

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**Criminal Appeal No. D-1224-DB of 2015**

Date of Decision : February 08, 2016

Suresh Kumar

.....Appellant

**VERSUS**

State of Punjab and others

.....Respondents

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

Present : Mr. Mohinder Kumar, Advocate  
for the appellant.

**T.P.S. MANN, J.**

Appellant-Suresh Kumar, who is brother of deceased Neelam Sharma and, thus, a 'victim' as defined under Section 2(wa) of the Code of Criminal Procedure, has filed the present appeal for challenging the judgment and order dated 4/5.5.2015 passed by learned Additional Sessions Judge/Exclusive Court, Amritsar to the extent of acquitting respondents No.2 and 4, namely, Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and Pooja accused of the charges under Section 304-B IPC and awarding inadequate sentence of imprisonment to respondent No.3-Vishal Kumar alias Tinku.

Briefly stated, the prosecution case is that the marriage of Neelam Sharma, younger sister of the appellant, was solemnized with Vishal Kumar alias Tinku on 17.3.2013. At the time of marriage

of his sister, the appellant gave sufficient dowry but the in-laws of his sister were not happy. Husband-Vishal Kumar alias Tinku, father-in-law-Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and sister-in-law-Pooja of Neelam Sharma used to harass her for bringing less dowry. She used to apprise the appellant on phone about the atrocities suffered by her at the hands of her in-laws. However, the appellant had been assuring his sister that he would persuade her in-laws. On 12.8.2013 at 5.46 p.m., the appellant received a phone call from father-in-law of his sister Neelam Sharma that they had killed Neelam Sharma and there was no need to fulfill the demand of dowry. The appellant, alongwith his brother, reached the matrimonial home of Neelam Sharma and saw her dead body lying on a bed on the second storey of the house. At that time Neelam Sharma was having a pregnancy of three months. There were abrasions on the neck of his sister and it seemed that she had been strangled to death. Accordingly, while getting his statement recorded before Inspector Jagdish Raj, the appellant sought taking of action against the three accused. On the basis of the said statement, FIR under Sections 304-B/34 IPC was registered. During the investigation of the case, the dead body of Neelam Sharma was subjected to post-mortem and from the bra worn by her, one suicide note was found upon which it was mentioned that her in-laws' family was responsible for her death.

Vide impugned judgment and order, the trial Court acquitted Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and

Pooja accused of the charges against them whereas Vishal Kumar alias Tinku was convicted under Section 304-B IPC and sentenced to undergo imprisonment for seven years.

Having heard learned counsel for the appellant and on going through the trial Court record, this Court finds that only general and vague allegations have been levelled by the complainant party against Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and Pooja regarding demand of dowry and harassment of the deceased on account of non-fulfilment of the demand of dowry. Further, accused Ram Kishan alias Kishan Kumar alias Kishu Pehalwan, father-in-law of the deceased was aged 71 years, whereas accused Pooja was unmarried sister-in-law of the deceased. In the absence of any specific allegation of demand of dowry, it cannot be said with certainty that accused Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and Pooja had been demanding dowry or harassing and maltreating the deceased when the so-called demand of dowry was not met. Under these circumstances, no case is made out for any interference in the impugned judgment passed by the trial Court to the extent of acquitting accused Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and Pooja of the charges under Sections 304-B/34 IPC.

As regards the prayer made by the appellant for enhancement of sentence of imprisonment of accused Vishal Kumar alias Tinku, it may be noticed that no such right of appeal vests in a victim to seek enhancement of sentence of imprisonment. Such a

right of appeal vests only in the State as provided under Section 377 Cr.P.C., whereas proviso to Section 372 Cr.P.C. which grants right to appeal to the victim only if there is an order of acquittal or conviction of the accused for a lesser offence or for enhancement of the compensation.

Faced with the above, learned counsel for the appellant submits that he may be allowed to withdraw the present appeal insofar as his prayer for enhancement of sentence of imprisonment of accused Vishal Kumar alias Tinku with liberty to the appellant to seek any other remedy.

Resultantly, the appeal is dismissed qua respondents No.2 and 4, namely, Ram Kishan alias Kishan Kumar alias Kishu Pehalwan and Pooja. However, the appeal is dismissed as withdrawn qua respondent No.3, Vishal Kumar @ Tinku with liberty to the appellant to seek any other remedy, if available, under the law.

**( T.P.S. MANN )  
JUDGE**

**( RAMENDRA JAIN )  
JUDGE**

**February 08, 2016**  
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