

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA No.D-1080-DB-2012

DATE OF DECISION: NOVEMBER 15, 2017

SUKHCHAIN SINGH

...APPELLANT

VERSUS

STATE OF PUNJAB

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN.
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.**

PRESENT: MR. P.S. SEKHON, ADVOCATE
FOR THE APPELLANT.

MR. V.G.JAUHAR, SR.DAG, PUNJAB.

MAHABIR SINGH SINDHU, J.

1. Appellant Sukhchain Singh has filed the present appeal against the judgement of conviction and order of sentence dated 7.11.2012, passed by learned Addl. Sessions Judge, Sangrur vide which he was convicted under Section 304-B IPC and sentenced to undergo life imprisonment and also under Section 498-A IPC and sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.10,000/- and in default thereof, to undergo a further period of rigorous imprisonment for six months, who was responsible for the death of his wife Satvir Kaur deceased committing suicide on account of maltreatment/harassment on account of not bringing sufficient dowry.

2. The case of the prosecution was unfolded on the basis of the statement dated 9.7.2010 (Ex.PW1/A) made by father of the deceased Joginder Singh which is as under:-

“Stated that I am resident of above said address. I am doing agriculture work. I have eight daughters and one son- Sukhwinder Singh, who expired about 5 years ago. All my daughters are married. My one daughter Baljinder Kaur was married with Jaswinder Singh @ Sonu son of Amrik Singh and second daughter Satvir Kaur was married with Sukhchain Singh @ Sonu son of Joginder Singh Caste Jat resident of Dhadrian, about three years ago. My daughter Satvir Kaur has not given birth to any child. At the time of my daughter's marriage, I could not give any dowry, due to poverty. Wherefore, after sometime of marriage of my daughter, my son-in-law Sukhchain Singh and her in-laws family started maltreating and beating my daughter Satvir Kaur, on account of not giving dowry. I tried to make understand to them for many times that I am a father of daughters and I have not enough property, but I will try to fulfill their demand of dowry but after some time, my daughter was thrown out from the in-laws house after beating her. In this regard, my daughter after reaching the house told me that her husband and her in-laws family stated to me that if you wants to lives in this house then she should bring the motor cycle from her parental home. We went to my daughter's-in-law house at village Dhadrian, to leave my daughter there, alongwith Butta Singh son of Mangat Singh caste Jat resident of Alipur Wazir Sahib and my son-in-law Sarda Singh son of Piara Singh Jat resident of Nimnabad, Police Station, Saffidon. We requested them and left my daughter at the house of her in laws, we requested them politely and left my daughter there. I further told them that I

am not in a position to give a motor cycle, but will try to fulfill the demand of motor cycle, whenever I will in a good monetary position. But they are harassing and beating my daughter, on account of not fulfilling their demand of motorcycle. About one week ago, my daughter had informed me on telephone and disclosed that they were harassing and beating her, for not bringing the motorcycle. Kindly take me from there, otherwise they will kill me. I told her that I am busy in plantation of paddy crop, I will take you as soon as possible. Last night, at about 1.30 AM, my son-in-law Jasvinder Singh informed me on the telephone that Satvir Kaur has died at her-in-law's house. Today, I alongwith my son-in-law Sarda Singh was going to police station, to inform that my daughter Satvir Kaur has been killed by my son-in-law Sukhchain Singh @ Somu, his father Joginder Singh, his mother Jaspal Kaur, his sister Amandip Kaur after giving invisible injuries (beatings). You met us near bus stand, Longowal. I have got recorded my statement, heard it, and is correct. Action be taken.”

3. On the basis of the above statement, FIR No.73 dated 9.7.2010, under Section 304-B/34 IPC, Police Station Longowal, District Sangrur (Ex.PW10/B) was recorded. PW10 ASI Sukhchain Singh was the investigation officer in this case. Spot was inspected by him and rough site plan (Ex.PW10/D) was prepared. Statements of witnesses were recorded. Inquest report Ex. PW10/D was also prepared and the dead body of Satvir Kaur was taken in possession and the same was sent to Civil Hospital, Sangrur for post mortem examination. From the place of occurrence, one bed sheet alongwith two blood stained salwars were taken into police possession vide memo Ex.PW2/A. On 23.7.2010, accused Joginder Singh

and Sukhchain Singh @ Sonu were arrested. On 4.9.2010, accused Jagpal Kaur and Amandeep Kaur were arrested. Accused Jagpal Kaur suffered disclosure statement Ex.PW8/A and got recovered one bottle of pesticide which was taken into police possession vide memo Ex.PW8/B.

4. After completion of investigation, report under Section 173 Cr.P.C. was submitted and the accused were charge-sheeted under Sections 302, 304-B and 498-A/34 IPC to which they pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined 10 witnesses.

6. Statements of accused under Section 313 Cr.P.C. were recorded. All the incriminating evidence was put to the accused but they claimed innocence and false implication. They also lead the evidence of DW1 Darshan Singh and DW2 Boota Singh in their defence.

