IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-A-217-MA of 2016
Date of decision : 2.3.2016

Pratik Aggarwal .....Applicant

v.

Abhishek Jain and others .....Respondents

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

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters?
3. Whether the judgment should be reported in the Digest?

Present : Mr. Gaurav Mohunta, Advocate
for the applicant

RAMENDRA JAIN, J.

Marriage of deceased Priyanka was solemnized with respondent No.1 on 31.1.2014. However, she died an un-natural death on 10.10.2014, i.e. within 7 years of her marriage in her matrimonial home. Applicant-complainant, being brother, reported the matter to the police that his deceased sister Priyanka was taunted, maltreated and given beatings by her husband-respondent No.1 and her parents in law respondents No.2 and 3. Several times, he made the respondents understand to mend their ways and not to harass deceased Priyanka, but in vain. About a week before from her death, deceased Priyanka was beaten up for bringing insufficient dowry. On receiving information about the death of

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her sister Priyanka through telephone from his maternal uncle Rajeev Singla, the complainant went to Healing Touch Hospital and found his sister lying dead. Froth was coming out of her mouth. He had suspicion that his sister had died either due to consumption of some poisonous substance at the hands of respondents for demand of dowry or was poisoned by them.

On the aforesaid statement of the applicant-complainant case under Section 304B/34 IPC was registered. Inquest proceedings and post mortem examination of the dead body were got conducted. Statements of relevant witnesses were recorded. Respondents were arrested. After completion of investigation, the final report under Section 173 Cr.P.C. was presented in the Court against the respondents.

On commitment of the case to the Court of Sessions, the learned Additional Sessions Judge, Ambala charge sheeted the respondents under Sections 498A, 304B read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

The prosecution in support of its case, examined as many as following 17 witnesses :-

PW1 Dr. Sudha Bajaj through her affidavit Ex.P1 testified that on 11.10.2014, she along with Dr. Sumit and Dr. Aprajita had conducted the post mortem on the dead body of deceased Priyanka. Froth was coming out of her mouth, however, no external mark of injury was found. Her viscera was sent for chemical examination. Uterus with both fallopian tubes and ovaries were also sent for histopathological examination. On opening abdominal cavity, two fists of clotted blood was found present; uterus was normal looking. However, left tubal rupture was present in isthmic region; right fallopian tube and both ovaries

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were normal looking. There was possibility of rupture of left tubal ectopic. In their opinion, the probable cause of death of Priyanka was haemorrhage and shock due to ruptured ectopic pregnancy. After seeing the chemical examination report Ex.P7 and histopathological report Ex.P8, she further testified that vide their opinion Ex.P9, the cause of death was hemorrhage and shock due to left tubal rupture and heamoperitoneum while clarifying that in case of rupture of ectopic pregnancy, there is pain in the abdomen and blood collects in the peritoneal cavity, which can lead to shock and death.

PW 2 Dr. Nitika Chawla through her affidavit Ex.P10 deposed that on examination of viscera of deceased Priyanka, heart; liver, spleen, kidney, uterus, cervix with bilateral fallopian tubes and ovaries, she had prepared report Ex.P8 under her signatures and sent the same to Dr. Sudha Bajaj, Medical Officer, General Hospital, Ambala Cantt.

PW3 Dr. Dharam Pal simply testified that he had referred one female patient in serious condition brought to his clinic by her family members to Healing Touch Hospital on 10.10.2014. PW4 Dr. Kuldeep has deposed that on 10.10.2014 he had sent information Ex.P11 to the SHO, Police Station, Baldev Nagar, Ambala that Priyanka was brought dead in his hospital.

PW 5 Rajeev Singla has fully supported the prosecution case. PW6 complainant Prateek Aggarwal, corroborated his version. PW7 HC Naresh Kumari remained associated in the investigation of this case with Investigating Officer ASI Mahal Singh. She deposed about the receipt of ruka in the police station regarding the death of Priyanka and her visiting with the Investigating Officer to the hospital and conducting of proceedings under Section 174 Cr.P.C. She also testified about the arrest of the respondents and recovery of car bearing

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registration No. HR 01 AH 9192 along with RC vide recovery memo Ex.P17. She further deposed about interrogation of respondent No.3 by the Investigating Officer and his sufferance of disclosure statement Ex.P20 and pursuant thereto, identification of gold and silver articles belonging to the deceased in police station.

PW8 C. Satish Kumar had delivered the special report to the Illaqua Magistrate and other higher police officers. PW9 ASI Balkar Singh had recorded FIR Ex.P23 on receipt of the statement of the complainant Ex.P14 along with police proceedings Ex.P 22. He testified about the sending of special reports to the concerned authorities and receipt of two sets of sealed parcel, two envelopes, two specimen seal impressions from the doctor after post mortem examination of the deceased on 11.10.2014, along with post mortem examination report. This witness also remained associated with the investigation of this case with Investigating Officer ASI Sultan Singh, who on 1.12.2014 recovered invitation card and some marriage photographs from the house of the respondents. PW10 HC Ram Saran had prepared scaled site plan of the place of occurrence Ex.P29. PW11 C. Sunil Kumar through his affidavit Ex.P30 deposed about the depositing of case property in BPS Government Medical College, Khanpur Kalan, Sonepat on being handed over to him by MHC Vikram Singh on 20.10.2014. PW12 HC Vikram Singh through his affidavit P31 testified about the depositing of case property in the malkhana by the Investigating Officer ASI Mehal Singh and further sending of the viscera of deceased Priyanka to the Head of Pathological Department, PGI, Rohtak and another sealed parcel to BPS Medical College through C. Satish Kumar.

