

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

**Crl. Appeal No.1610-SB of 2003
Date of decision : 08.03.2017**

Rajinderpal Singh

...Appellant

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aman Pal, Advocate,
for the appellant.

Mr. A.P.S. Gill, AAG, Punjab.

RITU BAHRI, J.

This appeal has been filed against the judgment dated 22.08.2003 passed by the Additional Sessions Judge, Faridkot, whereby Rajinderpal Singh-appellant has been convicted and sentenced to undergo rigorous imprisonment for a period of 08 years for commission of offence punishable under Section 304-B IPC.

Brief facts of the case are that on 14.10.1998, Avtar Singh-complainant made a statement to the police that he was resident of village Dharamkot. His sister-Manjit Kaur was married to Rajinderpal Singh (appellant). Out of this wedlock, one son (aged about 06 years) and one daughter (aged about 03 years) were born. Soon after the marriage, her husband started harassing and humiliating Manjit Kaur on the pretext of bringing insufficient dowry. She was also given beatings by him. Three years prior to registration of the FIR, Rajinderpal Singh along with his wife

and children had shifted to Moga. On 13.10.1998, the complainant received a telephonic call from his sister that Rajinderpal Singh was beating her and demanding Rs.50,000/- from her. Thereafter, Avtar Singh-complainant along with Baldev Singh and Nachhattar Singh visited the house of accused-Rajinderpal Singh at Moga and requested him not to harass his sister by demanding more dowry, as he was not able to fulfill his demands. On 14.10.1998, complainant came to know that the couple along with children, had left for village Dalla. Thereafter, the complainant visited the house of Rajinderpal Singh at village Dalla. When he entered the matrimonial house of his sister, he saw that accused-appellant (Rajinderpal Singh) and his mother Jasvir Kaur had thrown his sister Manjit Kaur on the ground and were trying to administer her some poisonous substance. Thereafter, the complainant raised hue and cry, however, he was thrown out of the house. Upon this, he had gone to his village in order to bring his other family members. When he again came to the matrimonial house of his sister, he came to know that she had been got admitted in Feroze Hospital, Moga. When he visited to the said hospital, it was disclosed that his sister-Manjit Kaur had expired. In his background, the FIR was registered.

After registration of the FIR, dead body of Manjit Kaur was taken into possession by the Investigating Officer and her postmortem was got conducted at Civil Hospital. Dr. S.K. Mittal of Feroze Hospital, Moga handed over one sealed bottle and envelope to the Investigating Officer, which were taken into police possession. Statements of the witnesses were recorded. Rough site plan was prepared on 15.10.1998. Clothes of the deceased were taken into police possession and deposited with the MHC of Police Station, Mehna. After receipt of report of Chemical Examiner and

completion of investigation, challan was presented before the Illaqa Magistrate, who vide his order dated 10.02.1999, committed the case to the Court of Sessions. Vide order dated 26.03.1999, charges under Section 304-B IPC and in the alternative under Section 302 read with Section 34 IPC were framed against Rajinderpal Singh (husband) and Jasvir Kaur (mother-in-law), to which, they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined LC Jaspal Singh (PW-1), HC Major Singh (PW-2), SI Tehal Singh, SHO (PW-3), Dr. Surinder Setia, Medical Officer, Civil Hospital, Moga (PW-4), Dr. S.K. Mittal (PW-5), Jaswinder Kaur, friend of deceased (PW-6), Avtar Singh-complainant (PW-7), Baldev Singh, Ex-Sarpanch (PW-8), HC Naginder Singh (PW-9), Gursewak Singh, Draftsman (PW-10), HC Manjinder Singh (PW-11), constable Swaran Singh (PW-12), Kirpal Singh, SDO, Phones, Moga (PW-13) and ASI Resham Singh (PW-14). After conclusion of prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded, whereby entire incriminating evidence was put to them. However, they denied the same and pleaded false implication. In defence, the accused examined Ravinder Gupta, Manager, M/s Stan Auto Private Ltd. (DW-1), Mohinder Singh (DW-2), Jarnail Singh (DW-3) and Manish Mehta (DW-4).

