

Girish Rajpal and Others Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Sept. 18, 2003

Acts Referred: Penal Code, 1860 (IPC) â€” Section 304B

Citation: (2003) 9 CriminalCC 413 : (2004) 1 RCR(Criminal) 817

Hon'ble Judges: K.C. Gupta, J

Bench: Single Bench

Advocate: Puneet Bali, for the Appellant; Sudhir Nehra, AAG, Haryana for Respondent and Mr. Ashit Malik for Complainant, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.C. Gupta, J.

Crl. A. No. 1320-SB of 2001 (Girish Rajpal and Others v. State of Haryana) has been instituted by Girish Rajpal,

Ravinder Nath and Neelam, wife of Ravinder Nath against judgment dated 31.10.2001 and order dated 2.11.2001 passed by the Additional

Sessions Judge, Karnal, whereby they were found guilty and convicted u/s 304B IPC and sentenced to R1 for 10 years and a fine of Rs. 5000/-

each. In default of payment of fine, the defaulter was further sentenced to RI for six months.

2. Briefly stated, the facts are that Ms. Monik was married with Girish Rajpal, appellant, as per Hindu rites on 23.6.1999. Ravinder Nath,

appellant, is the father-in-law while Neelam, appellant, is the mother-in-law of Monik, now deceased. PW-4 Satish Kumar is the father of

deceased Monik while PW-5 Gagan is the brother and PW-6 Smt. Pushpa is the mother.

3. PW-4 Satish Kumar had given dowry to the appellants at the time of marriage of his daughter, Monik, in accordance with his status. After

marriage, the appellants started harassing her on account of bringing insufficient dowry and Monik used to complain to her parents telephonically

about the harassment caused to her for bringing insufficient dowry.

4. It was next averred that on 19.9.1999, Monik sent message to her father, PW-4 Satish Kumar on telephone of Mr. O.P. Manchanda and

informed him that she was fed up with the appellants and requested him to make it convenient to see her immediately. However, PW-4 Satish

Kumar assured her that he would try to see her as early as possible and talk to the appellants. PW-4, in turn, told about the harassment to Monik

at the hands of the appellants on account of demand of dowry to his wife, PW-6 Pushpa and his son PW-5 Gagan. All of them decided that they

would not allow the appellants to torture Monik on account of demand of dowry.

5. It was further averred that on 20.9.1999, PW-4 Satish Kumar received a message on the telephone of Mr. O.P. Manchanda that Monik was

seriously ill. Upon receipt of this information, he alongwith his wife PW-6 Pushpa went to the matrimonial house of Monik at Karnal and found that

dead body of Monik lying on the bed in her bed room.

6. PW-4 Satish Kumar lodged report, Ex.PD, in the Police Station, alleging that Monik had consumed some poisonous substance as she was fed

up with the demand of dowry by the appellants or she had been administered some poisonous drug forcibly by the appellants. The said statement

was recorded by PW-11 ASI Jai Singh, who made his endorsement, Ex.PD/1 and sent it to the Police Station for registration of the case, on the

basis of which formal FIR, Ex.PD/2 was recorded. During investigation, proceedings u/s 176 of Cr.P.C. were conducted by PW-7 Sh. M.K.

Ahuja, the then Executive Magistrate, Karnal, who recorded the statements of PW-4 Satish Kumar and PW-6 Pushpa wife of PW-4 as well as

that of the appellants. PW-11 ASI Jai Singh inspected the place of occurrence and prepared rough site plan, Ex. PO with correct marginal notes.

Inquest report, Ex. PK, was prepared and the dead body was sent for post mortem examination.

7. PW-10 Dr. Sanjeev Grover and Dr. Dinesh Sharma conducted autopsy on the dead body of Monik and gave their report, Ex. PN, wherein

they opined that the cause of death was to be given after receipt of the report of Chemical Examiner with regard to the contents of viscera of the

deceased. He took into possession wet bed sheet, Ex.P-11, from the place of occurrence vide recovery memo Ex. PP. He further took into

possession from PW-5 Gagan, list of items, Ex.P12, given in dowry, Ex.P-13 telephone bill and a photograph of appellant Girish Rajpal and

Monik, deceased alongwith marriage card of the deceased Monik with Girish Rajpal vide recovery memo Ex. PQ. The appellants were arrested.

