

**(2007) 11 P&H CK 0132**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Daulat Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Nov. 14, 2007

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 173
- Penal Code, 1860 (IPC) - Section 304B

**Citation:** (2008) 2 DMC 751 : (2008) 3 RCR(Criminal) 305

**Hon'ble Judges:** A.N. Jindal, J

**Bench:** Single Bench

**Final Decision:** Allowed

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### **Judgement**

A.N. Jindal, J.

This appeal is directed against the judgment dated 10.6.1996 passed by Sessions Judge, Ferozepur, acquitting the accused Lajwanti and convicting Daulat Singh u/s 304B and sentencing him to undergo RI for 7 years and pay a fine of Rs. 2,000 and in default of payment of fine to further undergo RI for 6 months.

2. Briefly stated the allegations as unfolded by the prosecution are that Karnail Singh had two sons and two daughters. His younger daughter Krishana Bai was married with Daulat Singh accused (who had already a living spouse) about 7/8 months prior to the occurrence. About 1 1/2 months prior to the incident, the accused along with Krishana Bai had come to see her parents where she informed her mother Reshma Bai that the accused was not happy with the articles of dowry given in marriage and they were demanding scooter. In turn, Reshma Bai and her husband Karnail Singh regretted their inability before Daulat Singh to meet their demand. After Krishana Bai and Daulat Singh returned to their village Rukna Kasam Ke, the accused continued placing the said demand. Thereafter, Krishana Bai again went to her parental house and informed her parents. Consequently, complainant

Karnail Singh again visited Daulat Singh and repeated request but he failed to prevail upon him rather Daulat Singh threatened that unless the demand is fulfilled, he would divorce Krishana Bai. At this Karnail Singh agreed to satisfy the demand on arrival of the paddy crop.

3. On 9.10.1993 Lajwanti accused brought the Krishana Bai again, took her to the Karnail Singh and compelled him to meet the demand but on refusal of apologize, Lajwanti threatened her of the dire consequences. However, Krishana was sent back to her in-laws" house against her wishes.

4. On 11.10.1993 at about 4 p.m., when brother of complainant had gone to enquire about well-being of Krishana Bai, he came back and informed the complainant that the accused had administered poison to Krishana Bai as a result of which she had died. Consequently, complainant along with Mehar Singh, ex-Sarpanch of Ladhuka and one Kundan Singh went to village Rukna Kasan Ke and saw the dead body of Krishana Bai lying in the courtyard of the house of accused. Eventually, they left for the police station to lodge a report.

5. On the statement Ex. P.A recorded by Karnail Singh before SI Harbans Singh FIR Ex. P. A12 was registered. SI Harbans Singh visited the spot; conducted the inquest report on the dead body of Krishna Bai Ex. PC and despatched the same for post-mortem examination. Vide request Ex. PO, SI Harbans Singh inspected the spot and lifted one tin, one glass and one Dupatta which was emitting foul smell and took the same into possession. He also prepared the rough site plan Ex. PM. The accused was arrested on 21.10.1993. The completion of investigation was followed by report u/s 173, Cr.P.C. The accused was charged u/s 304B of IPC. At the stage of charge Lajwanti was discharged whereas Daulat Singh was charged u/s 304B, IPC to which he pleaded not guilty and claimed trial. Again, on the statements of Reshma Bai and Krishan Lal PW-2 and PW-3 respectively Lajwanti was summoned to face trial.

6. To substantiate the charge against the accused Daulat Singh u/s 304B, IPC and against the accused Lajwanti u/s 306, IPC, the prosecution examined Karnail Singh complainant PW1, Reshma Bai PW2, who is the mother of the deceased, Krishan Lal PW3, Dr. Yash Pal PW4, who had conducted autopsy on the dead body of Krishana Ba. and proved his report Ex. P-8. PW 5 was the younger brother of the Karnail Singh complainant and uncle of deceased Krishana Bai. He stated that Lajwanti was mediator of the marriage between Krishana Bai and Daulat Singh. He also deposed about the demand of the scooter. He further deposed that on the asking of the complainant, when he went to the house of the accused Daulat Singh then he saw that the dead body of the Krishana Bai was lying in the courtyard of the house of the accused and both the accused were present near the dead body and they were making preparation for cremation of the dead body. Then he came back and informed the complainant. PW6 SI Harbans Singh and PW7 SI Kulwant Singh were the Investigating Officers.

