

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1. **CRA-S-1002-SB of 2002**

DATE OF DECISION: MARCH 24, 2015

RANJIT SINGH & ANOTHER ...APPELLANTS

VERSUS

STATE OF PUNJAB ...RESPONDENT

2. **CRR No.1818 of 2002**

SARABJIT SINGH ...PETITIONER

VERSUS

RANJIT SINGH & OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. DALDEEP SINGH, ADVOCATE
FOR THE APPELLANT IN CRA-S-1002-SB OF 2002.
& FOR RESPONDENTS NO.1 AND 2 IN CRR NO.1818 OF 2002.

MRS. RITU PUNJ, ADDL.A.G., PUNJAB.

MR. SACHIN SHARMA, ADVOCATE FOR THE PETITIONER
IN CRR NO.1818 OF 2002.

M. JEYAPPAUL, J.

1. This judgement shall dispose of CRA-S-1002-SB of 2002 filed by the accused-appellants and CRR No.1818 of 2002 filed by Sarabjit Singh, complainant.

2. Accused Ranjit Singh and Jangir Kaur, the husband and mother-in-law of deceased Jaswinder Kaur, challenged the conviction and sentence passed by the trial Court under Section 304-B IPC vide which they were sentenced to undergo RI for 7 years and to pay a fine of ₹2000/- each

and in default, to undergo a further RI for 6 months each and under Section 498-A IPC vide which the accused for sentenced to undergo RI for 3 years and to pay a fine of ₹1000/- each and in default, to undergo a further RI for 3 months each. Both the sentences were ordered to run concurrently. Accused Jangir Kaur died during the pendency of this appeal and therefore, as per the order passed by this Court on 9.1.2015, the appeal qua Jangir Kaur abated.

3. CRR No.1818 of 2002 has been preferred by complainant Sarabjit Singh (brother of deceased Jaswinder Kaur) praying for enhancement of sentence to the accused.

4. It is the brief case of the prosecution that accused Ranjit Singh and Jangir Kaur demanded dowry, maltreated and harassed Jaswinder Kaur, who got married accused Ranjit Singh only on 9.2.1997 and as result of which Jaswinder Kaur was found dead due to ante mortem hanging.

5. PW4 Sarabjit Singh was the brother of deceased Jaswinder Kaur. He has deposed that the marriage of accused Ranjit Singh with his sister took place on 9.2.1997. He had given sufficient dowry at the time of marriage. But the accused were greedy persons and therefore, they were dis-satisfied with the dowry given at the time of marriage. A Maruti car besides gold jewellery and cash was given at the time of marriage. But the accused maltreated and harassed deceased Jaswinder Kaur by making demand of dowry.

6. Accused also raised a demand of ₹2 lacs in cash. PW4 paid a sum of ₹1 lac prior to the occurrence. On 22.11.1997 at 1.00 p.m., PW4 Sarabjit Singh proceeded alongwith PW5 Natha Singh, the son of brother-

in-law of PW4 to the matrimonial house of his sister Jaswinder Kaur. He found his sister being hanged on the grill. The accused were found catching hold of the deceased by her legs. When PW4 and PW5 raised an alarm, the accused ran away from their house. Thereafter, PW4, leaving PW5 at the scene of occurrence, proceeded to the police station and suffered statement before the police.

7. PW5 Natha Singh, the son of the brother-in-law of PW4 completely supported the version of PW4. He also spoke about the dowry demanded by the accused and given by PW4 to the accused, the demand of ₹2 lacs in cash and the payment of ₹1 lac by PW4 to the accused and the unnatural death witnessed by them on 22.11.1997 at about 1.00 p.m. at the matrimonial house of Jaswinder Kaur.

8. PW1 Dr.Paramvir Singh Klair conducted post mortem examination on the dead body of Jaswinder Kaur on 22.11.1997 at 4.30 p.m. He found rigor mortis present in all the four limbs. A string was found around the neck and the same was attached to a piece of chunni. There was no external mark of any injury, except ligature mark around the neck of the deceased. The ligature mark was well defined measuring 2.5 cms in breadth. It obliquely encircled the whole of the front of the neck between larynx and chin with an irregular impression of knot at the mastoid process behind left ear. On receipt of the report from the chemical examiner, he opined that the cause of death was asphyxia due to ante mortem hanging.

