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**Shri Krishan Kumar Vs. State of Haryana**

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**SooperKanoon Citation** : sooperkanoon.com/617821

**Court** : Punjab and Haryana

**Decided On :** Mar-11-1991

**Reported in** : I(1992)DMC160

**Judge** : S.D. Bajaj, J.

**Acts** : Indian Penal Code (IPC), 1860 - Sections 306 and 498

**Appeal No.** : Crl. Appeal No. 585-SB of 1985

**Appellant** : Shri Krishan Kumar

**Respondent** : State of Haryana

**Advocate for Def.** : K.K. Gupta, Adv.

**Advocate for Pet/Ap.** : R.S. Ghai, Sr. Adv. and; Vinod Ghai, Adv.

**Disposition** : Appeal dismissed

**Judgement** :

**S.D. Bajaj, J.**

1. Vide First Information Report No. PD/1, mother of Chander Kanta deceased named Smt. Bimla Devi reported to the police in Police Station N.I.T., Faridabad, at 8.15 P.M. on 12th June, 1985 as follows:

'I have three children. Out of them two are daughters and one is son. The eldest daughter Kamlesh Kumari is married at Meerut. The younger son Ashok Kumar is residing at Bombay. The youngest daughter Chander Kanta is married with Krishan Kumar above 6/7 years, 100 at Jawahar Colony, Faridabad. She had a son aged about 5 years. There had been a quarel between my daughter Chander Kanta and my son-in-law Krishan Kumar. In the year 1982 my daughter Chander Kanta came at Meerut due to maltreatment of her husband Krishan Kumar. After some time I got filed a case against Krishan Kumar by Chander Kanta for maintenanct allowance in the Meerut Court. Krishan Kumar filed a case against my daughter at Faridabad and on 28.7.84 there was a mutual compromise arrived at between Chander Kanta and Krishan Kumar. Then Chander Kanta started residing at Faridabad with her husband Krishan Kumar. On 8.6.85 I came to Delhi in connection with some work, and from there I came to Jawahar Colony, Faridabad to see my daughter Chander Kanta. My daughter Chander Kanta told me that her husband Krishan Kumar tortures her day and night and also says that my daughter Chander Kanta should ask me to sell my house and the 1/2rd share of the proceeds of that house be paid to her husband through Chander Kanta, otherwise he will kill her. My daughter Chander Kanta also told me that she has written a letter to me at Meerut in this regard. In that letter she has also written that I should meet her (my daughter) immediately at Faridabad as her husband had forced Chander Kanta to bring the money. He has fixed 12.6.85 as the final date. Today I received telephonic message that my daughter had died by setting fire to herself by sprinkling kerosene oil. I have come to you along with the letter which my daughter posted to me and wtich I produce to you and the same has been taken into possession by you after preparing recovery memo. Ajit Singh s/o Kartar Singh r/o 38-D/Pehlad Nagar, Meerut also came with me. My daughter Chander Kanta has burn herself on her body after putting kerosene oil, which has resulted in her death. This death has been taken place due to the torturous behaviour of her husband who had demanded money from her. Krishan Kumar has asked Chander Kanta to bring money up to 12 6.85, which she could not do and this circumstance compelled her to meet death. I came to inform you. Action be taken. Statement has been heard which is correct. My son-in-law Krishan Kumar had been asking my daughter Chander Kanta from the inception of marriage till now to

bring money as inadequate dowry was given and he was compelling her to bring money.'

2. On being prosecuted under Sections 498A and 306 of the Indian Penal Code, on the allegations obtaining in the First Information Report, husband of the deceased named Krishan Kumar accused pleaded 'not guilty' to both the charges framed against him and claimed to be tried. Vide its impugned judgment dated 5th December, 1985 learned trial Court convicted him of the commission of the offences aforesaid and sentenced him to undergo rigorous imprisonment for a period of three years for his conviction under Section 498A and rigorous imprisonment for a period of seven years for his conviction under Section 306 of the Indian Penal Code. Both the substantive sentences of imprisonment awarded to the accused appellant were, however, ordered to run concurrently. Feeling aggrieved therefrom convicted accused Krishan Kumar has filed Criminal Appeal No. 585-SB of 1985 in this Court. Hence the appeal.

3. I have heard Shri R.S. Ghai, Sr. Advocate, with Shri Vinod Ghai Advocate, for the appellant, Shri K.K. Gupta, Advocate, for the State and have carefully perused the relevant material on record. 3.

