
(2006) 01 P&H CK 0201
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 420-DB of 1997

Manohar Lal and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 16-01-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 304B, 34, 498A

Citation : (2006) 2 DMC 510 : (2006) 2 RCR(Criminal) 526

Hon'ble Judges : Uma Nath Singh, J; Mehtab Singh Gill, J

Bench : Division Bench

Advocate : R.S. Cheema and M.J.S. Waraich, for the Appellant; Ravi Dutt Sharma, DAG, for the Respondent

Judgement

Uma Nath Singh, J.—This common judgment shall also dispose of connected matter being Crl. Revision No. 503 of 1997 (Munshi Ram v. Pawan Kumar and Ors.) as both the matters arise out of a judgment passed by learned Sessions Judge, Rohtak in Sessions Case No. 28/30.4.1996, holding accused-appellants guilty u/s 304B, IPC read with Section 34, IPC and sentencing accused-appellant Pawan Kumar to undergo RI for life with a fine of Rs. 2,000, in default of payment of fine, to further undergo RI for one year, accused-appellants Manohar Lal and Parkash Wanti to undergo RI for seven years with a fine of Rs. 2,000 each, in default of payment of fine to further undergo RI for one year each and accused-appellant Gagan Deep to undergo RI for ten years with a fine of Rs. 1,000, in default of payment of fine to further undergo RI for one year.

2. FIRNo. 47/17.1.1996 (Ex. PA/1) was recorded on 17.1.1996 at 5.40 p.m. on the basis of a statement of complainant Munshi Ram (PW5) recorded at 5.30 p.m. The special report was sent the same day to the Chief Judicial Magistrate at 7.30 p.m. He stated that he had four brothers and four sisters. His younger sister Madhu was married to accused-appellant Pawan Kumar son of Manohar Lal about 21/2 years back as per Hindu rites. He had given dowry in the marriage as per

his capacity. She was blessed with a son aged four months known as Karan, in the wedlock. She was taunted by her in-laws from the very beginning of her marriage for not bringing adequate dowry. She was sent back to her parents house also. Thereafter, the complainant paid Rs. 14,000 to her husband accused-appellant Pawan Kumar for purchase of a colour TV set. His sister was sent to her matrimonial home after the matter was settled on intervention of brotherhood. Thereafter also, whenever his sister Madhu visited her parental house, she would narrate her tale of woe to the complainant and her mother regarding harassment at the hands of her mother-in-law accused-appellant Parkash Wanti, father-in-law accused-appellant Manohar Lal and husband accused-appellant Pawan Kumar. According to the complainant they also demanded Rs. 50,000 to enable accused-appellant Pawan Kumar to open a shop in a market place failing which they threatened the deceased to stay in her parental house. According to the complainant, he gave Rs. 50,000 to accused-appellant Pawan Kumar again for opening a shop. At that time two persons namely Basant and Madan Lal were also present in the Panchayat. On the date of incident i.e. or 17.1.1996 at about 3.00 p.m. Basant came to complainant's house and informed that his sister Madhu has been strangled to death by her in-laws. Hearing the news, he with his brother Kashmiri Lal went to the matrimonial house of his deceased sister and found her body in Chobara of the house hanging from a ceiling fan with a rope. The complainant and his brother made a complete inquiry and found that the deceased had been strangled by her father-in-law, accused-appellant Manohar Lal, mother-in-law accused-appellant Parkash Wanti, husband accused-appellant Pawan Kumar and brother-in-law accused-appellant Gagan Deep because the deceased had visited their house on that day itself at about 11.00 a.m. and told her mother that the aforesaid persons had given beatings to her. She had also requested her mother that her brother be sent to her place to settle the matter as she was apprehending danger. The police registered the case under Sections 304B/34, IPC and on investigation, a challan was laid by the prosecution. The accused-appellants were charged upon u/s 304B read with Section 34, IPC and Section 498A IPC read with Section 34, IPC. They were convicted on both the counts but sentenced only u/s 304B, IPC read with Section 34, IPC and no separate sentence was recorded for the offence u/s 498A, IPC read with Section 34, IPC.

