

\/
Crl.A.No. 1054 OF 1997
ITEM No.101

Court No. 4

SECTION IIA

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. 1054/1997

Maniram

Appellant (s)

VERSUS

State of Haryana
(With office report)

Respondent (s)

Date : 17/03/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P.SINGH
HON'BLE MR. JUSTICE S.B.SINHA

For Petitioner (s) Ms. Shilpa Chohan, Adv.
Mrs. Lalitha Kaushik, Adv.
Mr. D.P.Arya, Adv.

For Respondent (s) Mr. D.P.Singh, Adv.
Mr. V.K.Garg, Adv.
Ms. Sanjay Jain, Adv.

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

The Criminal appeal is, therefore, allowed. The conviction and sentence imposed on the appellant are set aside. His bail bonds are discharged.

(Shashi Sareen)
Court Master

(Prem Prakash)
Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1054 OF 1997
MANIRAM

...
Appellant (s)
Versus

STATE OF HARYANA
...
Respondent(s)

J U D G M E N T

Mani Ram the appellant herein was put up for trial before the Sessions Judge, Sirsa charged of the offence under Section 306 I.P.C. for abetting the commission of suicide by his wife Savit

ri.

The learned Sessions Judge by his judgment and order of November 12, 1986 found the appellant guilty of the offence and sentenced him to undergo rigorous imprisonment for seven years and a fine of Rs. 500/- and in default of payment of fine to undergo further rigorous imprisonment for a period of six months. The appeal preferred by the appellant before the High Court of Punjab & Haryana at Chandigarh was dismissed by its impugned judgment of March 14, 1997.

We may notice at the threshold that there is no direct evidence to convict the appellant of the offence. This is also not a case where the presumption under section 113(A) of the Indian Evidence Act is available to the prosecution since the marriage is said to have taken place about 21 years before the death of the wife.

A report was lodged by Narsi Ram brother of the deceased at police station Rawatsar on 19.10.1985 stating that his sister Savitri was married to the appellant about 20-21 years ago and since she was then a child, she was sent to village Ganga her matrimonial home after several years. The report refers to certain disputes that arose between the informant and the appellant and further refers to the fact that Savitri, the deceased ultimately joined her husband and lived with him for about two years and gave birth to a son at village Ganga. It was complained that in the month of July, 1985 she reported of maltreatment by her husband, and the informant had gone to village Ganga to persuade the appellant to keep his wife with him. On 22.8.1985 the informant was informed that his sister was not seen in village Ganga and therefore the informant along with his son went to village Ganga in search of his sister Savitri and searched here and there. On 26.8.1985 the dead body of his sister was recovered from Phoharka Headworks of Rajasthan canal. Information thereof was given to police station Rawatsar. It was alleged that his sister had committed suicide on account of the fact that her husband had performed a second marriage, and also on account of the fact that he used to maltreat her.

We also find from the evidence on record that the body had decomposed to such an extent that it was not possible to identify the deceased. The tattoo marks were also found to have disappeared. The medical officer Dr. Bhim Singh testified that the dead body was identified by the informant. No injury was found on the dead body and after post mortem no opinion could be given regarding cause of death. The tattooing marks are also stated to have vanished. It is, therefore not clear as to whether the deceased had committed suicide by consuming poison or by drowning herself, because if she had consumed poison there was no question of her committing suicide by drowning herself in the canal. In these circumstances even the identification of the dead body by the informant appears to be doubtful. There is another aspect of the matter which came to our notice. The dead body is alleged to have been recovered from the canal on 26.8.1985 and an entry was made in DD No. 864 on that very day at the police station, but the case was registered on the basis of the statement recorded on 19.10.1985 almost two months thereafter. We fail to understand why the statement of the informant was recorded for the first time on 19.10.1985 when the body had been recovered two months earlier, and according to the informant he had identified the dead body as that of his sister. The evidence of the witnesses does not advance the case of the prosecution because there is no evidence to show that the deceased was either carried to the canal and her body thrown in the canal, or that she was poisoned by her husband. Of course the case of the prosecution is that she committed suicide but even if that be so there is no evidence to inculcate the appellant. Having regard to the facts and circumstances of the case, there is no evidence to suggest that the appellant abetted the commission of suicide which is punishable under section 306 IPC. The appeal is, therefore, allowed. The conviction and sentence imposed on the appellant are set aside. His bail bonds are discharged.

.....J.

(B.P.SINGH)

.....J.

(S.B.SINHA)

New Delhi,
MARCH 17, 2004.