

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-D-1224-DB-2013

Date of decision: 09.02.2016

Jaswinder Kaur

..... Appellant

Versus

Gurpreet Singh and others

..... Respondents

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

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. Deepal Choudhary, Advocate
for the appellant.

Mr. BS Sidhu, Advocate
for respondents No. 1 and 2.

Dr. Deipa Singh, Addl. A.G. Punjab.

RAMENDRA JAIN, J.

Being aggrieved, the complainant has preferred the present appeal against the judgment dated 23.05.2013, passed by the learned Sessions Judge, Sri Muktsar Sahib acquitting respondent No. 1-Gurpreet Singh and respondent No. 2-Shinder Kaur @ Jaswinder Kaur under Sections 304-B and 306 of the Indian Penal Code (IPC).

2. Briefly stated, on 22.02.2015, PW-5 Jaswinder Kaur (appellant herein) made a complaint Ex. PJ to the police that her daughter Sukhpreet Kaur (since deceased) was married with respondent No. 1,

around one year ago. After the marriage, respondent No. 1-husband and respondent No. 2 her mother-in-law were quarreling and harassing her daughter on the pretext that she was not of their liking. On that day, she visited the matrimonial house of her daughter and came to know that her daughter had consumed some poisonous substance, being fed up from her husband and mother-in-law. Her daughter was admitted in the hospital of Dr. Sukhwinder Singh at Sri Muktsar Sahib, from where she was referred to a Hospital at Bathinda, but she died on the way. Hence, the appellant-complainant brought the dead body of her daughter to her own village Kot Sukhia and made deliberations with her family members. Since her daughter had consumed some poisonous substance, therefore, it was decided to get registered a case. Initially, the case was registered under Section 306 read with Section 34 IPC. Subsequently, Section 304-B IPC was also added. Inquest proceedings were conducted. Post-mortem examination on the dead body of Sukhpreet Kaur, was got conducted. Her viscera was sent to the Forensic Science Laboratory (FSL). On receipt of report of Chemical Examiner Ex. PG, Chloro Compound group of insecticide was found in the viscera, on the basis of which PW-4 Dr. Dupinder Kumar gave his opinion Ex. PH that the cause of death of Sukhpreet Kaur was on account of poisoning. Respondents No. 1 and 2 were arrested. After completion of investigation, final report under Section 173 Cr.P.C. was presented against them before the learned Area Magistrate.

3. On commitment of the case by the learned Chief Judicial Magistrate, the learned Sessions Judge, Sri Muktsar Sahib,

charge-sheeted respondents No. 1 and 2 under Section 304-B and in alternative under Section 306 IPC, to which they pleaded not guilty and claimed trial.

4. The prosecution in support of its case examined as many as 10 witnesses.

5. PW-1 Dr. Sukhwinder Singh, testified that on 22.02.2012 Sukhpreet Kaur (deceased) was admitted in his hospital at the first instance as a case of insecticide poisoning.

6. PW-2 Jasbir Singh, father of deceased Sukhpreet Kaur testified that respondents No. 1 and 2 had been treating his daughter nicely. They never asked her that she was not of their liking. His daughter had died on account of eating a Guava which was sprayed with some insecticide. He was declared hostile by the learned Public Prosecutor. However, in his cross-examination, nothing favourable to the prosecution could be elicited from his mouth.

7. PW-3 Baljit Singh, Sarpanch, also turned hostile. He simply testified that he had given a wrist watch as a gift at the time of marriage of the deceased, while denying that the said wrist watch was given by him to PW-5 Jaswinder Kaur, who had further handed over the same to her son-in-law respondent No. 1.

8. PW-4 Dr. Dupinder Kumar, had given opinion Ex. PH that the cause of death was due to poisoning (chloro compound insecticide).

9. PW-5 complainant-Jaswinder Kaur, fully supported the prosecution case. However, she made some improvements in her deposition which shall be discussed in the later part of the judgment.

10. PW-6 HC Balwinder Singh and PW-9 HC Gurjant Singh, simply tendered their duly sworn-in affidavits Ex. PK and Ex. PP, respectively.

11. PW-7 HC Joginder Singh, stated to have witnessed the arrest of respondents No. 1 and 2. He also testified that during the course of interrogation, dowry articles were recovered from the house of respondent No. 1 vide recovery memos Ex. PM and PN.

12. PW-8 ASI Chanchal Singh is stated to have moved application Ex. PC before PW-1 Dr. Sukhwinder Singh, seeking opinion regarding fitness of deceased Sukhpreet Kaur to make statement, whereupon the aforesaid doctor vide his endorsement Ex. PC/1 declared her unfit for the said purpose.

13. PW10 ASI Pritam Singh is the Investigating Officer. He deposed about the arrest of respondents No. 1 and 2 and the steps taken by him during investigation.

14. After the closure of prosecution evidence, statements of respondents No. 1 and 2 under Section 313 Cr.P.C. were recorded, putting entire incriminating evidence brought on record against them which they denied and pleaded their innocence.

