

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2046/2009

SANJIV KUMAR

Appellant(s)

VERSUS

STATE OF PUNJAB

Respondent(s)

O R D E R

1. This appeal has been filed against the judgment and order dated 31.01.2009 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No.165-DB of 2006, whereby the appeal of the appellant has been dismissed and his conviction under Section 304B/34, Indian Penal Code (IPC) has been maintained. However, the High Court reduced his sentence from life imprisonment to 14 years rigorous imprisonment.

2. The facts of the case are that on 14.4.2000 Sher Singh (PW-3) had performed the marriage of Kiran Bala with accused Sanjiv Kumar-appellant herein, son of Ajmer Singh, resident of Dera Bassi. After sometime, the in-laws of Kiran Bala started ill treating her, stating that she had brought less dowry at the time of marriage. About 1-1/2 years after the marriage, Kiran Bala gave birth to a male child. When she went back from the house of her father Sher Singh she was given gifts as per the custom. After about 4/5 months of sending her back after the birth of the

male child, Kiran Bala wrote a letter to her parents that all the members of the family and relatives of her husband were taunting her for getting less dowry. In her letter she said that her husband and her in-laws were demanding one car or Rs.1.5 lakh. About 4-5 days before the incident Sher Singh's son Ravinder Kumar had gone to Dera Bassi to bring Kiran Bala back. In the presence of his maternal uncle Dayal, Sanjiv Kumar demanded Rs.50,000/- so that he could marry his sister which was to take place on 22.11.2002. He further stated that it is only when the amount is paid, he would allow Kiran Bala to go to her parents' house. Ravinder Kumar came back and told everything to his father and mother. On 28.10.2002 at 2.30 a.m., Sher Singh's brother-in-law Puran Chand resident of Dera Bassi sent a telephonic message that Kiran Bala had been burnt and killed by her in laws on 27.10.2002 at about 11.30 p.m. Sher Singh along with his two sons Ravinder Kumar, Satish Kumar and Shiv Lal and Vinod Kumar went from Karnal to Dera Bassi. When they reached the house of Kiran Bala, they came to know that kerosene oil had been sprinkled on her by her husband Sanjiv Kumar, her father-in-law Ajmer Singh, her mother-in-law Amar Kaur @ Amro, her sister-in-law Sanjana and Rosy and maternal uncle Dayal. She was burnt to death. On the basis of this statement, FIR Ex.PA/3 was recorded on 28.10.2002 at 6.40 a.m. at police station Dera Bassi.

3. The police party visited the spot. A can of plastic and one half burnt match box and ash were taken into possession through recovery Memos Ex.PA and PB. Ornaments of the dead body were taken in possession through recovery memo Ex.PC. Site plan Ex-PF was prepared. Inquest report Ex.PH was also prepared. The post mortem of the dead body Ex.PG was conducted. Accused persons were arrested. After the completion of investigation, only three of the accused, namely, Sanjiv Kumar, his mother Amar Kaur and father Ajmer Singh were challaned under Section 304B/34 IPC. All the accused were charge-sheeted for offence under Section 304B read with Section 34 IPC and also alternatively charged for offence under Section 302 read with Section 34 IPC. All accused abjured the guilt and claimed trial.

4. In support of its case, prosecution examined Constable Ajit Singh(PW-1), Shamsher Verma (PW-2), Sher Singh-complainant(PW-3), Sumitra Devi (PW-4), Krishna Chand Bansal(Draftsman)(PW-5), Dr. D.S. Bhullar (PW-6), Ravinder Kumar (PW-7) and SI Tejinder Singh (PW-8).

5. Accused Sanjiv Kumar denied the allegation regarding maltreatment and demand of dowry and claimed that he was falsely implicated.

6. In his examination, Sher Singh-complainant (PW-3) stated that his daughter Kiran Bala was married with accused Sanjiv Kumar on 14.4.2002. He stated that Kiran Bala used to write letters to them that Sanjiv Kumar and

her in-laws used to maltreat and harass her for dowry. She wrote a letter that they were demanding a car or otherwise Rs.1.5 lac. 4/5 days prior to the death of Kiran Bala, her brother Ravinder Kumar went to Dera Bassi to the house of the accused to bring Kiran Bala. According to him on return, Sanjiv Kumar demanded Rs.50,000/- for the marriage of Rozy, his sister, in the presence of all his family members and uncle Dyal Ram. Accused Sanjiv Kumar told him that they would sent Kiran Bala with him only if their demands are met. On 28.10.2002, his brother in law Puran Chand, informed on telephone that Kiran Bala was murdered by her in-laws by pouring kerosene oil on her body. The witness further deposed that the letters Exs. PB to PE were written by Kiran Bala to him and identified the signatures and hand writing.

