SUPREME COURT OF INDIA

Amarjit Singh

Vs.

State of Punjab

Crl.A.No.1394 of 2003

(Harjit Singh Bedi and C.K.Prasad JJ.)

29.04.2010

ORDER

1. The appellant herein who was the husband of the deceased was tried for an offence punishable under Sections 306 and 498A read with Section 34 of the Indian Penal Code along with his brother and the brother's wife. The trial court in the course of its judgment dated 17th April, 2001 convicted all the accused for the aforesaid offences and sentenced them to various terms of imprisonment through an elaborate and comprehensive judgment. An appeal was thereafter taken to the Punjab and Haryana High Court and the learned Single Judge by his judgment dated 26th May, 2003 has dismissed the appeal by observing:

> "In this case, perusal of the evidence shows that Manjit Singh Appellant No. 3 and his wife Daljit Kaur Appellant No. 4 had been living separately in a house since 1996. So harassment could be before that as admittedly the marriage took place about 10 years prior to the date of occurrence. Even though these two accused-appellants may be residing in other house but they can come and harass the deceased by instigating their son. Amarjit Singh, appellant No. 1, the husband for demanding dowry. Moreover, learned counsel for the appellants could not give any plausible reason to re-appreciate the evidence and, therefore, the findings recorded by the trial court need not be interfered."

2. This matter came up before this Court when notice was issued on 22nd September, 2003, with the following observations:

> "The learned counsel for the petitioners contend that the High Court sitting as the court of first appeal on facts has not at all considered the evidence independently but has made passing reference to the evidence of the trial court, which finding was challenged on substantial grounds by the petitioners.

> Therefore, the petitioners' right of being heard by the First Appellate Court has been denied. Issue notice indicating that why the matter be not remanded back to the High Court.
>
> Taking into consideration that the petitioner No. 2 is an elderly person and suffering from various diseases, we enlarge her on bail upon her furnishing a personal bond in the sum of Rs. 10,000/- (Rupees Ten thousand only) with one surety in the like amount to the satisfaction of the trial court."

3. It is in this situation that the matter is before us after the grant of special leave.

4. We have heard the learned counsel for the parties and gone through the record.

5. We are of the opinion that the observations made by the learned Single Judge of the High Court, that nothing could be pointed out to show as to why he should re- appreciate the evidence, is a palpably wrong observation in the light of Section 374 of the Code of Criminal Procedure which provides for the disposal and hearing of appeals filed under the Code of Criminal Procedure. In *Rama and Others v. State of Rajasthan*[1] it was observed as under:

> "4. The impugned judgment has been challenged on the sole ground that the High Court has not disposed of the appeal in the manner postulated under law inasmuch as it does not to appear from the impugned judgment as to how many witnesses were examined on behalf of the prosecution and on what point. The High court has not even referred to any evidence much less considered the same.
>
> In our view, it is a novel method of disposal of criminal appeal against conviction by simply saying that after reappreciation of the evidence and rescrutiny of the records, the Court did not find any error apparent in the finding of the trial court even without reappraising the evidence. In our view, the procedure adopted by the High Court is unknown to law. It is well settled that in a criminal appeal, a duty is enjoined upon the appellate court to reappraise the evidence itself and it cannot proceed to dispose of the appeal upon appraisal of evidence by the trial court alone especially when the appeal has been already admitted and placed for final hearing. Upholding such a procedure would amount to negation of valuable right of appeal of an accused, which cannot be permitted under law. Thus, we are of the view that on this ground alone, the impugned order is fit to be set aside and the matter remitted to the High Court."

6. A perusal of the High Court's order, reveals that the points raised by the appellants in the grounds of appeal and those which had been raised and decided by the trial court have not even been alluded to and no reference has been made to the evidence produced by the parties or any discussion as to the process of reasoning leading to the dismissal of the appeal. The High Court being the final court of fact was required to re-appraise the evidence and to take a view suitable to the case. This obligation has not been performed by the High Court.

7. We, accordingly, allow the appeal, set aside the order dated 26th May, 2003, and remit the case to the High Court for decision afresh in accordance with law.

8. The parties are directed to appear before the Registrar, High Court of Punjab and Haryana at Chandigarh on 12th August, 2010 so that the matter can be expeditiously proceeded with as it is a very old one. We further clarify that as the appellants are already on bail they shall continue to be on bail till the disposal of the appeal by the High Court.

[1]*(2000) 4 SCC 571*