Trial Court, after going through the entire evidence led by the parties, convicted and sentenced accused-appellant Rajinderpal Singh in the aforesaid terms. However, his co-accused namely Jasvir Kaur was acquitted of the charges framed against her. Hence, this appeal.

Learned counsel for the appellant has argued that the marriage of deceased-Manjit Kaur was solemnized with the appellant about 6½ years before she committed suicide. Earlier, there had been no complaint,

whatsoever, either with the village Panchayat or to the police alleging any sort of harassment caused to her at the hands of appellant. Avtar Singh-complainant, who is brother of the deceased, made certain improvements and introduced the allegation of demand of Rs.50,000/- for the first time while appearing as PW-7. His version that on the date of occurrence, he had gone to the house of deceased at 10.00 A.M. at village Dalla and had seen the accused forcibly administering some poisonous substance to his sister-Manjit Kaur is not believable. This witness had admitted that at the time of marriage, his sister-Manjit Kaur was a graduate (B.A) and after marriage, she had done MA and B.Ed. Thereafter, she had got the service of a teacher. Parents of Rajinderpal Singh used to live at village Dalla, whereas the appellant and deceased used to reside at Moga. Distance between village Dalla and Moga was about 10 to 12 K.M. Further, Avtar Singh in his deposition, had stated that his brother Bhupinder Singh had no son. He denied that Harmit Singh was son of the his brother. He also denied that Harmit Singh had received an eye injury and was admitted in Dr. Sohan Singh Eye Hospital at Amritsar and that he was present there on 14.10.1998. The alleged demand of Rs.50,000/- was made by Rajinderpal Singh-appellant and his mother Jasvir Kaur in October, 1998. However, this fact has not been mentioned in his statement/complaint, Ex.PK, which was made before the police. Statement, Ex.PK, did not contain the allegation that demand of dowry was made after six months of the marriage. He further stated that after getting telephonic call from his sister on 13.10.1998, he along with Ex-Sarpanch Baldev Singh had visited Moga. However, in his complaint, Ex.PK, names of Nachhattar Singh and Baldev Singh were not mentioned. The complainant has made an effort to make improvements

while appearing as PW-7 and has concealed the fact that his brother Bhupinder Singh (since deceased) had a son by the name of Harmit Singh. On the other hand, Mohinder Singh (DW-2) had deposed that brother of Avtar Singh namely Bhupinder Singh had died and he had left behind two sons namely Harmit Singh and Sukhjinder Singh. Learned counsel for the appellant has further referred to the deposition of Manish Mehta, Computer Manager from Dr. Sohan Singh Eye Hospital, Amritsar (DW-4), who had brought treatment record of Harmit Singh, 07 years old male child, whose father's name was Bhupinder Singh. Harmit Singh had been operated by Dr. Pritam Singh and Dr. Rajbir Singh. Learned counsel has argued that in view of the above facts, the deposition of Avtar Singh (PW-7) does not lend any credibility to the allegations of demand of Rs.50,000/- as well as his presence outside the house of deceased at 10.00 A.M., when he had seen both the accused administering some poisonous substance to his sister. He has further referred to the deposition of Dr. Ravinder Gupta (DW-1), who has proved purchase voucher (Ex.DD), which contained the signatures of present appellant-Rajinderpal Singh. This purchase voucher was issued by M/s Stan Auto Private Ltd. G.T. Road, Ludhiana, on 19.08.1998 with regard to purchase of a Zen Car, when marriage of Avtar Singh's daughter was solemnized. This document shows that relationship of the present appellant with the deceased (sister of complainant) were cordial and they had actively participated in the marriage of daughter of complainant-Avtar Singh (PW-7). The deceased has left two children i.e. one son and one daughter. Furthermore, after enhancing her qualification from B.A. to M.A./B.Ed., she was working as a teacher and was residing separately from her in-laws at Moga. Learned counsel has further argued that on one hand the trial

Court has acquitted Jasvir Kaur, mother-in-law of deceased, by taking into consideration the improvements made by Avtar Singh (PW-7) in his statement and on the other hand, the present appellant has been convicted by relying upon the testimony of same witness (Avtar Singh). Lastly learned counsel has argued that present appellant should have been acquitted by the trial Court by giving him the benefit of doubt, as has been given to Jasvir Kaur.

Learned State counsel, at the same time, has argued that the conviction of accused-appellant does not required any interference as the allegation of harassment has been duly proved by the prosecution. The fact that the appellant had signed the purchase voucher (Ex.DD) at the time of purchase of car for daughter of the complainant, would not show that the actual payment was made by Rajinderpal Singh for purchase of the said car. The trial Court has rightly convicted the appellant, as the death had taken place within seven years of the marriage after consuming pesticides on account of ill-treatment given by the husband i.e. the appellant. Learned State counsel has referred to the deposition of Jaswinder Kaur, friend of deceased (PW-6), whereby she had narrated that the deceased used to tell her with regard to the harassment being faced by her at the hands of in-laws' family.

Heard, learned counsel for the parties.

In her deposition, Jaswinder Kaur (PW-6) has stated that after about 1½ months of marriage, Manjit Kaur was being ill-treated by her husband-Rajinderpal Singh and mother-in-law Jasvir Kaur for bringing less dowry. There was a demand of cooler, fridge, TV etc. The case set up by the prosecution as well as Avtar Singh-complainant (PW-7) is that on

13.10.1998, his sister had informed him that accused were maltreating her. Thereafter, he along with Baldev Singh, Ex-Sarpanch and Nachhattar Singh had gone to Moga, where Manjit Kaur told them that her in-laws were demanding Rs.50,000/- and she had suffered beatings at their hands. On account of this fact, she could not attend the school on that day. When Rajinderpal Singh came back, they made him to understand that they were unable to meet the demand of Rs.50,000/-. Thereafter, they returned back to Dharamkot. This demand of Rs.50,000/- has been made basis by the trial Court while returning a finding of harassment and demand of dowry. However, the allegation of demand of Rs.50,000/- on 13.10.1998 does not find mention in his initial statement (Ex.PK) made before the police. This was an improvement made by the complainant while appearing in the witness box as PW-7.

Another fact, which requires consideration in this case is that as per the purchase voucher dated 19.08.1998 (Ex.DD), one Maruti Zen car was given as a gift by the complainant to his daughter namely Randeep Kaur at the time of her marriage in the month of August, 1998. The said voucher was signed by the present appellant. The demand of Rs.50,000/- alleged to have been made from the family members of the complainant on 13.10.1998 i.e. immediately after the marriage of daughter of the complainant. Had this been the main reason leading to the death of deceased, it would have definitely found mentioned in the initial statement, Ex.PK, made by complainant-Avtar Singh. However, this fact does not find mention in that statement. In his statement, the complainant had stated that one day prior to the date when the deceased had consumed pesticides, her husband (appellant) and Jasvir Kaur (mother-in-law) had maltreated and

given beatings to her. This fact was not mentioned in the statement, Ex.PK. Jasvir Kaur has been given the benefit of improvements in the deposition of complainant and has been acquitted of the charge framed against her. Allegation of demand of Rs.50,000/- has been made by the complainant while appearing as PW-7, however, this allegation does not find mention in his statement Ex.PK. Thus, the same cannot be read to return a finding that there was a demand of Rs.50,000/- towards dowry, which led to the deceased to commit suicide within seven years of her marriage. Moreover, the said demand could not be made immediately after the marriage of daughter of the complainant, in which, the present appellant along with his wife had participated in the month of August, 1998, as is evident from the purchase voucher of Zen car (Ex.DD), which had been signed by the appellant. The allegation that one day before the deceased had committed suicide, she had made a telephonic call to the effect that Rajinderpal Singh-appellant and Jasvir Kaur had given beatings to her, has also been found to be an improvement in the statement, Ex.PK, made by the complainant.

