

SRI CHAND AND ANOTHER
v.
STATE OF PUNJAB
(Criminal Appeal No 1816 of 2009)

SEPTEMBER 19, 2014

[M.Y. EQBAL AND ABHAY MANOHAR SAPRE, JJ.]

Penal Code, 1860 – ss. 304-B and 498-A – Dowry death – Prosecution against husband and parents-in-law (the appellants) of the deceased – Conviction by Courts below – Appeal by the parents-in-law – Held: The act of the appellants indicate their guilty state of mind – Hence cannot escape liability for causing death of the deceased – Plea of alibi by one of the accused also not proved.

Dismissing the appeal, the Court

HELD: 1. The fact that the accused persons were found missing from the house and also the fact that they refrained from intimating the death of the deceased to her parents are two strong facts which indicate the guilty state of mind of the appellants, who cannot escape liability for causing death of the deceased while at the matrimonial house. The legal accountability for the well-being of a bride squarely lies upon her husband and other members of his parental family, who are joint in mess and residence, with the couple. There is no evidence to prove that the deceased and her husband were separate in mess and residence from the other accused persons. [Para 10] [7-C-F]

2. Appellant No.1 though has tried to raise a plea of *alibi* by pleading that he was in employment elsewhere, he did not adduce any evidence to prove that he was at his place of job at the relevant point of time. [Para 11] [7-G-H; 8-A]

A CRIMINAL APPELLATE JURISDICTION : Criminal Appeal
No 1816 of 2009.

From the Judgment & Order dated 24.09.2008 of the High
Court of Punjab and Haryana at Chandigarh in Criminal Appeal
B No. 1044-SB of 1998.

P.N. Puri, Dhiraj for the Appellants.

Ajay Bansal, AAG, Kuldip Singh, Gaurav Yadava for the
Respondent.

C The Judgment of the Court was delivered by

M.Y. EQBAL, J. 1. This appeal is directed against
judgment and order dated 24.09.2008 passed by the High
Court of Punjab and Haryana in Criminal Appeal No.1044 of
D 1998, whereby the High Court allowed appeal of one of the four
accused persons and dismissed appeal of the other three
accused persons (viz. husband, father-in-law and mother-in-law
of deceased lady). The appellants-accused persons were
convicted by the trial court on the charges under Sections 304-
E B and 498-A of the Indian Penal Code (in short, 'IPC') and
directed each of the accused persons to undergo rigorous
imprisonment for a period of ten years with fine of Rs.2000/-
each for the former offence and to undergo rigorous
imprisonment for a period of one year for the latter offence with
F fine of Rs.1000/- each with default clause. Prima facie, it will
be appropriate to notice that on the appeal preferred by the
aforesaid three accused persons under Article 136 of the
Constitution, this Court on 12.5.2009, while directing issuance
of notice in the matter, confined the appeal to accused nos.2
& 3 and dismissed the appeal preferred by the husband-
G accused no.1.

2. The facts leading to the prosecution story are that on
18.2.1997, Tarsem Ram alias Tarsem Lal, resident of Village
Durgapur, made a statement before the S.H.O. of Police
H Station Sadar, Nawanshahr that around 1½ months back on

20.12.1996, his daughter Harpal Kaur alias Palo was married to one Jaswant Lal and though he gave dowry as per his financial capacity, her daughter's husband and in-laws were not satisfied with the adequacy thereof. Whenever his daughter would come to her parental house, she would inform the members of her parental family that the behavior of her husband towards her was not proper. Tarsem Lal impressed upon his son-in-law that the former was a poor person and what better gift could he have given to him in the marriage was his daughter itself. On 15.2.1997, when his son-in-law and daughter again came to Durgapur, his daughter Harpal Kaur told her parents that her father-in-law Sri Chand, mother-in-law Darshan Kaur, her husband's younger brother Nachhatter Lal and her husband Jaswant Lal are harassing her saying that they have not been given dowry according to their status. She further informed them that she would not go to her matrimonial house as she had an apprehension that she would be done to death over there. Tarsem Lal and his other family members advised Jaswant Lal to refrain from harassing Harpal Kaur and also explained their financial incapacity in meeting dowry demands. Thereafter, Harpal Kaur and Jaswant Lal left for the matrimonial house.

