

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1935-SB-2003 (O&M)
Date of Decision: 18.05.2016

Sunil

...Appellant(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

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

Present: Mr. Manoj Bajaj, Advocate
for the appellant.

Mr. Sharad Kumar Yadav, A.A.G., Punjab,
counsel for the respondent-State.

ANITA CHAUDHRY, J.

The appellant has assailed the judgment passed by the Additional Sessions Judge, Faridabad dated 15.09.2003, vide which he was convicted for commission of offence under Section 498-A IPC and was sentenced to undergo rigorous imprisonment for a period of three years along with fine of Rs.2000/-. In default of payment of fine, he was to further undergo rigorous imprisonment for a period of six months.

Sangeeta was married to the appellant in 1989. They had two children. On 20.09.1999 Sat Narain, father of Sangeeta received a call that she was in a critical condition and had been admitted in Escorts Medical Centre, Faridbad. The complainant accused the husband and his family members of administering poison and lodged the complaint Ex.PH with the

police. The complainant had alleged that adequate dowry was given at the time of marriage and the accused were greedy and always pressurized her to bring more dowry and harassed her. The complainant had alleged that 18 months after the marriage, her articles were thrown out from the roof as they wanted her to leave the house.

Appellant Sunil, husband of Sangeeta used to run a grocery shop. The complainant alleged that he used to indulge in gambling and drinking and used to maltreat his wife and did not provide her ration and kept her hungry for days. In his complaint, he had mentioned that about 45 days prior to the incident, he had gone to see his daughter and she had complained of beating and was kept hungry for three days and he purchased ration for Rs.320/- and gave it to her.

The postmortem examination was carried out. The viscera was sent for examination. FSL report was received and the cause of death was stated to be aluminium phosphate poison.

The appellant along with his three brothers, brothers' wives and parents were challaned and were charged under Sections 306, 498-A IPC, to which they pleaded not guilty.

The star witness for the prosecution were the complainant, his son and son in law, besides the Medical Officers and the Police Officials.

The accused denied that the relation between the couple were bad. The husband took the plea that Sangeeta was having illicit relations with Rajesh, a tenant, residing in the

adjoining room in the same building and when he came to know about the relationship, he reprimanded her and the parents were called and she felt humiliated and consumed poison and false allegations were made. The remaining accused had pleaded that they were residing separately and they had been falsely implicated. In defence, they had examined the officials from the Food and Supply Department to show their separate residence.

The trial Court found that there was no evidence of aiding, abetting or instigation or any conspiracy between the husband and his family members and all of them were acquitted of the charge under Section 306 IPC. Only Sunil (husband) was held guilty under Section 498-A IPC and was sentenced to the punishment mentioned here-in-before.

I have heard the counsels of both the sides.

The submission on behalf of the appellant was that the marriage was over 10 years old and there were two children and it was the husband who had taken the wife to the hospital and he was the one who had informed the parents. It was urged that a lot of allegations were levelled in the complaint but when the complainant stepped into the witness box, he did not refer to all the allegations and general allegations were made of harassment. It was urged that there are contradictions in the statement made by Sat Narain that of his son and it is only Sat Narain who had stated that the accused was a drunkard and this fact was not mentioned by PW7. It was urged that according to PW6, the personal belongings of the daughter were thrown from the roof one and

a half year after the marriage whereas according to PW7, the articles were thrown one and a half year before the incident and there could not be so much of disparity. It was urged that only Sat Narain had stated that he had purchased the ration for the daughter and that she was kept without food for three days and there was not a whisper in this regard in the statement of PW7. It was urged that no complaint had been made in the 10 years of marriage regarding demand of dowry or any cruelty related to that and the lady was caught red handed by the husband and the father in law was informed and the deceased could not bear the embarrassment and loss of face before her family that she ended her life. It was urged that the entire family had been roped in even when Sunil's father had married for the second time after the death of his first wife and was living in Delhi. It was urged that the findings recorded by the Court were contradictory as the Court did not find any cruelty so far as Section 306 was concerned but convicted the husband under Section 498-A IPC only because the husband was not able to furnish any explanation for the death. It was urged that an explanation was furnished and it was put to all the witnesses and it was a more plausible explanation. It was urged that the mother had stated that her daughter had never told about any demand or beatings and the only word from her was that he (appellant) used to come home late at night. It was urged that it could be that the husband was coming home late at night and it was possible that she had developed relations. In the end, the submission was that the appellant was released on bail in February, 2001 and had undergone almost 1 year and 5

months of custody and if the arguments are not accepted then the sentence be reduced to already undergone.

The counsel for the State supported the judgment and urged that only the family could have known about the treatment the girl was facing and the statement of the father cannot be ignored and he had stated that about 45 days prior to the death he had found that there was no ration in the house and the deceased and her children were without food.

It is not in dispute that the deceased was married in 1989. The incident had occurred after 10 years of marriage. There were two children. Sat Narain – PW6 had lodged the FIR within few hours of receipt of information. Sunil had called up the complainant and had told the complainant about the critical condition. Sat Narain resident of Delhi went to Faridabad. By then Sangeeta had already died. He approached the police and the statement was recorded before the City Magistrate, Faridabad.

The complainant, his wife, a son and son in law have deposed about the maltreatment by the accused. No sane person would have ended the life unless she was fed up with her life. The deceased was living with her husband and children. None of the other family members or the in-laws were living with them. No doubt in their anxiety, the complainant had named all the family members and they had to undergo the ordeal of the long trial. But the trial Court has sifted the evidence and had found that the complainant had made an exaggerated claim so far as the rest of the family was concerned. It did not find the role of the husband even in the

suicide. The family spoke about the acts of cruelty and the trial Court had rightly concluded that it inspired confidence. The deceased was subjected to cruelty of the extreme nature. As regards the allegations of unchastity, it has come too late and it appears that a false plea has been taken by the accused to save his own skin. I find no infirmity in the findings so far as the conviction under Section 498-A IPC is concerned.

As regards the quantum, the lower Court record reveals that the petitioner was arrested on 21/22.09.1999 he had approached the High Court for bail and order was passed on 22.11.2000 that in case the trial did not get completed by February, 2001 then bail would be allowed to him. The record reveals that bail was allowed to the appellant on 13.02.2001. The appellant has already undergone approximately 1 year and 5 months of custody. Considering the facts that he has two children, I am of the view that the sentence already undergone would suffice.

The appeal is dismissed with the aforesaid modification only in the sentence. There would be no modification so far as the sentence of fine is concerned. The fine be deposited within two months, failing which the appellant would have surrender to undergo the remaining sentence awarded by way of default.

(ANITA CHAUDHRY)
JUDGE

18.05.2016
sunil