The statements of the witnesses were recorded u/s 161 of the Code of Criminal Procedure. The scaled site plan of the place of occurrence, Ex.PJ,

was also got prepared from PW-8 Shashikant Sharma, draftsman. The report Ex.PM of the Chemical Examiner about the viscera was received,

which gave positive test for carbonate compound group of insecticides.

8. Upon receipt of the report and after completion of the investigation, challan was presented in the court of Chief Judicial Magistrate, Karnal, who

in turn, vide his order dated 17.12.1999 committed the case to the Court of Sessions.

9. Having made out a prima facie case, the appellants were charged u/s 304-B IPC, to which they pleaded not guilty and claimed trial.

10. In order to prove the allegations, the prosecution examined 11 witnesses.

11. After the conclusion of the prosecution evidence, statements of the appellants were recorded u/s 313 Cr.P.C. wherein they admitted that

Girish Rajpal was married as per Hindu rites and ceremonies with Monik, deceased on 23.6.1999 at Karnal. They further admitted that they were

living jointly with Monik in House No. 1367/111, Railway Road, Karnal. They also admitted that sufficient dowry was given at the time of

marriage. However, they denied that they had ever raised demand of dowry or they had subjected her to cruelty for or in connection with demand

of dowry. They admitted that Monik died due to poisoning.

12. Girish Rajpal, appellant, further stated that on 17.9.1999, at the time of celebration of the parents marriage anniversary, there was an

altercation between him and Monik on inviting Yashpal and his family members and he had reprimanded her for the same, which enraged her.

When she was all alone, she committed suicide at about 9 A.M. by consuming Baygon of her own on 20.9.1999. He further stated that PW-4

Satish Kumar, PW-5 Gagan and PW-6 Pushpa had concocted a false story about the demand of car, which was an afterthought. He also stated

that Monik was over sensitive and highly demanding. In defence, they examined DW-1 Devi Chand, Accountant from Telephone Department,

DW-2 Sh. L.N. Baweja, Principal, DAV Centenary Public School, Karnal, DW-3 Ashok Khurana, Government Contractor, DW-4 Rajiv Mukul,

an industrialist and DW-5 Joginder Kumar, retired teacher.

13. After hearing learned PP for the State and the defence counsel, the learned Additional Sessions Judge, Karnal, found them guilty and convicted

them u/s 304B IPC for causing dowry death of deceased Monik vide judgment dated 31.10.2001 and sentenced them vide order dated

2.11.2001 as stated in the earlier part of the judgment.

14. Aggrieved by the said judgment and order, the accused have filed the present appeal bearing CrI. A. No. 1320-SB of 2001.

15. PW-4 Satish Kumar filed CrI. Revision No. 897 of 2002 (Satish Kumar v. State of Haryana and Others) for enhancement of the imprisonment

as according to him the trial Court had taken a lenient view of the matter inasmuch as a young lady aged about 25 years was forced to commit

suicide merely after three months of her marriage because of atrocities meted out to her by her in-laws for greed of dowry and yet the trial Court

has taken a lenient view and had sentenced them to RI for 10 years instead of life imprisonment. So, he prayed that life imprisonment should be

awarded to them and further compensation should also be awarded to them u/s 357 of the Code of Criminal Procedure. However, both i.e. CrI.

Appeal filed by the Girish Rajpal and others and CrI. Revisions filed by Satish Kumar are being disposed of by this common judgment as the same

have been preferred against the same judgment and order dated 31.10.2001/2.11.2001.

16. I have heard counsel for the parties and carefully gone through the record.

17. It is an admitted fact that Monik was married with Girish Rajpal on 23.6.1999 in accordance with Hindu rites and ceremonies at Karnal. After

marriage, she cohabited with her husband, Girish Rajpal as his wife at Karnal in the matrimonial home. Ravinder Nath, who is father-in-law and

Smt. Neelam, who is mother-in-law of Monik also resided with them in the same house. It is also an admitted fact that Monik ended her life by

consuming Baygon poison on 20.9.1999 i.e. approximately within three months of her marriage. It is further in evidence that Monik was qualified

lady aged about 25 years. She was B.Sc.(Non-medical) and B.Ed. She had also done diploma of one year in Computer. She was employed as a

teacher in Parkash Public School, Karnal with effect from 1.9.1999 and used to go to school on Kinetic Honda scooter owned by the appellants.

