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RANJIT SINGH

v.

STATE OF PUNJAB

(Criminal Appeal No. 510 of 2007)

JULY 3, 2013

B

[A.K. PATNAIK, SUDHANSU JYOTI  
MUKHOPADHAYA, JJ.]

*PENAL CODE, 1860:*

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*ss.304-B and 498-A - Dowry death - Bride found dead in her matrimonial home within 4 months of marriage - Conviction of husband and sentence of life imprisonment affirmed by High Court - Held: Prosecution has successfully proved the ingredients necessary to attract s. 304-B -- There*

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*is no reason to differ with conclusion of trial court as affirmed by appellate court that appellant is guilty of the offences punishable u/ss. 304-B and 498-A -- However, taking into consideration the fact, that appellant has got re-married and has three children including one handicapped son, and his*

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*mother is also paralysed, the sentence awarded u/s 304-B is reduced to seven years.*

*EVIDENCE ACT, 1872:*

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*s.113-B - Presumption as to dowry death - Explained - Held: In the instant case, prosecution has successfully proved ingredients of s.304-B IPC and, as such, s.113-B of the Evidence Act automatically comes into play.*

*EVIDENCE:*

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*Dowry death - Evidence of independent witnesses - Held: Instances of cruelty and harassment for dowry, generally remain within personal knowledge of near relations, and their evidence is not to be discarded for independent corroboration or for not reporting the matter to Panchayat.*

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The appellant and his parents were prosecuted for committing offences punishable u/s 302 IPC, with alternative charges u/s 304-B/34, and u/s. 498-A IPC. The case of the prosecution was that soon after the marriage of the appellant with the daughter of PW4, the accused started harassing the bride for more dowry and on 30.05.1996, i.e., within 4 months of her marriage, she was found dead in her matrimonial home. The post-mortem report indicated that the death was caused due to asphyxia by throttling. The father of appellant died pending trial. The trial court convicted the appellant and his mother u/s 304-B/34 IPC and 498-A IPC. On appeal, the High Court affirmed the conviction of the appellant u/s 304-B IPC with sentence of R1 for life and u/s. 498-A with sentence of R1 for two years. His mother was, however, acquitted.

Disposing the appeal, the Court

HELD: 1.1 The death of the bride took place just within four months of her marriage. The case of the prosecution mainly rests on the evidence of PW-4 and PW-5, the parents of the deceased. Their statements indict the series of incidents forming part of the same transaction which culminated in the death of the bride. She was disrespected by her-in-laws right from the very beginning and from time to time was being harassed on demand of dowry. The sequence of events suggested that cruelty and harassment on account of such demands were present till her death. Just a day before the death, the bride informed her mother (PW-5) that the accused were torturing her and demanding Maruti Car. From the statements of PW-2, the post-mortem doctor, it is apparent that the death of the deceased was caused by bodily injury which is otherwise than under the normal circumstances. The prosecution has successfully proved ingredients of s.304-B IPC and, as such, s.113-B of the

A Evidence Act, 1872 automatically comes into play. The statement of the accused corroborates the materials particularly in relation to harassment and demand of dowry and death by torture. Therefore, the case squarely falls within the meaning of dowry death for the purpose to attract s. 304-B IPC. There is no reason to differ with the conclusion of the trial court as affirmed by the appellate court that the appellant is guilty of the offences punishable u/ss 304-B and 498-A IPC. [para 19 and 22-25] [405-B-C, G-H; 406-A-B, D-E, F-H; 407-A-C, D]

C 1.2 It is, but natural, that instance of cruelty, harassment of demand of dowry generally would remain within the personal knowledge of near relations and they would be the best persons to depose about the same. Therefore, the evidence of physical and mental torture of the deceased from the accused is not to be discarded simply on the score of independent corroboration. [para 20] [405-D-E]

E 1.3 The plea of the appellant that no Panchayat was convened, cannot be a ground to discard the evidence of PW-4 and PW-5 who are material witnesses. About the harassment meted to a girl normally, the matter is first reported to the parents and not to the Panchayat. It is not necessary that such matter is required to be reported to the Panchayat. [para 21] [405-F-G]

G 2. Taking into consideration the fact, that the appellant has got re-married and has three children including one handicapped son, and his mother is also paralysed, the sentence awarded u/s 304B IPC is reduced to seven years. [para 25] [407-D-E]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 510 of 2007.

