

## IN THE SUPREME COURT OF INDIA

## CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2062 OF 2010

RAJESH KUMAR ... APPELLANT(S)

VERSUS

STATE OF PUNJAB ... RESPONDENT(S)

## O R D E R

The appellant, aggrieved by his conviction under Section 304-B of the Indian Penal Code ("IPC" for short) and sentence of rigorous imprisonment for ten years and fine of Rs. 3,000/-, in default, to suffer further rigorous imprisonment for six months, is before us with the leave of the Court.

According to the prosecution, the marriage between the appellant-Rajesh Kumar and Manju @ Renu (hereinafter referred to as the deceased) took place on 9.07.1988. It is alleged that at the time of marriage the parents of the deceased gave sufficient dowry but her husband and in-laws were not satisfied with that. It is further alleged that on 5.01.1992, the deceased and the appellant herein visited the house of PW-5 Hari Om, who happens to be the brother of the deceased, and demanded a sum of Rs. 50,000.00. According to the prosecution, the appellant asked the said payment to be made forthwith but the father of the deceased, Kishan Chand, regretted his inability to meet the demand inter alia saying that he had given sufficient dowry at the time of the marriage. Thereupon, the appellant took the deceased forcibly to his house on 6.01.1992. On the same day, Manju sustained burn injury and, ultimately, succumbed to the said injury on 10.01.1992.

The trial court on appreciation of the evidence adduced before it came to the conclusion that all the ingredients satisfying the requirement for an offence under Section 304-B of the IPC are proved and accordingly convicted and sentenced the appellant, as above. The High Court reappraised the evidence and affirmed the order of the conviction and sentence.

There is an overwhelming evidence in the case that the marriage between the appellant and the deceased had taken place on 9.07.1988 and the death had taken place on 10.01.1992 i.e. within seven years of the marriage and the death had occurred on account of the burn injury.

While assailing the conviction, Mr. D.P. Singh, learned counsel appearing on behalf of the appellant, submits that there is no evidence that the deceased was subjected to harassment or cruelty in connection with the demand of dowry soon before the death and, therefore, the appellant's conviction under Section 304-B of the IPC cannot be sustained.

We do not find any substance in the submission of Mr. Singh for the following reasons.

PW-5 Hari Om, brother of the deceased, PW-7 Brij Mohan, brother-in-law of the deceased (sister's husband) and PW-8 Om Parkash, uncle of the deceased, have consistently stated in

their evidence that the day before the incident i.e. on 5.01.1992 the appellant and his wife i.e. the deceased visited the house of PW-5 Hari Om and the appellant made a demand of a sum of Rs. 50,000.00 which was declined by the father of the deceased stating that sufficient dowry was given at the time of marriage. Thereafter, according to the witnesses, appellant forcibly took his wife to his home on 6.01.1992. We do not find any reason to disbelieve the evidence of all these witnesses. This clearly proves harassment to the deceased soon before the death in connection with demand of dowry. Accordingly, we affirm the finding of the trial court and the High Court that the deceased was subjected to cruelty soon before the death in connection with the demand of dowry.

Mr. Singh, then submits that the appellant had already remained in custody for about five years and has to look after his three children and, therefore, the ends of justice shall be met if the sentence is reduced to the period already undergone by him.

Mr. Jayant Kumar Sud, learned Additional Advocate General appearing on behalf of the respondent-State of Punjab, however, submits that in the facts of the present case, the sentence awarded cannot be said to be excessive calling for interference by this Court in the present appeal.

We have bestowed our consideration to the rival submissions. The minimum punishment provided by law under Section 304-B of the IPC is seven years. Therefore, the prayer made by learned counsel for the appellant for reduction of the sentence to the period already undergone cannot be accepted. However, in the facts and circumstances of the case, we are of the opinion that the ends of justice shall be met if the sentence is reduced to rigorous imprisonment for seven years.

We order accordingly.

The appellant is on bail. His bail bonds are cancelled. He is directed to surrender forthwith, failing which, the trial court shall ensure that he is taken into custody to serve out the remainder of his sentence.

In the result, we partly allow the appeal, maintain the conviction of the appellant under Section 304-B of the IPC as well as the fine inflicted on the appellant but reduce the sentence to rigorous imprisonment for seven years.

.....J.  
(CHANDRAMAULI KR. PRASAD)

.....J.  
(JAGDISH SINGH KHEHAR)

New Delhi; the  
November 20, 2013

(Part-Heard)

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). 2062 OF 2010

RAJESH KUMAR

Appellant (s)

VERSUS

STATE OF PUNJAB

Respondent(s)

(With appln(s) for bail and office report)

Date: 20/11/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD  
HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR

For Appellant(s)

Mr. D.P. Singh, Adv.  
Ms. Sonam Gupta, Adv.  
Mr. Rajkiran Vats, Adv.  
Mr. Ravi Parkash Vyas, Adv.  
Mr. Salil Bhattacharya, Adv.  
Mr. Sanjay Jain, Adv.

For Respondent(s)

Mr. Jayant K. Sud, Addl. Adv. Gen.  
Mr. Ujas Kumar, Adv.  
Mr. Vishal Dabas, Adv.  
Mr. Chirag Khurana, Adv.  
Mr. Kuldip Singh, Adv.

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

The appeal is partly allowed in terms of the signed order.

| (S.K. Rakheja)  
| Court Master

| | (Saroj Saini)  
| | Court Master

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(Signed order is placed on the file)