
(1988) 08 P&H CK 0099

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 462-SB of 1985

Wazir Chand and anr.

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 17-08-1988

Acts Referred:

Citation : (1988) 2 RCR(Criminal) 289

Hon'ble Judges : H.S.Rai, J

Advocate : R.A. Sheoran, R.S. Cheema, Advocates for appearing Parties

Judgement

Harbans Singh Rai, J.

1. Wazir. Chand son of Mool Chand, aged 52 years, and his son Kanwar Singh, aged 24 years were convicted by Additional Sessions Judge, Faridabad, under sections 306 and 498A, Indian Penal Code. Wazir Chand was sentenced to 5 years R.I. and A fine of Rs. 500/ in default of payment of fine further RI for six months under section 306, IPC and to one year RI and a fine of Rs. 100/ in default of payment of fine further RI for one month/under section 498A, IPC. Kanwar Singh was sentenced to 3 years RI and a fine of Rs. 500/ in default of payment of fine further RI for six months under section 306, IPC and to RI for one year and to pay a fine of Rs. 100/ in default of payment of fine further RI for one month under section 498A, IPC. Their coaccused Krishna Devi, wife of Wazir Chand was acquitted.

2. The prosecution case is that Veena Kumari daughter of Hans Raj PW was married with Kanwar Singh appellant on October 16, 1983. Hans Raj had conducted a decent marriage and had given dowry at the time of marriage. After marriage, whenever Veena Kumari visited her parental house the always complained against the behaviour of her inlaws specially of her husband and fatherinlaw. She used to complain that they taunted her for bringing lesser and inferior quality of articles in dowry.

3. On June 10, 1984, Krishan Kumar PW first informer, brother of Veena Kumari

received a telephonic message at Delhi from Pappu, brother of Kanwar Singh appellant, that Veena Kumari had caught fire and she had been burnt. On receipt of this message he came to Gurgaon where his father was residing and informed him of the message. They came to Faridabad the inlaws place of Veena Kumari with some other relatives. At the house of the inlaws, Pappu informed that Veena Kumari had been taken to Geeta Nursing Home, Faridabad. On their arrival there, they found that Veena Kumari had died of burns and she was lying in the Nursing Home. As they had suspicion that Veena Kumari had been burnt alive by the accused on account of dowry demand, they decided to approach the police and while Krishan Kumar was going to the police station he met Bansi Dhar. S.H.O. of Police Station Central Faridabad, near busstand Canal Colony, Faridabad, and he reported the matter to him. He recorded the statement of Krishan Kumar Exhibit PE and sent the same to Police Station for registration of the case with his endorsement.

45. S.I. Bansi Dhar, accompanied by Krishan Kumar went to Geeta Nursing Home and found the dead body of Veena Kumari, who had died of burn injuries. He prepared the inquest report and sent the dead body to B.K. Hospital for postmortem examination. He visited the house of the accused in Sector 16, Faridabad, prepared rough site plan with marginal notes in his hand and got the photographs of the kitchen. A stove lying in the kitchen on a slab was also taken into possession.

6. Investigation was taken over by Lala Ram. District Inspector of Police, Faridabad, and he arrested the accused on June 15, 1984. After investigation, the accused were challaned, tried and convicted, as mentioned in the earlier part of the judgment.

7. Prosecution, in support of its case, examined Kusum Goel, PW 1, private practitioner, Faridabad who deposed that she is running a private Nursing Home, named Geeta Nursing Home at Faridabad. Her husband Dr. N.K. Goel is Medical Officer in B.K. Hospital, Faridabad. On June 10, 1984, at about 8 A.M./7.45 A.M. when she went to her Nursing Home she saw a patient lying on the bed. The patient was having burns on her body and was semiconscious. Her name was Ritu wife of Kanwar Singh. She was accompanied by another lady whose name the witness does not know. There were two males also and one of them was father-in-law of the burnt lady. The person accompanying the patient told the witness that the injured wanted to prepare tea for her mother-in-law. She caught fire by stove, but the injured was unable to speak and was in great pain and agony. She used to utter some time "Hai Hai". The doctor further stated that she told the attendants of the injured that it was a serious case and should be taken to Civil Hospital. The attendants told her that the hospital was far away and some treatment be given to the injured. Therefore, she gave first aid to the patient. She asked the attendants again to remove the injured to the hospital but in the meantime the injured died. She had given glucose to the injured. The witness identified Krishan Kumar and Wazir Chand accused as the persons accompanying

