

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

**Date of decision: May 10, 2018
CRA-AD-124 of 2015 (O&M)**

Sanjay Kumar

.....Appellant

Versus

State of Punjab and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE B.S. WALIA**

Present: Mr. Kailash Chander, Advocate for the appellant.

Ms. Seena Mand, DAG Punjab.

Mr. A.D.S. Sukhjia, Advocate for respondent No.2.

A.B. CHAUDHARI, J

This is an appeal against the order of acquittal dated 10.03.2014 passed by the learned Additional Sessions Judge, SAS Nagar, Mohali, in Sessions case No.07 dated 17.10.2013/02.02.2013, by which the trial Court recorded the acquittal of Rajinder Kumar.

In support of the appeal, learned counsel for the appellant vehemently argued that the trial Court committed an error in recording the order of acquittal of the accused person-Rajinder Kumar. According to him, the prosecution had proved its case to the hilt, but the trial Court has recorded perverse findings. He submitted that the evidence tendered by the prosecution was good enough to record conviction and therefore, the judgment of the trial Court was required to be reversed.

Per contra, learned counsel for contesting respondent No.2

opposed the present appeal and submitted that the trial Court has appreciated the evidence and recorded the findings which cannot be called perverse, but is based on the evidence, which was tendered by the prosecution. He, therefore, prayed for dismissal of the appeal.

We have considered the submissions made by the learned counsel for the rival parties carefully. We have also gone through the judgment made by the trial Court to find out whether there is any perversity.

In brief, the prosecution case is that on 25.06.2013, the police got a message that a lady has consumed poison and her dead body is lying in Dead House, Sector 32, Chandigarh. The complaint was lodged by Sanjay Kumar, the real brother of the deceased Seema who had consumed poison and expired. The sum and substance of the complaint was that at the time of marriage, sufficient dowry was given to the accused Rajinder, but then, for half of the year, the conduct of in-laws of Seema was good with her. Thereafter, the father-in-law and Ravinder Kumar, brother of her husband, that is the sole accused, were harassing her for brining more dowry. They also used to ask for divorce Surinder Kumar and her husband did not provide square meal to Seema. Since they were demanding dowry, ultimately, Seema had taken ultimate step of committing suicide by consuming poison. This was the sum and substance of the FIR so also the prosecution case.

We have carefully gone through the entire discussion made by the trial Court on evidence and we find that it is the testimony of Sanjay

Kumar, which is relevant. The trial Court has quoted the same in Para 18 of its judgment, which we also quote as under:-

“18. The complainant Sanjay Kumar was examined as PW-2. PW-2 testified that at the time of marriage of Seema (deceased) with Surinder Kumar, a cash to the tune of Rs.9,00,000/- was spent and gold ornaments were given to Seema (deceased) and Surinder Kumar (husband). A gold chain, kara and ring was also stated to had been given to Surinder Kumar (husband) of Seema (deceased). After 1-½/2 months of marriage of Seema (deceased) with Surinder Kumar, Surinder Kumar left for Canada. For about 1-½ years, the relations between Seema (deceased) and her in-laws remained cordial and thereafter, Sanjay Kumar threatened to divorce Seema (deceased) and he also send forged documents. Since, the marriage of Seema (deceased), she stated to be residing in her in-law house along with Ram Lal (father-in-law), Bimla (mother-in-law), Rajinder Kumar (Jeth), Amita (sister-in-law), Dimple (daughter of Amita). After receipt of the threatening calls from Sanjay Kumar, the accused also stated to had tortured Seema (deceased) in order to pressurize her to leave their house and to get divorce. Thereafter, Sanjay Kumar stopped making phone calls to her sister Seema (deceased) and then send papers to her for divorce. Seema (deceased) was also not allowed to visit her parents house and was simply provided with meals and no other expenses were given to her by her husband or in-laws. Ram Lal (father-in-law) of Seema (deceased) stated to had threatened her to leave their house or to give divorce, otherwise, he will kill her because he was an old man and it will not bother him if he is punished. All these facts stated to had been told by Seema (deceased) to PW-1 telephonically.

Initially, for the period of 2/3 months Seema (deceased) had not disclosed these facts to them, but, when it became unbearable, she told PW-2. PW-2 further testified that their relatives visited house of Seema (deceased) and made inquiries from her in-laws regarding the fact, they replied that they should take Seema (deceased) with them without disclosing any reason for getting divorce from her. Seema (deceased) stated to had been saying that if her husband Surinder Kumar want to divorce her, he should come to India and ask for divorce, otherwise, she will not agree to it and she will make her both ends meet by doing some job. On 25.6.2013 at about 6.45 a.m. PW-2 stated to had received a telephone call from Rajinder Kumar accused to the effect that something has happened to Seema and they are taking her to the hospital.....”

Perusal of the above evidence given by Sanjay Kumar shows that after the marriage there was absolutely no specific proof about any particular demand of dowry or harassment to Seema. On the contrary, what is seen is that prior to marriage, some dowry articles were given. But then that does not satisfy the ingredients of dowry death contemplated by Section 304-B of IPC. Perusal of his entire evidence aforesaid, to our mind, does not show that any single ingredient of dowry death has been satisfied. Apart from that, there is no specific evidence as to what was the dowry, who demanded it and when demanded. What is emphasis is that at the time of marriage, cash amount of ₹9 lakhs and some gold ornaments were given by way of dowry, but then that is not the requirement of Section 304-B IPC. To sum up, what we find is that there is hardly any evidence for satisfying the ingredients of Section 304-B IPC as

requirement is in connection with any demand of dowry. In that view of the matter, we are of the opinion that there is no perversity in the impugned judgment made by the trial Court. In the result, we find no merit in the appeal.

Appeal stands dismissed.

(A.B. CHAUDHARI)
JUDGE

(B.S. WALIA)
JUDGE

May 10, 2018

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No