
(1992) 03 P&H CK 0050

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 319-DBA of 1987

State of Haryana

APPELLANT

Vs

Roshan Lal and ors.

RESPONDENT

Date of Decision : 26-03-1992

Acts Referred:

Citation : (1992) 2 RCR(Criminal) 287

Hon'ble Judges : J.S.Sekhon, J and Amarjeet Chaudhary, J

Advocate : G.S. Narula, A.S. Virk, S.S. Gouripuria, Advocates for appearing Parties

Judgement

Amarjeet Chaudhary, J.

1. Roshan Lal S/o Mani Ram, Smt. Sarbati Wd/o Mani Ram and Om Parkash S/o Mani Ram, all residents of Village Dhani Kundanpur, P.S. Sardar, Hansi, Distt. Hissar, were tried under Sections 306/498A of Indian Penal Code for the alleged murder of Smt. Mewa wife of Roshan Lal. The Additional Sessions Judge, Hissar, vide his judgment dated 24.9.1986 acquitted all the accused.

2. Aggrieved against the order of acquittal, the State of Haryana has filed the present appeal.

3. Shorn of unnecessary details, the facts of the case, as narrated by the complainant Bhai Ram (PW 7) are that his daughter Smt. Mewa was married to accused Roshan Lal about 7/8 years back prior to her death. After one year of her marriage, all the accused respondents and their father Mani Ram (since deceased) started maltreating her on account of bringing less dowry. Mewa used to complain to her body on the pretext that some evil spirit was haunting her. Thereafter Mewa was taken by her Fatherinlaw Main Ram to her parents about it. After 3/4 years of the marriage, Smt. Mewa was harassed by her motherinlaw Smt. Sarbati accused by applying a hot iron chimata on her parental house in village Dudiwala. She narrated the whole occurrence to her parents. At that time she was pregnant and she stayed there for one and half years. She gave birth to

a daughter, elder to Bholi, since dead.

4. Mani Ram, fatherinlaw of Mewa visited village Dudiwala twice alongwith Panchayat for bringing Smt. Mewa back. The complainant Bhai Ram, the father of Mewa, had also collected his brotherhood. On assurance given by the fatherinlaw of Mewa that she would not be harassed on account of inadequate dowry and on the intervention of the Panchayar. Mewa was spent alongwith Mani Ram to herinlaw's house. Though the accused had given surety of good behaviour, but the things did not improve. There was again harassment of Mewa at the hands of herinlaws. On 30.12.1985, Smt. Mewa died in village Kundanpur by consuming some pesticide and she also administered pesticide to her daughter Bholi, who expired about a month later. Smt. Mewa had taken this step due to continuous harassment at the hands of the respondentsaccused. Then accused sent Badri and Norang to village Dudiwala to bring Bhai Ram and his wife on the pretext that Smt. Mewa had taken this step due to continuous harassment at the hands of the respondentaccused. Then accused sent Badri and Norang to village Dudiwala to bring Bhai Ram and his wife on the pretext that Smt. Mewa had been brought to hospital at Bhiwani as she was to deliver a child. Since Bhai Ram, father of Mewa, was not available in the village, they took with them Bhai Ram's brother Bhola Ram and Mewa's mother Gita in the car. On reaching Hansi Hospital, Bhola Ram was asked by the accused to affix his thumb impressions on some papers on the pretext that the Doctor wanted the same in connection with the operation of Smt Mewa regarding her delivery. On 31.12.1985, Mani Ram and Om Parkash told Bhola Ram that Mewa had died. Thereafter Bhola Ram and Gita went to their village and informed Bhai Ram about the whole matter. While returning to his village on 3/4.1.1986, Bhai Ram went to village Dhani Kundanpur where Smt. Rewati and Smt. Bimla belonging to the complainant's village, are married. They told him that they had heard the cries of 'Mar Gai, Mar Gai' from inside the house of Mani Ram on 30.12.1985. When they happened to pass in front of the house of Mani Ram, the door was closed at that time. Thereafter Bhai Ram enquired from Mani Ram as to what was story in the presence of Risal Singh and Mani Ram S/o Bhola Ram (PW). Accused Mani Ram since dead told him (Bhai Ram) that he would satisfy him in the Panchayat on 11.1.1986. Afterwards Panchayat was convened in the Rest House at Hansi in which some persons including Raghunath, Risal Singh, Shankar, Ram Kumar, Kheta, Bhagwan Pancha, Prabhu Lambardar and Mani Ram (PW) were present. Mani accused asked Bhai Ram, complainant, to select any four persons out of that Panchayat and he would ask those four persons to swear an oath on his behalf. Bhai Ram named Net Ram, Jee Sukh, Phulla and Kheta for the said purpose. Mani Ram accused requested for time upto 16th January, 1986 and assured the complainant that those four persons would swear an oath on his behalf. On 16.1.1986, the complainant collected his villagers including Panchayat Members, Sarpanch and Lambardar. However, no message was received from Mani Ram accused. It was on 25.1.1986 that the complainant lodged FIR in Police Station Hansi by submitting a complaint Exhibit P.J. Bholi daughter of

