
(2012) 09 SHI CK 0063
In the High Court Of Himachal Pradesh
Case No : Criminal Appeal No. 498 of 2004

State of Himachal Pradesh

APPELLANT

Vs

Ramesh Chand, Jugni Devi and Kuldip

RESPONDENT

Date of Decision : 13-09-2012

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 154, 313
Penal Code, 1860 (IPC) — Section 306, 34, 498A

Citation : (2012) 09 SHI CK 0063

Hon'ble Judges : Rajiv Sharma, J;Deepak Gupta, J

Bench : Division Bench

Advocate : Vivek Thakur, A.A.G. and Mr. Rajesh Mandhotra, Deputy A.G, for the Appellant; Vikas Bhardwaj, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sharma, Judge

1. This appeal by the State is directed against the judgment, dated 13.07.2004, passed by the learned Additional Sessions Judge, Kangra at Dharamshala, H.P. in Sessions Case No. 105-K/VII/03, whereby the respondents, who were charged with and tried for offence punishable under Sections 306, 498A read with Section 34 of the Indian Penal Code, have been acquitted. Case of the prosecution, in a nut-shell, is that Sushma Devi was married to accused Ramesh Chand in the year 1996 according to Hindu customs and ceremonies. On 12.07.1998 at about 11:30 a.m., an information was received at Police Post, Nagrota Bagwan from Gurcharan Singh (PW-2), Up-Pradhan, Gram Panchayat Rajpura, stating that Sushma Devi, daughter of Roshan Lal, who was married to Ramesh Chand, has been murdered by giving poison and action be taken. The information was reduced into writing vide rapar No. 10. Thereafter, ASI Kishore Chand, HC, Beer Bhagwan Dass and other police officials went to the spot at village Chahari and recorded the statement of Roshan Lal, father of deceased Sushma Devi, u/s 154 of the Criminal Procedure Code. According to PW-1, Shushma Devi was

maintained properly for about one year of their marriage and after that there were differences developed between the accused and his daughter. She was not liked by her mother-in-law and father-in-law. According to him, his daughter had been complaining to him several times that her husband had been giving beatings to her. His daughter fell ill on 18.06.1998. She was admitted in Nagrota Bagwan hospital. She was not attended by her family members. He received a telephone of his daughter that she is alone in the hospital. Thereafter, he sent his wife to look after Sushma Devi in the hospital. She remained in the hospital for 15 days. On 12.07.1998, Garibu Ram came to his house and informed about the death of Sushma Devi. Thereafter, he came to the house of accused alongwith villagers and found his daughter dead. According to him, his daughter has consumed some poison due to the harassment meted out to her by the accused persons. On the basis of statement of PW-1, Roshan Lal, an F.I.R. was registered u/s 306, 498A read with Section 34 of the Indian Penal Code. The investigation was carried out and the challan was put up after completing all the codal formalities.

2. The prosecution has examined 15 witnesses to prove its case. The statements of the accused were also recorded u/s 313 of the Criminal Procedure Code. They pleaded innocence and claimed trial. Learned trial Court has acquitted the accused on 13.07.2004. Hence, this appeal by the State.

3. Mr. Vivek Thakur, learned Additional Advocate General has strenuously argued that the learned trial Court has misread the evidence led by the prosecution. According to him, the prosecution has proved its case against the accused persons.

4. Mr. Vikas Bhardwaj, Learned Counsel for the respondent has supported the judgment dated 13.07.2004.

5. We have heard the Learned Counsel for the parties and gone through the records carefully.

6. PW-1, Roshan Lal is father of deceased Sushma Devi. According to him, his daughter Sushma was married to Ramesh Kumar about 4 years back. After marriage, his daughter was treated properly by her in laws for some time. Thereafter, the accused persons started maltreating her. The accused persons were complaining that his daughter was of dark complexion and could not give birth to any child after her marriage. Her mother-in-law was also stating that they would re-marry accused Ramesh Chand. Accused Ramesh Chand and Jugni Devi were beating her most of the time. She used to complain about the maltreatment meted out to her by the accused persons. He used to console her. She was admitted in Govt. Hospital for about two weeks, 15 to 20 days prior to her death. No person from the family of Ramesh Chand visited there during this period. During this period, only Kaushliya Devi, his wife was looking after his daughter. He came to know about the death of his daughter from one Garibu Ram. Thereafter, he informed Up-Pardhan of Gram Panchayat, Rajpur regarding

