

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-559-DB-2003 (O&M)
Date of decision: 12.7.2016

Khushi Ram and others
...Appellants

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR.JUSTICE M. JEYAPPAUL
HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Vinod Ghai, Sr.Advocate with
Mr.SS Sandhu, Advocate for the appellants

Mr.Ashok Muthreja, Deputy Advocate General, Haryana

SNEH PRASHAR, J.

Appellants Khushi Ram, Ramanand and Lal Kaur having
been found to be legally accountable for the death of Poonam wife of
Ramanand, as it was proved to be a case of dowry death, were held
guilty for commission of offence under Sections 304-B and 498-A of
the Indian Penal Code and were sentenced as under:-

U/s 304-B IPC	To undergo imprisonment for life
U/s 498-A IPC	To undergo rigorous imprisonment for three years each and fine of Rs.5000/- each and in default of payment of fine, the accused shall further undergo rigorous imprisonment for a period of six months.

The substantive sentences shall run concurrently.

Assailing the judgment of conviction dated 2.6.2003 and order of sentence dated 4.6.2003 passed by learned Sessions Judge, Gurgaon, the appellants preferred the instant appeal.

The case with regard to death of Poonam was registered on the allegations contained in the First Information Report registered on the statement of Raghubir Singh (paternal uncle of the deceased). He stated that his brother Balbir Singh had four daughters amongst whom Poonam was the youngest. She was married with Ramanand of Noorpur on 11.5.1999 as per Hindu rites. Jagmal Singh was the mediator in the marriage alliance. The parents of Poonam gave sufficient dowry, which included valuable articles like scooter, refrigerator, cooler, colour television, sofa set, machine, other household articles, gold ornaments weighing 15 tolas and cash amount of Rs.51,000/- at the time of marriage. In addition to it, an amount of Rs.1½ lac was spent on marriage ceremonies and reception of marriage party etc. Still, the in-laws of Poonam were not satisfied.

After three days of the marriage, his (complainant's) son Satbir alongwith Harbir s/o Maha Singh went to the matrimonial home of Poonam but to them Khushi Ram father-in-law, Lal Kaur mother-in-law and Ramanand husband of Poonam expressed annoyance for not giving a Car and Rs.one lac in cash in dowry at the time of marriage. They refused to send Poonam and asked them to call the father and paternal uncle of Poonam to take her with them. Satbir and Harbir

came back and told about the entire conversation to him (complainant) and his brother Balbir Singh. They both alongwith Attar Singh s/o Dhanna Ram then went to the matrimonial home of Poonam to bring her and in their presence, the aforesaid persons as well as Mahender Kumar brother and Babli @ Santosh sister of Ramanand reiterated demand for a Maruti car and Rs.one lac in cash. They expressed their inability and tried to make them understand and ultimately, Poonam was allowed to accompany them. After about 20 days thereof, Ramanand came and took Poonam back to the matrimonial home. She stayed there for one month and when she again came to her parental home, she cried and informed her parents and uncle etc. that she was being maltreated and physically assaulted by her husband, parents-in-law and sister -in-law etc. on account of their demand for additional dowry i.e. a Car and cash amount of Rs.one lac. He (complainant) and his brother called the in-laws of Poonam and again tried to explain their position and on their assurance that there would be no problem in future, Poonam was again sent to her matrimonial home.

On 29.10.1999, Poonam informed Jagmal Singh that she was being beaten by her husband and her in -laws for bringing more gifts and dowry. On 30.10.1999, he (complainant) and his brother Balbir Singh alongwith Jagmal Singh went to the matrimonial home of Poonam. She weeped bitterly and told them about the torture she was facing at the hands of her in-laws on account of their demand for a car

and cash amount as additional dowry. They talked to her parents-in-laws and husband, who admitted their fault and assured that she will not face any kind of harassment in future. However, on 31.10.1999, they received an intimation on telephone that Poonam had been killed by her in-laws. On receipt of information, they went to Noorpur and on enquiry, were satisfied that his (complainant's) niece Poonam had either been killed by Khushi Ram, Lal Kaur, Ramanand and Babli @ Santosh or she had herself committed suicide due to the torture she was facing at the hands of her in-laws.

On completion of investigation and other formalities the appellants alongwith Mahender Kumar and Babli @ Santosh were challaned and sent to the Court for trial. They were charge-sheeted for the commission of offence under Sections 406/498-A of IPC and Section 5 & 6 of the Dowry Prohibition Act, to which they pleaded not guilty and claimed trial.