7. When examined u/s 313, Cr.P.C., the accused denied all the allegations and pleaded their false implication in the case. Daulat Singh further pleaded as under:

I am innocent, 4/5 years before this occurrence, I was married to Pasho Bai, daughter of Mahla Singh of village Lakha Karain and were not pulling on well and she started living with her parents. PW1 suggested me for the marriage of his daughter with me, which I refused on the ground that if the marriage ceremony was to be held then myself, my other family members, Karnail Singh and his family members will be in trouble as my previous wife could sue us. Therefore, no marriage ceremony of Krishana Bai was held, but she started living with me. Some time after Krishna Bai felt it bad and started saying that she would not live with the person who is already married, she committed suicide herself due to this reason. I have never demanded any dowry or scooter. I have got 17/18 Killas of land and I have got tractor, jeep and scooter. I informed the parents of Krishana Bai after she consumed something and also took her to hospital of Dr. Lachman Dass of Jalalabad, who advised me to take her to Ferozepur, but she died on the way. I also informed the police and the police came to our village, recorded the statement of Karnail Singh at the spot and after preliminary inquiry arrested me in this case and took me to the police station.

The accused Lajwanti also pleaded as under:

I am innocent. I do not know when the marriage between Daulat Singh and deceased was solemnised. I am not go-in between the marriage.

8. The trial ended in conviction of accused Daulat Singh.

9. Arguments heard. Records perused.

10. Admittedly the appellant was earlier married to Pasho Bai, daughter of Mahla Singh of village Lakha Karain and the relations between them were not cordial. No document of divorce has been brought on record to show that the second marriage took place after the dissolution of marriage between the Pasho and the accused. There is also no denying a fact that the second marriage subsisted for 7 or 8 months. There is nothing on the record to disclose that the accused had demanded any dowry before or at the time of marriage. Admittedly there was no demand of dowry for 1 and 1/2 months after the marriage. PW1 Karnail Singh has admitted that there was no talk regarding not keeping my daughter by the accused if the scooter is not given to him. Karnail Singh PW1 has further admitted that the accused and the deceased visited his house for 14, 15 times from the marriage till the death of my daughter. The complainant has come with the story with regard to demand of scooter but the same cannot be believed as the frequent visits twice or thrice in a month at the house of his in-laws by the accused show about the anonymity of their relations. Had he any ill will or grudge against the deceased or her parents and was insisting upon the demand of dowry as alleged by him, then he would have refrained from going to her parental house time and again till her death. The Trial

Court has disbelieved allegations set up against Lajwanti mediator of marriage. Since, Lajwanti had nothing to do with the scooter and she was in no way beneficiary in the said demand, question of raising demand of scooter by Lajwanti does not arise. The story with regard to maltreatment is also not correct and the witnesses examined by the prosecution qua this aspect are contradictory. Reshma Bai, who is the mother of the deceased, could better tell about the situation undergone by the deceased prior to her death but she has nowhere stated that the accused had been harassing or maltreating the deceased on account of the demand of the said scooter. Moreover, this witness appears to be introduced much after the occurrence as she stated that her statement was recorded after 2 months of the occurrence. Krishan Lal PW3 is also false witness because he was also examined after 10 days of the occurrence. Had he been true to his version, then he would have immediately come forward after the incident i.e. 11.10.1993 to disclose that the accused had made extra-judicial concession before him. The case set up by the prosecution is of suicide but he has set up a different version stating that the accused admitted before him having killed Krishana Bai. He has made material improvements in his statements, therefore, his testimony cannot be said to be trustworthy.

11. Om Singh PW5 is the younger brother of the complainant and he has been living separate from the family of the complainant. No reliance can be placed on his testimony. He stated that when he went to the village, he found that the dead body of Krishana Bai was lying in the courtyard then he came back and informed the complainant. His this unnatural conduct tells heavily upon him as he did not make any efforts to complain against the accused to the Panchayat or the police.

12. As a matter of fact the present case is of different nature, the accused was already married and was not legally divorced. He being owner of big chunk of land was anxious to rehabilitate his disturbed life. Under these circumstances, question of demanding dowry in the marriage did not arise. The accused was the Sarpanch of the village and he was more interested in settling his life after his first wife had deserted him. This fact also cannot be denied that as per Dr. Yash Pal, the deceased Krishna was only 18 year old whereas the accused was about 33 years at the time of this second matrimonial arrangement. Thus, due to lot of difference of 15 years between the age of the deceased and the accused, the deceased may have frustrated having been married by the parents to a Duhaju (a husband having first wife against her wishes). Since she could not bear this arrangement, she thought proper to end her life. Consequently, this commission of suicide by the deceased cannot be in any manner given a colour of dowry death. The accused being the owner of a big chunk of land and in all human probabilities could not be expected to disturb his life with second wife for the sake of a scooter.

13. Having scanned the Trial Court judgment, it could safely be observed that the Trial Court has overlooked the aforesaid circumstances prevailing over the case and

is swayed by sheer allegations which stand unsubstantial by the prosecution beyond reasonable doubt. Consequently, the interference in the impugned judgment has become inevitable at my end.

14. For the foregoing reasons, I hereby accept the appeal, set aside the impugned judgment and acquit the accused of the charge framed against him and direct him to be set at liberty.

15. The bail bond and surety bond stand discharged. The fine, if any deposited by him, be refunded.