

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.542 OF 1997

State of Haryana Appellant (s)
VERSUSRam Kumar and Ors. Respondent (s)
(With office report)

Date : 20/11/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr. Vinay Kumar Garg,Adv.

For Respondent (s)Mr. Rao Ranjit,Adv.

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

The appeal is allowed so far as respondent No.1 Ram Kumar is concerned. He shall surrender to custody to suffer the sentence of imprisonment for life. The appeal fails so far as respondent Nos. 2 and 3 are concerned. The bail bonds be discharged.

(Neena Verma) (Vijay Aggarwal) Court Master Court Master

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.542 OF 1997

State of Haryana..... Appellant

Versus

Ram Kumar and Ors..... Respondents

O R D E R

Heard.

The State of Haryana is in appeal against the judgment of acquittal rendered by a Division Bench of the Punjab and Haryana High Court. The respondents faced trial for alleged commission of offences punishable under Section 302, 201, 304-B, 498-A read with Section 34 of the Indian Penal Code, 1860 (in short the 'IPC'). Each of the accused-respondents was awarded life imprisonment and one year's imprisonment for each of the other two offences noted above. The accused persons were also sentenced to undergo rigorous imprisonment for two years for the offence relating to Section 201 IPC. They preferred appeals before the High Court, which, by the impugned judgment, held the accused-respondents not to be guilty.

The prosecution version, as unfolded during trial is that Dharamwati (hereinafter referred to as 'the deceased') was married to Ram Kumar, accused-respondent No.1. Her dead body was found near the railway track on 22.09.1991. When the dead body was discovered, it was noticed that she had been run over by a train. While conducting post mortem, the Doctor noticed that there were strangulation marks on the neck of the deceased and the said injury was ante-mortem in nature. Information was lodged at the police station and after investigation, charge-sheet was placed alleging commission of offences, as noted above. The accused-persons faced trial. They pleaded innocence. In their statement recorded in terms of Section 313 of the Code of Crimi

nal Procedure, 1973 (in short 'the Code'), it was pleaded that the deceased had committed suicide and this was not a case of murder or a dowry death, as alleged by the prosecution. Two witnesses, namely, PW-6 is stated to have seen the accused persons carrying the deceased on a cot towards the railway line, while PW-12 about the alleged extra-judicial confession relating to the killing. Analysing the evidence of witnesses who spoke about the dowry demands, the Trial Court found that a case of dowry death, as provided in Section 304-B IPC was clearly made out and also a case of Section 498-A IPC. Before the High Court, the primary stand of the accused was that demand of dowry has not been made out and the witnesses have made exaggeration while speaking about the alleged demand of dowry. The evidence of PWs. 6 and 12 was also characterised to be unreliable and incredible. The High Court found that this was basically a case of circumstantial evidence and held that the testimony of PWs.6 and 12 does not appear to be cogent. Accordingly, it was held that the prosecution was unable to establish its case.

In support of the appeal, learned counsel for the appellant-State submitted that several factors substantiated the prosecution version. Firstly, the demand of dowry has been clearly established by the version of several witnesses. Merely because the particulars of the demand of dowry in certain instances were not given, that does not corroborate credibility of the prosecution version. Even if one accepts the statement that the deceased had the habit of running away, there was nothing on record, as surmised by the High Court about any suicidal tendency.

In his examination under Section 313, Cr.P.C., in order to explain the strangulation marks, an effort has been made by respondent No.1 to say that the death was suicidal in nature. The evidence of PW-6 also establishes that he had seen the accused persons carrying the deceased on a cot. There is no reason as to why he, an unrelated and independent person, would falsely implicate the accused persons. So far as PW-12 is concerned, he was known to the accused persons and was also a person on whom the accused persons could repose confidence and make a confession about the killing. In these circumstances, it was submitted that the High Court erred in directing acquittal.

In response, learned counsel for the accused-respondents submitted that in a case which is based on circumstantial evidence, the chain of circumstances should be a complete one with no missing links. In the case at hand, though the death is unnatural, there must be evidence to show that dowry demand was the cause of the death. The evidence of the relatives who have stated about the demand of dowry is full of exaggerations and the High Court has rightly discarded it. Additionally, it is submitted that there is no evidence which links the parents of accused No.1 Ram Kumar to the crime. The evidence of the prosecution witnesses falls short of establishing the accusations so far as they are concerned.

We have considered the materials on record.

Several factors need to be noticed in the background of the submissions made by learned counsel for the parties. The evidence of the witnesses who have stated about the demand of dowry at least on one count is consistent i.e. the demand of a Scooter as a dowry after birth of the child. Even though, in other instances, the details of the articles demanded were not given, that does not per-se, render the version of the witnesses unreliable. There may be an improvement but it is not an omission to warrant outright rejection of the evidence. Additionally, respondent No.1, Ram Kumar has not explained as to how the deceased was not found in the house and why no effort was made to know her whereabouts. That is an unnatural conduct. The false explanation given about the suicide which falls flat in view of the medical evidence also strengthens the prosecution version. The evidence of PW-6, who has seen the husband carrying the deceased has also a ring of truth. Therefore, the accused No.1, respondent-Ram Kumar had been rightly convicted by the Trial Court and the High Court was not justified in upsetting the conviction and consequential sentence so far as he is concerned.

So far as the other two respondents are concerned, the evidence is not strong enough as to prove their involvement. They have been rightly extended the benefit of doubt on that score. In the ultimate result, the appeal succeed so far as respondent No.1 Ram Kumar is concerned. He shall surrender to custody to suffer the sentence of imprisonment for life which was awarded by the Trial Court. The conviction of Ram Kumar under Sections 498-A and 201 IPC is restored with the respective sentence that was imposed by the Trial Court. Both the sentences to run concurrently. The appeal fails so far as other respondents, i.e. respondent Nos. 2 and 3 are concerned. Their bail bonds be discharged.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
November 20, 2003.

