

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

CRA-AD-701 of 2019

Date of Decision: 28.08.2020

Kulwant Singh

....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Aditya Dassaur, Advocate,
for the appellant.

Mr. I.P.S.Doabia, Additional Advocate General, Punjab,
for respondent No.1.

Mr. Rahul Bhargava, Advocate,
for respondent Nos.2 to 4.

KARAMJIT SINGH, J.

By way of this appeal appellant-Kulwant Singh has impugned correctness of findings of acquittal recorded by Court of learned Sessions Judge, S.A.S. Nagar (Mohali), (for short 'trial Court') in Sessions Case No.01 dated 23.02.2017, vide judgment dated 28.03.2018, in favour of accused/respondent Nos.2 to 4, namely, Rajneesh Rana, Ajay Rana, Anita Rana and Roshni Devi.

The facts of the case in nutshell that complainant-Kulwant Singh was resident of Una (Himachal Pradesh). His daughter-Reema Rana (since deceased) got married with respondent No.2-Rajneesh Rana son of respondent No.5-Roshni Devi, on 10.11.2009. From the said wedlock, two daughters,

aged about six years and four years, were born. Rajneesh Rana was working in a multinational company. Respondent No.3-Ajay Rana, is real brother of respondent No.2 and respondent No.5-Roshni Devi is their mother. Respondent No.4-Anita Rana is wife of Ajay Rana. After the marriage, there remained dispute between Reema Rana and her husband-Rajneesh Rana and they used to fight with each other. Rajneesh Rana used to cause mental and physical cruelty to his wife. The respectables of both the families tried to resolve the dispute between the husband and wife. About 5/6 months back, a compromise was effected and it was resolved that Rajneesh Rana, his wife and their children would live separately from the other accused. As per the said compromise, Rajneesh Rana, his wife and their children started living in Flat No.79, Savitri Green, Gazipur. Despite this, Rajneesh Rana and the remaining accused used to maltreat and harass Reema Rana and they also demanded more dowry from her parents. On 04.11.2016, before proceeding to his work place, Rajneesh Rana quarrelled with his wife and taunted her that she had given birth to two daughters and she could not bear any male child, which was required by him and the remaining accused. On the same day, i.e., 04.11.2016, Reema Rana being fed up by the cruel behaviour of the accused, consumed acid, which was lying in the house. On this, her condition deteriorated and she was taken to the J.P.Hospital, Zirakpur, for treatment by her neighbour. On 05.11.2016, the complainant came to know about the said incident and he reached the said hospital. As the condition of Reema Rana did not improve, she was shifted to PGI, Chandigarh, where she died on 05.11.2016. The FIR in this case was registered, on the basis of the statement of complainant-Kulwant Singh, under

Section 304B read with Section 34 of the Indian Penal Code (for short, 'IPC') against all the aforesaid accused. The post-mortem examination on the dead body of Reema Rana was conducted on 06.11.2016. The viscera of the deceased was sent for its analysis. During investigation, the accused was formally arrested. On completion of the investigation, challan was presented against all the accused under Section 304B read with Section 34 IPC.

Charge under Section 304B IPC and in alternative charge under Section 302 IPC, was framed. Altogether, the prosecution examined ten witness in support of its case. Complainant-Kulwant Singh, while appearing in the witness-box, reiterated the allegations which are appearing in the FIR regarding demand of dowry coupled with cruelty meted to the deceased by the accused persons. He proved his statement (Exhibit PW1/C), which was recorded by the police on 05.11.2016. He also deposed regarding his supplementary statement (Exhibit PW1/D), which was recorded by the police on 06.12.2016. He also proved compromise deed (Exhibit PW1/A), which bears signatures of his daughter-Reema Rana. He also proved copies of complaints (Mark 'B' and Mark 'C'), which were lodged by his daughter against her in-laws, during her life time. He also proved the list of dowry articles (Exhibit PW1/B). PW3-Surjit Singh also corroborated the statement of the complainant, who is his real brother.

PW2-Davinder Kaur, who was residing in the neighbourhood of the deceased deposed that Reema Rana along with her husband-Rajneesh Rana and two children started living in House No.72B, Savitri Greens-II, in April, 2016. She further deposed that Reema Rana was maltreated and harassed by

her husband and the Reema Rana often used to tell her that even her in-laws used to maltreat her on which she got separated from them. She also deposed that on 04.11.2016, Reema Rana told her that accused would kill her. Later on, on the same day in the evening, she came to know that Reema Rana was not feeling well and then she went to her house and found Reema Rana lying on the bed and she was disoriented. She called Rajneesh Rana on telephone and informed him about the condition of his wife. She also informed the parents of Reema Rana about her condition and she also called her common friend and they took Reema Rana to J.P.Hospital, Zirakpur, Later on, she came to know that Reema Rana had died.

