

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-5048-SB-2015(O&M)

Reserved on 09.12.2022

Date of Decision:19.12.2022

Sandeep Tomar No.SS433024A

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present:- Mr. Suvir Sidhu, Advocate, and
Mr. G.S. Badal, Advocate, and
Mr. G.S. Dhillon, Advocate,
for the appellant.

Mr. J.S. Mehndiratta, Addl.A.G., Punjab.

Mr. Sumeet Goel, Sr. Advocate with
Mr. Viraj Gandhi, Advocate, and
Mr. Adarsh Dubey, Advocate,
for the complainant.

SUKHVINDER KAUR J.

1. This appeal has been filed against the order dated 14.08.2015 of learned Additional Sessions Judge Fazilka, vide which the Stridhan i.e. gold ornaments and other articles given in the marriage of Shweta Singh deceased with accused-appellant Sandeep Tomar, were ordered to be released on sapurdari to Ram Naresh Singh complainant, the father of deceased Shweta Singh.

2. The brief relevant facts are that on 10.07.2013 when the Investigating Officer along with other police officials was present at Civil Hospital, Abohar, then Ram Naresh Singh, father of deceased Shweta Singh got recorded his statement to the Investigating Officer. He stated that he had solemnized marriage of his daughter Shweta Singh with Sandeep Tomar

on 12.02.2013. He had given a draft of Rs.10 lacs at the time of marriage to Sandeep Tomar and draft of Rs.10 lacs at time of shagun, gold ornaments valuing at Rs.5 lacs to his parents and besides that he had given the household articles consisting of TV, Fridge, AC, Bed and furniture and had spent Rs.5 lacs on the meals, at the time of marriage. He further stated that after few days of marriage, the parents in-law of his daughter i.e. mother-in-law Padma Tomar, father-in-law Mangal Singh and husband of his daughter Sandeep Tomar started taunting his daughter for bringing less dowry and for not bringing any vehicle in dowry and told her to bring Rs.10 lacs in cash and Duster car from her parents and otherwise they would eliminate her. When their these demands were not fulfilled, then they started asking his daughter to get transferred the plot in their name which was in the name of her parents. His daughter used to tell about it to his wife Rani on phone, but had firmly asked her not to disclose anything to the complainant (her father). On 08.07.2013 at about 4.45 PM, he talked to his daughter on the phone, who told him that Sandeep Tomar had been beating her and had been asking her frequently, that why she had not brought Rs.10,00,000/- and the vehicle and why she was not getting the plot transferred in his name. Afterwards at about 9.30 PM on the same day, his wife also talked to his daughter on the phone and his daughter apprised his wife also, regarding the above said facts and his wife then had told him about the same. He was of the firm belief that her husband Sandeep Tomar, father-in-law and mother-in-law were responsible for the death of his daughter Shweta Singh and action be taken against them. From statement of the complainant prima facie offence under Section 304-B IPC was found to have been committed, which resulted into the registration of the present FIR No.126 dated

10.07.2013, under Section 304-B/34 IPC, Police Station City-1, Abohar, against the accused.

3. After trial, learned Additional Sessions Judge Fazilka, vide judgment dated 21.07.2014 convicted the appellant under Section 302 IPC and sentenced him to undergo rigorous imprisonment for life along with fine of Rs.10,000/-.

4. Against the above-said judgment dated 21.07.2014, the appellant filed an appeal No.CRA-D-1339-DB-2014 before this Court and the same was admitted by this Court vide impugned order dated 27.08.2014.

5. Thereafter on 20.10.2014, the complainant Ram Naresh Singh filed an application for releasing the dowry articles given by him in the marriage of her daughter Shweta Singh, which was allowed by learned Additional Sessions Judge, Fazilka vide impugned order dated 14.08.2015.

6. We have heard learned counsel for the appellant-accused and learned State counsel and have also gone through the record minutely.

7. It has been contended by learned counsel for the appellant that the impugned order dated 14.08.2015 is patently illegal, erroneous in law, against facts and evidence on record. The trial Court has erred in passing the impugned order because term 'Stridhan' literally means woman's property and it is constituted of those property, which she receives by way of gifts from her relatives, which include mostly movable property such as ornaments, jewellery, dresses. He has argued that the trial Court has not appreciated that as per Section 15 (1) of the Hindu Succession Act, 1956, after death of wife, her belongings shall devolve upon her children and husband. He has also contended that he is owner of the ornaments/articles which were recovered by the police from his house and the same cannot be

released in favour of the complainant and the impugned order dated 14.08.2015 is liable to be set aside.

8. On the other hand, it has been contended by learned counsel for the State that these ornaments/articles had been given by the complainant at the time of marriage of his daughter Shweta Singh deceased with the appellant. By relying upon the judgment passed in Balbir Singh Vs. State of Haryana, 2010 (2) RCR (Criminal) 371, and State by Belakavadi Police Vs. Mallesha, 2002(3) RCR (Criminal) 157, he has contended that the complainant being father of the deceased Shweta Singh was entitled to receive the same and the impugned order does not call for any interference.

