

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

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**CRA-D-1274-DB of 2014  
Date of decision : 31.5.2016**

**Vivek Sharma**

**.....Appellant**

**v.**

**State of Punjab and others**

**.....Respondents**

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

Present : Mr. Charanjit Singh Bakhshi, Advocate  
for the appellant

Dr. Deipa Singh, Addl. AG, Punjab  
for respondeont No.1-State

Mr. APS Deol, Senior Advocate with  
Mr. Vishal Rattan Lamba, Advocate  
for respondents No.2 and 3

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**RAMENDRA JAIN, J.**

The instant appeal has been filed by the complainant against acquittal of respondents No.2 and 3 (in short the “private respondents”) under Section 304B read with Section 34 IPC vide impugned judgment dated 11.10.2013.

For brevity, Anamika Sharma since deceased, sister of appellant-Vivek Sharma was married to Anand Joshi -respondent No.2 on 6.4.2012 according to Hindu rites and ceremonies. On 30.5.2012, she was found dead by hanging on the first floor of her matrimonial home. On receipt of information about her death, ASI Sikandar Singh Investigating Officer reached the spot and

contacted her parents. After some time, the appellant along with his family members reached at the spot and made statement before the above Investigating Officer to the effect that his deceased sister, who was elder to him and aged around 25 years was married to respondent No.2. On the fateful day, on receipt of missed call from her, he contacted her on mobile. She weepingly told him that her husband and mother in law, respondents No.2 and 3 respectively, along with her father in law Rakesh Kumar Joshi were harassing and taunting her for not bringing sufficient dowry. She requested him to save her by taking her away, otherwise she would be killed by them. Whereupon, he told his sister that he would visit her matrimonial home in the evening to talk to her in-laws. He narrated the above facts to his mother and other family members. However, thereafter, he received information through mediator of his sister's marriage that his sister has committed suicide. Pursuant thereto, he reached the matrimonial home of her sister and on enquiry, came to know that his sister has died on account of harassment for demand of dowry by her in-laws. He had suspicion that her in- laws had killed her sister by hanging.

On the basis of above statement, FIR under Section 304B read with Section 34 IPC was registered. Investigation was commenced. Dead body of Anamika Sharma hanging from ceiling fan was removed, having ligature mark around her neck but without any injury mark on her body. A suicide note in Hindi lying under pillow of the bed was recovered and taken into possession. Incriminating material was collected from the spot. Statements of the witnesses were recorded. Inquest proceedings and post mortem examination on the dead body were conducted. The private respondents were arrested. Site plan of the place of occurrence was prepared and photographs were taken. Standard

handwriting of deceased along with suicide note recovered from the spot were sent to CFL authorities for comparison.

On completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court. On commitment of the case, learned trial Court framed charges against the private respondents under Section 304B IPC and in alternative under Section 302 IPC. They pleaded their innocence. In support of its case, the prosecution has examined as many as 13 witnesses. In their defence, the private respondents examined four witnesses.

On appraisal of evidence, the trial Court did not find itself convinced with the prosecution and accordingly, acquitted the private respondents vide impugned judgment.

Being aggrieved, the complainant-appellant has filed the present appeal.

Learned counsel for the appellant contended that the impugned judgment is based on surmises and conjectures. Death of Anamika Sharma had occurred in unnatural circumstances within seven years of her marriage. The complainant-appellant as PW3 has categorically deposed that his deceased sister weepingly had told him that the private respondents and her father in law were harassing and taunting her for not bringing sufficient dowry. Deceased had also requested the appellant to save her life by taking her along, otherwise she would be killed by the private respondents. The fact of asking the deceased to her brother/appellant to save her life has sufficiently fulfilled the ingredients of Section 304B IPC. There was ample evidence on record that deceased was subjected to cruelty and harassment, therefore, the trial Court ought to have convicted the private respondents by taking the aid of Sections 113A and 113B

of the Indian Evidence Act, 1872. In support of his arguments, he has placed reliance upon “**Smt. Shanti v. State of Haryana 1991(2) RCR (Criminal) 55 SC**”; “**K. Prema S. Rao v. Yadla Srinivasa Rao 2002(4) RCR (Criminal) 697 SC**” and “**Rajeev Kumar v. State of Haryana 2013 STPL (Web) 899 SC**”

On the other hand, learned counsel for the private respondents vehemently opposed the above arguments by submitting that there was not an iota of evidence to convict them under Section 304B IPC.

