

SUPREME COURT OF INDIA

Satpal

Vs.

State of Haryana

(G Ray and G Pattanaik JJ.)

19.02.1998

ORDER

1. This appeal is directed against the judgment dated 18-12-1990 passed by the Division Bench of the Punjab & Haryana High Court in Criminal Appeal No. 571-DB of 1988. By the impugned judgment, the High Court dismissed the appeal preferred by the appellant against his conviction and sentence passed by the learned Sessions Judge, Rohtak in Sessions Trial No. 6 of 1988 by judgment dated 26-10-1988. The learned Sessions Judge convicted the appellant for the offence under Sections 498A, 306 and 304B of the Indian Penal Code.

The appellant was sentenced to suffer 3 years' rigorous imprisonment for offence under Section 498A of the Indian Penal Code, 10 years' imprisonment for the offence under Section 306 Indian Penal Code and imprisonment for life for the offence under Section 304B of the Indian Penal Code. The deceased Alka was the wife of the appellant and the marriage of the deceased had taken place on 12-12-1985. Out of the said wedlock, a female child was born on 8-12-1986. Alka was admitted in the Medical College Hospital, Rohtak and died in the said hospital on 7-1-1987. From the analysis of the contents found in the viscera of the deceased, it transpired that aluminium phosphate usually used in pesticides was the cause of the death. The brother of the deceased, Satpal was the only witness who came and deposed to the effect that Alka was subjected to humiliation and mental torture on account of demand for dowry. It may be stated that the co-accused, Lajwanti, the mother-in-law of the deceased died before the trial commenced. The learned trial Judge accepted the deposition of the brother of the deceased who was the complainant in the case and came to the finding that the deceased had been harassed for more dowry shortly before her death. It may be

indicated here that the learned trial Judge, however, noted that there is no direct evidence for a clear demand of the dowry but from the facts stated in the deposition that in connection with the Jamni, the gifts given by the parents of the deceased were not accepted because they did not contain gold and also on other occasions the deceased was treated with cruelty and was humiliated, the learned trial Judge came to the finding that even in the absence of direct evidence in connection with the demand for dowry, the evidence of the brother of the deceased should be accepted that there was demand for dowry for which the deceased had been dealt with cruelty by the members of the family of the husband. Since the cruelty as contemplated under Section 498A of the IPC is of a wide amplitude, the learned Judge convicted the appellant for the offence under Section 498A IPC and the learned Judge was also of the view that the presumption under Sections 113A and 113B of the Evidence Act, 1872 was also attracted in the facts of the case. Therefore, the charges under Section 306 IPC and under Section 304B IPC must be held to have been proved against the accused.

2. As indicated, the High Court upheld such conviction and sentence by dismissing the appeal. Mr. U.R. Lalit, learned Senior Counsel assisted by Mr. Uma Datta, learned counsel has contended that no case for conviction under Section 306 IPC was made out because there is no evidence on the basis of which the Court can come to a conclusive finding that the deceased had committed suicide. Simply because aluminium phosphate, a poison was found in the viscera of the deceased, it cannot be held that the deceased had consumed the said poison for the purpose of committing suicide. Unless accidental consumption of such poison and administration of such poison by someone are ruled out, the case of suicide cannot be held to have been established beyond reasonable doubt. Therefore, the case for conviction under Section 306 IPC for abetment of suicide could not and did not arise and the courts below failed to appreciate the lacuna in the prosecution case. Mr. Lalit has also submitted that even for the conviction for an offence under Section 304B IPC it must be established that there had been demand for dowry and the deceased had been harassed in connection with such demand for dowry as defined under Section 2 of the Dowry Prohibition Act, 1961. Excepting the lone statement of PW 4, the brother of the deceased, there is no convincing evidence from which it can be held that there had been demand of dowry and on account of such demand, the deceased had been harassed. It has also been contended by the learned counsel for the appellant that for the purpose of conviction under Section 304B, the harassment on account of dowry demand must also be proximate to the time of death and if demand of dowry had been made long back and thereafter there is no evidence that such demand had continued thereafter then conviction under Section 304B cannot be based even if unnatural death takes place long after the demand of dowry had been made. The learned counsel for the appellant has also submitted that even the conviction under Section 498A is not warranted in the facts and circumstances of the case because the evidence of cruelty, as contemplated under Section 498A is absent and the sole statement made by the brother of the deceased has not been corroborated by any convincing evidence in the case.

3. Disputing the said contention of the learned counsel for the appellant, Mr. Prem Malhotra, the learned counsel appearing for the respondent, has submitted that the death had taken place within seven years of marriage and the brother of the deceased had deposed about the demand of dowry and the humiliation of the deceased on account of such dowry demand. He has also submitted that aluminium phosphate is not expected to be consumed by the deceased inadvertently, if the convincing evidence for which conviction under Section 304B can be made. Therefore, in our view, the conviction under Section 306 IPC and the conviction under Section 304B IPC of the appellant

have been made in the absence of sufficient evidence. We, therefore, set aside such convictions and sentences passed against the appellant. But so far as the conviction of the appellant under Section 498A IPC is concerned, it appears to us that there is direct and convincing evidence that the deceased had been humiliated and treated with cruelty on some occasions by the appellant and also the co-accused who had died before the trial. Therefore, the conviction under Section 498A IPC is justified in the facts and circumstances of the case and there is no occasion to interfere with such conviction and sentence passed against the appellant. The appellant is stated to have already served out the sentence for the conviction under Section 498A IPC, his bail bond should stand discharged, The appeal is disposed of accordingly.