they compromised the matter; and that, the victim could not bear and withstand such threat for which she took the extreme step of putting an end to her life to save her father by setting herself ablaze on 19th February, 1999. The victim, unfortunately, passed away on 23rd February, 1999. While in hospital, the victim's dying declaration was recorded by the local Deputy Tehsildar (PW-2). The dying declaration is, however, not on record.

9. From the version of PW-2, we find that the victim was threatened between 10-11 am of 19th February, 1999, while she was on the way to the court by Akhtar and the co-convicts.

10. According to PW-4, who was accompanying the victim while on the way to the court, Akhtar, Munna, Bhadde, and Mamu Gudda

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[6] FIR

threatened them around 11 am. This matches with the version of the victim as spoken by her to PW-2 and supposedly recorded in the dying declaration. However, PW-4 went a step further. She deposed that while she had been away from the court to call a witness (Khima bai) leaving the victim alone in the court and ultimately brought Khima bai – in the interregnum, Akhtar and the co-convicts had again threatened the victim. This was heard by PW-4 from the victim later, after she set herself ablaze.

11. It was further in the evidence of PW-4 that since the court had adjourned proceedings, she had returned home with the victim and had left to go to a shop after a while. PW-4 was informed by one Bhuri bai that the victim had suffered burn injury. Having heard it, PW-4 immediately returned home and saw the victim lying on the ground with burns. At that point, the disclosure as aforesaid of the victim having been threatened a second time by Akhtar, Munna, Bhadde, and Mamu Gudda was made to PW-4 by the victim. The victim was threatened to change her statement or else she and her father would be killed. Since the victim did not want her father to die, she had set herself on fire.

12. This second incident of threat spoken to by PW-4, however, does not appear in the FIR.

13. PW-3, the victim's elder sister, had also deposed at the trial. When the victim had set herself ablaze and attempt was being made to douse the fire, she had told PW-3 that while going to appear in the

court and while returning, Akhtar, Munna, Bhadde, and Mamu Gudda stopped her and threatened her that compromise must be made otherwise they would kill her and her father; and it is due to this threat that the victim set herself on fire to end her life and, thereby, save her father.

14. Learned counsel for the appellants has argued before us that there is gross inconsistency in the version of PW-4, as recorded in the FIR, the victim's dying declaration recorded by PW-2 and the depositions of PWs 3 and 4 as regards the number of times the victim was threatened on 19th February, 1999.

15. True it is, PW-4 did not refer to the second act of threatening in the FIR. However, the omission is not considered too material. PW-4, we can presume, must have been under severe emotional stress when information of the offence was given to the police. That apart, it is not the requirement of law that an FIR while disclosing a cognizable offence must also reveal all facts preceding and following the incident of offence with precision. Having considered the contentions and looking at the materials on record, we do not see reason to hold that the inconsistency, as pointed out, is such that the same would lead us to discredit the evidence of PWs 3 and 4 that Akhtar, along with the co-convicts, had not threatened the victim.

16. Next, it has been urged on behalf of the appellants that although the victim, PW-3 and PW-4 had spoken about Akhtar and the other co-convicts having threatened the victim, the versions of the other

prosecution witnesses (PWs 5, 6 and 7) is that the victim had taken the names of Munna, Bhadde, and Mamu Gudda but not Akhtar as those who had also threatened her.

17. Having read the evidence of PWs 3 and 4 as well as considering what was recorded by PW-2 as the dying declaration of the victim, we have no hesitation to overrule this contention. Merely because PWs 5, 6 and 7 had not taken the name of Akhtar while referring to what they heard the victim say about the identity of those who had threatened her would in no way render the version of the victim, as recorded by PW-2, unreliable. In fact, narration of the version of the victim in the dying declaration by PW-2 finds support from the evidence of PWs 3 and 4.

18. Next, it has been contended on behalf of the appellants that the High Court grossly erred in convicting Akhtar under section 195-A IPC. The incident which resulted in unfortunate death of the victim, as noticed earlier, occurred on 19th February, 1999. Section 195-A IPC was inserted by Act No.2 of 2006 with effect from 16th April, 2006. As on date of the offence, section 195-A IPC was not on the statute book. The High Court, therefore, fell in error in not noticing the date of offence and the date of insertion of section 195-A in the IPC and proceeded to hold Akhtar guilty under that section in clear breach of clause (1) of Article 20 of the Constitution of India.

19. Learned counsel appearing for the respondent-State, while not making any attempt to justify the High Court's conviction of Akhtar

under section 195-A IPC, pointed out to us that Akhtar was held guilty of the offence under section 506-B IPC and the finding of the trial court, since affirmed by the High Court in this regard, does not suffer from any infirmity.

20. We are in agreement with learned counsel for the appellants that the High Court could not have found Akhtar guilty of Section 195-A IPC. However, what cannot be ignored is that Akhtar was also found guilty of an offence under section 506(B) IPC.