PW5-Dr. Daljit Kaur deposed that on 04.11.2016, she was posted in J.P.Hospital, Zirakpur and Reema Rana was brought to the said hospital for her treatment. Information regarding the same was sent to the police, vide Exhibit PW4/A. On the police request (Exhibit PW5/A), she declared the patient unfit to make statement, vide endorsement Exhibit PW4/D. She also proved M.L.R of the patient, whose copy is Exhibit PW4/C. PW7-Dr. Sumit Jain of the aforesaid hospital also corroborated the statement of PW5. PW8-Dr. Satyam Tyagi deposed that on 06.11.2016, he along with Dr. Poonam Malhotra conducted post mortem examination on the dead body of Reema Rana in Government Medical Hospital, Sector 16, Chandigarh. He proved post mortem report (Exhibit PW8/A) as well as CFSL report (Exhibit PW8/C) and report of Histopathological examination (Exhibit PW8/D). He gave his opinion that the cause of death in this case was due to acidic reagent mentioned in CFSL report, which was sufficient to cause death in ordinary course of nature.

The said opinion was Exhibit PW8/E. PW10-Dr. Harleen Kaur Lalli deposed that on 19.04.2016, she being Medical Officer, CHC, Dhakoli, Zirakpur, conducted medico-legal examination of Reema Rana and the computerised copy of the MLR is Exhibit PW10/B. She also produced her affidavit (Exhibit PW10/A) in this regard.

PW9-ASI Narinder Kumar, Investigating Officer, deposed about the investigation part of the case and he proved police request (Exhibit PW5/A), on which, Reema Rana was declared unfit to make statement by the concerned doctor, vide endorsement (Exhibit PW4/B). He also received information on 05.11.2016 regarding death of Reema Rana in PGI, Chandigarh, on which, he went there and recorded the statement (Exhibit PW1/C) of the complainant, on the basis of which, formal FIR (Exhibit PW9/B) was recorded. He also proved inquest report (Exhibit PW9/C) and rough site plan (Exhibit PW9/F) of the place of occurrence. One plastic bottle of acid was taken into possession by the police from the spot of occurrence, vide memo (Exhibit PW7/D). After the post mortem examination, the dead body was handed over to its relatives. Different documents produced by the complainant at the time of recording of his supplementary statement were taken into possession by the police, vide memo (Exhibit PW7/K). PW7-HC Rajesh Chauhan corroborated the statement of PW9-ASI Narinder Kumar and he also tendered his affidavit (Exhibit PW7/A). PW6-HC Roop Lal, who was working as MHC at the relevant time in the concerned police station, tendered his affidavit (Exhibit PW6/A).

All the accused were examined under Section 313 of the Code of

Criminal Procedure and all of them pleaded innocence and stated that they never demanded dowry or treated Reema Rana with cruelty. They examined DW1-Jagbir Singh Malik, employee of the State Bank of India, Branch Zirakpur, who produced record relating to statement of account, FDR and locker relating to bank account No.62245778605 in the name of Reema Rana and Rajneesh Rana and he proved documents (Exhibits DW1/A, DW1/B, DW1/C and DW1/D) in that regard. DW2-Uma Rani, employee of PGI, Chandigarh proved two separate OPD cards (Exhibit DW2/A and Exhibit DW2/B) of Reema Rana regarding her treatment in PGI, Chandigarh.

After completion of the trial, all the accused were acquitted by the learned trial Court, while giving them benefit of doubt.

Aggrieved by the said judgment of acquittal dated 28.03.2018, the present appeal has been filed by complainant-Kulwant Singh. Along with the appeal, an application for leave to appeal was also filed and the same was allowed, vide order dated 26.09.2019.

We have heard learned counsel for the parties and gone through the trial Court record.

Learned counsel for the appellant has argued that in this case, Reema Rana died under unnatural circumstances in her matrimonial home within seven years of her marriage. It is further contended that from the perusal of testimony of PW1 to PW3, it is evident that in her matrimonial home, she was subjected to cruelty and harassment by all the accused, in connection with demand of dowry, soon before her death. It is further argued that even during her life time, deceased lodged complaints (Mark B and Mark

C) with the police against her in-laws with regard to cruelty and harassment. Learned counsel for the appellant also referred to compromise deed (Exhibit PW1/A) in order to establish that marital discord was there between the husband and wife and the wife was being ill-treated by all the accused in connection with demand of dowry. To further corroborate the fact of aforesaid cruelty meted out to the deceased with regard to demand of dowry, learned counsel for the appellant also referred to the testimony of PW10, as per which, Reema Rana was medico-legally examined, on 19.04.2016, in CHC, Dhakoli, Zirakpur, as she was assaulted by the accused persons.

