

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. 908 of 2003

Ramesh Chand and Ors.

Appellant (s)

Versus

State of Haryana

Respondent (s)

(With office report)

Date : 28-07-2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. AGRAWAL

HON'BLE MR. JUSTICE H.K. SEMA

For Appellant (s) Mr. U.R. Lalit, Sr. Adv.
Mr. Rishi Malhotra, Adv.
Mr. Prem Malhotra, Adv.For Respondent (s) Mr. Vinay Kumar Garg, Adv.
Mr. D.P. Singh, Adv.
Ms. Avneet Toor, Adv.UPON hearing counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

The appeal is allowed, convictions and sentences of the appellants are set aside and they are acquitted of all the charges. Appellant No. 1, Ramesh Chand and Appellant No. 2, Mool Chand, who are in custody, are directed to be released forthwith, if not required in any other case. Appellant No. 3, Smt. Krishna Kumari, who is on bail, is discharged from the liability of bail bonds.

[Alka Dudeja] [Om Prakash]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 908 OF 2003

Ramesh Chand and Ors....Appellant (s)

Versus

State of Haryana ...Respondent(s)

O R D E R

Heard learned counsel for the parties.

All the three appellants were convicted by trial Court under Section 304B read with Section 34 of the Indian Penal Code [for short 'the I.P.C.'] as well as Section 498A read with Section 34 I.P.C. and each one of them was sentenced to undergo rigorous imprisonment for a period of seven years and two years respectively. The sentences, however, were ordered to run concurrently. On appeal being preferred, the High Court of Punjab and Haryana upheld the conviction.

Hence, this appeal by special leave.

As decision of this appeal depends on a short question, it is not necessary to state the facts in detail. Suffice it to say that death had taken place within a period of six months from the date of marriage, which is less than the period of seven years, as such presumption can be raised under Section 113B of the Indian Evidence Act, 1972 that dowry death was caused provided it is proved that the woman was subjected to cruelty or harassment for or in connection with any demand for dowry soon before her death. The question, therefore, is: whether necessary facts to raise the presumption have been proved in the present case or not?

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Prosecution has attempted to prove the said facts by the evidence of P.Ws 4,5 and 7, out of whom P.W.4 is mother of the victim, P.W.5 is her brother and P.W.7 is her father. On the date of occurrence itself, i.e., on 9th December, 1987, when the mother, brother and father of the victim, namely, P.Ws 4,5 and 7 were in their house, they received information that the victim had committed suicide. Upon hearing the same, Kailash Chand, brother of the deceased, as also her father, P.W.7, went to the village of occurrence where in their presence last rites were performed, they did not suspect any foulplay and, accordingly, made statements before the Police to that effect. After two days, i.e., on 11th December, 1987, P.W.4, mother of the victim lodged First Information Report [for short 'the F.I.R.'], stating therein that her daughter was done to death as the demand of dowry was not fulfilled by parents of the victim. The defence has produced various letters written by the victim to her parents, sister, brother and husband and replies thereto, but in none of the letters there is any whisper whatsoever of dowry, much less torture, rather it shows that the relationship between the parties was very cordial. P.Ws 5 and 7 have nowhere stated as to why they did not suspect any foulplay. The prosecution has very strongly placed reliance upon P.W. 4, who is mother of the victim and informant in the case. The prosecution has attempted to show as to why the F.I.R. was lodged by the mother two days after the occurrence by setting up case that immediately after hearing the news of commission of suicide of the victim on 9th December, 1987, mother became unconscious and after she regained consciousness, on 11th December, 1987, F.I.R. was lodged. This stand of the prosecution is self contradictory as P.W. 4 herself stated that she regained consciousness in the night itself of 9th December, 1987. Thus, there was no reason for her not to go to the village of occurrence on the 10th December, 1987, on which day

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cremation was done. Her stand that she was unconscious till 11th December, 1987 is further contradicted by the evidence of defence witnesses, who stated that P.W. 4 was very much present in the village of occurrence at the time of cremation on 10th December, 1987. That apart, the statement of P.W.4 that the victim had been making complaint to her regularly about demand of dowry and torture by her in-laws is not supported by any documentary evidence, as in none of the letters any case of torture or demand of dowry is disclosed. Apart from that P.W.5, for the first time in Court stated that her mother disclosed that the victim complained to her about the demand of dowry and torture as this witness did not make any such statement before the Police. This being the position, we are of the view that it would not be safe to place reliance upon the evidence of P.Ws 4,5 and 7 and, consequently, the prosecution has failed to prove its case beyond reasonable doubts and the High Court was not justified in upholding convictions of the appellants.

Accordingly, the appeal is allowed, convictions and sentences of the appellants are set aside and they are acquitted of all the charges. Appellant No. 1, Ramesh Chand and Appellant No. 2, Mool Chand, who are in custody, are directed to be released forthwith, if not required in any

other case. Appellant No. 3, Smt. Krishna Kumari, who is on bail, is discharged from the liability of bail bonds.

.....J.
(B.N. Agrawal)

.....J. (H.K. Sema)

New Delhi,
July 28, 2004.