

A

NACHHATTAR SINGH & ORS.
V.
STATE OF PUNJAB
(Criminal Appeal No. 808 of 2005)

B

FEBRUARY 03, 2011
[HARJIT SINGH BEDI AND CHANDRAMAULI KR.
PRASAD, JJ.]

Penal Code, 1860: s.306 – Abetment of suicide – Unnatural death of married woman – Allegation of maltreatment of victim by husband and parents-in-law on account of dowry demand – Victim found dead – Medical opinion that death was caused by poisoning – Trial court convicted accused u/s.304B – High Court held that case u/s. 304B was not made out but accused were liable to conviction u/s. 306 for having abetted the suicide of the victim – SLPs filed by husband and parents-in-law – SLP of husband dismissed – In respect of appeal filed by parents-in-law, held: There was no evidence to show that suicide was a dowry death as evidence with respect to the demand for dowry was vague and stale – In the background of the findings recorded while acquitting the accused of the charge u/s.304B, no inferences or presumptions can be drawn – Cruelty means any wilful conduct of such a nature as was likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical) to the woman – Evidence of victim's brother that the victim wanted to join service but her parents-in-law were old and insisted her to stay at home to look after household chores and this led her into depression and to commit suicide – Difference of opinion within a family on everyday mundane matters would not fall within the category of wilful conduct – Merely because the parents-in-law wanted her to look after them in old age could not be abetment of suicide – Presumption against them u/

H

s.113A of the Evidence Act, 1872 cannot thus be drawn – High Court's judgment suffers from serious contradictions – Conviction set aside – Evidence Act, 1872 – s.113A. A

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 808 of 2005. B

From the Judgment & Order dated 16.09.2004 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 88-SB of 1991.

Rahul Sharma, Abhishek Anand, P.N. Puri for the Appellants. C

Kuldip Singh for the Respondent.

The following order of the Court was delivered D

O R D E R

1. This appeal by way of special leave arises out of the following facts:

Balbir Kaur, the deceased, was married with Nachhattar Singh appellant about five years prior to the date of occurrence. Out of the wedlock, the couple bore a female child. About 2 or 3 years after the marriage, the appellant and his parents(the three accused) started making demands for dowry on the allegation that Balbir Kaur's parents had not given sufficient amounts at the time of marriage, but as the demands could not be satisfied she was maltreated which led the deceased to leave the matrimonial home on several occasions. It appears, however, that on the intervention of well-wishers on both sides she returned to the matrimonial home. The ill-treatment however, continued unabated and whenever Balbir Kaur's brother Sukhmander Singh, P.W. 6, would meet her she would complain that she was not being treated properly. On the 25th December, 1987 at about 7:00a.m. information with regard to Balbir Kaur's unnatural death was received by her parents on H

A which Sukhmander Singh, P.W., along with other family members rushed to the house of the accused. They saw Balbir Kaur lying dead on her cot. The police were informed and a First Information Report was registered. The dead body was despatched for its post mortem examination. The viscera was also sent to the Chemical Examiner who rendered an opinion that the death had been caused by poisoning. A criminal complaint was also filed by P.W. 6 Sukhmander Singh against the appellant in the meanwhile. The complaint case as well as the case arising out of the First Information Report were clubbed together and on the completion of the investigation a charge under Section 302 read with Section 34 and 304B IPC was framed against the accused.

The prosecution relied primarily on the evidence of P.W. 6, the complainant, P.W. 1, Dr. Yashpal Garg who had performed the post mortem of the dead body, P.W. 2 the Chemical Examiner and P.W. 7 Sajjan Singh, a resident of Moga who deposed to the demands for dowry made by the accused even a day before the incident. The prosecution case was then put to the accused and they denied the allegations levelled against them and on the contrary pleaded that as Balbir Kaur was a qualified Steno-typist she wanted to join service and live at Moga but as her parents-in-law were old they had insisted that she stay at home to look after the house hold chores and this frustration had led her into a depression and finally to suicide. The trial court, on a consideration of the evidence, acquitted the accused for the offence punishable under Section 302/34 of the Indian Penal Code but convicted them for the offence punishable under section 304B and awarded a sentence of 7 years rigorous imprisonment. An appeal was thereafter filed by the accused before the High Court. The High court partly allowed the appeal inasmuch that it held that a case under Section 304B of the IPC was not made out but the accused were nonetheless liable to conviction under Section 306 for having abetted the suicide of Balbir Kaur. The Court found as a fact that there was absolutely no evidence to

show that Balbir Kaur's suicide was a dowry death as the evidence with respect to the demands for dowry were both vague and stale and could not form the basis for conviction. This is what the Court had to say:

“Analysis of statements of prosecution witnesses, referred to above, clearly indicates that allegations regarding demand of dowry and cruelty inflicted upon the deceased are in general terms and vague. None of the prosecution witnesses had stated as to when, in which year, date and month, any act of cruelty in connection with demand of dowry was committed by any fo the appellants against the deceased. Not even a single witness had given any specific instance in that regard. None of them except Sajjan Singh (PW &) had stated that soon before death, acts of cruelty in connection with demand of dowry were committed by the appellants against the deceased.”

The Court nevertheless went on to hold that though there were no specific instances of demands of dowry yet an inference that certain demands had been made was available from their testimony and the other documentary evidence on record and particularly, that no woman who had a young child would commit suicide (as had happened in the present case) unless she had been driven to it by the ill treatment meted out to her. The accused were, accordingly, acquitted of the offences under Section 304B of the IPC but convicted under Section 306 IPC and awarded a sentence of four years. It is the conceded case that a Special Leave Petition filed by Nachhattar Singh, the husband, has since been dismissed. The present appeal is thus confined only to the in-laws i.e. Nirmal Singh and Harbans Kaur, the appellants before us.

We have gone through the evidence as also the reasons given by the High Court to arrive at its conclusions. It will be seen that the allegations against the accused were that they had driven the deceased to suicide on account of cruelty which

A included demands for dowry. The High Court has rejected the story about the demands for dowry but has drawn an inference that there must have been some cruelty which had forced a young woman to suicide despite the fact that she had a young child. We find that in the background of the findings recorded
B while acquitting the accused of the charge under Section 304B of the IPC, no inferences or presumptions can be drawn. Moreover, a perusal of Section 498A IPC would show that cruelty would mean any wilful conduct which was of such a nature as was likely to drive a woman to commit suicide or to
C cause grave injury or danger to life, limb or health (whether mental or physical) to the woman. We find no evidence on this score and it has been so found by the High Court. On the contrary, a perusal of the evidence of P.W. 6 shows that the defence story is in fact reflected in his cross-examination. He
D initially testified that it was wrong to suggest that she did not want to stay in the village or that she wanted to join service but in the very next line he admitted that the reason that the deceased was not encouraged to shift to Moga was that as the appellants were old they had wanted her to work in the house and to look after them. In this view of the matter, we find that
E the wilful conduct referred to above should be of such a nature as would provoke a person of common prudence to commit suicide and a difference of opinion within a family on everyday mundane matters would not fall within that category. We find that merely because the appellants were of the opinion that the
F deceased, as a good daughter-in-law, should look after them in old age could not be said to an abetment of suicide. The presumption against the appellants raised under Section 113A of the Evidence Act, 1872 cannot thus be drawn. We are, therefore, of the opinion that the High Court's judgment suffers
G from serious contradictions. We, accordingly, allow this appeal and set aside the conviction of the appellants before us. Their bail bonds be discharged.

D.G.

Appeal allowed.

H