

RAJA LAL SINGH
v
THE STATE OF JHARKHAND

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MAY 08, 2007

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

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Penal Code, 1860:

S. 304-B/34—Deceased found dead due to hanging in her room on the first floor of the building—No evidence to show that brother-in-law and sister-in-law who were living on the ground floor of the building had hand in the incident which led to her death—Benefit of doubt given to them—Conviction set aside.

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S.304-B—Applicability of—Deceased harassed by husband for not bring dowry article—Committed Suicide –S. 304-B is applicable—Husband rightly convicted.

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S.304-B—Expression 'soon before her death'—Meaning of—Discussed.

Prosecution's case was that the deceased was married to the appellant. After 3 months, she came back to her parents house and told her father PW-5 that her husband, brother-in-law and sister-in-law had been harassing her for not bring dowry articles. He assured his daughter that he will fulfill the demand. Within 7 months of marriage, the father of deceased received news of death of his daughter. He rushed to his daughter's house with his sons, where he found the dead body of the deceased lying on a Chauki kept in a room at the upper floor of the building. On being asked, his son-in-law stated that the deceased had committed suicide by hanging herself. The case was registered against husband, brother-in-law and sister-in-law u/ss. 304-B/34 I.P.C. Doctor PW-7 who conducted the post mortem had opined that the cause of death was due to asphyxia as a result of hanging. However, in his cross-examination he stated that it was a case of suicidal death. Trial Court convicted the accused persons u/ss. 304-B/34 I.P.C. High Court upheld the order of Trial Court. The brother-in-law and his wife filed appeal no. 514/2006 and husband filed appeal No. 513/2006.

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A Dismissing the appeal No. 513/2006 and allowing the appeal No. 514/2006, the Court

HELD: 1. The appellant-husband used to live on the first floor of the building along with his wife, whereas brother-in-law and his wife were living in the ground floor. Admittedly, the deceased was found dead due to hanging, on the first floor in the room of her husband. There is no evidence to show that the appellant brother-in-law and his wife had any hand in the incident which led to her death, and at any event benefit of doubt has to be given to them, as they were living on the ground floor of the building in question. No doubt, some of the witnesses e.g. PW5 who is the father of the deceased and PW 3 brother of the deceased, have stated that the deceased told them that dowry was demanded by not only husband, but also the brother-in-law and his wife but it is possible that the names of brother-in-law and his wife has been introduced only to spread the net wide as often happens in cases like 498-A and 394 IPC. [Paras 13 and 14] [110-A-C]

D *Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar*, [2005] 2 SCC 388, relied on.

2. Husband of the deceased used to live with her on the first floor of the building in question. Hence, it was for him to explain how deceased met with her death. She was found hanging by a Sari on a ceiling fan in the very room where she used to live with her husband. Appellant-husband, however, did not enter into the witness box to depose in this connection. So far as S, 304-B is concerned it is not relevant whether it is case of homicide or suicide.

[Paras 15 and 16] [110-E-G]

F *Satvir Singh and Ors. v. State of Punjab and Anr.*, [2001] 8 SCC 633, relied on.

3. The essential components of S.304-B are (i) Death of a woman occurring otherwise than under normal circumstances, within 7 years of marriage. (ii) Soon before her death she should have been subjected to cruelty and harassment in connection with any demand for dowry. Deceased died about 7 months after her marriage. Also, it has come in evidence that she had been harassed for dowry 10 or 15 days before her death. This has come in the evidence of PW5 and PW3 and there is no reason to disbelieve them. She had earlier also been subjected to harassment on account of dowry when she had gone to her parents' house in August, 2000, as has come in the evidence of

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PW5. Thus, the ingredients of S. 304-B IPC are satisfied.

[Para 17] [110-H; 111-A-B]

T. Aruntperunjothi v. State, [2006] 9 SCC 467, relied on.

4. The words “soon before her death” do not necessarily mean immediately before her death. This phrase is an elastic expression and can refer to a period either immediately before death of the deceased or within a few days or few weeks before death. There should be a perceptible nexus between the death of the deceased and the dowry related harassment or cruelty inflicted on her. [Para 18] [111-C-D]

5. There is a clear nexus between the death of deceased and the dowry related harassment inflicted on her. Even if deceased had committed suicide, S.304-B can still be attracted. A person commits suicide in a fit of depression due to extreme unhappiness. Thus, even if deceased had committed suicide, it was obviously because she was extremely unhappy, and unless her husband gave a satisfactory alternative explanation for the suicide it has to be taken that due to the persistent demand for dowry which led to her suicide. It is evident from the evidence that deceased’s father was a poor man and he did not have the money to give the dowry immediately and he wanted time so that he could collect some funds from somewhere, but the appellant was heartless and he wanted immediate compliance of his demand. Since that was not fulfilled, he either killed deceased or harassed her so much that she was driven to suicide on account of the said dowry demand. [Para 19] [111-D-E]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 513 of 2006.

