

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). 177 OF 2004

RAJ KUMAR & ORS. Appellant (s)

VERSUS

THE STATE OF PUNJAB Respondent(s)

(With office report)

Date: 08/10/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI

HON'BLE DR. JUSTICE B.S. CHAUHAN

For Appellant(s) Mr. R.K.Talwar,Adv.

Mr. S.L. Aneja,Adv.

For Respondent(s)

Mr. Kuldip Singh,Adv.

UPON hearing counsel the Court made the following

O R D E R

So far as Raj Kumar and his mother Sita Rani are concerned, the appeal is allowed and so far as Subhash Chander is concerned we reduce the sentence from 10 years to seven years R.I. With this minor modification in the sentence his appeal is dismissed..

[SUMAN WADHWA]
COURT MASTER[VINOD KULVI]
COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 177 OF 2004

RAJ KUAMR & Ors. .. APPELLANT(S)

vs.

THE STATE OF PUNJAB .. RESPONDENT(S)

O R D E R

This appeal by way of special leave has been filed on behalf of Raj Kumar, husband of the deceased Varsha Rani, his mother Sita Rani and his first cousin Subhash

Chander. The trial Court convicted them and Kaushalya Rani for an offence punishable under Section 304-B of the I.P.C. and sentenced Raj Kumar and Subhash Chnader to undergo R.I. for 10 years while Sita Rani and Kaushalya Devi were sentenced to undergo R.I. for 7 years. On appeal, the High Court by the impugned judgment confirmed the conviction and sentence of three of the accused but acquitted the 4th accused Kaushalya Rani, the mother of Subhash Chander.

The facts leading to this appeal are as under:

Varsha Rani and Raj Kumar were married on 4th October, 1987. At the time of the marriage PW.7 - Munshi Ram, father of Varsha Rani gave dowry as per his capacity.

It appears that soon after the marriage all the appellants,
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who resided in a one room tenement, raised demands for more dowry and some cash had in fact been given by Munshi Ram to his daughter who had passed it on to her in laws. On

account of the dispute between the parties a Panchayat had also been called and some assurance had been held out by Raj Kumar that he would not misbehave in future. Pursuant to the proceedings before the Panchayat and about four or five days before the date of occurrence, PW.11 Sikandar Lal along with PW.7 Munshi Ram visited Varsha Rani to enquire about her welfare. Varsha Rani told them that the four

accused were harassing her continuously for more dowry and had threatened that in case the demand was not satisfied she would be done to death so that Raj Kumar could take another wife. Munshi Ram however advised Varsha Rani to

accept the situation as he was a poor person, and thereafter returned home. On 29th June, 1987 Munshi Ram

received the news that Varsha Rani had been burnt alive by her in-laws after sprinkling kerosene oil upon her, on which he rushed to her in laws' home along with his son Sikandar Lal and from information gathered by him was able to ascertain that Varsha Rani had been burnt at about 7.30

p.m. on 28th June, 1988 and that she had received very extensive burn injuries on almost all parts of the body and had been admitted to the hospital by Subhash Chander. An

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FIR was thereupon lodged in Police Station Division No.5, Ludhiana and after investigation the accused were charge-sheeted and sent up for trial. The trial Court relying on the evidence of PW.7 Munshi Ram and his son PW.11 Sikandar Lal and PW.8 Manohar Lal who too had been a witness to the efforts towards effecting a compromise between the parties, and the medical evidence given by Dr. J.S. Grewal (PW.2) and relying on the presumption raised under Section 113-B of the Evidence Act convicted and sentenced all the accused for an offence under Section 304-B as indicated above. This judgment was largely confirmed by the High Court in appeal with the distinction that Kaushalya Rani was acquitted. The other three accused who were before the High Court are now before us.

Mr. R.K. Talwar, the learned counsel for the appellants has pointed out that there was no evidence to suggest that the appellants were in any way involved in Varsha Rani's death as it appeared from the evidence that her clothes had caught fire accidentally while she was in the process of lighting a lantern. He has further submitted that an FIR had been lodged after a very long time and after a compromise between the parties had failed and the story had been concocted in the interregnum. He has accordingly pleaded that the appeal ought to be allowed and

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an acquittal in toto in respect of the appellants be granted by this Court.

Mr. Kuldip Singh, the learned State counsel has, however, supported the judgment of the High Court and has pointed out that it was clear from the evidence of PW.7 Munshi Ram that all the appellants had been involved in treating Varsha Rani with cruelty and as all of them were

living together in a room tenement, it had to be assumed that the cruelty had been jointly meted out to her and that no interference was thus called for with the impugned judgment.

We have considered the arguments advanced by the learned counsel for the parties. It is true, as contended by Mr. Talwar, that there is some delay in the lodging the FIR. To our mind, however, the delay in such like matters cannot be fatal to the prosecution. It has to be borne in mind that matters arising out of a matrimonial dispute are always extremely sensitive and it is after serious consideration and debate amongst the victims family that the FIR is lodged. It has come in the evidence of Munshi Ram that they too had considered the matter in its entirety and it was only after he had been advised by his relatives, that a formal FIR had been lodged.

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On the contrary, we find that the medical evidence supports the view that the burns could not have been accidental in nature. We have gone through the evidence of Dr. J.S. Grewal (PW.2) and he reported that there were superficial to deep burn injuries all over the body and the smell of kerosene was present and the condition of the deceased was very serious and that in the case of accidental burn injuries as suggested by the defence, the injuries would have been on the front portion of the body and not all over as a lantern ordinarily can hold only a small quantity of kerosene oil. The presence of injuries on the front and the rear of the body to our mind indicates that the kerosene had been poured on the body and had caused the very severe injuries over the lumbar portion. We are, therefore, of the opinion that the medical evidence supports the view that the unnatural death could not be attributed to an accident. The presumption raised against the appellants under Section 113-B of the Evidence Act,

thus, stares the appellants squarely in the face.

We have also examined the argument of Mr. Talwar with respect to the involvement of the various appellants. We have gone through the evidence of PW.7 and PW.11 as also the First Information Report. We observe that the primary

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role in the incidents of harassment has been given to Subhash Chander and there is no specific allegation either against the husband Raj Kumar or his mother Sita Rani. In

the light of this fact we believe that the involvement of these two persons is suspect. To our mind therefore they

are entitled to the benefit of doubt and having said so we acquit them by allowing the appeal. The involvement of

Subhash Chander is however explicitly spelt out from the evidence of PW.7 and PW.11. Mr. Talwar's argument that

Subhash Chander had carried the injured Varsha Rani to the hospital and had admitted her therein was an indication of his innocence is to no avail and this fact by itself will not absolve him of this involvement in the incident which happened only about 8 months after the marriage. However,

keeping in view the principles laid down by this Court in respect of an offence under Sec.304-B of the IPC we reduce the sentence of Subhash Chander from 10 years to seven years R.I. With this minor modification in the sentence his appeal is dismissed.

.....J.
(HARJIT SINGH BEDI)

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

New Delhi,
October 8, 2009.