H From the Judgment and Order dated 17.01.2007 of the

High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 303-DB of 2006. A

Mahabir Singh, Rakesh Dahiya, Mohit Mudgil, Satyapal Khushal Chand Pasi for the Appellant.

V. Madhukar, AAG, Anvita Gowshish, Srajita Mathur, Kuldip Singh for the Respondent. B

The Judgment of the Court was delivered by

**SUDHANSU JYOTI MUKHOPADHAYA, J.** 1. This appeal is directed against the judgment and order dated 17th January, 2007 passed by the Division Bench of the Punjab and Haryana High Court at Chandigarh in Criminal Appeal No. 303-DB of 2006. By its impugned judgment the Division Bench while acquitting one of the accused-Baldev Kaur, mother-in-law of the deceased, of the charges framed against her, affirmed the sentence awarded by the Additional Session Judge, Barnala against the appellant under Section 304-B, 498-A IPC. C D

The accused-appellant-Ranjit Singh has been sentenced to undergo RI for life under Section 304-B IPC and further sentenced to undergo RI for two years with a fine of Rs.2,000/-, in default thereof to go RI for a further period of six months under Section 498-A IPC. E

2. The facts necessary for disposal of the present appeal are as follows:- F

The informant Bahadur Singh got recorded his statement on 30th May, 1996 to ASI Gurcharan Singh, Police Station Tapa to the effect that he had performed marriage of his daughter Jaswinder Kaur with Ranjit Singh @ Makhan, son of Raghbir Singh, resident of Roorki Kalan in the month of January, 1996. He gave 14 tolas gold, Rs.55,000/- cash, one scooter, fridge, cooler, sofa set, bed, almirah, etc. as dowry. In total he spent 1.5 lakh in the said marriage and fulfilled all the demands so raised by Raghbir Singh, father-in-law of his H

A daughter. After about 7 days of marriage, his daughter came to her parents house, she complained about the demand of money as "Shagun", upon which he handed over a sum of Rs.8,000/- to her daughter which she handed over to her husband-Ranjit Singh (appellant herein). The complainant

B Bahadur Singh in his statement further narrated as to how and when his daughter again came to them after 20 days of marriage and told about the demand made by her in-laws and pursuant thereto he again purchased articles worth Rs.1500/- and sent to her daughter's matrimonial house at Roorki Kalan.

C The complainant further stated that even thereafter also demands were made by her daughter's in-laws asking for articles of good quality as the earlier purchased articles were not upto their satisfaction. The complainant, Bahadur Singh further mentioned the episode of 29th May, 1998 when his wife

D Gurmail Kaur went to her daughter's matrimonial house at Village Roorki Kalan where her daughter narrated her about the harassment made by her in-laws on account of demand of a car. She further informed her mother that she apprehended that she might be killed by her-in-laws and requested to take her alongwith her. However, his wife consoled her daughter and

E went back to her house at village Kale Ka. On 30th May, 1996, at about 3.30P.M., they came to know about the death of their daughter Jaswinder Kaur and on reaching village Roorki Kalan they found their daughter Jaswinder Kaur lying on a cot in the courtyard of her in-laws house with injuries on her person. The

F complainant suspected that Raghbir Singh, father-in-law, Baldev Kaur, mother-in-law, Raj Kaur, sister-in-law and Ranjit Singh, husband of his daughter murdered her.

3. On the basis of the statement, FIR No. 60 dated 30th

G May, 1996 (Ex.PE) for an offence under Section 304-B/34 IPC was registered at Police Station Tapa, District Sangrur.

