

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.D-604-DB of 2014
Date of Decision: 20.11.2015

Col. (Retd.) Nirbhai Singh Pandher

...Appellant.

Versus

State of UT, Chandigarh and another

...Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. *Whether Reporters of the 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?*

Present: Mr. Rahul Rampal, Advocate
for the appellant.

Mr. A.S. Chauhan, Advocate
for private respondents.

Mr. Karanvir Singh, Advocate for
Mr. J.S. Toor, Advocate
for UT, Chandigarh.

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RAJ RAHUL GARG, J.

Col. Nirbhai Singh Pandher preferred this appeal against acquittal of Karamjit Singh son of Nand Singh Gill and his wife Parminder Gill, parents-in-law of deceased Tikkapreet, daughter of appellant. By way of this very appeal, appellant also sought enhancement of sentence of imprisonment of Bhupinderjit Singh. Appellant assailed the impugned judgement dated 25.10.2010 rendered by learned Additional Sessions Judge, Chandigarh whereby Bhupinderjit Singh, husband of Tikkapreet was convicted for committing the offence under Section 304-B and 498-A IPC whereas parents-in-law of the deceased were acquitted. Vide order of sentence dated 28.10.2010. Bhupinderjit Singh was sentenced to undergo rigorous imprisonment for a period of 10 years under Section 304-B IPC. He was also sentenced to undergo rigorous imprisonment for a period of

two years and a fine of Rs.2000/- for offence punishable under Section 498-A IPC, and in default of payment of fine to further undergo rigorous imprisonment for a period of three months.

Briefly prosecution case is like this; that on 29.1.2001 Nirbhai Singh, complainant gave statement to the police that on 28.2.2000, his daughter Tikkapreet was married to accused Bhupinderjit Singh. In the marriage, dowry articles, ornaments and cash to the tune of Rs.3 lakhs were given so that the bridegroom could purchase requisite articles. However, immediately after the marriage, behaviour of the in-laws of Tikkapreet was not cordial towards her. Bhupinderjit Singh was employed in Bridgestone Tyre Company and was posted at Ludhiana. Tikkapreet used to live with him at Ludhiana. They used to pay visit to parental home of Bhupinderjit Singh at Moga. In the month of April 2000, Bhupinderjit Singh started causing cruelty to Tikkapreet on account of insufficiency of dowry and also used to give beatings to her on that account. Whenever deceased used to complain about the behaviour of Bhupinderjit Singh to her mother-in-law, she also used to taunt her on account of bringing insufficient dowry. Tikkapreet had also written a letter to complainant narrating her sufferings at her matrimonial home. However, she used to be advised to live at her matrimonial home.

As Tikkapreet had failed to fulfil the demands of Bhupinderjit Singh, it is about two and half months prior to the lodging of this complaint, after giving merciless beatings by her husband, she was turned out of her matrimonial home and since then she had been living at her parental home. During the course of her stay at her parental home, Bhupinderjit Singh used to make telephone calls and used to give threats to her. As Tikkapreet as well as her family members were fed up with ill-treatment meted out to them; an offer was made to in-laws of Tikkapreet to get the marriage dissolved so that she could live peacefully. However, they went on postponing the matter. During the night of 28.1.2001, Tikkapreet had received a telephonic call from Bhupinderjit Singh and after that she got perturbed. While talking to complainant, she was looking quite

upset/perplexed. Despite the fact that the complainant had tried his level best to know the details of telephonic conversation of Tikkapreet and Bhupinderjit Singh, she did not reveal the details. She merely disclosed that she was conveyed several words by her husband. On the fateful day i.e. 29.1.2001 at about 8.30 AM, Tikkapreet had left her home for some work. At that time, she was quite perplexed. Even though the complainant had tried his level best to stop her from going outside but she had already left the house. The complainant then went outside in search of her at about 10.00 AM. When he came back home, he found Tikkapreet sitting on sofa in the drawing room. On raising query as to why she had gone outside, she did not give any reply. Immediately thereafter she had gone to the bathroom where she vomited. On seeing her condition, she was immediately taken to Inscol Hospital for treatment where she breathed her last. During the course of treatment, complainant came to know through staff of the hospital that as disclosed by Tikkapreet, she had consumed celphos. Under these circumstances, Tikkapreet committed suicide. On the statement of complainant which is (Ex. PC), FIR (Ex. PE) was registered. Investigation was conducted. Inquest proceedings were initiated. Post-mortem examination on the dead body of Tikkapreet was got conducted vide report (Ex.PU). As per chemical examiner report (Ex.PXX) and histopathology report, death of Tikkapreet had occurred as a result of asphyxia due to aluminum phosphate poisoning. Dead body of Tikkapreet was handed over to her relations vide receipt (Ex. PJ). Statement of witnesses were recorded. In his supplementary statement (Ex.PC), complainant reiterated the allegations levelled in the aforesaid complaint and also stated that whenever Tikkapreet visited her parental home, she used to narrate her sufferings meted out to her at matrimonial home and the fact that her in-laws used to raise demand of Rs.7 lakhs to purchase a car as in their area it was quite prevalent to give big cars in dowry. He also alleged specifically that his daughter Tikkapreet had also narrated to him that her in-laws used to taunt her on account of insufficiency of dowry. The accused was arrested. Dowry articles i.e. double bed etc. were taken into possession vide memo (Ex. PK). Two letters

(Ex.P1 and Ex.P2) written by Tikkapreet were handed over to police by her father and the same were taken into possession vide recovery memo (Ex.PA and Ex.PB). Register (Ex. P3) pertaining to Tikkapreet bearing her notes in her handwriting was also taken into possession vide memo (Ex.PM). Questioned letters (Ex.P1 and Ex.P2) and the register (Ex.PM) were sent to government of India Laboratory, Chandigarh for handwriting identification and to that effect opinion report (Ex.PY) has been obtained. Vide memo (Ex.PN) details of list of dowry articles and photographs etc, were taken into possession by the police. After completion of necessary investigation, the challan was put in court.

Accused was charge-sheeted for committing offence punishable under Section 304-B and 498-A read with Section 34 IPC. After having entire prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded wherein the accused denied each allegation of prosecution and pleaded their innocence. They also examined as many as 9 witnesses in their defence.

After hearing counsel for the parties and appraising evidence and material coming on record, the impugned judgement of conviction dated 25.10.2010 and order on sentence dated 28.10.2010 were passed as set out in the earlier part of the judgement.

We have heard Mr. Rahul Rampal, Advocate for the appellant and Mr. A.S. Chauhan, Advocate for the private respondents and also gone through the records carefully.

It was contended by learned counsel for the appellant-complainant that the learned trial Court has not properly appreciated the evidence against Karamjit Singh and Parminder Gill-accused which resulted in their acquittal. The observations of the learned trial Court that there is tendency to rope in all the relations in such like cases is not correct. It is not applicable at least in this case. There is definite evidence against these two accused with regard to showing dissatisfaction about bringing less dowry and forcing the deceased to bring more dowry. Col. Nirbhai Singh, PW1 categorically stated that all the three accused

started taunting, beating and mal-treating his daughter and were not allowing her to use home telephone to know the health of her ailing mother who was in the USA. She was forced to go to the STD booth for telephone calls. At this Bhupinderjit Singh stated that he does not like the women of his family to go to the STD booth. Accused started discouraging her to talk on mobile phone also. Karamjit Singh used to demand more money from her, stating that her father had retired from senior post and he had the money with him. They also used to insist that property in the name of the deceased should be sold by her and money be paid to them and a new luxury car be given to them. Even Karamjit Singh was involved in several cases. Details of the same have been mentioned in the grounds of appeal. As he was involved in several cases, therefore he used to state that he was not worried and afraid of Court proceedings as he had already faced number of cases in different courts at different places.

Interference in appeal against acquittal would be called for only if the judgement under appeal was perverse or based on misreading of the evidence and merely because the Appellate Court was inclined to take a different view could not be a reason calling for interference. So has been held by the Hon'ble Apex Court in **Ashok Kumar versus State of Rajasthan, 1991 (1) SCC 166**.