Smt. Supriya Dawar, who is the daughter of the brother of the mother of Monik was married at Karnal and she was a mediator in arranging the

marriage of Monik with Girish Rajpal. Smt. Supriya Dawar was employed as a teacher in DAV School, Karnal. Smt. Neelam, mother-in-law, of

Monik was also employed as a teacher in DAV School, Karnal, and, thus, was colleague of Supriya Dawar. Sh. O.P. Manchanda is a friend of

PW-4 Satish Kumar, complainant. He was residing in House No. 305, Sector 14, Panchkula while PW-4 Satish Kumar, complainant resided at

Chandi Mandir Camp, which is at a distance of 4 K.Ms, from Sector 14, Panchkula.

18. The allegations of PW-4 Satish Kumar, complainant, as contained in his statement, Ex.PD, which was recorded by Jai Singh ASI on

20.9.1999 at 3.30 P.M., on the basis of which FIR, Ex.PD/2 was recorded are that his daughter Monik used to contact him on telephone at the

house of Mr. O.P. Manchanda at Panchkula and he used to visit the house of Mr. Manchanda for hearing the telephone and sometimes he used to

contact Monik at her matrimonial home on S.T.D. However, he admitted that he was not having any telephone connection at his house. It is further

stated in the FIR that his daughter Monik used to tell him on telephone that her husband, her mother-in-law, Neelam and her father-in-law,

Ravinder Nath were miser type of persons and used to taunt her on account of bringing insufficient dowry and further harassed her for not bringing

more dowry. It is next stated in it that on 19.9.1999, his daughter Monik told him by calling at the house of O.P. Manchanda on telephone that she

was tired of her in-laws people and he should try to meet her at the earliest and he promised to meet her very soon. He further assured her that he

would talk to her in-laws about the harassment caused to her and further he told about this telephonic conversation with Monik to His wife Pushpa

and son Gagan and also held consultation with them and it was agreed that her in-laws would be given more dowry, so, that they would not harass

Monik. It is further stated that on 20.9.1999 a telephone was received at the house of O.P. Manchanda that Monik was not well and upon this

information, he alongwith his wife went to Karnal and on reaching there, they found Monik lying dead on the bed in the bed room. Thus, according

to the said statement, Ex.PD, which was got recorded by Satish Kumar, PW-4 to the police, Monik used to contact Satish Kumar through

telephone at the house of O.P. Manchanda situated in Sector 14, Panchkula, although Satish Kumar resided at Chandi Mandir Camp. On

19.9.1999, PW-4 Satish Kumar went to the house of O.P. Manchanda and talked to Monik, who told him that she was tired of her in-laws

people and he should see her at the earliest and the promised to see her at the earliest and also assured her that he would talk to her-in-laws. The

statement of PW-4 Satish Kumar, Ex.PE, was also recorded by the Executive Magistrate on 21.9.1999 during proceedings u/s 176 Cr.P.C. In

that statement, he stated that in-laws people of Monik were greedy type of persons and they were hopeful of getting more dowry from them but

his daughter had told him that she would adjust herself and he should not worry. He next stated that he used to have talk twice a week with Monik

on telephone. He next stated that since father-in-law and mother-in-law also lived with her, so, he used to talk more with them than his daughter.

He further stated that about 2 days ago, he had received a telephonic call from Monik, who told him that she was tired of her in-laws people and

he assured to see her at the earliest. He further stated that she used to tell him that two friends of Girish Rajpal interfered in her day-to-day life. In

the supplementary statement recorded on the same day, he stated that Monik had visited him at Chandi Mandir and then told him that her in-laws

people had a demand for getting a big car from him and he assured her that he would fulfill their demand of getting car by selling his house at

Panipat. It may be mentioned here that PW-4 Satish Kumar did not mention about the demand of car by the appellants in his statement, Ex.PD,

recorded on 20.9.1999.