4. The Police Office Gurcharan Singh, ASI (PW-6) reached the spot and prepared inquest report (Ex.PC) of the dead body of Jaswinder Kaur. He took the dead body to Civil Hospital,

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Barnala for post-mortem examination where Dr. Bhalinder Singh(PW-2) conducted the post-mortem examination and by report (Ex.PA), he noticed as many as six injuries on the dead body and opined that the cause of death was due to asphyxia by throttling.

5. Gurcharan Singh, ASI(PW-6) recorded the statement of the witnesses under Section 161 Cr.P.C. The accused were arrested and thereafter on completion of usual formalities of investigation, final report under Section 173 Cr.P.C. was filed against Raghbir Singh, Baldev Kaur and Ranjit Singh for trial. In the absence of any evidence against Raj Kaur, sister-in-law of the deceased, her case was dropped.

6. After commitment of the case, the Trial Court framed charges against the accused-appellant for commission of an offence punishable under Section 302 IPC with the alternative charges under Section 304-B read with Section 34 IPC and under Section 498-A as well.

7. The prosecution in all, examined as many as six witnesses viz. Gurjant Singh, son of Pritam Singh as PW-1, Dr. Bhalinder Singh as PW-2, Dev Raj, Draftsman as PW-4, Bahadur Singh, Gurmail Kaur, father and mother of the deceased as PW-4 and PW-5 respectively and Gurcharan Singh as PW-6.

8. The accused denied the prosecution allegations. Their stand was that the deceased, in a disturbed mental state committed suicide by hanging herself. On behalf of the defence as many as five witnesses were examined. Rajinder Singh, constable as DW-1, Jagtar Singh @ Avtar Singh as DW-2, Gurcharan Singh son of Harchand as DW-3, Major Singh, son of Sukhdev Singh as DW-4 and DSP Darshan Singh as DW-5.

9. The Trial Court on conclusion of its trial, vide its judgment dated 26.11.1998 convicted and sentenced the

A accused Baldev Kaur, mother-in-law, Ranjit Singh, husband  
 and Raghbir Singh, father-in-law for committing an offence under  
 Section 304-B IPC. Pursuant to an order passed in criminal  
 appeal No. 563-DB of 1998 filed by the accused in the High  
 Court of Punjab and Haryana, the Division Bench by its order  
 B dated 1st February, 2006 set aside the conviction and sentence  
 recorded by the Trial Court, remanded back the case to the Trial  
 Court with direction to proceed with the trials from the stage of  
 Section 235Cr.P.C. and to pass order afresh in accordance  
 with law. Separate Criminal Appeal as well as revision petition  
 C preferred by the State of Punjab and the complainant were  
 dismissed by the same order, for having become infructuous.

10. Pursuant to the direction of the High Court, the matter  
 was again taken up by the Trial Court and during the re-hearing  
 of the case before the Trial Court, accused Raghbir Singh was  
 D reported to have died on 19th April, 2003 and thereby the  
 proceedings were abated against him by order dated 25th  
 March, 2006.

11. Thereafter, on appreciation of evidence led by the  
 E prosecution, the Trial Court held both Baldev Kaur, mother-in-  
 law and Ranjit Singh, husband, guilty of offence under Section  
 304-B read with Section 34 and Section 498-A IPC and  
 sentenced as noticed earlier. On appeal, the Division Bench  
 of the High Court by impugned judgment acquitted Baldev Kaur,  
 F mother-in-law but affirmed the judgment passed by the Trial  
 Court so far as it relates to appellant-Ranjit Singh, husband of  
 the deceased.