the death of his daughter. The Up-Pardhan reported the matter to the police on telephone. He alongwith his sons, wife and Up-Pradhan and other co-villagers went to the house of accused Ramesh Chand. The dead body of his daughter was lying in one room belonging to accused Ramesh Chand. In the meantime, the police had also reached there. His statement u/s 154 of the Criminal Procedure Code was recorded. The police has also prepared the inquest report vide Ex. PW-1/B. The post mortem was conducted in Zonal Hospital, Dharamshala. He could not say that his daughter died due to consumption of poison or any other reason. According to him, Kuldip Chand, brother-in-law (Jeth) of Sushma was living separately at the time of her death. In his cross-examination, he has admitted that he has not filed any complaint before the Pardhan of his Gram Panchayat or to the Pardhan of his daughter's in-laws Panchayat. He has also admitted that his daughter has never made any complaint to her maternal uncle or any other relative after her marriage.

7. PW-2, Gurbachan Singh is Up-Pardhan of Gram Panchayat Rajpura. According to him, he knew Sushma Devi, who was daughter of PW-1. He knew accused persons. His house is situated at a distance of about 600 mtrs. from the house of Roshan Lal. He never visited the house of accused Ramesh Chand. According to him, about two months prior to the death of Sushma Devi, her mother made an oral complaint to him regarding the maltreatment given to her by the accused persons. He advised them to file an application before the Gram Panchayat, so that the matter could be amicably settled, but the mother of deceased Shushma told him that Sushma Devi did not agree to file any application before the Gram Panchayat against the accused persons, because Sushma had to live in the family of the accused Ramesh Chand. On 12.07.1998, Rajpal, brother of deceased Sushma came to him and told him that his sister has been killed. He informed the police telephonically. In his cross-examination, he has admitted that Sushma Devi never complained any type of maltreatment given to her by her in-laws. No relation of Sushma Devi ever complained to him regarding any kind of maltreatment given to her by her in-laws. Even her father or brother never talked regarding any ill-treatment.

8. PW-3, Parvesh Kumari deposed that Sushma Devi was her niece. According to her, the relations between the husband and wife were cordial for about one year. She was complaining to him that her in laws were nagging her for not bearing a child. According to her, the in-laws of Sushma were complaining that Sushma was older in age than her husband. According to her, Sushma was also complaining that her brother-in-law (Jeth) used to come late at night and was threatening Sushma to leave the house as they want to re-marry Ramesh Chand somewhere else. She advised Sushma to lodge the report in Panchayat, but she refused as Sushma always wanted to maintain cordial relation with the family. She also admitted in her cross-examination that she never visited the in-laws' house of Sushma after marriage.

9. PW-4, Smt. Kaushliya Devi is the mother of deceased. According to her,

Sushma Devi was married to accused in the year 1996. Accused were also complaining that Sushma was of dark complexion. Her in-laws used to threaten that they will re-marry Ramesh Chand, since she could not bear a child. They were also pressurizing her either to leave the house or to commit suicide. According to her, when she asked Sushma to report the matter to the Gram Panchayat or to the police, she said that since she has to live in that house, the matter should not be flared up. She orally reported the matter to PW-2, Gurcharan regarding the maltreatment given to Sushma Devi.

10. PW-8, Smt. Satya Devi deposed that she is a Social Worker. The mother of deceased Sushma met her and told her that her daughter was married in her village and she would like to talk and discuss about her daughter Sushma. She told the mother of Sushma to come to her village, however, she never came to her house. According to her, whenever she used to meet Sushma, she never made any complaint to her. She was declared hostile.

