

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (D.B) No. 322 of 2020

1. Mahesh Prasad

2. Sakunti Devi

....

Appellant

Versus

The State of Jharkhand

...

Respondent

CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**

Hon'ble Mrs. Justice Anubha Rawat Choudhary

Through Video Conferencing

For the Appellant

: Mr. Shailendra Jit, Advocate

For the State

: Mr. Anup Pawan Topno, A.P.P.

05/23.06.2021

Heard learned counsel for the appellant, Mr. Shailendra Jit and

learned Additional Public Prosecutor for the State, Mr. Anup Pawan Topno on the prayer for suspension of sentence made through I.A. No. 1954 of 2021.

These two appellants are the brother-in-law (elder brother of the husband) and sister-in-law (Gotni of the deceased), who stand convicted along with husband Munna Prasad for the offence punishable under Sections 304B, 302/34 of I.P.C read with Section 4 of Dowry Prohibition Act, while the father-in-law, Lalji Sao was acquitted of the charges. These convicts have been sentenced to undergo Rigorous Imprisonment for life under Section 304B of I.P.C. and further sentenced to undergo Rigorous Imprisonment for 1 year with a fine of Rs. 5,000/- under Section 4 of Dowry Prohibition Act with a default sentence by the impugned judgment of conviction dated 27th January, 2020 and the order of sentence dated 31st January, 2020 passed in Sessions Trial No. 189/2014/Sessions Trial No. 241/2015 by the Court of learned Additional Sessions Judge-VII-cum-Special Judge Crime Against Women, Hazaribag.

Learned counsel for the appellants submits that these two appellants being the elder brother and his wife i.e., sister-in-law of the deceased have been falsely implicated in the case, though they are separate in home and kitchen from the other convict husband of the deceased. Learned counsel has placed reliance upon the statement of informant (P.W. 9) at Para-4 of his cross-examination, where it is stated that though the husband and the rest accused stay in the same home but they were having separate kitchen. It is submitted that no independent witnesses have supported the prosecution case, such as P.Ws. 6, 7, 8 and 11, who are residents of Sahpur where the alleged occurrence took place. It is submitted that general and omnibus allegation has been made against all the accused persons of demanding a Tata Magic and motorcycle as dowry and consequent torture on non-fulfilment thereof. It is submitted that both the appellants being the husband and wife with minor children to maintain, may be enlarged on bail by suspending the sentence.

Learned A.P.P. has strongly opposed the prayer. He submits that the marriage took place on 11th July, 2013 and the victim was done to death by

2.

strangulation on 4th December, 2013 i.e., within six months of the marriage on non-fulfilment of demand of dowry. It is submitted that father of appellant no. 1 and the co-convict husband has stated before the informant (P.W. 9) and P.W. 1 that the husband, Munna Prasad and Gotni, Sakunti Devi had killed the victim. It is submitted that in the deposition of the informant (P.W. 9), it has also come that the father-in-law admitted that his son, Munna Prasad, husband of the deceased and his daughter-in-law, Sakunt Devi were having illicit relationship. As such, both these appellants were involved in killing of the deceased along with her husband. The post-mortem report of deceased (Ext.-3) also shows that death was caused by Asphyxia due to strangulation showing the involvement of more than one person.

We have considered the submission of learned counsel for the parties and taken into note of the relevant materials relied upon by them from Lower Court Records. It appears that Lalji Sao, father of appellant no. 1 admitted that his son and husband of the deceased along with appellant no. 2, Sakunti Devi were having illicit relationship and had killed the victim. However, there are only general and omnibus allegation against the appellant no. 1.

In the aforesaid facts and circumstances, we are inclined to enlarge the appellant no. 1 on bail by granting him the privilege of suspension of sentence. Accordingly, appellant no. 1, namely, Mahesh Prasad shall be released on bail, during pendency of this appeal on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each, to the satisfaction of learned Additional Sessions Judge-VII-cum-Special Judge Crime Against Women, Hazaribag in connection with Sessions Trial No. 189/2014/Sessions Trial No. 241/2015 with the condition that the appellant no. 1 and his bailors shall not change their address or mobile number without permission of the learned Trial Court.

However, we are not inclined to allow the prayer for bail of appellant no. 2. Accordingly, her prayer for bail is rejected.

Consequently, I.A. No. 1954 of 2021 stands disposed of.

(Aparesh Kumar Singh, J.)

(Anubha Rawat Choudhary, J.)