

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-207-2021 (O&M)

Date of decision: 18.07.2023

State of Haryana

....Appellant

V/s.

Sunil Kumar and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Shubhra Singh, Addl.A.G., Haryana.

Ritu Bahri, J.

1. CRM-29735-2021

For the reasons mentioned in the application, the same is allowed and the delay of 160 days in filing the appeal is condoned.

2. CRM-A-207-2021

The State has come up in appeal against the judgment dated 01.08.2019 passed by the learned Additional Sessions Judge, Narnaul whereby the respondents were acquitted after facing trial under Section 498A/304B/34 IPC and in the alternative under Section 302 IPC.

3. The brief facts of the case are that the daughter of the complainant Jai Kishan PW1 died in the matrimonial house. As per the information given on 04.09.2017, the complainant PW-1 Jai Kishan alongwith his family members went to the matrimonial village of the deceased and found her dead body. An FIR under Sections 304B/498A/34 IPC was registered. PW12-SI Lal Singh and PW14-ASI Sukhbir Singh carried out investigation and presented challan against accused Sunil and Nathu Ram and, thereafter, supplementary challan was presented against Urmila Devi and Ravinder.

4. On 23.05.2018, the accused were charge-sheeted. The prosecution examined 14 witnesses and led following documentary evidence:-

Ex.PW1/A	Original application moved by a complainant to the police.
Ex.PW12/A	Police proceedings.
Ex.PW9/B	Endorsement on the application Ex.PW1/A
Ex.PW2/A	Recovery memo of photo of marriage, two snaps
Ex.P1 & P2	Photographs
Ex.PW3/A	Scaled site plan of place of occurrence
Ex.PW6/A	Recovery memo of sealed parcels of deceased
Ex.PW6/B&C	Arrest memo of accused
Ex.PW7/A	Recovery memo of dowry articles
Ex.PW8/A	Report u/s 174 of Cr.P.C.
Ex.PW9/A	Copy of FIR No. 501 dated 05.09.2017 registered u/s 304B/34/498-A of IPC in PS, M/garh
Ex.PW11/A	Disclosure statement of accused Ravinder Kumar
Ex.PW11/B	Disclosure statement of accused Urmila Devi
Ex.PW12/B	Application for conducting postmortem examination of deceased through Board moved by police to MO, GH, M/garh
Ex.PW12/C	Rough site plan of place of occurrence
Ex.PW12/D	Disclosure statement of accused Sunil
Ex.PW12/E	Disclosure statement of accused Nathu Ram
Ex.PW13/B	Copy of PMR of deceased
Ex.PW13/C	Application for seeking opinion regarding Chunni of deceased moved by police to MO, GH, M/garh

Ex.P1 to Ex.P14 Photographs

Mark A	Copy of unique ID of deceased
Mark B	Copy of RC of vehicle of accused Sunil
Mark C	Copy of RC of vehicle of accused Sunil
Mark D	Copy of self certificate issued by Mahalaxmi Automobiles in favour of accused Sunil
Mark E	Copy of temporary certificate of registration of vehicle of accused Sunil
Mark F	Copy of affidavit of Rajender Singh s/o Bhaktawar Singh
Mark G	Copy of affidavit of Baldev Kumar s/o Lila Ram
Mark H	Copy of affidavit of Dharampal s/o Mahabir
Mark J	Copy of affidavit of Ajit s/o Sube Singh

5. Statements of the accused were recorded under Section 313 Cr.P.C. and they had examined Shamesher Singh son of Matadin as DW1. After examining the entire evidence, the following points came up for determination.

- “a. Whether in furtherance of their common intention the accused subjected the deceased to matrimonial cruelty as defined u/s 498A of IPC?
- b. Whether the accused in furtherance of their common intention committed dowry death of the deceased?
- c. Whether in furtherance of their common intention the accused caused the death of the deceased with the intention of causing her death?
- d. Result”

6. As per PW1 Jai Kishan, he had fulfilled all the demands of the

in-laws of the deceased. However, the trial Court observed that he had not given any evidence or list of dowry articles to show that which articles he had given at the time of marriage of his daughter. This fact was also admitted by HC Sunil Kumar and PW12 SI-Lal Singh while preparing list of dowry articles PW7/A. There was no evidence showing that the complainant had given any dowry articles demanded by the accused before or at the time of marriage.

7. On 22.01.2017, the deceased was blessed with a male child and the allegation of the complainant PW1 was that all the accused had raised their demand on the eve of *chhuchak*. The accused demanded a motorcycle at the time of marriage and again a motorcycle was demanded at the time of *chhuchak*.

8. The defence had placed on record registration certificates of motorcycle No. HR-34B/9169 and motorcycle No. HR-34D/1790 issued in the name of Sunil Kumar s/o Nathu Ram r/o village Budden. A sale certificate of Bajaj Pulsar motorcycle dated 04.05.2016 in the name of Sunil Kumar was also placed on record.

