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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-D-254-DB-2005
Date of Decision : June 2,2017

Sanjay Babu Lal .. Appellant

Versus

State of HaryanaRespondent

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE [DR.] SHEKHER DHAWAN**

Present Mr. Rishabh Gupta, Advocate,
for the appellant.

Mr. Vivek Saini, D.A.G. Haryana,
for the respondent-State.

SHEKHER DHAWAN, J.

Present appeal is directed against the judgment of conviction dated 8.2.2005 and order of sentence dated 10.2.2005 passed by learned Additional Sessions Judge, Panchkula, whereby the appellant was convicted and sentenced as under:-

Under Section	Sentence	In default
U/S 304B IPC	Rigorous Imprisonment for Life.	-
U/S 498A IPC	Rigorous Imprisonment for a period of 2 years and to pay a fine of ₹ 2000/-.	to further undergo RI for a period of six months.

Both the sentences were ordered to run concurrently.

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2. Relevant facts for the purpose of decision of this case; that complainant-Nar Singh Karu (PW-8), father of Bhawna (since deceased) reported the matter to the police that his daughter, Bhawna was married to appellant Sanjay Babu Lal on 27.02.2000. After some time the marriage tie ran into crises as the appellant started harassing Bhawna for demand of dowry. However, one male child was born out of this wedlock. Appellant was working in the Army and was posted at Chandimandir Cantt. As per the appellant, there was a dispute between him and Bhawna on some domestic matters. On 04.07.2002, in the morning, the appellant telephonically informed the complainant that Bhawna had got burn injuries due to spread of kerosene oil (*Diya*) and was admitted in Command Hospital, Chandimandir. On receiving this information, the complainant along with his wife Smt. Labho Devi (mother of the deceased), Sanjay (brother of the deceased) and Arvind (uncle of the deceased), reached Command Hospital, Chandimandir, where Bhawna had already died. On enquiry, the complainant came to know that Bhawna was killed by her husband Sanjay Babu Lal after putting her on fire by pouring kerosene oil upon her. The complainant was not satisfied that death had taken place because of spreading of kerosene oil by her, as in that event the infant child must have received some injuries but that was not so. As per the complainant, appellant had murdered Bhawna for bringing less dowry and she was being harassed for the same. Medical *ruqa* was received in the Police Station, Chandimandir on 05.07.2002 from Command Hospital, Chandi Mandir

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regarding death of Bhawna. Formal FIR [Ex.PM/2] was recorded.

3. Investigation proceedings were completed. Photographs were taken. Match box, empty kerosene bottle (Diya), two blankets, clothes and burnt skin were taken into police custody and the appellant was arrested on 06.07.2002. After completion of investigation proceedings, challan was presented in the Court for trial.

4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused under Sections 304B and 498-A IPC and in the alternative 302 IPC, recording of statement of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and defence version on record, learned trial Court held the appellant guilty and convicted and sentenced him as detailed in the opening paragraph of this judgment.

5. Aggrieved of passing of judgment of conviction and order of sentence, the appellant is before this Court by way of present appeal.

6. At the time of arguments, learned counsel for the appellant contended that death of Bhawna had taken place in the matrimonial home where she and appellant Sanjay Babu Lal were residing. On 04.07.2002 there was some dispute as the appellant wanted to pay ₹2,000/- to his uncle in order to discharge his liability and Bhawna objected to that as she had been insisting that the money was required for treatment of their infant child and because of that, she committed suicide by spreading kerosene oil upon her. When he came to know about the incident, Bhawna was taken to

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Command Hospital, Chandimandir, but she died there.

7. Learned counsel for the appellant further contended that there was absolutely no evidence that Bhawna was being harassed for demand of dowry. No such demand was ever raised by the appellant as he himself was comfortably placed. Bhawna was sleeping in a separate room and the appellant entered her room on hearing her cries after breaking open the door and she was immediately shifted to the hospital.

8. Learned counsel for the appellant also contended that the ingredients of Section 304B IPC are not proved in this case. Moreso, from the letters, Ex.DB to Ex.DF on the file, written by deceased Bhawna to her husband, when she was staying with her-in-laws. it is evident that the relations between the deceased and husband were cordial and there was no demand of dowry ever made by the appellant.

9. Learned counsel for the appellant further contended that it had come in the statement of the appellant, recorded under Section 313 Cr.P.C. that on 03.07.2002 the appellant got prepared a draft for a sum of ₹2,000/- in favour of his *Chacha*, namely, Naresh C. Ramuliya for discharging of his liability and Bhawna was annoyed because of that. Thereafter, she slept in a separate room and on hearing crises, the appellant came to know about the incident. However, learned trial Judge had not considered the defence version at all.

10. Contention was also raised by learned counsel for the appellant that Smt. Labho Devi, mother of the deceased was not examined at the trial.

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More so, no independent witness was examined and as such, the prosecution case is not believable. On this, reliance was placed on a Division Bench judgment of this Court in **Jarnail Singh alias Titu and others Vs. State of Haryana, 2008(1) R.C.R. [Criminal] 925.** More so, there was no evidence to establish that there was any demand of dowry soon before her death and no cruelty soon before her death has been proved on the file. Therefore, the conviction of the appellant recorded under Section 304B IPC is liable to be set aside.

