

(2012) 01 P&H CK 0188

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 551-SB of 1998 and Criminal Revision No. 853 of 1998

Jagdev Singh and Others

APPELLANT

Vs

State of Punjab
 Gurcharan Singh Vs State of Punjab
and Others

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 304B, 498A

Citation : (2012) 01 P&H CK 0188

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajay Tewari, J.—This appeal has been filed by the appellants against their conviction u/s 304-B/498-A of the Indian Penal Code vide judgment dated 4.7.1998 and order dated 4.7.1998 imposing sentence to undergo imprisonment for a period of seven years u/s 304-B of the Indian Penal Code passed by the Court of learned Sessions Judge, Bathinda.

2. Succinctly, the case of the prosecution is that on 05.03.1997, a case was registered on the statement of Gurcharan Singh complainant to the effect that his daughter, namely, Simarjit Kaur was married with appellant No.1 Jagdev Singh 13 months prior to her death and she was blessed with a daughter aged about three months at the time of occurrence. It is stated in the complaint that though sufficient dowry was given at the time of marriage but despite that the appellants-accused were not satisfied with the same and they started harassing and maltreating the deceased for bringing more dowry. Simarjit Kaur usually told her parents that she was not happy in her matrimonial home. The appellants-accused demanded a sum of `20,000/-in cash from him but he (complainant) requested the appellants that he was a poor person and was not in a position to fulfill their demand but the appellants were adamant about the same. On

05.03.1997, Nachhatar Singh, his nephew informed the complainant about the burning of his daughter Simarjit Kaur and her minor daughter Gurpreet Kaur and about their admission in Civil Hospital, Bathinda. Police took the investigation in its hand and SI Harpal Singh visited the spot and got the place of occurrence photographed and also recorded his statement. Thereafter, Simarjit Kaur and her daughter Gurpreet Kaur succumbed to their injuries in the hospital. On completion of necessary investigation, challan was presented in the Court for trial of the appellants. The appellants were charge-sheeted for the commission of offences punishable u/s 498-A and 304-B of the Indian Penal Code by the trial Court, to which they pleaded not guilty and claimed trial.

3. In support of its case, the prosecution has examined as many as five witnesses i.e. Dr. Kasturi Lal as PW1, Gurcharan Singh complainant as PW2, Nachattar Singh as PW3, Constable Joginder Singh as PW4 and Investigating Officer SI Harpal Singh as PW5. PW1 Dr. Kasturi Lal has stated on oath that on 6.3.1997 he alongwith Dr. S.K.Raj Kumar conducted the post mortem examination on the dead bodies of deceased Simarjit Kaur and Gurpreet Kaur in Civil Hospital, Bhatinda and as per their opinion the cause of death was due to shock on account of burns which were ante-mortem in nature and were sufficient to cause death in the ordinary course of nature.

4. Prosecution had further examined Gurcharan Singh complainant as PW2 who had stated that his daughter Simarjit Kaur was married to appellant Jagdev Singh 13 months ago prior to the occurrence in question and at the time of marriage sufficient dowry was given but inspite of that the appellants were not satisfied and they all started demanding more dowry including `20,000/-in cash but he failed to fulfill their demand. He had further stated that whenever her daughter visited them she always complained about the harassment and maltreatment given to her by the appellants for bringing insufficient dowry. He further stated that 6-7 days prior to the occurrence in question, he along with his father-in-law Gurbachan Singh and nephew Nachattar Singh visited Simarjit Kaur and she told them that she is being harassed and maltreated by the accused-appellants for not fulfilling their demand of `20,000/-. He further stated that Simarjit Kaur told him that if the demand of `20,000/-was not fulfilled, then he would only see her dead body. Nachhatar Singh had also corroborated the statement of PW2 Gurcharan Singh (complainant). PW4 Constable Joginder Singh was a formal witness who had delivered the special report to the Illaqa Magistrate. PW5 Sub Inspector Harpal Singh was the Investigating Officer and he had deposed about the investigation conducted by him. On completion of the prosecution evidence, the statements of the appellants-accused u/s 313 of the Code of Criminal Procedure were recorded wherein they denied all the allegations of the prosecution and took the plea of alibi and stated that they were not present at the time of occurrence in question at the place of crime. They all denied the allegation of the prosecution that any demand of dowry was made. They all stated in their statements that the marriage was very simple one and no dowry was given in the marriage and deceased Simarjit Kaur was never harassed

for bringing any dowry. They all took a specific plea in their defence that one child, namely, Jagsir Singh son of Bakhtaur Singh, aged 6 years died suddenly in their neighbourhood and due to the visiting of the relatives of Bakhtaur Singh in condolence, deceased Simarjit Kaur felt depression and under depression she had committed suicide and not on account of the dowry demanded by them. Appellant Jagdev Singh specifically stated that on the day of incident, he had left the house for work at Dabwali at about 8.00 A.M. and about the incident in question he had received the message in the evening. Similar plea was taken by the appellants, namely, Sohan Singh and Balbir Kaur.

5. In support of their version, the appellants had also examined as many as three witnesses in their defence i.e. Sub Post Master Ram Lal Garg as DW1, Jugraj Singh as DW2 and Bakhtaur Singh as DW3.

6. DW1 Ram Lal Garg, Sub Post Master has produced the attendance register, according to which, appellant Sohan Singh was present on his duty on the relevant day. DW2 Jugraj Singh has stated that his house is located near to the house of appellant Jagdev Singh and deceased Simarjit Kaur was having visiting terms with them but she had never complained against the appellants. DW3 Bakhtaur Singh had also corroborated the statement of DW2 Jugraj Singh.

