

Raminder Singh

v.

State of Punjab

(Supreme Court Of India)

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD HON'BLE MR.
JUSTICE PINAKI CHANDRA GHOSE

Criminal Appeal No. 900 Of 2011 | 09-01-2014

1. The appellant aggrieved by his conviction under section 304B of the Indian Penal Code (for short the 'IPC') and sentence of rigorous imprisonment for seven years has preferred this appeal with the leave of the Court.
2. The appellant happens to be the husband of Tejinder Kaur. The marriage had taken place on 04.10.1990 at Zira. On 30.05.1993 at about 5.20 p.m. the dead body of Tejinder Kaur was found on the railway track between Daun Kalan and Patiala railway stations. The deceased was run over by the train. Nobody appeared to claim the dead body of Tejinder Kaur. After post mortem, photographs were taken for the purpose of identification and the dead body was cremated. On 04.06.1993, the identity of the deceased came to be known. On 06.06.1993, PW-7 Maan Singh father of the deceased gave report and on that basis, the First Information Report was registered. According to the prosecution, Tejinder Kaur, wife of the appellant committed suicide due to harassment caused by her husband in connection with the demand of dowry.
3. The police after usual investigation submitted the charge-sheet and the appellant was committed to the court of sessions to face the trial. He denied to have committed any offence and from the trend of the cross-examination, his defence seems to be that the deceased met with an accidental death and there was no question of her being subjected to harassment in connection with the demand of dowry as both of them were living happily. In order to establish that, the appellant had examined DW-1 Kamaljit Kaur and DW-2 Iqbal Kaur mother of the appellant.

4. The trial court on appraisal of evidence came to the conclusion that the prosecution has been able to prove all the ingredients necessary for commission of offence under section 304B IPC and hence convicted and sentenced the appellant as above. The same has been affirmed by the High Court in appeal.

5. It is well settled that to constitute offence under section 304B IPC, the prosecution has to prove the following facts :

(i) The death of a woman has been caused by any burns or bodily injuries or has occurred otherwise than under normal circumstances;

(ii) Such death has taken place within seven years of the marriage;

(iii) Soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and

(iv) Such cruelty or harassment should be for or in connection with the demand of dowry.

6. In the present case, there is no dispute that marriage had taken place on 04.10.1990 and deceased Tejinder Kaur died on 30.05.1993. Further, the fact that the appellant is the husband of the deceased is not disputed.

7. In view of the aforesaid, we have only to see as to whether the prosecution has proved that the death had taken place otherwise than under normal circumstances and the deceased was subjected to cruelty or harassment by the appellant in connection with the demand of dowry soon before the death.

8. Mr. Badridas Sharma, learned counsel appearing for the appellant, submits that the deceased met with accidental death and therefore, one of the ingredients for constituting the offence under section 304B IPC has not been established.

This being the position, according to the learned counsel, the appellant deserves to be acquitted.

9. Mr. Jayant K. Sud, learned Additional Advocate General appearing for the respondent-State, however, submits that there is overwhelming evidence to show that the deceased came under the wheels of the train in the circumstance which clearly shows that the death had taken place otherwise than under normal circumstances.

10. We have bestowed our consideration to the rival submissions and we do not find any substance in the submission of Mr. Sharma.

11. Undisputedly, the deceased came under the wheels of train which led to her death. There is no evidence that the deceased while crossing the railway track came under the wheels of the train accidentally. There is further no evidence that the deceased used to cross the railway track to go to any place. The railway track where the deceased met with the accident is not very close to the village where she was residing. In normal course, she was not expected to be there. In view of the aforesaid, it is difficult to hold that the deceased met with an accidental death. Once it is ruled out, there is no escape from the conclusion that the deceased died otherwise than under normal circumstances.

12. Mr. Sharma, then, submits that there is no evidence that the deceased was subjected to cruelty or harassment in connection with the demand of dowry soon before the death. According to him, the marriage had taken place on 04.10.1990 whereas the deceased died on 30.05.1993. He points out that any harassment or demand made on the following day of the marriage shall not come within the expression 'soon before the death'. He also points out that the appellant had purchased the scooter and the television from his own resources and therefore, there was no occasion for him to make demand for those things.

13. Mr. Sud, however, submits that there is constant demand for dowry right from the following day of the marriage till 20.05.1993 i.e. a couple of days before her death on 30.05.1993.