Mewa also died on 3.2.1986. The accused had buried her dead body, which, later on, was got recovered by the Police Inspector Darashan Singh prepared the inquest report and sent her dead body for postmortem examination. The cause of death was opined after the receipt of the report of the Assistant Chemical Examiner due to consumption of insecticide of organo phosphorus group.

5. SubInspector Shingara Singh had prepared the Inquest Report of Mewa, Deceased, and the had sent the dead body for postmortem examination.

6. In order to bring home the guilt to the accused, the prosecution examined Dr. M.L. Kalra, (PW1), Dr. S.K. Gupta (PW2), Surrender Wadhwa, Draftsman (PW3), Rameshwar Chowkidar (PW4), Pat Ram (PW5), Hari Ram (PW6), Bhai Ram, complainant (PW7), Mani Ram (PW8), Rishal Singh (PW9), S.I. Shingara Singh (PW10) and Inspector Darshan Singh (PW11), Bhola Ram, Chanda Ram and Director, Forensic Science Laboratory were given up by the prosecution being unnecessary, whereas Rewati, Bimla and Jee Sukh were given up having been won over by the accused. The prosecution also gave up Geeta and SI Sultan Singh being unnecessary while Bhagwana, Chet Ram and Naurang were given up having been won over by the accused and Khel Singh Constable as having died. Besides this, the prosecution tendered in evidence the formal affidavits of some Police officials. In addition to it, the prosecution also tendered in evidence the report of Chemical Examiner Ex. P.T.

7. All the three accusedrespondents when examined under Section 313 of the Code of Criminal Procedure, admitted only that Smt. Mewa was married with Roshan Lal accused about 7/8 years back prior to her death. They had controverted the rest of the accusations and pleaded that Roshan Lal accused and his wife were living separately, whereas Mani Ram (since dead), who was Sarpanch of village was residing with his son Om Parkash with Sarbati. They further pleaded that there was party faction in the village and they were falsely implicated at the instance of opposite faction.

8. After recording the evidence and hearing the arguments, the learned Additional Session Judge, Hisar acquitted all the accused as mentioned in the opening para of the judgment.

9. The learned Assistant Advocate General, Haryana has contended that Smt. Mewa was compelled to commit suicide and there was abetment by the accused. She was harassed and tortured by the accused.

10. Mr. R.S. Cheema, Senior Advocate, appearing for the accusedrespondents supported their acquittal.

11. We have considered the submissions of the learned Counsel for the parties.

12. On the consideration of the matter, we find that this appeal deserves dismissal.

13. It has come in the testimony of Hari Ram (PW6) that the marriage of Smt.

Mewa had taken place with Roshan Lal on 29.4.1977. It is an admitted case of the prosecution that Mst. Mewa died on 30.12.1985. As such, it is evident that it is not the case that the marriage between Smt. Mewa deceased and Roshan Lal took place within seven years of the death of Mewa. Therefore the presumptions against the accused under Section 113A of the Evidence Act is not available in the instant case. In other words, the onus to prove the death of Smt. Mewa deceased was due to abetment by the accused and she was tortured by them, was on the prosecution, which, admittedly, the prosecution has failed to prove. Thus, it cannot be said by any stretch of imagination that she was compelled to commit suicide and there was abetment by the accused.