4. The allegations of cruelty levelled by the deceased against the accused obtaining in her application Exhibit PO filed under Section 125 of the Criminal Procedure Code in the Criminal Court of competent jurisdiction at Meerut on 20th September, 1983 are that the husband was all along after her marriage with him abusing and beating her to pressurise her to bring more dowry from her mother and that in case she did not do so he would kill her some-how and marry another woman. Exactly the same version is forthcoming from the contents of letters Exhibit PE to Exhibit PH addressed by the deceased to her mother Smt. Bimla Devi, author of the First Information Report and letter Exhibit PJ written by Mam Chand Sharma on 7th August, 1983 to Kamlesh Kumari, elder sister of the deceased, and her husband Romesh, brother-in-law of the deceased, Accused is stated to have levelled allegations of infidelity against the deceased also. P.W. 6 Bimla Devi, mother of the deceased, states :-

'The accused harassed my daughter in the matter of dowry. My daughter stayed with him for four years. She came to me at Meerut. Chander Kanta brought an action at Meerut against the accused for the grant of maintenance allowance. The accused in retaliation brought an action against my daughter at Faridabad under the Hindu Marriage Act. A compromise was arrived at whereby both the actions were withdrawn. My daughter joined the accused. My daughter would tell me that the accused, demanded money. After my daughter rejoined the accused, I once came to her to deliver her clothes. She told me that the situation was good and proper. Thereafter. I did not visit my daughter. 1 received no letter either from her. On 8th of June, 1985 I had come for condolence at Delhi. I came to my daughter also at Faridabad. She told me that, she had written a letter to me on the 4th. I told her that by then I had not received that letter. She further told me that her husband had desired sale of 1/3 share of the house in my occupation and that he had fixed the 12th of June for bringing to him the sale proceeds. I told her in the presence of the accused that the needful would be done by 22nd of June.'

Corroboration of her version is forthcoming from the statement made by Smt. Kamlesh Kumari P.W. 7, elder sister of the deceased who states :- "During her stay at Meerut she told me that her husband harassed her and desired her to bring money from me and my mother.'

Immediate neighbour of the accused and the deceased in their matrimonial home at Faridabad, Smt. Savitri Devi P.W. 8 also states :-

'My house adjoins the house of the accused. His wife was known by the name of Kanta. The accused and his wife would always be found quarrelling. Kanta often met me. She told me that her husband desired her to ask for her l/3rd share of the house of her mother. She died on 12.6.85. The version referred to above' was told to me by Kanta 5 or 6 days perior to her death.'

Allegations of cruelty meted out by the accused to the deceased after marriage inside her matrimonial home are thus fully proved from the oral and documentary evidence aforesaid.

5. The next point arising for consideration is whether the cruelty aforesaid constitutes abetment through instigation for suicide committed by the deceased on 12th June, 1985, similar point came to be considered by the Supreme Court in Brij Lal v. Prem Chand Another, II (1989) DMC 1=A.I.R. 1989 Supreme Court 1661 wherein their lordships observed :

'In the instant case there was overwhelming evidence to establish that life of deceased was made intolerable by the accused, by constantly demanding of her to get him money and also beating her frequently. In spite of deceased writing to her brother and mother for a sum of Rs. 1,000/- being sent immedaitely, the accused did not relent in his insistence for immediate complaince of his demand. The accused wanted immediate payment of the sum of Rs. 1,000/-. The accused went to the extent of saying that deceased can go to hell but he should get his sum of Rs. 1,000/- forthwith. Deceased on the fateful day reacted by saying that because of the accused quarrelling with her every day over the payment of money, she preferred death to life in this world. The accused, far from expressing regret for his conduct, drove her to despair by further saying that she can provide him relief quicker by dying on the very same day and that she need not postpone her death to next day. After leaving deceased in the house, the accused went to the Court and one hour after that shrieks were heard coming from the house occupied by the accused and deceased. The local persons rushed to the house and saw deceased lying on the ground with extensive burn injuries on her body. In hospital the doctor found her to have sustained severe burns and to be in a state of shock. At the autopsy, it was noticed that she had sustained 19 burn injuries. Her death was certified to be due to shock resulting from the burn injuries. Held, in the circumstances that the accused had instigated deceased to commit suicide and therefore he would be guilty under Section 306 I.P.C. A person can abet the commission of an offence in any one of the three ways set out in Section 107. The case of the accused would squarely fall under the first category, viz., instigating a person to do a thing. In such circumstances, the need to invoke explanation II does not arise. Therefore the order of the High Court acquitting accused on basis of immaginary promises would be liable to be set aside.'

6. The finding of guilty recorded by the learned trial Court against the accused appellant is, therefore affirmed. The sentence awarded to him by the learned trial Court on both the counts is also commensurate to the offence attributed and I see no ground to tinker therewith in the present appeal. 7. In result Criminal Appeal No. 585-SB of 1985 filed by convicted accused gets wholly bereft of any merit therein and in consequently dismissed. Accused is on bail from this Court vide order dated 10th March, 1986. Learned Chief Judicial Magistrate, Faridabad, would get him arrested and remit him to jail custody for undergoing unexpired portion of the sentence awarded to him by the learned trial Court.

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