

(2013) 04 SHI CK 0018
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 244 of 2006

State of Himachal Pradesh	Vs	APPELLANT
Piare Lal and Others		RESPONDENT

Date of Decision : 30-04-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164, 313
Penal Code, 1860 (IPC) — Section 120B, 201, 306, 498A

Citation : (2013) 2 ShimLC 981

Hon'ble Judges : Surinder Singh, J;Rajiv Sharma, J

Bench : Division Bench

Advocate : Ramesh Thakur and Mr. J.S. Rana, Assistant Advocates General, for the Appellant; Vivek Thakur, Advocate for the Respondents No. 1 to 4 and Mr. Dinesh Thakur, Advocate for the Respondent No. 6, for the Respondent

Judgement

Surinder Singh, J.—The respondents were charge-sheeted, tried and acquitted of the offences punishable under Sections 498-A, 306, 201 and 120B of the Indian Penal Code, thus the State felt aggrieved and filed the present appeal. We have heard the learned Counsel for the parties and gone through record.

2. Ajudhya Devi wife of Shri Ram Rakha had died during the pendency of this appeal, as such the appeal stood abated against her.

3. In short, the prosecution case can be stated thus. PW 1 complainant Judhaya Devi is the mother of deceased Salochana alias Surekha, was married to respondent Piare Lal on 21.4.1995.

(ii) Respondents Ram Rakha and Ajudhya Devi (deceased) are the parents of respondent Piare Lal, whereas respondents Jamna Devi and Meera Devi, are the brothers' wives of respondent Piare Lal. The 6th respondent Ramesh Chand is a family friend of the other respondents.

(iii) The prosecution story is that on 30.3.1996, deceased had consumed the poison and died in the hospital at 5.15 p.m. On 30.3.1996, PW 20 Shri Jagdish

Chand, Additional SHO, Police Station, Sadar Bilaspur had visited the hospital and prepared the inquest papers and dead body was sent for the post-mortem. The autopsy was conducted on 31.3.1996.

(iv) Viscera was sent for forensic examination. As per report, it contained the contents of aluminium phosphide and insecticide. The report is Ext. PW 14/B. The dead body was cremated on 1.4.1996. Till the cremation of the deceased, there was no complaint against the respondents hereinafter to be referred as the accused persons".

(v) PW 17 ASI Ravinder Kumar on 2.4.1996, visited the parental village of the deceased to verify the cause of death and recorded the statement of PW 1 Judhaya Devi, mother of the deceased, which culminated into FIR Ext. PW 15/A. The complainant aforesaid in her statement Ext. PW 1/A made the allegations that immediately after marriage of the deceased with accused Piare Lal, she was being harassed and maltreated in the matrimonial house to which she told to her whenever she visited her. She also delivered a child in the hospital, but her husband did not call her back. On 11.2.1996, the deceased had delivered a female child who expired in the month of March, 1996 and they were not called. On coming to know this fact, the father of the deceased visited the accused persons and the deceased was not sent alongwith her father, but later the deceased as well as accused-husband had visited them. She also alleged that her accused sisters-in-law had been torturing her and she also alleged in her statement that accused Piare Lal was having illicit relations with Meera Devi, the brother of his wife. When he was made to understand about the consequences then he had been extending threats by letters that he was serving in the army and now recently accused persons had been imputing allegations that she was not upto their standard and by these tortuous acts she had finished her life.

(vi) On these allegations, the investigation was conducted. During the investigation, the mother of the deceased had produced letters Ext. PW 19/A and Ext. PW 1/C. The house of the accused persons was also searched, but nothing incriminating was recovered.

(vii) On 4.4.1996 PW 4 Seema Devi produced inland letter Ext. PW 2/B, which was taken into possession vide memo Ext. PW 20/B by PW 20 Jagdish Chand. On 6.4.1996 he also took into possession letter Ext. PW 8/A from accused Piare Lal vide memo Ext. PW 11/A. PW 2 Nanak Chand had also produced letter dated 27.6.1995, which was taken into possession vide memo Ext. PW 2/A on 8.4.1996.

4. The accused persons were arrested. Their specimen writings were also taken. The statements of Sukh Ram and Paras Ram, prosecution witnesses were recorded u/s 164 of the Code of Criminal Procedure before the Judicial Magistrate. It is alleged that the alleged dying-declaration of the deceased Ext. PW 8/A was written by accused Piare Lal by hatching conspiracy with the co-accused in his favour, as such it was sent to the Government Examiner of Questioned Documents and reported that it was written by the accused which

bore the signature of the deceased. As such after investigation of the case, the challan was presented in the Court for the offences punishable under Sections 498-A, 306, 201 read with Section 120B of the Indian Penal Code.

5. The accused persons were accordingly charge-sheeted for the offences aforesaid, to which they pleaded not guilty and claimed trial.

6. To prove its case, the prosecution examined its witnesses. The accused persons were also examined u/s 313 of the Code of Criminal Procedure. They were put the circumstances attendant upon them. They denied the allegations leveled against them. No evidence in defence was led. However, on thorough consideration of the entire matter the learned trial Court disbelieved the prosecution evidence and accordingly acquitted the accused persons.