From the Final Judgment and Order dated 20.10.2005 of the High Court of Jharkhand at Ranchi in Crl. A. No. 974 of 2003.

WITH

Crl. A. No. 514 of 2006.

P.S. Mishra, Sunil Kumar, Ashok Kumar Singh, Awanish Sinha, Anita Kanungo and Himanshu Shekhar for the Appellant.

Manish Kumar Saran and C.P. Yadav for the Respondent.

The Judgment of the Court was delivered by

MARKANDEY KATJU, J. 1. These two appeals have been filed against

A the common judgment & order dated 20.10.2005 of the Jharkhand High Court in Criminal Appeal Nos. 769 and 974 of 2003.

2. Heard learned counsel for the parties and perused the record.

3. The facts of the case are that an FIR being Bagmare P.S. Case No. B 229/2000 was registered under Sections 304-B/34 of the Indian Penal Code against the three aforesaid appellants on the basis of the information given by Dashrath Singh (PW5), wherein it was alleged that his daughter Gayatri Devi (the deceased) aged about 19 years, was married to the appellant Raja Lal Singh on 24.4.2000 and he had given dowry according to his capacity. His daughter came back after three months of her stay at her in-laws' place and C told him that her husband Raja Lal Singh, her brother-in-law Pradip Singh and her sister-in-law (Gotni) used to harass her for the demand of a 'Palang' (Bed) and a Godrej Almirah. The informant assured his daughter to fulfill those demands in January, and then his daughter went to her in-laws' place. It was D further alleged that subsequently when he went to see his daughter at her in-laws' place, she again told him about the aforesaid demand of 'Palang' and 'Godrej Almirah' by the appellants and then the informant talked to his son-in-law, and his brother as well as his wife had promised them to fulfill the demand in January.

4. It is said that on 28.11.2000 one Dunia Lal Singh came to the village E of the informant and informed him that his daughter has died due to hanging. On this information, the informant along with his sons Santosh Singh (PW3), Bhola Singh and Bhagirath Singh went to village Behrakudar, i.e. the village in which his daughter was married, and on reaching there he found that the dead body of his daughter was lying on a Chauki kept in a room at the upper F floor of the building of the appellants. On being asked, his son-in-law stated that the deceased had committed suicide by hanging herself with a ceiling fan by tying a Sari around her neck. His son-in-law also told that since he was sleeping in the room, he could see her hanging only in the early morning when he woke up. On being further questioned by the informant, his son-in-law G could not give a satisfactory reply. The informant suspected that his daughter was murdered by her husband, the brother-in-law and sister-in-law, and a colour of suicide was given to the whole occurrence of murder. The police after investigation submitted a charge-sheet under Sections 304-B/34 IPC. The cognizance was taken and the case was committed to the Court of Sessions.

H 5. The defence was of false implication.

6. In order to establish the charges, altogether eight witnesses were examined on behalf of the prosecution and on behalf of the defence also two witnesses were examined.

7. It appears that PW1 Ramesh Singh, PW2 Gobardhan Singh, PW3 Santosh Singh and PW4 Ashok Singh accompanied the informant PW5 to the in-laws' place of the deceased. PW6 is Shiv Pujan Singh, another son of the informant, who is a witness of seizure and he also identified the handwriting of the deceased written on her palm. PW7 is Dr. C.S. Prasad, who held post mortem examination of the deceased and PW8 Kamta Singh, is the Investigation Officer.

8. As stated earlier, on behalf of the defence also two witnesses were examined. DW1 Bindeshwar Singh, was a co-villager and neighbour of the appellants, who was examined to prove the cordial relationship between the deceased and her husband. DW2 Mantu Singh, another co-villager of the appellant has stated that the appellant Pradip Singh and Sanjana Devi were separate in residence and mess with the appellant Raja Lal Singh, husband of the deceased.

9. According to PW7 Dr. C.S. Prasad, who held the post mortem examination of the dead body, the cause of death was due to asphyxia as a result of hanging. The post mortem report was proved by him and was marked as Ext.2. However, this witness in his cross-examination stated that it was a case of suicidal death.

10. The learned trial court on consideration of the oral and documentary evidence adduced on behalf of the prosecution held that the prosecution was able to establish the charge under Sections 304-B/34 IPC against all the three accused. Accordingly, the accused persons were convicted for the said offence and were sentenced to undergo R.I. for a period of ten years each.

11. Against the aforesaid judgment of the trial court, the appellants filed appeals before the High Court which were dismissed by the impugned judgment. Hence, these two appeals.