PW13 SI Mahal Singh is the Investigating Officer of the case. He

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deposed about the steps taken by him during the course of investigation. PW14 ASI Sultan Singh remained associated with the Investigating Officer SI Mahal Singh during investigation of this case and fully corroborated his statement. PW15 Inspector Rajnish Yadav is a formal witness. He had simply prepared report under Section 173 Cr.P.C. after completion of investigation. PW16 Jitender Mariya photographer proved photographs of the engagement and marriage ceremony of deceased Priyanka with respondent No.1 as Ex.P41 to P46. PW17 Saloni Gupta is cousin of deceased Priyanka. She has testified about the receipt of whats-app messages Ex. P47 from deceased Priyanka that she was not happy in her matrimonial home as her in laws used to beat and harass her.

After closure of the prosecution evidence, statements of the respondents/accused under Section 313 Cr.P.C. were recorded putting entire incriminating evidence brought on record by the prosecution against them, to which they denied and pleaded their false implication. However, they did not lead any evidence in their defence.

After hearing learned counsel for both the sides and scanning the evidence on record, the learned trial Court acquitted the respondents vide impugned judgment dated 18.11.2015 holding that prosecution has failed to prove its case against them beyond shadow of reasonable doubt.

Being aggrieved, the applicant-complainant has filed the present application seeking leave to file the accompanying appeal.

Learned counsel for the applicant argued that the impugned judgment of the learned trial Court is based on surmises and conjectures. The learned trial Court has failed to appreciate that one day before her death,

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deceased Priyanka was got checked from Dr. Anita Bhushan, Gobind Nagar, Ambala Cantt., who had prescribed some medicines and referred her for some medical tests. But on the date of her death, instead of taking Priyanka to the said qualified doctor, she was taken to some other registered medical practitioner namely Dr. Dharam Pal, who without giving her any first aid further referred her to Healing Touch Hospital, Ambala, as a result of which, she breathed her last on the way. The above conduct of the respondents of not taking deceased Priyanka to Dr. Anita Bhushan, a qualified gynecologist, prove their mala-fide intention that they wanted to give the colour of her unnatural death to natural one, though she had died under abnormal circumstances within seven years of her marriage in her in-laws' house. From the statements of PW5, PW6 and PW17, it was evident on record that the respondents used to beat, maltreat and taunt the deceased Priyanka for not bringing sufficient dowry. Hence, acquittal of the respondents recorded by the learned trial Court is palpably wrong and illegal.

We have given our thoughtful consideration to the above submissions.

Admittedly, no external mark of injury was found on the dead body of Priyanka at the time of her post mortem examination by PW1 Dr. Sudha Bajaj, nor any poison was detected in the viscera of the deceased. Hence, it is evident that Priyanka had died neither due to poisoning nor on account of beatings as alleged by the prosecution.

Dr. Sudha Bajaj in her cross examination has deposed that the cause of death of Priyanka was haemorrhage and shock due to left tubal rupture and heamoperitoneum. She has clarified that in case of rupture of ectopic

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pregnancy, there is pain in the abdomen and blood collects in the peritoneal cavity which can lead to shock and death. She has categorically admitted that the death of Priyanka was quite natural. In view of the above deposition of Dr. Sudha, the learned trial Court has rightly observed that since the prosecution has not been able to establish that Priyanka had died under abnormal circumstances, therefore, the respondents cannot be fastened with any criminal liability under Section 304B IPC.

PW5 Rajeev Singla has made material improvements in the Court. Thus, his testimony has rightly been discarded by the learned trial Court. Alleged whats-app messages Ex.P7 and documents Ex.P47 have also rightly been ignored by the learned trial Court in view of the admission of PW17 Saloni Gupta that various fake applications can be created on the internet. It has specifically been observed by the learned trial Court that the aforesaid messages might have been fabricated lateron as the mobile of Priyanka after her death had passed into the custody of the complainant party vide receipt Ex.P16 regarding handing over of dowry articles on supurdari.

The learned trial Court has also taken into consideration various other material facts and circumstances of the case, before acquitting the respondents i.e. the photographs Ex.DX to DZ of deceased Priyanka with her husband respondent No.1 clicked in the month of August 2014 i.e. two months prior to the date of her death in which she was appearing to be in joyful mood with her husband on the occasions of her birth day party. There is also no eye witness account to the occurrence.

From the above discussion, the only irresistible conclusion which can be drawn is that Priyanka had died a natural death on account of some

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medical complication.

No other point was urged before us.

In view of the above discussion, the instant application being completely devoid of any merit is dismissed. Application for leave to appeal is declined.

(RAMENDRA JAIN)
JUDGE

(T.P.S. MANN)
JUDGE

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