15. Respondent No. 1 took the defence that he had not committed any offence. He was innocent as he never demanded any dowry from his wife or his parents-in-law before or after the marriage. He never treated his deceased wife with cruelty. His deceased wife had not committed suicide nor he forced her to do so. In fact, he along with his deceased wife was living separately from his family being servant of

Bhai Gogi at Sri Muktsar Sahib for the last 8-9 months. They were living in a servant quarter of said Bhai Gogi in his agricultural farm, who was a landlord and used to keep pesticides for spray on crops and garden outside the farm house. On the alleged day of occurrence, he was away from the house in the fields of Bhai Gogi. The incident took place in his absence. He came to know from his neighbour Pritam Singh that his wife was vomiting due to poisoning. Resultantly, he informed his parents as well as parents of his wife. His deceased wife used to take fodder from the fields for their cattle and answer the call of nature in the fields. She might have come into contact with some pesticide accidentally in the fields.

16. In defence, respondents No. 1 and 2 examined DW-1 Naib Singh and DW-2 Pritam Singh, who deposed that respondent No. 1 along with his wife started living separately from his family members after two months of marriage. The relations between them were cordial.

17. After hearing learned counsel for the parties and scanning the evidence on record, the learned Sessions Judge, Sri Muktsar Sahib, acquitted both respondents No. 1 and 2 vide the impugned judgment.

18. Learned counsel for the appellant-complainant argued that the impugned judgment is based on surmises and conjectures. The learned trial Court has failed to appreciate and consider the evidence of the appellant-complainant duly corroborated by other PWs in a right perspective. It had come on the record that Sukhpreet Kaur (deceased) was always taunted and maltreated by the respondents No. 1 and 2. The appellant-complainant as PW-5 had categorically deposed that her

deceased daughter had brought to her notice many a time that both the respondents were taunting her for bringing less dowry and also that she was not of their liking. Sukpreet Kaur (deceased) had requested the appellant-complainant many a time to take her back as respondent No. 1- her husband was threatening to kill her. Learned trial Court has failed to take note of all the above facts. With these broad submissions, he prayed for conviction of both the respondents.

19. On the other hand, learned counsel for respondents No. 1 and 2, vehemently opposed the above arguments.

20. We have given our thoughtful consideration to the submissions made by learned counsel for the parties and also perused the records.

21. The appellant-complainant-Jaswinder Kaur in her complaint Ex. PJ alleged that her daughter Sukhpreet Kaur (deceased) was maltreated and harassed by her in-laws i.e. respondents No. 1 and 2 on the pretext that she was not of their liking. However, as PW-5 she did not utter a single word in this regard. She made a summersault to her said earlier version. She deposed about demand of dowry from her daughter by respondents No. 1 and 2. She also deposed that respondents No. 1 and 2 used to maltreat and beat her daughter for bringing less dowry. Her daughter used to tell her about her maltreatment. She was confronted with her earlier statement Ex. PJ, where no allegation qua demand of dowry and maltreatment of the deceased was levelled by her against respondents No. 1 and 2. Hence, the entire story of prosecution being contradictory in itself has rightly been ignored by the learned trial Court.

22. As discussed above, PW-2 Jasbir Singh, father of Sukhpreet Kaur (deceased) has completely exonerated both respondents No. 1 and 2 by testifying that his deceased daughter was kept nicely by them. They did not ever state that his deceased daughter was not of their liking. In a way PW-2 Jasbir Singh has belied the statement of his wife appellant-complainant, Jawinder Kaur (PW-5) in toto. This witness has gone to the extent of saying that his deceased daughter had consumed a Guava which was sprayed with some insecticide and as a result thereof, she had died. He was declared hostile, but in his cross-examination by learned Public Prosecutor, nothing favourable to the prosecution could be elicited from his mouth.

23. The appellant-complainant as PW-5 had introduced a story that PW-3 Baljit Singh, Sarpanch of the village had given her a wrist watch as a gift which she had further gifted to respondent No. 1 at the time of marriage. However, PW-3 Baljit Singh, did not support her by testifying that, in fact, he had given the wrist watch as a gift to respondent No. 1 at the time of his marriage with Sukhpreet Kaur (deceased). He too was declared hostile. However, the learned Public Prosecutor, could not extract anything favourable to the prosecution from his mouth.

24. As far as recovery of dowry articles vide recovery memos Ex. PM and PN is concerned, nothing has been brought on record to prove that the said articles were recovered in pursuance of any disclosure statement made by respondents No. 1 and 2, because no such statement was ever reduced into writing. Hence, recovery of some articles from respondents No. 1 and 2 was not sufficient to conclude that the same

were dowry articles. Even otherwise, there is no evidence on record that any dowry article was ever given at the time of marriage of deceased with respondent No. 1, because no such list was prepared. Even no bill or receipt of the dowry articles was ever proved on record. More so, the alleged recovery of dowry articles in the presence of PW-2 Jasbir Singh is falsified, because he did not support the prosecution version. He categorically denied that he had accompanied the police to the house of respondent No. 1 and any dowry article was recovered at his instance.

25. There is no evidence on record that any conduct of both the respondents towards the deceased was abusive and sufficient to abet her to commit suicide. More so, it has not been brought on record that on what occasion, respondents No. 1 and 2 had said to the deceased that she was not of their liking.

26. The matrimonial discord between the deceased and her husband-respondent No. 1 is not sufficient to arrive at a conclusion that both the respondents had abetted the deceased to commit suicide. Hence, in the absence of any sufficient material on record, the learned trial has rightly acquitted respondents No. 1 and 2.

27. There is no infirmity or illegality in the impugned order.

28. In view of the above discussion, the instant appeal is completely devoid of any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

February 09, 2016

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