

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-473-DB-2015

DATE OF DECISION: February 16, 2016

Jogdhyan

...Appellant

versus

State of Haryana and another

...Respondents

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

Present: Mr.H.S.Gill, Senior Advocate with
Mr.Nitin Rampal, Advocate for the appellant.

RAMENDRA JAIN, J.

The complainant is appellant before this Court. He is aggrieved of the judgment dated 22.1.2015 passed by the Additional Sessions Judge (Exclusive Court for Heinous Crimes against Women), Kurukshetra, acquitting respondent No.2, namely, Randhir Singh, under Sections 304-B IPC and 302 IPC.

The facts in a narrow compass shorn off unnecessary details are stated as below:

On 13.10.2008, the marriage of Geeta daughter of the appellant was solemnized with respondent No.2. The couple had two issues. At around 12.57 a.m. on 11.3.2013, a telephonic message was received regarding the death of Geeta. After hearing this grief news, the appellant along with his family members and relatives reached her matrimonial home. The dead body of Geeta was found lying in the veranda. Marks of rope on her neck were noticed. The blood was oozing out from her mouth. Needle of suspicion was raised that Geeta was strangled with the help of rope by respondent No.2, Ram Singh, Kuldeep Singh and the wife of Raju (Jethani). It seemed that earlier on two-three occasions difference of opinion had cropped up between the parties. Even she was taunted by respondent No.2 on the premise that his life had been spoiled by getting married with her.

On the basis of complaint, Ex.P1, formal FIR was registered. The investigation was commenced. Statements of relevant witnesses were recorded. Inquest proceedings and post mortem examination of dead body were conducted. On completion of investigation, challan against respondent No.2 was presented before the Area Magistrate. After complying the provisions of Section 207 CrPC, the case was committed to the Court of Sessions.

The respondent No.2 was charge sheeted under Section 304-B IPC and in the alternative under Section 302 IPC vide order dated 24.8.2013.

In order to prove its case, the prosecution examined as many as fifteen witnesses and placed reliance on the documents Ex.P1 to Ex.37, Mark A and Mark B.

In defence, respondent No.2 examined Mukesh Yadav as DW1 and tendered documents Ex.DA, Ex.DB and Ex.DX.

The trial Court analysed the evidence in great detail. However, it found that the evidence of prosecution witnesses lacks credence and unreliable and accordingly acquitted respondent No.2.

The acquittal of respondent No.2 is subject matter of challenge before this Court.

Learned counsel for the appellant submits that the acquittal of respondent No.2 was not based on proper appreciation of evidence. The death of Geeta took place within seven years of marriage and, therefore, it was a 'dowry death' and that her husband (respondent No.2) was responsible for the same. Consistent evidence of PW1 Jogdhyan (appellant) and PW2 Subhash Kumar, brother of the deceased, coupled with the medical evidence, clearly established the implication of the appellant in the crime.

We have given our thoughtful consideration to the arguments advanced by learned counsel for the appellant and perused the record.

Concededly, the death of Geeta had taken place within seven years of marriage. There is no denial on the part of respondent No.2 that death of Geeta had occurred due to hanging.

The main point for determination before us is that whether the death of Geeta was a dowry death and falls within the ambit of Section 304-B IPC or she was intentionally murdered.

Hence, it would be appropriate to scan the evidence with care and re-appreciate the same.

PW1-Jogdhyan, author of FIR, besides narrating the incidents of ill-treatment and harassment caused to his daughter on the premise of demand of dowry and taunting by respondent No.2 for spoiling her married life, also deposed that no demand of dowry was made at the time of marriage of his daughter. The dowry articles were given as per their own wish. The quarrel between his daughter and respondent No.2 took place after one year of the marriage and subsequent quarrel had taken place after around two months of the earlier quarrel. There was an admission on the part of this witness that his daughter (deceased) was suffering from depression. The factum of depression and postpartum depression was proved by

PW11 Dr.Rakshpal Sharma and PW13 Dr.J.C.Bathla vide reports Ex.P20 and Ex.P22, respectively. While elaborating the term of postpartum depression, PW11 Dr.Rakshpal Sharma deposed that this depression commences after the birth of a child to the ladies and gravity of that is to the extent that the patient may do any harm to self or child or anybody else. PW9 Dr.Deepali, Medical Officer, LNJP Hospital, Kurukshetra has proved the post mortem report Ex.P12 and found no mark of violence on the dead body of deceased.

PW2-Subhash Kumar, brother of deceased had made every possible efforts to depose that his sister (deceased Geeta) died on account of demand of dowry, but he failed to prove so. In his deposition, he at the first instance came with this version that demand of dowry was made, but he did not specify the details of articles, rather admitted that his sister (deceased Geeta) was kept properly in her matrimonial home for about one year of marriage.

The other formal witnesses have proved certain documents which need not to be discussed, inasmuch as, there is no incriminating evidence.

The evidence of PW1-Jogdhyan and PW2-Subhash Kumar does not prove that any demand of dowry was made by respondent No.2, "soon before the death" of deceased-Geeta. At the time of marriage, the dowry articles were given at their own wish. These witnesses did not specify any articles which

were given to respondent No.2, rather there was an admission that deceased Geeta was suffering from depression. No incident or cruelty has been proved on record to show that the deceased was compelled to commit suicide. Rather depositions of PW9 Dr.Deepali, PW11 Dr.Rakshpal Sharma and PW13 Dr.J.C.Bathla clearly prove that the deceased was suffering from postpartum depression. The gravity of this disease is to the extent that the mother may cause any harm to self or child or anybody else. Thus, the medical evidence, in the absence of any evidence with regard to demand of dowry, clearly suggests that Geeta had taken extreme step to finish her life, inasmuch as, her life became miserable which forced her to commit suicide.

In view of the aforesaid, we find no merit in the present appeal. Accordingly, it is dismissed.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

February 16, 2016
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