

State of Himachal Pradesh Vs Puneet Sharma

Court: High Court of Himachal Pradesh

Date of Decision: Aug. 5, 2016

Acts Referred: Dowry Prohibition Act, 1961 - Section 4
Penal Code, 1860 (IPC) - Section 304B

Citation: (2016) LatestHLJ(HP) 1087

Hon'ble Judges: Mr. Rajiv Sharma and Mr. Vivek Singh Thakur, JJ.

Bench: Division Bench

Advocate: Mr. R.K. Gautam, Senior Advocate, with Mr. Ajay Verma Advocate, for the Respondents; Mr. Neeraj Kumar Sharma, Deputy Advocate General, for the Appellant

Final Decision: Dismissed

Judgement

Vivek Singh Thakur, J. - This appeal has been preferred by State of H.P. against acquittal of respondents vide judgment dated 26.03.2009 in

Sessions trial No. 13-NL/7 of 2007/06, passed by Additional Sessions Judge, Solan, District Solan, H.P. in case FIR No. 75 of 2005 registered

under Section 304-B of the Indian Penal Code & Section 4 of Dowry Prohibition Act.

2. Deceased Meenakshi was married to respondent No. 1 on 15th August, 2002. After abortion of first pregnancy, she had given birth to male

child on 7th January, 2005 and committed suicide on 2.05.2005 in the house of her in-laws at Baddi.

3. Respondents and parents of deceased were not known to each other. Respondents had contacted through their relatives PW-1 Lachhman Dass

on 14th August, 2002 and had expressed their desire to marry respondent No. 1 without dowry. PW-1 Lachhman Dass had informed them about

family of deceased including financial status. Upon this respondents had come to Shimla and visited parent's house of deceased with PW-1 and

after agreement of both families respondents had taken deceased Meenakshi with them as their daughter in-law after performing simple rituals of

Chuni-Chadai. After about one month of marriage at Baddi respondents had arranged reception.

4. After sometime father of deceased had met with an accident and remained under long treatment in hospital including PGI Chandigarh and also

remained in coma. After death of deceased Meenakshi on receiving telephonic call from respondent No. 1, her parents and neighbour had gone to

Baddi in the house of in-laws of deceased Meenakshi.

5. PW-7 Kiran Sharma had made a statement under Section 154 Cr.P.C. stating that her husband was a driver in H.P. Milk Federation and

Seema, deceased Meenakshi and son Sanjay were her three children. On 15.08.2002 PW-1 Lachhman Dass who was serving in some roadways

at Bus-Stand Shimla had come to her house with respondents for engagement with her daughter and after liking her daughter Meenakshi, had

taken her as bride with them on the same day after performing simple ceremony of Chuni-Chadai. After marriage, her in-laws had changed her

name as Kanu Sharma and after about one month PW-7 and her family had come to Baddi to attend reception of Meenakshi and respondent No.

1 and at that time Rs. 11,000/- cash, golden ring, golden chain and golden nose pin was gifted by them to deceased Meenakshi and respondents

along with clothes etc. After marriage, her daughter used to make rare telephone calls, but she had informed PW-7 that her in-laws used to torture

and beat her for not bringing dowry in marriage and she was treated like servants and was not allowed to make telephone calls in absence of family

members of her in-laws. Upon this PW-7, her husband and son had visited Baddi and had taken deceased Meenakshi with them to Shimla.

6. It has come in statement of PW-7 that after 15 days thereafter, respondents had taken back deceased Meenakshi by making requests.

