

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.369 OF 2005

SHEELA DEVI ... APPELLANT(S)

VERSUS

STATE OF HARYANA ... RESPONDENT(S)

O R D E R

The appellant, aggrieved by the order by which she has been summoned to face the trial in exercise of the power under Section 319 of the Code of Criminal Procedure for offence under Section 304-B of the Indian Penal Code ("IPC" for short), is before us with the leave of the Court.

Prosecution started on the basis of a report given by PW 1 Jagdish Rai before the Sadar Hansi Police Station on 24.08.2002. According to the report, his daughter, Sudesh, was married to Vinod Kumar on 16.10.1997. After the marriage, she was subjected to cruelty by her husband and other relatives of her husband. She died due to poisoning.

The Police investigated the case and the other accused persons were chargesheeted but the appellant herein was found innocent and left out.

During the course of the trial of the accused, the father, Jagdish Rai, appeared as Prosecution Witness No. 1. Thereafter, an application was filed for summoning the appellant to face the trial. The trial court considered that prayer and summoned the appellant to face the trial under Section 304-B of the IPC in exercise of power under Section 319 of the Code of Criminal Procedure. The said order had been affirmed by the High Court.

It is in these circumstances that the appellant is before us.

Mr. K.G. Bhagat, learned counsel appearing on behalf of the appellant, submits that admittedly the appellant is the married sister-in-law of the deceased with three children and on the basis of vague statement of PW 1 Jagdish Rai, she ought not to have summoned. He further points out that the appellant herein was married much before the marriage of the deceased. This fact is admitted by PW 1 Jagdish Rai in his cross-examination.

Mr. Manjit Singh, learned Additional Advocate General appearing on behalf of the respondent-State of Haryana, however, submits that there is evidence to connect the appellant with the crime and hence she had rightly been summoned to face the trial. In this connection, he has drawn our attention to the evidence of PW 1 Jagdish Rai.

We have bestowed our consideration to the rival submissions and find merit in the submission of Mr. Bhagat.

Although, PW 1 Jagdish Rai, in his evidence, has named the appellant several times but has not stated anything as to how she is connected with the harassment of the deceased. Simply because certain amount was paid in her presence to other accused will not expose her for commission of the offence under Section 304-B of the IPC.

In view of the vague and uncertain evidence of PW 1 Jagdish

The appeal is allowed in terms of the signed order.

| (S.K. Rakheja)
| Court Master

| |(Indu Satija)
| | Court Master

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(Signed order is placed on the file)