

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

Crl. Appeal S-2351-SB of 2003

Date of Decision : September 30, 2015

Dharminder Singh and others

.....Appellants

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. Abhishek Yadav, Advocate
as legal aid counsel
for the appellants.
Mr. L.M.Gulati, Advocate also
for appellants No.1, 2 and 4.
Mr. R.K.Handa, Advocate with
Mr. Paramjit Singh Bal, Advocate also
for appellant No.3.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S. MANN, J.

The appellants, namely, Dharminder Singh, Rajinder Singh, Bhupinder Singh and Manjit Kaur were tried for committing the offence punishable under Section 304-B IPC. Vide impugned judgment and order dated 11.12.2003, learned Additional Sessions Judge (Adhoc), Fast Track Court, Ludhiana convicted them for the aforementioned offence and sentenced them to undergo rigorous imprisonment for ten years each. Aggrieved of their conviction and sentence, they filed the present appeal in

which they are currently on bail.

Briefly put, the prosecution case is that Jaspreet Kaur, since deceased, sister of complainant Sukhwinder Singh was married with accused Dharminder Singh in April, 1998. Sufficient dowry was given to her. For about one month after her marriage, she was treated well by her husband Dharminder Singh, brothers-in-law Rajinder Singh and Bhupinder Singh and sister-in-law Manjit Kaur, but thereafter, they started maltreating her for bringing insufficient dowry. They used to quarrel and beat Jaspreet Kaur. She told those facts to her brother Sukhwinder Singh and also to her mother Amarjit Kaur and uncle Charanjit Singh. All the accused raised demand for colour television. However, complainant-Sukhwinder Singh and his family were unable to fulfill their demand. About fifteen days before the occurrence, Jaspreet Kaur alongwith her husband Dharminder Singh went to the house of Baljit Kaur, sister of Dharminder Singh at Muradabad (Uttar Pradesh). Jaspreet Kaur informed Baljit Kaur about the demand raised by the accused. On 29.8.1998, Dharminder Singh and Jaspreet Kaur returned to Ludhiana and on 2.9.1998 they left for Khanna. On 3.9.1998 at about 2.00 p.m. complainant-Sukhwinder Singh went to the house of his sister Jaspreet Kaur at Khanna. However, when he reached in the locality of the accused, he learnt that his sister had

been set on fire by the accused. He was also informed that his sister was taken to Civil Hospital, Khanna. Accordingly, he reached there and came to know that his sister had been referred to Rajindra Hospital, Patiala. The complainant came back to Ludhiana to inform his relatives. On 4.9.1998, complainant Sukhwinder Singh, his widowed mother Amarjit Kaur and uncle Charanjit Singh reached Patiala at 9.00 a.m. and learnt that Jaspreet Kaur had since succumbed to her injuries. Accordingly, on the basis of statement made by complainant Sukhwinder Singh before ASI Tilak Raj, FIR No. 102 dated 4.9.1998 under Section 304-B IPC was registered against the accused at Police Station Khanna.

During the investigation of the case, the dead body of Jaspreet Kaur was subjected to post-mortem in Medical College, Patiala. Statements of the witnesses were recorded. Invitation card Ex. P1 regarding marriage of Jaspreet Kaur with Dharminder Singh was taken into possession after being produced by Vipin Kumar. Scaled site-plan Ex. P2 was prepared by Budh Singh. Upon completion of investigation and presentation of challan followed by commitment of the case to the Court of Sessions, the accused were charged for the offence under Section 304-B IPC to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as

many as twelve witnesses.

PW1 Dr. N.K.Singla, Medical Officer, Civil Hospital, Khanna deposed that on 3.9.1998 Jaspreet Kaur was brought to Civil Hospital, Khanna with burn injuries and he referred her to Rajindra Hospital, Patiala.

PW2 Vipin Kumar deposed that he had printed invitation card Ex. P1 regarding marriage of Jaspreet Kaur with Dharminder Singh.

PW3 Budh Singh deposed that he had prepared scaled site-plan Ex. P2.