3. On 18.2.1997, at about 10.00 A.M., two unknown persons came over to village Durgapur and informed Tarsem Lal that his daughter is lying burnt and dead (at the matrimonial house). Tarsem Lal went over to the house of Sarpanch to intimate him, but since Sarpanch was not available, he along with Daya Singh, Member of Panchayat, went over to the matrimonial house of his daughter, where they found that Harpal Kaur was lying dead due to burn injuries in the kitchen and none of the family members, viz., her husband, father-in-law, mother-in-law and brother-in-law, was found available in the house. Tarsem Lal related the death of his daughter to the dowry and harassment, which was being caused to her at the hands of the aforesaid accused persons. He entertained a feeling that Harpal Kaur had been done to death by all the accused by pouring kerosene oil upon her and setting her afire in the

A kitchen. The offence was notified to the police by Tarsem Lal in the presence of Daya Singh, which was recorded by a police official (PW7-Gurmukh Singh) posted as SHO, PS Sadar, Nawanshahr.

B 4. Thereafter, PW7 alongwith Tarsem and Daya Singh went to the spot and prepared inquest report and sent the dead body for postmortem examination to Civil Hospital, Nawanshahr. He seized plastic cane, which was smelling of kerosene oil, and a lady shoe and prepared rough site plan regarding the place of occurrence. He also recorded statements of the witnesses. On C 21.2.1997, Jaswant Lal, Sri Chand and Darshan Kaur accused were produced before the aforesaid SHO and on the next day, Sarpanch Lal Singh produced Nachhatter Lal (brother of Jaswant Lal) before the aforesaid SHO and the accused were arrested. After completion of investigation, chargesheet was D laid in the court of the Illaqa Magistrate, who committed this case to the Sessions for trial of the accused under Sections 304-B and 498A of IPC.

E 5. To substantiate its allegations, the prosecution examined eight witnesses including Dr. Devinder Singh, PW-1, who (along with his colleagues) conducted the postmortem on the dead body of Harpal Kaur, observed as under:-

F "It was a body of a young female of about 20 years of age wearing ear rings in both ears, burnt bangles over both forearm, a ring in right ring finger and a burnt wrist watch not in working condition on left wrist showing time 9.50.

G Eyes were closed and congested, tongue protruding out hairs of scalp partly burnt and singing present. Body smelling of kerosene. Body having pugilistic posture, face swollen. Post mortem staining could not be seen upper part of front of right side of chest, neck left part of front of chest, left arm and upper ½ of left forearm having dermo-epidermal burns.

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Line of redness was present over neck and front of chest and left arm. Both lower limbs were charred, muscles and bones burnt. Left knee joint charred and opened. Both feet charred and separated from legs. Front of abdomen charred and intestine protruding from right lower half. External genitalis and perineal region charred. Right lower 2/3 of the chest charred, underlying muscles and ribs were burnt. Right lung exposed and burnt, Right forearm and medial aspect of right arm charred. Right elbow charred and opened. Lower 1/2 of left forearm and left hand charred. Whole of back was charred except dermo-epidermal burns were present over left scapular and shoulder region." A B C

6. The accused persons sheltered themselves under the usual plea of false implication. Trial Court placed implicit reliance upon the prosecution presentation in the statements of PW-3 Tarsem Lal and PW-4 Surjit Kaur and discarded the plea of innocence put forward by the accused and proceeded to convict and sentence the accused persons on the aforementioned charges. D E

7. Aggrieved by the decision of the trial court, all the four accused persons preferred appeal before the High Court, which after hearing learned counsel on either side allowed the appeal of Nachhatar Lal and dismissed the appeal of other accused persons namely, Jaswant Lal, Sri Chand and Darshan Kuar, who have approached this Court by way of filing petition for special leave to appeal (SLP) under Article 136 of the Constitution. As stated hereinabove, the SLP of Jaswant Lal, accused no.1 (husband of the deceased) has been dismissed by this Court at the notice stage itself and while granting leave qua other two accused persons (parents-in-law of the deceased-victim) on 18.9.2009, this Court directed for release of these two appellants on bail to the satisfaction of the trial court. F G

8. We have heard learned counsel for the parties at length. It has been contended on behalf of the appellants that the High H

A Court while dismissing the appeal of the appellants did not
notice that the investigating agency had not been able to place
on record any evidence to the effect that the appellants
subjected deceased Harpal Kaur to any dowry related torture
or that they had any role in her death by burning. It is further
B contended that the appellants were residing separately from
the husband of deceased and had nothing to gain from the
alleged dowry demand. It is further alleged that deceased has
committed suicide because of the reason that she was not
satisfied with the quality of the life as she was having at the
C matrimonial home and she found that her husband was not
potent enough to satisfy her sexually. It has also been contended
on behalf of the appellants that the High Court failed to
appreciate that the prosecution plea is not supported by any
independent evidence which could corroborate the testimony
on oath of parents of the deceased in the context of the
D allegation that deceased was subjected to dowry related torture
and she was burnt to death.

