



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1807-SB-2003 (O&M)

Reserved on: 23.05.2024

Date of Pronouncement:- 22.08.2024

DHARAMBIR

.....APPELLANT

Vs.

STATE OF HARYANA

.....RESPONDENT

CRR-2409-2003 (O&M)

SONPAL @ SOHAN PAL

.....PETITIONER

vs.

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. Sanjiv Vij & Mr. Uday Vij, Advocates,
for the appellant
(in CRA-S-1807-SB-2003)

Ms. Jasleen Chahal, A.A.G., Haryana.

Mr. H.S. Randhawa, *Amicus Curiae*,
for the petitioner (in CRR-2409-2003) and
for the complainant
(in CRA-S-1807-SB-2003).



HARPREET KAUR JEEWAN, J.

1. Dharambir has filed the Criminal Appeal No. 1807-SB-2003, assailing the judgment of conviction, dated 23.08.2003 and order of sentence, dated 25.08.2003 passed by the Additional Sessions Judge (Ad hoc), Fast Track Court No. 11-Faridabad, whereby he has been convicted and sentenced under Section 306 IPC.

1.1 Son Pal @ Sohan Pal has preferred the Criminal Revision No. 2409-2003 assailing judgment of conviction, dated 23.08.2003 and order of sentence, dated 25.08.2003 passed by the Additional Sessions Judge (Ad hoc), Fast Track Court No. 11-Faridabad, whereby respondents No. 2 to 5 have been acquitted under Sections 306/34 IPC by the trial Court.

1.2 Since both, the Criminal Appeal and the Criminal Revision are arisen out of the same judgment, as such, both are taken up together and are going to be disposed of by this common judgment. For the convenience of the Court, the facts are being taken up in CRA-S-1807-SB-2003

1.3 The marriage of the daughter of the complainant Son Pal @ Sohan Pal was solemnized with the appellant Dharambir on 14.07.1994 and the daughter of the complainant-victim died on 23.05.2002 due to burn injuries.

2. As per the prosecution case, the complainant Son Pal @ Sohan Pal had solemnized the marriage of his daughter with the appellant Dharambir and spent a sum of Rs. 1,50,000/- at the time of marriage. Appellant Dharambir and his relatives started giving beatings to the victim



as they were not satisfied with the amount spent on marriage. On many occasions the victim was turned out of her matrimonial house. The matter was discussed in Panchayats several times was also reported to the Police Station Sadar Ballabgarh. In police station and also in Panchayats, appellant Dharambir, in the presence of his relatives, produced a standard apology subsequently and gave an undertaking that he would rehabilitate the victim in her matrimonial house. In pursuance of the said compromise, on 18.05.2002, the victim was taken to her matrimonial house. It is the case of the complainant that despite the above, the appellant and his family members were keeping grudge against the victim for not meeting the demand of dowry.

2.1 On 23.05.2002, Om Parkash, son of the complainant had gone to Ballabgarh in connection with his business work. From Ballabgarh he had gone to meet his sister in Village Karnera which was nearby. On reaching there, he came to know that his sister had been burnt to death by her in-laws. He came back and informed his father-complainant about the occurrence. Thereafter, all the family members rushed to B.K. Hospital, Faridabad, where they did not find the appellant or any of his family member. However, the dead body was lying unattended and unclaimed in the said hospital. The complainant went to Police Station, Sadar Ballabgarh and reported the matter to the police, after receiving no response he had to file a written complaint to the Superintendent of Police upon which the present FIR was registered.



2.2 The police reached B.K. Hospital, Faridabad and carried out the investigation. Though the complainant had levelled allegations against the appellant Dharambir and his other relatives namely, Bharat Lal, Bishambri, Satwati and Angoori, however, upon completion of the investigation, final report (*'challan'*) was presented only against the appellant-Dharambir, Bharat Lal and Satwati. The remaining two accused Angoori and Bishambri were subsequently summoned by the trial Court under Section 319 Cr.P.C. to face the trial.

