

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

CRA-S No. 1972-SB of 2003 (O&M)

Date of decision: 09.09.2015.

Lakhbir Singh and others

..... Appellants.

Versus

State of Punjab

..... Respondent.

CORAM: HON'BLE MS. JUSTICE NAVITA SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

Argued by: Mr. P.S. Ahluwalia, Advocate, for the appellants.

Mr. S.K. Bansal, AAG, Punjab, for the respondent.

NAVITA SINGH, J.

The appellants were convicted for the offence punishable under Section 304-B of the Indian Penal Code (IPC for short) on 19.09.2003 and were sentenced on the same day. The sentence awarded was rigorous imprisonment for seven years and fine to the tune of Rs.2,000/- to each of the appellants and in default of payment of fine, the defaulter was to undergo rigorous imprisonment for three months each. The judgment of conviction and the order of sentence passed by the then Additional Sessions Judge, Bathinda, have been put under challenge in this appeal.

2. The prosecution case was that Darshan Singh, complainant, informed the police that his daughter Amandeep Kaur was married with appellant-Lakhbir Singh on 26.01.2000, but the marriage was a simple one.

However, soon after the marriage, Lakhbir Singh and the other appellants started harassing Amandeep Kaur for not bringing dowry. They raised a demand of Rs.1,00,000/-, which fact was disclosed by Amandeep Kaur to the complainant and his son Karamjit Singh. The complainant went to the matrimonial home of his daughter for explaining to the appellants that he was not in a position to meet their demand, but he was told that unless he fulfilled the demand, his daughter would find no place in her matrimonial home.

3. The complainant made up his mind to sell a plot which he owned in Ludhiana, but before that on 29.03.2000, his daughter again narrated her tale of woes to him beseeching him to pay the money as she apprehended danger to her life in case the amount was not paid. The complainant again told the appellants that he would make the payment after sale of his plot, but they did not believe him.

4. On 30.03.2000, he received an information that his daughter Amandeep Kaur had died on account of consuming some poisonous substance and had committed suicide as she could not tolerate the atrocities of the appellants. On the basis of statement made by Darshan Singh, a case was registered against the appellants and charge-sheet was filed against them on completion of investigation.

5. Charges were drawn up against the appellants for the offences under Section 498-A and 304-B of the IPC and the prosecution examined eight witnesses, namely, Dr. L.D. Gupta as PW-1; HC Jagjit Singh as PW-2;

Constable Jagsir Singh as PW-3; Krishna Gupta, Staff Nurse, as PW-4; complainant Darshan Singh as PW-5; Lakhwinder Singh as PW-6; Inspector Arashdeep Singh as PW-7 and SI Ranjit Singh as PW-8.

6. Cause of death, as per the report of Chemical Examiner, was consumption of poison.

7. Statements of the appellants under Section 313 of the Code of Criminal Procedure were recorded and Lakhbir Singh took a defence that he was married to Amandeep Kaur and there was no give and take of dowry. Rather the appellants had paid an amount of Rs.1,500/- to the complainant for making arrangement of tea etc. for the marriage party. Since Amandeep Kaur was an urbanite, she did not like the life in the village and also did not want to live with her husband as he was almost double her age. On the fateful day when liquor was being sold at cheap rates because of the closing of the year on 31.03.2000, Lakhbir Singh purchased liquor and reached home drunk. His wife got annoyed with him and they had a fight. Thereafter, she consumed some insecticide. She was immediately taken to the hospital by Lakhbir Singh himself, but at 02:30 a.m. she was declared dead. The complainant threatened to involve his son-in-law and other family members in a false case if they did not compensate him in money for the death of his daughter. However, the appellants refused to oblige him. It was denied that any demand of money was made from Amandeep Kaur. Similar was the defence taken by appellants Balbir Singh and Hari Singh while appellant Naib Singh said that he was working as cleaner on a truck

in Mandi Dabawali and used to remain on the move and there was no question of any harassment faced by Amandeep Kaur at his hands.

8. After scrutinizing evidence carefully, the trial Court came to the conclusion that the appellants were guilty and accordingly, convicted and sentenced them. The appellants examined Gurdev Singh from the same village as DW-1, but his evidence did not find favour with the trial Court. He had never noticed any serious dispute between Lakhbir Singh and the deceased and said that no one visited from the parental house of Amandeep Kaur, nor any panchayat was convened. However, since he was not a close relative or one who would have first hand information, his statement was rightly not believed. He said that his house was in front of the house of the appellants and there was, therefore, a possibility that he deposed in their favour for that reason.

