

Krishna Singh and ors. Vs. State of Bihar

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Court : Patna

Decided On : Jan-18-2001

Judge : Indu Prabha Singh, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections 201, 304B and 498A; [Dowry Prohibition Act, 1961](#) - Sections 3 and 4

Appeal No. : Crl. Appeal No. 189 of 1999

Appellant : Krishna Singh and ors.

Respondent : State of Bihar

Advocate for Def. : Anant Prakash Sahay, APP

Advocate for Pet/Ap. : Ajoy Kumar, Adv.

Disposition : Appeal dismissed

Judgement :

Indu Prabha Singh, J.

1. All the three appellants have been convicted under Sections 304B, 498A and 201 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. They have been sentenced to undergo ten years under Section 304B of the Indian Penal Code. They have been further sentenced to undergo rigorous imprisonment for

two years under Section 498A of the Indian Penal Code. No separate sentence has been passed against the appellants under Section 201 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act. However, all the sentences were ordered to run concurrently.

2. The prosecution case, in brief, is that Lakshmi Devi, the daughter of Bashishtha Singh of village-Bandha P.S. Bihia, District-Bhojpur was married to appellant Krishna Singh, son of appellant Nand Kishore Singh on 29-4-1992. It has been alleged that the father of the deceased, Lakshmi Devi, performed the marriage and gave articles according to his means. The accused persons, namely, Krishna Singh and his father was demanding motor cycle from the father of the Lakshmi Devi at the time of marriage but due to persuance of villagers they became pacified and marriage was performed. It is further alleged that the second marriage (Gauna) of Lakshmi Devi was performed on 16-12-1993 and at that time also appellant Krishna Singh was insisting for motor cycle from Basishta Singh. Deceased Lakshmi Devi went to her Sasural on Gauna at her Sasural, the appellants began to torture her for the motor cycle. The brother of Lakshmi Devi namely, Bhola Singh had gone to enquire about the welfare of Lakshmi Devi at her Sasural on the occasion of Makar Sankranti and after returning to his house Bhola Singh told her father Basishta Singh that Krishna Singh and his parents used to torture the deceased Lakshmi Devi for motor cycle and they also used to humiliate her and got her food stopped, as so deceased Lakshmi Devi had become very weak. Then Basishta Singh himself went to the house of appellant Krishna Singh to meet his daughter deceased Lakshmi Devi, but he was not allowed to meet his daughter Lakshmi Devi and they humiliated him and told that so long as motor cycle would not be delivered to them in dowry Lakshmi Devi would not be allowed to meet him. Bashishta Singh moved in the village but no one came to help him due to fear of the appellants. It is further alleged that on the occasion of Dashhara the elder brother (Girija Singh) of Bashishta Singh had gone to meet deceased Lakshmi Devi then Lakshmi Devi had narrated her miseries to him. She had also shown marks of injury on her person to Girija Singh. Girija Singh returned back to his house and told his brother Bashishtha Singh about the torture and misery meted out to deceased Lakshmi Devi. Thereafter on 5-1-1995 Bashishta Singh went to house of appellant Krishna Singh to pay the price of a motor cycle so that

his daughter would not be further harassed, humiliated and oppressed but after reaching the house of appellant he came to know that his daughter was no more and she was murdered by Krishna Singh and his parents and the dead body of deceased Lakshmi Devi was also disposed of. He has further asserted that his house was only at the distance of 3 K.M. from the house of appellant but the information of the death of Lakshmi Devi was not given to his house by the appellants. He has further stated that on enquiry he came to know that his daughter was burnt by the appellants due to non-fulfilment of demand of their dowry of motor cycle. Bashishtha Singh after returning from the house of the appellants got a written report prepared and filed it to the local police at Jagdishpur on the basis of the F.I.R. was instituted. After completion of investigation charge sheet was submitted. Thereafter cognizance was taken and the trial concluded with the result as stated above.

3. The defence of the appellants is the denial of the entire occurrence as alleged by the prosecution. The further case of the appellants is that there was very cordial relation in between Krishna Singh and his wife Lakshmi Devi. According to the defence version Lakshmi Devi was preparing food on stove and her sari fire came in contact with the fire as a result of which the clothes of Lakshmi Devi caught fire and she was burnt. It is further alleged that the informant has filed this case falsely in order to harass and humiliate the appellants.

4. The prosecution in order to prove its case has examined altogether nine witnesses. P.W.1, Ramjee Sah, P.W.2 Pukar Vahato and P.W.3 Prikhan Singh have been declared hostile. P.W.4 is Jagdish Prasad. P.W.5 is Mahendra Singh, he is the cousin of the deceased Lakshmi Devi. P.W.6 is Bhola Singh, own brother of deceased Lakshmi Devi. P.W.7 is Bashishtha Singh, the father of the deceased Lakshmi Devi. P.W.8 is Dr. Rohit Ram Kansugia. He has conducted post mortem on the dead body of the deceased Lakshmi Devi on 22-12-1994. P.W. 9 is a formal witness.