As many as ten witnesses were examined by the prosecution to substantiate the charges, namely PW1 Raghubir Singh, complainant (paternal uncle of the deceased), PW2 Ghanshyam Dass, Photographer, PW3 Balbir Singh (father), PW4 Harbir s/o Maha Singh, PW5 Jagmal Singh (mediator), PW6 Dr.S.K.Sharma, SMO, PW7 Naresh Kumar Draftsman, PW8 LC No.796 Daya Kaur, PW9 HC Prem Chand, PW10 R.S. Kharb, Sub Divisional Magistrate, Gurgaon, PW11 Fateh Singh, Deputy Superintendent of Police,

PW12 SI Rakam Singh, PW13 Nando Devi (mother) and PW14 ASI Daya Ram.

After closure of prosecution evidence, in their statements recorded under Section 313 Cr.P.C., appellants-accused denied the incriminating evidence of the prosecution put to them and pleaded false implication.

In their defence, the appellants examined DW1 Rupinder Singh, DW2 Gulshan Grover, Headmistress, Govt. High School, Badshahpur and DW3 Mangat Ram. Considering the arguments advanced by learned Public Prosecutor for the State and learned counsel representing the appellants- accused and analyzing the evidence available on record, learned trial Court held the appellants guilty and convicted and sentenced them as indicated above, whereas Mahender Kumar and Babli @ Santosh were acquitted of the charges.

Feeling aggrieved, the convicts (appellants) preferred the instant appeal.

The submissions made by Mr.Vinod Ghai, Senior Advocate representing the appellants and Mr.Ashok Muthreja, Deputy Advocate General, Haryana have been heard and record perused.

To begin with learned counsel for the appellants argued that lodger of the First Information Report was paternal uncle of the deceased and not her father or mother, who only could be having first hand information about the complaint, if any, the deceased was having

against her parents-in-law and husband. The entire allegations were general in nature. The allegation against the parents-in-law was identical to the allegation against the brother-in-law Mahender Kumar and unmarried sister-in-law Babli @ Santosh. Learned trial Court found the allegation qua the brother-in-law and the sister-in-law as false and acquitted them. Learned counsel contended that in such cases, the trend is to implicate all the members of the in-laws' family with an intention to harass them. When the allegation of demand of dowry or maltreatment of the deceased on that account, was found to be false against the brother-in-law and sister-in-law, there was no reason to believe the same to be true against the parents-in-law, who were old persons and could derive no benefit by demanding a Car or cash amount in dowry from the parents of their daughter-in-law.

Assailing the credibility of the witnesses on whom rested the prosecution version, learned counsel urged that they all were near relatives of the deceased and members of the same family. Even mediator PW5 Jagmal Singh was close relation of father of the deceased. Since, they all were interested witnesses, their testimony not corroborated by any other independent and material evidence, could not be accepted as gospel truth. They also made material improvements during their deposition, which prove the extent of hostility nurtured by them against the appellants because of which,

they had chosen to implicate them falsely. It was consistently admitted by the complainant PW1 Raghubir Singh (paternal uncle), PW3 Balbir Singh (father) and PW13 Nando Devi (mother of the deceased) that no demand for any article was raised by the appellants at the time of marriage. As such, there was no occasion for the appellants to demand any article from the deceased after the marriage when she had come to the matrimonial home.

As against the prosecution version, learned counsel pointed out, the stand taken by the appellants in defence was that while deceased Poonam was a girl aged 19/20 years, appellant Ramanand, with whom she was married, was a man aged around 33 years. He also lacked good looks. The deceased was dissatisfied with her husband due to contrast in their personalities. She was also unable to adjust in her in-laws' family, as they were living in a village. Therefore, out of frustration she committed suicide and her parents falsely held the appellants accountable for her death.

Learned Deputy Advocate General for the State submitted that there being specific and direct allegations of demand of dowry and harassment of the deceased against the appellants, they had been rightly convicted and sentenced.

Indeed, the arguments of learned counsel for the appellants do not appear to be forceful and convincing to us. The marriage of deceased Poonam with Ramanand was solemnized on

11.5.1999. She was residing at the matrimonial home where on 31.10.1999 she died in mysterious circumstances. It is on the same day that on the basis of complaint Ex.PA given by her paternal uncle Raghubir Singh that the instant case was registered. Narrating the instances, which indicate that Poonam was being harassed, humiliated and physically assaulted by the appellants on account of their demand for additional dowry, the complainant Raghubir Singh outrightly stated that his niece had either been killed by the appellants or she had committed suicide due to the torture she was being subjected to by her husband and in-laws. The fact that the paternal uncle of the deceased and not her father was the lodger of the First Information Report is immaterial, since all the instances of ill treatment and demand of dowry stated by him were in his personal knowledge.

Complainant PW1 Raghubir Singh and PW3 Balbir Singh, father of the deceased unequivocally stated that the appellants ventilated their grievance with regard to inadequacy of dowry at the time of departure of 'Doli' and also at the time when just after three days of marriage they both went to the matrimonial home of Poonam at Noorpur to bring her to the paternal home, because Satbir and PW4 Harbir, who had first gone to bring her had been turned away by the appellants. They also consistently stated that after about 20 days, Ramanand came and took Poonam back to the matrimonial home. After staying with her husband for one month, when Poonam again

visited her paternal home, she cried before them, her mother and paternal aunt and told that she was being physically assaulted by her husband, father -in-law and mother-in-law etc. and they had told her that it would be difficult for her to pass time in their house unless she brings a Maruti car and cash of Rs.one lac in dowry from her parents.