7. The trial Court after taking into consideration all the material evidence available on record found accused Sukhchain Singh guilty for the offence under Section 304-B and 498-A IPC and recorded conviction against him. However, the other three accused were acquitted of the charges.

8. Hence the present appeal.

9. Learned counsel for the appellant has vehemently submitted that the prosecution has failed to prove its case against the convict-appellant beyond reasonable doubt. Learned counsel has further argued that the prosecution has levelled a vague allegation that the convict-appellant used

to harass the deceased on account of dowry and was demanding motorcycle, whereas the convict-appellant owned a motorcycle much prior to the date of occurrence, the deceased committed suicide due to her sickness. No such complaint regarding demand of motorcycle had ever been lodged by the complainant or any family member of the deceased. No independent witness was examined by the prosecution in order to prove its case. As the witnesses examined were closely related to the deceased and are interested witnesses, therefore, their deposition cannot be relied upon in order to convict the appellant.

10. On the other hand, learned counsel for the State has submitted that the trial Court has observed each and every aspect of the case and has given a well considered judgment while convicting and sentencing the accused and therefore, need not to be interfered with.

11. We have heard the learned counsel for the appellant as well as the learned counsel for the State.

12. PW1 Joginder Singh who is the father of the deceased set the law in motion. PW1 has reiterated his version as stated in his complaint.

13. PW2 Sardha Singh also corroborated the deposition made by PW1. He has deposed that the convict-appellant used to maltreat and harass Satvir Kaur deceased on account of bringing insufficient dowry. He further deposed that when Satvir Kaur was turned out of her matrimonial home on account of demand of motorcycle, then he alongwith Boota Singh and PW1 Joginder Singh went to her in-laws village and tried to pacify them and assured them that their demand would be met after some time and left

deceased Satvir Kaur there. After seven days, PW1 Joginder Singh received a telephonic call from his another son-in-law Jaswinder Singh that Satvir Kaur had died. Thereafter, he alongwith PW1 Joginder Singh and Jaswinder Singh his son-in-law reached Longowal and met PW11 SI Sukhchain Singh and statement of PW1 was recorded by PW11.

14. PW4 Baljinder Kaur who was also resident of village Dhadrian, where the convict-appellant and deceased used to reside also corroborated the version as deposed by PW1. She stated that on 8.7.2010, she alongwith her husband Jaswinder Singh went in village to take medicines as they were living in the fields. They also went to the house of the deceased where the accused were giving beatings to her sister Satbir Kaur and were asking for motorcycle. The accused were stating that if their demand is not met, she will be turned out from the matrimonial home and she will be killed. She alongwith Jaswinder Singh advised the accused not to do such act and on the very next day, she came to know that Satbir Kaur had died.

15. PW5 Dr. Pritpal Singh deposed that on 9.7.2010, he was posted as M.O., Civil Hospital, Sangrur. He alongwith Dr. Baljit Kamal and Dr. Sumandeep Grewal conducted post mortem examination on the dead body of Satvir Kaur and found the following injuries:-

- “(i) Clotted blood present in the vaginal canal, after cleaning the blood clot with swab and per speculum, examination of vaginal canal – ^ Lacerated wound of 2cm x 1cm ^ shape present in post. Vaginal canal.
- (ii) Left side of heart was empty, right side was full of blood. A piece of heart, lung, liver, kidney and spleen was sent for chemical examination.

- (iii) Stomach alongwith its contents tied with double ligature and a piece of small intestine with its contents and large intestine with its contents were also sent for chemical examination.
- (iv) External genitalia – were normal, clotted blood was present in vaginal canal, on per speculum examination there was present tear of ^ shape 2cm x 1cm in post. Vaginal wall. Uterus normal in size and appearance on cut section uterine cavity was empty.”

16. PW5 opined that injury No.1 on the dead body of Satvir Kaur cannot be result of normal intercourse and the same is possible if some foreign blunt object is inserted in vaginal canal. After receipt of the Chemical Examiner's report, PW5 opined that the cause of death in this case was due to consumption of chloro compound group of insecticide which was sufficient to cause death in the ordinary course of nature.

17. PW6 HC Darshan Singh got conducted post mortem examination on the dead body of Satvir Kaur from Civil Hospital, Sangrur. He deposited the parcel of clothes of deceased Satvir Kaur and viscera with the Chemical Examiner, Kharar.

18. PW10 SI Sukhchain Singh deposed that on 9.7.2001, he alongwith other police officials were present near bus stand Longowal for patrolling where PW1 Joginder Singh alongwith PW2 Sardha Singh came present and got recorded his statement Ex.PW1/A on the basis of which FIR (Ex.PW1/B) was registered. Thereafter, he reached at the place of occurrence and inspected the spot, prepared inquest report and recorded statements of witnesses. Thereafter, the dead body of Satvir Kaur sent to

Civil Hospital, Sangrur for post mortem examination. From the place of occurrence, he took into possession one blood stained bed sheet alongwith two blood stained salwars. The clothes and viscera handed over by the Doctor were taken into possession. On 23.7.2010, accused Joginder Singh and convict-appellant Sukhchain Singh were arrested and on 4.9.2010, accused Jaspal Kaur and Amandeep Kaur were arrested. Disclosure statement was made by accused Jaspal Kaur on the basis of which one bottle of pesticide were recovered from the yard of her house in the corner alongwith the wall.