3. Heard learned Counsel for the parties and perused the records.

4. The prosecution has examined 8 witnesses. ASI Hoshiar Singh (PWI) registered a formal FIR (Ex. PA/1) on receipt of Ruqa (Ex. PA) written by ASI Ram Bhaj. Ram Bhagat (PW2), a Police Constable is the Photographer. On the direction of ASI Ram Bhaj, Incharge, Police Station Subzi Mandi (PW8), he had visited the spot at 6.00 p.m. and taken the photographs of the dead body. Constable Sumit Kumar (PW3) had prepared a scaled site plan (Ex. PB) with correct marginal notes. PWs Basant Lal and Madan Lal before whom the complainant alleged to have paid Rs. 50,000 to accused-appellant Pawan Kumar, were given up, being won over, on the statement of the Public Prosecutor Munshi

Ram (PW5) is the complainant. He has reiterated his version given to the police forming basis of the FIR. He has stated that on 20.1.1996, he had gone to Police Post, Subzi Mandi, Rohtak, and handed over a list of articles of istridhan (Ex. PH) given to the deceased in the marriage. On 23.1.1996, he had gone to the Police Station, City Rohtak, in connection with investigation. In his presence, accused-appellant Pawan Kumar was taken out of the lockup and was interrogated. He had given a disclosure statement about all the articles of istridhan. On the lead information of accused-appellant Pawan Kumar, the police recovered the articles: (i) double bed; (ii) Godrej almirah; (iii) dressing table; (iv) certain wearing apparels lying in the almirah from the chaubara; and (v) one sofa set, one big table and one refrigerator from the ground floor of the house of accused-appellant Manohar Lal. from the shop, one iron petti containing utensils, was seized. A list of articles so recovered was also prepared and was exhibited as Ex. PJ. He also stated that on 5.2.1996, he had handed-over a letter written by his sister to the investigating Officer in the Police Post, Subzi Mandi, Rohtak. the said letter was allegedly written by his sister on 10,9-1993. It was exhibited as Ex. PL and was taken into possession vide seizure memo (Ex. PL/1). He has referred to the names of jvladan" Lal and Basant, who were given up by the prosecution, as being won over by the accused. According to him, he had narrated about the harassment of his deceased sister to them and Madan Lal used to go to the accused-appellant to advise them for keeping the deceased properly. He has reiterated his Statement that in the presence of these persons, Rs. 14,000 were given to accused-appellant Pawan Kumar to purchase a colour TV. However, he has denied that he gave a statement to the police that a sum of Rs. 50,000 was given to accused-appellant Pawan Kumar on 23.4.1995. Moreover, he has again stated that his sister had come on the date of incident to his house and told about the beatings given to her. She had also expressed her apprehension to be eliminated. The letter, which he stated to have handed over to the police had been brought by his mother. He also stated that he had told the police about two letters of his sister, which he promised to submit later on, but it was not mentioned in his statement by the police. He has admitted that he was getting a monthly salary of Rs. 3,500 only. He voluntarily stated that Rs. 48,000 had been drawn by his brother Kashmiri Lal from bank and Rs. 2,000 was given by him. Thus, a sum of Rs. 50,000 was given to accused-appellant Pawan Kumar. According to him, the money was drawn on 17.4.1995 and paid to accused-appellant Pawan Kumar on 23.4.1995. But, he has admitted that his brother Kashmiri Lal was an auto-rickshaw driver. According to him, his third brother Ramesh Kumar was employed in a factory at Panipat on a monthly salary of Rs. 1500 and his fourth brother was working as a vegetable commission agent without a licence of Market Committee. According to him, only three brothers were married and the fourth one were still unmarried. He has stated that some of the articles of istridhan was recovered at the instance of accused-appellant Pawan Kumar from the same chautara. where the dead body of deceased was found hanging. He admitted that Ex.DB the wedding caid, was got printed by the accused side and Ex. DC was their wedding card which was got punted by their

parents. He has denied any knowledge about the adoption of accused-appellant Pawan Kumar by Ram Saran Dass, his adoptive father.

