

SUPREME COURT OF INDIA

Tirath Kumari

Vs.

State of Haryana

CrI.A.No.1514 of 2004

(H. K. Sema and Tarun Chatterjee JJ.)

04.10.2005

JUDGEMENT

H. K. Sema, J.

1. Six accused, accused No.1 Vimal Kumar husband of the deceased, accused No.2 Karam Chand, the father of A1, accused No. 3 Anil Kumar young brother of A1, accused No. 4 Tirath Kumari @ Raj Rani, mother of A1, accused No.5 Asha Rani daughter of A2 and accused No. 6 Nanda the sister of A1 were put up for trial before the trial court under Section 304-B IPC. The trial court after concluding of the trial acquitted the four accused but convicted accused No.1 and accused No.4 husband and mother-in-law of the deceased under Section 304-B and sentenced them to undergo RI for 10 years and to pay fine of Rs. 2500/- each in default RI for one year. Their conviction and sentence were confirmed by the High Court in appeal. Hence the present appeal by special leave.

2. All the accused were charged for burning to death of Neena Kumari @ Meena Devi in the evening of 30-6-1989 in relation to demand of dowry. The marriage performed between the parties on 7.6.1987 and the date of incident was 30-6-1989 at 11 pm. The deceased succumbed to burn injuries on 1-7-1989 at 5.30 a.m. She suffered 92 per cent of burning.

3. It is not disputed that the incident had taken place within seven years of marriage. Section 304-B IPC requires the following ingredients to be established before the presumption can be drawn under Section 113-B of the Indian Evidence Act:

“(a) the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of the marriage;

(b) it must be shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative;

(c) such cruelty or harassment must be in connection with the demand of dowry.”

4. If the aforesaid ingredients are established then the death shall be called as dowry death. Once the aforesaid ingredients are established by the prosecution the presumption under Section 113-B of the Indian Evidence Act shall be drawn.

5. It is contended by Mr. Jaspal Singh, learned senior counsel appearing for the appellants that in the present case both the trial court and the High Court have committed an error in law as well as in fact for recording the conviction of the appellants under Section 304-B as no demand of dowry or ill-treatment in regard to the demand of dowry has been established soon before her death. We have been taken through the evidence of PW4 Om Prakash, PW5 Sham Lal Datta, PW7 Raj Rani and PW.10 Baldev Raj on which reliance has been placed by both the trial court and the High Court for recording the convictions of the appellants. Going through the evidence threadbare, we do not find any evidence to show that soon before her death she was subjected to cruelty by the husband or in-laws in connection with a demand of dowry.

6. The aforesaid ingredients having not been established the appellants are entitled to the benefit of doubt. The conviction and sentence recorded by the trial court and affirmed by the High Court are set aside. They are acquitted of all the charges. Accused No.4 Tirath Kumari is on bail her, bail bond and surety shall stand discharged. Accused No.1 Vimal Kumar is in custody, he shall be set at liberty forthwith if not required in connection with any other case.

7. The appeal is allowed.

Appeal allowed.