

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-410-MA-2016

Date of decision: 21.04.2016

Narender Sehrawat

..... Applicant

Versus

State of Haryana and others

..... Respondents

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

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

PRESENT: Ms. Reeta Kohli, Senior Advocate with
Mr. Rohit Sharma, Advocate
for the applicant.

RAMENDRA JAIN, J.

Being aggrieved, the instant application under Section 378 Cr.P.C. has been filed by complainant-Narender Sehrawat seeking leave to file the accompanying appeal against acquittal of respondents No. 2 and 3, namely, Sombir @ Sonu and Dhanpati (hereinafter referred to as 'the private respondents') vide judgment dated 10.12.2015, passed by the learned Additional Sessions Judge (Exclusive Court), Jhajjar.

2. Put pithily, the marriage of two real sisters, namely, Kavita and Manju (since deceased) of the applicant were solemnized with Veer Singh and Sombir @ Sonu (respondent No. 2 herein) sons of Sube Singh

on 23.12.2010 according to Hindu rites and ceremonies. Sufficient dowry was given in their marriage by their father. However, Manju died on 31.01.2015 within 7 years of their marriage. As per FSL report, the cause of her death was consumption of Aluminium Phosphide. On receipt of information about the death of Manju, Inspector Chanderveer Singh along with his team reached the spot. The applicant gave statement before him to the effect that after sometime of marriage, the private respondents had started taunting Manju for bringing insufficient dowry. They also gave beatings to her many a time. During the subsistence of marriage, Manju was blessed with two sons aged about 3 years and 1½ years respectively. In the year 2011, the private respondents gave beatings to Manju, her uncle Mahender Singh as well as her cousin Surender (son of her uncle Mahender Singh). Manju had returned to her parental home several times, but was sent back to her matrimonial home due to social constraints. On 31.01.2015, both of his sisters were in their matrimonial home. Around 2.30/3.00 P.M., the applicant received a telephonic information about consumption of some poisonous substance by Manju, whereupon he along with his father reached at her matrimonial home and found her dead body lying on a cot in the courtyard.

3. On these broad allegations, a case was registered. Inquest proceedings and post-mortem examination of the dead body of Manju were got conducted. The spot was got photographed and its rough site plan was also prepared. Some vomit material (gastric lavage) was also lifted from the spot and was taken into possession after converting the same into sealed parcel. Viscera and belongings of the deceased were

sent to the FSL authorities. The private respondents were arrested. After completion of investigation, final report under Section 173 Cr.P.C. was presented against them in the Court.

4. On commitment of the case to the Court of Sessions, the private respondents were charge-sheeted under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code (IPC) to which they pleaded not guilty and claimed trial.

5. The prosecution in support of its case examined as many as 13 witnesses, besides tendering the FSL report Ex. PX.

6. In their statements under Section 313 Cr.P.C., the private respondents denied the entire incriminating evidence brought on record against them and pleaded their false implication. They took the stand that respondent No. 2 was employed as a Constable in Delhi Police and thus, there was no need for any dowry. Infact, Manju was of volcanic temperament and had a craze to lead urban life. False allegations of cruelty and dowry were levelled against them by PW-6 Narender (applicant) and PW-7 Mahender Singh uncle of the deceased. Suspicion of Manju (deceased) about the extra-marital relationship of respondent No. 2 with some female colleague was baseless. In fact, deceased-Manju wanted to live in Delhi with her husband-respondent No. 2. She poisoned herself in her bedroom on the upper storey. On hearing the sound of vomiting, respondent No. 3 rushed upstairs and found her in extreme pain and struggling for breath. She was shifted to some private doctor, but since it was a police case, so the doctor refused to treat Manju. In the meanwhile, condition of Manju worsened and during her treatment at

Beri town, she died due to consumption of aluminium phosphide.

7. In defence, they examined DW-1 Kavita, real sister of deceased Manju, married with Veer Singh (brother and son of respondents No. 2 and 3, respectively) and DW-2 Suresh Kumar.

8. After hearing learned counsel for both the sides and perusing the evidence brought on record, the learned trial Court acquitted the private respondents vide the impugned judgment dated 10.12.2015.

9. Learned counsel for the applicant contended that the impugned judgment is based on surmises and conjectures. Learned trial Court has ignored the vital part of the prosecution evidence while acquitting the private respondents. Learned trial Court has failed to appreciate that Manju had died an un-natural death within 7 years of her marriage. There was definite evidence on the record that she was regularly maltreated and given beatings by the private respondents on account of demand of dowry.

10. After giving our thoughtful consideration to the submissions made by learned counsel for the applicant, we find no merit in the instant application for the reasons to follow.

- (i) DW-1 Kavita, real sister of Manju (deceased) has demolished the entire case of the prosecution by testifying that Manju was never treated with cruelty with regard to demand of dowry or for bringing inadequate dowry by her husband or by their in-laws. No body ever gave beatings to Manju. Manju was cremated in the presence of their father. She had never

raised any grouse against the alleged maltreatment of her deceased sister.

Had it been a case of committing murder of Manju (deceased) by private respondents, in that eventuality, DW-1 Kavita was the last person to save the private respondents, rather she must be revengeful towards them as her real sister had died.

- (ii) Death of Manju took place on 31.01.2015. The prosecution has miserably failed to prove that any demand of dowry was ever raised by the private respondents "soon before her death". According to PW-7, on 21.02.2011 at the time of marriage of his son, Manju had disclosed that her in-laws used to harass her for not bringing a car in dowry at the time of marriage. The applicant as PW-6 had testified that demand of gold bangle and chain was raised by the private respondents at the time of birth of first child to Manju, who was now 3 years old. So, both the alleged demands according to the above prosecution witnesses might have been raised prior to the end of year 2011. Admittedly, Manju died on 31.01.2015. Except these two instances of demand of dowry, the prosecution has not levelled any other allegation of demand of dowry. Neither PW-6-applicant nor PW-7 Mahender Singh have anywhere testified that any demand of dowry was

ever raised or Manju was harassed “soon before her death”. Hence, from any angle the prosecution has not been able to prove the alleged harassment, maltreatment, beatings to Manju (deceased) at the hands of private respondents “soon before her death”.

(iii) PW-11 Inspector Chanderveer Singh (Investigating Officer) has testified that it had come during investigation that Manju had committed suicide around 11.00 A.M. However, the statement of Narender (applicant) was recorded at 8.15 P.M. Thus, it can safely be inferred that the delay in lodging the FIR was utilized by the applicant to concoct a story to falsely rope in the private respondents.

(iv) It is not the case of the prosecution that any dowry demand was made at the time of marriage or prior to it. If the private respondents would have been greedy, in that event, they would have raised the demand of dowry at the time of marriage itself. PW-7 Mahender Singh has admitted that sufficient dowry was given by them at the time of marriage of Manju and Kavita as per their capacity, without any demand from the side of private respondents. Hence, the cumulative effect of the entire prosecution evidence more particularly, when Kavita was living happily in her matrimonial home and has falsified the prosecution story is that the

prosecution has miserably failed to prove its case beyond any reasonable doubt.

11. Learned counsel for the applicant has failed to put any dent in any of the findings of the learned trial Court. We have gone through the impugned judgment and found no illegality or perversity in the same.

12. The instant application, being completely devoid of any merit is dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

April 21, 2016
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