19. The statement of Satish Kumar was recorded as PW-4 in the Court on 11.5.2001. In that statement, he stated that his daughter, Monik was

married with Girish Rajpal as per Hindu rites on 23.6.1999 and he had spent about Rs. 3 lacs to Rs. 3.25 lacs on the marriage and had given

dowry according to his status. He further stated that after about 20/25 days of the marriage, telephonic calls were received at the residence of his

friend, O.P. Manchanda, situated at Sector 14, Panchkula as he was not having telephone connection at that time at his residence. He further

stated that he used to collect the message telephonically received by Mr. O.P. Manchanda from his daughter and then he used to give ring to his

daughter from telephone booth. He further stated that on telephone, his daughter apprised him that all the three appellants were harassing her. They

were taunting her for bringing insufficient dowry and further were pressuring her to bring more dowry. He next stated that such like messages were

conveyed to him 2-3 times and when he talked to her he tried to make her understand and advised her to settle down and adjust herself according

to the circumstances. He further stated that his daughter visited them on the occasion of Raksha Bandhan and told her woeful story by weeping

and told that all the three appellants were harassing her on account of demand of dowry. She further told that they had raised a demand of car. He

next stated that to assuage her feelings, he told her that he owned property at Panipat and would sell the same and satisfy the lust of the appellants

for dowry and car. He further stated that he used to talk to Monik 2-3 times a week on telephone. He also stated that he had given a telephone

call to his daughter from STD Booth, whereupon she told that she had been tortured and harassed by the appellants and she was fed up by all this

and further she told him to talk to her again on 19.9.1999. He next stated that on that day, he gave a ring to her from the house of Mr. Manchanda

twice. She then apprised him that she was very much perturbed and requested him to spare some time to see her. The evidence regarding receipt

of telephone messages on 19.9.1999 or prior to it is contradictory. In a statement on oath as PW-4 he stated that Monik had told him to talk again

on telephone on 19.9.1999 and then on 19.9.1999, he gave a ring to Monik from the house of Mr. Manchanda twice and she told him that she

was very much perturbed. She did not state on 19.9.1999 as to why she was very much perturbed. She did not state that the appellants harassed

her on account of demand of dowry and had tortured her for bringing insufficient dowry or had put forward a demand of car. In his statement,

Ex.PD, dated 20.9.1999, which was recorded and completed at 3.30 P.M., PW-4 Satish Kumar had told that the appellants used to taunt his

daughter for bringing insufficient dowry and used to put forward the demand of more dowry and then on 19.9.1999, his daughter Monik informed

him by calling at the house of Manchanda that she was perturbed on account of her in-laws people and he should try to see her at the earliest. In

his statement on oath, he did not state that on 19.9.1999, his daughter had telephoned him at the house of Manchanda and on the other hand, he

stated that his daughters had talked to him prior to 19.9.1999 and told him to ring her up on 19.9.1999 at Karnal and then on 19.9.1999, he had

telephoned twice to Monik, who told him that she was very much perturbed and requested him to spare sometime to see her and the appellants.

Thus, in his earlier statement he did not state that he had given a ring to Monik twice from the house of Manchanda but on the other hand, he has

stated that it was Monik, who had given a ring to him at the house of Manchanda on 19.9.1999. In his statement, Ex.PE, recorded by the

Executive Magistrate also, he stated that he had received a telephone from Monik about two days earlier and had told him that she was somewhat

perturbed and should see her at the earliest and accordingly he had told her that he would see her at the earliest. He did not tell in his statements,

Ex.PD or Ex.PE that Monik had visited them on the eve of Raksha Bandhan and had narrated her woeful story of harassment on account of

demand of dowry. PW-4, in his cross-examination, stated that on 19.9.1999, he had not received any telephonic call from Monik at the house of

Manchanda but on the other hand he had telephoned him twice from Manchanda's house. He further stated that Monik infact had telephoned him

on 18.9.1999 but again stated that she had not telephoned him on 18.9.1999, rather he had telephoned her from STD Booth on 18.9.1999. PW-

