

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.D-73-DB of 2015
DATE OF DECISION: May 11, 2015

Hameer Singh

....Appellant

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr.P.S.Punia, Advocate for the appellant.

RAMENDRA JAIN,J.

The present appeal has been preferred by the complainant, challenging the judgment dated 17.10.2014 passed by the Additional Sessions Judge, Ludhiana acquitting respondents Nos.2 to 6 of the charge under Section 304-B IPC.

Brief facts of the case, relevant for decision of this appeal are that complainant Hameer Singh was having two sons and two daughters. The marriage of his younger daughter Baljit Kaur had taken place on 3.2.2012 with Jaspal Singh according to Sikh rites. He had given dowry and istridhan in

her marriage according to his status. His son-in-law Jaspal Singh had come from Dubai. Hence, after few days of marriage, he returned back. His daughter was subjected to taunts for bringing less dowry by her mother-in-law, namely Gurdev Kaur, father-in-law Dalbara Singh, elder brother of his son-in-law, namely, Kesar Singh and his wife Karamjit Kaur. Even they started beating her. His daughter narrated his above maltreatment at her matrimonial home to him as well as his wife Manjit Kaur on her visit to his house. However, she was pacified. The demand of motorcycle and golden kara was raised from his daughter. His son-in-law Jaspal Singh returned back after three months of marriage. For the aforesaid demands, the respondents started beatings his daughter more severally. Due to poverty, he showed his inability to fulfil the above demands. On 15.11.2012, the complainant and his son Satnam Singh went to meet his daughter in village Nizampur. On their reaching to her matrimonial home, his daughter started weeping and told that she would not live there, because her husband Jaspal Singh, father-in-law Dalbara Singh, mother-in-law Gurdev Kaur, elder brother of her husband Kesar Singh and his wife Karamjit Kaur used to beat and taunt her, by raising demand of gold kara and motorcycle. On seeing the atmosphere not good, the complainant and his son Satnam Singh brought Baljit Kaur with them in village Babarpur. On 16.11.2012, mother-in-law of his daughter Baljit Kaur, namely,

Gurdev Kaur, mediator Nath Singh resident of Dudhal came to his village Babarpur. At that point of time, he also called Sarpanch of their village Sukhdev Singh. Mother-in-law of his daughter, Gurdev Kaur assured that they would not harass and taunt his daughter (Baljit Kaur) again for less dowry and they took her to village Nizampur. On 12.11.2012, when the complainant was present in his house, he received a telephonic call from elder brother of husband of his daughter, namely, Kesar Singh, informing him that Baljit Kaur had taken some poisonous substance and they had been taking her to Sidhu Hospital, Doraha. Around two hours back, Baljit Kaur had also made a call to the complainant, informing him that in the night, her husband Jaspal Singh, father-in-law Dalbara Singh, mother-in-law Gurdev Kaur, elder brother of her husband, namely, Kesar Singh and his wife Kamaljit Kaur had given her merciless beatings, besides taunting her, raising demand of motor cycle and gold kara. On receiving call from elder brother of husband of his daughter, namely, Kesar Singh, the complainant along with Sukhdev Singh, Sarpanch and other respectables went to Sidhu Hospital, Doraha and came to know that his daughter Baljit Kaur had expired. She had died due to the beatings and taunting for bringing less dowry and demand of motor cycle and gold kara, by aforesaid persons. Action be taken against them.

On the basis of aforesaid statement of the complainant, a case under section 304-B IPC was registered in

Police Station Payal, Ludhiana. The police swung into action. Site plan of the place of occurrence was prepared, recovery was effected and post-mortem of deceased was got conducted. The respondents were arrested. On completion of investigation, challan was presented against respondents Nos.1 to 3, namely, Jaspal Singh, Kesar Singh and Gurdev Kaur only placing respondent Nos.4 and 5 in column No.2 as innocent.

Copies of challan as envisaged under Section 207 CrPC were supplied to the respondents. Since the case was exclusively triable by the Court of Sessions, hence, the same was committed to the Court of Sessions vide order dated 2.3.2013.