Learned counsel for the appellant further contended that the prosecution case, being covered under Section 304B IPC, attracts the provisions of Section 113B of the Evidence Act, which provide for presumption as to dowry death. In the case in hand, the accused persons had failed to rebut the said presumption. While concluding his arguments, learned counsel for the appellant urged that the appeal deserves to be allowed and the accused be convicted under Section 304B IPC. In support of his contention, the learned counsel for the appellant referred to judgment passed in **Govindaraju Vs. State of Karnataka, 2010(5) R.C.R. (Criminal) 73 (S.C)**. While summing up his arguments, learned counsel for the appellant submitted that if Court comes to the conclusion that offence under Section 304B IPC is not made out, in that eventuality, the accused deserves to be convicted under Section 306 IPC. In this regard, learned counsel for the appellant referred to judgments passed in **Gurnaib Singh Vs. State of Punjab, 2013(3) R.C.R.**

(Criminal), 407 (S.C.) and Narwinder Singh Vs. State of Punjab, 2011(1) R.C.R. (Criminal) 427 (S.C.).

Learned Additional Advocate General for the State also argued on the same lines.

On the other hand, learned counsel for accused/respondent Nos.2 to 5 argued that actually, Reema Rana was having psychiatric problem, for which she was getting treatment from PGI, Chandigarh, as is evident from the testimony of DW2, who proved documents Exhibit DW2/A and Exhibit DW2/B. It is further contended that there was no matrimonial discord between the husband and wife and all the accused were falsely implicated in this case. The deceased and her husband were living separately from the remaining accused as is clear from the testimony of PW1 coupled with compromise deed (Exhibit PW1/A).

Learned counsel for accused/respondent Nos.2 to 5 further argued that no demand of dowry was ever raised by the accused persons, who belonged to well to do family. The complainant admitted that accused, Ajay Rana, provided two cars to his brother Rajneesh Rana and Reema Rana and the accused were already having enough cars. The couple was having good bank balance as is evident from Exhibit DW1/A, Exhibit DW1/B, Exhibit DW1/C and Exhibit DW1/D. So, there was no need for the accused to raise demand of dowry after about seven years of the marriage. It is further contended that the alleged complaints (Mark B and Mark C) were not proved in accordance with law. Even otherwise, the said complaints are silent regarding alleged demand

of dowry.

Learned counsel for accused/respondent Nos.2 to 5 further argued that Reema Rana was having some psychological problem and she consumed acid of her own, on which, her condition started deteriorating. Her neighbour PW2-Davinder Kaur came for her help and Reema Rana was taken to J.P.Hospital, Zirakpur and at that time Reema Rana was unable to speak. Even, as per opinion (Exhibit PW4/B) of the concerned doctor, Reema Rana was not in a condition to make statement when she was admitted in the hospital. It has also come into evidence that her condition did not improve and later on, Reema Rana was shifted to PGI, Chandigarh, where she died on 05.11.2016. So, there was no occasion for the deceased to disclose anything to the complainant or his brother, Surjit Singh, after the alleged occurrence had taken place.

Learned counsel for the accused/respondent Nos.2 to 5 further argued that the trial Court rightly held that there was nothing on the record to prove that the accused treated Reema Rana with cruelty in connection with the demand of dowry. It is further contended that it is not the case of the prosecution that acid was forcibly administered to Reema Rana by the accused persons, which resulted in her death. It is further argued that prosecution has also failed to prove that the accused abetted or instigated Reema Rana to consume acid. It is further argued that prosecution has also failed to prove that Reema Rana was subjected to cruelty by the accused persons in any manner. While concluding his arguments, learned counsel for accused/respondent Nos.2 to 5 contended that the trial Court correctly acquitted all the accused and this appeal deserves to be dismissed.

We have considered the submissions made by the learned counsel for the parties.

It stands proved that Reema Rana died under abnormal circumstances in her matrimonial home within seven years of her marriage with respondent No.2-Rajneesh Rana. However, to establish charge under Section 304B IPC, the prosecution has to prove that the said death had a live link with cruelty connected with any demand of dowry. In the FIR, no specific allegations of demand of dowry were made. No such specific instance was given in the FIR with regard to cruelty meted out to the deceased by the accused in connection with the demand of dowry, soon before her death. The FIR was registered on 05.11.2016. Thereafter, on 06.12.2016, supplementary statement of the complainant was recorded in which it was alleged that the accused persons asked the deceased to bring car and on this, he gave cash worth Rs.50,000/- to the accused and made request to them not to harass his daughter Reema Rani and with the said amount, accused purchased one Activa. However, despite this, the accused again started harassing her daughter by raising demand of car regarding which, the deceased disclosed to him on 25.10.2016. All the said facts were already in the knowledge of the complainant at the time of registration of the FIR. It is not clear as to why the complainant did not disclose about the said facts to the police at the time of recording of the FIR. So, it could be inferred that the allegations made by the complainant, in his aforesaid supplementary statement dated 06.12.2016, are after thought and, thus, cannot be believed in the absence of independent corroboration.

