

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-554-MA-2016

DATE OF DECISION: May 02,2016

Kuljeet Singh

...Applicant

Versus

State of Haryana and others

...Respondents

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

Present: Mr.Pravesh Yadav, Advocate for the applicant.

RAMENDRA JAIN, J.

The instant application has been filed by the applicant, seeking leave to file the accompanying appeal against acquittal of respondents Nos. 2 to 7, vide impugned judgment dated 30.1.2016 passed by the learned Sessions Judge, Rewari.

On 26.11.2014, a telephonic message was received at Police Post Sector 6, Dharuhera regarding admission of Pooja in Rockland Hospital. Whereupon, ASI Mahender Singh along with HC Naresh Kumar went to the hospital. The doctor opined that Pooja was not fit to make

the statement. The family members of Pooja also refused to make the statement, unless and until Pooja regained consciousness. On 29.11.2014, an information was received in the Police Station with regard to death of Pooja. Her father Kuljeet Singh lodged the FIR that the marriage of his daughter with respondent No.2 Rajbir was solemnized on 11.12.2012. In her marriage, sufficient dowry articles, including vehicle Mahendra XUV 500, gold coins, 15 tolas gold ornaments and 250 gms silver of his own will were given, besides, ₹50 lacs approximately were spent. However, in-laws of Pooja exerted pressure upon her to bring ₹5 lacs for running a shop. When his daughter was hospitalized with dengue fever, she was taken to a private hospital, Gurgaon. The expenses were borne by him for her treatment. Her in-laws did not even visit during her hospitalization of one month. A pre-mature baby was born to his daughter. She remained hospitalized in Fortis Hospital for about 10 days. The entire expenses were born by him. After discharge, she was sent back to the matrimonial home. Earlier to the incident, his daughter visited her parental home and narrated that respondent No.2 Rajbir and his family members have given beatings to her. They also demanded dowry. On the occasion of Diwali, ₹50,000/- in cash sent through his son to Pooja were handed over to respondent No.2-Rajbir. On 24.11.2014, respondent

No.2 Rajbir took back his daughter with him. Around 7.00 a.m., on 26.11.2014, respondent No.5 Abhey Singh telephonically apprised cousin of the complainant, Mir Singh that Pooja was quarreling. Upon this information, the applicant made call to respondent No.2 Rajbir to know as to what was the matter. He asked him to bring Pooja on line, but of no result. In-laws of his daughter asked him to reach there. The applicant, accompanied by his wife, nephew Monu and other family members started for the matrimonial home of Pooja. When they were on the way, a telephonic message was received that Pooja had consumed some poisonous substance. She has been hospitalized in Narendra Hospital, Rewari. The applicant rushed to the said hospital. However, in-laws of his daughter got her admitted in Rockland Hospital, Manesar. She was in ICU in unconscious state. Blood was oozing from her nostrils. Her hairs were tangled. Blue mark of injuries were found on her chest. In the night, Pooja was declared dead. Respondent Nos.2 to 7 had caused murder of his daughter Pooja by giving her poisonous substance as she could not fulfill their demand of dowry.

On the basis of aforesaid allegations, formal FIR under Sections 498-A,304-B,328,406 read with section 34 IPC was registered. Inquest proceedings were conducted. After conducting autopsy, a sealed parcel containing viscera

was handed over to the Investigating Officer. Statements of Sarla and Naveen were recorded. Supplementary statement of applicant Kuljeet was also recorded. Respondent Nos.2 to 7 were arrested. Respondent No.2 suffered disclosure statement. Pursuant thereto, celphos pouch, pieces of broken bangles, vomit of the deceased and the poison were lifted from the pointed place which were converted into sealed parcel with seal bearing impression 'SS'. All the dowry articles were recovered.

After supplying the copies of challan, the case qua respondent Nos.2 to 7 was committed to the Court of Sessions and accordingly they were charge sheeted under Sections 302, 304-B, 498-A and 406.

In order to prove its case, the prosecution examined as many as fourteen witnesses.

The entire incriminating evidence was put to the respondent Nos.2 to 7. They pleaded their false implication.

In defence, nine witnesses were examined.

After perusing the whole record, scanning the evidence of the prosecution and hearing lengthy arguments from both the sides, the trial Court concluded that the above charges were not proved against the respondents beyond doubt. Accordingly, the respondent Nos.2 to 7 were acquitted of the charges.

