

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

**CRA-S-2226-SB-2003 (O&M)
Date of decision : 16.12.2017**

Rajender and others

...Appellants

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present : Mr. Deepanshu Mehta, Advocate for the appellants.

Mr. Arun Kumar, AAG, Haryana.

JITENDRA CHAUHAN, J.

The present appeal is directed against judgment of conviction and order of sentence dated 13/19.11.2003, passed by learned Additional Sessions Judge, Bhiwani, (for short, 'the trial Court'), convicting the appellants under Sections 304-B and 498-A of the Indian Penal Code (for short, 'the IPC') and sentencing them to undergo rigorous imprisonment for a period of 10 years (under Section 304-B of the IPC) and rigorous imprisonment for 02 years along with fine of ₹3,000/- each with default clause (under Section 498-A of the IPC). However, both the sentences were ordered to run concurrently.

Brief facts of the case find mention in the opening paragraph of the impugned judgment, which read as under:-

“1. The case of prosecution against accused persons is that on 24.7.1999 at about 7.40 P.M. Zorawar Singh Father of Smt. Navita deceased made a complaint in writing before SHO Police Station Sadar, Dadri that he has married his

daughter Navita with accused Rajender Singh son of Hawa Singh on 14.6.1996 and sufficient dowry was given in the marriage. After marriage when Smt. Navita visited her parental house, she told that her father in law Hawa Singh, mother in law Santra, Jeth Jai Parkash, Jethani Smt. Murti Devi and husband Rajender Singh had told her that “YEH KABBAR SAARI DUNIYA DETI HAI MOTOR CYCLE OR FRIDGE NAHIN DIA.” When Rajender came to parental house of Smt. Navita Devi in order to take her back, family members of Smt. Navita told him of raising aforesaid alleged demand of dowry by her in laws and upon this he put off the matter by saying that the alleged demand was casually made to Smt. Navita. Thereafter, Navita was sent along with him. When she again came to her parental house, she told that she would go to her matrimonial home only when fridge and motor cycle were given to her as her mother in law, father in law, Jethani and husband used to taunt her. At this, he (Zorawar Singh, complainant) along with his brother Anand Singh and cousin Naresh Kumar son of Hoshier Singh in a panchayat paid a vidit to village Kalali and made a complaint of raising demand of more dowry to in-laws of Smt. Navita. Accused persons then told that motor cycle and fridge were given in dowry even by poor persons. The members in the panchayat told that they would not be sending Smt. Navita to her matrimonial home and upon this hot words were exchanged. Finally, accused persons then agreed to allow Smt. Navita to

life in her matrimonial home upon which she was sent there. In the year 1997, Smt. Navita gave birth to a child and when she visited her parental house for Chhuchhak many articles were given to her. But when she returned to her matrimonial home accused persons told her that they were expecting fridge and motor cycle in the Chhuchhak. With the passage of time, some times around one month prior to the taking place of occurrence when Smt. Navita came to her parental house she categorically told that this time she would not go back to her matrimonial home unless motor cycle and fridge were given. She was again sent back to her matrimonial home by telling that fridge and motorcy cycle would be given to accused persons when complainant would visit her matrimonial home. Afterwards complainant could not visit her matrimonial home for want of arrangement of money. On 24.7.1999 at about 9.10 A.M. Gunpal son of Jot Ram, resident of Datauli who had purchased land near village Kalali came and told him that Smt. Navita had hanged herself and on receiving such information he along with his brother Anand Singh and cousin Naresh Kumar as well many residents of village rushed to village Kalali and found dead body of Smt. Navita lying on a bed in the room on upstairs of her matrimonial home and mahroon coloured Chunni was lying outside the room. The rope was removed from the spot and was shown to accused persons to enquire as if Smt. Navita had hanged herself with it to which they replied to affirmative. He then asked that with

