

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Misc. A-446-MA of 2018

Date of Decision : August 09, 2018

Sat Narain

....Applicant

Versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Parminder Singh, Advocate
for the applicant.

T.P.S. MANN, J.

The applicant, namely, Sat Narain, who is father of deceased Aarti, hereinafter referred to as 'the complainant', has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 8.1.2018 passed by learned Additional Sessions Judge, Rewari whereby respondent No.2-Shakti Raj, hereinafter referred to as 'the accused', stood acquitted of the charge under Section 304-B IPC.

According to the prosecution, the complainant's daughter Aarti was married to the accused on 1.12.2011. Soon thereafter, the accused and his parents Chunni Lal and Savitri Devi started maltreating and assaulting Aarti by raising demand for dowry. When she became pregnant, then due to the assault, she suffered miscarriage. The accused and his parents drove her out from the matrimonial home.

Accordingly, FIR No.139 dated 22.4.2013 under Sections 498-A/406/315/323/34 IPC was registered at Police Station City, Rewari, which was pending in the Court of Additional Sessions Judge. On 21.10.2014, the complainant alongwith his wife was sleeping in a room of his house, whereas Aarti and complainant's other children were sleeping in the adjoining room. At about 3 o'clock during the night, Aarti entered the complainant's room and said that the complainant was not financially able to give the dowry as demanded by her in-laws and as their demands could not be fulfilled, she ought to have been settled at her matrimonial home. Further, Aarti wanted to know as to for how long she would be a burden on the complainant and having been fed up from the conduct of her in-laws, she had consumed a poisonous tablet and sought forgiveness. The complainant arranged an ambulance and removed Aarti to General Hospital, Rewari, where-after providing her first-aid treatment the doctor referred her to some better hospital owing to her critical condition. However, when the complainant was on the way taking her to PGIMS, Rohtak, she died. According to the complainant, it was on account of maltreatment, harassment and demand for dowry by the accused that Aarti, who was aged about 21/22 years had committed suicide.

Having heard learned counsel for the complainant and on going through the impugned judgment, this Court finds that the solitary statement of complainant Sat Narain, who had stepped into the witness box as PW8, cannot be made the basis for convicting the accused under Section 304-B IPC. His wife Smt. Shanti Devi was cited as a witness

who despite availing several opportunities could not be examined and ultimately on 26.10.2017, she was dropped by the learned Public Prosecutor by stating that she was suffering from acute mental depression. However, no medical evidence was produced in support of the said stand taken by the learned Public Prosecutor.

It is not in dispute that Aarti was living in the house of her parents earlier to 22.4.2013 as on that date FIR No.139 was registered against the accused for offences under Sections 498-A/406/315/323/34 IPC. The present occurrence had taken place on 21.10.2014, i.e. after more than 1½ years of Aarti living in her parents' house. It is not the case of the prosecution that subsequent to 22.4.2013, Aarti had lived in the house of the accused or any such demand for dowry being made soon before 21.10.2014. On the other hand, after having lived with her father for more than 1½ years, she felt herself to be a burden upon the complainant and said to have consumed some poisonous tablet. Even otherwise, the version given by the complainant that after consuming poisonous tablet on the intervening night of 20/21.10.2014 that Aarti came inside his room and uttered the words about being a burden on the complainant and, thus, fed up of the atrocities meted out to her by accused and his parents. This version which is in the nature of oral dying declaration is highly improbable. At the time when Aarti was being taken to hospital by the complainant, Rajender Kumar Prajapat and Peer Dass, besides mother of the deceased were accompanying the complainant. Rajender Kumar Prajapat was given up by the learned Public Prosecutor as having been won over by the accused whereas Peer

Dass was not joined by the police even during the investigation. Even otherwise, no attempt was made either by the doctor in General Hospital, Rewari to record the statement of the deceased or calling upon the police to arrange some Magistrate for recording the dying declaration.

During the trial of FIR No.139, the complainant had appeared as PW8 where he stated that he could not identify the handwriting of the deceased. However, in the present case, when asked about the hand written diaries Exs.D1 to D3, he identified the writing of his deceased daughter. The hand written diaries contained a bunch of poetic expression and couplets written by the deceased which showed that she was a highly emotional girl. The writings suggested her affection for someone. The writings by the deceased at the place of her in-laws nowhere reflected that the deceased and the accused were not enjoying matrimonial bliss.

In view of the above, no fault can be found with the impugned judgment of acquittal passed by the learned trial Court. The application is devoid of any merit and, therefore, dismissed. Special leave to appeal is declined.

August 09, 2018	(T.P.S. MANN)	(FATEH DEEP SINGH)
satish	JUDGE	JUDGE

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO