
(2003) 01 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 96-SB of 1989

Subhash, Om Pati, Satyawar and Suraj Mal	APPELLANT
Vs	
State of Haryana	RESPONDENT

Date of Decision : 15-01-2003

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 304B, 34, 498, 498A

Citation : (2003) 01 P&H CK 0010

Hon'ble Judges : Ashutosh Mohanta, J

Bench : Single Bench

Advocate : R.S. Rai, for the Appellant; Sunil K. Vashisht, AAG., for the Respondent

Final Decision : Dismissed

Judgement

ASHUTOSH MOHUNTA, J.—This judgment will dispose of Criminal Appeal No. 96.SB of 1989 and Criminal Revision No. 258 of 1989 as both of them have arisen out of the common judgment and order dated February 8, 1989 passed by the Additional Sessions Judge, Hisar, vide which the appellants have been

2. convicted and sentenced as under:-

Convicted Sentence Awarded Under Section

304-B read with R.I. for 10 years Section 34 I.P.C.

498-A I.P.C. R.I. for 2 years

201 IPC R.I. for one year

3. Thus substantive sentences of imprisonment awarded to the appellants were ordered to run concurrently. The co-accused of the appellants, i.e. Phul Kumar and Ram Chand, were, however, acquitted of the charge framed against them. The appellants have filed Crl.App. No. 96-SB of 1989 against their conviction and sentence, while Randhir Singh complainant has filed Crl.Rev.No. 258 of 1989 for

the enhancement of the sentence awarded to the appellants and for payment of compensation to the tune of Rs. 1,50,000/- to the parents of deceased Vinod Kumari.

4. In the present case, Vinod Kumari deceased and her sister Santosh Kumari (P.W. 12), daughters of Randhir Singh complainant were married to Subhash and Satyawan, respectively, sons of Suraj Mal accused, and residents of village Pabra. The marriage of both the sisters had allegedly taken place about 5-1/2 years prior to the present occurrence, i.e., April 8, 1988. Randhir Singh complainant had spent a sum of Rs. 1,50,000/- on the marriage of his both the daughters. Subhash and Satyawan and also their parents, i.e., Smt. Om Pati and Suraj Mal accused, were not satisfied with the dowry brought by both the sisters. They started raising the demand for television and scooter time and again, which the parents of Vinod Kumari and Santosh Kumari were unable to meet. Two years prior to the present occurrence. Santosh Kumari was forced to take insecticide by her husband Satyawan and his mother Smt. Om Pati, with a view to kill her. She did not consume the entire quantity and whatever had gone inside her body was vomited out by Smt. Santosh Kumari. However, the matter was hushed up so that the relations between the two families may not break out. A letter had also been received from Satyawan about 6 months before the present occurrence containing something objectionable.

5. On April 9, 1988 Randhir Singh complainant had gone to Hisar in order to meet his father-in-law Ranjit Singh. There he was told by one Harphool, a resident of Ban Bhor, that his daughter Vinod Kumari had died because of burns. On hearing this news, Randhir Singh and Ranjit Singh went to village Pabra. They contacted Smt. Santosh Kumari, who told them that on April 8, 1988 at about 8/9 P.M. Subhash, Satyawan and their parents Smt. Om Pati and Suraj Mal had forcibly taken Vinod Kumari downstairs while she (Santosh Kumari) was locked in a room upstairs. She heard wails of her sister Smt. Vinod Kumari for saving her and after sometime the cries of Vinod Kumari stopped coming out. She further told that she was taken out of the room at 5/6 A.M. on the next day. She did not find her sister Vinod Kumari in the house and she came to know that she had been cremated.

6. After coming to know of there details. Randhir Singh and Ranjit Singh came to village Thurana, i.e., the native village of Randhir Singh complainant. They took some respectables of village Thurana and again went to village Pabra. Since the accused could not furnish any satisfactory explanation about the circumstances under which Vinod Kumari had died, they brought Santosh Kumari with them. Thereafter the matter was reported to the Police and formal first information report (Ex.PA/1) was registered at Police Station Barwala at 10 P.M. on April 10, 1988 and a copy of the special report was received by the Illaqa Magistrate, Hisar, at 1.45 A.M. on April 11, 1988.

7. On April 11, 1988 S.I. Siri Bhagwan went to the spot and from the room in which Vinod Kumari had been allegedly burnt, he scratched the charred earth.

Then the police went to the cremation ground and lifted the ash and bones from the place where Vinod Kumari was cremated.

8. The accused-appellants were produced by Harphool of Ban Bhari on April 14, 1988. They were arrested. Subhash accused got recovered an empty tin of kerosene oil (Ex.P1) from under the heap of wheat lying inside his house. It was smelling of kerosene oil at the time though there was no kerosene oil therein.

9. The bones and the ash recovered from the cremation ground were got examined from the Forensic Science Laboratory, Madhuban. It was opined that the bones and ash were of a human female whose age could have been above 17 years at the time of death. Similarly, the charred earth recovered from the house of the accused was also tested by the Forensic Science Laboratory, Madhuban. Kerosene residues were detected therein.

10. During the course of investigation. It also transpired that accused Phul Kumar and Ram Chand had participated in the cremation of the dead body of Vinod Kumari along with other accused.

11. After completion of investigation the accused were challened and committed to the Court of Session. They were tried for the offence punishable under Sections 304-B read with Section 34, 498-A and 201, Indian Penal Code.

12. In order to prove its case, the prosecution examined Randhir Singh (P.W. 11) complainant, Santosh Kumari (P.W. 12) and Jagminder Singh (P.W. 7), besides the other formal witnesses.

13. The accused when examined u/s 313, Cr.P.C., denied the prosecution version that the marriage of Vinod Kumari deceased was performed with Subhash accused about 5 years before her death. They had taken the plea that Smt. Vinod Kumari had committed suicide. Regarding the earlier incident it was stated that Smt. Santosh Kumar had herself taken insecticide which she had vomited. They further stated that they had sent Ramesh of their village to inform the parents of Vinod Kumari about her death. Thereafter, Randhir Singh and Ranjit Singh came to village Pabra. They, however, denied all the other allegations of the prosecution stating that it was a false case. In defence they examined Harphool Singh (D.W. 1), who stated that he did not know Ranjit Singh and also that he never informed Randhir Singh about the death of Vinod Kumari.

14. After examining the evidence produced on record, the learned Additional Sessions Judge, Hisar, believed the story of the prosecution and convicted and sentenced the appellants as indicated in the earlier part of the judgment. Learned Additional Sessions Judge, however, acquitted Phul Kumar and Ram Chand accused as no evidence was adduced by the prosecution against them.

15. It has been contended by the learned counsel for the appellants that there is an unreasonable delay in lodging the first information report. According to him, the occurrence had allegedly taken place on April 8, 1988 but the F.I.R. in this case was lodged at 10 P.M. on April 10, 1988, i.e., almost 48 hours after the

occurrence. Further it has been contended that the marriage of Smt. Vinod Kumari deceased with accused Subhash had not taken place about five years prior to the present occurrence, rather the marriage had taken place in the year 1981. Thus, according to the learned counsel, a period of more than 7 years had elapsed when the occurrence had taken place. Hence, the learned counsel contends that no offence u/s 304-B, Indian Penal Code, is made out against the appellants.

16. I do not find any merit in the contentions raised by the learned counsel for the appellants. With regard to the first contention, I am of the view that there is no unreasonable delay in lodging the first information report. No doubt the occurrence had taken place on the night intervening 8th and 9th April, 1988 and a period of almost 48 hours had elapsed in the lodging of the first information report. However, in this case, after the death of Smt. Vinod Kumari during the night intervening 8th and 9th April, 1988, the accused had cremated the corpse. Smt. Santosh Kumari, who was married to Satyawar accused had been locked in a room when the process of killing Vinod Kumari was going on and she was taken out only after the dead body of Smt. Vinod Kumari had been consigned to flames, on the next morning. No intimation was sent to the parents of Smt. Vinod Kumari, Randhir Singh complainant, who is the father of Smt. Santosh Kumari and Smt. Vinod Kumari deceased, came to know about the death of his daughter only at about 10 A.M. on April 9, 1988 when he had gone to Hisar in order to meet his father-in-law Ranjit Singh. From Hisar both Randhir Singh complainant and Ranjit Singh proceeded to village Pabra. After reaching there, they came to know about the whole incident from Smt. Santosh Kumari (P.W. 12). They again went to village Thurana, wherefrom they brought some respectables to village Pabra and demanded explanation from the accused with regard to the death of Smt. Vinod Kumari, on getting unsatisfactory explanation from the accused, they went to Hisar in order to lodge first information report. The prosecution witnesses were not owning cars or other transport vehicle. They had to depend upon the State buses. Thus, if the F.I.R. was lodged at 10 P.M. on April 10, 1988, there does not seem to be any unreasonable delay. The contention of the learned counsel for the appellants is, thus, without any force and the same is rejected and I hold that there is no unreasonable delay in lodging the first information report.