5. P.W.7 the informant has fully supported the case of the prosecution as narrated in his F.I.R. He has stated that his daughter Lakshmi Devi was married to appellant Krishna Singh on 29-4-1990. He has further stated that he performed the

marriage and gave articles according to his means. He has also stated that the appellant Krishna Singh and his father were demanding the motor cycle from him at the time of marriage and were not ready to perform the marriage until and unless the motor cycle was not given. On the assurance of the villagers they became pacified and marriage was performed. He has further stated that the second marriage (Gauna) of his daughter was performed on 16-12-1993 and at that time also appellant, Krishna Singh was insisting for a motor cycle from his father. He has further stated that his daughter went to her Sasural after Gauna and the appellants used to torture her for motor cycle. He has further stated that the brother of Lakshmi Devi, namely, Bhola Singh had gone to see her sister at her Sasural on the occasion of Makar Sankranti and after returning to his house Bhola Singh told him that appellant Krishna Singh and his parents used to torture her daughter for a motor cycle and they also used to humiliate and got her food stopped. Thereafter he himself went to the house of the appellant to meet his daughter but he was not allowed to meet and they humiliated him and told that so long as motor cycle would not be given to them in dowry Lakshmi Devi would not be allowed to meet him. He has further stated that his brother Girija Singh had gone to meet Lakshmi Devi and she had narrated her miseries to him. Girija Singh returned back to his house and told his brother about the torture and misery meted out to the deceased. Thereafter on 5-1-1995 he went to the house of appellant to pay the price of a motor cycle so that his daughter would not be further harassed and humiliated but when he reached the house of appellant he came to know that his daughter was no more and she was murdered by the appellant Krishna Singh and his parents and the dead body was also disposed of. He has also stated that his house is only at the distance of 3 K.M. from the house of appellants but the information of death of his daughter was not given to his house by the appellants. He has further stated that on enquiry he came to know that his daughter was burnt by the appellant due to non-fulfilment of demand of dowry. The other witnesses have fully supported the case of the prosecution.

6. P.W.9 is Dr. Rohit Ram Kanaugia who has conducted the post mortem of the dead body of deceased, Lakshmi Devi on 22-12-1994 and found the following injuries on her person :

Rigor mortis was present in all limbs, mouth and eyes were closed. There was superficial burn over the whole body except below ankles of both legs. Skull cavity, brain was found congested, chest cavity-both lungs were congested. Rt. chamber was full of blood whereas left chamber was empty. Liver, spleen, kidney were found congested. Urinal bladder contained 180 c.c. of urine. Uterus was non-grenary. All the injuries were ante-mortem. In his opinion the cause of death was due to severe hypocolonic shock and renal failure due to massive burns about 80%.

7. Learned counsel appearing on behalf of the appellants has submitted that there is no direct evidence that the deceased was subjected to any torture or cruelty as such the dowry death cannot be presumed. In support of his contention he has placed reliance on the case of *Sham Lal v. State of Haryana* reported in 1997 CriL J 1927 : AIR 1997 SC 1873. However, in the facts and circumstances of the case this decision is not helpful to the appellants as there is direct evidence that when the father (P.W.7) of the deceased went to meet her he was not allowed by the appellants to meet her unless and until sum of Rs.25,000/- was not paid to them as dowry. P.W.6 also went to see her sister on 14-1-1994 on the eve of Makar Sankranti. The deceased told him that the appellants used to assault her and they were also demanding price of the motor cycle. This fact get support from the deposition of P.W.7 who has also stated in his deposition that P.W.6 after returning from his sister's house narrated him about this fact. Further submission of the learned counsel is that the deceased had cordial relation with her husband and her in-laws. In this support number of letters have been exhibited. However, from the perusal of the letters it appears that they were having good relation till mid of the year 1994 but from the letter written by the deceased in the month of December, 1994 it appears that the deceased was not feeling comfortable at her in-laws house and also wanted to disclose certain facts to her father and brother and therefore, she called them immediately to see her.

8. From the deposition of P.W.7 father of the deceased, it appears that his brother has also informed him that when he went to meet the deceased during Dashara he found the deceased weak and she informed him that she will be killed if the motor cycle was not given. The doctor who held the post mortem examination on the

dead body of the deceased he found that the whole body was burnt except below the ankle of both legs which does not suggest accidental fire. If there was accidental fire it might have been burnt. It also appears that the information of the occurrence was not given to the parents of the deceased though their village was 3 K.M. from the village of the appellants. The defence did not examine any witness to support that they sent some one to inform the family members of the deceased about her death, even no suggestion to this effect was put forth to the prosecution witness at the time of their examination by the defence before the trial Court. The submission of the learned counsel that non-examination of the I.O. has prejudiced the case of the prosecution but in this case I.O. could not have found any objective findings since he visited the place of occurrence after so many days. There is no doubt that the prosecution proved the case that the deceased Lakshmi Devi died due to burn injury and soon before her death she was subjected to cruelty and harassment by her in-laws as well as her husband. It has also been proved that there was demand of dowry as it all happened within three years of her marriage. The story of defence that it was accidental fire which does not find support from evidence of the witnesses. Even the circumstances of the case and nature of injury report given by the doctor do not support, it, as such the Court below has rightly found the, appellants guilty for the offence punishable under Sections. 304B, 498A and 201 of the Indian Penal Code and also under Section 3/4 of the Dowry Prohibition , Act. They have been rightly convicted for the aforesaid offence.

9. I do not find any reason to interfere with the judgment and order passed by the Court below. Accordingly, this appeal is dismissed. It appears that the appellant Nos. 2 and 3 are on bail. Their bail bonds are cancelled.

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