
(2020) 01 JH CK 0309

In the Jharkhand High Court

Case No : Criminal Revision No. 548 of 2003

Lakshishwar Prasad Singh

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 24-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 34, 304B

Citation : (2020) 01 JH CK 0309

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Shankar Lal, Nehala Sharmin

Final Decision : Dismissed

Judgement

1. The instant application is directed against the judgment dated 30.05.2003, passed by the learned Additional District Sessions Judge, Fast Track Court-VI, Jamshedpur in Sessions Trial No. 24 of 2001 whereby the learned trial court acquitted the opposite party no. 2 and 3 from the charge under Section 304 B /34 of the Indian Penal Code.

2. The learned counsel for the petitioner submits that the impugned judgment passed by the learned court below is illegal and against the material available on record. He further submits that the learned trial court failed to take into consideration that it is an admitted fact that the deceased has died due to burn injuries within 7 years of her marriage in a suspicious circumstances. He further submits that P.W.-1, P.W.-2, P.W.-5, P.W.-7, P.W.-9 and P.W.-10 have supported the case of prosecution to the extent that the deceased was burnt due to non-fulfillment of demand of dowry by the opposite party no. 2 and 3. The informant has clearly deposed in his evidence that prior to one year of occurrence there was a continuous demand of T.V., Refrigerator etc. He further contended that P.W.-10 has categorically deposed in his evidence that prior to one week of the occurrence, the deceased informed him over phone that the opposite parties were insisting her to bring the T.V., Refrigerator etc. The learned counsel further

relied upon the deposition of the informant in which it has been deposed that the deceased had told the informant in T.M.H hospital that on 20th July, 2000 the opposite party no. 2-husband has said that the father of the victim has not given the dowry. As a matter of fact, the learned trial court has completely ignored the categorical deposition of the prosecution witnesses. He concluded his argument by submitting that the impugned order deserves to be set aside.

3. Learned counsel for the opposite party no. 2 & 3 vehemently argued that after marriage, the victim has completed Bachelors and Masters Degree examinations and she was appointed as Programme Announcer at Jamshedpur Akashwani. As such, from such person who herself was earning more than Rs.25,000/- per month then why her husband will demand T.V. and Bed from her. He further submits that the learned trial court has rightly come to the conclusion that it was not a dowry death rather it was an accident. He further submits that P.W. 13 himself has deposed that nobody was present in the house when he brought the injured to T.M.H alongwith mother of Rajiv and the injury was caused due to boiling milk. As a matter of fact, people said that the occurrence was taken place due to boiling milk. The learned counsel for the opposite party no. 2 & 3 concluded his submission by contending that the opposite party no. 2 was not even present at the time of occurrence as he was on night duty and a false case has been instituted against them and that is the reason that there was delay in lodging the FIR just to falsely implicate the opposite parties. The learned trial court has rightly appreciated the evidences and passed the order of acquittal as such, there is no error in the impugned order hence no interference, whatsoever, is required in the instant case.

4. Heard learned counsel for the petitioner, learned APP and the learned counsel for the opposite party nos. 2 and 3. After going through the impugned order and the lower court record, it is crystal clear that after the marriage the victim girl came to in law's place and completed her Bachelors and Masters Degree and thereafter, she was employed. She was working in All India Radio which was her regular source of income. From the record it transpires that there was a delay in lodging the FIR and no reason was assigned as to how the FIR was not lodged within time so much so that the FIR has been lodged after 34 hours whereas the police station was only about 2 kilometers from the place of occurrence and no reason has been assigned for such delay. The learned trial court has further observed that prosecution witness nos. 1, 2, 3, 4, 5, 7, 8, 9 and 10 are all family members and friends and they have supported the case of the prosecution whereas prosecution witness nos. 6, 11, 12, 13, 14 and 15 who were the neighbors of the accused, who have appeared from the side of prosecution and they have categorically deposed that the victim girl was never subjected to harassment for dowry whereas her relations with her in-laws were cordial and they use to live in very friendly environment.

5. After dealing with the evidences, both oral and documentary, laid before him, the learned trial court acquitted the opposite party no. 2 and 3. In paragraph 31

of its order, the learned trial court has given reference of defence witness no. 1 and 2 which indicates that the D.W.2- Naudev Banerjee has proved the attendance register of the opposite party no. 2 from which it is evident that opposite party no. 2 was in the office from 10:00 P.M. on 20.07.2000 and he left for the house at 5:45 A.M. on 21.07.2000 as such, he was not present at the place of occurrence. The statement of D.W.-1-Dr. Chandrashekhar Mishra clearly indicates that the victim-girl was suffering from liver problem since 1999 and she was under his treatment. Relying upon the evidences, the learned trial court has acquitted the opposite party nos. 2 and 3. I do not find any error in the impugned order.

6. It is settled proposition of law that the revisional power of the High Court is much more restricted in its scope. It is only in the glaring cases of injustice resulting from violation of fundamental principles of law by the trial court, this Court is empowered to set aside the order of acquittal and direct the retrial of the acquitted accused.

7. In my considered opinion, there is no defect either in the procedure or there is any error on the point of law resulting in miscarriage of justice so as to warrant any interference by this Court.

8. In view of the aforesaid facts and circumstances, the instant application is dismissed. The judgment dated 30.05.2003 is hereby confirmed.

9. Let the lower court record be sent to the concerned court forthwith.