9. Counsel for the appellants contended that there were omnibus allegations regarding demand of Rs.1,00,000/- against all the appellants, which made the story unbelievable. Also, Lakhbir Singh, i.e. husband of the deceased, had himself taken the deceased to the hospital at 10:30 p.m. on 30.03.2000 and despite treatment Amandeep Kaur died at 02:30 a.m. on 31.03.2000. If the husband and/or any of his family members had intended the death of Amandeep Kaur, she would not have been taken to the hospital. It was then contended that the father was 80 years at the relevant time and now he is much older. The counsel rather said that though he had no such information, but by now the father-in-law of the deceased even may not be

alive.

10. It was admitted by complainant Darshan Singh (PW-5) in his cross-examination, as was also mentioned in the complaint, that no dowry was given by him at the time of marriage and also that appellant Naib Singh was a bachelor. Balbir Singh was married and had three children. He said that about 15 days after the marriage, his daughter had come to him complaining about her in-laws and this he had incorporated in the complaint (Ex. PA), but he was confronted with the same where no such allegation was recorded. The witness was confronted with his statement Ex. PA at various places showing that he was trying to make improvement when he appeared in the Court.

11. Nothing was mentioned by Darshan Singh in the complaint or in his statement in Court that his son Lakhwinder Singh was present when Amandeep Kaur consumed poison. The son, however, went a few steps ahead of his father stating that on 30.03.2000 at about 07:30 p.m. he had gone to meet his sister and when he was sitting in the courtyard, he heard all the appellants telling his sister Amandeep Kaur that she should refrain her relatives from visiting her time and again and they should fulfil their demand. The witness assured them that after sale of the plot at Ludhiana, money would be paid to them. At about 08:00 p.m., Amandeep Kaur consumed some insecticide despite the effort on the part of this witness to prevent her from doing so. She became unconscious. He was threatened by the appellants that in case he disclosed the incident to any one he would be

done away with. His sister was taken to the hospital and he returned to his house.

12. The story set up by Lakhwinder Singh (PW-6) is absolutely not worthy of any credit. He put up a cock and bull story, all in contradiction to the averments made by his father in the complaint and in his evidence. Also, it is not at all believable that if he had tried to prevent his sister from consuming any poisonous substance, he would not have succeeded. Very conveniently he left his sister to die though she fell unconscious in his presence and just on account of threat advanced by the appellants, he came back home. When cross-examined, he could not give the location of the house of the appellants in village Poohla and could not even say whether the same was situated in the east, west, north or south. He was working in the army where he had been made aware about directions, but could not give the direction in which the house was situated. In any case, he was not able to give the description of the house. He being the brother of Amandeep Kaur, could have visited the house earlier at some point of time. He did not inform about the incident to any one, did not try to help his sister and did not even inform the police. He did not bother to take his sister for medical aid.

13. Counsel for the appellants contended that the story of the prosecution was not believable so far as the offence under Sections 498-A and 304-B of the IPC were concerned. He argued that outright acquittal for Lakhbir Singh was not being claimed because it was a fact that Amandeep

Kaur had died after consuming some poisonous substance and that was because there was a fight between appellant Lakhbir Singh and the deceased, as he had come home drunk. At the most, appellant Lakhbir Singh could be convicted and sentenced for the offence under Section 306 of the IPC.

14. The age of appellant-Hari Singh was given as 83 years at the time of filing the appeal and his sentence was also suspended in view of his age. It was rightly pointed out by counsel for the appellants that there were omnibus allegations against the appellants and it was not believable that in a marriage which was totally without dowry, the deceased was harassed for dowry, as alleged. The prosecution, therefore, failed to prove its case against the appellants regarding the offence under Section 304-B of the IPC.

15. However, since Amandeep Kaur died as a result of poison in the house of her husband and it is the case of Lakhbir Singh himself that he had come home drunk and there was a fight between him and his wife thereafter consumed the poison, it can be said that the suicide by Amandeep Kaur was abetted by Lakhbir Singh. He took the deceased to the hospital realising the seriousness of the situation, but unfortunately Amandeep Kaur could not be saved.

16. Resultantly, the appeal is accepted in relation to the offence under Section 304-B of the IPC and all the appellants are acquitted on that count. However, appellant Lakhbir Singh is convicted for the offence under Section 306 of the IPC. He has already undergone more than four years of

imprisonment. He is, therefore, sentenced to the period already spent in custody by him. He shall also be liable to pay fine of Rs.10,000/- (Ten thousand only) and in default of the same, he would serve sentence by way of imprisonment for two months. Fine shall be deposited by appellant Lakhbir Singh within one week from today, failing which he shall surrender before the Chief Judicial Magistrate, Bathinda, on 14.09.2015. In case, he does not surrender, the Chief Judicial Magistrate, Bathinda, shall procure the presence of appellant Lakhbir Singh through warrant of arrest and commit him to jail for serving the sentence in lieu of fine.

(NAVITA SINGH)
JUDGE

09.09.2015

Ramesh

Whether to be referred to reporter: Yes/No