4 did not state in his police statement, Ex.PD, that he had made two telephone calls from Manchanda's house on 19.9.1999. PW-5 Gagan son of

PW-4 Satish Kumar did not state about the receipt of telephone call from Monik on 19.9.1999. PW-5 Gagan son of PW-4 Satish Kumar did not

state about the receipt of telephone call from Monik on 19.9.1999. He, on the other hand, stated that his father had a telephonic talk with his sister

on 18.9.1999. PW-6 Pushpa, wife of PW-4 Satish Kumar, told a different story. She stated that Monik used to telephone them from her

matrimonial home at Manchanda's telephone number and then on receipt of message, they used to talk to her from telephone booth. Thus, it is all

a made up story that on 18.9.1999 or 19.9.1999, he had received telephonic call from Monik or he had made telephone calls to Monik on

19.9.1999. Thus, it was not conveyed by Monik on 18.9.1999 or 19.9.1999 that she was very much perturbed as the appellants harassed her on

account of demand of dowry. Otherwise also, it is very difficult to go to the house of O.P. Manchanda to attend to telephonic call, which is at a

distance of more than 4 K.Ms, from the house of PW-4 Satish Kumar.

20. O.P. Manchanda was cited as a witness but he was given up as unnecessary. He was a material witness to prove that he used to receive

telephonic message from Monik to be conveyed to PW-4 Satish Kumar and on 19.9.1999, either he had received a telephonic message from

Monik or PW-4 Satish Kumar had telephoned twice to his daughter, Monik and he had come to know that she was being harassed by her in-laws

on accounts of demand of dowry. Supriya Dawar, who was closely related to the wife of PW-4, Satish Kumar, was also a material witness. She

was a mediator, who had arranged marriage between Monik and Girish Rajpal and she was also employed as a teacher in the same school in

which Neelam, mother-in-law of Monik was employed and she resided at a small distance from the house of the appellants at Karnal. She was the

most material witness to depose that the appellants harassed Monik on account of bringing insufficient dowry and demanded more dowry and even

they had put a demand for big car. The very fact that she was given up as unnecessary by the prosecution suggests that she was not prepared to

support the version of the prosecution.

21. It was admitted by PW-4 in his statement that the appellants had not raised any demand of dowry at the time of engagement and marriage and

further no Panchayat was ever convened in connection with the demand of dowry raised by the appellants. It is also in the statement of Girish

Rajpal, appellant, which was recorded u/s 313 Cr.P.C. that the parents of Monik had given sufficient dowry at the time of marriage as per their

own sweet will and they had not raised any demand of dowry at the time of engagement or marriage or even thereafter. Thus, it is difficult to

believe that after 20/25 days of the marriage, the appellants started demanding dowry and further started giving her taunts for bringing insufficient

dowry, when they had not put forward any demand of dowry at the time of engagement or marriage.

22. It was admitted by PW-5 Gagan that on receipt of telephone message from his sister on 18.9.1999 that she was in great trouble, they did not

rush immediately to Karnal as his father had stated that within one or two days he would apply for leave and then would visit Karnal. He admitted

that 19.9.1999 was Sunday, so, it was a holiday for PW-4 Satish Kumar, If telephonic message had been received from Monik on 18.9.1999 as

stated by PW-5, then PW-4 Satish Kumar must have rushed to Karnal on 19.9.1999 being Sunday. This fact against suggests that no such

telephonic call was received from Monik that she was in trouble.

23. It is in evidence of PW-4 that second time when Monik visited them in July 1999, then she was accompanied by Girish Rajpal, appellant, and

he did not talk to Girish Rajpal with regard to demand of dowry. This fact only suggests that there was on such demand.

24. It is in evidence of PW-4 Satish Kumar that he never sought the intervention of Smt. Supriya Dawar in the matter as his daughter had told him

to settle the matter at her own level in her matrimonial home. This fact again suggests that there was no demand of dowry. If there had been any

demand, then PW-4 must have talked to Supriya Dawar, who was the mediator in the marriage and was a colleague of mother-in-law of Monik in

the school.

