

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

CRA-D-1144-DB-2014 (O&M)

Date of Decision: 21.09.2015

Surinder Pal Goyal

....Appellant

Vs.

State of Haryana and another

....Respondents

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

HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

Present: Mr. Nand Lal Sammi, Advocate
for the appellant.

Mr. Raj Kumar Makkad, DAG, Haryana

Mr. Bijender Dhankar, Advocate
for respondent No.5.

S.S. Saron, J

This appeal has been filed by the 'victim' assailing the inadequate sentences imposed upon Rahul Goyal, Chand Kiran and Santosh (respondents No.2, 3 and 4 respectively) and also assailing the acquittal of Manju Rani (respondent No.5). Along with the appeal, CrI. Misc. No.21566 of 2014 has been filed seeking condonation of delay of 6 days in filing the appeal.

In terms of order dated 16.02.2015, learned counsel for the appellant did not press the appeal against inadequate sentences imposed upon respondents No.2, 3 and 4 respectively as it was not disputed by him that in terms of the proviso to Section 372 Code of Criminal Procedure (for short-“Cr.P.C.”), an appeal against inadequate sentence would not be maintainable. Therefore, he presses the appeal against the acquittal of Manju Rani (respondent No.5) only.

Learned counsel for the appellant submits that the evidence of

Surinder Pal Goel (PW-3), who is the appellant and that of Neeraj Goyal, (PW-11), is consistent and on the basis of the same, Rahul Goyal, Chand Kiran and Santosh (respondents No.2, 3 and 4 respectively) have been convicted and sentenced. Therefore, Manju Rani (respondent No.5) is also liable to be convicted and sentenced.

Mr. Bijender Dhankar, Advocate, appearing for respondent No.5 submits that the acquittal of Manju Rani (respondent No.5) is just and proper and the learned trial Court has recorded cogent and convincing reasons for acquitting her.

Learned State counsel submits that the State has not filed any appeal against the acquittal of Manju Rani (respondent No.5).

We have given our thoughtful consideration to the contentions of the learned counsel for the parties.

The FIR in this case has been registered on the statement of the complainant-Surinder Pal Goyal (PW-3). According to the complainant, his youngest daughter Nidhi Goyal (deceased in the case) was married with Rahul Goyal (respondent No.2) on 06.12.2009. According to the complainant, he gave sufficient dowry articles in the marriage but Rahul Goyal (respondent No.2) and his family members, i.e. mother-in-law Santosh Rani (respondent No.3), father-in-law Chand Kiran (respondent No.4) and sister-in-law Manju Rani (respondent No.5), who is elder to Rahul Goyal (respondent No.2) and is unmarried, were dissatisfied with the dowry. Besides, her sister-in-law Ruba wife of Rajesh Kumar was also dissatisfied with the dowry. They used to torture and beat Nidhi Goyal, the daughter of the complainant, for bringing insufficient dowry. These facts

were disclosed by Nidhi Goyal to the complainant (PW-3) on telephone. In the month of May, 2010, the daughter of the complainant informed him on telephone that her husband and his family members were compelling her to bring an amount of Rs.5.50 lacs, failing which she would be done to death. The complainant with great difficulty gave Rs.5.50 lacs. Thereafter, a further demand of Rs.5.00 lacs was raised and the complainant-appellant gave Rs.2.00 lacs to his son-in-law on 16.01.2011. Nidhi Goyal daughter of the complainant informed him on 18.01.2011 at about 7.00 p.m. to save her as she would be done to death by her in-laws. After sometime, Rahul Goyal (respondent No.2) informed the complainant on telephone that Nidhi had died. The telephone was attended by Neeraj (PW-11), elder son of the complainant. On receiving information, all the family members of the complainant rushed to the matrimonial house of Nidhi where they found her dead body in a burnt condition. The daughter of the complainant was burnt by sprinkling kerosene oil on her.

In terms of the judgment and order passed by the learned trial Court, respondents No.2, 3 and 4 have been convicted for the offence punishable under Sections 304-B/34 of the Indian Penal Code (for short-“the IPC”) and sentenced to undergo rigorous imprisonment of 8 years. Against the said order of conviction and sentence, Crl. Appeal No.S-2625-SB of 2014 has been filed by the convicts Rahul Goyal, Chand Kiran and Santosh (respondents No.2, 3 and 4 respectively), which is pending in this Court.

Insofar as the acquittal of Manju Rani (respondent No.5) is concerned, the learned trial Court noticed that the complainant had involved

all family members/inmates of the house of the in-laws of Nidhi Goyal, including unmarried sister-in-law of the deceased, i.e. Manju Rani (respondent No.5). It was held that though the husband and parents-in-law of the deceased could be presumed to be interested in getting more dowry for starting business etc. but at the same time it would not be equally true for sister-in-law of Nidhi Goyal (deceased), i.e. Manju. Manju was admittedly looking after herself by teaching. She had nothing to gain out of said amount. Her case, it was observed, was completely on a separate pedestal. Therefore, in the facts and circumstances of the case, it was held that the presumption could not be drawn qua accused Manju and she certainly was held to be entitled to benefit of doubt.

The contention of the learned counsel for the appellant is that on the same set of evidence, the other accused, i.e. Rahul Goyal, Chand Kiran and Santosh (respondents No.2, 3 and 4) have been held guilty, therefore, there is no reason whatsoever not to rely on the same evidence insofar as Manju Rani (respondent No.5) is concerned. It may, however, be noticed that the conviction of respondents No.2, 3 and 4 is based on presumption inasmuch as Section 304-B IPC enjoins that, where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative for, or in connection with any demand for dowry, such death shall be called “dowry death” and such husband or relative shall be deemed to have caused her death. Therefore, it is on the presumption of “deemed to have caused death” that Rahul Goyal, Chand Kiran and Santosh

(respondents No.2, 3 and 4) have been convicted. The presumption, however, has not been drawn by the learned trial Court, insofar as Manju Rani (respondent No.5) is concerned. It is not uncommon that all family members of a deceased married lady are implicated and involved in criminal prosecution so as to enlarge the involvement of the in-laws family of the victim as accused. The learned trial Court has recorded reasons for acquittal of Manju Rani (respondent No.5), which we find cogent and convincing. Even otherwise, merely because another view may be possible, would not be a ground to dislodge the conclusion validly reached at by the learned trial Court. In the circumstances, we find no merit in the appeal filed by the appellant against the acquittal of Manju Rani (respondent No.5). Accordingly, the appeal against the acquittal of Manju Rani (respondent No.5) is dismissed, summarily in terms of Section 384 Cr.P.C.

As we have dismissed the appeal of the appellant on merits, the question of delay of 6 days in filing the appeal is only academic and the same is also dismissed.

It is however, made clear that nothing stated herein shall be construed as an expression of opinion on the merits of the case, insofar as the conviction of Rahul Goyal, Chand Kiran and Santosh (respondents No.2, 3 and 4) are concerned and the Court shall consider their case in the pending Crl. Appeal No.S-2625-SB of 2014 on the basis of evidence and material on record.

(S. S. Saron)
Judge

21.09.2015
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(Amol Rattan Singh)
Judge