14. The other aspect of the matter is that it is an admitted case of the prosecution that Smt. Mewa died on 30.12.1985. SI Shingara Singh had received information about her death on the same day at 2 P.M. from Mani Ram, accused, and none else. Bhola Ram, who was treating Smt. Mewa as his daughter, in his statement made before the Police Ex. DE had stated that Mewa committed suicide and she had consumed poison to herself and also administered poison to her daughter Bholi. He had further stated that none was guilty for the death of Smt. Mewa nor he had any doubt upon anybody. As per his statement, Mewa was likely to deliver a child as she was pregnant at the time of her death. She wanted to deliver the child at her parental house but her husband intended to get it done in village Kundanpur. Out of anger, on that account, Mewa had committed suicide by consuming poison and he did not want to take any action.

15. Bhai Ram, complainant (PW7), who is the father the deceased, in his crossexamination had admitted that Smt. Geeta and Bhola Ram told him that the dead body of Mewa was in Civil Hospital, Hansi when Bhola Ram had gone there. This witness had further stated that Bhola Ram told him that he and Smt. Gita, wife of the complainant and mother of the deceased, were present in the cremation ground when the dead body of Smt. Mewa was cremated. The crossexamination of this witness also reveal that both Geeta and Bhola, uncle of the deceased, were not only present at the time of recording of inquest report, but they were also present at the time of postmortem examination of the dead body of Mewa. They were also present at the time of her cremation.

16. SI Shingara Singh (PW10), in his crossexamination, had admitted that while recording inquest proceedings, Bhola Ram, uncle of the deceased, met him and he had recorded the statement Ex. DE in the inquest report. At that time, no allegation against any of the accused were brought before him. This witness had also admitted that from 30.12.1985 to 25.1.1986 neither Bhai Ram nor anybody else on his half had come to him to lodge any report against the accused. As per para 5 of the complaint Ex. PJ on the basis of which the formal FIR was registered, the allegation levelled by Bhai Ram, Complainant, is that the accused in connivance with one another had killed his daughter by administering poison to her on 30.12.1985 about which he came to know after many days. In our view, there is no substance in this allegation as at the time of cremation of Smt.

Mewa, the wife of the complainant and uncle of the deceased were present in the cremation ground, but they did not raise any finger or levelled any allegation against any of the accused. Though the stand taken by the complainant in his complaint Ex. PJ is that the accused had administered poison to his daughter Mewa and killed her, yet while appearing as PW7 he and his other witnesses produced by the prosecution, had stated that Mewa herself consumed pesticide and ended her life because she was maltreated and tortured by her inlaws. In the complaint Ex. PJ, there is no allegation that hot iron chimtas were applied on the body of Smt. Mewa on the plea that some evil spirit had visited her. This complaint does not reveal the fact that it was Smt. Rewati and Bimla had told the complainant that they had heard the cries of Smt. Mewa from the house of Roshan Lal, accused. In view of the fact that the mother and uncle of the deceased were present at the time of funeral ceremony of Smt. Mewa, deceased, and they did not raise even a little finger or level any allegation against any of the accused, the subsequent complaint Ex. PJ made by the complainant appears to be the result of an afterthought.

17. From the given facts and circumstances of the case, we have reached the conclusion that Smt. Mewa deceased appears to have committed suicide at her own as she was under some mental depression. It has come on record that she was pregnant at the time of her death. She intended to deliver a child at her parental house, but she was not allowed to visit her parental house for the purpose by her husband who wanted that she should deliver the child at her parental house for the purpose by her husband who wanted that she should deliver the child at his house. More so, it has not been proved anywhere on record that there was a demand of dowry from the family of the deceased. Ingredients for constituting an offence under Section 498A are also not proved or that she was physically or mentally tortured to the extent of compelling her to commit suicide.

18. Apart from the above, there is an inordinate delay of 25/26 days in lodging the FIR. The occurrence in this case had taken place on 30.12.1985, whereas the FIR was lodged on 25.1.1986. No effort has been made by the prosecution to explain this delay and the FIR was lodged after deliberations. In our opinion, it was not the case wherein the deceased was compelled to commit suicide and the same was abetted by the accused.

19. For the foregoing reasons, we find no merit in this appeal and the same is hereby dismissed.