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

CRA-S-1004-SB-2004
Date of decision: 28.02.2020

Mukesh Kumar & anr. …. Appellants

Versus

State of Punjab …. Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. S.S.Narula, Advocate
for the appellants.

Ms. Devaki Anand Sullar, AAG, Punjab.

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Manjari Nehru Kaul, J.(Oral)

This appeal has been filed against the judgment of conviction and order of sentence dated 24.04.2004 passed by Addl. Sessions Judge (Ad hoc) Fast Track Court, Ludhiana vide which the accused were convicted under Section 304-B IPC and were sentenced to undergo rigorous imprisonment for a period of ten years each.

The case of the prosecution was set in motion on the statement Ex.PA made on 25.09.2002 before PW-6 SI Darshan Ram by the complainant Vijay Kumar-brother of the deceased Prema @ Veena. The complainant in his statement alleged that his deceased sister had got married to appellant No.1-Mukesh Kumar in February, 1999. Soon after the marriage of his sister, accused-appellants would harass her and make demands of dowry from them. On many occasions, the complainant and his family obliged the appellants by giving them household articles and gold jewellery but their greed remained

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unsatiated. After the birth of the first child of his sister, the complainant again gave articles beyond their financial capacity yet it failed to satisfy the accused-appellants. The accused-appellants continuously subjected his sister to physical assault as a result of which he had to many a times bring his sister back to his house and only on fulfilment of their demands, the accused would take her back to the matrimonial home. Two months prior to the occurrence in question, his sister gave birth to her second daughter at her parental home in Tarn Taran. However, after picking up a quarrel with the complainant and his family, the accused-appellants brought her back to the matrimonial home. It was alleged that only a week prior to the occurrence in question, the complainant along with his mother and other relatives had visited the matrimonial home of his deceased sister to meet her and in their presence itself, she was beaten up by the accused-appellants and demands of dowry were made. On 25.09.2002 at about 1.30 pm, they were telephonically informed by appellant No.1 that his sister Prema @ Veena had expired. On reaching Ludhiana, the complainant and his parents found Veena lying dead and froth coming out of her mouth. As the accused-appellants failed to give a satisfactory reply about the cause of death of his sister Veena, the complainant reported the matter to the police leading to the registration of FIR in question. After completion of investigation, the accused-appellants were chargesheeted under Section 304-B and put to trial.

The prosecution examined as many as 10 witnesses including PW-1 complainant, PW-2 Mukesh Kumar and PW-5 Parkash Rani, who stepped into the witness box and supported the prosecution case.

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All the incriminating evidence appearing against the accused-appellants were put to them under Section 313 Cr.PC to which they pleaded false implication and innocence. They denied the allegations of maltreatment and harassment of the deceased. They rather pleaded that the deceased after the birth of her second daughter had become very weak and had been provided good medical treatment as well. Accused-appellant Sheela pleaded that she was a patient of breast cancer and was unable to move and perform her duties. In their defence, the appellants examined three witnesses.

On appraisal of the evidence and other material available on record, the Court below convicted the accused-appellants for the offence charged with and sentenced them as already detailed above.

Learned counsel for the appellants vehemently argued that the learned trial court gravely erred in recording a finding of conviction against the appellants by not appreciating the evidence adduced before it, in the right perspective. It was urged that in fact it was a case of natural death. The deceased had become very weak after the birth of her second daughter for which she was being medically treated, however, she could not survive and unfortunately died. It was urged that as per the Chemical Examiner's report Ex.PW-4/D, Chloro compound group of insecticides was found in her viscera. However, the percentage of chloro compound group of insecticides found in the viscera was not specified in the said report. Hence, the cause of death on account of consumption of chloro compound group of insecticides stood not proved. It was further urged that the allegations of mental and physical assault and harassment on account of demands of dowry were nothing but a fabrication

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as no complaint whatsoever had ever been made by the complainant party to the authorities concerned, any time prior to the occurrence in question qua the alleged harassment.

Learned State counsel on the other hand vehemently opposed the submissions of learned counsel for the appellants. It was submitted that the deceased died an unnatural death within 7 years of marriage. It was further submitted that in case the relations between the accused-appellant No.1 and his wife were cordial and normal there would have been no occasion for the complainant party to weave a version against them and implicate them in the case in hand.

I have heard learned counsel for the parties and reappraised the impugned judgment and evidence available on record.

Coming to the case in hand, it cannot be disputed that the deceased died within 7 years of her marriage at her matrimonial home on 25.09.2002. The moot question, which arises, is whether she died an unnatural death as set up by the prosecution or it was a natural death as pleaded by the accused-appellants. As per the Chemical Examiner's report Ex.PW-4/D chloro compound group of insecticides was found in the viscera, which was opined by the doctor to be the cause of death of the deceased. The submission of learned counsel for the appellants that since the Chemical Examiner's report Ex.PW-4/D was silent qua the percentage of the chloro compound group of insecticides found in the viscera, it could not be said to be a case of poisoning, lacks merit and deserves to be rejected outrightly. Once Chloro compound group of insecticides poison had been detected in the Chemical Examiner's report, there can be no manner of

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doubt that the deceased had indeed died due to the consumption of the same. Further, the non-mentioning of the percentage of chloro compound group of insecticides in the Chemical Examiner's report would not in any way create a dent in the case of the prosecution. Admittedly, as per the Chemical Examiner's report, the chloro compound group of insecticides was detected in almost all the organs sent for analysis. In this background, it clinchingly emerges that a heavy dose of chloro compound group of insecticides had been consumed by the deceased. Not only this, the presence of chloro compound group of insecticides in all the organs sent for chemical analysis belies the contention of the learned counsel for the appellant that since some traces of chloro compound group of insecticides are found in every human being, it was a case of natural death. Had it been a natural death on account of the deceased becoming weak after the birth of her second daughter, or on account of the natural presence of chloro compound group of insecticides in her body, as urged, not only would the doctor have opined as such but the poison would not have been present in all the organs of the deceased. More so, when no suggestion was given to the doctor qua it being a natural death on account of traces of chloro compound group of insecticides being present in all human beings. Coming to the next limb of arguments of the learned counsel that the deceased was not subjected to any maltreatment much less any harassment on account of demand of dowry, the same too is devoid of merit. The very fact that the deceased who was a mother to two children including a new born child had consumed chloro compound group of insecticides, which as per the Chemical Examiner's report was the cause of death speaks volumes of the fact that she was harassed to such an extent

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leaving her with no other option but to end her life. The submission of the learned counsel for the appellants that had the appellants been greedy persons, they would not have solemnized only a chunni marriage is of no consequence because the fact of the matter is that the deceased died an unnatural death in her matrimonial home within seven years of marriage. Hence, presumption under Section 113-B Cr.PC of the Evidence Act has would have to be drawn that her death was caused on account of the said demand of dowry. The prompt lodging of the FIR further lends credence to the prosecution version as there could not have been any time for the complainant party to come out with an embroidered version.

As a sequel to the above, the impugned judgment and order dated 24.04.2004 passed by the trial court is well reasoned one and does not warrant any interference. Accordingly, the present appeal stands dismissed. The accused-appellants are on bail. Their bail/surety bonds stands cancelled. Necessary steps be taken to secure their custody.

28.02.2020 **(MANJARI NEHRU KAUL)**
sonia **JUDGE**

Whether speaking/non-speaking? Yes
Whether reportable? Yes

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