

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

**CRM-A No.550-MA of 2012 (O&M)
Date of decision: 18.11.2016**

Sunita Kumari

.....Applicant/appellant

Versus

Rakesh Kumar and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Manpreet Singh, Advocate,
for Mr. A.S. Kalra, Advocate,
for the applicant-appellant.

Mr. R.P. Dhir, Advocate,
for the respondents.

Ritu Bahri, J.

Challenge is to the judgment dated 10.02.2012 passed by the Additional Sessions Judge (Adhoc), Fast Track Court-II, Hoshiarpur, whereby accused-respondent Nos.1 to 3 have been acquitted of the charges framed against them under Sections 306 and 498-A IPC.

Sanjiv Kumar and Sunita Kumari (complainants) filed a complaint to the effect that their sister-Rajni Bala was married to Rakesh Kumar-respondent No.1 on 31.10.2003 as per Hindu rites and rituals at village Dharampur. It was alleged that after the marriage, in-laws of Ranji Bala were not satisfied with the dowry articles and used to taunt her for bringing insufficient dowry. She was physically and mentally tortured by them. She was told to leave her job and was not allowed to visit her parental home.

Even she was not allowed to contact her parents on telephone. Rakesh

Kumar-respondent No.1 used to ask Rajni Bala to give divorce. Rajni Bala had disclosed this fact to her parents many a times, but mother of the complainants advised her to bear everything patiently. On 09.09.2005, Sanjiv Kumar-complainant No.1 received a telephonic call from his sister (Rajni Bala) that she was brutally beaten up by her husband Rakesh Kumar-respondent No.1 and apprehended danger to her life. Upon this, Sanjiv Kumar, along with his brother, visited the house of her sister. They were shocked to see the physical condition of their sister. She was told to accompany them to the parental house, but accused-respondent Nos. 2 and 3 assured them that they would not maltreat their sister. Thereafter, on 10.09.2005, Rakesh Kumar made a telephonic call to the complainants and informed that Rajni Bala had been missing since morning. On the same day, at about 08.00 P.M., they came to know that an unidentified dead body was lying in the mortuary of Civil Hospital, Mukerian. The dead body was identified by complainant No.1 being that of her sister Rajni Bala. It was stated that Rajni Bala had died on account of a railway accident. Thereafter, on 06.08.2006, complainants' family went to bring back the dowry articles, however, they were ill treated by the accused persons (respondents). The matter was taken up by village Panchayat. Thereafter, Rakesh Kumar-respondent No.1 entered into a settlement to marry the sister of real sister-in-law (*devrani*) of Rajni Bala. The apprehension of the complainants was that on account of cruelty committed by her in-laws, Rajni Bala had committed suicide. The matter was reported to the police, but no action was taken against the accused persons. In this background, the FIR was filed.

On conclusion of the preliminary evidence, accused-respondents

Rakesh Kumar, Harbhajan Singh and Chanchla Devi were summoned to

face trial and thereafter, the case was committed to the Court of Sessions.

Thereafter, charge under Sections 306/498-A IPC was framed against the accused-respondents, to which, they pleaded not guilty and claimed trial.

In order to prove their case, complainant(s) examined Sunita Kumar, (PW-1), Madan Lal, Lamberdar (PW-2), Shingar Kaur (PW-3), HC Satpal Singh (PW-4), Dr. Shavinder Singh (PW-5) and Lakhwant Singh, ex-Sarpanch (PW-6). After completion of evidence of complainant(s), statements of accused-respondents under Sections 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded their innocence. In defence, the accused proved on record Panchayatnama dated 11.09.2005 and statement of Kanta Devi, mother of the deceased and closed their defence evidence.

Trial Court, after hearing learned counsel for the parties and going through the evidence led by the parties, came to a conclusion that deceased-Rajni Bala was run over by a running train and it was a case of railway accident due to her perturbed state of mind as she could not conceive a child since marriage. This fact finds support from the statement (Ex.D) of Kanta Devi, mother of deceased, recorded under Section 175 Cr.P.C. by GRP, Jalndhar, wherein she stated that Ranji Bala used to remain under mental depression as she could not deliver a child. Her daughter had no quarrel with her in-laws and there was no fault of anybody else. Even a perusal of the Panchayatnama dated 11.09.2005, which was proved on record by Lakhwant Singh, Ex-Sarpanch, as Ex.DA, shows that Rajni Bala died in a railway accident due to mental tension and she had no quarrel with her in-laws family. HC Satpal Singh (PW-4), in his cross-examination stated that

Rajni Bala wife of Rakesh Kumar had died in a railway accident. Trial Court further observed that the evidence adduced did not suggest the fact that any of the accused had abetted commission of suicide by Rajni Bala. This fact has been supported from the statement of Kanta Devi, Ex.DA. This statement of Kanta Devi ruled out the possibility of any cruelty towards Rajni Bala from the accused. If, Rajni Bala was facing cruelty at the hands of accused-respondents, then she would have contacted her mother Kanta Devi. Even, Kanta Devi did not step into the witness box to support the allegations leveled by the complainant. She was the best witness to substantiate the allegations of the complainants regarding alleged cruelty and maltreatment on the part of the accused. However, she had been withheld by the complainants from the witness box and this omission had caused a dent in the version of the complainants. Sunita Kumar (PW-1) is a married sister of Rajni Bala, but she did not state the date, month and year when Rajni Bala had narrated the alleged misfortunes tale to her.

The depositions of Madan Lal (PW-2), Shingar Kaur (PW-3) and Lakhwant Singh (PW-6) being hearsay with regard to alleged maltreatment with Rajni Bala have been rightly discarded by the trial Court. Moreover, the complainants themselves have admitted that the railway accident took place on 10.09.2005. In the absence of history of continuous harassment, assault and torture, necessary ingredients of abetment of commission of suicide were missing. Moreover, as per Depositions of Madan Lal (PW-2), Shingar Kaur (PW-3) and Lakhwant Singh (PW-6), the dowry articles were, admittedly, returned after the death of Rajni Bala. Sister of the complainants namely, Rajni Bala died on 10.09.2005, whereas the present complaint was filed in the month of December, 2006. In fact, the cause of delay is that

Rakesh Kumar, husband of Rajni Bala, had solemnized second marriage and this fact made the complainants furious and angry. Thereafter, they filed this complaint against the accused-respondents.

In this case, the prosecution has miserably failed to lead any cogent and convincing evidence with regard to cruelty meted out to the victim, which abetted her to commit suicide. It was a case of railway accident. In the absence of any cogent and convincing evidence against the accused-respondents, the scope of interference in the impugned judgment is very limited. Accordingly, having examined the impugned judgment, no illegality, much less perversity has been found therein warranting interference by this Court. The evidence has been appreciated in the right perspective.

Dismissed.

18.11.2016
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No