19. The medical evidence produced by the prosecution goes to show that Satvir Kaur had not died in normal circumstances. As per Chemical Examiner's report, chloro compound group of insecticides were detected in the body of the deceased. Further, it has also come in evidence of PW5 Dr. Pritpal Singh that injury No.1 with lacerated wound of 2cm x 1cm shape present in post vaginal canal could not be the result of normal intercourse and the same is possible only if some foreign blunt object is inserted in the vaginal canal. This observation made by PW5 goes to the root of the case. It testifies that cruelty had been meted-out to the deceased before her death. Though the victim who received such treatment and was the only one to disclose anything, therefore, in the absence of any word from the convict-appellant that how that injury came on the private part of the deceased clearly points the guilt towards the convict-appellant that it was convict-appellant who acted like a beast in the fit of non-fulfillment of his demand of motorcycle by the father of the deceased. Therefore, it can be

safely held that the convict-appellant had a motive to commit the offence.

20. The dead body of Satvir Kaur was found lying in the house of the convict-appellant. Assuming for the sake of argument that deceased Satvir Kaur committed suicide, the convict-appellant in his statement under Section 313 Cr.P.C. had failed to utter even a word that how the whole occurrence had happened. He has simply stated that the deceased used to remain sick and was taking the medicine of epilepsy from Cheema and Mansa. No Doctor was examined by the convict-appellant in his defence to prove his stand. No prescription or anything was led in evidence by the convict-appellant in order to prove that the deceased used to take medicine of epilepsy.

21. True it is that no complaint with regard to harassment or demand of dowry had been lodged by the complainant party and no independent witness had been examined to prove that harassment and cruelty was being meted-out to the deceased. In our society, firstly, every effort is made to bring peace and harmony at family level with the help of nears and dears so that the matrimonial life of the couple may not get disturbed and only, thereafter, in case of failure, it is shared with outsiders or the Police authorities. It has come in evidence of PW1 and PW2 that when the deceased was sent back to her parents home for bring motorcycle, PW1 and PW2 alongwith one Buta Singh went to her matrimonial home, pacified them and assured them that their demand would be met soon. Therefore, the argument that no independent witness had been examined and no complaint had ever been lodged with regard to demand of dowry and

harassment to the deceased loses its weight.

22. As far as the argument made by counsel for the appellant that the convict-appellant already owned a motorcycle much prior to the occurrence pales into insignificance, as the convict-appellant had failed to examine any witness to prove that the said motorcycle was in the name of convict-appellant. A specific demand of motorcycle had been alleged by the prosecution and no other allegation has been levelled by the prosecution. Had there been any malice in the mind of the complainant party, they would have made any other allegation with regard to demand of cash, car or anything.

23. It has come in evidence that PW2 Sardha Singh was co-brother of convict-appellant Sukhchain Singh. Nothing has been deposed by the convict-appellant in his statement under Section 313 Cr.P.C. as to why PW2 Sardha Singh would depose against him, nor has it come in evidence that the convict-appellant had strained relations with PW2 Sardha Singh. Even otherwise, PW1 Joginder Singh is stated to have eight daughters and all married. It has not come on record that he levelled any allegation against any of his other sons-in-law, ever. Therefore, there was no good reason for a 97 years' old father to implicate his son-in-law in a false case.

24. Though the prosecution has failed to recover the foreign object, as spoken to by PW5 Dr. Pritpal Singh in his examination-in-chief which otherwise was an important piece of evidence to prove the charges but that by itself is no ground to absolve the appellant of the charges against him.

25. In view of the above, it can safely be held that it was the

convict-appellant, who caused the dowry death of Satvir Kaur besides treating her with cruelty on account of bringing inadequate dowry.

26. As regards the sentence of imprisonment, the appellant is facing the agony of criminal prosecution for the last more than seven years. The sentence of life imprisonment imposed upon him for the offence under Section 304-B IPC is on the higher side. Ends of justice shall be suitably met if the same is reduced to twelve years.

27. Resultantly, the conviction of the appellant under Sections 304-B and 498-A IPC is upheld. His sentence of life imprisonment for the offence under Section 304-B IPC is reduced to rigorous imprisonment for twelve years. The sentence of imprisonment and fine for the offence under Section 498-A IPC alongwith its default clause is maintained. Both the substantive sentences of imprisonment shall run concurrently.

28. The appeal is, accordingly, disposed of.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 15, 2017
Gulati/Dinesh

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes