

314 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA S-377-SB of 2004.
Decided on: 2.12.2015

Sahid @ Lalu and another

... Appellants

Versus

State of Haryana

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Sanjeev Manrai, Sr. Advocate with
Mr. Vikas Bishnoi, Advocate,
for the appellants.

Mr. Yashwinder Singh, DAG Haryana.

JITENDRA CHAUHAN, J.(ORAL)

This appeal is directed against the judgment of conviction dated 13.8.2002, and the order of sentence dated 14.8.2002, passed by the Additional Sessions Judge, Panipat vide which the accused appellants were convicted and sentenced as under:-

Offence	Sentence	Fine	In default
304-B IPC	RI for 8 years	Rs.2000/-	RI for 6 months
498-A IPC	RI for 2 years	Rs.1000/-	RI for 3 months

Both the sentences were ordered to run concurrently.

The facts of the case as noticed in the judgment of the trial Court are as under:-

“On the night of 30.06.2001 Assistant Sub-Inspector, Jagdeep Singh alongwith the police party was present at Kakkar Crossing, Panipat, in connection with

patrol duty, when complainant Usman son of Jumman Ali, aged 53 years, approached him and got recorded his statement, Ex. PB, which formed the basis of the first information report.

According to the allegations, complainant Usman was a labourer by profession. He alongwith his children was residing at Panipat for the last 21/22 years. He had four sons and three daughters. He had married his second daughter Reshma on 17.03.2001 with accused Munna alias Safiq according to Muslim rites and ceremonies. On 30.06.2001 at about 9.00 p.m. accused Sahid approached him and told that his daughter Reshma had committed suicide by hanging. After informing this, accused Safiq had gone back. Thereafter, the complainant alongwith his son Irfan went to the house of the accused, where they found the dead body of Reshma lying on a cot. The dead body was having blue mark on the neck. It was alleged that deceased Reshma had been killed by her father-in-law Sahid alias Lallu and husband Safiq alias Munna by hanging. His daughter told him many a time that her husband and father-in-law used to taunt her for bringing insufficient dowry. They had asked the deceased to bring Rs. 1,50,000/- as dowry

otherwise she would be killed. On one or two occasions, the deceased was consoled and sent back to the matrimonial home alongwith her husband. The complainant also asked the accused persons that since he had already spent on the marriage more than his capacity, therefore, he could not afford any more and they should rehabilitate the deceased. It was alleged that both the accused in furtherance of their common intention killed Reshma by hanging and action should be taken against both the accused.”

After completion of investigation, challan/report under section 173 Cr.P.C was presented in the Court.

Charges under Sections 498-A and 304-B IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1 Dr. K. L. Chopra, Medical Officer, PW-2 Usman, the complainant, PW-3 Irfan, brother of the deceased, PW-4 Surinder Kumar, photographer, PW-5 Constable Rajesh Kumar, Draftsman, PW-6 Chamela Ram, Sub-Inspector who recorded FIR, PW-7 Jagdeep Singh, I.O.

The statements of the accused under Section 313 Cr.P.C were recorded in which all the incriminating circumstances

appearing in the prosecution evidence were put to the accused to which

the accused denied and pleaded false implication. It was admitted by the accused that deceased Resham was married with accused Safiq on 17.3.2001 whereas accused Sahid alias Lallu happened to be father of accused Safiq. It was denied that the deceased was ever harassed by the accused persons in connection with demand of dowry.

No evidence was led in defence .

After appraisal of evidence, the learned trial court vide the impugned judgment of conviction and the order of sentence, convicted and sentenced the accused as narrated above.

Feeling dissatisfied with the impugned judgment and the order, the present appeal has been directed, which was admitted on 16.08.2004.

It is contended that the appellant No.1, father had been maintaining a separate house. There is no allegation against the appellant No.1 with regard to entrustment of dowry. Learned counsel for the appellants refers to the statement of PW-3, Irfan, the brother of the deceased, Reshma to state that the entire settled dower amount was paid at the time of marriage which took place on 17.3.2001. The incident in the present case occurred on 30.6.2001. He further contends that there is not even a whisper of any allegation so far as the appellant No.1 is concerned. Learned counsel refers to the site plan and it is admitted position that they were residing in immediate proximity of each other and there is no reference that the complainant ever took the

matter to the panchayat or involved other elders of the family or lodged

any complaint to the Police with regard to demand of dowry. It is further submitted that despite the fact that the incident occurred within the premises, no independent witness or neighbours were involved either in the investigation or cited as witness. He further refers to the statement of PW-1 Dr. K.L. Chopra, to contend that no blood was noticed on the rope allegedly used for hanging. He further contends that the relevant witnesses i.e. Mohd. Safeeq, who performed the Nikah and Kayum and Altaf, who were witnesses to the inquest proceedings, though, were cited as witnesses but were not examined for the reasons best known to the prosecution.

On behalf of the appellant No.2, it is specifically submitted that there is no history of any strained relationship between the appellant No.2 and the deceased and in fact, they had been living a happy married life. However, both the parties had been living in abject poverty which appears to be the real cause of death or perhaps the deceased did not find the match as per her choice in the appellant.

On the other hand, the learned State counsel submits that it has come in the statement of PW-2, Usman, father of the deceased that a demand of Rs.1,50,000/- was made which was conveyed by the deceased to her father. He states that the father of the deceased has fully supported the case of the prosecution.

I have heard learned counsel for the parties and have gone through the case file.

From the statements of PW-3 the brother, Irfan, and

PW-2, the father, Usman, it has come on the record that at the time of marriage, no demand of dowry was raised. The marriage was solemnized on 17.3.2001. The family of the appellants and the deceased had been residing in the same complex in immediate proximity. From the testimony of PW-3 Irfan, it emerges that no demand of dowry was made. Otherwise also, from the testimony of the father, there is no date or month indicated when allegedly such demand was raised. The independent witnesses Altaf, Kayum and the Kazi, who performed the marriage, could throw light on the issue but they were given up for the reasons best known to the prosecution. The financial status of the parties is very relevant in the instant case. Normally, the demand is raised keeping in view the financial status of the parties. Both the parties being illiterate and wage earners and when there is no evidence that any dowry was demanded at the time of marriage or subsequently thereafter, it is highly improbable that a demand of Rs.1,50,000/- would be raised by a person who is a daily wager and living in abject poverty. Otherwise also, the demand lacks in specificity as neither month nor date has been mentioned in the statement of father as well as brother. The marriage took place on 17.3.2001. No demand of dowry was raised therefore, there was no proximate live link with the death of the deceased. In the circumstances, the Court feels that the appellants deserve to be given the benefit of doubt. Thus, the prosecution has failed to establish its case as projected.

In view of the observations made above, the present

appeal is allowed. The impugned judgment of conviction and the order of sentence are set aside. The accused are acquitted of the charges framed against them by giving them the benefit of doubt. The bail bonds and surety bonds stand discharged.

2.12.2015.
SN

(JITENDRA CHAUHAN)
JUDGE