In his supplementary statement, the complainant has further denied that his brother, Bhupinder Singh, had any son. He has specifically denied that Harmit Singh had received an eye injury and had been admitted in Dr. Sohan Singh Eye Hospital, Amritsar. The defence has examined Manish Mehta from the said hospital as DW-4, who proved the treatment record of Harmit Singh as Ex.DE/1 and Ex.DE/2. Mohinder Singh (DW-2) has stated that Bhupinder Singh had died and he had left behind two sons namely, Harmit Singh and Sukhjinder Singh. On the other hand, Avtar Singh-complainant (PW-7) has stated that his brother-Bhupinder Singh has no sons. He has also denied that Harmit Singh had received injuries and was

admitted in Dr. Sohan Singh Eye Hospital, Amritsar. Daughter of the complainant was married with Deepinder Singh and was residing at Moga. Amarjit Singh, maternal uncle of the complainant, was also residing at Moga. Tara Singh was the husband of mother of complainant and was residing at Moga. Presence of the complainant at 10.00 A.M. outside the matrimonial house of deceased becomes doubtful, as instead of going to any of these relatives when he had seen that his sister was being administered some poisonous substances by her husband and mother-in-law, he had proceeded back to Dharamkot to bring his relatives. From Dharamkot, he had brought Nachhattar Singh, brother-in-law, Baldev Singh and Sukhdev Singh. Further, as per documents, Ex.DE/1 and Ex.DE/2, Harmit Singh (07 years old male child), was admitted in Dr. Sohan Singh Eye Hospital, Amritsar on 13.10.1998 and name of his father has been shown as Bhupinder Singh. Thereafter, he had been appearing for follow-up treatment till 10.10.2001. Complainant was also present in the said hospital along with Harmit Singh. However, he made a false statement while appearing as PW-7 and stated that his brother Bhupinder Singh had died and he had no son. Therefore, statement of the complainant is not trustworthy.

However, his presence outside the house of deceased on 14.10.1998 is not probable as at about 9.15 P.M., surgery of Harmit Singh was performed in Amritsar and had he been outside the house, he had no occasion to go to any of his relatives at Dharmkot. He could get proper help from his sister and other relatives, who were residing at Moga. In these circumstances, the allegation of demand of Rs.50,000/- cannot subsist as the same does not find mention in his statement Ex.PK given to the police.

Moreover, Jasvir Kaur, mother-in-law of deceased, has already been

acquitted by the trial Court by giving her the benefit of doubt and by observing that Avtar Singh-complainant had made improvements while appearing as PW-7.

Once, mother-in-law of deceased has been acquitted on the basis of improvements made by Avtar Singh (PW-7), the allegation that there was demand of Rs.50,000/- cannot, now, be attributed to the appellant (husband). The complainant has made an attempt to show that on account of harassment caused to his sister, he had visited her house on 14.10.1998. Even his presence is found to be doubtful as on the said date, he was attending his nephew Harmit Singh, who was admitted in Dr. Sohan Singh Eye Hospital, Amritsar. On the same set of evidence, the present appellant cannot be convicted. Moreover, after marriage, the deceased had done MA and B.Ed. and was serving as a teacher. In the absence of any allegation of demand of dowry, conviction of the appellant under Section 304-B IPC cannot be sustained.

Resultantly, the present appeal is allowed, impugned judgment of conviction and order sentence are set aside and the appellant is acquitted of the charge(s) framed against him. His bail/surety bonds stand discharged.

(RITU BAHRI)
JUDGE

08.03.2017
ajp

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No