the injured. PW 2 Dr. N.K. Garg is a private practitioner at Faridabad. He stated that on June 10, 1984, Wazir Chand accused came to his house in old Faridabad and told him that his daughterinlaw had received some burns and wanted him to go to his residence for treatment. Dr. Garg told Wazir Chand that he would be opening, his clinic within half an hour and the injured be brought to the clinic but she was not brought. Wazir Chand had come to him at about 6.30 to 6.45 A.M. Dr. Garg further deposed that Wazir Chand had told him that his daughterinlaw was preparing tea when she caught fire. PW 3 Dr. Desh Bandhu chakrawarti, Medical Officer B.K. Hospital, Faridabad. conducted autopsy on the dead body of Veena Kumari on June 11, 1984, at 9.20 A.M. and the following injuries :

1. A reddish contusion .5 cm. x 1.5 cm. placed transversely over left side of forehead, at the level of hairline .5 cm. from mid line Blood clots were present in hair of scalp underneath.

2. A reddish contusion size 1 cm. x .8 cm. present over left side or forehead at the level of hairline, just near midline. Blood clots were present in hair of scalp under dearth.

8. Baldev Raj Inspector PW 4 had prepared the challan of this case and had proved FIR Exhibit PE/I. PW 5 Inderjit is a photographer of Jeet Photo Studio, Faridabad. He had taken photographs of the dead body. PW 6 Sohan Lal Draftsman had prepared the site plan Exhibit PF.

9. PW 7 Gurcharan Singh is a neighbourer of the accused. He deposed that in the month of June, 1984, at about 6.30 A.M. he saw Wazir Chand accused coming to his (Wazir Chand) house on a scooter. PW 8 Attar Singh, who runs a radio, television shop in the name of Pesto Radio, Sadar Bazar Delhi Cantt., deposed that the receipt Exhibit PG was issued by him on October 28, 1983, regarding the sale of Weston T.V. to Kanwar Singh. He further deposed that some money was paid by Surrender and the remaining amount was financed by Shiam Financing Company. He further deposed that the receipt Exhibit PG is a photocopy, original of which was destroyed when the shop was set on fire during the riots of 1984. PW9 Smt Uma wife of Shri B.K. Khanna has deposed that her husband B.K. Khanna was working as D.F.S.O. (Food and Supply Department), Faridabad. Earlier he was posted at Bhiwani and in their neighbourhood Veena's father Hans Raj was residing. Veena used to complain to her and weep after coming to Bhiwani. She was declared hostile and was crossexamined by the Public Prosecutor for not supporting the prosecution case. PW, 10 Krishna wife of Rajesh Batra has deposed that Veena was related to her as she is married to Veena's cousin. Veena had complained to her in December, 1983, that her fatherinlaw, motherinlaw and her husband were putting pressure upon her to bring more money and dowry articles. She further told her that they were demanding taperecorder and television. She was also being maltreated and not allowed to move or talk to anybody. The witness further deposed that she consoled her and promised that she will make efforts to satisfy the demand. PW II Darshana was tendered for crossexamination PW 12 Charan Darss, HC is a

formal witness. PW 13 Maya Devi, wife of Hans Raj, deposed that Veena Kumari deceased was her daughter. She was married with Kanwar Singh on October 16, 1983, and the marriage was solemnised at Gurgaon at the house of an uncle who was posted and resided there, although Maya Devi used to reside at Bhiwani. She further stated that they had spent more than one lakh on the marriage. Earlier, the accused had agreed that marriage be performed at Gurgaon, but after the marriage they demanded money which could have been spent in performing the marriage at Bhiwani. After the marriage, there was criticism by the inlaws of Veena Kumari about the dowry articles. They demanded refrigerator, taperecorder and a scooter. After some time of the marriage, a taperecorder was given to them and Rs. 4500/- were paid to Kanwar Singh for purchasing a refrigerator.

11. After close of the prosecution, the accused were examined under section 313, Criminal Procedure Code. They denied the prosecution allegations and pleaded that the deceased accidentally caught fire. D.W. 1 Chiranjit Lal, has supported this version and D.W. 2 Lal Chand has deposed that at the time of engagement, one television and some clothes were given by parents of Veena to her inlaws and he had taken photographs. Similar is the statement of D.W. 3 Bhola Nath. D.W. 4 Sanjay Jain deposed that on June 10, 1984, at about 7 or 6.45 A.M. Amar son of Wazir Chand came to their house for having a trunk call to Delhi as Veena had caught fire while preparing tea.