2.3 After completion of the investigation, final report (*'challan'*) was presented in the Court of Area Magistrate, who committed the same to the Court of Sessions on 18.07.2002. Initially, the charges were framed under Section 306 IPC against appellant-Dharambir and his co-accused Bharat Lal and Satwati, however, vide order dated 21.02.2003, charges were also framed against accused Angoori Devi and Bishambri Devi to face the trial.

2.4 The prosecution examined 12 witnesses. The complainant-Son Pal @ Sohan Pal appeared as PW-4 and his son Om Parkash appeared as PW-5. The medical evidence was led by PW-3 Dr. Y.P. Singh and PW-6 Dr. A.K. Gupta. Dr. A.K. Gupta (PW-6), proved the medico-legal report of the victim whereas Dr. Y.P. Singh (PW-3) proved the postmortem report. PW-8 ASI Nahar Singh got registered a formal FIR on 23.05.2002 on the basis of the complaint given by the complainant whereas the final report under Section 173 Cr.P.C. was prepared by PW-7, ASI Ram Dutt. PW-9, Rakesh Rattan proved the photographs (Ex P-1 to P-4) of the place of occurrence.



Rest of the witnesses are formal in nature.

2.5 After the closure of the prosecution evidence, the statement of the accused were recorded under Sections 313 Cr.P.C. where all the incriminating evidence was put to them. Appellant Dharambir took a plea that he was on duty on the day of occurrence from 04:00 p.m. to 12:00 p.m. As per his version, his wife caught burns accidentally while cooking food and on receiving the information, he immediately went home and took his wife first to B.K. Hospital and then to Safdarjung hospital on way to which she took her last breath. Inquest proceedings were held and appellant-Dharambir gave intimation to Desh Raj, son of Sukan and asked him to inform the parents of the victim. Rest of the accused took a plea that they were living in a separate house whereas appellant Dharambir and his wife were living in a separate house and they were having no interference in the matrimonial life of appellant Dharambir.

2.6 The accused also examined five witnesses in defence. DW-1 Harchand, Clerk, Assistant Food Supplies Officer, Ballabgarh, was examined to prove the ration cards (Annexures D-1 to D-4), whereas DW-2 Harish Kumar, Accountant was examined to prove the attendance register of his company in which the appellant-accused Dharambir was an employee. Desh Raj (DW-3) deposed that he is a co-worker of appellant Dharambir and he intimated the parents of the victim after receiving the information about the occurrence from the appellant Dharambir. DW-4, DSP Raj Singh, deposed that he conducted the inquiry and recorded the statements of various persons and declared Bharat Lal, Angoori Devi and



Bishambri Devi innocent. DW-5 (Roshan Lal) stated about the insurance policy having been issued in favour of appellant Dharambir on 20.12.2000 for a sum of Rs. 25,000/- where Munish Devi was made as nominee.

2.7 After hearing counsel for the parties and on perusal of the documents and evidence, the trial Court held Dharambir-appellant guilty of the offence punishable under Section 306 IPC and he was convicted and sentenced accordingly, whereas the other co-accused of appellant Dharambir were acquitted.

2.8 The trial Court observed that the accused other than Dharambir were living in separate houses, as such, they cannot be the beneficiary of the dowry which they were allegedly demanding. The trial Court also relied upon the statement of DSP Raj Singh (DW-4) to verify the facts of the present case from various persons of both the parties and found Bharat Lal, Anguri Devi and Bishambri Devi innocent. The trial Court also took a note on the fact that in the initial complaint (Ex. PE), Bishambri Devi and Satwati were not named as accused by the complainant. For the aforesaid reasons, the trial Court observed that the involvement of co-accused of Dharambir is not proved.

