
(2009) 04 SHI CK 0049
In the High Court Of Himachal Pradesh

State of Himachal Pradesh	Vs	APPELLANT
Ram Nath and Others		RESPONDENT

Date of Decision : 22-04-2009

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 378
Penal Code, 1860 (IPC) — Section 306, 498A

Citation : (2009) 04 SHI CK 0049

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

Bench : Division Bench

Final Decision : Dismissed

Judgement

V.K. Ahuja, J.—This is an appeal filed by the State of Himachal Pradesh u/s 378 of the Cr.P.C. against the judgment of the court of learned Sessions Judge, Hamirpur, dated 25.4.1994, vide which the respondents were acquitted of the charge framed against them under Sections 498-A and 306 of the Indian Penal Code. The respondents are the husband, mother-in-law and sister-in-law of the deceased Sunita Devi.

2. The prosecution story in brief is that the marriage of Sunita Devi alias Rattni Devi, daughter of Ram Dayal, was solemnized with respondent No. 1 on 21.2.1985. A son was born from this wedlock on 9.8.1987. However, the deceased consumed tablets of insecticides in the house of the respondents on 21.9.1990 and died on the next day in the hospital at Barsar. A report in writing was submitted by PW-1 Ram Dayal, father of the deceased, on 22.9.1990 to the Station House Officer, Police Station, Barsar alleging therein that when his daughter Sunita Devi used to visit his house, she used to complain that the respondents harass her unnecessarily and proclaim that her father has not given sufficient dowry. He alleged that on 11.1.1988, he learnt at his house that his daughter had been given beatings by the respondents and she was unable to move. On this, he went to the house of the respondents accompanied by several persons and found the marks of beating on the body of his daughter. When he

enquired from his daughter, he was told that respondents No. 1 and 2 were harassing her and gave her beatings with legs, fists and danda and respondents No. 1 and 2 begged pardon in presence of the villagers and assured of good behaviour and they came back. He further alleged that the respondents used to harass his daughter for bringing insufficient dowry and all the villagers are aware of these facts. He further alleged that either his daughter had been given some poison in the food or she had consumed some poison because of the harassment. On this report, a case was registered and on completion of investigation, the challan was filed before the court of the learned Judicial Magistrate Ist Class, Hamirpur, who committed the case to the learned trial Court, who tried the respondents leading to their acquittal.

3. We have heard the learned Deputy Advocate General for the appellant and the learned senior counsel for the respondents.

4. We have been taken through the evidence of the principal witnesses by the learned Deputy Advocate General, who pointed out that there was sufficient evidence to prove the prosecution case, which evidence should be considered and the findings to the contrary should be reversed. On the other hand, the learned senior counsel for the respondents supported the impugned judgment for the reasons recorded therein.

5. There is no dispute that the deceased had died due to consuming of some insecticide tablets, as has come up in the testimony of PW-2 Dr. K.C. Kaushal that the deceased was initially admitted in the hospital of consuming insecticide tablets. This fact finds corroboration from the testimony of PW-3 Dr. Suman Sharma, who had conducted post mortem on the body of the deceased Sunita Devi. The report of the Chemical Examiner Ext.PQ further shows that Aluminium Phosphide was detected in the vomit of Sunita Devi collected from her house. Thus, this fact stands established that the deceased committed suicide within 7 years of her marriage solemnized on 21.2.1985.

6. We will firstly refer to the testimony of PW-1 Ram Dayal, father of the deceased Sunita Devi, who has stated that the deceased was being maltreated by the accused persons on the ground that she had brought less dowry in the marriage and was being beaten up for this reason. He stated that these facts were told to him by his daughter when she visited him after intervals of 2-3 months. He further stated that on 12.1.1989, one Amar Chand came to him in the village and enquired if Sunita had come to his house. He also told that Ram Nath and his mother had gone for searching Sunita Devi. On this, he suspected foul play and accompanied by some villagers, he went to the house of the respondents. Sunita Devi was present in the house and was weeping. On enquiry, she told that respondents No. 1 and 2 had given her beatings with legs and sticks and she was having bluish marks on her legs and back. It was also told that Sunita was brought by respondents No. 1 and 2 from a nallah situated at a distance of 1 km. from their house. Such injuries on the person of Sunita Devi were also seen by the persons accompanying him as well as other

respectable persons of the village. The respectable persons reprimanded the accused and advised them to keep Sunita Devi properly and not to treat her with cruelty. He also stated that to this effect, a document was also prepared in the Gram Panchayat on 24.1.1989, again stated that he does not remember the date.

7. PW-1 Ram Dayal further stated that respondent No. 1 had been working at Amritsar, who came to his house after 3 months, begged pardon and took Sunita Devi with him to Amritsar on the promise to keep Sunita Devi properly. After 3 months, respondent No. 1 Ram Nath brought back Sunita Devi to his village and respondents No. 1 and 2 started giving beatings to Sunita Devi for dowry. It is, therefore, clear that the statement of this witness was in general only in regard to the demand of dowry and he has not stated about the demand of any particular item or the time when the same was made or when he learnt from his daughter, except a general statement that whenever the deceased visited his house after intervals of 2-3 months, this complaint was made to him.