The prosecution failed to prove complaints (Mark B and Mark C) in accordance with the provisions of law. Even otherwise, both the said complaints alleged to be lodged by Reema Rana, during her life time against her in-laws, were silent regarding demand of dowry. As per prosecution, a compromise was effected between Reema Rana and her in-laws and the concerned compromise deed was Exhibit PW1/A. Even the said document is silent regarding any demand of dowry raised by the accused.

It is the case of the prosecution that Reema Rana consumed acid in her matrimonial home on 04.11.2016. She was admitted in the hospital by her neighbour PW2-Davinder Kaur. The complainant received information regarding the said incident and reached J.P.Hospital, Zirakpur, on the next day, i.e., 05.11.2016. He was accompanied by PW3-Surjit Singh, his real brother. The complainant and his brother while appearing in the witness-box tried to make improvements in their statements in the court, while stating that in the J.P.Hospital, Reema Rana told them that the accused were continuously harassing her in connection with the demand of dowry. The said part of the statements of complainant and PW3 cannot be believed as the deceased was in serious condition and unable to speak, when she was admitted in J.P.Hospital, Zirakpur. PW2 admitted that Reema Rana was unable to speak, when she was brought to the hospital. Even the concerned doctor declared Reema Rana unfit to make statement on 04.11.2016, as is evident from Exhibit PW4/B. It is also proved that in J.P.Hospital, Zirakpur, the condition of Reema Rana deteriorated and finally, she was shifted to the PGI, Chandigarh, where she died on 05.11.2016. So, it is highly improbable that on 05.11.2016, Reema Rana, while

admitted in the J.P.Hospital, disclosed to her father and PW3 regarding the alleged cruelty with regard to demand of dowry. No reliable evidence with regard to cruelty in connection with the demand of dowry, soon before her death, is available on record. Thus, the trial Court rightly acquitted all the accused of the offence punishable under Section 304B IPC.

It is not the case of the prosecution that the accused forcibly administered acid to Reema Rana. So, the alternative charge under Section 302 IPC is also not proved in the present case.

The prosecution has failed to prove complaints (Mark B and Mark C) alleged to be lodged by the deceased with the police against her in-laws, by summoning the record from the concerned police station. So, the said complaints cannot be taken into consideration. The complainant while appearing in the witness-box, admitted that at the time of alleged occurrence, deceased was not residing with respondent Nos.3 to 5 and rather, she was living separately with her husband and children. So, prosecution has failed to prove beyond shadow of doubt that respondent Nos.3 to 5 abetted Reema Rana to end her life by committing suicide.

No reliable evidence is there to prove that the deceased was suffering from depression or was hypersensitive. Respondent No.2 cannot take any benefit of O.P.D cards (Exhibit DW2/A and Exhibit DW2/B) as the concerned doctor, who treated the deceased for psychiatric problem in P.G.I. Chandigarh, was not examined by the said accused in his defence. It is evident that at the time of alleged occurrence, the deceased was residing with her husband in a separate flat, where she consumed acid to end her life within a

period of seven years from the date of her marriage. It has also come into evidence that she was ill-treated and subjected to cruelty by respondent No.2-Rajneesh Rana, her husband. So, as per Section 113A of the Indian Evidence Act, the Court may presume that such suicide had been abetted by her husband. In this case, the aforesaid presumption has not been rebutted by respondent No.2 by adducing reliable evidence. So, the prosecution case under Section 306 IPC stands proved against respondent No.2-Rajneesh Rana. It is clear that the said accused was charged by the trial Court under Section 304B IPC and alternatively under Section 302 IPC. He was not charged under Section 306 IPC. We are of the view that the accused can be convicted and sentenced for a less graver offence under Section 306 IPC, even if, he was not charged for that offence by the trial Court.

In the light of the above, this appeal is partly allowed and respondent No.2-Rajneesh Rana is held guilty under Section 306 IPC. Respondent No.2-Rajneesh Rana is ordered to be taken into custody. Due to Covid-19 pandemic, it cannot be possible to personally hear the convict on quantum of sentence. So, the learned counsel should seek instructions from the convict and address the Court on quantum of sentence on 08.09.2020. Copy of the judgment be sent immediately to Chief Judicial Magistrate, SAS Nagar (Mohali) for strict compliance regarding re-arrest of the convict-Rajneesh Rana by the next date of hearing.

(RAJAN GUPTA)
JUDGE

28.08.2020

adhikari

(KARAMJIT SINGH)
JUDGE