11. While arguing on these points, learned State counsel contended that the medical evidence available on the file suggests that Bhawna was admitted to Command Hospital with 85% of burn injuries. This fact was stated by PW-7, Dr. Navjot Kiran Tiwana, Medical Officer, General Hospital, Panchkula. If Bhawna was conscious and fit to make the statement, there was no occasion for not sending a request to the Magistrate to get her statement under Section 164 Cr. P.C. recorded. Defence version has been rightly disapproved by learned trial Judge that if death had taken place accidentally, kerosene oil could not spread over the whole body as burn injuries were on the entire body of Bhawna. More so, the infant child was also sleeping with the deceased, but he had not sustained any burn injury at all. Otherwise, the death had taken place within 7 years of marriage in the matrimonial home and the onus was lawfully upon the appellant to prove that it was not an unnatural death on account of demand of dowry or cruelty. Learned trial Judge has rightly considered all the

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aspects and the present appeal is without any merit and the same be dismissed.

12. Having considered the submissions made by learned counsel for the parties and appraisal of record, taking the case from undisputed facts that Bhawna was married to the appellant on 27.2.2000. The incident of death of Bhawna had taken place on 4.7.2002 because of burn injuries with kerosene oil. That way, the death of Bhawna had taken place within seven years of marriage. The death had taken place at the matrimonial home and that too, when appellant and Bhawna and their infant child were present in the house. Learned trial Judge has rightly disapproved the theory put forwarded by the appellant to prove his innocence that fire had taken place accidentally and diya had fell down while sleeping and Bhawna got 85% burn injuries all over her body. This is totally unbelievable version. If the death had taken place because of accidental burn injuries, as per the story put-forwarded by the appellant, then the infant child, who was sleeping with the mother [Bhawna], must have sustained burn injuries, but that is not the case before the Court.

13. Onus was lawfully upon the appellant to explain under which circumstances, death of Bhawna had taken place in the matrimonial house. To the contrary, the prosecution has led positive evidence on the file by way of statement of PW-8, Nar Singh Karu, father of Bhawan, who deposed that the marriage of his daughter, Bhawna was performed with the appellant after giving sufficient dowry articles. However, the appellant was not satisfied

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with the dowry articles and Bhawna was being harassed on account of demand of dowry and she had complained to them about the conduct of the appellant repeatedly and even immediately before the death. Similar is the statement of PW-1, Arvind, uncle of the deceased. Both these witnesses well-stood the test of cross-examination and their testimony is not contradictory to the medical evidence because 85% burn injuries on the entire body of Bhawna do not establish that death had taken place accidentally. PW-7 Dr. Navjot Kiran Tiwana, who had conducted post-mortem examination on the dead body of Bhawna, proved MLR [Ex. PN] and PW-11, Dr. Lt. Col. T.S.Bhatti had admitted Bhawna in the Command Hospital on 4.7.2002 at 2.00 AM. Apart from the medical evidence, the prosecution case is based upon the testimony of PW-2, Ishwar Dayal, Photographer; PW-3, HC Ramesh Kumar; PW-4 Const. Ram Saran, Draftsman, who prepared scaled site plan, Ex. PL; PW-5 ASI Des Raj, who had recorded FIR [Ex.PM/2] on 6.7.2002; PW-6, Constable Girdhari Lal;; PW-9, Zile Singh; PW-10, Lt. Col. Sukhvir Sharma, who are formal witnesses of the case, whereas PW-12, SI Amar Singh had investigated the matter.

14. As regard to the plea taken by learned counsel for the appellant that neither mother of Bhawna was examined at the trial nor any independent witness was joined, the said plea does not make out any case to disapprove the prosecution case because PW-8, Nar Singh Karu as well as PW-1, Arvind, uncle of the deceased have deposed in so many words that

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Bhawna was being subjected to cruelty and harassment for demand of dowry soon before her death and the death had taken place within seven years. Law does not expect quantitative evidence rather, qualitative evidence. In this case, PW-8 and PW-1 have well-stood the test of cross-examination and there is no reason to disbelieve them and non-examination of Smt. Labho Devi, mother of the deceased and non-joining of independent witness in such a case, is no ground to discard the prosecution case. Therefore, the judgment cited by learned counsel for the appellant in **Jarnail Singh's case [supra]** is of no help to the appellant in the present set of facts.

15. In the light of evidence available on the file and the fact that death of Bhawna had taken place because of burn injuries under unnatural circumstances and the death had taken place within 7 years of marriage and she was being harassed and subjected to cruelty for demand of dowry soon before her death, learned trial Judge has rightly held the accused-appellant guilty for commission of offence punishable under Sections 304B and 498A IPC. Such a view as taken by Hon`ble Supreme Court in **Ashok Kumar Vs. State of Haryana**, 2010(3) R.C.R. [Criminal] 900.

17. Resultantly, the conviction and sentence as imposed by learned trial Judge do not suffer from any infirmity to warrant any interference by this Court. The appeal stands dismissed.

18. The accused-appellant was released on bail by this Court vide order dated 14.08.2007 during the pendency of the appeal. His bail/surety

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bonds are cancelled. He be arrested and sent to jail to undergo the remaining part of sentence. Learned trial Judge is directed to comply with this order forthwith under intimation to this Court.

(MAHESH GROVER)
JUDGE

(SHEKHER DHAWAN)
JUDGE

June 2, 2017
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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes