
(2012) 02 JH CK 0006

In the Jharkhand High Court

Case No : Criminal Appeal No. 329 of 2001

Kamal Nath Singh and Bindeshwar Singh @ Nanhak Singh

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 01-02-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B, 34

Citation : (2012) 02 JH CK 0006

Hon'ble Judges : R.K. Merathia, J; Aparesh Kumar Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. This appeal is directed against the judgment of conviction dated 21st June, 2001 and order of sentence dated 25th June, 2001 passed by 8th Additional District & Sessions Judge, Palamau at Daltonganj in Sessions Trial No. 126 of 1998 convicting the appellants, Kamal Nath Singh and Bindeshwar Singh @ Nanhak Singh under Sections 304-B/34 I.P.C., and sentencing them to undergo R.I. for life. The prosecution case, in short, is that the informant, Mahabir Singh (P.W.1) lodged Fardbeyan with police on 12.10.1997 that his daughter, Sobha Devi (deceased) was married with appellant, Bindeshwar Singh @ Nanhak Singh about 3 years back. The appellants used to demand cycle and radio and on that account used to torture the deceased, due to which the informant took his daughter back about 5 months back. About 8 days before her death, the appellant, Bindeshwar Singh @ Nanhak Singh came and took her back. On the previous day when his wife, Kishunmani Devi (P.W.2) was in the field, the mother-in-law of Shobha Devi informed her that her daughter had fled away somewhere in the night. The informant was informed by his wife, then he along with his son went to search Sobha Devi. At about 9 A.M. they heard a rumour that a dead body was lying in the well. Thereafter, the dead body of Sobha Devi was recovered. The informant alleged that the appellants have killed her daughter for non-fulfillment of demand of dowry.

2. The Doctor (P.W.6) found multiple nail bite marks in front of the neck and abrasion in front of chest. On dissection he found fracture of hyoid bone etc. The doctor opined that the cause of death was asphyxial.

3. Mr. A.K.Kashyap, learned counsel appearing for the appellants submitted that there is nothing to show that soon before the death of Sobha Devi there was torture for dowry, as admittedly she was taken back from her paternal house without any demand of dowry after she remained there for about 4 months. He further submitted that there is no eye witness to the occurrence and the dead body was found in the well, which is situated in the field of the informant.

4. On the other hand, learned counsel for the State supported the impugned judgment.

5. Mr. Kashyap then submitted that at least the case of Bindeshwar Singh may be considered on the question of sentence as he has remained in jail for about 14 and 1/2 years. He relied on a judgment reported in Hem Chand Vs. State of Haryana, on the question of sentence. Regarding appellant, Kamal Nath Singh, he submitted that there are vague and general allegations.

6. After carefully going through the records and after hearing both the parties at length, we are satisfied that the appellant no.1, Kamal Nath Singh should be given benefit of doubt as there are vague and general allegations against him.

7. So far as the appellant no. 2, Bindeshwar Singh @ Nanhak Singh is concerned, we do not find any reason to interfere with the judgment of his conviction. However, so far as sentence is concerned, in our opinion, the ends of justice will be met if he is sentenced to the period already undergone by him in jail, which is more than double of the minimum sentence i.e. about 14 1/2 years. In the result, this appeal is partly allowed. The appellant, Kamal Nath Singh, is on bail, he is discharged from the liability of his bail bonds. The appellant, Bindeshwar Singh @ Nanhak Singh, who is in jail custody, is directed to be released forthwith, if not wanted in connection with in any other case/s.