
(2010) 01 P&H CK 0256
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 79-SB of 2003

Balbir Singh

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 29-01-2010

Acts Referred:

Dowry Prohibition Act, 1961 — Section 6, 6(3)
Penal Code, 1860 (IPC) — Section 201, 304B, 306, 34

Citation : (2010) 2 RCR(Criminal) 371

Hon'ble Judges : A.N. Jindal, J

Bench : Single Bench

Advocate : Manuj Nagrath and Mr. H.S. Gill, for the Appellant; Sanjeev Sura, Additional A.G. Haryana, for the Respondent

Final Decision : Allowed

Judgement

A.N. Jindal, J.—Order dated 17.12.2002, passed by Additional Sessions Judge-II, Jind, accepting the application of Jagdish respondent for cancellation of Superdari order dated 9.07.1998, and handing over the dowry articles to him being the husband of the deceased has been challenged.

2. Brief facts are that Jagdish respondent faced trial in case FIR No. 309 of 1998 under Sections 306/201/34 IPC, Police Station Sadar Jind, and was acquitted vide order dated 3.03.2001.

3. During investigation vide order dated 9.07.1998, Balbir Singh/petitioner (being father of the deceased) had obtained Superdari of the dowry articles from the Court of Duty Magistrate/Chief Judicial Magistrate, Jind. The revision petition preferred by Jagdish was also dismissed. However, on conclusion of the trial, after his acquittal, Jagdish applied for cancellation of the superdari and restoration of dowry articles to him, which was accepted on 17.12.2002, by Additional Sessions Judge, Jind.

4. Heard, admittedly, the dispute is with regard to articles of dowry which

changed hands from the appellant to Jagdish respondent (herein referred as the respondent) which were meant for the use of the deceased. Now, the crucial question involved is "whether the husband, even if he is acquitted of the charge u/s 304-B, could retain the dowry articles on the death of her wife?"

5. The position with regard to the custody of the dowry articles is quite different from the position of the other property in the hands of the deceased. In this regard we need to reproduce the Section 6(3) of the Dowry Prohibition Act 1961:

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.

6. Admittedly, the case is regarding the custody of the dowry articles which changed hands. No doubt the deceased died within 7 years of marriage and there was no issue out of their wedlock. The judgment also reveals that she died an unnatural death other than in normal circumstances. However, the accused were acquitted by giving benefit of doubt, thus, the case of the appellant squarely falls within clause (3) of Section 6 of the Dowry Prohibition Act so as to maintain the custody of the dowry articles with the appellant. I find support to my this issue from the judgment delivered in case State by Belakavadi Police v. Mallesha, 2002(3) R.C.R. (Cri) 157. The trial court has overlooked the provision of the Dowry Prohibition Act, and ordered restoration of the property while invoking the provisions of Hindu law relating to succession which is not correct.

Resultantly, I accept the appeal, set aside the impugned judgment dated 17.12.2002 and while dismissing the application of the respondent Jagdish, direct that dowry articles which are already in the custody of the appellant shall remain in his custody.