9. PW8 Manoj proved the bills Ex.PR, Ex.PS and Ex.PT issued for the preparation of gold jewellery at the asking of PW4 Sarabjit Singh on

11.12.1996. PW9 Amarjit spoke about the sale of paddy by PW4 Sarabjit Singh to him for the value of ₹1,13,383.55 during the period from 7.10.1996 to 28.10.1996. PW10 Nand Kishore, a cloth merchant by profession, deposed that PW4 purchased clothes as per the bills Ex.PU/1 to Ex.PU/6 in the month of January, 1997. PW11 Parminderjit Singh deposed on the basis of the original account books that PW4 sold paddy worth ₹35,609.50 and ₹2,51,540.23 on 25.9.1997 and 27.9.1997. He also spoke about the above payment made by him on 19.10.1997 and 27.10.1997. PW14 Balwant Singh spoke about the purchase of new Maruti Car 800cc by PW4 in the name of accused Ranjit Singh. PW16 Harminderjit Singh was a Commission Agent at Dhanaula. He spoke about the sale of crops by PW4 on 7.10.1996 for the price of ₹1,35,314.73.

10. The accused set up a plea in his statement under Section 313 Cr.P.C. that he was innocent, but was falsely implicated in this case.

11. The trial Court having adverted to the evidence on record came to the conclusion that the prosecution has established beyond reasonable doubt the offence under Section 304B and 498A IPC.

12. PW4 Sarabjit Singh who was the brother of the deceased Jaswinder Kaur has categorically deposed that sufficient dowry was given at the time of marriage. But Jaswinder Kaur was maltreated and harassed by the accused demanding more dowry. He has also deposed that a sum of ₹1 lac as demanded by the accused was paid to him just prior to the occurrence.

13. PW5 Natha Singh, the son of the brother-in-law of PW4 has completely corroborated the testimony of PW4 on all material aspects.

14. The prosecution chose to examine PW8 Manoj to establish the fact that gold jewellery at the instance of PW4 had been made and supplied by him. The bills Ex.PR, Ex.PS and Ex.PT fortifies the stand of PW8. PW9 Amarjit, PW11 Parminderjit Singh and PW16 Harminderjit Singh have spoken about the sale of paddy by PW4 to them just prior to the marriage of Jaswinder Kaur. It is not out of place to mention here that the marriage had taken place on 9.2.1997 and the occurrence took place on 22.11.1997 itself. The prosecution also established by examining PW14 Balwant Singh that a new Maruti car of 1997 model was purchased by PW4 in the name of the accused. The said car was recovered at the instance of the accused. The evidence of PW4 and PW5, in the background of the above referred evidence on record, would go to show that accused-appellant Ranjit Singh, being not satisfied with the dowry originally given by PW4 to accused Ranjit Singh at the time of marriage, demanded more dowry and a cash amount of ₹1 lac just prior to the occurrence. The maltreatment and harassment meted-out to Jaswinder Kaur by the accused have been spoken to by PW4 and PW5.

15. It is true that PW4 and PW5 were related to deceased Jaswinder Kaur. Jaswinder Kaur would not have confided to a third party as regards the ill-treatment and harassment she faced at the matrimonial house. Rightly she had confided to PW4 and PW5 as regards the demand of dowry and the maltreatment and harassment meted-out to her. Therefore, there is no reason to reject the evidence of PW4 and PW5.

16. Learned counsel appearing for appellant Ranjit Singh would

submit that PW4 and PW5 would not have been present at the matrimonial house of Jaswinder Kaur at the time when she committed suicide. Referring to the medical evidence, he would submit that the death of Jaswinder Kaur had taken place about 7 hours prior to the alleged visit of PW4 and PW5 to the matrimonial house of Jaswinder Kaur. *Per contra*, learned Addl.A.G., Punjab would submit that the death would have taken place prior to the arrival of PW4 and PW5 to the house of accused Ranjit Singh, but their presence at the house of accused Ranjit Singh cannot be doubted.

