

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). 166 OF 2008

MANOHAR LAL AND ANR. Appellant (s)

VERSUS

STATE OF HARYANA Respondent(s)

(With office report )

Date: 10/08/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Appellant(s) Mr. K.B.Sinha, Sr. Adv.  
Mrs. Kawaljit Kochhar, Adv.  
Mr. Ashok K. Sharma, Adv.  
Ms. Kusum Chaudhary, Adv.

For Respondent(s) Mr. Kamal Mohan Gupta, Adv.  
Mr. Gaurav Teotia, Adv.  
Mr. Sanjeev Kumar, Adv.

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

The 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. 166 OF 2008

MANOHAR LAL AND ANR. .. APPELLANT(S)

vs.

STATE OF HARYANA .. RESPONDENT(S)

O R D E R

Hoshiar Singh, the deceased, Hari Singh-the complainant (PW.7) and Shish Ram (PW.6) were brothers. The Appellant-Sheela Devi was the wife of Hoshiar Singh. The couple had two daughters - the elder one being already

married and the younger one only six-seven years of age at the time of occurrence. Hoshiar Singh was a simpleton and taking advantage of his limitations Sheela Devi developed an illicit relationship with Manohar Lal-co-appellant about two years before the incident and about one year before the incident she got about three acres of land of her husband transferred in her name and thereafter sold the land to a third party under the influence of Manohar Lal and her brother Lakhmi Chand. This development annoyed Hoshiar Singh and he and Sheela Devi had frequent quarrels on that account. It is the case of the prosecution that Sheela Devi, Manohar Lal and Lakhmi Chand thereupon decided to get rid of Hoshiar Singh so that the entire dispute would come

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to an end and as a consequence thereof the three of them, as per the allegations, set Hoshiar Singh on fire on the 21st march, 2002 leading to his death. As per the prosecution story this incident was seen by Birma (PW.12) the wife of Hari Singh (PW.7) and she told her husband as to what had transpired on which Hari Singh first went to Rewari to inform his brother Shish Ram (PW.6) about the incident, and thereafter returned home and lodged the First Information Report on the 22nd March, 2002. A police party then visited Sheela Devi's home and found the dead body lying therein. In the course of the investigation the police also recorded the statements of Shishram (PW.6), and as per the prosecution story, Birma (PW.12) as well, in addition to the statement of the Doctor, Rajesh Kumar, who had conducted the post-mortem examination on the dead body. Lakhmi Chand aforesaid died during the investigation whereas Sheela Devi and Manohar Lal were charged for offences punishable under Sections 302/201/34 of the IPC and were accordingly brought to trial. The Trial Court relying on the evidence of Dr. Rajesh Kumar and observing that the case was largely based on circumstantial evidence

as there was no eye witness to the murder convicted the appellants of the aforesaid offences and sentenced them accordingly. This judgment of the Trial court has been affirmed by the High Court in appeal.

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We have perused the judgments of the Trial Court and the High Court very carefully with the assistance of the learned counsel for the parties. It will be seen that the High Court was fully aware of the fact that the case rested on circumstantial evidence which was, inter alia, that as the incident had happened sometime during the late night or early hours the appellant Sheela Devi being the wife of the deceased, was called upon to furnish an explanation as to her husband's unnatural death as she would be presumed to have the special knowledge as envisaged under Section 106 of the Indian Evidence Act, but as she had withheld the information of the death from the relatives of the deceased who were living close by which indicated that she was guilty of the murder. The Court also observed that the illicit relationship between the two appellants was writ large on the facts of the case as it had come in the evidence of Shish Ram and Hari Singh PW.s' that it was about two years prior to the incident that two had got involved and that the deceased being a simple person had been persuaded to transfer his land to Sheela Devi which she had later been sold on the advice of Manohar Lal and Lakhmi Chand, a development which had greatly annoyed him. The argument made before the Courts that as the question of illicit relationship had not been put to the accused in their statements under Section 313 of the Cr.P.C. had to be ruled out of consideration was rejected on the ground

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that the accused were fully aware of the circumstance against them more particularly as the ruqqa Ex. PF which formed the basis of the FIR specifically referred to the

relationship and the ruzqa has been put to the accused during the course of the evidence and that the suggestions made by the defence counsel in the cross-examination of PWs. 6 and 7 clearly revealed that they were fully conscious of the allegations pertaining to the involvement of the two appellants.

It would be seen that Hoshiar Singh and his brothers were living close by. The High Court has found that the statement of Birma (PW.12) was uncertain in the light of the fact that her statement had not been recorded under Section 161 of the Cr.P.C. but the Court has nevertheless relied fully on PWs. 6 and 7. We also find that the incident admittedly happened in the house of the couple and during odd hours when the husband and wife would alone be expected to be together at home and Sheela Devi, but for a bare denial, has not furnished any explanation as to how and in what circumstances the incident had happened. The High Court was therefore right in holding that in the circumstance in which Sheela Devi had been placed she was called upon to furnish some explanation.

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We see from the evidence of PWs. 6 and 7 that they had stated right from the beginning that the two appellants were involved in an illicit relationship and that it was on account of the influence of Manohar Lal and Lakhmi Chand that Sheela Devi had sold the land which had been transferred in her name by her husband. We also see from the record that the parties involved were Jats and therefore agriculturists and one would expect that they could possibly involve Sheela Devi in a case of her husband's murder to grab her property. This is however a possibility which has to be ruled out in the circumstance that the couple had two children one a married daughter and the other a girl of tender age and the two sisters would inherit their father's property and not PW.'s 6&7.

We thus find no error in the judgments under appeal.

Dismissed.

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

.....J.  
(GYAN SUDHA MISRA)

New Delhi,  
August 10, 2011.