7. I have heard learned counsel for the accused-appellants as well as the learned Assistant Advocate General, Punjab for the respondent-State of Punjab.

8. It is not in dispute that the marriage had taken place 13 months ago prior to the date of incident. From the statements of complainant Gurcharan Singh as PW2 and Nachattar Singh as PW3, it is borne out that there were demands of dowry and because of that demand the relations between the parties were strained. PW2 Gurcharan Singh specifically stated that there was a demand of `20,000/-which he could not fulfill. He also deposed in his statement that six-seven days prior to the date of incident he along with his father-in-law had gone to the house of accused-appellants when they were told by Simranjit Kaur that she was being maltreated for not fulfilling the demands. Similarly, PW3 Nachattar Singh also corroborated the statement of PW2 Gurcharan Singh. From their statements, it stand fully established that there was a demand of dowry though it has not been specifically stated as to who had raised the demand but it was sufficient to prove that relations between the parties were strained and had resulted into cruelty and harassment being meted out to the deceased Simranjit Kaur.

9. Now the next question which arises for consideration is as to whether the deaths of Simranjit Kaur and Gurpreet Kaur occurred due to suicide or they were set on fire by pouring kerosene oil on them by the accused-appellants. In this regard, the statement made by Doctor before the Court is significant. PW1 Dr. Kasturi Lal, Medical Officer, Civil Hospital, Bhatinda stated that he along with Dr. S.K.Raj Kumar, Medical Officer, Civil Hospital, Bhatinda conducted postmortem examination on the dead bodies of Simranjit Kaur and Gurpreet Kaur. Dr. Kasturi

Lal, while appearing as PW1 in the witness has deposed that death of Simranjit Kaur had occurred on account of burn injuries which were not received by her under normal circumstances because the injuries were superficial to deep burns spread over the whole body sparing pubic to perennial area only and smell of kerosene was present. Blackening sooty was present and the scalp hairs burnt and partially singed on right parieto occipital region. He further disclosed to the Court that in his opinion as well as in the opinion of Dr. S.K.Raj Kumar who had helped in him conducting the post mortem examination on the dead bodies, the death of Simranjit Kaur was due to shock because of burns which were ante-mortem in nature and sufficient to cause death in ordinary course. In regard to the death of Gurpreet Kaur, infant, child of deceased Simranjit Kaur, same opinion was given that it was also due to burns of injuries due to kerosene.

10. So far as accused-appellant, namely, Sohan Singh, father-in-law of deceased, is concerned, he was posted at Bhatinda and was serving as a Postman in the office of Postal Services Department. Ram Lal Garg, Sub Post Master, while appearing as DW1 has produced his attendance register which shows that accused-appellant Sohan Singh remained present on duty from 17.2.1997 to 4.3.1997. The incident had taken place at 11.00 A.M. It was deposed by Ram Lal Garg that accused-appellant, namely, Sohan Singh normally used to report on duty at 8.30 A.M. There is no evidence on record that on the fateful day he had not remained present on duty. No evidence to the contrary was produced to prove that at the time of occurrence, Sohan Singh was present at the site and had played any role in the incident in question. Therefore, in view of the statement of DW1 Ram Lal Garg, who had produced the official record, it could be safely held that accused-appellant, namely, Sohan Singh was not present at the site at the time of occurrence. So far as conviction of Sohan Singh accused-appellant u/s 498-A of the Indian Penal Code is concerned, that also is not liable to be maintained because PW2 Gurcharan Singh in his statement on oath has made general allegations of demand of dowry against Sohan Singh and not alleged anything specific attributing any demand raised by accused-appellant Sohan Singh. It is well established law that the general allegations cannot be taken as a ground for conviction u/s 498-A of the Indian Penal Code. One has to prove specific instances of demand raised by the accused-appellants leading to maltreatment given to the wife. Since in the statements of PW2 Gurcharan Singh and PW3 Nachhatar Singh, no specific allegation of demand of dowry having been raised by accused-appellant Sohan Singh is there, therefore, I am of the considered view that no case u/s 498-A of the Indian Penal Code could also be made out against him. Consequently, judgment of the learned trial Court with regard to Sohan Singh accused-appellant is set aside.

11. So far as the other accused-appellants i.e. husband and mother-in-law, namely, Jagdev Singh and Balbir Kaur @ Chhoto are concerned, the statement of PW1 Dr. Kasturi Lal that injuries were not in the normal course and a weak plea of alibi taken that they were not present at the time of occurrence, clearly prove that they were harassing the deceased, namely, Simranjit Kaur for bringing less

dowry and as a result of their greed having not been fulfilled, they had committed the offence punishable u/s 498-A/304-B of the Indian Penal Code which stand proved against them beyond any doubt.

12. In view of the above, appellant, namely, Sohan Singh, is acquitted of the charge whereas the appeal filed by the remaining two accused-appellants, namely, Jagdev Singh and Balbir Kaur @ Chhoto stands dismissed and the findings of the learned trial Court are affirmed. Since both the accused-appellants are on bail, they be taken into custody for serving the remaining sentence of imprisonment.

13. In so far as the revision petition filed by the petitioner, namely, Gurcharan Singh, for enhancement of sentence awarded to the respondents is concerned, I have heard learned counsel for the parties and on going through the record found that the sentences awarded by both the Courts below are adequate. Though the plea taken cannot be rejected outright, yet in view of the fact that the occurrence is 15 years old and the respondents have been living under the shadow of this conviction for one and a half decades, it would not be appropriate to enhance the sentence. Accordingly, the revision petition is dismissed. Let they be arrested to serve our their sentence.