14. We have been taken through the evidence of PW-4 Munshi Ram Sharma, Municipal Commissioner, PW-5 Sarvinder Kaur a teacher working with the deceased and that of PW-7 Maan Singh father of the deceased. From their evidence, it is evident that the appellant started making demand from the next day of the marriage. Not only that, the demand was made on Dewali of 1992. Further, on 28.05.1993, the demand was made and the deceased was threatened to be driven out of the matrimonial home, if such demand was not met. The death as stated earlier had taken place on 30.05.1993. All these dates including 28.05.1993 when the demand and threat were made clearly show that she was subjected to cruelty soon before her death. Hence we negative this submission of Mr. Sharma.

15. Mr. Sharma, then, submits that PW-7 Maan Singh came to know about the death of his daughter on 04.06.1993 but the report has been given on 06.06.1993. Therefore, according to him, there is inordinate delay in lodging the First Information Report and on this ground alone, the case of the prosecution deserves to be rejected.

16. We do not find any substance in this submission of Mr. Sharma also. The father has lost his young daughter. It is difficult for any human being to be normal on the death of daughter and that too in such a tragic circumstance. It takes time to come in senses and think to take recourses to law. Therefore, in the facts of the present case, in our opinion, merely on the ground of some delay in lodging the First Information Report, the case of the prosecution cannot be thrown out.

17. Mr. Sharma lastly submits that the case in hand cannot be said to be a case of dowry death. He submits that the demand of money for the purpose of construction of a house shall not come within the definition of dowry. In this connection, he has relied on a decision of this Court in the case of Appasaheb & Anr. vs. State of Maharashtra - AIR 2007 SC 763 and our attention has been drawn to the following passage from the said judgment :

"...The evidence adduced by the prosecution does not, therefore, show that any demand for 'dowry' as defined in section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential

ingredient of section 304B IPC viz., demand for dowry is not established, the conviction of the appellants cannot be sustained."

18. Yet another decision on which reliance has been placed is the decision of this Court in the case of Modinsab Kasimsab Kanchagar vs. State of Karnataka & Anr. - (2013) 4 SCC 551. Reference has been made to the following paragraph from the said judgment :

"...In this case, the amount of Rs.10,000/- demanded by the appellant through the deceased was for repayment of a society loan of the appellant and it had no connection with the marriage of the appellant and the deceased. Hence, even if there was demand of Rs.10,000/- by the appellant, it was not a demand in connection with the dowry and the offence under section 304B was not attracted."

19. Mr. Sud, however, submits that all those decisions relied on by the appellant have been considered by this Court and it has been held that the decisions in those cases have to be confined to the facts of those cases. Reference in this connection has been made in the case of Bachni Devi & Anr. vs. State of Haryana - (2011) 4 SCC 427 and our attention has been drawn to para 18 of the said judgment which reads as under :

"The above observations of this Court in Appasaheb case must be understood in the context of the case. That was a case wherein the prosecution evidence did not show "any demand for dowry" as defined in section 2 of the 1961 Act. The allegation to the effect that the deceased was asked to bring money for domestic expenses and for purchasing manure in the facts of the case was not found sufficient to be covered by the "demand for dowry". Appasaheb cannot be read to be laying down an absolute proposition that a demand for money or some property or valuable security on account of some business or financial requirement could not be termed as "demand for dowry". It was in the facts of the case that it was held so. If a demand for property or valuable security, directly or indirectly, has a nexus with marriage, in our opinion, such demand would constitute "demand for dowry"; the cause or reason for such demand being immaterial."

(Underlining ours)

20. The decision of this Court in Modinsab Kasimsab Kanchagar (supra) has been rendered relying on the decision in Appasaheb (supra). Appasaheb (supra) as observed in Bachni Devi (supra) has not laid down any proposition of universal application.

21. In our opinion, same is the position in the case of Modinsab Kasimsab Kanchagar (supra).

22. We are entirely in agreement with the view expressed by this Court in the case of Bachni Devi (supra). We are of the opinion that in the case of demand for any property or valuable security, directly or indirectly, which has a nexus with the marriage, would constitute 'demand for dowry'. In the present case, as stated earlier, there is overwhelming evidence that the appellant made demand for dowry and harassed the deceased for not bringing that. Not only that, she was threatened to be thrown out from the matrimonial home if the demand is not met. We are of the opinion that the harassment meted out to the deceased was in connection with the demand of dowry.

23. The appellant is on bail, his bail bonds are cancelled and he is directed to surrender forthwith to serve out the remainder of the sentence.

24. Having negatived all the submissions made on behalf of the appellant, we do not find any merit in the appeal and it is dismissed accordingly with the aforesaid observations.