PW4 Sukhwinder Singh and PW5 Amarjit Kaur, brother and widowed mother, respectively of deceased Jaspreet Kaur testified about the factum of marriage of Jaspreet Kaur with Dharminder Singh and her maltreatment by the accused. They also deposed that the accused used to harass Jaspreet Kaur and raising demand for a colour television. They further deposed that on 2.9.1998 Jaspreet Kaur and Dharminder Singh left Ludhiana for Khanna and on 3.9.1998 when PW Sukhwinder Singh came to Khanna to visit his sister, he learnt that she had been set on fire by the accused and admitted to Civil Hospital, Khanna from where he came to know about his sister having been referred to Rajindra Hospital, Patiala.

PW6 Parkash Singh testified that on 4.9.1998, he

identified the dead body of Jaspreet Kaur in Rajindra Hospital, Patiala at the time of preparation of inquest report.

PW7 Dr. O.P. Aggawal, Associate Professor, Medical College, Patiala deposed that on 4.9.1998 he conducted post-mortem on the dead body of Jaspreet Kaur and observed as under:-

“The dead body was of a female with burns all over the body. There was smell of kerosene from the body. Strong smell of burning was present on the body. Rigor mortis was present on the body. All the viscerae were congested. The larynx and trachea contained soot and carbon particulars. There was no pregnancy seen in the uterus.”

He further opined that cause of death was due to asphyxia resulting from ante mortem burns which were sufficient to cause death in the ordinary course of nature. He also deposed that the time that elapsed between burns and death was 18 to 24 hours and between death and post mortem 6-7 hours. He also proved on record Ex. PD copy of post mortem report, Ex. PE request of police for conducting post mortem examination, Ex. PE/1 endorsement made by him and Ex. PF inquest report.

PW8 ASI Tilak Raj deposed that on 3.9.1998 he received intimation regarding admission of injured Jaspreet Kaur

in Rajindra Hospital, Patiala. On reaching there, he submitted application Ex. PG to the doctor, who declared Jaspreet Kaur unfit to make statement vide endorsement Ex. PG/1. He also deposed that on 4.9.1998, he received information of death of Jaspreet Kaur and went to Rajindra Hospital, Patiala where complainant Sukhwinder Singh met him and got his statement Ex.PB recorded. He then filed application Ex. PE for post-mortem on the dead body of Jaspreet Kaur. He also deposed about preparing inquest report. He further deposed that he arrested all the accused.

PW9 Constable Tarvinder Kumar testified that he had delivered the special report of the case to the Ilaqa Magistrate on 4.9.1998 at 8.25 p.m.

PW10 Dr. V.K. Aggarwal testified that on 9.9.1998 he medico-legally examined Bhupinder Singh, Rajinder Singh and Manjit Kaur but did not find any external injuries on their persons.

PW11 Constable Vijay Kumar deposed that on receipt of ruqa Ex. PB, he recorded formal FIR Ex. PB/3.

PW12 Dr. Devinder Kumar Jain, Medical Officer, Rajindra Hospital, Patiala testified that he was deputed by the Medical Superintendent, Patiala to prove on record the case history and bed head ticket of Jaspreet Kaur. He also deposed that on 3.9.1998 at 8.30 p.m. Jaspreet Kaur was declared unfit to

make statement and as per record Jaspreet Kaur died on 4.9.1998 at 9.00 a.m.

When examined under Section 313 Cr.P.C., all the accused denied the incriminating evidence which had come on record against them and pleaded their false implication. They raised the plea that due to sudden burst of stove, Jaspreet Kaur received burn injuries for which she was got admitted at Rajindra Hospital, Patiala. Accused Rajinder Singh, Manjit Kaur and Bhupinder Singh further took the plea that they were residing in separate houses and having mess, separate from accused Dharminster Singh.

In defence, they examined DW1 Sukhwinder Kaur, sister of accused Dharminster Singh, who deposed that she was married with Balwinder Singh about twenty two years back and residing with him at Moradabad. She further deposed that all the brothers were residing separately. The accused never maltreated Jaspreet Kaur nor raised any demand. She also deposed that accused Dharminster Singh and Jaspreet Kaur visited Muradabad and stayed with them for four days and both of them were happy with their married life.

DW2 Narinder Singh, Inspector, Food and Supply, Khanna produced the record of ration card of Rajinder Singh accused.

