

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-239-DB of 2015

Date of Decision : March 31, 2015

Kiran Wati

.....Appellant

VERSUS

State of Haryana and others

.....Respondents

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

Present : Mr. Jasmer Singh Rozera, Advocate
for the appellant.

T.P.S. MANN, J.

The appellant, who is mother of deceased Smt. Kavita, has filed the present appeal for challenging the judgment dated 28.8.2014 passed by the Additional Sessions Judge, Gurgaon whereby respondents No.2 to 4, hereinafter referred to as 'the accused', were acquitted of the charges under Sections 498-A and 304-B read with Section 34 IPC, or, in the alternative, under Section 302 read with Section 34 IPC.

The marriage of Smt. Kavita was solemnized with accused Devender on 20.1.2009. However, her husband Devender, father-in-law Sukhram, mother-in-law Mishri, brothers-in-law Naresh and Ashok, sisters-in-law Geeta and Rekha and *Nanad* Meena used to harass her in connection with dowry. In this regard complainant Hari Kishan, father of the deceased, had moved a complaint against them, which was compromised. Despite that, the deceased was sent to her

parents' home. On 5.11.2013, Devender refused to take her back. On 8.11.2013, the deceased was sent, alongwith her brother Deepak, to the matrimonial home. On 9.11.2013, the complainant learnt that she had been strangled to death by her in-laws. Accordingly, complainant Hari Kishan submitted a written complaint to the police and on its basis, FIR No.452 dated 9.11.2013 under Sections 498-A, 304-B read with Section 34 IPC was registered against the accused and their members at Police Station Kherki Daula. Upon completion of investigation, the challan was presented only against the accused/respondents. They were subsequently charged for committing the offences punishable under Sections 498-A and 304-B read with Section 34 IPC, or, in the alternative, under Section 302 read with Section 34 IPC. However, the trial ended with their acquittal. Hence, the present appeal by mother of the deceased.

Having heard learned counsel for the appellant, this Court finds that in order to prove the commission of the offences for which the accused were charged, the prosecution examined PW2 Hari Kishan and PW3 Deepak, father and brother, respectively of the deceased. Both of them did not support the prosecution case. Instead, they testified that the deceased had been living happily in her matrimonial home. She was neither harassed nor tortured on account of demand of dowry by her husband and in-laws. PW1 Sher Singh, cousin of the deceased supported the case of the prosecution during his examination-in-chief. However, in his cross-examination, he stated that the deceased was never harassed or beaten. He also stated that

in his previous statement Ex.DA he had not stated about the accused throwing the deceased out of their house. He also did not mention in Ex.DA that the accused used to tease her on several occasions. He further stated that he had not mentioned in Ex.DA that accused used to demand various sums of money.

In addition to the above, the prosecution tried to build its case by producing Jagdish and Siri Chand as its witnesses. In his testimony before the trial Court, PW6 Jagdish stated that he had no knowledge about the facts of the case. When he was cross-examined by the Public Prosecutor after getting him declared hostile, he denied that any diary of the deceased was taken into possession in his presence. Similarly, PW8 Siri Chand deposed that he had no knowledge about the facts of the case. He was also declared hostile and during his cross-examination by the Public Prosecutor he denied the factum of recovery of suicide note and other things from the spot by the police.

From the testimonies of the star witnesses of the prosecution, as referred to above, it can safely be concluded that the prosecution has not been able to establish that the deceased was treated with cruelty on account of demand of dowry by the accused. As regards the suicide note, it may be noticed that the deceased had herself written therein that nobody was responsible for her death and she was committing suicide on account of her mental illness.

Learned counsel for the appellant has submitted that in

their earlier statements recorded by the police, the father, brother and cousin of the deceased had specifically stated that the deceased was harassed and treated with cruelty in connection with dowry and as the death was within seven years of marriage and otherwise than under normal circumstances, the accused ought to have been convicted for the offences for which they stood charged. However, the statements made by the various witnesses before the police cannot be read in evidence, more so, when all those witnesses testified before the trial Court that their signatures were obtained by the police on blank papers.

In view of the above, it cannot be said that the trial Court was not justified in acquitting the accused of the charges against them.

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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