12. Learned counsel appearing on behalf of the appellant  
 assailed the judgment mainly on the ground that in the FIR, no  
 G specific allegation about the demand of dowry or harassment  
 or cruelty was made against the appellant, Ranjit Singh,  
 husband of the deceased. Even during the trial, the demand  
 for dowry was not attributed to the appellant. Neither the Trial  
 Court nor the High Court considered the defence evidence  
 H which appellant produced to rebut the presumption. Further,

learned counsel appearing on behalf of the appellant submitted that Section 113-B of the Evidence Act is not applicable in the present case. Baldev Kaur, mother-in-law of the deceased has been acquitted considering the same evidence as is available in the case of Ranjit Singh, husband and the same cannot be relied upon to hold the appellant guilty. It was also alleged that the prosecution witnesses made major improvements in their evidence and Trial Court failed to notice the defence evidence which is more probable.

13. Gurjant Singh, PW-1 stated that the deceased Jaswinder Kaur, daughter of his sister was married to Ranjit Singh at Kaleke in January, 1996. On the date of occurrence i.e. 30th May, 1996 he had gone to visit at the house of accused Ranjit Singh where all family members including Jaswinder Kaur were present there. They were openly threatening Jaswinder Kaur since she had not brought maruti car in dowry. They started abusing her followed by Baldev Kaur, mother-in-law who took her into a room by holding her from her neck. Ranjit Singh, husband caught hold of her legs and Raghbir Singh, father-in-law exhorted them to kill her by pressing her neck and similar exhortation was also given by Raj Kaur, sister-in-law and in his presence all of them strangled her to death.

On behalf of the appellant it was contended that Gurjant Singh (PW-1) is a maternal uncle of the deceased and, therefore, his statement was not worthy of any credence as he would not allow anybody to commit such crime in his presence. If he would have present there at that time, he must have intervened to save his niece or raised an alarm which he admitted that he did not do so.

14. Bahadur Singh (PW-4) is the father of the deceased, Jaswinder Kaur. He stated that on 30th May, 1996 at about 3.30 P.m., he received information of his daughter's death at her -in-law's house at Village Roorki Kalan. He along with others visited the Village where he found his daughter, Jaswinder Kaur

A was lying dead on a cot then he visited Police Station Tapa and lodged an FIR. He stated that on demand of the accused-Raghvir Singh, father-in-law, he spent Rs, 1,50,000/- on the marriage of her daughter. She was given 14 tolas of gold, scooter and Rs.55,000/- in cash. In addition to it he gave cooler, fridge, dressing table, etc. as dowry to his daughter. After 7-8 days of marriage, Jaswinder Kaur came to Village Kaleke to meet her parents and told them that the accused were demanding more money as dowry and they also demanded the amount of "Shaguns". On this, he gave Rs.8,000/- as an amount of "Shaguns" to his daughter which she handed over to her husband-Ranjit Singh who had accompanied Jaswinder Kaur to Kaleke. After about 20 days, when he brought her daughter in Kaleke, she informed that her-in-laws were demanding more dowry. She further informed that she was being harassed by the accused. All the accused including Raj Kaur, sister-in-law, were demanding dowry articles of good quality. Gurmel Kaur(PW-5), mother of the deceased went to her daughter's matrimonial home one day prior to the date of occurrence of death when her daughter narrated her woeful stories and requested her mother to take her back as she was apprehending death from the accused. She further informed that the accused was demanding Maruti Car as dowry. Gurmail Kaur(PW-5) assured her daughter to she would tell the entire story to her father and she came back in the evening of the same day at Village Kaleke. Bahadur Singh(PW-4) further stated that his brother-in-law (wife's brother) went to meet Jaswinder Kaur at about 12/12.30 P.M. on the day of occurrence and saw that all the accused including Raj Kaur, sister-in-law were scolding Jaswinder Kaur as she had not brought Maruti Car for them.