Learned counsel appearing for the applicant has strenuously argued that the judgment of the trial Court suffers from legal infirmities which requires to be set aside and respondent Nos.2 to 7 are liable to be convicted and sentenced for the commission of heinous offence of dowry death. The judgment of the trial Court is based upon speculative analysis which is devoid of any merit. Placing reliance upon the provisions of Section 113-B of the Evidence Act, the learned counsel has argued that as the death of Pooja had occurred within seven years of marriage and the prosecution had established her harassment on account of demand of dowry, a legal presumption was to be drawn against respondent Nos.2 to 7 for holding them guilty and sentencing them for the offences committed.

We have thoughtfully considered the arguments advanced by learned counsel for the applicant and are of the view of that the application deserves to be dismissed for the reasons to follow.

The trial Court in acquitting respondent Nos.2 to 7 under Section 302 read with Section 34 IPC has taken into consideration the medical evidence. PW14 Dr.Yudhvir Singh deposed that aluminum phosphide emits pungent smell, it could not be administered by deceitful means. PW3 Dr. Manjeeta Nath Das and PW9 Dr.Amit Yadav categorically

deposed that no injury or struggle mark on any part of the body of Pooja was found and, therefore, it cannot be inferred that the poisonous substance was administered by force or deceitful means. The reasoning adopted by the trial Court in acquitting under the aforesaid charge cannot be held to be unjustified.

In the present case, the marriage of deceased Pooja was solemnized on 11.12.2012 and the death had taken place on 29.11.2014, meaning thereby, she died within seven years of marriage. Thus, this Court is to see as to whether the provisions of Section 304-B IPC are applicable.

Before reaching to any logical conclusion, the facts of the case cannot be overlooked. At around 10.50 a.m., on 26.11.2014 there was an intimation regarding admission of Pooja in the Hospital. The police reached the Hospital at around 4.20 p.m. However, the matter lingered on for consultation of the family members as also for the recovery of Pooja. If there was any cruelty with Pooja for the dowry demand, in that eventuality, the applicant would not have taken breath for a moment in lodging the FIR, rather he would have immediately made the statement that the death of his daughter Pooja had occurred on account of demand of dowry. The applicant made the statement after a few hours

of the death of Pooja.

The prosecution witnesses, who unfold the story are PW10 Kuljeet Singh, PW11 Sarla and PW12 Naveen Yadav, the parents and brother, respectively, of the deceased Pooja.

PW10 Kuljeet Singh deposed that the marriage was solemnized in cordial atmosphere, whereas, PW11 Sarla came out with different version that on the occasion of 'Goad Bharai', respondent No.4-Ramgiri had raised demands. According to the contents of FIR, there was demand of ₹5 lacs. Though PW10 Kuljeet Singh endorsed this version, but PW11 Sarla and PW12 Naveen Yadav went a step ahead by stating that respondent No.6-Poonam had raised a demand of gold necklace and gold ring and respondent No.3-Shekhar was demanding gold chain, while respondent No.4 Ramgiri was making demand of gold necklace. Not only this, PW11 Sarla further deposed that some time the accused persons demanded ₹50,000/- and some time demand was of ₹1 lacs or ₹2 lacs. Although no specific date, time or place was mentioned for demand of dowry or the deceased was subjected to cruelty for the dowry demand, but the evidence available on record suggests that it started about one or one and half months after the marriage. PW11 Sarla and PW12 Naveen Yadav deposed that on the last occasion, when deceased Pooja visited her parental home, she was

accompanied by respondent No.2-Rajbir and he stayed for five days with them and then took deceased Pooja with him. According to this witnesses, she had told that the accused persons were harassing and beating her for demand of dowry. This evidence does not inspire confidence of the Court as to why they did not discuss the matter with respondent No.2 and why deceased Pooja was sent with him, especially, according to PW12 Naveen Yadav, at that point of time, respondent No.2 Rajbir raised demand of ₹5 lacs. The aforesaid evidence suggests that in case, there was any demand of dowry, then respondent No.2 Rajbir would not have stayed at his in-laws's house for five days.

Thus, the charges under Sections 498-A and 304-B read with section 34 IPC are not legally sustainable.

So far as the allegation that the dowry was given to respondent Nos.2, 4 and 5 is concerned, the same also does not hold water, inasmuch as, no evidence available on record suggests that at any point of time, the applicant demanded the Istridhan and respondent Nos.2,4 and 5 refused for the same.

All the facts and circumstances, discrepancies, false implication of the respondents Nos.2 to 7 and observations in that regard made by the trial Court lead to the inference that the prosecution case in all probabilities is

false.

In view of the aforesaid discussion, we find no merit in the present application and, therefore, the same is hereby dismissed. Leave to appeal is declined.

(T.P.S.MANN)
JUDGE

(RAMENDRA JAIN)
JUDGE

May 02,2016
KD