

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 418 OF 2008

MANJIT KAURAppellant

VERSUS

STATE OF PUNJABRespondent

WITH

CRIMINAL APPEAL NO. 1511 of 2008

O R D E R

Criminal Appeal No. 418 of 2008 and Criminal Appeal No. 1511 of 2008 were filed against the impugned judgment and order dated 28th September, 2007 passed by the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 689 of 1997 by which it has affirmed the judgment and order of the learned Additional Sessions Judge, Jalandhar dated 29th March, 1997 passed in Sessions Case No. 93 of 1996 by which and whereunder, the learned trial Court has acquitted the appellant Manjit Kaur of all charges but however, has convicted and sentenced the appellant Jagninder Singh for the offences punishable under Section 304B of the Indian Penal Code, 1860 (hereinafter referred to as "the Act").

The facts and circumstances giving rise to these appeals are that Smt. Surjit Kaur died within a period of two and a half years of her marriage on 18th March, 1995 on a date when she had planned to celebrate the birth of her one year old child and had invited her parents and other family members to also attend the said function. The husband of deceased Surjit Kaur was working as a truck driver. Her father-in-law was a retired army man and the father of the father-in-law was also alive and present. Appellant Manjit Kaur claims that she was working as a teacher and that at the relevant time, she had not been present at home. Smt. Surjit Kaur had suddenly fallen sick and thus she had been taken to the hospital, where she was declared as brought dead. The dead body was taken back to her house. Her parents were also informed on her death by the appellant Jagninder Singh and on the same day, an FIR was lodged by the father of deceased Surjit Kaur. The Police recovered the dead body, prepared the panchanama and sent the body of Surjit Kaur for post-mortem examination. The matter was investigated and charge-sheet was filed against the appellants. The appellants were charged under Section 498A and 304B IPC. The prosecution examined a large number of witnesses including Dr. Baldev Singh, PW 1 who had conducted the post-mortem examination. Upon conclusion of the trial, the appellant Jagninder Singh was convicted under Section 304B IPC and sentenced to a period of 10 years R.I. alongwith fine, though he was acquitted under Section 498A IPC. Appellant Manjit Kaur was acquitted of all charges.

Being aggrieved, appellant Jagninder Singh filed an appeal before the High Court. Against the acquittal of Manjit Kaur, the State preferred an appeal. Both the appeals were heard together and the High Court, vide its impugned judgment and order convicted both of them under Section 304B IPC and awarded them a sentence of 7 years.

Thus, the sentence awarded by the trial court to appellant Jagninder Singh was also reduced to 7 years by the High Court.

Hence, these two appeals.

We have heard Mr. S.K. Aggarwal, learned senior counsel for both the appellants, and Mr. V. Madhukar, learned AAG for the State of Punjab. The trial Court, as well as the High Court have proceeded on the basic charge of Section 304B IPC by appreciating the entire evidence. However, the medical report makes it crystal clear, that while convicting and awarding the sentence to the appellants, the Courts have taken note of only the minor injuries mentioned in the post-mortem report, and have completely brushed aside, and have not taken note of the serious injuries found on the person of the deceased Smt. Surjit Kaur. There is evidence on record to show this, which has also been proved by Dr. Baldev Singh, PW 1 in his statement that, "there was abnormal mobility of head at the neck". Further, "there was fracture of second and third cervical vertebrae".

Both the Courts below did not take note of these serious injuries or abnormalities, and instead, concentrated on minor injuries 1,2 & 3 mentioned in the post-mortem report, which are mere abrasions on the neck and the right knee of the deceased. The trial Court, after appreciating the evidence, came to the following conclusions:

"However, as regards accused Jagninder Singh, from the evidence on the record there is no manner of doubt that it was he who was responsible for causing the death of Surjit Kaur alias Parveen Kaur deceased who died due to poisoning as well as due to injuries caused to her. As stated above upon post mortem examination injuries were found on the neck and right knee of the deceased and the death of Surjit Kaur deceased was opined to be due to poisoning as well as injuries on her neck. Injuries on the person of Surjit Kaur deceased are of such a nature which would not be self suffered or self inflicted. Of course, Dr. Baldev Singh PW 1 stated in his cross examination that injuries on the neck of the deceased could be caused if the deceased struck against the Pawa(wooden arm of the Cot) and that injury on the right knee could also be the result of striking against some hard substance but there was no occasion for the deceased to sustain such injuries by striking against any hard substance and accused Jagninder Singh in fact appeared to be responsible for causing injuries to the deceased as well as for administering poison to her resulting in her death and was liable for the same."

In view thereof, we fail to understand that if the trial Court was of the considered opinion that it was a case of murder, and that the appellant Jagninder Singh was responsible for causing her death, causing the mentioned injuries, and administering the poison, then why could the trial Court not have altered the charges at such a stage, and have heard the parties on that issue. The High Court, without taking note of the serious injuries, has dealt in a casual and cavalier manner with the case, and has taken a more lenient view and reduced the sentence of appellant Jagninder Singh from 10 years to 7 years. After hearing the learned counsel for the parties and perusing the record, we were shocked at how the trial Court, as well as the High Court have dealt with such a serious matter. It is, thus, in the

interests of justice, that we set aside both the judgments and orders, and remand the cases to the trial Court. The evidence is already on record. If additional evidence is required in the opinion of the trial Court, the parties may be permitted to lead the same further, after altering the charge. The learned trial Court is directed to proceed in accordance with law.

As the matter is very old, we request the learned trial Court to conclude the fresh trial within a period of six months from the date of production of a certified copy of this order. We make it clear that any observation made by us shall not adversely affect either of the parties.

With these observations, the appeals are disposed of accordingly.

.....J.
(Dr. B.S. CHAUHAN)

.....J.
(S.A. BOBDE)

New Delhi,
July 23, 2013

ITEM NO.103

Court No.5

SECTION IIB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 418 OF 2008

MANJIT KAUR

Appellant (s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(With office report)

WITH CRL. APPEAL NO. 1511 of 2008
(With office report)

Date: 23/07/2013 These Appeals were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. S.K. Aggarwal, Sr. Adv.
Mr. Jitendra Sarin, Adv.
Mr. Arun K. Sinha, Adv.
Mr. Sinha Shrey Nikhilesh, Adv.

For Respondent(s) Mr. V. Madhukar, Adv.
Mr. Kuldip Singh, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

| (DEEPAK MANSUKHANI) | (M.S. NEGI) |
| Court Master | Court Master |

(Signed order is placed on the file)

