
(2010) 12 P&H CK 0359
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal S-359-SB of 2000

Major Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-12-2010

Acts Referred:

Citation : (2011) 1 Law Herald 164 : (2010) 4 RCR(Criminal) 886

Hon'ble Judges : T.P.S.Mann, J

Advocate : P.S.Sidhu, Amandeep Singh Cheema, Advocates for appearing Parties

Judgement

Mr. T.P.S. Mann, J. (Oral)

1. The appellant, alongwith his brother Sukhmander Singh and mother Gurdev Kaur, was tried for offences under Section 304B read with Section 34 IPC and Section 498A read with Section 34 IPC. The trial Court acquitted Sukhmander Singh and Gurdev Kaur of the charges against them. The appellant was convicted under Section 304B IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.5,000/ and in default of payment of fine, to undergo further rigorous imprisonment for six months. He was also convicted under Section 498A IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/ and in default of payment of fine, to undergo further rigorous imprisonment for three months. Both the sentences were ordered to run concurrently.

2. According to the prosecution, Manjit Kaur, since deceased, was married to the appellant about five years before her death. From this marriage, one son was born but he did not survive. At the time of her marriage, her father Hardial Singh had given dowry as per his status. Soon after the marriage, the inlaws of Manjit Kaur started taunting her for bringing less dowry. This fact was brought by her to the notice of her father, who tried to defuse the situation by asking them to desist from the same. When the child born to his daughter died, the three accused, i.e. soninlaw Major Singh, his brother Sukhmander Singh and mother Gurdev Kaur started saying that she would not be in a position to give birth to

another child and, therefore, she should bring an amount of Rs.20,000/ in cash and a scooter or, else there was no place for her in the matrimonial home. As Hardial Singh was not in a position to give more dowry, he, alongwith Amarjit Singh, Municipal Councillor and others went to the inlaws' house of Manjit Kaur and left her there after requesting the accused with folded hands that he was a poor person and not in a position to give anything. He asked them to rehabilitate his daughter in the matrimonial home.

Though the accused assured the complainant that they would keep the deceased in the matrimonial home yet they kept on nursing a grudge in their minds as they stated that if their demand for dowry was not fulfilled, she would not be allowed to live there and sent to her parents. After about 1? months, the deceased was beaten by the accused and turned out from the matrimonial home with a direction not to come to their house without fulfilling the demand of dowry. The complainant submitted an application before the Women Cell, Bathinda where the parties were summoned. A compromise was arrived at on 29.3.1997 wherein the Sarpanch of the village of the accused gave an undertaking that in future neither the deceased would be beaten nor any demand for more dowry made.

Pursuant to the compromise, the deceased was sent to the matrimonial home. On 18.7.1997, Bhupinder Singh, Sarpanch of the village of the accused alongwith others went to the house of the complainant and informed him that his daughter had become unconscious after taking some poisonous substance during the previous night and she was removed to Civil Hospital, Kotkapura. As her condition was serious, the doctor referred her to Christian Medical College, Ludhiana. When they were taking her there and reached near Baghapurana, she died. On being informed, the complainant, alongwith Malkiat Singh and Amarjit Singh, Municipal Councillors and others went to the village of the accused and found the dead body of Manjit Kaur lying there. Suspecting that his daughter Manjit Kaur had been given some poisonous substance by the accused in connivance with each other as a result of which she had died, the complainant prayed for taking appropriate action against the accused.

3. On the statement made by complainant Hardial Singh, FIR No. 63 dated 18.7.1997 was registered at Police Station, Jaitu for offences under Sections 304B/498A/34 IPC.

During investigation of the case, the police recorded statements of the witnesses. Once the investigation was completed, the challan was presented against the appellant and his coaccused. Following its commitment, the appellant and his coaccused were charged for the aforementioned offences, to which they pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined PW1 Dr.Sarabjit Singh Sandhu, PW2 Hardial Singh, PW3 Amarjit Singh, PW4 Gurbachan Singh, Draftsman, PW5 C. Pargat Singh, PW6 MHC Sahib Singh, PW7 C. Jaskaran Singh

and PW8 SI Balwinder Singh. Report Ex.PR of the Chemical Examiner was also tendered in evidence.

5. When the accused were examined under Section 313 Cr.P.C., they denied the allegations of the prosecution and pleaded innocence. The appellant stated that he and Manjit Kaur, deceased had been living separately from his coaccused. The deceased was a short tempered and quarrelsome lady and used to get enraged over trivial matters. He never demanded any dowry from the deceased or her parents. Even he and his coaccused were living hand to mouth by doing manual labour. In defence, the accused examined DW1 Bhupinder Singh and DW2 Jugraj Singh.

6. The trial Court believed the prosecution case qua the appellant and convicted and sentenced him, as mentioned above.

7. I have heard learned counsel for the parties and perused the evidence with their able assistance.

8. It is an admitted fact that death of Manjit Kaur had taken place within seven years of her marriage. As per the report Ex.PB of Chemical Examiner, organophosphorus a group of insecticides, was detected in the contents of stomach, small intestine, large intestine, liver, spleen and kidney. A plastic bottle said to be containing poison, which was recovered from the spot, was also examined by Chemical Examiner, who vide its report Ex.PR stated that same also contained organophosphorus a group of insecticides.