7. We have re-examined and reassessed the evidence on record. The prosecution has heavily relied upon the statements of PW 1 complainant Judhaya Devi, her husband PW 2 Nanak Chand, PW 3 Meeran wife of Ram Swaroop, PW 4 Sema Devi and PW 7 Prem Chand.

8. As already stated above, till the cremation of the deceased there was no complaint against the accused persons leveled by the complainant party. It was only when PW 17 ASI Ravinder Kumar had visited the parental house of the deceased, the mother of the deceased got recorded her statement Ext. PW 1/A. Pertinently, there is also a reference of mental ailment of the deceased and her admission in the mental hospital at Amritsar for treatment was admitted where she was given electric shocks, but with no result. She was also got treated from the "Tantrik", as stated by her. In the initial report/statement of the complainant she had nowhere made the allegations of demand of dowry or having harassed for bringing insufficient dowry. As PW 1, she stated that when the deceased had visited her house, she told her that accused Meera Devi was practicing "Jadu-Tona" on her by throwing "Sindoor" on her head and she was being harassed. She further stated that after five months of her marriage the deceased was taken to mental hospital, Amritsar, but she could not be cured and thereafter she was also taken to the same hospital after sometime, but ultimately she was cured by a "Chela" at Ghumarwin and then became normal. She further stated that after three days of the death of newly born child the deceased was left at the parental house by accused Piare Lal, but at that time she did not disclose anything to her. She also stated that accused Piare Lal expressed his desire to take the deceased with him where he was posted and would keep her in rental accommodation. She also stated that accused Meera Devi had been imputing allegations of bringing less dowry and further that the deceased was not beautiful, but these facts did not find mentioned in the initial report Ext. PW 1/A.

9. Though in cross-examination, she admitted that the deceased was suffering from mental disease and was under treatment at Amritsar, but when confronted with her statement Ext. PW 1/A about performing of "Jadu-Tona" by Meera Devi (accused) this fact did not find mentioned and she does not give any cogent

explanation in the initial statement. She also admitted that her sister Shakuntla Devi was also suffering from mental depression.

10. In her entire statement before the Court she has not made any allegation that accused Piare Lal was having illicit relation with accused Meera Devi. Thus there have been material contradictions in her initial statement and also the statement recorded before the Court. Her statement is suffering from material inconsistencies, improvements and it appears to be out of grudge.

11. Further, the statement of father of deceased PW 2 Nanak Chand also appears to be actuated with prejudice. He has given the explanation that the deceased has given birth to quite hale and hearty female child in the hospital, but it was killed by accused persons after eight days of the death of the newly born child. His daughter was also done to death. He also stated that accused Ramesh Chand had forged the dying-declaration of the deceased, but pertinently in his cross-examination he stated that his daughter never revealed anything about the maltreatment/torture etc. to him personally and also admitted that after three months of her marriage she was taken to Amritsar for treatment as she was mentally ill. She was being treated from a "Chela" and his main grouse against the accused persons is that they had practiced "Jadu-Tona" on his daughter, as a result of which she became mentally depressed. He also stated that his daughter was referred to District Hospital, Bilaspur. Even that matter PW 3 Meeran wife of Ram Sawaroop has stated that because of "Jadu-Tona" the deceased had become mental. She was a mediator for arranging the marriage of the deceased with accused Piare Lal. She also admitted that the treatment from "Chela" continued upto December, 1995. She also stated that during the life-time of the deceased she did not disclose to anybody about the illicit relations of accused Piare Lal with accused Meera and this statement was made by her for the first time in the Court.

12. PW 4 Seema Devi is the class-fellow of the deceased. She nowhere stated that the accused persons harassed the deceased and nothing incriminating was disclosed in the letter Ext. PW 2/B. PW 8 Paras Ram is neighbour of the deceased. He did not support the case of the prosecution. In cross-examination he stated that the deceased had made statement (Ext. PW 8/A) in his presence which was reduced into writing by accused Ramesh Chand, which was read over and explained to the deceased and after admitting its correctness the deceased appended her signature. The perusal of Ext. PW 8/A reveals that the deceased had no grouse against the accused and had consumed the sulphas tablets by mistake.

13. PW 7 Prem Chand stated that for the first time after the marriage of deceased he had met her at Amritsar where she was getting treatment from metal hospital.

14. On the critical examination of the aforesaid evidence, we do not find the evidence of the prosecution cogent and reliable because of material improvements and contradictions nor the demand of dowry by the accused

persons stands established. The alleged dying declaration exonerating the accused persons has not been proved to be the result of conspiracy inter se the accused persons. The statement of PW 8 Paras Ram was also recorded before the Magistrate wherein he had stated that the deceased stated to have taken the poison by mistake. Thus on the close scrutiny of the aforesaid evidence neither it is a case of abetment to commit suicide nor the demand of dowry resulting in alleged cruelty, what to talk of conspiracy. The conclusions arrived at by the learned trial Court is borne out from the record, as such requires no interference. Hence the appeal sans merit and is accordingly dismissed. The bail bonds entered by the accused persons during the pendency of the proceedings, shall stand discharged.