17. PW1 Dr.Paramvir Singh Klair who conducted post mortem examination has, of course, stated that rigor mortis was present in all the four limbs. The investigating official who conducted inquest has also noted down the fact that joints of the dead body were found stiff.

18. Rigor mortis sets in the dead body within about 3 hours. It takes about 12 hours to set in completely on the dead body. PW4 and PW5 had witnessed the body hanging in the house of accused Ranjit Singh on 22.11.1997 at about 1.00 p.m. The post mortem was conducted by PW1 on the same day at about 4.30 p.m. Therefore, Jaswinder Kaur would not have died on 22.11.1997, at about 1.00 p.m., inasmuch as rigor mortis had been completely set in the dead body at the time when the post mortem examination was conducted within about 3½ hours by PW1.

19. It is true that PW4 and PW5 have deposed that at the time when they entered into the house of accused Ranjit Singh, they found Jaswinder Kaur hanging from the roof and accused Ranjit Singh and Jangir Kaur pulling down the legs of Jaswinder Kaur.

20. PW4 and PW5 have every reason to suspect the role of the accused. It may be a case where the accused made an attempt to retrieve the dead body of Jaswinder Kaur who had already committed suicide. The engagement of the accused in the process of retrieving the dead body had been wrongly perceived by PW4 and PW5 who had every reason to suspect their role. It is to be noted that PW4 and PW5 never stated that Jaswinder Kaur was fighting for life while hanging and at that point of time the accused made an attempt to complete the process of killing by pulling her legs down. Therefore, the evidence of PW4 and PW5 as regards the presence of the accused at the scene of crime touching the feet of the deceased cannot at all be doubted.

21. It was submitted by learned counsel appearing for the appellant that PW15 SI Tripta Kaishap who joined the police party headed by PW19 Inspector Shiv Shambhu Nath, has stated that the car was produced alongwith the accused on 23.11.1997, whereas PW19, the investigating officer in this case has stated that accused Ranjit Singh was arrested on 1.12.1997 alongwith the car.

22. On a careful perusal of the arrest memo, I find that the arrest was effected only on 1.12.1997, as submitted by PW19 Inspector Shiv Shambhu Nath. The very case of the prosecution is that the accused was arrested on 1.12.1997 alongwith the car cannot be rejected on the basis of incorrect information against the records spoken to by PW15 who just accompanied the Inspector who conducted the investigation.

23. The occurrence had taken place in the matrimonial house of the

deceased. Jaswinder Kaur had died within about 9½ months from the date of marriage in the matrimonial house. Accused Ranjit Singh is bound to prove the fact as to how Jaswinder Kaur died in his house. Accused Ranjit Singh failed to speak anything about the death of Jaswinder Kaur. As per the evidence of PW4 and PW5, he had run away from the house on seeing them. Therefore, the Court will have to presume that accused Ranjit Singh had suppressed the fact especially within his knowledge. An adverse inference would be the outcome of such a suppression made by accused Ranjit Singh. The prosecution has established that soon before the death of Jaswinder Kaur, she had been subjected to harassment in connection with demand of dowry. She had also passed away within 9½ months from the date of marriage. The Court has to presume as per Section 113(b) of the Indian Evidence Act, 1872, that it was a case of dowry death.

24. The occurrence had taken place way-back in the year 1997. In my considered view, adequate sentence has been awarded to the accused by the trial Court.

25. In view of the above, the judgement of conviction and sentence passed by the trial Court for the offence under Section 304-B and 498-A IPC as against accused Ranjit Singh stands confirmed and the appeal is dismissed. As regards CRR No.1818 of 2002 preferred by complainant Sarabjit Singh, the same also stands dismissed.

26. The accused-appellant Ranjit Singh is on bail. His bail bond stands cancelled. He shall surrender within 15 days from the date of this judgement before the Chief Judicial Magistrate, Sangrur. If he fails to

surrender, the learned Chief Judicial Magistrate, Sangrur shall take coercive steps to secure his presence and send to him to jail to undergo the remaining part of the sentence.

March 24, 2015
Gulati

(M. JEYAPPAUL)
JUDGE