9. From a combined reading of the statements of PW2 Hardial Singh and PW3 Amarjit Singh, it is clear that soon after the marriage of Manjit Kaur, her inlaws started taunting her for bringing inadequate dowry. When she apprised her father, he asked them to desist from the same. When the child born to Manjit Kaur died, the accused told her that as she would not be able to give birth to another child, she should bring Rs.20,000/ in cash besides a scooter. She was given beatings and turned out of the matrimonial home. Both PW2 and PW3 accompanied Manjit Kaur to her matrimonial home where PW2 folded his hands while telling the accused that he was a poor person and not in a position to give more dowry. The accused allowed Manjit Kaur to live in the matrimonial home before telling PW2 and PW3 that their demand be fulfilled or else she would be sent back. After about 1? months, she was again beaten and turned out. Thereafter, complainant Hardial Singh, alongwith Amarjit Singh and Malkiat Singh, Councillors and others submitted an application to Crime against Women Cell through Senior Superintendent of Police, where a compromise was arrived at between the parties on 29.3.1997. The terms as settled by the parties while effecting the compromise were as under :

(i) That the girl was told that she should not commit any lapse i.e. she would do work etc. and to serve the inlaws. This fact was admitted by the girl before the Panchayat.

(ii) That the girl was aggrieved of the fact that her Deor and Jeth were treating her badly and this fact was admitted by the boy's side before the Panchayat that they would not act in this manner.

(iii) S. Bhupinder Singh, Sarpanch and Panch Natha Singh had taken the responsibility of this compromise held before the Women Cell from the boy side.

(iv) The responsibility from the girl side was taken by Amarjit Singh and Malkiat Singh, Municipal Councillors with regard to the compromise.

(The compromise was got effected by the Panchayats between both the parties with regard to the quarrel of petty matters and they undertook not to act in this manner in future.

Both the parties were read over this compromise and admitted the same to be correct.)

10. From the above compromise, it stands established that as on 29.3.1997 there was no dispute between the parties regarding demand of dowry. Manjit Kaur, since deceased, had expressed her grievance that she was being treated badly and this fact was admitted by the accused side before the Panchayat.

11. Similarly, earlier to 29.3.1997, another written compromise Ex.D2 was brought about at the Panchayat level on 15.1.1996. What was stated therein was that the appellant would not unnecessarily harass the deceased. No reference to the demand of dowry was at all made in the compromise deed Ex.D2.

12. Manjit Kaur had died on 18.7.1997 on account of consumption of some poisonous substance. On 29.3.1997 when the compromise was arrived at between the parties or any day thereafter upto 18.7.1997, nothing was mentioned that she had been subjected to maltreatment or harassment by the accused on account of the demand of dowry. In fact, if compromise Ex.D2 executed on 15.1.1996 is taken into consideration, then for a period of more than 1? years thereafter till the time Manjit Kaur died, no allegation regarding demand of dowry had been levelled by the prosecution. Therefore, the prosecution has failed to establish that soon before her death, Manjit Kaur was subjected to cruelty or harassment by the appellant for or in connection with any demand for dowry. Resultantly, the appellant has to be exonerated of the charge under Section 304B IPC.

13. The ingredients of Section 306 IPC have been fully established by the prosecution.

The deceased used to be maltreated and harassed by the appellant. It was the appellant who was responsible for creating circumstances under which the deceased was left with no other option but to end her life by taking some poisonous substance. Presumption under Section 113A of the Indian Evidence Act, 1872 is available to the prosecution to impress upon the Court that such a suicide had been abetted by the appellant as it had been committed within a

period of seven years from the date of her marriage. Therefore, the appellant cannot escape liability for an offence under Section 306 IPC.

14. As per the custody certificate produced by learned State counsel, the appellant has already undergone an actual period of 3 years and 9 days. The appellant has been facing the agony of criminal prosecution for the last more than 13 years. Taking into consideration the totality of the circumstances, the Court is of the view that after convicting the appellant for offence under Section 306 IPC, he can be sentenced to a term of imprisonment which he has already undergone.

15. Resultantly, the appellant is acquitted of the charge under Section 304B IPC.

Instead, he is convicted under Section 306 IPC. His conviction for the offence under Section 498A IPC is maintained. However, on both the counts, he is sentenced to imprisonment already undergone by him. For the offence under Section 306 IPC, the appellant shall pay an amount of Rs.10,000/ as fine and in default thereof, he shall undergo rigorous imprisonment for one year. The fine of Rs.5,000/ imposed upon the appellant for the offence under Section 304B IPC, if already deposited by him, shall be adjusted against the fine now being imposed for offence under Section 306 IPC. His sentence of fine for the offence under Section 498A IPC, alongwith its default clause, is maintained.

The appeal is, accordingly, disposed of.