

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Bivas Pattanayak

C.R.A. 668 of 2010

Hansu Mondal @ Sudhir Mondal

-Vs-

The State of West Bengal

For the Appellant : Mrs. Manasi Roy, Adv.

For the State : Mr. Partha Pratim Das, Adv.
Mr. Pratick Bose, Adv.

Heard on : 19.04.2022

Judgment on : 19.04.2022

Joymalya Bagchi, J. :-

Appellant has assailed judgment and order dated 22.03.2006 and 23.03.2006 passed by the learned Additional Sessions Judge, 1st Court, Bankura in Sessions Trial Case No. 6(7) of 2005 arising out of Sessions Case No. 33(3) of 2005 convicting the appellant for commission of offence punishable under Sections 498A/304B of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for two years and to pay fine of Rs. 2,000/-, in default, to suffer simple imprisonment for four months for the offence punishable under Section

498A IPC and to suffer rigorous imprisonment for life for the offence punishable under Section 304B IPC; both the sentences to run concurrently.

Prosecution case as alleged against the appellant is to the effect that the appellant was married to Sonali (the deceased herein) on 22nd Jaistha, 1411 B.S. according to Hindu rites at Ekteswar temple, Bankura. Before marriage a demand of Rs. 53,000/-, gold ring, utensils etc. were made by the appellant upon Sonali's family. At the time of marriage, a dowry of Rs. 48,000/-, gold ring and utensils could be arrayed. After marriage, appellant started torturing Sonali for the remaining money and other dowry items. At the time of Durga puja, Sonali came to her parental home and complained about the torture. She also informed her relations she would be murdered if the outstanding dowry items were not given. Sonali returned to her matrimonial home. Her brother Mitran Mondal (P.W.3) went to her matrimonial home twice and found she was assaulted at the matrimonial home. He requested the appellant not to subject her sister to mental and physical torture but he did not relent and threatened to kill her. On 10.12.2004 he came to know his sister had committed suicide by hanging. Appellant had instigated his sister to commit suicide. P.W.3 lodged written complaint resulting in registration of Mejhia Police Station Case No. 57 of 2004 dated 10.12.2004 under Sections 498A/304B IPC against the appellant. In course of

investigation, police seized various articles, recorded statements, arrested the appellant and filed charge sheet. Charges were framed under Sections 498A/304B IPC. Appellant pleaded not guilty and claimed to be tried. In course of trial, prosecution examined 16 witnesses and exhibited a number of documents. In conclusion of trial learned trial Judge by the impugned judgment and order dated 22.03.2006 and 23.03.2006 convicted and sentenced the appellant, as aforesaid.

Nobody appears on behalf of the appellant. Mrs. Manasi Roy, learned Advocate empanelled with the High Court Legal Services Authority is requested to appear on behalf of the appellant. Secretary, High Court Legal Services Authority is requested to regularise her appointment.

Mrs. Roy submits evidence of the relations relating to torture are general and omnibus in nature. They suffer from various embellishments and contradictions. Allegation of torture on the housewife is not supported by the neighbours at her matrimonial home. There is nothing on record to show soon before her death the victim had been subjected to cruelty over dowry demands.

Mr. Partha Pratim Das, learned Advocate appearing for the State submits evidence of the relation witnesses viz., P.Ws.3, 6, 9 and 10 are corroborated by independent witnesses i.e. P.Ws.8 and 11. Victim committed suicide within six months of marriage and her short

matrimonial life was plagued with continuous torture over dowry demands. Hence, the ingredients of the alleged offences are proved and the appeal is liable to be dismissed.

P.Ws.3, 6, 9 and 10 are the relations of the deceased.

P.W.3, Mitan Mondal is her brother and the first informant. He deposed on 22nd Jaistha 1411 B.S., marriage was solemnised between Sonali and Sudhir. Sudhir demanded Rs. 53,000/- in cash as dowry along with gold ornaments. They could pay only Rs. 48,000/- at the time of marriage. They could not give other articles like furniture and bedding. After the marriage, Sonali was subjected to torture and assaulted by Sudhir as they were unable to pay the remaining dowry. In the first part of Ashar, P.W.3 went to the house of Sudhir to bring Sonali to their residence but Sonali was not permitted to come. She was assaulted in his presence. During Durga puja, also P.W.3 went to bring Sonali and faced similar situation. Finally, Sonali came to their house. In the month of Poush, she committed suicide at her in-laws' place. He lodged first information report which was scribed by P.W.4.