that rope death of person through hanging was not possible. Upon which they told that deceased hanged herself with that rope and whereas they had cut the rope with a help of scissor when the deceased was lying hanged with it. He got suspicious of the presented facts and satisfied himself that keeping in view the condition of rope and iron chair then lying on the spot and looking to the height of the roof of the room as well as appearance of a hole in the Kunda, no person could be able to hand himself and thus initially raised suspicion upon accused persons i.e. mother in law, father in law, Jeth, Jethani and husband of Smt. Navita that they after killing her had made her dead body to lie down and whereas they afterwards had pretended that the deceased had hanged herself in order to save themselves. The accused persons were alleged to have killed Smt. Navita as she failed to satisfy their demand for more dowry. After leaving his cousin Naresh and residents of his village near the dead body of Smt. Navita he along with his brother Anand Singh proceeded towards Police Station for lodging a complaint in the occurrence.

Upon completion of investigation, challan was presented. The accused were charged under Sections 304-B and 498-A of the IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Dr. Anil Chaudhary, who conducted post-mortem examination on the deceased as

place of occurrence as PW2; Shri Om, Head Constable (retd.), who recorded the FIR as PW3; Constable Nathu Ram, who delivered special report to Illaqa Magistrate on 24.07.1999 at about 10.00 p.m. as PW4; Rajpal, photographer as PW5; Zorawar Singh, complainant as PW6; Smt. Kela Devi, mother of the deceased as PW7; and SI Punjab Singh, the Investigating Officer of the case as PW8.

When examined under Section 313 Cr.P.C., the accused denied all allegations and pleaded innocence. In defence, they examined Gun Pal Singh as DW1.

After hearing learned counsel for the parties and perusing the evidence available on record, the learned trial Court convicted and sentenced the appellants as detailed at the outset of this judgment.

Hence, the instant appeal.

It is contended that the go-between, DW-1, Gun Pal Singh, has specifically deposed that there was no demand of dowry from the side of the appellant. Appellant No.3 Murti Devi and appellant No.5 Jai Parkash, the *jethani* and *jeth* of the deceased had been maintaining a separate household and therefore, had no involvement in the matrimonial life of the deceased and her husband. The marriage between the parties subsisted for about three years, however, during this period, there was no complaint of harassment or demand of dowry prior to the incident.

On the other hand, learned State counsel has vehemently argued that there are specific allegations against all the appellants with regard to the harassment and cruelty meted out to the deceased for demand of dowry. All the prosecution witnesses have supported the case of the prosecution.

I have heard learned counsel for the parties and perused the record.

In order to prove its case, the prosecution examined Zorawar Singh, complainant/father of the deceased as PW6. This witness has deposed about the series of incidents wherein his daughter, since deceased was subjected to cruelty and harassment on account of demand of dowry. He was subjected to lengthy and exhaustive cross-examination which he successfully withstood and nothing adverse could be elicited from him. Similarly, PW7, Kela Devi, mother of the deceased corroborated the testimony of her husband with regard to the harassment meted out by the accused persons, specifically, the demand of motorcycle and fridge.

The medical evidence on record proves that the death in the instant case was an unnatural death. The deceased died at her matrimonial home within three years of her marriage with the accused-husband. Therefore, it was for the husband of the deceased to explain the circumstances wherein, the deceased committed suicide, which he has miserably failed to do so. The plea that appellant Nos.3 and 5 had been residing separate is also falsified from the testimony of PW8, Panjab Singh, the Investigating Officer, who has deposed that as per his investigation, all the accused persons had been residing in the same house.

Keeping in view the above, this Court does not find any ground to disturb the well-reasoned judgment of conviction rendered by the trial Court and the same is hereby maintained.

However, as far as the sentence part is concerned, the incident took place on 24.07.1999 and the appellants have been facing the agony of

protracted trial for the last more than 17 years. As per record, the appellants do not have any criminal antecedents.

Thus, keeping in view the mitigating circumstances enumerated above, this Court is inclined to take a lenient view as far as the quantum of sentence is concerned. Accordingly, the sentence of imprisonment awarded under Section 304-B is reduced from RI for 10 years to RI for 07 years each.

With the above modification in the order of sentence, the instant appeal is, hereby, dismissed on merits.

16.12.2017

gsv/atulsethi

(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No