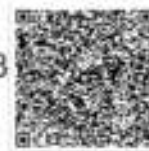
2.9 While appreciating the evidence on record, the trial Court held that the death was not due to accidental fire but it was a suicide. It was observed that there was a gap of more than 07 years between the date of marriage dated 14.07.1994 and the date of occurrence, i.e. 23.05.2002. With quoting that the death was not accidental, the trial Court took a note that the place of occurrence was not kitchen but the bedroom; there were



90% burn injuries on the body; the stove was not in working condition; the room was bolted from inside; and there was no other material like '*Atta*' '*Dal*' in the room, as such it was concluded that the death did not take place in a kitchen or while preparing the food. The trial Court observed that the death took place in her room. A reference was also made to the FSL report Ex. PM and PN, reflecting that residue of Kerosene oil were found in the clothes which were sent to the Laboratory for examination. On the basis of the facts and circumstances, the trial Court concluded that there was demand of dowry, as such, was the only reason for the deceased to commit suicide.

2.10 The aforesaid judgment of conviction and order of sentence has been challenged by the appellant Dharambir, whereas the findings of acquittal of the remaining accused have been challenged by the complainant Son Pal @ Sohan Pal by way of filing the Criminal Revision petition.

3. Learned counsel for the appellant Dharambir submits that the conduct of the appellant shows that there was no prompting on his part to make his wife commit suicide. The appellant was at his work place. Upon receiving the information about the occurrence, he immediately rushed home and took his wife firstly, to B.K. Hospital and then to Safdarjung Hospital for treatment. However, she died on her way. In case, the appellant prompted her to commit suicide, he would not have taken her to the hospital for treatment.



3.1 Learned counsel for the appellant Dharambir further submits that there was no demand of dowry. In fact, the appellant himself got an insurance policy on his name to the tune of Rs. 25,000/- and he made his wife as nominee. In case he had any grudge against his wife, he would not have nominated her in the insurance policy.

3.2 It is further contended that the trial Court has wrongly disbelieved the defence version that it was an accidental fire since all the clothes of the deceased were not having Kerosene. Moreover, Dr. Y.P. Singh (PW-3), who conducted the post-mortem examination has stated that the possibility of burn injuries having been received in an accidental fire could not be ruled out.

4. On the other hand, learned State counsel referring to the reasons recorded by the trial Court, submits that the report of the Forensic Science Laboratory, indicates the presence of Kerosene oil. All the circumstances clearly indicate that the victim had committed suicide. The room was bolted from inside. The stove found at the spot was not in working condition, as such, the trial Court has rightly discarded the defence version that it was an accidental fire incident.

5. The *Amicus Curiae* appearing on behalf of the complainant Son Pal @ Sohan Pal submits that the trial Court could have considered the facts and circumstances in view of the provisions of Section 498-A IPC. The acquittal of the relatives of the husband is not in consonance with the testimony of the father and brother of the victim.



6. I have considered the aforesaid contentions and perused the paper-book.

7. The trial Court has rightly considered the question as to whether the death of the victim was accidental or it was a suicide? From the evidence on record, it has been observed that the death took place inside a room which was bolted from inside. The death did not take place in the kitchen. The photographs, attached along with Ex. PF (MLR), clearly indicate that the said room was not being used as a kitchen as no kitchen articles are seen in the photographs. Even as per site plan (Ex. PH), the kitchen is not reflected even nearby the room in question. Above all, the stove allegedly recovered from the spot was not found to be in working condition. As such, in view of the above circumstances on record, the trial Court has rightly observed that it was not an accidental death. Merely, on the basis of the suggestion given to the doctor who has only stated that such burn injuries cannot be ruled out having been received from an accidental fire, cannot be made a basis to hold that it was an accidental death.

8. It is established from the facts and circumstances that the victim was living in a matrimonial house at the relevant point of time. She sustained burn injuries which are about 90% and she died as a result of the said injuries, as such, it is a case of unnatural death. The testimony of Sohan Pal (PW-4), who is the father of the victim further corroborates the said attending circumstances as he has categorically stated that the accused started giving beatings to his daughter after the marriage and on some occasions she was also turned out of the house. The matter was discussed



in a village Panchayat several times and in the meetings, the accused sought pardon while giving an assurance that they would not ill-treat his daughter. The testimony of the complainant is further corroborated by his son, Om Parkesh (PW-5).