7. Sumitra Devi (PW-4), mother of deceased Kiran Bala also stated that the accused were maltreating her daughter for dowry. She stated that 3-4 months after the birth of the child, a letter was received from Kiran Bala in which demand of Rs.1.5 lac or car was made. She further stated that Kiran Bala used to tell her that less dowry articles were given in the marriage and she was not beautiful and is of more age than Sanjiv Kumar and she was being subjected to cruelty. She also identified the hand writing of her daughter Kiran Bala on letters Ex. PB/1 to PE.

8. The third material witness was Ravinder Kumar(PW-7)

brother of deceased Kiran Bala. He also stated that after the marriage his sister was maltreated for less dowry. About 1-1/2 years back Kiran Bala had given birth to a son. After 4-5 months she sent a letter in which she mentioned the demand of Rs.1.5 lakh or car made by the accused. Prior to her death, he went to her in laws and in his presence, the Sanjiv Kumar and all accused persons demanded Rs.50,000/- and only then she will be sent with them. He further stated that on receipt of information about the death of Kiran Bala on 28.10.2002 he along with his father, uncle Puran Chand, maternal uncle Shiv Lal went to the house of accused where they found the dead body of his sister in a store. He further stated that a plastic can, match box in burnt condition and ash were recovered and taken into possession by the police.

9. Dr. D.S. Bhullar, Medical Officer (PW-6) who conducted post mortem (Ex.PG) proved medico legal examination of Kiran Bala. He stated that protrusion of tongue was present, scalp hair, eyebrows and axillary hair were burnt. There was a strong smell of burning. The probable time between the death and burning was immediate and the death was due to burns which were ante mortem in nature and were sufficient to cause death in ordinary course of nature. He reiterated his stand in the cross examination as well.

10. The trial Court held that accused Sanjiv Kumar, his

mother Amar Kaur @ Amro, his father Ajmer Lal and sister Sanjana were harassing deceased Kiran Bala and subjecting her to cruelty on account of less dowry with the result that Kiran Bala ended her life and held that the offence under Section 304B/34, IPC was proved against them beyond all reasonable doubts. Accused Sanjiv Kumar was convicted under Sections 304B/34, IPC and was sentenced to life imprisonment and to pay fine of Rs.5,000/- and in default to further undergo RI for 2 years. Accused Ajmer Singh and Amar Kaur were convicted under Sections 304B/34, IPC and were sentenced to undergo RI for ten years each and to pay a fine of Rs.5000/-each and in default to further undergo RI for two years each. Sanjana Rani was convicted under Sections 304B/34, IPC and was sentenced to undergo RI for seven years and to pay a fine of Rs.2000/- and in default, to further undergo RI for one year.

11. Aggrieved thereby the accused persons filed Criminal Appeal No.165/2006 in the High Court. The High Court vide its order dated 31.01.2009 allowed the appeal qua accused Ajmer Singh, Amar Kaur and Sanjana Rani but dismissed the appeal qua accused Sanjiv Kumar. However, the sentence of accused Sanjiv Kumar was reduced from from life imprisonment to 14 years rigorous imprisonment.

12. We have heard learned counsel for the parties at length.

13. In the facts and circumstances of the case and

considering the submission of Dr.D.S. Bhullar(PW-6), post mortem report(Ex.PG) as also the dowry demand and close proximity of date of performance of marriage from the date of death, we are satisfied that the conviction of accused-appellant Sanjiv Kumar has been rightly recorded under Section 304B/34, IPC.

14. We, therefore, find no ground to interfere with the impugned judgment in view of the statements of the witnesses Sher Singh (PW-3), Sumitra Devi (PW-4) and Ravinder Kumar (PW-7) who have been rightly relied upon as also the post mortem report (Ex.PG).

15. The Criminal Appeal is dismissed.

.....J.
[ARUN MISHRA]

.....J.
[NAVIN SINHA]

NEW DELHI;
FEBRUARY 20, 2019.

ITEM NO.111

COURT NO.5

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Date : 20-02-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE NAVIN SINHA

For Appellant(s) Mr. Anil Kaushik, Adv.
Mr. Tanmaya Mehta, Adv.
Mr. Abhishek Mishra, Adv.
Mr. Akash Bhardwaj, Adv.
Ms. Arunima Dwivedi, AOR

For Respondent(s) Mr. Sangram S. Saron, Adv.
Ms. Jaspreet Gogia, AOR

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

The Criminal Appeal is dismissed in terms of the signed order.

Pending application, if any, stands disposed of.

(ASHA SUNDRIYAL)
COURT MASTER(JAGDISH CHANDER)
BRANCH OFFICER

[signed order is placed on the file]