

State of Punjab

Vs

Gian Kaur

(G. T. Nanavati, V. N. Khare JJ)

05.03.1998

JUDGMENT

NANAVATI J

1. The State has filed this appeal against the judgment of the Punjab & Haryana High Court in Criminal Appeal No. 13/87. The High Court acquitted both the respondents for the offence punishable under Section 302 read with Section 34 IPC.
2. Both the respondents along with two other were tried for causing death of Rita. Respondents - Gian Kaur, Balvinder Kaur, Darshan [a] and Balbir were the mother-in-law, sister-in-law, father-in-law and husband respectively of Rita(deceased).
3. The prosecution case was that they were not satisfied with the dowry given to her by her parents at the time of her marriage and that had often led to quarrels between the accused and Rita and her parents. According to the prosecution, on 21.6.86 at about 6.00 p.m., Gian Kaur and Balvinder Kaur sprinkled kerosene on her and thereafter Gian Kaur set her on fire by throwing a lighted match stick on her. It was further alleged that the mother-in-law wanted to get her son re-married and for that reason also she wanted to kill her.
4. The only evidence which was relied on by the prosecution and on the basis of which the trial court convicted Gian Kaur and Balvinder Kaur was the dying declaration recorded by ASI- Darshan Singh- PW 5.
5. The High Court disbelieved the dying declaration on the ground that even though according to the medical evidence Rita had 100% burns, the thumb mark of Rita appearing on the dying declaration had clear ridges and curves. The High Court found the evidence of Dr. Ajay Sahni- PW 1 not reliable as he failed to satisfactorily explain how such a thumb mark could appear on the dying declaration when Rita had 100% burns over her body. The High court relied upon the deposition of Doctor Aneja, who had performed the post mortem and who has categorically stated that there were 100% burns over her body and both the thumbs of Rita were burnt. In view of such inconsistent evidence, the High Court was right in giving benefit of doubt to the respondents. It cannot be said in this case that the High Court has taken an unreasonable view.
6. This appeal is, therefore, dismissed. Bail bonds are ordered to be cancelled.

