

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

**CRA No.AD-699 of 2019
Date of Decision: January 21, 2020**

Jai Kishan

...Appellant

VERSUS

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Ajay Jain, Advocate
for the appellant.

ARCHANA PURI, J.

Appellant-Jai Kishan, father of the deceased has filed present appeal to challenge the judgment dated 01.08.2019 passed by learned Addl. Sessions Judge, Narnaul, whereby, accused-respondents Sunil Kumar, Nathu Ram, Ravinder and Urmila Devi were acquitted of the charges levelled against them.

FIR No.501 dated 05.09.2017 under Sections 498-A, 304-B and 34 IPC was registered at Police Station Mahendergarh, on the basis of complaint Ex.PW1/A, filed at the instance of Jai Kishan, who is father of Jyoti (since deceased).

As per version of the prosecution, marriage of complainant's daughter Jyoti was solemnized with accused Sunil on 03.03.2016, as per Hindu Rites and Ceremonies. Soon after the marriage, the deceased was

harassed and ill-treated by all the accused for want of money. Accused Sunil used to ask for money, as and when he visited the house of complainant and on refusal, he used to threaten to kill Jyoti.

On 22.02.2017, Jyoti gave birth to a male child. All the accused asked her to bring cash of ₹1 lakh as additional dowry on the occasion of birth rituals (*chhuchak*), lest she would not be permitted to stay at her matrimonial home. Jyoti used to recount her trauma, whenever she visited her parental home. On 04.09.2017 at about 9.15 p.m., the complainant was informed on phone that something had happened with Jyoti. The complainant party went to the matrimonial village of Jyoti and found her dead body, having marks of beating. Thereupon, complaint Ex.PW1/A was moved by complainant Jai Kishan, on the basis whereof, aforesaid FIR was registered.

After culmination of the investigation, the challan, at first instance, was presented qua accused Sunil and Nathu Ram and thereafter, supplementary challan was presented against Urmila Devi and Ravinder.

In pursuance to the commitment proceedings, charges were framed against all the accused under Sections 498-A, 304-B and 34 IPC and in the alternative, under Section 302 IPC.

To so substantiate its claim, the prosecution examined as many as 14 witnesses, besides adducing documentary evidence. The witnesses examined are **PW-1, Jai Kishan**, at whose instance, the prosecution proceedings were initiated. **PW-2 Ram Chander, PW-3 SI Mahesh Kumar, PW-4 Head Constable Tejbir, PW-5 SPO Suresh Kumar, PW-6 ASI Mahesh Kumar, PW-7 Head Constable Sunil Kumar, PW-8 Harish**, brother of deceased, **PW-9 SI Ashwani Kumar, PW-10 Inspector**

Ramesh Kumar, PW-11 Lady Constable Manju, PW-12 SI Lal Singh, PW-13 Dr.Ashish Rao and PW-14 ASI Sukhbir Singh.

Statements of the accused under Section 313 Cr.P.C. were recorded. In defence, accused examined **DW-1 Shamsher Singh.**

After hearing learned Public Prosecutor for the State and learned defence counsel, learned trial Court, while extending benefit of doubt to all the accused, acquitted them of the charges levelled against them vide impugned judgment dated 01.08.2019.

Feeling aggrieved by the aforesaid judgment of acquittal, complainant Jai Kishan, who is father of the victim/deceased, has filed the present appeal.

From the material coming on record, it is evident that accused Sunil Kumar is husband of deceased Jyoti, Nathu Ram is father-in-law, Ravinder is brother-in-law and Urmila Devi is mother-in-law of the deceased.

Undisputedly, the marriage of Jyoti was solemnized with Sunil Kumar on 03.03.2016, whereas, she had died on 04.09.2017 i.e. within seven years of her marriage. Also, PW-13 Dr.Ashish Rao along with Dr.Nisha, had conducted post-mortem examination on the dead body of Jyoti and it was opined that death was suicidal. Thus, it stands established that a married woman, had died within seven years of her marriage, otherwise than under normal circumstances. However, besides establishment of unnatural death, having taken place, within a period of seven years of marriage, to establish the offence under Section 304-B IPC, it was required on the part of the prosecution, to establish about deceased

Jyoti, soon before her to have been subjected to maltreatment and

harassment connected with the demand of dowry. It was required that death of married woman i.e. victim should be having live link with the demand of dowry.