12. I have heard the learned counsel for the parties and gone through the record.

13. Mr. R.S. Cheema, learned counsel for the appellants, has submitted that there is no evidence that the deceased committed suicide and in the absence of any evidence that she committed suicide, no conviction under Section 306, Indian Penal Code, can be maintained. He has further pointed out that neither smell of kerosene oil was found on her person nor there were burn marks on the soles of the deceased and in the absence of any incriminating evidence, no credence can be given that she had committed suicide. It is further submitted by the learned counsel that it can be a case of accidental fire as the version given by the defence of accidental fire appears to be plausible.

14. I have given my considered thought to the argument and circumstances pointed out by the learned counsel.

15. The occurrence took place at 6.30 A.M. but Veena Kumari deceased was not removed to the hospital, upto 8 A.M. and that even after such a delay she was not taken to Civil Hospital, but was taken to a private Nursing Home. This conduct of the appellants in not taking Veena Kumari to civil hospital is not explainable. If she had received accidental fire burns then she would not have been kept in the house for two hours but would have been immediately removed to some properly equipped hospital. It is a matter of judicial notice that Faridabad town has Badshah Khan Hospital (name of the Civil Hospital) which is a properly equipped hospital. She was not removed to the hospital inspite of the

advice given by Dr. Kusum Goel P.W. The conduct of the appellants is indicative of their guilty conscience. They removed the injured to such a place after wasting that much time that they knew for certain that she will not survive and tried to create such evidence also that she was removed to a Nursing Home so that it can be said that medical assistance was not denied to her.

16. The defence version is that Veena Kumari caught fire accidentally on the floor of the kitchen whereas stove was lying on the slab in the kitchen at some height from of the floor. So if she had received accidental fire, then the appellant would have certainly raised hue and cry and the residents of the locality could have certainly known of the same. But the evidence produced by the prosecution suggests that Gurbachan Singh P.W. 7 and others were not allowed to enter the house and the voice of some radio or tape recorder was switched loudly, so that shrieks of the deceased may not be heard by the neighbours.

17. The accident took place in the house of the appellants. There was no other witness present. It was for the appellants to give some plausible explanation how the deceased lost her life. In the background of demand for dowry, maltreatment and harassment meted out to the deceased, the conclusion of suicide arrived at by the trial Court, from the circumstances of the case, is correct and I have no reason to differ with the same. The learned trial Court has taken a number of circumstances into consideration to reach at the conclusion. While adopting the same, I concur with the finding that the deceased had committed suicide and in view of the fact that she committed suicide due to harassment and demand of dowry, offence under Section 306, Indian Penal Code, is made out.

18. The learned counsel for the appellants has challenged the conviction under section 498A, Indian Penal Code, on the ground that different items of dowry demanded the appellants mentioned in the evidence of the prosecution witnesses are not convincingly established. There is contradiction qua the period when the demand was made and when they were supplied inter se between the witnesses qua these items. These details qua the demands and items of dowry are not very relevant as there is overwhelming evidence on the file establishing that the appellants were demanding dowry and were not satisfied with the dowry supplied and were creating such atmosphere for the deceased that she felt harassed, humiliated and insulted. As a result of the cruelty of the appellants, she had no option but to finish her life seeing that this was the only way to end her miseries. The trial court has rightly convicted the appellants under section 498A, Indian Penal Code, and I do not find any justification to interfere with the finding of guilt returned by the trial court on this score also.

19. The learned counsel, at the close, of the arguments, has submitted that the sentence awarded is slightly excessive. Taking an overall view of the case, I am of the opinion that reduction in the sentence is called for. In my opinion, the ends of justice will be squarely met if the sentence of the appellant Wazir Chand is reduced from five years to three years, and a fine of Rs. 500/-; in default of payment of fine further R.I. for six months under section 306, Indian Penal Code

and to one year R.I. and a fine of Rs. 100/; in default of payment of fine further R.I. for one month under section 498A, I.P.C. is maintained. I order accordingly. However, the sentence awarded to Kanwar Singh appellant under both the sections i.e. 306 and 498A, I.P.C. will remain as it is. With the modification in the sentence of Wazir Chand appellant from five years to three years under section 306, I.P.C., this appeal is disposed of. Both the sentences under section 306 and 498A, I.P.C. shall run concurrently.