P.W.6, Badal Mondal is the father of Sonali. He corroborated his son P.W.3 with regard to the demand of Rs. 53,000/-, gold ornaments, bedding and furniture at the time of marriage. He stated they could pay only Rs. 48,000/- and one bhor of gold ornament. They could not give furniture and bedding as per demand. As a result, Sonali was tortured and assaulted by Sudhir. His daughter visited their house

twice during year. She narrated torture meted upon her by Sudhir over dowry demands. She finally committed suicide in the month of Poush. Sonali's mother became insane after her death.

P.W.9, Chittaranjan Mondal is another brother of Sonali. He has corroborated the evidence of P.Ws.3 and 6. He stated he heard from Sonali Sudhir tortured her over non-payment of Rs. 5,000/- as dowry and other items. Finally, Sonali committed suicide.

P.W.10, Smt. Kajal Mondal, wife of P.W.9 is the sister-in-law of Sonali. She has corroborated her husband.

Evidence with regard to torture over non-payment of remainder dowry by Sudhir during the short matrimonial life of Sonali is corroborated by independent witnesses viz., P.Ws.8 and 11, who are neighbours of P.W.6. They stated dowries were paid at the time of marriage and due to non-payment of remaining dowry, Sonali had been tortured.

P.Ws.1 and 2 are police personnel who came to the residence of the appellant to inquire into the unnatural death case being UD Case No. 29 of 2004 registered at Mejhia Police Station on 10.12.2004 over the death of Sonali.

P.W.2, Shiba Prasad Singha deposed he found dead body of Sonali was hanging from a kari inside a room which was bolted from inside. The door leaves were broken by the appellant and thereafter the body was removed. He held inquest over the body which was marked as

Exhibit 3. Thereafter, the dead body was taken to the police station where inquest was held by a Magistrate and the body was sent to the morgue for post mortem.

P.W.1, Sujit Bar has corroborated the version of P.W.2 in this regard.

P.W.16, Sabyasachi Sengupta is the Investigating Officer of the case. He was the Officer-in-charge of Mejhia Police Station at that point of time. He commenced investigation upon receipt of written complaint by P.W.3. He drew up formal first information report. He visited the place of occurrence, drew sketch map, examined witnesses and arrested the appellant. He seized nylon rope and wearing apparels of the deceased. Inquest report was prepared by a Magistrate in his presence, Exhibit-5/2. He submitted charge sheet.

From the materials on record, it is evident that the victim housewife had committed suicide within six months of her marriage. Her brothers, viz. P.W.3 & P.W.9, father P.W.6 and sister-in-law P.W.10 unequivocally stated there was demand of Rs. 53,000/- in cash, gold ornaments, furniture and bedding at the time of marriage. A sum of Rs. 48,000/- in cash and gold ornaments could be given but over the outstanding dowry demands Sonali was subjected to continuous torture and assault by the appellant. She visited her parental home and narrated the incident of torture to her relations. Evidence of the relations with regard to the continuous torture over dowry demands is

corroborated by independent witnesses viz. P.Ws.8 and 11. Hence, there is sufficient evidence that the victim housewife was continuously tortured over dowry demands during her short matrimonial life and such torture ultimately culminated in her suicide. Chain of circumstances clearly establish a continuous and live-link between torture upon the housewife over demands of dowry and her suicidal death. Thus, ingredients of the offences punishable under Sections 498A/304B are proved beyond doubt.

Conviction of the appellant is upheld.

Coming to the issue of sentence, I note that the appellant has been awarded the maximum sentence of life imprisonment for the offence punishable under Section 304B IPC. Materials on record show victim housewife had committed suicide. Appellant has already been in custody for more than 17 years. Balancing the aggravating and mitigating circumstances, I modify the substantive sentence imposed upon the appellant on the charge of Section 304B IPC and direct that he shall suffer imprisonment for the period already undergone instead of imprisonment for life. Other sentences shall remain unaltered.

With the aforesaid modification as to sentence, appeal is disposed of.

Period of detention suffered by the appellant during investigation, enquiry and trial shall be set off from the substantive sentence imposed

upon the appellant in terms of Section 428 of the Code of Criminal Procedure.

Lower court records along with copies of this judgment be sent down at once to the learned trial Court for necessary compliance.

Photostat certified copy of this judgment, if applied for, shall be made available to the appellants upon completion of all formalities.

I agree.

(Bivas Pattanayak, J.)

(Joymalya Bagchi, J.)

as/akd/cm/PA