After hearing learned counsel for the parties, charge under Sections 304-B read with section 34 IPC was framed against respondent Nos.1 to 3, namely, Jaspal Singh, Kesar Singh and Gurdev Kaur vide order dated 16.4.2013.

In order to prove the charge, the prosecution examined the complainant Hameer Singh PW1, who deposed that the marriage of his daughter was solemnized on 3.2.2012. She was taunted for bringing less dowry by her in-laws. He proved his statement Ex.PA and identified the respondents.

However, after the conclusion of his examination-in-chief, learned Public Prosecutor appearing for the State moved an application under Section 319 CrPC for summoning respondents Nos.4 and 5, namely, Dalbara Singh and Karamjit

Kaur to face trial along with respondent Nos.1 to 3, namely, Jaspal Singh, Kesar Singh and Gurdev Kaur which was allowed by the trial Court vide its order dated 18.1.2014 and respondent Nos.4 and 5, namely, Dalbara Singh and Karamjit Kaur were ordered to be summoned as an additional accused.

On their appearance, fresh charge under Sections 120-B, 304-B and in the alternative under Section 302 IPC was framed against all the respondents vide order dated 25.3.2014.

In order to establish the guilt of respondent Nos.2 to 6, the prosecution in all examined seven witnesses, namely, Hameer Singh PW1, his son Satnam Singh PW2, Sukhdev Singh PW3, Dr.Balwinder Singh PW4, HC Surjit Singh PW5, ASI Santokh Singh Investigating Officer PW6 and ASI Jagdev Singh PW7.

In the statements recorded under Section 313 CrPC, the respondents denied all the allegations against them and pleaded their false implication. In defence, they examined as many as three witnesses, namely, Nath Singh DW1, Devinder Singh DW2 and Harjinder Kaur @ Makko DW3. Accused Jaspal Singh also appeared as his own witness as DW4. They also relied upon documents Ex.DC to Ex.DJ.

After hearing learned Public Prosecutor for the State as well as learned counsel for respondent Nos.2 to 6 and on appraisal of evidence, the learned trial Court held that the prosecution has failed to establish the guilt of accused-

respondents, beyond shadow of reasonable doubt and accordingly acquitted them of the charges framed against them vide judgment dated 17.10.2014.

Aggrieved by the aforesaid judgment of acquittal dated 17.10.2014 passed by the trial Court, the complainant has approached this Court by way of present appeal.

We have heard learned counsel for the appellant and gone through the record very minutely.

Learned counsel for the appellant-complainant submits that the impugned judgment is based on surmises and conjectures. The learned trial Court without appraising the evidence in a right perspective has erroneously acquitted the respondent Nos.2 to 6, despite the fact that there was cogent and convincing evidence against them, indicating that the death of deceased-Baljit Kaur was a dowry death. Complainant-Hameer Singh PW1 and Satnam Singh PW2 have categorically deposed that after the marriage and soon before her death, the deceased Baljit Kaur was subjected to harassment and cruelty by respondent Nos.2 to 6, in connection with the demand of dowry. The judgment of the trial Court is perverse, being completely ignoring the reliable legal evidence which has resulted into the miscarriage of justice and thus the same may kindly be set aside.

Having given our thoughtful consideration to the arguments of learned counsel for the appellant, we are of the

considered opinion that the impugned judgment of the trial Court is well-reasoned, being based upon proper appreciation of the entire evidence on record. Hence, the present appeal being bereft of any merit is liable to be dismissed.