9. This fact is corroborated on record that there used to be a discord between the appellant Dharambir and his wife (victim). Ex. PL is copy of an application given to the Station House Officer, Ballabgarh which reflect that on 05.05.2000, i.e. about two years before the occurrence, the victim (wife) had given a complaint to the police, however, the matter was compromised on 08.05.2000 with the intervention of various respectables. The appellant Dharambir had felt sorry for his wrong behaviour and gave an undertaking that in future he will not do any such act which would cause inconvenience to his wife and further gave assurance that he would not commit any atrocities on his wife. On the basis of the said assurance, the victim-wife had withdrawn her complaint given to the police. The said application is signed by various respectables, including 'Nambardar' of the area. The said compromise is also signed by the appellant Dharambir. Though the said dispute took place two years prior to the occurrence, it certainly gives a reference of a matrimonial discord *inter se* the appellant Dharambir and his wife (victim).

10. Keeping in view the statement of the father and brother of the victim, the prior dispute between the husband and the wife and the manner in which the suicide has been committed, it certainly gives a presumption that the wife had committed suicide being harassed by her husband. The



observations made by the trial Court in this regard are factually and legally correct and no interference is warranted in the said observations. The testimony of the witnesses, the attending circumstances and the previous acts and conduct of the appellant clearly indicate that the appellant Dharambir had abetted the commission of suicide by his wife, as such judgment of conviction, dated 23.08.2003 and order of sentence, dated 25.08.2023, recorded by the trial Court does not require any interference.

11. So far as the acquittal of the co-accused of the appellants is concerned, the trial Court has taken a note of the fact that the relatives of the appellant Dharamabir were residing separately. The said observations are on the basis of documentary evidence, i.e. the ration cards which have been provided by the defence witness, DW-1 Harchand, Clerk, Assistant Food & Supplies Office, Ballabgarh who has proved separate ration cards Ex. D-1 to D-3 pertaining to appellant Dharambir, his co-accused Phool Singh, Bharat Lal and Ram Sahai. Even in the previous complaint given by the victim, which was later on withdrawn as per document Ex. PL, the names of the co-accused of the appellant Dharambir are not mentioned. The observation by the trial Court that the appellant Dharambir and his wife were separately living in a rented accommodation is in resonance with the reflections in the site plan (Ex. PH). Apart from this, the complainant has moved a written complaint (Ex. PE) upon which the FIR was registered. The names of the co-accused of the appellants, i.e. Bishambri and Satwati were not mentioned in the said complaint.



12. In view of the totality of the circumstances and the evidence on record, the trial Court has rightly disbelieved the testimony of the complainant with regard to the allegations against the relatives of the husband of the victim and gave benefit of doubt to the said relatives while acquitting them.

13. In such circumstances, no interference is required to the findings of acquittal of co-accused recorded by the trial Court.

14. I have also considered the order of sentence passed by the trial Court. The trial Court has heard the appellant Dharambir before passing the said order. It has taken into consideration the plea of the appellant that he is having a minor daughter and there is nobody to look after the said child. Keeping in view the gravity of the allegations, the trial Court has awarded 05 years sentence.

15. The victim was a young female. She was having three children at the time when she committed suicide. The children have been deprived of the love and affection of their mother and a young woman had lost her life. Keeping in view these circumstances, the rigorous imprisonment for a term of 05 years is well justified. Awarding a lesser sentence in such circumstances would be a mockery of law.

16. Consequently, no grounds are made out for interference in the order of sentence passed by the trial Court.

17. Keeping in view the above facts and circumstances, I am of the considered opinion that the trial Court has passed a well reasoned judgment of conviction and order of sentence. No ground for interference is

made out. Consequently, both, the Criminal Appeal filed by the appellant Dharambir, as well as the Criminal Revision filed by the complainant Sonpal @ Sohan Pal are hereby dismissed. A copy of this order be sent to the Chief Judicial Magistrate concerned, as well as to the trial Court.

18. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

August 22, 2024
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Whether Speaking	Yes/No
Whether Reportable	Yes/No