17. With regard to the occurrence having taken place within 7 years of the marriage of Smt. Vinod Kumari with Subhash accused. I find that the prosecution has adduced very cogent and convincing evidence in the shape of the statements of Randhir Singh complainant, who is the father of Smt. Vinod Kumari deceased, and Smt. Santosh Kumari (P.W. 12), who is the sister of Smt. Vinod Kumari. Her marriage with Satyawar accused had also taken place on the same day when the marriage of Smt. Vinod Kumari with Subhash accused was performed. It has come in the examination-in-chief of Randhir Singh (P.W. 11) as well as in the statement of Smt. Santosh Kumari (P.W. 12) that the marriage of Smt. Vinod Kumari had taken place about 5-1/2 years prior to when their statements were

recorded on October 4, 1988. No cogent and reliable evidence has been adduced from the side of the accused to rebut the contention of the prosecution witnesses to show that the marriage of Vinod Kumari had been performed prior to 5-1/2 years (as stated by the prosecution). In the absence of any cogent and reliable evidence, I do not find any merit in the vague contention raised by the learned counsel for the appellants.

18. The second contention raised by the learned counsel for the appellants is also without any merit. It is, accordingly, rejected. I uphold the finding of the learned trial Judge that the marriage of Smt. Vinod Kumari had taken place within seven years of the present occurrence. Thus, the offence punishable u/s 304-B, Indian Penal Code, is very well made out.

19. Not only this, it has also been proved on record that the accused even tried to kill Smt. Santosh Kumari about 2-1/2 years prior to the present occurrence. It has even been admitted on the side of the accused that Smt. Santosh Kumari had consumed some poison and she had vomited out the poisonous substance from her mouth. Though the accused had taken the plea that she had herself consumed the poison, yet it has not been pleaded on their behalf that Smt. Santosh Kumari had vomited the poison on their efforts to save her life. In the absence of this pleading on their side, it can only be assumed that the poison was put in her mouth forcibly and she saved herself by vomiting out the poisonous substance.

20. Similarly, in the present case, it has been pleaded on behalf of the accused that Smt. Vinod Kumari had committed suicide and was not killed by them. However, their action in cremating her dead body without informing the Police, points the accusing finger at them. In the present case, the prosecution has been able to adduce a very cogent evidence in the statement of Smt. Santosh Kumar (P.W. 12). It has been stated by her that Smt. Vinod Kumari had been forcibly taken downstairs and she (Santosh Kumari) was locked in a room upstairs. She had heard the wails of Smt. Vinod Kumari but after some time her cries stopped coming out. When she was taken out of her room at about 5/6 A.M. on the next morning, she searched for Smt. Vinod Kumari, but she was not found in the house. On her inquiry, she was told that Smt. Vinod Kumari had been cremated by them. This statement of Smt. Santosh Kumari goes to prove beyond any shadow of doubt that Smt. Vinod Kumari was first killed by the accused and after that she was cremated without informing the Police of her parents. In the commission of this crime, she has also named her husband Satyawar. No woman would like to inculpate her husband in a crime of such a nature falsely.

20. The prosecution is successful in proving the guilt of the appellants. I do not find any ground to differ from the well-reasoned judgment recorded by the learned trial Judge.

21. Consequently, I do not find any merit in the appeal filed by the accused and uphold the conviction and sentence of the appellants under Sections 304-B, 201

and 498-A, Indian Penal Code. The appeal is, accordingly, dismissed.

22. I also do not find any merit in the revision petition filed by the complainant (Randhir Singh) for enhancement of the sentence awarded to the accused and for grant of compensation to the parents of the deceased. The revision petition is also dismissed.