G 15. Gurmail Kaur(PW-5), mother of the deceased, deposed in her statement that her daughter was married to accused-Ranjit Singh about 4 months before the date of the occurrence of her death. Sufficient dowry was given in the marriage as per the demand of the accused. She had gone to

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the Village Roorke Kalan to meet her daughter where she told her that she was being maltreated by her-in-laws as they were demanding Maruti Car and the demand was made by Baldev Kaur, mother-in-law, Ranjit Singh, husband, Raghbir Singh, father-in-law and Raj Kaur, sister-in-law of the deceased. She also told her mother that they were threatening to kill her in case she did not bring Maruti car. She requested her mother to take her back to Kaleke as she apprehended danger to her life at the hands of the accused. She consoled her daughter and assured her that she would narrate the matter to her father. She came to the Village Kaleke and narrated the entire matter to Bahadur Singh(PW-4). Next day at about 3.30 P.M. they received a message that their daughter had been killed by her-in-laws.

16. Dr. Bhalinder Singh(PW-2) conducted the post mortem examination on the dead body of Jaswinder Kaur @ Baljinder Kaur w/o Ranjit Singh @ Makhan Singh, R/o Roorke. The deceased was shown aged about 30 years.

The following injuries were found on the body of the deceased:

1. Abrasion on the right side of neck 1x.25 cm in size 8cm away from right angle of mouth 0.5 cm away from right ear. Horizontal in position.

2. Contusion on right side of neck measuring 5x1½cm, 1cm below injury no. 1 and oblique in position.

3. Contusion on right side of neck measuring 5x1½cm ½cm below injury no. 2.

4. Contusion on right side of neck measuring 4x1½cm ½cm below injury no. 3.

5. Contusion on left side 3x2cm in the middle.

6. Upper eye-lid of left eye was swollen and blushed. On

A dissection of neck soft tissue ecchomised.

B He stated that Hyoid bone was fractured. Right lung and left lung were congested with punctiform hemorrhage. Right heart contained blood and left heart was empty. Pericardium was congested. Doctor opined that the cause of death was due to asphyxia by throttling.

C 17. In his cross-examination, he also stated that there is a possibility that if a ligature like a Parna was used for hanging through ling it would cause ligature marks.

C 18. Dev Raj (PW-3) draftsman prepared a site plan for the same.

D 19. Gurcharan Singh(PW-6), ASI, P.S. Kotwali, Barnala who was the AIO, recorded the FIR and stated that he inspected the spot and prepared the rough site of the spot (Ex.PK) with correct marginal note. Cot on which the dead body was lying was also taken into possession vide memo (Ex.PF). On 31st May, 1996, he arrested the accused; Baldev Kaur, Raghbir Singh and Ranjit Singh. He recorded the statement of Bahadur Singh(PW-4) as (Ex.DA)and Gurmail Kaur(PW-5) as (Ex.DB) without any omission or addition. He noted down the brief according to the facts contained in the FIR.

F It was given in the evidence of PW-4 that one day before the death of Jaswinder Kaur, Gurmail Kaur(PW-5) mother of the deceased went to meet her daughter where she expressed her apprehension of threat to her life and requested to take her alongwith her (Gurmail Kaur PW-5). She also conveyed that there was a demand of Maruti Car from the accused for which Gurmel Kaur (PW-5) assured her daughter that she would bring the matter to the notice of Bahadur Singh(PW-4), father of the deceased. The statements of PW-4 and PW-3(parents of the deceased) were duly corroborated with respect to the demand of dowry and harassment immediately prior to the date of occurrence and the event of her visit a day prior to her death.

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They were subjected to lengthy cross examination. Apart from minor discrepancies, which do not go to the root of the case, their statements are corroborated on material particulars so far as the demands of harassment to Jaswinder Kaur is concerned. Their statements indict the series of incidents forming part of the same transaction which culminated in the death of Jaswinder Kaur. The deceased was disrespected by her-in-laws right from the very beginning and from time to time was being harassed on demand of dowry. The sequence of events, discussed above, suggested that cruelty and harassment on account of such demands were present till her death.