The star witness of the prosecution is PW-1 Jai Kishan, at whose instance, the ball went rolling. Though, the said witness PW-1 had stated that he fulfilled the demands of in-laws' of the deceased but however, it has been rightly concluded by the learned trial court that there is no evidence, as to what was given by the complainant to the accused in the marriage of the deceased. No list of dowry articles was presented during the course of investigation. Even, no bills of the dowry articles had been produced by the complainant side. Though, it is stated by PW-12 SI Lal Singh that the dowry articles were identified by the complainant but he did not prepare any identification memo. No other document relating to ownership of the recovered articles had also been collected. In fact, the giving of the dowry on demand by the accused, as such, has been rightly concluded, to have not been established. Furthermore, even though PW-1 Jai Kishan has deposed that soon after the marriage, all the accused started beating and harassing the deceased for bringing dowry but no detail, as such, of the dowry has been given. The birth of male child to the deceased on 22.01.2017, as such, is not disputed. It is claim of the complainant that all the accused raised their demand on the eve of *chhuchak*. The accused demanded motorcycle at the time of marriage, which he could not fulfill and they again demanded motorcycle to be given at the time of *chhuchak* but however, the demand at the time of marriage, as such, and non-fulfillment of the same, has not been established. Even, the demand of motorcycle at the time of *chhuchak* ceremony has not been established. It is pertinent to

mention that in the complaint Ex.PW1/A, there is simple mention that soon after the marriage, the deceased was asked to bring dowry. Even after the birth of child, the deceased was asked to bring cash amount of ₹1 lakh. Even, PW-1 Jai Kishan had stated that he gave all articles at the time of *chhuchak* as mentioned in the list except motorcycle. However, there is categorical observation made by learned trial Court that neither any list nor the date of *chhuchak* ceremony, as such, has come on record and this has been rightly held to be fatal omission to the prosecution version.

There is also the claim raised by the accused that no *chhuchak* ceremony, as such, had taken place. PW-1 Jai Kishan had stated about the complainant party having not gone to see child of the deceased for 11 days after the birth of child. PW-1 Jai Kishan, though, stated that he along with PW-8 Harish, who is brother of the deceased, had gone to the house of accused after 20-22 days, after the birth of child but they reached there at 2.00 p.m. and left the house of the accused at 4.00 p.m. As per PW-1 Jai Kishan, the accused did not behave properly with him. It is not stated, as to whether, PW-1 had gone at the time of *chhuchak* ceremony. Otherwise also, the testimony of PW-1 Jai Kishan is contrary to the testimony of PW-8 i.e. Harish, who is brother of the deceased. PW-8 Harish had stated that delivery of the deceased had taken place in the hospital at Narnaul and his mother was present at that time. The accused informed the complainant party qua delivery of the child. PW-8 along with his parents visited the house of the accused at the time of *chhuchak*. However, he could not recollect the date of *chhuchak* ceremony but had stated that it had taken place in the month of March 2017. The *chhuchak* was given after 20 days of the birth of the child. From the material coming forth, undisputedly, the

male child was born to deceased on 22.01.2017. If *chhuchak* ceremony had taken place after 20 days of birth of child, then also, it could not co-relate to the month of March 2017 as stated by PW-8. Thus, there is no definite evidence, coming forth, relating to the time of *chhuchak* ceremony (if so had taken place). It is pertinent to mention that besides, the demand for dowry having made soon after the marriage, which fact has not been established, as stated aforesaid, there is also the version, coming forth, at the instance of the complainant about demand of dowry to have been made at the time of birth of male child. As already observed aforesaid, male child was born on 22.01.2017. However, the unfortunate incident had taken place on 04.09.2017. There is long interregnum period coming in between and in view of the same, it cannot, in any manner, be stated that the demand so raised, was soon before the death of the deceased. However, to cover the long time gap, it is coming forth that soon before her death, deceased Jyoti recounted her trauma to complainant Jai Kishan on phone twice. PW-1 Jai Kishan had stated that on 04.09.2017 at noon time and thereafter at 6.10 p.m., he received a call on his mobile No.9728272768 that deceased was being beaten up by the accused for non-fulfillment of demand of dowry. However, this version of phone call having so received vis-a-vis the harassment caused to deceased on account of demand of dowry, is given amiss in complaint PW-1/A, which forms the basis of the present case. Besides the same, even, during the course of investigation, no effort has been made to collect the call details of the mobile phone of PW-1. Thus, the aforesaid version of receipt of mobile calls qua harassment caused to the deceased for non-fulfillment of the demand of dowry, does not stand established. Rather, it strengthens the defence version about having not

performed *chhuchak* ceremony, after birth of male child. Even though, much emphasis has been laid upon DW-1 having admitted convening of panchayat with regard to the dispute between deceased and in-laws, which was attended by him, but however, it came forth that panchayat was convened on account of temperament of the deceased.

In the light of the aforesaid material coming forth, the necessary ingredients of the charges levelled against the accused, do not stand established. Learned trial Court has evaluated the evidence in the correct perspective and precisely on this account, impugned judgment calls for no interference.

As such, appeal sans merit and is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

January 21, 2020
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No