Thereafter after receiving injury in an accident, husband of PW-7 was in coma and was admitted in PGI Chandigarh. But deceased Meenakshi

was not allowed by respondents to visit PGI, however, after repeated requests of PW-7, deceased was permitted by her in-laws to visit

Chandigarh. At PGI Chandigarh, deceased Meenakshi had narrated cruelties of her in-laws but due to ailment of her husband, PW-7 was unable

to take any action. PW-7 had sent deceased Meenakshi from Chandigarh to Shimla on 4.10.2003. On 6.10.2003 when PW-7 was taking her

husband to Shimla after discharge from PGI Chandigarh, respondent No. 1 and respondent No. 2 had intercepted vehicle of PW-7 near Pinjore

railway crossing and had abused and taunted for not giving dowry. Due to helplessness on account of ailing husband, PW-7 went to Shimla along

with her husband. After 20-22 days respondent No. 1 and respondent No. 2 had come to Shimla and had assured that in future they will not

repeat such incident and had taken deceased Meenakshi along with them to Baddi. On 20.11.2003 at the time of marriage of Seema another

daughter of PW-7, deceased Meenakshi had told PW-7 that respondents and her Nanad (Sister-in-law) Prabha were torturing her for not

bringing dowry. On that day also respondent No. 1 and respondent No. 3 and Nanad had assured that they will not ill-treat deceased Meenakshi.

On 21.01.2004 her deceased daughter had informed regarding beatings given by her husband and mother in-law with taunting for not bringing

dowry. On 24.01.2004, PW-7 and her husband had taken their daughter to Shimla from Baddi. On 28.03.2004 respondent No. 1 and

respondent No. 3 had come to Shimla and apologized in presence of Dharam Pal Singh Kohli, Pradhan and had taken back deceased Meenakshi

with them. On 18th October, 2004 PW-7 had attended ceremony of God Bharai of her deceased daughter along with her husband and son at

Baddi and at that time also mother-in-law and husband of deceased had quarreled with them but due to request of deceased Meenakshi they had

not reacted.

7. After this on numerous occasions deceased Meenakshi had telephonically informed PW-7 regarding cruelty of her husband and her mother in-

law. But for saving matrimonial family life of their daughter they kept quite. On 31.12.2004 respondents No. 1 and 2 had abused PW-7 on

telephone and had threatened to divorce their daughter but deceased Meenakshi was not willing to come to Shimla due to pregnancy. After birth

of male child on 7.01.2005, respondents No. 1 and 2 had asked PW-7 on telephone to bring costly gifts, golden ornaments and clothes.

According to her status, PW-7, had sent gifts to respondents, deceased Meenakshi and her child through her son Sanjay Sharma. On 7.02.2005

her daughter had intimated on telephone that she was alive only for her child and had also informed that respondents No. 1 and 2 had harassed her

for giving insufficient gifts on birth of son. As and when she tried to have conversation with her daughter, respondents No. 1 and 2 did not allow

the same. On 2.05.2005 at about 12:40 PM respondent No. 1 had informed about death of her daughter. Therefore, she and her husband along

with neighbours had come to Baddi and had seen dead body of her daughter. She has further stated that she had not reported the matter to the

police for saving family life of her daughter. Her daughter had also told about dowry demand and beatings by respondents and her Nanad (Sister

in-law) to Smt. Reeta Aggrawal living in their neighbour-hood at Jatog. She has further stated that action be taken against respondents who were

harassing and beating her daughter for dowry for which her daughter had committed suicide.

8. After registration of FIR on the basis of this statement the investigation was completed and challan was put up against the respondents in the

Court.

9. Prosecution has examined 22 witnesses to prove its case. After conclusion of trial respondents have been acquitted of charge framed against

them.

10. We have heard learned counsel for parties and have also perused the record.

11. For proving demands of respondents and subjecting deceased to cruelty and harassment for such demand, prosecution has examined PW-1

Lachhman Dass, PW- 3 Gurprit Kaur, PW-4 Najrana, PW-7 Kiran Sharma, PW-8 Sanjay Sharma and PW-9 Rita Aggrawal, PW-10

Dharminder.

12. PW-3 Gurprit Kaur neighbour of respondents and PW-4 Najrana old tenant of respondents have not lent support to prosecution case and

were declared hostile and subjected to cross examination by learned public prosecutor. But nothing helpful to prosecution case could be extracted

in their cross examination.