8. Apart from these general allegations and no specific demand, the only occurrence brought on record is of 12.1.1989 when the deceased was found missing and was brought back to the house from a nallah and PW-1 Ram Dayal went alongwith the villagers and found injuries on the person of his daughter. He has also proved the complaint Ext.PA made by him to the police on 22.9.1990 on which FIR was registered. He has also admitted his signatures on the document prepared by the Gram Panchayat Ext.PB, which is dated 15.1.1989. PW-1 Ram Dayal had admitted that he had not mentioned in Ext.PA that the accused had stated that they will not keep his daughter in their house since she had stayed in a house of a Chamar for a night and also not mentioned that she was provided medical treatment. He stated that he got the injuries treated in a government hospital at Talai, but no such record has been produced from the hospital to corroborate his testimony that the deceased was having injuries at that time. He was also confronted with statement Ext.PA wherein it was not mentioned that Ram Nath came to his house, begged pardon and promised to keep Sunita Devi nicely and then took her to Amritsar. It was also not mentioned in the said report that after 3 months, Ram Nath brought back Sunita Devi and kept her in the village where she was again given beatings. He was confronted with Ext.PA, wherein it was not specifically recorded that the accused were demanding dowry and were ill-treating Sunita Devi, though it was recorded that Sunita Devi used to tell that the accused were claiming that less dowry was given and they were ill-treating her. He has admitted that letters Ext.D-1 to Ext.D-10 are in the hand of Sunita Devi. These letters were addressed to the respondent Ram Nath when he was at Amritsar and a perusal of these letters does not refer to any ill-treatment or demand of dowry and they are routine letters written by a wife to her husband. However, it has to be seen as to whether these assertions made by PW-1 Ram Dayal in his statement stand corroborated from other evidence or not.

9. Apart from the above, the prosecution has also proved in evidence the letters Ext.P-1 to Ext.P-7 allegedly written by respondent No. 1 to his wife and there is

nothing in these letters to suggest that he had admitted having harassed his wife or made any demand of dowry or that the deceased was not happy because of the treatment given by the respondent or his family members.

10. Coming to the document Ext.PB, proved in evidence by PW-1 Ram Dayal, which was allegedly written on 15.1.1989, he had admitted in his statement that this does not bear the signatures of the deceased or any of the accused persons. In this regard, PW-4 Shakti Chand, ex Pradhan, Gram Panchayat, has stated that it bears his signatures. He stated that the accused had not put their signatures on Ext.PB as they refused to do so. He admitted that he has retired as a Head Constable and has not given any note in Ext.PB that the accused refused to put their signatures. He also admitted that nobody from the village had complained about the ill-treatment to Sunita Devi that it was on account of demand of dowry. He was put suggestions in regard to the dispute with the accused persons but he denied the same, but the possibility cannot be ruled out of his bias towards the respondents.

11. A perusal of Ext.PB, the document prepared at the time of the dispute, clearly shows that there is mention of the fact that Sunita Devi was missing from the house and on the next day, she was brought from the nallah to the house. However, she did not disclose any reason to respondents No. 1 and 2 for remaining out of the house during night. The only observations made were that in case Rattni Devi commits suicide, her in-laws should not be held responsible. A mention was also made of the fact that there are allegations from the residents of ill-treatment by the respondents, but there was no admission by any of the respondents that these allegations were correct since they did not sign the said document, though the same was signed by the various villagers present there. There is nothing that the deceased or her father denied that she was not missing from the house or that these allegations are incorrect. On the other hand, the statement of PW-1 Ram Dayal shows that she was missing from the house for the night and had allegedly stayed with a person of a lower caste and that was the reason for the annoyance of the respondents. Further, there is nothing that the deceased was compelled to leave the house because of the beatings given by the respondents since there is no such observations, in writing, in Ext.PB nor it was observed in the said document that there were injuries present on the person of Sunita Devi at the time the document was prepared and the Village Panchayat was called. It is also on record that no complaint had been lodged in writing to the Panchayat or any other authority nor Sunita Devi was ever medically examined since no such MLC has been proved on record as per the statement of her father PW-1 Ram Dayal. PW-4 Shakti Chand had also come up with the plea that Ram Dayal told him that the accused was not behaving properly because she was not upto their liking, which assertions were never made in the report Ext.PA or stated by PW-1 Ram Dayal when he appeared in the witness box.

12. The statements of some other witnesses may be referred to which are

relevant. PW-10 Sukh Dev, a resident of Village Kanoh, has only stated that the deceased was not comfortable in the house of the accused, but she had never complained against anybody. He also stated that on the night intervening 11.1.1989 and 12.1.1989, Sunita Devi remained out of the house for the whole night and was found on next morning in the nallah. He admitted that he had not seen any injury on the person of Sunita Devi at that time.