12. As regards the appeal of Pradip Singh and his wife Sanjana Devi being Criminal Appeal No. 514/2006, we are of the opinion that the said appeal deserves to be allowed and the appellants therein deserve to be acquitted by giving them the benefit of doubt.

A 13. It has come in evidence that Raja Lal Singh, appellant in Criminal Appeal No. 513/2006 used to live on the first floor of the building along with his wife, deceased Gayatri, whereas Pradip Singh and his wife Sanjana Devi were living in the ground floor. Admittedly, the deceased Gayatri was found dead due to hanging on the first floor in the room of her husband. There is no evidence to show that the appellant Pradip Singh and Sanjana Devi had any hand in the incident which led to her death, and at any event we are of the opinion that benefit of doubt has to be given to them, as they were living on the ground floor of the building in question.

C 14. No doubt, some of the witnesses e.g. PW5 Dashrath Singh, who is the father of the deceased Gayatri, and PW3 Santosh Kr. Singh, brother of the deceased, have stated that the deceased Gayatri told them that dowry was demanded by not only Raja Lal Singh, but also the appellants Pradip Singh and his wife Sanjana Devi, but we are of the opinion that it is possible that the names of Pradip Singh and Sanjana Devi have been introduced only to spread the net wide as often happens in cases like 498-A and 394 IPC, as has been observed in several decisions of this Court, e.g. in *Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar*, [2005] 2 SCC 388 etc. Hence, we allow the appeal of Pradip Singh and Sanjana Devi and set aside the impugned judgments of the High Court and trial court in so far as it relates to them and we direct that they be released forthwith unless required in connection with some other case.

E 15. However, we are of the opinion that the appeal of Raja Lal Singh has to be dismissed. Raja Lal Singh is the husband of the deceased Gayatri and he used to live with her on the first floor of the building in question. Hence, it was for him to explain how Gayatri met with her death. She was found hanging by a Sari on a ceiling fan in the very room where she used to live with her husband Raja Lal Singh. Raja Lal Singh, however, did not enter into the witness box to depose in this connection.

G 16. It is settled by a series of decisions of this Court that so far as Section 304-B is concerned, it is not relevant whether it is case of homicide or suicide vide *Satvir Singh and Ors v. State of Punjab and Anr.*, [2001] 8 SCC 633, [Para 18].

H 17. It has been held in *Satvir Singh* (supra) that the essential components of Section 304-B are : (i) Death of a woman occurring otherwise than under normal circumstances, within 7 years of marriage. (ii) Soon before her death she should have been subjected to cruelty and harassment in connection with

any demand for dowry. In the present case, Gayatri died about 7 months after her marriage in April, 2000. Also, it has come in evidence that she had been harassed for dowry 10 or 15 days before her death. This has come in the evidence of her father PW5 and brother PW3 and we see no reason to disbelieve them. She had earlier also been subjected to harassment on account of demand for dowry when she had gone to her parents' house in August, 2000, as has come in the evidence of PW5 Dashrath Singh. Thus, in our opinion, the ingredients of Section 304-B IPC are satisfied in this case [see also in this connection *T. Aruntperunjothi v. State*, [2006] 9 SCC 467] .

18. It may be mentioned that the words "soon before her death" do not necessarily mean immediately before her death. As explained in *Satvir Singh* (supra), this phrase is an elastic expression and can refer to a period either immediately before death of the deceased or within a few days or few weeks before death. In other words, there should be a perceptible nexus between the death of the deceased and the dowry related harassment or cruelty inflicted on her.

19. In the present case, we are of the opinion that there is a clear nexus between the death of Gayatri and the dowry related harassment inflicted on her. As mentioned earlier, even if Gayatri committed suicide, S. 304-B can still be attracted. A person commits suicide in a fit of depression due to extreme unhappiness. Thus, even if Gayatri committed suicide, it was obviously because she was extremely unhappy, and unless her husband gave a satisfactory alternative explanation for the suicide we have to take it that it was the persistent demand for dowry which led to her suicide. It is evident from the evidence that Gayatri's father was a poor man and he did not have the money to give the dowry immediately and he wanted time up to January, 2001 so that he could collect some funds from somewhere, but the appellant, Raja Lal Singh was heartless and he wanted immediate compliance of his demand. Since that was not fulfilled, he either killed Gayatri or harassed her so much that she was driven to suicide on account of the said dowry demand. The writing on Gayatri's palm is, in our opinion, not very relevant. In view of the above, we dismiss the appeal of Raja Lal Singh.

20. Resultantly, Criminal Appeal No. 513/2006 filed by Raja Lal Singh is dismissed while Criminal Appeal No. 514/2006 filed by Pradip Singh and Sanjana Devi is allowed.

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Crl. Appeal No. 513/2006. dismissed.

Crl. Appeal No. 514/2006 allowed.

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