

(2009) 03 JH CK 0103
In the Jharkhand High Court

Idris Ansari

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 03-03-2009

Acts Referred:

Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 201, 304B, 34

Citation : (2009) 03 JH CK 0103

Hon'ble Judges : Pradeep Kumar, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Pradeep Kumar, J.—This appeal is directed against the judgment of conviction dated 24.7.2001 and order of sentence dated 25.7.2001 passed by Shri Rameshwar Tiwary, 1st Additional Sessions Judge, Palatini at Daltanganj in Sessions Trial No. 32 of 1996 against the appellant namely Idris Ansari by which the appellant has been found guilty for the offence u/s 304B of the Indian Penal Code and sentenced to undergo R.I. for ten years. 2. The F.I.R was given by Aliinuddiii Mian, P.W. 14, father of the deceased on 17.9.1995 at 11.30 a.m. stating there in that today in the morning at about 6 a.m. villager, Najbun Bibi W/o Gulabuddin Ansari came to his house and stated that in her well a dead body of a woman is floating and it seems that it is the dead body of the W/o Md. Idris Ansari, Saisan Bibi. He went to the well and found that it was the dead body of Saisan Bibi, his daughter. Other witnesses, Surajdeo Singh, Imamuddin Ansari, Mumtaz Mian also came and saw the dead body. They also stated that it was the dead body of Saisan Bibi. He has stated that Idris Ansari and his brother Kayumuddin Ansari had committed the murder of his daughter and threw heir in the well. He has stated that they used to torture his daughter for dowry and yesterday on 16.9.1995, she was assaulted and burn injury was caused upon her body. They used to ask Saisan Bibi to go out of their house or else bring dowry. On the basis of the said fardbeyan, police after investigation of the case submitted the charge sheet u/s 304B/34, 201/34 of the I.P.C and 3/4 Dowry

Prohibition Act against the accused persons. The learned Magistrate after taking cognizance of the offences committed the case to the court of Sessions since the case was, exclusively triable by the court of Sessions Learned 1st Additional Sessions Judge, Palamu after hearing both the parties and considering the evidences on record found that the prosecution has failed to prove the charge against the accused, Kayumuddin Ansari, who lives separately from his brother Idris Ansari and acquitted him from the charges leveled against him, but found that the prosecution has proved the charges beyond reasonable doubt against the accused Idris Ansari, appellant in this appeal and thus convicted him as aforesaid. However the charge u/s 201 of the I.P.C was not found true against the accused Idris Ansari.

3. In order to bring home the charges, the Prosecution has examined as many as 14 witnesses. P.W. 1 Najbun Bibi, P.W. 2 Naimuddin Ansari, P.W. 3 Numan Shah, P.W. 4 Mumtaz Seikh, P.W. 5 Alimuddin Ansari, P.W. 7 Imamuddin Ansari and P.W. 9 Uraisha Bibi who are co-villagers have turned hostile, when they were cross examined by the prosecution. P.W. 6 Salim Ansari, P.W. 8 Salimuddin Ansari, P.W. 10 Fuleshwar Bibi and P.W. 11 Sulekha Bibi have been tendered for the cross examination. However P.W. 12 Suraj Deo Singh, P.W. 13 Sadiqqe Ansari and P.W. 14 Alimuddin Mian, father of the deceased have supported the prosecution case.

