
(2001) 07 P&H CK 0224

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 10-DB of 1998

Taru Ram

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: July 17, 2001

Acts Referred:

- Evidence Act, 1872 - Section 32
- Penal Code, 1860 (IPC) - Section 307, 498A

Citation: (2002) 1 DMC 550

Hon'ble Judges: H.S. Bedi, J; A.S. Garg, J

Bench: Division Bench

Advocate: K.S. Dadwal, for the Appellant; S.S. Randhawa, Dy. A.G., for the Respondent

Final Decision: Dismissed

Judgement

H.S. Bedi, J.

This appeal arises out of the following facts :

Anjali (since deceased) had been married to Rakesh Kumar @ Bittu son of Taru Ram accused, about six months prior to the date of occurrence. It appears that Taru Ram accused was not satisfied with the dowry that had been brought by Anjali at the time of marriage and he would often taunt her on that account. At about 9.15 a.m. on July 27, 1996, Anjali and Taru Ram were present in the house whereas Rakesh Kumar had gone to work when Taru Ram took out some kerosene oil from the stove and after pouring it on Anjali, set her ablaze. Anjali was removed to the hospital with severe burn injuries and information was sent to the police by the attending doctor. On the receipt of ruqa, ASI Dilbagh Singh (P.W. 5) made an application to the Magistrate that her statement should be recorded but the Duty Magistrate told him to first register the F.I.R. and that her statement would be recorded thereafter. ASI Dilbagh Singh (P.W. 5) accordingly recorded Anjali's statement at 2.50 p.m. and on its basis, the formal F.I.R. was registered at 4.00 p.m. on July 27, 1996 for offence

punishable under Sections 307 and 498A of the Indian Penal Code. Anjali died on August 1, 1996 and the primary offence was converted into one u/s 302 of the Indian Penal Code. On the completion of the investigation, Taru Ram was charged for the aforesaid offence and as he pleaded not guilty, was brought to trial.

2. The prosecution in support of its case examined inter alia, P.W. 1 Tirlok Chand, Anjali's maternal uncle, who had brought her up and had also arranged and solemnised her marriage, stated to the demands for dowry made from him by the accused; P.W. 2 Ravinder Singh, Judicial Magistrate, Jalandhar, who had recorded the dying declaration (Exh. PD) after the deceased had been declared fit to make a statement by Dr. Gurbal Singh (P.W. 3); P.W. 5 ASI Dilbagh Singh, who had recorded the first dying declaration, leading to the registration of the F.I.R.; P.W. 6 Dr. S.P. Goel, who had performed the post-mortem examination on the dead body and opined that the injuries found on her person were sufficient to cause death in the ordinary course of nature; and P.W. 7 Dr. Sukhvinder Singh Gill of the Dayanand Medical College and Hospital, Ludhiana, who stated that Anjali had been admitted to the hospital on July 28, 1996 at 1.50 p.m. and that she had voluntarily given the information, which had been recorded in the M.L.R. which was that she had been burnt by her father-in-law.

3. The prosecution case was then put to the accused and his statement recorded u/s 313 of the Code of Criminal Procedure in which he stated that Anjali had caught fire accidentally. No defence evidence was, however, led.

4. The Trial Court held that the entire case rested on the three dying declarations made by the deceased, one to ASI Dilbagh Singh (P.W. 5), which had led to the registration of the F.I.R., a second to Sh. Ravinder Singh, JMIC, Jalandhar (P.W. 2) on July 27, 1996 at 6.05 p.m., and the third before Dr. Sukhvinder Singh Gill (P.W. 7), who stated that at the time of her admission in the Dayanand Medical College and Hospital, Ludhiana on July 28, 1996 Anjali had told him (which he had recorded in her M.L.R.) that she had been burnt by her father-in-law.

5. The Trial Court held that in the light of the three dying declarations, which were similar in content, there was no reason to doubt the involvement of the accused. The accused was accordingly convicted for an offence punishable u/s 302 of the Indian Penal Code and sentenced to undergo imprisonment for life and to pay a fine of Rs. 2,000/- and in default thereof to further undergo rigorous imprisonment for three months.

Hence this appeal.

We have heard the learned Counsel for the parties and have gone through the record very carefully.

Mr. K.S. Dadwal, the learned Counsel for the accused has first and foremost argued that the dying declaration (Exh. PD) recorded by Sh. Ravinder Singh, JMIC, had not

been recorded in question and answer form as provided in Chapter 13-A, Volume 3, of the High Court Rules and Order and as such the conviction could not be based on this dying declaration. Reliance has also been placed by the learned Counsel of [Surinder Paul and Others Vs. State of Punjab](#), in support of his plea.

6. It is true that the dying declaration (Exh. PD) had not been recorded in the question answer form as provided in the aforesaid provision but we are of the opinion that this provision is only recommendatory. This omission, thus, cannot by itself be a reason to discard the dying declarations. It is also to be noted that the dying declaration made to the Magistrate had been recorded after it had been ascertained from the doctor that she had been fit to make a statement and though no endorsement that she had been fit throughout while making the statement had been made by the doctor yet the Magistrate clearly stated that the doctor had been present throughout. Moreover, a perusal of the dying declaration (Exh. PD) show that it is only 4-5 lines in length. There can thus based absolutely no doubt that it was made voluntarily and recorded correctly. Two more dying declarations have come on record, one recorded by ASI Dilbagh Singh (P.W. 5) which had led to the registration of the F.I.R. and this too had been recorded after an opinion had been obtained from Dr. Gurpal Singh (P.W. 3) at 2.30 p.m. that she was fit to make a statement. The third dying declaration had been recorded by Dr. Sukhvinder Singh (P.W. 7) in the M.L.R. in which the history had been given by the deceased herself which was that she had been burnt by her father-in-law. We are, therefore, of the opinion that on the face of the three dying declarations, which fully inculcate the solitary accused, there could be no doubt with regard to his involvement.

We, therefore, find no merit in the appeal. Dismissed.