It is further in the statements of the aforesaid witnesses PW1 and PW3 that on 29.10.1999, they were informed by PW5 Jagmal Singh resident of Badshapur, who was mediator in the marriage of Poonam with Ramanand that despite assurance by in-laws of Poonam, she was still being harassed and beaten on account of demand of dowry. On 30.10.1999 they alongwith Jagmal Singh went to Noorpur, the matrimonial home of Poonam, where again she wept, embarrassed them and told that the appellants were behaving with her in most cruel manner as their demand was not fulfilled. They tried to make the appellants understand but they persisted on their demand and at the same time assured not to harass Poonam. Consoled by their assurance, they came back but on the very next day i.e. 31.10.1999, they received a telephonic message from PW5 Jagmal Singh regarding death of Poonam.

Harbir first cousin of deceased Poonam with one Satbir, who had gone to bring her to the matrimonial home after three days of the marriage and in the presence of whom, the appellants had refused to send Poonam and had openly demanded Maruti car and cash Rs.one

lac, appeared as PW4. Jagmal Singh, mediator, who also had personal knowledge that the deceased was being ill treated and physically assaulted on account of demand of dowry by the appellants stepped into the witness box as PW5. Both PW4 Harbir and PW5 Jagmal Singh proved the said facts and corroborated the version of complainant PW1 Raghubir Singh. No doubt all said witnesses were close relations of the deceased but only they were the relevant and material witnesses, who knew about the agony of the deceased and to whom the appellants had repeatedly ventilated their demand. Needless to say that such like offences i.e. harassment of daughter-in-law by the in-laws on account of demand of dowry, would always take place within the fourwalls of the matrimonial home. It would not only be difficult but almost improbable to examine independent/neutral person from the neighbourhood as even if they would know the facts, they would be reluctant to come forward and speak about the same fearing annoyance of the offender family.

As observed above, Poonam met an unnatural death just after 5½ months of her marriage. There are specific and direct allegations that the appellants, who are father-in-law, mother-in-law and husband of the deceased were ill-treating her on account of their demand of dowry for a Car and Rs.one lac in cash. They may not have raised the demand during solemnization of ceremonies of the marriage but it has come in evidence that they had expressed their grievance

regarding inadequacy of dowry at the time of departure of 'Doli'. Subsequent to that they carried on to reiterate and express their demand to the deceased as well as to her paternal family on every occasion and as their demand was not fulfilled, they ill treated and tortured her to the extent that she was forced to end her life.

There appears no force in the defence set up by the appellants that the deceased felt that the appellant Ramanand was no match for her because he was dark complexion and much older in age to her. Had the deceased girl been so outspoken, she would not have agreed for the marriage alliance or would not have returned to the matrimonial home once she was brought to her paternal home by her father and paternal uncle. The prosecution witnesses stated that when on receipt of information regarding death of Poonam, they reached the house of the appellants, none out of her in-laws' family was present in the house. After autopsy also the dead body of the deceased was handed over to her parental family, which also indicates that immediately after the deceased died the appellants fled away from the house.

From the facts and circumstances discussed above, it is clear that all facts sufficient for proving the commission of offence by the appellants under Sections 304-B and 498-A IPC were successfully proved by the prosecution, which are the circumstances in which the deceased died were not normal. The death occurred within seven years

of her marriage. The deceased was subjected to cruelty and harassment by the appellants in connection with their demand of dowry.

Accordingly, the appellants being legally accountable for the death of Poonam were rightly convicted and held guilty for the commission of offence under Sections 498-A and 304-B of IPC and therefore, the judgment dated 2.6.2003 to the said effect of learned Trial Court calls for no intervention and is upheld.

Coming to the order of sentence dated 4.6.2003 passed by learned Trial court, appellant No.1 Khushi Ram and appellant No.2 Lal Kaur are stated to be 77 years and 75 years old respectively. They are concededly very old and infirm persons. The case does not seem to be rarest of rare cases calling for extreme penalty i.e. life imprisonment. Considering all aspects, the sentence awarded to the appellants under Section 304-B IPC is reduced to seven years rigorous imprisonment. As far as sentence under Section 498A of IPC is concerned that will remain the same, but of course the substantive sentences shall run concurrently.

Accordingly, the appeal is dismissed with modification in the order of sentence as noted above.

(M. JEYAPPAUL)
JUDGE

(SNEH PRASHAR)
JUDGE

12.7.2016
gsv

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Whether speaking/ reasoned? Yes/No

Whether reportable? Yes/No