

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA No. D-1067-DB of 2014 (O&M)

Date of decision:19.1.2015

Ram Chander

.... Appellant

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON.
HON'BLE MR. JUSTICE GURMIT RAM.

Present: Mr. Sukhdeep Parmar, Advocate for the appellant.

S.S. Saron, J.

This appeal has been filed by the complainant Ram Chander (appellant) against the acquittal of respondents No. 2 to 4 by the learned Additional Sessions Judge, Panipat for the offences punishable under Section 304-B and 34 Indian Penal Code ("IPC" – for short).

The respondents No.2 to 4 were tried for committing dowry death of Sonia within seven years of her marriage. According to the complainant Ram Chander (appellant), his elder daughter namely Sonia was married with Gaurav (respondent No.2) on 9.7.2011 as per Hindu rites and ceremonies. He married his daughter after selling his house and spent about Rs.7 lacs in marriage. He gave a motorcycle in dowry. The in-laws of his daughter demanded Rs.1 lac, which he gave to Som Nath (respondent No.4) father-in-law of his daughter in order to save his respect. After marriage, Sonia was being harassed and tortured for

dowry by her husband Gaurav (respondent No.2); husband's younger brothers ('devars') namely Saurav and Ravi; mother-in-law namely Chander Kala (respondent No.3) and father-in-law namely Som Nath (respondent No.4) respectively. They raised demand for a car. The complainant made respondents No.2 to 4 understand but they did not mend their ways and continued to harass his daughter. Whenever Sonia (daughter of the complainant) used to come to her parents' house then she refused to go back to her matrimonial home. However, each time she was sent back by making her understand. A telephone call was received on 4.2.2012 from Som Nath (respondent No.4) that blood pressure of the daughter of the complainant had gone low. On receiving the message, the complainant along with Balwinder, mason went to Mukhija Colony where he found that his daughter was lying on the floor in the lobby. She was covered with a blanket. There was a blue mark around her neck. He (complainant) inquired from his son-in-law Gaurav (respondent No.2) and his father Som Nath (respondent No.4) but no satisfactory reply was given by them. Then he informed his other family members on telephone. They too came at the place of the incident. The complainant suspected that his daughter Sonia had been killed by her husband Gaurav (respondent No.2); husband's younger brothers ('devars') namely Saurav and Ravi; mother-in-law namely Chander Kala (respondent No.3) and father-in-law namely Som Nath (respondent No.4) respectively by hanging for not fulfilling their dowry demands.

During trial of the case complainant Ram Chander (appellant - PW-4) did not support the prosecution case. He inter alia stated that his daughter was suffering from mental illness since

before her marriage and she used to remain under mental depression on account of which she committed suicide on 4.2.2012. It is stated that the accused (i.e. the respondents No.2 to 4) facing trial were not in any manner responsible for the death of his daughter Sonia as they had always kept her with love and affection. The complainant was declared hostile by the learned Public Prosecutor and was cross-examined. He was confronted with his previous statement (Ex.P8) but he stated that no such statement was made by him before the police. The statement though bore his signatures at point A, however, he voluntarily stated that he was under shock due to the death of his daughter and the police had obtained his signatures on blank papers. He did not remember the name of the police officials who obtained his signatures on blank papers. He resiled from his entire statement before the police. Kamlesh (PW-5) mother of Sonia (deceased) also did not support the prosecution case and stated on the same lines as her husband Ram Chander (appellant - PW-4). Komal (PW-6) daughter of Ram Chander (appellant - PW-4) also did not support the prosecution case.

The learned trial Court keeping in view the statements of the appellant Ram Chander (PW-4) (complainant), father of the deceased; Kamlesh (PW-5), mother of the deceased and Komal (PW-6), sister of the deceased in terms of order dated 11.11.2013, observed that there was no possibility of any improvement in the prosecution case by examining other witnesses. Rather it would be a burden on the State exchequer. So, all the remaining witnesses were given up and the prosecution evidence was closed.

Learned counsel for the appellant Ram Chander submits that in fact the appellant Ram Chander was under pressure and he did not intend to resile from his statement before the Police. It is stated that he was in fact threatened to make such statements before the Court. He has referred to the deposition of doctors' opinion which inter alia is noticed as follows:-

"Ligature mark of size 25 X 1.5 cm yellowish brown in colour and hard like parchment on both sides of neck and is directed obliquely upward and untrupted on posterior aspect of left side. On further dissection white glistening tissue present underneath. Ligature mark is placed about thyroid cartilage."

As pre opinion of the doctor, injuries are sufficient to cause death, which are ante-mortem in nature. The probable time since death is between 3/36 hours and it is Asphyxia due to hanging".

It may be noticed that the doctors in the case have not been examined. The prosecution witnesses who are none else but the parents and sister of the deceased Sonia, have not supported the prosecution case. The statement of the accused in terms of Section 313 of the Code of Criminal Procedure has not been recorded.

During the course of hearing, learned counsel for the appellant has submitted that death of Sonia had occurred due to hanging. In Modi's, "Textbook of Medical Jurisprudence and

Toxicology" 24th Edition 2011 at page 456 while giving differences between hanging and strangulation in a tabulated form has observed hanging to be mostly suicidal and strangulation mostly homicidal. Therefore, the fact that the appellant Ram Chander while appearing as PW-4 stated that his daughter Sonia had committed suicide would be in line with the medical opinion which is referred to. In the circumstances, the learned trial Court rightly dispensed with the recording of other evidence. . There is nothing to show and neither has any material been placed on record to show that the complainant/appellant was forced to or was under pressure to make a statement as has been made by him before the learned trial Court in favour of respondents No.2 to 4 who have been acquitted. Even in the grounds of appeal, there is no such averment.

Therefore, there is no merit in the appeal, which is accordingly dismissed.

(S. S. Saron)
Judge

(Gurmit Ram)
Judge

19.1.2015
amit

Note: Whether to be referred to Reporter: Yes/No