11. PW-9, Dr. Kanwar A.S. Dhadwal has conducted the post mortem of the dead body of deceased Sushma Devi alongwith Dr. Archana Gautam. According to him, Sushma Devi died due to aluminum phosphide. He has given post mortem report Ex. PW-9/D after examining the chemical test report Ex. PW-9/C.

12. PW-10, Om Parkash deposed that Roshan Lal, father of the deceased Sushma was his neighbour. He was Ward Member of Gram Panchayat, Rajpura. According to him, Sushma visited the Gram Panchayat. She complained about the maltreatment given to her by her in-laws, i.e., husband, mother-in-law, father-in-law and Jeth. Sushma Devi wanted the Gram Panchayat to intervene in this matter and settle the things amicably. She apprehended the danger to her life. Sushma Devi visited the Panchayat 10-15 days prior to her death. He advised Sushma not be afraid of anything. In his cross-examination, he has admitted that Sushma Devi never told him about any type of maltreatment.

13. The matter was investigated by PW-12, Prakash Chand. According to him, he visited the village on 12.07.1998. He prepared the inquest reports Ex. PW-1/B and Ex. PW-9/B. He dispatched the dead body for post mortem vide application Ex. -PW-9/A.

14. PW-14, Dr. Namrata Guleria has deposed that on 11.07.1998, deceased Sushma was brought in the hospital with the history of poisoning. She referred the patient to Zonal Hospital, Dharamshala, as the patient was in critical condition. She has admitted in her cross-examination that during her preliminary diagnoses of the patient, it was not revealed that it was a case of poisoning. She has also admitted that the patient was unfit to make the statement.

15. There are no specific instances of any harassment or maltreatment meted out by the accused to the deceased. What has come in the statement of PW-1, Roshan Lal, is that the accused persons were complaining about the dark complexion of his daughter and that she was not able to give birth to any child. He has admitted that no written complaint was ever made to the Pradhan of his

Gram Panchayat or to the Pradhan of the Gram Panchayat of the in-laws of his daughter.

16. PW-2, Gurbachan Singh has also admitted that the mother of the deceased has met him about two months prior to the death of Sushma Devi and has made an oral complaint to him regarding the maltreatment given to Sushma Devi by the accused persons. He has advised her to file a written complaint, however, the written complaint was never filed before the Gram Panchayat. He has also admitted in his cross-examination that no complaint was ever made by Sushma Devi or by her father and her brother to him about the maltreatment meted out to Sushma Devi. According to PW-3, Parvesh Kumari, the accused persons have been nagging her for not bearing a child. According to her, though she has advised Sushma Devi to lodge a report to the Panchayat, but she has refused to do so.

17. According to PW-4, the accused were complaining about the dark complexion of her daughter and that they would re-marry Ramesh Chand, since she could not bear a child. She has asked Sushma Devi to report the matter to the Gram Panchayat or to the Police, but she did not do so.

18. PW-8, Satya Devi has been declared hostile. She has categorically stated that whenever Sushma Devi has met her, she has never made any complaint to her.

19. PW-10, Om Parkash has stated that Sushma Devi wanted to convene Gram Panchayat, however, he has admitted in his cross-examination that Sushma Devi never told any reason for maltreatment.

20. Thus, it is evident that no written complaint was ever made by the parents, relations or by Sushma Devi before the Gram Panchayat or to the police against the accused. It is also proved on record that Sushma Devi has visited her parents two days before her death alongwith accused.

21. Now, as far as the suicide note mark-DA is concerned, the same has not been proved in accordance with law. The suicide note was never sent to the Government Examiner of Questioned Documents to establish that this note was written by the deceased before her death. Consequently, the prosecution has miserably failed to prove the case against the accused persons. The learned trial Court after considering the entire evidence, has rightly acquitted the accused. We, therefore, find no merit in this appeal, which is accordingly dismissed. Bail bonds are discharged.