21. We have found from the memo of appeal filed before the High Court that the convictions recorded both under sections 305 and 506-B IPC were under challenge in the appeal. In the entirety of the appellate judgment and order, impugned before us, we do not find any discussion made by the High Court in respect of the conviction recorded against Akhtar under section 506-B IPC. We are inclined to the view that since the High Court had embarked on a process of reasoning to convict Akhtar under section 195-A IPC, it did not consider it necessary to make any further discussion regarding the offence under section 506-B IPC. Had we upheld the conviction under section 195-A IPC, obviously the omission of the High Court to independently deal with the offence under section 506-B thereof with reference to the evidence on record would not have been rendered vulnerable. However, in the changed circumstances where we are unable to uphold the conviction under section 195-A IPC, the omission does assume significance and requires us to independently examine

whether, on the evidence on record, the offence under section 506-B IPC stands proved.

22. Considering the evidence on record and in view of our discussions as above relatable to the evidence of PWs 2, 3 and 4, we have no hesitation in holding that Akhtar was one of four who threatened the victim and, therefore, his conviction under section 506-B warrants no interference.

23. At this stage, as a last-ditch effort, learned counsel for the appellants has invited our attention to one other aspect.

24. Referring to the evidence of a staff of the court where Akhtar was posted (DW-4), it was sought to be highlighted that DW-4 had spoken of Akhtar, the Naib Nazir, to be present in the court for the entire day on 19th February, 1999. According to DW-4, Akhtar usually came to court at about 10 am and returned at 6/6.30 pm without leaving the court. It was also his specific version that on the fateful day, i.e., 19th February, 1999, Akhtar had come to the court at about 10 am and had returned at around 6/6.30 pm; also, that Akhtar and DW-4 did not go anywhere during the duty hours on that day.

25. The evidence of DW-3, the Deputy Nazir of the concerned court, would also reveal that he had produced the attendance register from August 1997 to April 1999 to show that on 19th February, 1999, Akhtar was at his work place.

26. According to learned counsel for the appellants, for whatever it is worth, the defence evidence of DWs 3 and 4 should have been

considered by the High Court. He sounded critical of the omission of the High Court to spare a single sentence in regard to the defence evidence.

27. We had the occasion to peruse the judgment of conviction of the Sessions Court. The depositions of DWs 3 and 4 were noted in paragraphs 34 and 35 in the judgment and the Sessions Court appears to have assigned good reasons as to why the defence evidence did not appeal to him to be creditworthy for discrediting the versions of PWs 2, 3 and 4 and for returning a finding of acquittal in favour of Akhtar. We need not advert to the reasons assigned here, having also noted that there is not a single ground urged in the memo of appeal filed by Akhtar in the High Court assailing the reasoning of the Sessions Court in this regard. It is quite possible that in course of hearing of the appeal before the High Court too, no point of objection was raised with regard to evaluation and assessment by the Sessions Court of the evidence of DWs 3 and 4 for which the High Court did not consider it necessary to discuss such evidence.

28. There is, therefore, no strong reason for which the recording of conviction of Akhtar for the offence under section 506-B IPC in the judgment passed by the Sessions Court can be faulted; and, by extension, we do not see reason to interfere with the judgment and order of the High Court affirming such conviction.

29. In our view, conviction of Akhtar under section 506-B IPC cannot be interfered with on any valid ground, although his conviction under

section 195-A IPC by the High Court is unsustainable in law. Also, the respondent-State not having carried acquittal of Akhtar for the offence under section 305 IPC in appeal, such acquittal has attained finality.

30. Having regard to the nature of offence proved to have been committed by Akhtar and also bearing in mind the evidence on record revealing that a minor girl, to save her father, had to take the extreme step of doing away with her own life, we could not have in the present circumstances extend the provisions relating to release on probation to Akhtar, had he been alive. Dismissal of the appeal, *albeit* setting aside the conviction under section 195-A IPC but maintaining the conviction under section 506-B thereof, is the obvious result. We order accordingly.

31. However, unfortunately, Akhtar is no longer alive. He left behind him the appellants as his surviving heirs. The appellants have brought the *lis* to this Court only for the purpose of staking a claim to the terminal benefits that had accrued to Akhtar for rendering three decades of service.

32. Akhtar's service was terminated on consideration of his conviction not only for the offence under section 506-B IPC but also the graver offence under section 305 thereof. Since the High Court has set aside the conviction under section 305 IPC and the alternative conviction under section 195-A thereof too stands set aside by us, only the conviction against Akhtar for the offence under section 506-B IPC survives. In such circumstances, we are of the considered opinion that

interests of justice would be best served if the respondent-State considers the matter of termination of service of Akhtar *de novo* and decides, whether for his conviction only under section 506-B IPC, the right to terminal benefits accruing for rendering three decades of service would stand forfeited for all times to come.

33. Accordingly, while disposing of these appeals, we request the appropriate department in the Government of Madhya Pradesh to effect consideration of the matter as indicated in the preceding paragraph upon taking into account the financial status of the appellant no.1 and her liability, if any, adopting a humanitarian approach. Such consideration may be effected as early as possible, but preferably within three months from date.

34. Connected applications, if pending, shall also stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
SEPTEMBER 15, 2025.