9. In view of the above said evidence, the trial Court discarded the allegation that the accused had asked the deceased to bring motorcycle on the occasion of *chhuchak* keeping in view that he was already having one motorcycle from 08.01.2008 and another motorcycle from 10.09.2010 and he also purchased another motorcycle after his marriage with the deceased.

10. Another allegation of the complainant PW1 in his complaint Ex.PW1/A was that after birth of a male child, he was asked to bring Rs.1 lac cash at the time of *chhuchak*. He further stated that the complainant party did not go to see the child and the deceased for 11 days after the birth of the child. He alongwith his family members and PW8 went to the house

of the accused after 20/22 days of the birth of the child. They reached there at 2 p.m. and left at 4 p.m. The behaviour of the accused was not good towards them and they left the house. In view of the above circumstances, the *chhuchak* ceremony did not take place at all.

11. As per the evidence given by PW8-Harish (brother of the deceased), a male child was born on 22.02.2017 in a hospital at Narnaul and his mother was present at that time. The accused had informed the complainant party about the birth of the child. PW8 alongwith his parents visited the house of the accused at the time of *chhuchak*. However, PW8 did not give any date of *chhuchak* ceremony but he stated that the *chhuchak* ceremony took place in the month of March, 2017. The version given by PW8 also did not inspire confidence and was disbelieved by the trial Court that *chhuchak* ceremony took place in March, 2017 as the child was born on 22.01.2017 and in the month of March more than 22 days had gone by. He stated the date of birth of the child as 22.02.2017. If the *chhuchak* ceremony had taken place after 20 days, then it could not have been in the month of March, 2017.

12. With respect to allegation of cruelty, the deceased had died within 18 months of the marriage. As per the complainant, the deceased had faced cruelties soon before her death. As per the defence, the child was born on 22.01.2017 and the alleged demand to bring Rs.1 lac cash at the time of *chhuchak* was made after 22.01.2017 whereas the deceased died on 04.09.2017. Hence, even if the demand was made, it could not be connected with the death when she died on 04.09.2017 as there was a gap of almost 8 months between the demand raised and the death of the deceased. Moreover, as per PW1 on 04.09.2017 at noon, he had received a call on his mobile No. 9728272768 that the deceased was being beaten up by the

accused for not fulfilling their demand of dowry. Despite telephone call made by the accused to PW1, he never made any phone call to the daughter and no information was sent to the police and this fact also did not find mention in the complaint PW1/A which was held to be fatal for the prosecution as the incident took place immediately before the death of the deceased. As per the version given by PW8-Harish (brother of the deceased), none of the family members of the accused Sunil consumed liquor and Sunil used to earn Rs. 15,000 to 20,000/- per month and the life style of the deceased was good.

13. Finally as per DW1, the deceased was quarrelsome and short tempered lady. The deceased was perturbed as no *chhuchak* ceremony was performed after the birth of the male child. He further admitted that panchayat was convened on account of temperament of the deceased which was attended by him.

14. There was no evidence of cruelty in connection with demand of dowry and keeping in view the above facts, the accused had been acquitted.

15. Heard learned counsel for the State and perused the trial Court record.

16. In the present case, a perusal of the record shows that as per the versions given by PW13 Dr. Ashish Rao, the cause of death of the deceased was on account of suicide. The prosecution evidence had been examined by the trial Court in a correct perspective that date of the birth of a male child was 22.01.2017 and the death took place on 04.09.2017 i.e. after a gap of almost 8 months. Even if there was a demand of Rs.1 lac cash at the time of *chhuchak* ceremony which took place after 15/20 days of the birth of a male child, the same cannot be made a ground to give a finding that there was a demand of dowry of Rs.1 lac cash which led to commit suicide under

Section 498A IPC. Further, the version of PW8-Harish (brother of the deceased) was examined correctly by the trial Court where he had stated that they had gone to see the child after 20/22 days of birth of the child and they reached at 2 p.m. and left the house at 4 p.m. Hence, the *chhuchak* ceremony did not take place at all and there was no occasion to believe the allegation of the complainant that he had given Rs.1 lac cash at the time of *chhuchak* ceremony. Even with respect to demand of dowry, as per the investigation carried out by PW12-SI Lal Singh, no evidence was given by PW1-Jai Kishan (father of the deceased) with respect to purchasing dowry articles. PW8-Harish (brother of the deceased) had further stated that Sunil Kumar was earning Rs.15,000/- to Rs.20,000/- per month and the deceased had a good life style but he stated that the deceased was mentally tortured. There was no evidence before the trial Court with respect to any mental torture on 04.09.2017 when she committed suicide on account of demand of dowry of Rs.1 lac for the *chhuchak* ceremony. DW1-Shamsher Singh s/o Matadin, the defence witness, who was an independent witness had further stated that there was panchayat convened by the in-laws of the deceased on account of her temperament. There was no evidence to connect demand of dowry with respect to suicide committed by the deceased. Hence, the judgment of acquittal dated 01.08.2019 does not find any interference.

17. Appeal is dismissed.

(RITU BAHRI)
JUDGE

18.07.2023
Divyanshi

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No