13. PW-6 Mansha Ram, a resident of village Kanoh, has stated that the accused never ill-treated Sunita Devi in his presence and had been treating her nicely. He stated that he has no relations with the accused except that they are his co-villagers. PW-12 Dhani Ram, real brother of PW-1 Ram Dayal, has stated that for one year after her marriage, Sunita Devi never made any complaint to him, however, he stated that when Sunita Devi used to visit the house of Ram Dayal after an interval of 3-6 months, she used to complain that all the three respondents had been ill-treating and treating her with cruelty on dowry. He further stated that earlier the respondents were demanding ornaments and clothes, but later on, on her last visit, the deceased complained that the accused had been demanding television. He further stated that as per his information, Ram Dayal might have given the ornaments and clothes and may have fulfilled the demands, but he had not given the television. He also came up with the plea that the accused were not providing milk to the child and the deceased also remained admitted in the hospital at Talai and was treated for typhoid. The deceased had told him that once she had consumed DDT but had not died. He was confronted with his police statement Ext.DA wherein there was no reference to the demand of television or consumption of DDT. His statement does not find corroboration from the testimony of PW-1 Ram Dayal referred to above in which there was no mention of any demand of a specific article or some of the demands having been fulfilled by PW-1 Ram Dayal.

14. PW-13 Shiv Ram is the cousin of PW-1 Ram Dayal, who has come up with the plea that Sunita Devi came to him 2-3 times and told that she was not provided sufficient food and clothing in the house of her in-laws, who were ill-treating her and had been demanding television. He also came up with the plea that the accused had demanded Rs. 10,000/- from her. He also stated about the bluish marks of contusion on her lower legs but did not state as to when this was observed. His statement in regard to demand of cash etc. is not in corroboration to the testimony of her father Ram Dayal, who appeared in the witness box as PW-1. He was confronted with his statement Ext.DB wherein there was no mention of demand of any television and it appears that he added this demand in his statement to make his testimony more reliable.

15. PW-14 Soma Devi has stated that Sunita Devi was her niece and Sunita Devi had complained to her 4-5 times about ill-treatment and beatings given by the respondents. She came up with the plea that once Sunita Devi disclosed that the respondents were demanding television and refrigerator and these demands were not fulfilled by PW-1 Ram Dayal. She came up with the plea that these

demands were made 5-6 months prior to her death but this was never so stated by the father of the deceased or other witnesses. She came up with the plea of having noticed injuries on the person of Sunita Devi before her death, which may be six months earlier, but this has not been corroborated by PW-1 Ram Dayal.

16. PW-15 Jamuna Devi, mother of the deceased Sunita Devi, came up with the plea that the accused had been demanding television and refrigerator since these have not been given to the deceased in the dowry and she also stated about the marks of injuries on her legs and back, but the statement is general in nature and not corroborated by other evidence or medical evidence. She was confronted with her police statement Ext.DD wherein there was no reference to bluish marks or contusion on the person of Sunita Devi. She admitted of having told to her husband about the demands which fact has not been stated by PW-1 Ram Dayal in his statement.

17. PW-16 Ram Kishan, uncle of the deceased, has also stated about the fact of missing of Sunita Devi on 11.1.1989 and he stated that respondent No. 1 had told them that they gave beatings to Sunita Devi because she had not brought dowry, though there is nothing in the document Ext.PB that the respondents claimed that they were not given dowry or had a grievance about the dowry. He also stated that all the three accused had told them that they would not keep the deceased in their house since she had stayed in the house of a scheduled caste person for the night. The villagers also complained that they would have to face problems if Sunita Devi died and therefore, they had brought back Sunita Devi to their house. He stated that Sunita Devi had injuries on her head, legs and back, which does not find corroboration from the testimony of the then Pradhan of the Panchayat, PW-4 Shakti Chand, or the document Ext.PB. He also stated that Sunita Devi was given treatment by his son, which was never so stated by any of the witnesses. He came up with the plea that the demand was made for a pair of bullocks, which were given by the father of Sunita Devi, which was never so stated by PW-1 Ram Dayal or other witnesses.

18. A dying declaration Ext.DF has also been proved to have been made by Sunita Devi written by SHO Amar Nath PW-18 in presence of DW-2 Dr. Chaman Lal and DW-3 Shakti Chand, which has been proved in defence, but there is no mention of any blame on the accused. She had stated therein that she had consumed the tablets by mistake. The fact that the Medical Officer has proved that this statement was made by her, corroborated by other evidence, is sufficient to hold that this dying declaration can be looked into and proves that the allegations made by the prosecution that she was compelled to commit suicide are not correct and rather she admitted that these tablets were taken by her by mistake and not due to harassment meted out to her by the respondents.

19. From the above discussion, it is clear that the final findings recorded by the learned trial Court holding that the prosecution has failed to prove their case beyond any reasonable doubt cannot be termed as perverse calling for an interference by this Court. Therefore, we find no merit in the appeal filed by the

appellant, which is dismissed accordingly. The bail bonds furnished by the respondents shall stand discharged.