Apart from charge under Sections 304-B read with section 120-B IPC, the respondent Nos.2 to 6 were also charged under Section 302 IPC. Dr. Balwinder Singh PW4, who conducted the post mortem examination on the dead body of deceased Baljit Kaur has opined that her death had occurred due to ingestion of poisonous substance. According to Chemical Examiner also, the cause of her death was due to ingestion of Aluminum Phosphide insecticide. No external mark of injury was seen on the dead body. Hence, the fact cannot be lost sight of that in case any poisonous substance would have been given forcibly to the deceased, there would have been some sign of injury on account of resistance. Moreover, the deceased was admitted to the hospital, when she was alive and all the expenses were borne by Jaspal Singh (respondent No.2-husband). In other words, if any poisonous substance was given by the respondents to the deceased, in that event, she would not have been admitted in the hospital in live condition. There being no cogent and convincing evidence on record that the deceased was murdered by respondent Nos.2 to 6, the learned trial Court has rightly held that no charge under Section 302 IPC was established against them.

Now the question before this Court is as to whether the death of the deceased Baljit Kaur was due to cruelty and harassment by respondent Nos.2 to 6 for or in connection with demand of dowry.

Complainant PW1, father of the deceased Baljit Kaur deposed that the marriage of his daughter was solemnized on 3.2.2012. The husband of deceased went to Dubai after three months of the marriage. His daughter was subjected to taunts for bringing less dowry by respondent Nos.3 to 6. Even demand of gold kara and motor cycle was also made. On several occasions, his daughter was given beatings. However, he was hopeful that on arrival of respondent No.2-Jaspal Singh his son-in-law from Dubai, the circumstances created by respondent Nos.2 to 6 would change. On return of Jaspal Singh from Dubai, he also followed the family members and started giving beatings to his daughter for their demand of gold kara and motorcycle. However, the thirst of greed did not quench. He advised his daughter to keep patience as he was hopeful that with the passage of time, good sense would prevail upon the accused and everything would set right. On 15.11.2012, he along with Satnam Singh went to the matrimonial home of his daughter. On seeing them, his daughter Baljit Kaur started crying and told that respondent Nos.2 to 6 were demanding motor cycle and gold kara and failure thereto, they used to give her beatings. So, he brought his daughter to the parental

home. However, on 16.11.2012, Gurdev Kaur, mother-in-law and mediator Nath Singh came to his house, where Sarpanch Sukhdev Singh and other respectables were called. Gurdev Kaur had given assurance that they would not make any such demand of motorcycle and gold kara and would keep his daughter happily. On this assurance, Baljit Kaur was sent back to her matrimonial home. On 17.11.2012, a telephonic call was received from his daughter, that respondent Nos.2 to 6 had given her beatings and were taunting her for bringing motor cycle and gold kara, whereupon, he told that he would come to her matrimonial home. Thereafter, he received a telephone call from Kesar Singh apprising that Baljit Kaur had consumed some poisonous substance and she had been taken to Sidhu Hospital, whereupon, he along with Sarpanch and few other respectables reached Sidhu Hospital, and found that his daughter had died. Respondent Nos.2 to 6 had tortured his daughter and killed her for their illegal demand of motor cycle and gold kara.

Satnam Singh son of complainant Hameer Singh PW2 and Sukhdev Singh, Sarpanch of village Babarpur PW3 fully corroborated the above deposition of complainant Hameer Singh PW. However, on analysing their depositions, it is evident that no demand of dowry was ever made from the deceased in the first three months of marriage, because as per statement of Harmeer Singh, PW1, the alleged demand of dowry was raised

by respondent Nos. 3 to 6, when Jaspal Singh left for Dubai. There is nothing on the record that any demand of dowry for gold kara and motor cycle was ever made by husband Jaspal Singh in the first three months of his marriage, during his stay in India. It is also unexplained on the file that what necessitated the respondent Nos.3 to 6 to raise demand of gold kara and motorcycle for Jaspal Singh, when he was outside the country in Dubai. As per stand of the prosecution, in his absence, Baljit Kaur (deceased) narrated her woeful episode to her father Harmeer Singh, PW1, but he did not take any step to bring her daughter back to the parental home or ever visited her matrimonial home to resolve the dispute, rather remained silent and kept on waiting for arrival of his son Jaspal Singh from Dubai. The above conduct of the complainant is quite unnatural, because in such circumstances, he must have, at least discussed the issue with his son-in-law on phone or with accused-respondents. More so, complainant Harmeer Singh PW1 in his cross-examination has categorically admitted that he did not file any complaint with any police station prior to 17.11.2012, regarding the cruelty meted out to his daughter by the accused. His deposition that he had asked the Sarpanch of the village two-three times in this respect and he in turn had talked to the Sarpanch of village Nizampur and a panchayat consisting of villagers of both the villages was convened, in which the accused had apologised for their act and conduct,

