

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-AD-135-2015 (O&M)

Date of decision: 01.04.2016

Surjit Singh

..... Appellant

Versus

Nirmal Kaur @ Nimmo 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. D.S. Pheruman, Advocate
for the appellant.

RAMENDRA JAIN, J.

Complainant-Surjit Singh (appellant herein) has preferred the present appeal for conviction of respondents under Section 304-B read with Section 34 of the Indian Penal Code (IPC) by setting aside the impugned judgment dated 25.09.2015, passed by the learned Additional Sessions Judge/Exclusive Court, Amritsar.

2. In nutshell, appellant had solemnized the marriage of his daughter Dalbir Kaur (since deceased) with convict-Nanak Singh, resident of Bhutanpura (Dalla Rajputan). Respondents No. 1 and 3

namely, Nirmal Kaur @ Nimmo and Bau Singh are the maternal aunt and uncle respectively of said Nanak Singh. Respondent No. 3-Ajit Kaur @ Jeeto is his grand-mother. After the marriage, Nanak Singh and the respondents started taunting his deceased daughter-Dalbir Kaur for bringing less dowry. They also used to beat her. Around 8.00 A.M. on 24.05.2014, on receipt of information about beating of his daughter at the hands of the respondents and her husband, the appellant along with his brothers Gurmeet Singh and Uddam Singh had reached her matrimonial home and found his daughter lying dead having froth coming out from her mouth. None of the respondents and her husband-Nanak Singh were found present there.

3. On these broad allegations, a case was registered. Inquest proceedings and post-mortem examination on the dead body of Dalbir Kaur was got conducted. Convict-Nanak Singh was arrested. Statements of relevant witnesses were recorded. During investigation, the respondents were found innocent and, thus, the final report under Section 173 Cr.P.C. only against convict-Nanak Singh was presented before the Area Magistrate.

4. Upon an application under Section 193 Cr.P.C., the respondents were summoned by the learned trial Court as additional accused and were charge-sheeted under Section 304-B read with Section 34 IPC along with convict-Nanak Singh to which they pleaded not guilty and claimed trial.

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

6. PW-1 Complainant-Surjit Singh and PW-2 Udham Singh, supported the prosecution case in its entirety.
7. PW-3 HC Balwinder Singh, testified about post-mortem examination on the dead body of Dalbir Kaur by moving application Ex. PW-3/A, on being handed over to him by HC Gurmit Singh. He further testified about handing over of clothes of the deceased to him by the doctor and further delivery of the same to the Investigating Officer vide memo Ex. PW-3/B, besides delivery of sealed parcel containing viscera of the deceased to the FSL authorities in intact condition, on being handed over to him by MHC Nachhatar Singh.
8. PW-4 Dr. Hira Lal Khullar, proved the post-mortem report Ex. PW-4/A.
9. PW-5 HC Ranjodh Singh, testified about the arrest of convict-Nanak Singh by ASI Kulbir Singh on 11.06.2014.
10. PW-6 HC Nachhatar Singh, through his affidavit Ex. PW-6/A testified about depositing of case property with him by the Investigating Officer in the police station at Ajnala and further sending the sending the same to the FSL authorities through HC Balwinder Singh (PW-3).
11. PW-7 Gurmit Singh, Draftsman, proved the scaled site plan Ex. PW-7/A of the place of occurrence prepared by him at the instance of complainant.
12. PW-8 Baldev Singh, testified about the marriage of deceased-Dalbir Kaur with convict-Nanak Singh on 10.01.2014.
13. PW-9 HC Gurbinder Singh through his affidavit Ex. PW-9/A

testified about the delivery of special reports to the learned Illaqa Magistrate as well as to the senior police officers on 24.05.2014 without any delay.

14. PW-10 ASI Kulbir Singh (wrongly shown as PW-9 in the impugned judgment due to typographical error) testified about the steps taken by him during investigation.

15. After closure of the prosecution evidence, statements of respondents and convict-Nanak Singh under Section 313 Cr.P.C. were recorded, putting entire incriminating evidence brought on record against them which they denied and pleaded their false implication.

16. In their defence, they examined DW-1 Surinder Singh, a co-villager, DW-2 Mula Singh, Member Panchayat and DW-3 DSP Harinderpal Singh.

17. After perusing the evidence brought on record and hearing learned counsel for both the sides, the learned trial Court did not find any material to convict the respondents and resultantly, acquitted them vide the impugned judgment.

18. Learned counsel for the appellant contended that the impugned judgment qua acquittal of the respondents is erroneous, because there was sufficient evidence on record, proving their active participation and complicity along with convict-Nanak Singh in the death of Dalbir Kaur. The learned trial Court has erred in ignoring the testimony of appellant-Surjit Singh (PW-1), duly corroborated by PW-2 Udham Singh that his daughter-Dalbir Kaur was being harassed, maltreated and taunted by the respondents, immediately after the

marriage for bringing less dowry. The learned trial Court has also failed to appreciate that Dalbir Kaur had died within six months of her marriage due to harassment of the respondents.

19. After giving our thoughtful consideration to the submissions made by learned counsel for the appellant, we find no merit in the instant appeal for the reasons to follow.

- (i) The complainant in his complaint as well as PW-1 did not level any specific allegation of demand of dowry against the respondents. His allegations are general in nature without any particulars, specific instance or date.
- (ii) During the course of investigation, a senior police officer of the rank of Deputy Superintendent of Police, namely, Harinderpal Singh (DW-3) had personally investigated the case and found the respondents innocent vide his enquiry report Ex. DW-3/A. However, after summoning of the respondents as additional accused by the learned trial Court under Section 193 Cr.P.C., still the prosecution could not prove any specific allegation of demand of dowry against them.
- (iii) Even if it is presumed for the sake of arguments that any dowry demand was made by convict-Nanak Singh from his deceased wife-Dalbir Kaur, in that eventuality also, the respondents cannot be said to be the

beneficiary of the same and, thus, have rightly been
acquitted by the learned trial Court.

20. We have gone through the impugned judgment and found no
illegality or perversity in the same.

21. The instant appeal being completely devoid of any merit is
dismissed.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

April 01, 2016
rishu