

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-1151-DB of 2013

Date of Decision : March 31, 2015

Shanta Sharma

.....Appellant

VERSUS

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Bhupinder Singh, Advocate

T.P.S. MANN, J.

The appellant, who is mother of deceased Yasudha, has filed the present appeal for challenging the judgment dated 22.7.2013 passed by the Additional Sessions Judge, Karnal whereby respondent No.2, hereinafter referred to as 'the accused', was acquitted of the charges under Sections 304-B, 201 and 202 IPC.

In her complaint submitted before the Ilqa Magistrate, which was entrusted to the police under Section 156(3) Cr.P.C., pursuant to which the FIR was registered against the accused, the appellant had stated that her daughter Yasudha was married to the accused on 1.4.2007. She had given sufficient dowry in the marriage but from the beginning of marriage, the accused, alongwith his mother, used to give beatings to Yasudha. She used to be shunted out from her matrimonial home. The accused had been demanding cash and a bike but as the

appellant was a widow and having no source of income, she was not able to fulfill those demands. Her daughter conceived thrice but could not give birth to any child. Every time the appellant was the one who had been taking her daughter to the doctors where it used to be found that the child in the womb had died because of merciless beatings given to her by the accused. A criminal complaint under Sections 406, 498-A and 506 IPC was also made to the police. However, the parties arrived at a compromise and Yasudha was sent back to her matrimonial home in the month of January, 2011. Yasudha felt pain in her stomach and on medical checkup, it was found that she had stones for which she was operated upon and she remained hospitalized upto 10.2.2011. She was, thereafter, taken to her house but on 11.2.2011, the complainant called her daughter on telephone, who again complained of having been given beatings. On 13.2.2011, the complainant learnt that her daughter had expired and the funeral had also taken place, although there was no such intimation to her. Accordingly, FIR No.104 dated 17.5.2011 under Sections 304-B/201/202 IPC was registered against the accused at Police Station Madhuban, Karnal.

Having heard learned counsel for the appellant and after going through the impugned judgment, this Court finds that the prosecution has not been able to establish that the death of Yasudha had taken place otherwise than under normal circumstances. On the other hand, it stands established that the deceased was operated upon for stones in the kidney on 7.2.2011 in Jagdamba Hospital, Karnal and she was discharged on 10.2.2011. Later on, she developed some complication

due to surgery and was taken to hospital on 12.2.2011. Due to non-availability of the doctor there, she was taken to Amrit Dhara Hospital, Karnal where she was declared dead after the doctors of the said hospital checked her in the car itself. It is also made out from the evidence brought on the record that the appellant was informed about the death of Yasudha but she did not go to the matrimonial house of her daughter. The cremation was carried out in the presence of the respectables from the village and family members of the accused.

In view of the above, it can safely be concluded that the prosecution has failed to prove that the death of Yasudha had taken place otherwise than under normal circumstances and, therefore, the essential ingredient for invoking the provisions of Section 304-B IPC is absent. In such a situation, no fault can be found with the impugned judgment of acquittal passed by the Court below.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

March 31, 2015
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