

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : July 11, 2019

1. Criminal Appeal No. S-575-SB of 2004 (O&M)

Kulwant Singh and anotherAppellants

versus

State of PunjabRespondent

2. Criminal Revision No. 1276 of 2004

Gurjit SinghPetitioner

versus

State of Punjab and othersRespondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Paramjit Singh Brar, Advocate, for the appellants in
CRA-S-575-SB-2004 and for respondents no. 2 to 4
in CRR-1276-2004

Mr. Harbir Sandhu, AAG, Punjab, for the State

Mr. Sukhwinder Singh, Advocate, as Amicus Curiae
for the petitioner in CRR-1276-2004

Fateh Deep Singh, J. (Oral)

The aforesaid criminal appeal and criminal revision
petition are being disposed of by this common order as the same are

arising out of one and the same impugned judgment/order.

Accused Kulwant Singh, Nasib Kaur and Darshan Kaur were tried in a case bearing FIR No. 86 dated 16.5.2003, under Sections 304-B, 498-A IPC, Police Station PS Lehra, District Sangrur and through its judgment order dated 3/4.2.2004, the court of learned Additional Sessions Judge, Sangrur, acquitted Darshan Kaur of all the charges and convicted Kulwant Singh and Nasib Kaur under sections 304-B and 498-B IPC and sentenced them to undergo rigorous imprisonment for seven years and to pay a fine of Rs 2000/- and in default of payment of fine, to further under RI for six months under Section 304-B IPC and further sentenced them to undergo rigorous imprisonment for two years and to pay a fine of Rs 1000/- and in default of payment of fine, to further undergo RI for three months under Section 498-A IPC. Dissatisfied with the findings, the convicts have come up in criminal appeal before this Court praying for their acquittal whereas complainant-Gurjit Singh had come up in criminal revision praying for enhancement of sentence awarded to Kulwant Singh and Nasib Kaur and also for conviction of other accused Darshan Kaur.

Heard Mr. Paramjit Singh Brar, Advocate, for the appellants in CRA-S-575-SB-2004 and for respondents no. 2 to 4 in CRR-1276-2004; Mr. Harbir Sandhu, AAG, Punjab, for the State and Mr. Sukhwinder Singh, Advocate, as Amicus Curiae for the petitioner

in CRR-1276-2004 and perused the records of the case.

The allegations of the prosecution have come about from the statement of complainant Gurjit Singh PW2. In his statement Ex. PE, the complainant alleged that his sister Karamjit Kaur alias Ravinder Kaur (since deceased) was married to Kulwant Singh accused about 5 to 6 months before the occurrence and sufficient dowry was given at the time of marriage but her in-laws were not satisfied with the same and started harassing and beating his sister. On 16.5.2003, complainant Gurjit Singh PW2 and his father Gurdev Singh PW3 reached the house of in-laws of the deceased in village Daska and noticed that all the accused were quarrelling with the deceased. She went inside the room and consumed something and after that her condition started deteriorating. After making arrangements for conveyance, they were taking her to Civil Hospital, Sunam, when she died on the way, leading to the registration of the present FIR Ex. PE/2.

In order to prove its case, the prosecution examined Dr. Parminder Singh PW1, who conducted post-mortem examination of the deceased; Gurjit Singh complainant PW2; Gurdev Singh PW3, father of the deceased; HC Kuldeep Singh PW4; HC Balkar Singh PW5; Jugraj Singh PW6, Baljinder Sharma PW7, Architect; Baljinder Singh PW8; Gurmail Singh PW9; Balbir Singh PW10 and SI Chand Singh PW11, the Investigating Officer, who detailed the investigations

conducted by him.

Upon closure of the prosecution evidence the accused was put the incriminating evidence oral as well as documentary in his statement recorded under Section 313 Cr.P.C. who denied the allegations. In defence, the accused examined DW1 Surinder Kumar and DW2 Darshan Singh Banga and thereafter the defence evidence was closed leading to the passing of the impugned findings.

At the very onset, learned counsel for the appellants Mr. Paramjit Singh Brar stated that he does not wish to assail the findings recorded by the learned trial court and would be satisfied if the sentence awarded to the appellants is reduced to the one already undergone. However, the prayer has been opposed by the learned State counsel on the ground of heinousness of the offence committed by the accused.

As per orders dated 30.1.2018 passed by this Court while suspending the sentence of the appellants, appellant-Kulwant Singh has undergone 06 years, 07 months and 24 days whereas appellant-Nasib Kaur has undergone 06 years, 02 months and 17 days inclusive of remissions out of maximum awarded sentence of 07 years.

Keeping in view that for more than 16 long years the appellants had been suffering for this and have also undergone substantial period of incarceration and at the time of commission of

offence appellant-Kulwant Singh was young and by now must have entered into middle age with family to support and appellant-Nasib Kaur was aged 50 years and by now she must be above 76 years of age, the ends of justice would be met if the sentence awarded to both the appellant is reduced to the period already undergone by them, maintaining the imposition of fine.

With the aforesaid modification in the quantum of sentence, appeal bearing CRA-S-575-SB of 2004 stands dismissed.

Since the private respondents in CRR-1276-2004 have already suffered pangs of this prosecution for the last 16 years and have already undergone sufficient period of incarceration, no sufficient ground for enhancement of sentence awarded to Kulwant Singh and Nasib Kaur and also for conviction of other accused Darshan Kaur, since acquitted by the trial court is made out. No illegality or perversity could be pointed out in impugned order by the counsel for the petitioner. The revision petition bearing CRR-1276-2004, thus, being without any merit stands dismissed.

July 11, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No