

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

CRA-S No.1647-SB of 2004
Date of decision: 5th September, 2019

Premwati & another

... Appellants

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Gurveer Sidhu, Advocate as Amicus Curiae
for the appellants.

Mr. Amrik Narwal, Dy. Advocate General, Haryana
for the respondent/State.

FATEH DEEP SINGH, J.

Appellant convicts Premwati and Sanjiv Kumar were charged for commission of offences punishable under Sections 498A/304B/406 IPC by the Court of learned Additional Sessions Judge, Jhajjar. The allegations against the accused have been levelled by complainant Devender, brother of deceased Usha wife of the accused Sanjiv Kumar. In his allegations the complainant claims that his sister was married to the accused on 02.12.2000 where they had given handsome dowry, however the accused and their family were not happy with the same and on account of insufficiency of the same often used to taunt and torture his sister and after one year of the marriage, she was thrown out of her matrimonial home after being beaten. The accused had demanded a sum of ₹ 30,000/- to enable them to buy a Maruti car and on receiving the

same after some time they again started doing so. On birth of the child, the family had sent handsome cash but the accused did not desist from doing so. It was on 21.04.2004 Kabul Singh, father-in-law of sister of the complainant, gave a telephonic call intimating that the deceased had committed suicide by hanging herself with the ceiling fan. It is subsequent, on the basis of the same, present case by way of FIR No.54 dated 22.02.2004 under Sections 498A/304B/406 IPC pertaining to Police Station Sadar Bahadurgarh was got registered.

The prosecution at the trial, examined PW-1 C.Raj Kumar, PW-2 Jai Chand, PW-3 C. Mahabir, PW-4 C. Sanjit Kumar, PW-5 Dalbir, PW-6 Naresh, PW-7 Vijender, PW-8 Surender, PW-9 Dr. N.K. Mundra, PW-10 Bhup Singh, PW-11 complainant Devender Singh and PW-12 ASI Randhir Singh. The prosecution proved documents Ex.P1 to Ex.P20, Ex.P20/1, Ex.P21 and Ex.P22. When confronted with the incriminating evidence, oral as well as documentary, the accused denied the allegations in their stand under Section 313 Cr.P.C. but did not lead any evidence in defence. Consequent thereupon, the Court of learned Additional Sessions Judge, Jhajjar through impugned findings dated 29.07.2004 acquitted the accused under Section 406 IPC but held them guilty for commission of offences under Sections 304B and 498A IPC, and sentenced them to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2,000/- each under Section 498A IPC and in

default of payment of fine to further undergo rigorous imprisonment for one month, whereas under Section 304B IPC both the accused were sentenced to undergo rigorous imprisonment for a period of nine years. Both the sentences were ordered to run concurrently. It is against these findings, the present appeal has come about.

Upon hearing Mr. Gurveer Sidhu, Advocate as Amicus Curiae representing the appellants; Mr. Amrik Narwal, learned Deputy Advocate General, Haryana for the respondent/State and on perusal of the records of the case.

It is there unrefuted stand of the two sides that marriage between the deceased Usha Devi and accused Sanjiv Kumar took place on 02.12.2000. The occurrence has taken place on 21.02.2004 i.e. within less than three years and two months. The deceased has died in her matrimonial home under suspicious circumstances an unnatural death. As is there in the allegations throughout the course of matrimony, there has been demand of dowry by the accused and to force the deceased to accede to this illegal demand of the accused, she was harassed, humiliated and physically abused. The testimony of PW11 Devender complainant, brother of the deceased, in his complaint Ex.P19 had in detail serialized the manner of this demand of dowry, harassment and cruelty and how they had been forced to accede to the illegal and illegitimate demands of the accused side. Even the other witnesses PW-5

Dalbir and PW-7 Vijender, other brothers of the deceased, had materially corroborated these allegations against the appellants. The claim of the appellant side put forth by learned Amicus Curiae, Mr. Gurveer Sidhu, Advocate that mere demand of vehicle or cash after the marriage does not fall within the definition of dowry, certainly is too preposterous a proposition. It is there in the testimonies of these witnesses that right from the inception of the marriage, the accused have been demanding money for purchasing a car and which was nothing but in lieu of this marriage. Moreover, the accused are totally silent in their stands under Section 313 Cr.P.C. and are unable to explain for these allegations and evidence that has been led at the trial against them. Furthermore, the post-mortem report Ex.P9 proved by PW-9 Dr. N.K. Mundra shows that the deceased died an unnatural death by means of hanging. Sanjiv Kumar the husband of the deceased has not brought about any such explanation, how or under what circumstances the deceased had taken such an ugly step. It is there in the allegations of the witnesses that immediately after the marriage, the accused had started raising demands and that soon before the death of the deceased on 21.02.2004, the deceased was treated with cruelty and harassed on account of demand of dowry. Thus, from the evidence, there is clear-cut existence of a proximate link between the demand of dowry, harassment and the death of the deceased. By virtue of Section 113B of the Evidence Act, the onus of the same is placed on the

accused and neither the husband Sanjiv Kumar who is supposed to have the best knowledge of what led to this death especially as the deceased has died within the four walls of the house, has failed to throw any light on the same.

The arguments of the appellant side that the findings of the trial Court are based on surmises and conjectures and that the allegations are general and vague and that there is no specific date and time of such a demand, harassment or cruelty, certainly does not convince this Court. In view thereof, the Court below in the impugned findings has rightly considered that the accused had failed to explain the circumstances in which the deceased has died and therefore, the arguments that have been sought to be put forth by the learned State counsel that in such a case where a young bride dies within seven years of her marriage and there are allegations that soon before her death there was demand of dowry, harassment and cruelty, certainly romps home that the offence under Section 304B IPC could not be controverted by the learned counsel for the appellants. The other claim that is sought to be raised by learned counsel for the appellants that there is no independent corroboration to the allegations of the prosecution, does not cut much ice as the occurrence has taken place within the walls of the matrimonial house and that too, within a short period of marriage and it cannot be expected that there would be independent witnesses to this episode which has led to the

unfortunate bride extinguishing her life. Going through the impugned findings in detail, in the light of what has been submitted before this Court by the two sides, nothing has come about which could necessitate interference by this Court. The findings of the Court below are correct appreciation of the evidence and the law and therefore, needs to be upheld. There being no merit in the instant appeal, the same stands dismissed.

(FATEH DEEP SINGH)
JUDGE

September 5, 2019

rps

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