DW3 Ram Partap deposed that Jaspreet Kaur had informed him that while she was preparing tea her dupatta caught fire from the stove and due to that reason she suffered burn injuries. He also deposed that accused Dharminder Singh tried to extinguish the fire and in that process his hands received burn injuries. Further, Dharminder Singh first took her to Khanna from where she was referred to Rajindra Hospital, Patiala.

DW4 Amar Nath, Assistant Librarian, Rajindra Hospital, Patiala deposed that accused Dharminder Singh was admitted in the hospital on 3.9.1998 on account of burn injuries and on the same day, he left the hospital against medical advice but was again admitted in the hospital on 4.9.1998.

DW5 Dr. Gur Partap Singh, Professor and Head of Department, Plastic Surgery, Rajindra Hospital, Patiala deposed that as per record Dharminder Singh accused was admitted in Rajindra Hospital, Patiala on 4.9.1998 and discharged on 19.9.1998 in satisfactory condition. He was having 20% burn injuries.

After hearing learned counsel for the parties and perusing the record, the trial Court believed the prosecution case and, accordingly, convicted and sentenced the appellants, as mentioned above.

Having heard learned counsel for the parties, perusing

the record and on going through the impugned judgment of conviction, this Court finds that the marriage of Jaspreet Kaur was solemnized with Dharminder Singh on 15.4.1998 and within a period of less than five months, Jaspreet Kaur died on account of burn injuries. The death of Jaspreet Kaur was, thus, unnatural and occurred within a short time of her marriage, much less than seven years as contemplated by Section 304-B IPC. At the same time, there is sufficient evidence on the file that the accused had been maltreating and harassing Jaspreet Kaur for bringing insufficient dowry. Even there was a demand by the accused for a colour television from deceased Jaspreet Kaur. As such, Jaspreet Kaur used to be subjected to cruelty and harassment by the accused for or in connection with demand of dowry.

An attempt has been made by the defence to wriggle out of the charge under Section 304-B IPC for the reason that there was unexplained delay of twenty four hours in lodging of the FIR. In this regard, reference has been made to statement Ex.PB made by PW4 Sukhwinder Singh-complainant, brother of deceased Jaspreet Kaur on 4.9.1998 at 12.00 p.m. in Rajindra Hospital, Patiala before ASI Tilak Raj on the basis of which FIR Ex. PB/3 under Sections 304-B/34 IPC was registered at Police Station City, Khanna on 4.9.1998 at 1.40 p.m. whereas the occurrence had taken place on 3.9.1998 at 1.30 p.m. as recorded

in the bed head ticket Ex. P12/B. According to the defence, the delay in lodging of FIR had been used by the complainant party to come up with a false version. However, it may be noticed that soon after the occurrence, Jaspreet Kaur, who had suffered burn injuries, was got admitted in Civil Hospital, Khanna and, thereafter, referred to Rajindra Hospital, Patiala. It is in the testimony of PW4 Sukhwinder Singh that his sister Jaspreet Kaur and her husband Dharminder Singh had returned to Ludhiana from Moradabad after staying there with Dharminder Singh's sister. On her return, Jaspreet Kaur had told him that she had confided in her husband's sister to do some thing as the accused used to taunt her for not bringing sufficient dowry and the accused were also raising a demand for a colour television. He further stated that his sister and her husband Dharminder Singh then left for Khanna, on 2.9.1998 itself. On the following day i.e. 3.9.1998, he went to the house of his sister at Khanna but before he could enter the house, he learnt that his sister had been burnt by the accused and taken to Civil Hospital, Khanna. Accordingly, he went to Civil Hospital, Khanna and came to know that she had already been referred to Civil Hospital (Rajindra Hospital), Patiala but before he could reach there, his sister had died. It has also come in the testimony of PW8 ASI Tilak Raj that on receipt of information from Rajindra Hospital, Patiala with regard to admission of Smt.Jaspreet Kaur, he went to the said hospital and