25. It is in evidence that the marriage anniversary of Ravinder Nath and his wife Neelam i.e. parents of Girish Rajpal was celebrated on

17.9.1999, in which Monik had also taken part. If she had been harassed or tortured on account of demand of dowry and her relations were

strained with her in-laws, then she would not have taken part in those celebrations. It is further in evidence of PW-4 that Yashpal and Gulzar were

the friends of Girish Rajpal, appellant, and they used to interfere into the day-to-day life of Monik and Girish Rajpal. It is further in evidence of

PW-6 Pushpa that Yashpal and his friend used to instigate Girish Rajpal to raise demand of car from his in-laws. It is also in the statement of Girish

Rajpal that he had rebuked Monik for her misconduct towards Yashpal. Thus, it is just possible that Monik had taken ill of reprimanding her on

account of her misconduct towards Yashpal and on that account she might have committed suicide by consuming poison.

26. There is no evidence that PW-4 Satish Kumar had told any person that he wanted to sell the property at Panipat to raise amount to get a car

for his son-in-law. He frankly admitted that he had just said so to assuage the feelings of his daughter. This again suggests that no car was ever

demanded and it is all a made up story. Moreover, the demand of car is just an after-thought because it does not find mention in the statement,

Ex.PD, upon which FIR was recorded. Thus, there is no independent corroboration regarding demand of dowry by the appellants. Smt. Supriya

Dawar was the best person to depose about the demand of dowry. Similarly, Sh. O.P. Manchanda was also the best person to depose about the

demand of dowry. Similarly, Sh. O.P. Manchanda was also the best person to depose about the demand of dowry because it is alleged that he

used to receive messages from Monik about her harassment at the hands of the appellants regarding demand of dowry. It has been stated by the

Division Bench of this Court in Ramesh Vs. State of Haryana, that presumption u/s 113-B of the Indian Evidence Act can be drawn only when

soon after her marriage, the deceased is harassed for dowry. However, in the present case the prosecution has failed to establish, even prima facie,

that Monik had ever made a call on 18.9.1999 or 19.9.1999 to PW-4 Satish Kumar alleging mal-treatment for dowry. Even Sh. O.P.

Manchanda, who had allegedly received the call, was not produced and was given up as unnecessary. The only inference is that he was not

prepared to support the case of the prosecution. The telephone record of the house of the appellants or that of Manchanda had not been

summoned by the prosecution to prove that she ever made telephone call at the house of O.P. Manchanda on 18.9.1999 or 19.9.1999. It is

further difficult to believe that PW-4 and PW-6 had made a telephonic call to Monik on 19.9.1999 from STD Booth, when they had not received

any telephonic call from Monik on 19.9.1999 from STD Booth, when they had not received any telephonic call from Monik on 18.9.1999 or

19.9.1999. There is no question of making a telephonic call to Monik on 18.9.1999 or 19.9.1999. There is no question of making a telephonic call

of Monik from STD Booth. Thus, there is no cogent or reliable evidence to prove the charge of committing suicide by consuming Baygon poison

for bringing harassment on account of bringing insufficient dowry within a few months of marriage. Similarly, the accused were acquitted in case

The State of Punjab v. Kirpal Singh and Others, (1992) Cri. L.J. 2472 (DB), as it was not proved that she had committed suicide within in few

months of marriage for being harassed on account of bringing insufficient dowry. In the letter, Ex.DC she had stated that although she had got

everything whatever she wanted but she was not satisfied. Therefore, due to some imaginary reasons, she was not satisfied with life or she was

tired with the life due to interference of the friends of Girish Rajpal, appellant, into her day-to-day life and thus, she had committed suicide by

taking poison. However, it is not proved on file from the statements of PW-4 to PW-6 that the appellants harassed Monik on account of demand

of dowry and gave her taunts for bringing insufficient dowry and further put forward demand of car. In fact, their testimony is unbelievable.

Therefore, in view of the discussion above, I hold that the prosecution has not been able to bring home guilt to the appellants beyond reasonable

shadow of doubt. Consequently, the appeal is allowed and the appellants are acquitted of the charges levelled against them by giving them benefit

of doubt.

Since the appellants have been acquitted, so, the Criminal Revision Filed by the complainant for enhancement of the sentence of the appellants

automatically fails and the same is hereby dismissed.