4. Thus after going through the prosecution evidence, it appears that the prosecution case is mostly based on the evidences of P.W.12,13 and 14. P.W.12, Surajdeo Singh has stated that he knew Saisin bibi W/o Idris Ansari. He has stated that Idris always used to assault her and cause burn injury. He was demanding cycle and watch as dowry, A panchayati was also held in the village and he participated in the same along with others. In the panchayati it was decided that since Idris always assaulted Saisin Bibi, she should go to her Maika. She went to her Maika but subsequently accused, Idris brought her back after execution of bond of Rs. 5000/- that he will not assault her in future. He came to know about the occurrence from Alimuddin Ansari, brother-in-law of the accused Idris Ansari that Saisin Bibi died due to fall in the well. He went to the well and saw her dead body. In his cross examination, he has stated that the well where the dead body was found was surrounded by the house of Gulabuddin and Sarfuddin etc. He has stated that the deceased, Saisin Bibi was married to the accused 2/3 years back. In para 7 of his deposition, he has stated that in the panchayati, he along with Ali Mian and Suresh Dubey were also present. He has also stated in para 7 that in the panchayati, the accused demanded cycle and watch as dowry. P.W. 13, Sadiqqe Ansari has stated that his sister, Saisin Bibi was married to the accused Idrish. After marriage Idris was demanding cycle as dowry which they said that they will give after arrangement of money but when his sister went to the Sasural, Idris started assaulting her and also used to cause burn injury. She had come to her "tiarihar" where a panchayati was held but subsequently the accused came to their house and executed a bond that he will not torture, but after four months her dead body was found in well. In his cross

examination in para 4, he has stated that at the time of negotiation of marriage, it was decided that they will give cycle and watch to Idris user the Nikah. Only a cash of Rs. 2500/- were given at the time of marriage but due to poverty they could not give cycle and watch. He has also stated that the other household articles like glass, lota, katori were given at the time of marriage along with a list. The last witness of the case is the informant, P.W. 14, Alimuddin Mian. He has stated that his daughter, Saisin Bibi was married to Idris. At the time of marriage, accused Idris along with his father had demanded Rs. 2500/- cash, cycle and watch. They paid Rs. 2500/-, at the time of marriage but could not give cycle and watch for which Idris used to assault his daughter and also caused burn injury at various places on her body. His daughter came to stay with him. He got her medical treatment but subsequently the accused came and took her to his house where he used to assault her. His daughter died. In para 6 he has stated that with regard to earlier assault and burn injuries, he had not filed any case, but gave report to the Sarpanch who called Panchyati. Subsequently the accused had taken his daughter willingly that he would not assault her.

4. The court also examined one court witness who has proved the diary and F.I.R. Apart from the above the defence has also examined two witnesses. D.W.1 Gulain Rasul Ansari who is the brother-in-law of the accused. The accused Idrish and Kayumuddin lives separately. D.W.2 is Kamalkant Dubey. He has stated that Saisin Bibi died due to fall in well and there was no fight between Idrish and his wife.

5. Thus after going through the evidences of three prosecution witnesses, I find that all the P.W.s 12,13 and 14 have stated that just after the marriage, accused Idris, assaulted the deceased and also caused burn injuries on the body of the deceased, since, her father failed to gave cycle and watch as demanded to him. They have also stated that the accused/appellant ousted the deceased from the house for the said cause and a panchayati was also held, supported by the evidence of 12 and subsequently by executing a bond the accused brought the victim, but continued assault on her for not bringing dowry, which resulted into her unnatural death. It has come in the evidence of P.W., 12, 13 and 14 that the deceased was married with the accused, Idris just 2/3 years back, so it is proved beyond doubt that within the seven years of marriage, the death occurred and she died an unnatural death due to assault on her by her husband, Idris for not bringing dowry as demanded by him. Although the Investigating Officer has not been examined in this case but the hostile witnesses who were" cross examined by the prosecution have also stated before the Investigating Officers that the accused used to torture her. P.W. 1. Najbun Bibi in para 2 of her cross examination lias stated that she had not stated before the Investigating Officer that the accused used to assault the deceased for dowry and due to assault she died by drawing in the well and similar statement was corroborated by P.W.2, Naimuddin Ansari, P.W.3 Numan Sah and P.W.4 Mumtaz Sheikh.

6. Thus, after going through the evidences as aforesaid, I find that there is

sufficient evidence which has proved beyond reasonable doubt that the accused, used to torture us wife and caused several burn injuries on her body for not bringing dowry which resulted in her un-natural death.

7. The conviction of the accused/appellant,. Idris Ansari u/s 304B of the Indian Penal Code is well founded Hence the judgment of conviction dated 24.7.2001 and order of sentence dated 25.7.2001 is hereby uphold. The accused is on bail. Therefore, the lower court is directed cancel his bail bond and to issue warrant of arrest against him.

8. Accordingly, this criminal appeal is dismissed