

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Criminal Appeal No. S.371 -SB of 2003
Date of decision 07.01.2015.

Anil Kumar and others

..... Appellants.

versus

State of Haryana

..... Respondent.

CORAM :- HON'BLE MR.JUSTICE K.C.PURI.

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Kewal Singh, Advocate for appellants.
Mr. Rajesh K. Sheoran, Addl. AG, Haryana.

K.C.PURI, J.

Anil Kumar and others accused-appellants have directed the present appeal against the judgment dated 31.01.2003 and order dated 01.02.2003 passed by Shri Kuldip Jain, learned Additional Sessions Judge, Bhiwani vide which accused stood convicted under Section 498-A of the Indian Penal Code (in short – the IPC) and sentenced to undergo rigorous imprisonment for a period of two years each and to pay a fine of Rs.5000/- each. However, the accused were acquitted from the charges levelled against them under Section 304-B of the IPC.

2. The prosecution story in brief is that on 30.5.1999 Rakesh Kumar complainant got registered a case alleging that his sister Seema alias Urmila was married to Anil Kumar accused about five years ago. Sufficient dowry articles were given to Seema in the marriage. But since the time of marriage, Anil and his parents as well as his sisters Manju and Anju had been harassing her in the name of dowry and they all had been taunting her for not bringing sufficient dowry. They had raised demand of fridge and immediately after marriage when Seema was again sent to her matrimonial home she was given fridge. In spite of this Anil and his family members were not satisfied and whereas parents of Seema were not able to give more dowry. As such, Seema was taken to her parental house in February, 1997 as she had been harassed and beaten by her in-laws family members. In July 1998, as Panchayat was convened at Bhiwani and the Panchayat sent Billu Mangal and Raj Kumar, a SAMDHI of Billu Mangal to the parental house of Seema alias Urmila for bringing her back to her matrimonial home. On this, Seema was sent to matrimonial home with the condition that her in-laws family members would not harass or beat her in the name of dowry. But despite that they did not desist from their illegal act. In February 1999 complainant had come to matrimonial home of Seema to enquire into her welfare. Her parents-in-law and husband asked him to pay Rs.30,000/- as a new shop was to be started at new Bus Stand, Bhiwani. They and Smt. Anju and Manju insisted upon him to fulfill the said demand. He showed his inability to pay Rs.30,000/- to them. Afterwards on 17.2.1999 he had gone to Bangalore. However, on 19.04.1999 he had come to Bhiwani on

leave and then his parents told him that Seema @ Urmila was being again harassed by her in laws and her sisters-in-law Anju and Manju for not giving them Rs.30,000/-. On 30.05.1999 when he was at the residence of his uncle Sarva Nand Sharma in Rohtak, Anil, son of Mossi came to him and informed that Seema and her daughter Sonu had been killed by her in laws family members on previous night by setting them on fire. It was also reported that Seema @ Urmila was so treated with cruelty that she was compelled to commit suicide by setting herself on fire with the help of kerosene oil. Seema was stated to be pregnant for the last 5/6 months. On reaching matrimonial home of Seema along with Sarva Nand, her dead body was found lying on the Veranda of first floor of the house. On the basis of aforesaid statement, FIR was got recorded. Statements of the prosecution witnesses were recorded. After completion of necessary investigation challan against the accused was presented in the Court.

3. Copies of the documents were supplied to the accused free of costs. The Illqua Magistrate committed the case to the Court of Session as the offence alleged against the accused was exclusively triable by the said Court. The accused were charge-sheeted for offences punishable under sections 304-B and 498-A read with Section 34 of the IPC to which, the accused pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined Dr., Ved Kumar as PW-1, Constable Vir Shakti Singh as PW-2, Constable Narpal Singh as PW-3, Constable Rameshwar Dass as PW-4, Dr. Jagtar Singh as PW-5, HC Subhsh Chand as PW-6, Rakesh Kumar as PW-7, Suresh

Kumar as PW-8, SI Laxman Singh as PW-8 and closed the prosecution evidence.

5. In their statements recorded under Section 313 Cr.P.C., the accused have denied all the prosecution allegations and pleaded their false implication. The accused did not lead any evidence in defence.

7. The trial Court, after hearing the learned counsel for the parties convicted and sentenced the accused vide judgment dated 31.01.2003 and order dated 01.02.2003, as aforesaid.

8. Feeling dissatisfied with the aforesaid judgment dated 31.01.2003 and order dated 01.02.2003, the present appeal has been directed.

9. I have heard learned counsel for the parties and have gone through the records of the case with their able assistance.

10. Learned counsel for the accused-appellants has not challenged the order of conviction and has argued about quantum of sentence only. Counsel for the appellants has submitted that so far as Bimla Devi wife of Billu Mangal appellant is concerned she has already undergone incarceration for a period of two years four months and eleven days whereas Anil Kumar accused-appellant has already undergone incarceration for a period of three years seven months and twenty six days whereas both of them have been acquitted under Section 304-B- of the IPC but has been convicted under Section 498-A of the IPC. They have been sentenced to undergo imprisonment for a period of two years and to pay a fine of Rs.5000/- each. They have already undergone the sentence awarded by the

trial Court. So, their appeal may be dismissed as having become infructuous.

11. The counsel for the State has not disputed the said factual position.

12. So, in these circumstances, the appeal of Anil Kumar and Bimla Devi accused stands dismissed as having become infructuous as both of them have already undergone the sentence awarded by the trial Court.

13. So far as the sentence awarded to Billu Mangal accused-appellant is concerned counsel for the appellants has submitted that as per statement of Billu Mangal accused-appellant before the trial Court under Section 313 of the Cr.P.C., his age has been mentioned as 59 years in the year 2002 i.e. on 24.3.2002. So, by now he is about 70 years of age. He has already undergone incarceration for a period of three months out of the substantive sentence of two years. The occurrence relates to the year 1999 i.e. more than fifteen years back. It is further submitted that Billu Mangal accused-appellant is suffering from various ailments due to old age. So, prayer has been made for taking lenient view regarding quantum of sentence.

14. The said factual position regarding age has not been disputed by the State counsel.

15. However, this is first appeal, on re-appraisal of evidence on the file, no case for interference in the order of conviction of accused recorded by the trial Court is made out. The ocular evidence is corroborated by medical evidence. So, in these circumstances, the conviction of appellants

recorded by the trial Court stands affirmed.

16. The said factual position regarding age has not been disputed by the State counsel.

17. So, keeping in view the age of the appellant-Billu Mangal and the assertions made by counsel for the appellant that he is suffering from various ailments and keeping in view that he has already undergone incarceration for a period of three months, the sentence stands reduced to the period already undergone. However, his sentence of fine stands affirmed.

18. In the manner indicated above, the appeal stands disposed of accordingly.

19. A copy of this order be conveyed to the trial Court for strict compliance.

January 07, 2015
SV

(K. C. PURI)
JUDGE