However, he has mentioned in the list of articles (Ex. PH) that they had given two suits to two fathers-in-law. The list also contained a mention of father-in-law No. 1 and father-in-law No. 2. He has testified that accused-appellant Pawan Kumar was a partner in a shop situated on Quilla Road, Rohtak, along with another partner. According to him, accused-appellant Manohar Lal was manufacturing boxes in a separate shop at the time of marriage, which he was continuing to do also on the date of offence. Accused-appellant Pawan Kumar fell out with his partner and his shop had to be sold. The witness has admitted that accused-appellant Pawan Kumar had got some money in that sale and purchased another shop in nearby area. He was not aware of the earnings of accused-appellant Pawan Kumar, but he has asserted that accused-appellant Pawan Kumar never paid any money to his deceased sister for her household expenses. According to him, she was living in a joint family. He has referred to presence of Basant Lal and Madan Lal at the time of payment of money. But as stated above, they were given up by the prosecution. Rani Devi (PW6) mother of the deceased was a widow for the past 15-18 years. She has also referred to the presence of Madan Lal and Basant Lal at the time of payment of Rs. 50,000 and also at several other places. She has corroborated the testimony of PW5 regarding the incident of beatings and harassment. She has stated that at 3.00 p.m., Basant Lal had come and informed about the death of the deceased. She has also expressed her ignorance about the adoption of accused-appellant Pawan Kumar by his adoptive father Ram Saran Dass. She has corroborated the statement of PW5 that accused-appellant Pawan Kumar was running a Karyana shop in partnership with somebody. The deceased used to complain to her that the accused would not pay her any money for the household expenses and would give his entire earnings to his parents. He used to beat her all the time. He did not look after even her basic necessities of life. She stated that her son Munshi Ram had two children, one son and one daughter and Kashmiri Lal had got only two female children. She was a widow for the past 15-18 years. She also stated that within one hour of hearing of the news of death of her daughter, the police had recorded her statement. She was confronted with her police statement, recorded on 17.1.1996. She does not appear to be clear about the date and time of recording of her police statement. Another brother of the deceased, Kashmiri Lal is said to have contributed Rs. 48,000 in making the payment out of Rs. 50,000 to accused-appellant Pawan Kumar in the presence of Madan Lal and Basant Lal. ASI Ram Bhaj (PW8) is the Investigating Officer. He made an endorsement (Ex. PA/2) on the report (Ex. PA) lodged by Munshi Ram (PW5) and also entered this information in the Rapat Roznamcha and daily diary at Sr. No. 13 (Ex. PA/3). He prepared a rough site plan (Ex. PR) and also effected necessary seizure during investigation. He recorded the statements of Madan Lal, Basant Lal, Kashmiri Lal and Anil Kumar. He sent the dead body for autopsy with a request letter (Ex. PG). He recovered the articles of istridhan only at the instance of accused Pawan Kumar. He

arrested the accused-appellants and recovered the articles as given in the list of istridhan by Munshi Ram (PW5). On 5.2.1996, he recovered one letter (Ex. PL), allegedly written by deceased Madhu to her mother, which was produced by Munshi Ram (PW5). However, he has clarified that when he went to the scene of occurrence on 17.1.1996, mother of the deceased Rani Devi (PW6) did not meet him. He has further stated that she did not appear before him on 17.1.1996 and 18.1.1996. He recorded her statement only on 21.1.1996.