We have given our thoughtful consideration to the above submissions and find the present appeal completely meritless for the reasons to follow.

(i) According to the prosecution, PW10 ASI Sikandar Singh, Investigating Officer, had reached the spot on receipt of information of committing suicide by Anamika Sharma. He has testified that the room in which Anamika Sharma committed suicide was bolted from inside and the police had entered the said room after breaking open its door. From his above deposition, it is cleared that Anamika Sharma had committed suicide on her own and was not murdered by her in-laws.

(ii) PW3 Appellant Vivek Sharma has admitted statement Ex.PE given to the police under his signature. He also admitted that there was no grand party in the marriage of her sister. Only 20/25 persons had come in the marriage from the side of bridegroom. Only four milnies were performed, wherein they had given four blankets only to the in-laws of his sister. One day prior to the marriage, they visited village Khanpur for Shagun ceremony. Ex.

DA and DB were the photographs showing him and his family members holding basket of fruits. Both the parties performed simple marriage. His deceased sister was B.Sc. (IT) and was serving at Noida. After marriage she and her husband had visited their house together only once. On 11.4.2012 respondent No.2 and his deceased sister had gone to Dayal Bagh in connection with the annual Bhandara. At that time, Anamika Sharma had stayed at their house for 11 days. His deceased sister had been talking often with him. Husband, sister-in-law (Nanad) and father-in-law of his sister were in government service and having double storey house constructed in 250/300 square yards. They were having all articles of their requirements. Engagement of Meenakshi (Nanad of his sister) took place in May 2012. PW5 Parvesh Sharma- mother of deceased had also testified that marriage of her daughter was performed without dowry.

Above depositions of brother and mother of the deceased are sufficient to prove that the private respondents did not make any demand of dowry at the time of marriage of Anamika Sharma. They were having sufficient money to keep and maintain them and thus, the story put forth for demand of dowry by them does not appears to be correct, more particularly, in view of the some of the glaring facts which would be discussed hereinafter. Even otherwise, it is needless to mention here that had the private respondents been greedy of dowry, they would not have solemnized simple marriage.

(iii) Admittedly, a suicide note was recovered vide recovery memo Ex. P21 by PW10 ASI Sikandar Singh, at the time of removal of dead body of Anamika Sharma from ceiling fan. The same was sent to FSL authorities, but no definite opinion could be given by FSL authorities. The contents of the suicide note are as under :-

“Main apne pure hosh hawas me suicide kar rahi hu. Bus apni jindagi se tang aa gai hu. Mere kaaran sab log pareshan rehte hai kyoki main baat kam karti hu. Bus himmat nahi hai mere andar kuchh sahne ki bolne ki kyoki mere papa mere sath nahi hai. Mere kaaran mere parents mere in laws sub pareshan hai. Apni taraf se puri koshish karti hu sab ko khush rakhne ki par fail ho jati hu. Bus ab aur nahi ho sakta mujhse. Isliye duniya se jane ka faisla kiya. Mujhe maaf kar dena. Mere marne ke liye koi jimmedar nahi hai. Apni marji se mar rahi hu.”

From the above contents, defence taken by the private respondents gets support that the marriage of Anamika Sharma with respondent No.2 was solemnized by her parents against her wishes as she did not like her husband being in love affair with one Anshul Kapila resident of her native place.

