

(2012) 03 SHI CK 0263

In the High Court Of Himachal Pradesh

Case No : Criminal Appeal No. 496 of 2003

State of Himachal Pradesh

APPELLANT

Vs

Hari Chand

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154
Penal Code, 1860 (IPC) — Section 498A

Citation : (2012) 03 SHI CK 0263

Hon'ble Judges : V.K. Ahuja, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—This appeal by the State is directed against the judgment dated 15th July, 2003 delivered by the learned Sessions Judge, Kangra at Dharamshala in Sessions Trial No. 24-N/VII/2002 whereby he acquitted the accused of having committed an offence punishable u/s 498A IPC. Briefly stated, the facts of the case are that deceased Sandhya Devi was married to accused and their marriage had taken place about 12 years prior to the occurrence which took place on 2nd March, 2001. It is alleged that on 2nd March, 2001 Sandhya Devi consumed some poisonous substance and when she fell ill, her husband i.e accused took her to Kaushalya Devi Hospital at Pathankot where she was admitted. Smt. Sandhya Devi expired on 4th March, 2001 at about 12:30 after noon. Thereafter, one Sh. Kewal Singh, former Pradhan of Gram Panchayat, Suratpur sent telephonic information to the police post at Damtal to the effect that one woman had died after consuming poison and necessary action be taken.

2. This report was entered in the daily diary register and is EX.PW7/A. Thereafter, the police went to the spot. On 4th March, 2001 at 5:15 P.M, statement u/s 154 Cr.P.C of Sh. Girdhari Lal, father of the deceased Sandhya Devi was recorded in which he alleged that after one year of the marriage of his daughter with the accused Hari Chand, the accused started quarreling with his

wife and harassing her and demanding dowry. He also alleged that the deceased used to complain that some time accused would also beat the deceased. On 4 or 5 occasions, the matter was referred to the village Panchayat and the accused was told to behave properly. Further, according to the complainant, about 1 year prior to the incident, Mundan ceremony of the sons of the accused and the deceased had taken place in which the complainant alongwith his entire family had participated. At that stage also, the accused had also demanded that he be given a fridge, gold chain and ring. According to the complainant, the deceased was harassed by her husband, his two brothers and their wives. He further states that he was informed that his daughter had been admitted in the hospital on the previous day i.e 3rd March, 2001 by his son who works at Mohtali and that on 4th March, 2001 at about 4.P.M he came to know that his daughter had committed suicide. On the basis of this statement EX.PW2/A, the police swung into action and FIR Ex.PW8/A was recorded. Thereafter, investigation was carried out. On the basis of this evidence, accused was challaned and charged for having committed aforesaid offence. Accused pleaded innocence and claimed trial and has been acquitted by the learned Court. Hence, this appeal by the State.

3. There is no dispute with regard to the fact that the deceased had committed suicide. In fact, the husband i.e the accused himself on 2nd March 2001 took his wife to Kaushalya Devi Hospital and the record of the hospital has been produced by the Investigating Officer which is EX.PW10/C. This record also shows that Sandhya Devi was treated in Kaushalya Devi Hospital and that unfortunately she expired at 12:30 after noon on 4.3.2001. The complainant appeared as PW2. PW4 is the mother of the deceased and wife of the complainant. PW3 and PW5 are the brothers of the deceased. All of them have given a similar version which is in the lines of the statement of the complainant recorded u/s 154 Cr.P.C. Since, all these persons belong to one family, their evidence has to be scrutinized with great care and caution.

4. It is important to note that although in the statement u/s 154 Cr.P.C and in the statement of the witnesses made in the Court, they have all stated that meetings of Panchayat were convened and that the villagers were taken to the house of the accused and he was asked to behave properly. In fact according to PW 5 Mangat Ram, a written compromise also effected between the parties. Neither the written compromise has been produced nor any of the villagers have been examined. All the independent witnesses who were cited in the list of witnesses were given up as either having been won over or on the ground that they were repetitive. Not even a single independent witness has been examined to support the version of the complainant side that there was a demand for dowry. This assumes greater significance in view of the fact that according to the version of the complainant himself, meetings of Panchayat were held in this regard and the villagers had been associated. In such a case, it was imperative for the prosecution to have produced independent witness in the Court.

5. Furthermore, there are some improvements in the prosecution case. Whereas

in the first statement made before the police u/s 154 Cr.P.C., complainant had made general allegations that there was demand for dowry after one year of the marriage but no specific instance of any demand was given at all. It was further stated in the original complaint that at the time of the mundan ceremony, a demand for fridge, gold chain and ring was made. This cannot be termed to be a demand of dowry, even if, the case is accepted at its face value. Be that as it may, when appearing in the Court, the complainant gave a different version. According to him, earlier also, the accused was demanding money and also a fridge.

6. Another important aspect is that the prosecution has not examined any doctor from Kaushalya Devi Hospital. Only the record of the treatment of the deceased in Kaushalya Devi Hospital has been produced on record which is EX.PW10/C by the Investigating Officer. On going through this record, we find that there is nothing to show that the deceased was unconscious and not in a fit state to make a statement. In fact on 3rd March, 2001, it is recorded that at about 11 P.M., Sandhya Devi went to the bath room with drip and without informing any staff members and became dyspnoic and pale, which shows that she was moving around. The doctor should have been examined to explain why he did not inform the police when Sandhya Devi was admitted since it was a case of poisoning. The non examination of any independent witnesses or the doctor and non production of the compromise allegedly executed between the parties casts a doubt on the prosecution story and therefore, we are of the view that the learned trial Court was fully justified in acquitting the accused. Therefore, we find no merit in the appeal, which is accordingly dismissed. Bail bonds are discharged.