20. Learned counsel for the appellant laid much stress that there is no independent eye witness to corroborate the statements of PW-4 and PW-5 who are closely related to the deceased. The contention is again meritless. It is, but natural, that instance of cruelty, harassment of demand of dowry generally would remain within the personal knowledge of near relations and they would be the best persons to depose about the same. Therefore, the evidence of physical and mental torture of the deceased from the accused is not to be discarded simply on the score of independent corroboration.

21. One of the stand taken by the appellant that no Panchayat was convened and the matter was not reported to the police cannot be the ground to discard the evidence of PW-4 and PW-5 who are material witnesses. About the harassment meted to a girl normally in Indian family, the matter is first reported to the parents and not to the Panchayat. It is not necessary that such matter is required to be reported to the Panchayat.

22. From the statements of Dr. Bhalinder Singh (PW-2), it is apparent that the death of Jaswinder Kaur was caused by bodily injury which is otherwise than under the normal circumstances. The death took place within few months of the date of marriage i.e. much before seven years of marriage. It

A is shown that soon before her death she was subjected to cruelty  
and harassment by her husband in connection with the demand  
of dowry. Therefore, the present case squarely falls within the  
meaning of dowry death for the purpose to attract Section 304-  
B IPC. Section 113-B of the Indian Evidence Act deals with the  
B presumption of "dowry death" and proclaims that when the  
question is whether a person has committed a dowry death of  
a woman and it is shown that soon before her death, such  
woman had been subjected by such person to cruelty or  
harassment, for or in connection with demand of a dowry, the  
C Court shall presume that such person had caused "dowry  
death". It can, therefore, be understood that irrespective of the  
fact whether the accused had any direct connection with the  
death or not, he shall be presumed to have committed the  
"dowry death" provided the other requirements mentioned  
D above are satisfied.

23. In the present case, we have noticed that the  
prosecution has successfully proved the ingredients necessary  
to attract the Provision of Section 304B IPC. Such ingredients  
having been proved, Section 113-B of the Indian Evidence Act  
E automatically comes into play.

In the facts and circumstances, the death of Jaswinder  
Kaur had taken place just within four months of her marriage.  
The case of the prosecution mainly rests on the evidence of  
F PW-4 and PW-5, parents of the deceased. They have made  
statements that even at the time of marriage they spent  
Rs.1,50,000 and even after 7-8 days of marriage when  
Jaswinder Kaur came to their parents house and conveyed that  
the accused were demanding dowry as the amount of "shagun"  
G for which Rs.8,000/- was given her to hand-over to her husband  
who accompanied her. Their statement further suggested that  
upon subsequent visit of their daughter after about 20 days, a  
sum of Rs.1500 was spent by PW-4 for purchase of certain  
articles, which his daughter took to her matrimonial home in a  
H tractor. Just a day before the death, she informed her mother

Gurmail Kaur(PW-5) that the accused were torturing her and demanding Maruti Car. A

24. The statement of the accused corroborates the materials particularly in relation to harassment and demand of dowry and death by torture. The accused being the husband and direct beneficiary of the said demand of Maruti Car, we find no reason to differ with the conclusion of the Trial Court as affirmed by the Appellate Court that the appellant is guilty of the offence under Section 304B IPC. B

25. At the end of the argument, learned counsel for the appellant made an alternative submission and requested to take a lenient view in view of the fact that after the death of Jaswinder Kaur (first wife), the appellant got married second time and from his second wife he has three children out of which one son is handicapped and his mother is also paralysed. Taking into consideration the aforesaid fact, we affirm the conviction under Section 304B IPC and 498-A IPC and reduce the sentence awarded under Section 304B IPC to seven years alongwith the sentence of two years imposed under Section 498-A IPC and fine of Rs.2,000/- as imposed by the Trial Court and affirmed by the Division Bench of the High Court with direction that both sentences shall run concurrently. Bail bonds of the appellant are cancelled and he is directed to be taken into custody forthwith to serve out the remainder of the sentence. C  
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R.P.

Appeal disposed of.