9. Per contra, Mr. Ajay Bansal, learned Addl. Advocate
General appearing for the State of Punjab, submitted that the
E two courts below have recorded the concurrent findings of facts
on true and correct appreciation of evidence produced by the
prosecution. It has been contended that it is a case where a
young girl had been killed in the most brutal and inhuman
manner by the accused within few months of her marriage. The
F accused persons poured kerosene on the deceased and set
her on fire and the medical report suggests that she remained
on fire for near about two hours and after putting the deceased
on death, the appellants fled away from the spot without
informing anyone. It has been specifically stated by parents of
deceased that their daughter was subject to cruelties from the
G hands of the accused persons for bringing the insufficient
dowry. It has been vehemently contended by the State that non
presence of the accused persons at the place of occurrence,
when the father of the deceased along with panchayat member
reached there, suggests the clear involvement of the appellants
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in the crime. Furthermore, plea of living separately stood A
falsified by the rough site plan prepared by the concerned
police official, wherein the place of occurrence has been shown
to be the kitchen of the appellant Sri Chand (father-in-law of the
deceased).

10. After hearing both sides and closely perusing papers, B
we are of the opinion that the present case has acceptable
evidence that all the accused persons were found missing from
their house at the time when Investigating Officer and father of
the deceased reached there in the company of a member of
the Panchayat. There is also convincing evidence to the effect C
that the appellants did not intimate the death of Harpal Kaur to
members of her parental family. The fact that the accused
persons were found missing from the house and also the fact
that they refrained from intimating the death of Harpal to her D
parents are two strong facts which indicate the guilty state of
mind of the appellants, who cannot escape liability for causing
death of Harpal while at the matrimonial house. Learned Single
Judge of the High Court, in the impugned order, rightly
observed that Besides noticing that the matrimonial 'bliss' for E
the deceased lady lasted only for few months, it requires
pertinent notice that the legal accountability for the well being
of a bride squarely lies upon her husband and other members
of his parental family who are joint in mess and residence with
the couple. In the present case, the accused other than Jaswant F
Lal had made an unsuccessful attempt to plead that they were
separate in mess and residence from the couple but they have
refrained from indicating where exactly they were putting up
separately. They also did not opt to enter the witness box to
testify their innocence by a statement on oath.

11. In the present case, appellant Sri Chand has tried to G
raise a plea of alibi by pleading that he was in employment
elsewhere. It is in the statement of the Investigating Officer that
Sri Chand was an employee in a Sugar Mill at Nawanshahr.
However, the concerned appellant did not adduce any evidence
to prove that he was at his place of job at the relevant point of H

A time. He could have adduced the best documented evidence by producing the attendance record of the Sugar Mill. However, Sri Chand did not take any steps to prove that plea of alibi.

B 12. So far as Darshan Kaur (wife of Sri Chand and deceased's mother-in-law) is concerned, she did not even raise a plea of alibi because there is not even an averment that she was in job elsewhere. Furthermore, there is no evidence whatsoever to prove that Jaswant Lal and his deceased wife Harpal Kaur were separate in mess and residence from the other accused persons. In the impugned judgment, the High Court has rightly observed that:-

C "1. Harpal Kaur (wife of Jaswant Lal and daughter-in-law of Sri Chand and Darshan Kaur, appellants) died an unnatural death within few months of her marriage;

D 2. The appellants are not even averred to have intimated death of Harpal Kaur to members of her natal family;

E 3. The appellants were found missing from their house when Tarsem Lal, father of deceased lady, Daya Singh, Member Panchayat and Gurmukh Singh, Investigating Officer went over there;

F 4. The appellants are not even proved to have been present at the time inquest proceedings were held and the post-mortem examination of dead-body of Harpal Kaur was conducted."

G 13. In view of the above, we do not find any reason to interfere with the decision of the High Court. The Criminal Appeal is accordingly dismissed and the bail bonds of the accused-appellants stand cancelled. They shall surrender forthwith to serve out the remaining period of the sentence, failing which, the trial court is directed to take appropriate steps for sending them to prison to undergo the remaining period of sentence.