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High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 468 SB of 2000 (O and M)

Balbir Singh and Others	APPELLANT
Vs	
State of Haryana	RESPONDENT

Date of Decision: Aug. 8, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 304B, 34, 498

Hon'ble Judges: Sabina, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sabina, J.
The Appellants have filed this appeal challenging the judgment dated 8.2.2000 passed by Additional Sessions Judge, Sirsa, whereby they were convicted for an offence under Sections 498-A and 304-B read with Section 34 of the Indian Penal Code (Indian Penal Code, 1860 for short) and the order of the even date vide which the Appellants were sentenced to undergo rigorous imprisonment for a period of ten years each u/s 304-B/34 Indian Penal Code, 1860 and to undergo rigorous imprisonment for a period of six months each and to pay a fine of Rs. 500/-each u/s 498-A Indian Penal Code, 1860. Both the sentences were ordered to run concurrently. Hence, the present appeal.

2. Learned Counsel for the Appellants has submitted that there were general allegations levelled in the FIR. The complainant 2 had made material improvements in his statement while appearing during trial. In fact, the deceased had committed suicide as she was not happy with the second marriage performed by her father-complainant. Ghisa Ram had been falsely involved in this case being father of Balbir Singh and there was No. allegation levelled against him qua harassment meted out by him to the deceased. Kanwar, wife of Appellant Ghisa Ram and mother of Appellant Balbir Singh had died during trial.

3. Learned State counsel, on the other hand, has submitted that the deceased had died an un-natural death within 1 1/2 year of her marriage. The deceased was pregnant at the time of her death. The prosecution had been successful in proving its case.

4. After hearing learned Counsel for the parties, I am of the opinion that the present appeal deserves to be dismissed.

5. Prosecution story, in brief, is that Saroj alias Mukesh (now deceased), daughter of the complainant Chhotu Ram was married to Appellant Balbir Singh on 24.3.1996. Complainant had given sufficient dowry at the time of marriage of his daughter. The accused were harassing Saroj @ Mukesh on account of insufficient dowry. At the time of marriage of his daughter, complainant had given gold ornaments, weighing 80 graMs. Rs. 91,000/-had been given in cash and one FDR to the tune of Rs. 50,000/-had been given in the name of his daughter. On 5.4.1996 the accused had refused to send the daughter of the complainant with him. However, on 10.4.1996 the daughter of the complainant was sent with him by the accused and she stayed for a month in his house. The daughter of 3 the complainant told him that her in-laws were not treating her properly and were torturing her on account of insufficient dowry. However, the complainant sent his daughter back to her matrimonial home after consoling her. The daughter of the complainant was about 6-7 months pregnant and had visited his house on the eve of Guga Mari Mela and had informed him that the accused were demanding a motorcycle and were harassing her on this account. The accused had refused to send the daughter of the complainant with him about 15 days prior to 21.9.1997 and had misbehaved with him. On 21.9.1997 at about 11.00 a.m., the complainant came to know that his daughter had died. Thereafter, the complainant along with his relatives reached the house of the accused and lodged the FIR in question.

6. The complainant, while appearing in the witness box as PW-7, deposed that his daughter was married to Appellant Balbir Singh on 24.3.1996. He had given sufficient dowry at the time of marriage of his daughter. On 5.4.1996, he had gone to bring his daughter to his house after her marriage for the first time but Appellant Ghisa Ram had refused to send her with him. Thereafter, his daughter visited his house after about five days and stayed with him for one month. His daughter informed him that her in-laws had not been treating her properly on account of insufficient dowry. His daughter further informed him that she had been given beatings by her husband and his parents. In the year 1996, around the Diwali festival, he had gone to the house of his daughter along with his brother"s son and husband of his sister. On reaching the house of the accused, they complained to them qua harassment meted out to 4 the deceased by the accused and accused promised not to harass his daughter Saroj in future, after admitting their fault and allowed her to accompany them. In January, 1997, he had sent his nephew to the matrimonial home of his daughter and on return, he was told by his nephew that the behaviour of all the three accused had not improved towards Saroj and they were still torturing her. He went to the house of the accused and inquired from them as to why they were harassing Saroj. However, the accused assured that they would not harass Saroj in

future. All the three accused told him that the gold ornaments given by him were less in weight and he should give more gold ornaments. In February 1997, he went to the house of the accused and gave a gold necklace weighing 30 grams to Ghisa Ram and he gave the same to his wife. However, behaviour of the accused did not change towards his daughter. The accused pressurized him to encash the FDR in the sum of Rs. 50,000/-, which was in the name of his daughter Saroj before its maturity date. In the year 2007, his daughter visited him at the time of Guga Mari Mela and told him that her husband and father-in-law were demanding a motorcycle and on this account they were harassing her. At that time Saroj was having a pregnancy of about 6-7 months. He assured Balbir Singh that the motorcycle would be given soon and he should not harass Saroj. He visited the house of the accused twice but they refused to send his daughter with him. On 21.9.1997 at about 11.00 a.m. he came to know that his daughter had died. When they reached the house of the accused, the dead body of his daughter was lying in the courtyard.

7. The statement of PW-7-complainant was duly 5 corroborated by his wife Kala Wati - PW-9 and PW-10 Inder Singh on material aspects.

8. PW-6 Dr. Viresh Bhushan, who had conducted the post mortem examination on the dead body of the deceased on 22.9.1997, opined that the deceased was pregnant and there was No. injury on her body. In his opinion, the cause of death was due to Aluminium Phosphate poisoning.

9. In order to admit the ingredients of Section 304-B Indian Penal Code, 1860, the prosecution is required to establish that the death of the woman took place otherwise than under normal circumstances and it has occurred within seven years of her marriage and further that the victim was subjected to cruelty or harassment by her husband or any of his relations in connection with demand of dowry.

10. In the present case, the deceased Saroj has died an unnatural death within 1 1/2 year of her marriage. The deceased was pregnant at the time of her death and the cause of death was due to aluminum phosphate poisoning. In case the deceased had been happy, it was highly unlikely that she would have committed suicide especially when she was pregnant. Admittedly, the father of the deceased had performed his second marriage before her marriage. In case the deceased had any grievance qua the second marriage of her father, she would have taken any step in retaliation prior to her own marriage. At the time of her death, deceased Saroj was living in the house of her in-laws and was expecting a baby. Had everything been normal, the deceased would have lived on and would have given birth to her child. Apparently, the deceased had been meted out with such harassment in her matrimonial home by her husband 6 and her in-laws, that she was forced to take the extreme step of putting an end to her life by consuming poison. The fact that the deceased had been meted out harassment in connection with demand of dowry is duly established from the statements of the complainant, his wife PW-9 Kala Wati and PW-10 Inder Singh. Whenever a demand of dowry is made, the woman has to get the same satisfied from her parents. In these circumstances, it is but natural that the

parents of the girl would know qua the harassment meted out to their daughter on account of the said demand. Admittedly, Balbir Singh was residing along with his wife and his parents. Since the father-in-law and mother-in-law of the deceased were also residing in the same house, there is No. force in the argument raised by learned Counsel for the Appellants qua Ghisa Ram that he had been falsely involved in this case. The complainant has categorically deposed that all the accused had been harassing his daughter on account of insufficient dowry. The statements of the parents of the deceased cannot be brushed aside merely because of their relationship with the deceased. The prosecution had been successful in proving its case and hence, learned trial Court rightly ordered the conviction of the Appellants u/s 304-B Indian Penal Code, 1860. In the facts and circumstances of the present case, No. ground for interference for the quantum of sentence is made out.

11. Accordingly, this appeal is dismissed.