It is a case wherein PW1 Nirbhai Singh complainant admitted that parents-in-law of Tikkapreet deceased were living separately at Moga whereas after marriage accused Bhupinderjit Singh and Tikkapreet had been living at Ludhiana. Even in letters (Ex.P1 and Ex.P2), learned trial Court found that Tikkapreet has nowhere mentioned about any incriminating role of parents-in-law in the commission of offence in question. Thus when the parents-in-law had been living separately from Bhupinderjit Singh and Tikkapreet deceased, there was no point for them to cause harassment to the deceased for insufficient dowry and also for raising demand for more dowry. In fact at the time of lodging of report (Ex.PC) with the police, there is no specific role attributed to the parents-in-law of deceased. The allegations levelled in the complaint are general

in nature. There is no mention in the complaint (Ex.PC) as to how much amount was demanded by the parents-in-law of the deceased by way of dowry from the deceased. Even there is no mention in the complaint nor in the supplementary statement of the complainant that parents-in-law ever asked the deceased to bring money since his father had retired from a senior post. Even otherwise, when the parents-in-law have been residing separately from the son Bhupinderjit Singh, with the demand of car, the parents-in-law would not have been benefited in any manner. As such, there was no point for them to demand big luxury car. Bhupinderjit Singh has already been held guilty. Even there is no mention in the complaint as well as in the supplementary statement that accused have been troubling the deceased on the point of making telephonic call to the USA for enquiring about the health of her ailing mother. If that be so, these were simple the wear and tear of day to day life and cannot be termed as causing cruelty to the deceased in any manner. It is settled proposition of law that conduct of accused is not relevant.

From perusal of the FIR numbers mentioned in the grounds of appeal, it appears that Karamjit Singh, father-in-law was having some family dispute regarding property. In case he is or was having any dispute within his family respecting property that would not mean that he is a greedy person or that he would certainly raise demand for dowry from his daughter-in-law. If someone is pursuing his legal right, it cannot be termed as greed on his part.

As such, the findings of acquittal recorded by the learned trial Court respecting the accused Karamjit Singh and Parminder Gill, parents-in-law of the deceased, we do not find that the judgement of learned trial Court is in anyway perverse or based on misreading of evidence.

It was argued by learned counsel for the appellant-complainant that the life of a young and bright lady was brought to an end by the accused within a period of 11 months of marriage by adopting cruel and unethical ways. Tikkapreet remained in her matrimonial home only up to 4.9.2000. During that period, she was made to leave her matrimonial home several times. A mutual

consent divorce and return of dowry items was also agreed between the parties in one of the meetings. Even after 5.9.2000 when Tikkapreet was at her father's house Bhupinderjit Singh used to threaten her personally at her workplace and through frequent telephonic calls. Last threatening telephonic call from Bhupinderjit Singh was made to Tikkapreet on 28.1.2001 which forced her to commit suicide on 29.1.2001. On hearing sad demise of Tikkapreet, her mother who was already fighting with deadly disease of breast cancer in the USA could not bear shock and died there. Thus in one year, complainant had lost two lives. Complainant himself is of the age of 75 years. As such, when the offence against Bhupinderjit Singh stood proved, atleast the sentence of life imprisonment was warranted and as such his punishment of 10 years sentence should be enhanced to the one of life imprisonment.

Though the complainant has tried to bring out the circumstances for enhancement of punishment of Bhupinderjit Singh yet in fact, there is no material on the file to show that 10 years sentence is inadequate.

Of course the broken marriage life may have been the cause for commission of suicide by Tikkapreet yet it cannot be said that this is a reason for enhancement of sentence which the learned trial Court has already awarded after due application of mind. In the matter of sentence as well we find no reason to interfere with the impugned order passed by the learned trial Court.

For the reasons recorded above, finding no merit in this appeal, maintaining the acquittal of accused Karamjit Singh and Parminder Gill, and even finding no merit on the point of enhancement of sentence of Bhupinderjit Singh, this appeal is dismissed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

20.11.2015
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