seems to be completely false or improved one, because in cross-examination he could not tell the date of convening of alleged panchayat and the names of the persons, who attended it. Even, he could not tell the name of the Sarpanch of village, Nizampur, though as per his deposition, he had attended the alleged panchayat.

Complainant Hameer Singh PW1 has also categorically admitted in his cross examination that no dowry demand or any condition was raised by the accused at the time of marriage.

Satnam Singh PW2, who is none else, but son of the complainant Hameer Singh PW1 and real brother of deceased Baljit Kaur has also admitted in his cross examination that he visited the matrimonial house of sister 4-5 times and she also visited her parental home 5-6 times. His parents had also visited her matrimonial home 3-4 times. Whenever he visited her matrimonial home, she used to serve him tea. On his visit to her matrimonial home or her visit to parental home, she used to tell well being of all including herself. However, he, too, could not tell the date, month or year of the occurrence or the convening of alleged panchayat.

So far, as the visit of Hameer Singh PW1 and Satnam Singh PW2 to the matrimonial home of Baljit Kaur and bringing her back to her parental home, after she told about her harassment and maltreatment on account of demand of gold

and motorcycle by the respondents is concerned, Hameer Singh PW1 has deposed that on 15.11.2012, they had not been called by Baljit Kaur, rather they had gone to her matrimonial home on their own. In their entire testimonies, they remained silent regarding the presence of Jaspal Singh (husband) and his family members on that day.

Nath Singh, who was admittedly an mediator, has stepped into the witness box as DW1 and has specifically deposed that no maltreatment, beating or harassment was ever caused to the deceased or any demand of dowry was ever made. Hence, his deposition falsifies the entire prosecution case.

Receipt of any telephone call on 17.11.2012 by complainant Hameer Singh PW1 from his deceased daughter Baljit Kaur that she was subjected to taunts for bringing motorcycle and gold kara, is also not proved on the record, because there is no evidence that from which specific phone number, it was made and on which number it was received.

Further more, no doctor of Sidhu Hospital was examined by the prosecution. The deceased was initially admitted in the aforesaid hospital and thereafter her dead body was referred to Civil Hospital, Ludhiana for post mortem examination. Non examination of this doctor corrodes the credibility of the prosecution version.

Sukhdev Singh PW3 (Sarpanch) has deposed that the matter was reported to him and the panchayat was convened and the respondents had apologised in the panchayat for their wrongful act. However, he is also silent about the date on which matter was reported to him and on which date the panchayat was convened. Hence, the prosecution has miserably failed to prove the case to the hilt.

Santokh Singh PW6 (Investigating Officer) deposed that during investigation, he found Dalbara Singh and Karamjit Kaur innocent. He has also stated that on his search, at the residence of Jaspal Singh (Husband), no poisoning substance was recovered. Hence, his statement also falsifies the entire prosecution story about giving of some poisonous substance to the deceased by the accused.

The deposition of Dr. Balwinder Singh PW4 that there was no external mark of injury on the dead body of Baljit Kaur at the time of her post mortem examination also falsifies the prosecution story that she was ever beaten up and maltreated by the accused against demand of dowry.

The only irresistible conclusion from aforesaid evidence can be drawn that soon before the death of deceased-Baljit Kaur, she was not subjected to cruelty and harassment by respondent Nos.2 to 6 for or in connection with demand of dowry.

In the light of aforesaid discussion, we find no merit in the present appeal being bereft of any merit and consequently the same is hereby dismissed.

(RAMENDRA JAIN)
JUDGE

May 11, 2015
Kd

(S.S.SARON)
JUDGE