
(2010) 08 SHI CK 0033
In the High Court Of Himachal Pradesh

State of H.P.

APPELLANT

Vs

Rukman Chand

RESPONDENT

Date of Decision : 05-08-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B, 306

Citation : (2010) 08 SHI CK 0033

Hon'ble Judges : Sanjay Karol, 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 27.9.1999 delivered by the learned Sessions Judge, Hamirpur, in Sessions Trial No. 18 of 1998, whereby he acquitted the accused of having committed an offence punishable u/s 304-B of the Indian Penal code.

2. The admitted facts are that the accused Rukman Chand was married to Meena Devi (deceased) in December, 1992. The accused worked in the Indian Army. The wife used to reside in the marital home. According to the prosecution, the accused whenever he used to come on leave to his village would beat his wife. The reason for beating the wife was that she had brought insufficient dowry. As and when the deceased visited her parental house she complained to her mother that the accused was harassing her for bringing insufficient dowry. No child was born out of this wedlock.

3. On 4.3.1996, the accused and his wife Meena Devi visited her parental house. They stayed there for the night and left on 5.3.1996. According to the prosecution, Meena Devi was crying and was reluctant to accompany her husband to her marital house. It has also come in evidence that the accused had told the mother of the deceased that he would be leaving his village on 8.3.1996 to join duty at his place of posting in Manipur.

4. On 11.3.1996, Prithi Chand, brother of the accused accompanied by one

cousin visited the parental house of the deceased and inquired whether the deceased had come to the parental home. When the mother of the deceased replied in the negative, the brother of the accused was asked why they were making an inquiry in this behalf. Then the mother of the deceased was told that the deceased is missing. Therefore, Meena Devi's brother Amarjit and one cousin Arjun accompanied by one Bakshi went to village Lambehra i.e. the village of the accused in order to ascertain the correct factual position. On 11.3.1996, in the evening Arjun returned back and informed his mother that the dead body of the deceased was found in a Nallah near village Lambehra. Next day, i.e. on 12.3.1996, F.I.R. (Ext.PA) was lodged with the police in which the mother alleged that she suspected that her daughter Meena Devi had been murdered by the accused.

5. DW-1 Udho Ram, Pradhan of the Gram Panchayat had already given information to the police about the fact that the dead body of the deceased had been found and this was recorded in the daily diary, a copy of which is Ext.PB. On the basis of this information, PW-5 Gulab Singh, SI/SHO went to the spot and conducted the inquest of the dead body. The body was sent to the hospital at Hamirpur for post mortem examination. The post mortem was conducted at Hamirpur by PW-6 Dr. Abha Gautam and Dr. N.K. Sharma at District Hospital, Hamirpur. The Doctors found that the body was badly damaged and stated that they only conducted the preliminary post mortem and sent the body for expert forensic opinion to Indira Gandhi Medical College, Shimla along with all requisite papers. At I.G.M.C. Shimla, the post mortem on the body was conducted by PW-7 Dr. Suresh Sankhyan. The police completed the investigation and thereafter the accused was challaned for having abetted the suicide by his wife. Initially, he was charged with having committed an offence punishable u/s 306 IPC but later the charge was modified to Section 304-B IPC, because according to the prosecution the deceased wife was forced to commit suicide on account of the beating and harassment meted out to her by the accused on account of her bringing insufficient dowry.

6. There is no doubt that the deceased died an unnatural death. The death occurred within 7 years of marriage. But from the evidence on record, it cannot be said with certainty that the deceased committed suicide. PW-6 Dr. Abha Gautam, who conducted the preliminary post mortem, found that the head was badly damaged and the brain matter had spilled out. There were multiple fractures on the skull and both bones of the left leg and left femur had been fractured, the right thigh was deformed having fracture of right femur. There were numerous other wounds on the body. Both she and Dr. N.K. Sharma opined as per the post mortem report (Ext.PF) that the injuries are possible if the victim falls from a very great height. In cross-examination, the witness admitted that these injuries were possible if the victim rolled down from a great height and then falls from another height.

7. PW-7 Dr. Suresh Sankhyan, Associate Professor, Forensic Medicines, IGMCI,

Shimla, conducted the second post mortem on the dead body of the deceased. He also found that the skull, the legs and the arms had suffered fractures. However, the injuries on the face described in the earlier report could not be made out due to infestation of the body by maggots. In his opinion, the injuries described in the preliminary post mortem were ante-mortem in nature and were consistent with fall from height. According to him, the death had occurred due to shock, which was the result of ante-mortem head injury. The death was instantaneous and the time between death and post-mortem was 72 to 96 hours. In cross-examination, he admitted that the injuries sustained by the deceased were suggestive of the fact that the victim had initially fallen down on the ground with her face, chest, pelvis and the legs downwards and the remaining injuries probably were sustained after the body rolled further down.

8. PW-2 Amarjit Singh, brother of the deceased stated that the dhank (steep height) above the place where the dead body was found was slightly slanted. DW-1 Udho Ram, President of the Gram Panchayat stated that the hillock where the dead body was recovered is in a concave shape and previously also one man and one woman had died by slipping down from the said hillock. He states that the people go to cut grass at the said hillock.

9. In view of the aforesaid evidence, there is nothing on record to conclusively hold that the deceased committed suicide. Nobody has seen her jumping from the edge of the dhank. The possibility that she may have gone there and fallen down cannot be ruled out.

10. Even with regard to the ill-treatment meted out to the prosecutrix, the evidence is not satisfactory. Though in Court PW-1 Kamla Devi, mother of the prosecutrix stated that when the accused and the deceased left her house on 5.3.1996, the deceased was weeping but she was confronted with the F.I.R. (Ext.PA), wherein it is not mentioned that the deceased was weeping in her house. Though, in the F.I.R. it was only stated that the accused used to harass the deceased for bringing insufficient dowry, while appearing in Court, the mother improved upon her version and also stated that the accused used to threaten the deceased that he would re-marry a girl from a well to do family. Most importantly, this witness admitted that she has not complained to any person or authority about such demand being made by the accused or harassment being meted out by him to the deceased. Even in a rural society, it is expected that the parents of a girl being troubled in such a manner for more than 4 years would bring this fact to the notice of the Panchayat, Mahila Mandal, or some other members of the Biraderi even if no case was to be lodged with the police. Kamla Devi, mother of the prosecutrix has admitted that the matrimonial match between the deceased and the accused was arranged by her sister Sheela Devi. Surprisingly, according to her, she did not even discuss this matter with Sheela Devi. This indicates that there was no demand of dowry and the deceased was not subjected to any maltreatment.

11. In view of the above discussion, we find no merit in the appeal, which is

accordingly dismissed. The bail bonds are discharged.