13. PW-1 Lachhman Dass is remotely related to respondents and known to parental family of deceased. He has stated that respondents had

expressed desire to marry respondent No. 1 without any demand of dowry and he had informed respondents about weak financial status of family

of deceased Meenakshi. As per him, on 14.08.2002 respondents No. 2 and 3 had expressed acceptability of such family and after knowing

financial status of parents of deceased, respondents had come to Shimla on 15.08.2002, who were accompanied by him to the house of parents of

deceased and after agreement of both families deceased Meenakshi was accepted as daughter in-law by respondents after performing simple

ceremony of Chuni Chadai. Then she was taken to Baddi on the same day without making any demand of dowry. PW-1 has stated that after 3-4

days deceased Meenakshi was asked by respondent No. 2 Anjali to inform her parents to send dowry like golden chain etc., including other items.

He has further stated that PW-7 mother of deceased had informed him that respondents were pressing their demand for dowry whereas at the time

of marriage they had never intended to take any dowry and he was also informed by father of deceased Meenakshi in this regard. He has stated

that he had tried to talk with deceased Meenakshi but she had intended to inform him later on but had not disclosed anything to him in this regard.

As per him, deceased Meenakshi had also not disclosed anything to her parents. This witness has specifically stated that deceased Meenakshi had

gone to her parents' house at Shimla after some altercation between her and respondents and she was, later on brought by respondents to Baddi.

He has further stated that later on Meenakshi was not allowed to visit her parental house but she was permitted to go to PGI Chandigarh to see

her ailing father after this intervention. As per him firstly Meenakshi visited PGI Chandigarh and thereafter had gone to Shimla. He has stated that

PW-7 Kiran Sharma had informed him that at Kalka respondent No. 2 Anjali had altercations with PW-7 Kiran Sharma raising objection for

sending Meenakshi to Shimla from PGI by PW-7.

14. PW-7 Kiran Sharma has corroborated her statement made under Section 154 Cr.P.C. referred supra. However, she has stated that no

specific item was ever demanded by respondents. She has also stated that her son PW-8 Sanjay Sharma had visited Baddi after 7-8 days of 7th

January, 2005 on birth of son of deceased Meenakshi but he was not permitted to give any article and was only permitted to see her. She has

further stated that she did not remember the date when she was informed by deceased for the first time regarding illtreatment.

15. PW-7 Kiran Sharma has stated that respondents No. 1 and 2 had altercation with them at Pinjore crossing and respondents No. 1 and 2 had

threatened to turn out her daughter but PW-1 Lachhman Dass has stated that PW-7 Kiran Sharma had informed him that respondent No. 2 had

altercation with her at Kalka on the issue of sending deceased Meenakshi to Shimla by PW-7 Kiran Sharma.

16. PW-8 Sanjay Kumar brother of deceased has made a statement which is general in nature, deposing that after marriage respondents had

started maltreating his sister on account of demand of dowry despite the fact that sufficient dowry articles were given to her. He has stated that at

Pinjore crossing respondents No. 1 and 2 had quarreled with them for want of sufficient dowry.

17. PW-8 Sanjay Sharma firstly stated that he had visited Baddi at the time of ceremony of God-Bharai but again stated that he had visited his

sister after birth of child and not visited on God-Bharai ceremony. In statement Ex. PW-7/A, PW-7 Kiran Sharma has stated that she, her

husband and son had attended ceremony of God-Bharai whereas in Court PW-7 Kiran Sharma has deposed that she along with her husband and

Rita Aggrawal had attended the said ceremony.

18. PW-8 Sanjay Sharma has stated that after birth of child, articles were gifted to newly born child as well as all other family members. He has

not uttered even a single word as claimed by PW-7 Kiran Sharma that articles sent after birth of child through him were not accepted by

respondents. Rather in cross-examination, PW-7 Kiran Sharma has stated that it is incorrect that he had not given any articles on birth of son of his

sister.

19. PW-9 Rita Aggrawal has stated that as and when deceased Meenakshi used to visit her parents, she used to tell her that her in-laws used to

administer beatings to her demanding gifts in lieu of dowry. In her cross examination, she has stated that she used to see respondent No. 1 accused

as and when he visited parents of deceased. She has further stated that co-accused respondents No. 2 and 3 used to come rarely. As per the case

of prosecution and statement of PW-7 Kiran Sharma, the respondents have come to Shimla for more than 4-5 times to take deceased Meenakshi

back and all the times respondent No. 3 was accompanying respondent No. 1. This witness is silent with respect to attending ceremony of

God-Â½Bharai. This casts shadow on veracity of statement of PW-9 Rita Aggrawal.