(iv) DW4 Balwinder Singh, SP (D), SAS Nagar has testified that on receipt of letter dated 31.7.2012 Ex.D3 from Additional Director General of Police, Punjab, enquiry was marked to him by the SSP vide endorsement Ex.DF, on the basis of application Ex. DG filed by Rakesh Kumar. He had called both the sides and after recording statements of witnesses, prepared enquiry report Ex. DH under his signature. During enquiry, it had transpired that Anamika Sharma was regularly conversing through her mobile with one Anshul

Kapila. Therefore, Anshul Kapila was called and his statement Ex. DJ was recorded. Call details record already in possession of the SHO was also perused and it was found that deceased was using Mobile No. 9878247324 issued in the name of her brother Vivek Sharma, whereas mobile No. 9876485051 was in the name of Anshul Kapila. Anamika Sharma had been talking to Anshul Kapila on the said mobile and had been telling him that her marriage was not solemnized as per her wishes and hence, she was not happy in her in-laws' house. DW4 Balwinder Singh, SP, during enquiry, further found that deceased was not harassed or maltreated. From call details of deceased's phone, it was found that she was having friendship with another boy, despite being married. Anamika Sharma deceased and Anshul Kapila were talking to each other on mobile several times a day. During enquiry, it has come on record that in between 1.5.2012 and 30.5.2012, 416 calls were made by the deceased to her mother, 21 calls to her brother and 794 calls to said Anshul Kapila.

It is pertinent to mention here that most of the calls were exchanged between Anshul Kapila and the deceased during late night. Both were also exchanging messages. They used to call each other and having friendly relations, but had not ever met. Marriage of Anamika Sharma was solemnized by her parents and she was not happy with her marriage.

From the above factual position, it is evident that the deceased Anamika Sharma committed suicide, being not happy with her

marriage with respondent No.2 as she was having love affair with some other boy. No demand of dowry was ever raised by the private respondents, because her marriage was simple and was performed without any dowry. Had there been any harassment to the deceased at the hands of the private respondents and their relatives in connection with the demand of dowry, it is obvious that the deceased must have discussed the matter with her parents, relatives and mediators of the marriage, before taking such a drastic step of committing suicide immediately in such a short span of 54 days. But there is not an iota of evidence in this respect. The testimony of the appellant as PW3 is hearsay and therefore, has rightly not been considered by the trial Court.

(v) The presumption under Sections 113A and 113B of the Evidence Act has been successfully rebutted by the private respondents by leading cogent and convincing defence evidence that Anamika Sharma had committed suicide being not happy by her marriage with respondent No.2.

(vi) PW1 Dr. C.P. Singh was one of the member of the Board of Doctors which conducted the post mortem examination on the dead body of Anamika Sharma. In his cross examination, he has testified that in case of suicidal hanging, mark of ligature is usually situated above the thyroid cartilage between the larynx and chin and the ligature mark is directed obliquely upwards following the line of mandible reaching the mastoid process behind the ears. In the present case, similar kind of symptoms and injuries were found

on the body of Anamika Sharma. In case of suicidal hanging ligature mark is absent on posterior or on the lateral side of neck. In pictorial diagram Ex. PD the ligature mark continues up to the back of neck and is absent posteriorly. Atlanto axial joint is present on back of the neck.

From the medical evidence also, it is evident that no injury was found on the person of deceased and it was a suicide case without any abetment from the private respondents, which also falsify the prosecution story.

The above cases relied upon by learned counsel for the appellant are distinguishable, being based on their own facts and, therefore, they are not liable to be taken into consideration.

Taking into account the above factors, the trial Court has rightly acquitted the private respondents.

Learned counsel for the appellant has miserably failed to put any dent in any of the findings of the Court below. We have also gone through the impugned judgment and found no illegality or perversity in the same.

Accordingly, the appeal being completely devoid of any merit, is dismissed.

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

**(RAMENDRA JAIN)**  
**JUDGE**

**31.5.2016**  
*Ashwani*