9. A perusal of the record reveals that the complainant Ram Naresh Singh, father of deceased Shewta Singh in his statement Ex.PB recorded by the Investigating Officer, and while appearing as PW-2 has categorically stated that he had given a draft of Rs.10 lacs to Mangal Singh father of appellant Sandeep Tomar, Rs.10 lacs were given in cash to Sandeep Tomar at the time to tilak ceremony and gold ornaments worth Rs.5 lacs were also given at the time of tilak ceremony.

10. PW-3 Rani Singh, mother of deceased Shweta Singh has also deposed to the same effect and has categorically stated that gold ornaments valuing Rs.5 lacs were given at the time of tilak ceremony which were approximately 200 gms in weight and the dowry articles consisting of TV, Fridge, AC, Bed, almirah, dressing table and sofa etc. were also given. She has also stated that in the tilak they had given Rs.10 lacs in cash and Rs.10 lacs were handed over to Mangal Singh in the shape of draft as demanded by Mangal Singh. Ex.PA is the recovery memo of ornaments recovered from the house of appellant Sandeep Tomar. Ex.PC is the memo regarding

identification of these gold and silver ornaments by complainant Ram Naresh Singh and his wife Rani Singh and both of them identified these ornaments to be those ornaments, which had been given by them in the dowry to their daughter Shweta Singh at the time of her marriage with Sandeep Tomar. Ex.PF is the recovery memo of dowry articles, which were received through consignment (bilty), which had been sent by Mangal Singh the father of appellant from Kanpur. PW-6 SI Raj Kumar has also stated that he had also collected bills of dowry articles in the name of Ram Naresh Singh which are exhibited as PAE to PAH.

11. Though the accused/appellant has claimed that he is owner of these dowry articles, but no material worth the name has been produced on record by him, to prove his ownership. A perusal of the grounds of appeal reveals that therein the specific ground has been taken that trial Court had not appreciated that as per Section 15 (1) of Hindu Succession Act, 1956, after death of wife, her belongings shall devolve upon her children and husband.

12. Thus it is quite contrary to the arguments now raised by the learned counsel for the appellant, wherein now he is claiming the appellant to be owner of these articles. So once the appellant has taken the plea that provisions of Section 15 (1) of Hindu Succession Act were to be applied, it amounts to implied admission on his part that he was not owner of these articles. In his statement recorded under Section 313 Cr.P.C. also, nothing has been stated by him about his ownership of these articles.

13. The dispute in this case is with regard to custody of articles of dowry which were meant for the use of deceased Shweta Singh. The position with regard to custody of dowry articles is quite different from the

position of other property in the hands of deceased. In this context, it is appropriate to reproduce Section 6(3) of the Dowry Prohibition Act, 1961, which reads as under:-

“Section 6(3):-

Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being:-

[Provided that where such woman dies within seven years of her marriage, otherwise, than due to natural causes, such property shall-

(a) if she has no children, be transferred to her parents; or
(b) if she has children, be transferred to such children and pending such transfer be held in trust for such children.”

14. In the case in hand also, deceased Shweta Singh died within 7 years of her marriage. There was no issue out of their wedlock. The record reveals that she died unnatural death other than in normal circumstances. Thus, the case of the appellant squarely falls within Clause 3 of Section 6 of the Dowry Prohibition Act, 1961, so as to maintain the custody of dowry articles with the complainant. The provisions of Dowry Prohibition Act, 1961, cannot be overlooked by invoking the provisions of Hindu Law relating to Succession.

15. In the present case, the record indicates that dowry articles changed hands at the time of marriage. The trial Court has rightly placed reliance upon Balbir Singh’s case supra, wherein it was held that husband was not entitled to retain dowry even if he was acquitted and dowry articles will remain with father of deceased. Reliance can further be placed upon Mallesha’s case (supra), wherein it was held that “Dowry Prohibition Act, 1961- Section 6- Dowry death- Acquittal of accused- Directions issued that

dowry articles which changed hands at the time of marriage to be restored to the family of deceased- This prevents unjust enrichment of accused and is in consonance with Section 6 of Dowry Prohibition Act”.

16. In the cases supra, the dowry articles were ordered to be given to the father of the deceased wife, even though the accused husband had been acquitted by giving benefit of doubt after the trial. But in the instant case the accused husband has been convicted by the trial Court under Section 302 IPC for committing murder of his wife Shweta Singh. So keeping in view the ratio of law laid down in the cases supra also, the impugned order is a legal and valid order.

17. As no illegality or irregularity has been found in the impugned order passed by learned trial Court, so it does not call for any interference and is upheld.

18. For the aforesaid reasons, the appeal being devoid of any merits, stands dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

19.12.2022

monika

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No