20. PW-10 Dharminder was elected member of Cantonment Board Jatog since 1997 to 2006. He has stated that in March 2004 he was called by

PW-7 Kiran Sharma and her husband Krishan Kumar by telling that deceased Meenakshi was not being treated well by her in-laws and they had

come to take her back. He has stated that deceased had told him that she was not interested to go because of thrashing by her in-laws for want of

dowry. As per him respondent No. 1 had promised to keep deceased well and therefore he had advised deceased to go with her in-laws and

deceased Meenakshi had agreed to accompany her husband. He had admitted that he had not stated before police that he had gone to the house

of parents of victim on their call.

21. As per statement of PW-1, Lachhman Dass, deceased Meenakshi had gone to Shimla to her parents on altercation between her and

respondents and later on respondents had taken her back and he had asked her to inform him if anything happened and in another incident

Meenakshi was not being permitted to visit her parental house during ailment of her father but on his prevailing upon respondents, deceased was

permitted to go PGI Chandigarh from where she had gone to Shimla. His statement also transpired that at Pinjore respondent No. 2 had objected

sending of deceased Meenakshi to Shimla by PW-7 Kiran Sharma.

22. PW-7 Kiran Sharma has stated that on 18.10.2004 she, her husband and one Rita Aggrawal had attended function of God-Bharai at Baddi. It

is stated on that day deceased Meenakshi had wept and respondents had also an altercation with them and sweets brought by them were also

thrown in the drain, but PW-9 Rita Aggrawal is completely silent on this issue. PW-7 had also made a statement under Section 154 Cr.P.C. with

minute details but this incident find no mention in that statement. It reflects that prosecution witnesses are adding something beyond reality to see

respondents behind the bars as their daughter had committed suicide for one reasons or the other.

23. Combined reading of all these statements indicates that root cause of issue in dispute was something else than demand of dowry. All the

prosecution witnesses have admitted that deceased Meenakshi was accepted by respondents without any gift, without demand of dowry in simple

ceremony of Chuni Chadai. PW-8 Sanjay Sharma, who is brother of deceased is also silent about incident of God-Bharai and is silent about

rejection of gift offered after birth of son by respondents rather he has stated that articles to newly born child and other family members were given

and therefore, presumption under Section 113-B of India Evidence Act is not attracted in the present case. Unnatural death of deceased

Meenakshi within 7 years of marriage has occurred but the prosecution has failed to discharge its onus to prove circumstances showing existence

of cruelty or harassment by respondents for demand of dowry or otherwise. In the statement under Section 154 Cr.P.C. PW-7 Kiran Sharma has

named respondents as well as Prabha Nanad (Sister in law) of deceased as accused but during investigation allegations against Prabha was not

considered to be guilty. In her statement made in the Court PW-7 Kiran Sharma has levelled allegations against respondents No. 1 and respondent

No. 2 only. It also raises doubt on veracity of prosecution witnesses.

24. Scrutiny of evidence on record reflects that statements of prosecution witnesses are not trust worthy, cogent or reliable to hold that

respondents have committed offence under Section 304-B IPC and Section 4 of Dowry Prohibition Act.

25. Respondents have been acquitted by the trial Court. From perusal and scrutiny of evidence, it cannot be said that the learned trial court has not

appreciated the evidence correctly and completely and acquittal of accused has resulted into travesty of justice or has caused miscarriage of

justice. After considering arguments of respective counsel for the parties and minutely examining the testimonies of the witnesses and other

documentary evidence placed on record, we are of the considered view that prosecution has failed to prove the guilt of respondents-accused

beyond reasonable doubt and thus, no case for interference is made out.

26. The present appeal, devoid of any merit, is dismissed, as also pending applications, if any. Bail bonds, if any, furnished by the accused are

discharged. Records of the Court below be immediately sent back.