moved application Ex. PG with regard to the fitness of the injured but the doctor vide endorsement Ex. PG/1 opined that she was not fit to make statement. The said opinion was obtained by ASI Tilak Raj on 3.9.1998 at 8.30 p.m. By that time, complainant Sukhwinder Singh had not reached Rajindra Hospital, Patiala. On 4.9.1998 at about 9.00 a.m., Jaspreet Kaur died in Rajindra Hospital, Patiala as has been deposed to by PW12 Dr. Devinder Kumar Jain. PW4 Sukhwinder Singh has deposed that after reaching Khanna and coming to know that his sister had been referred to Civil Hospital, Patiala, he went back to his house to inform his relatives and, thereafter, he alongwith his mother and uncle Charanjit Singh went to Patiala and on reaching Civil Hospital (Rajindra Hospital), Patiala, he learnt about his sister Jaspreet Kaur having since passed away. Soon thereafter i.e. on 4.9.1998 at 12.00 p.m., complainant Sukhwinder Singh made statement on the basis of which FIR came to be registered at 1.40 p.m. at Police Station City, Khanna. Even the special report had reached the Ilqa Magistrate on 4.9.1998 at 8.25 p.m. By the time, the complainant had left Khanna after coming to know that his sister Jaspreet Kaur had been taken to Rajindra Hospital, Patiala, he did not know that his sister was quite serious having sustained burns all over on her body. In such a situation, his anxiety would be to inform his mother and other relatives and, thereafter, to visit Rajindra Hospital, Patiala but by the time, he

reached there, Jaspreet Kaur had already breathed her last. Under these circumstances, it cannot be said that the police had been intimated about the occurrence after a delay or the delay, if any, had been used by the complainant to come up with a false version.

In view of the above, the prosecution has been able to establish that it was a case of dowry death which makes the offender liable under Section 304-B IPC. However, at the same time, it may be noticed that the prosecution has not been able to convince the Court about the involvement of accused Bhupinder Singh and Manjit Kaur in the crime. According to the defence, Dharminder Singh and his two brothers, namely, Rajinder Singh and Bhupinder Singh used to reside separately as has been testified by DW1 Sukhwinder Kaur. Even DW2 Narinder Singh, Inspector, Food and Supply, Khanna while referring to the record deposed that in the ration card Ex. D1 of accused Rajinder Singh, only the names of his wife Manjit Kaur and children Akashdeep Singh, Gagandeep Singh and Tarundeep stood entered. DW3 Ram Partap also deposed that accused Rajinder Singh was residing separately from his brother Dharminder Singh. Similarly, accused Bhupinder Singh was also residing separately from accused Dharminder Singh. However, Sukhwinder Kaur DW1, sister of Dharminder Singh, Rajinder Singh and Bhupinder Singh

accused admitted in her cross-examination that there was only one house of her parents. Apparently, the three brothers were residing in one house but in separate portions thereof. It has also come on the record that accused Bhupinder Singh was unmarried at the time of the occurrence. Further, PW4 Sukhwinder Singh had testified that Bhupinder Singh did not attend the marriage of Dharminder Singh and his name was also not mentioned in the wedding card. That be so, then it was highly unlikely on his part to harass the deceased in connection with dowry or demanding a colour television. Similarly, accused Manjit Kaur was having same status in the family as was of deceased Jaspreet Kaur. She was not expected to maltreat Jaspreet Kaur, who happened to be her husband's brother's wife. Under these circumstances, the two convicts, namely, Bhupinder Singh and Manjit Kaur deserve the benefit of doubt in regard to their involvement in the commission of the crime.

The occurrence in question had taken place more than seventeen years back. Taking into consideration the totality of the circumstances, a case is made out for reducing the sentence of imprisonment of Rajinder Singh appellant to seven years, being brother-in-law of the deceased whereas the sentence of imprisonment of ten years awarded to Dharminder Singh appellant, husband of the deceased is perfectly in order.

Resultantly, the conviction of Dharminder Singh and Rajinder Singh-appellants under Section 304-B IPC is upheld. The sentence of imprisonment of ten years imposed upon Dharminder Singh-appellant is maintained. However, the sentence of imprisonment of Rajinder Singh-appellant is reduced from ten years to rigorous imprisonment for seven years. The conviction and sentence of Bhupinder Singh and Manjit Kaur appellants is set-aside and they are acquitted of the charge against them.

The appeal is, accordingly, disposed of.

September 30, 2015
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(T.P.S. MANN)
JUDGE