5. In his statement u/s 313, Cr.P.C, accused-appellant Pawan Kumar has stated that in his early childhood, he was taken in adoption by Ram Saran Dass. He used to call him Daddy and Ram Saran Dass used to treat him as his son. However, the adoption deed was registered only in the year 1985. He has clarified that he was living only with Ram Saran Dass at Rohtak and he had been issued a ration card of that address alone. Later on, he failed in his business. Ram Saran Dass did not support him and rather, asked him to leave his place. He had shifted to the place of his natural father only 15-20 days before the date of incident. Madan Lal and Basant Lal had helped in his shifting. He has denied any demand of dowry or harassment to the deceased. According to him the deceased was a very sensitive lady. He could not support her monetarily according to her expectations. Hence, she committed suicide. He has stated that the letter (Ex. PL) was not written in her handwriting. It was a forged document. He denied all the allegations levelled against his parents. He alleged that it was a pressure tactic for extracting money. He also denied payment of any amount, like Rs. 14,000 and 50,000 to him. Accused-appellant Manohar Lal has also given identical answers in his statement u/s 313, Cr.P.C. He has further stated that accused-appellant Pawan Kumar was not able to earn livelihood for his wife. Similar statements u/s 313, Cr.P.C. have been given by accused-appellants Parkash Wanti and Gagan Deep. Madan Lal, who was given up by the prosecution, has been examined as a defence witness (DW0). He has denied the demand and the payments of dowry amounts of Rs. 14,000 and Rs. 50,000 in his presence. Basant Lal (DW8) has also denied any knowledge about such payments to accused-appellant Pawan Kumar. That apart, this is an admitted fact that to resolve the dispute between accused-appellant Pawan Kumar and his adoptive father Ram Saran Dass, there was an arbitration between them. Som Parkash Bawa (DW9) has supported the arbitration, whereunder a settlement was arrived at and reduced into writing vide Ex. DW9/A. Thus, it was proved that the accused-appellant was adopted in his childhood. As such, the allegations of taunting on the deceased for not bringing sufficient dowry, are relatable to the period of stay of the couple in the house of Ram Saran Dass. Further, the financial status of the brothers of the deceased was not such as to give any credence to the story of payment of Rs. 14,000 and Rs. 50,000 in dowry to accused Pawan Kumar. Kashmiri Lal, brother of the deceased, who is stated to have contributed Rs. 48,000 out of the alleged payment of Rs. 50,000 was given up by the prosecution. Madan Lal (DW1) and Basant Lal (DW8) on whom witnesses Munshi Ram (PW5) and Rani Devi have placed heavy reliance have not

supported the story of payment of money to accused-appellant Pawan Kumar. They have referred to these two defence witnesses at several places in their testimonies. The marriage cards printed by the parents of accused-appellant Pawan Kumar also contained the name of adoptive father Ram Saran Dass. In the list of articles, it is noticed that two suits were given to both the fathers-in-law. Thus, the statements of the prosecution witnesses to the effect that they were not aware of the adoption of accused-appellant Pawan Kumar does not appear to be true. In this background, it appears that the deceased being a sensitive lady, who had been complaining to her mother and brothers that she was not being looked after well, ended her life. It has come in the prosecution evidence that accused-appellant Pawan Kumar was not able to earn well at the time of the incident. He had shifted his family to the house of his natural father just 15-20 days back. It is also noticed in the statements of the prosecution witnesses that the articles of istridhan were recovered only at the instance of accused-appellant Pawan Kumar. Thus, the entire prosecution evidence proves the charge of dowry death and cruelty only against accused Pawan Kumar. In his statement u/s 313, Cr.P.C, he has admitted to have shifted to the house of his natural parents only 15-20 days back. Besides, accused Pawan Kumar does not appear to have satisfactorily discharged the presumption of dowry death even in the wake of denial of the payments of money towards dowry demands by DW8 and DW9. His financial condition was not stable. The deceased was always complaining about harassments to her mother and brother on account of taunting on her for not bringing sufficient dowry. Except for the last 15- 20 days, the couple was staying only in the house of Ram Saran Dass, adoptive father of accused-appellant Pawan Kumar.

6. Hence, this Criminal Appeal No. 420DB of 1997 is allowed in part and accused-appellants Manohar Lal, Parkash Wanti and Gagan Deep are acquitted of the charges u/s 304B, IPC read with Section 34, IPC and Section 498A, IPC read with Section 34, IPC. However, the appeal is dismissed in respect of accused-appellant Pawan Kumar, in view of the discussion of the evidence hereinabove. Thus, the impugned judgment is affirmed in part. Resultantly, accused-appellants Manohar Lal, Parkash Wanti and Gagan Deep are directed to be released forthwith, if not wanted in any other case. For the same reasons, connected CrI. Revision No. 503 of 1997 is also dismissed.