

Sarjeet Singh Vs. State

Sarjeet Singh Vs. State

SooperKanoon Citation : sooperkanoon.com/769918

Court : Rajasthan

Decided On : Oct-17-2005

Reported in : I(2006)DMC772

Judge : Satya Prakash Pathak, J.

Acts : [Evidence Act, 1872](#) - Sections 113A; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 306, 313 and 374(2); [Indian Penal Code \(IPC\), 1860](#) - Sections 306, 323 and 498A; Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act

Appeal No. : Criminal Appeal No. 1141 of 2003

Appellant : Sarjeet Singh

Respondent : State

Advocate for Def. : L.R. Upadhyay, Public Prosecutor

Advocate for Pet/Ap. : R.S. Gill, Adv.

Disposition : Appeal allowed

Judgement :

Satya Prakash Pathak, J.

1. This Criminal Appeal under Section 374, Cr.P.C., has been directed against judgment of conviction and order of sentence dated 15.10.2003 passed by Special Judge, SC/ST (Prevention of Atrocities) Act Cases, Sri Ganganagar in Criminal Case No. 49/2003, State v. Sarjeet Singh, whereby accused Sarjeet Singh has been convicted under Section 306, IPC and sentenced to 4 years' rigorous imprisonment and a fine of Rs. 1,000, in default of payment of fine to further undergo one month's simple imprisonment.

2. Briefly stated, the facts of the case are that on 29.9.2002 at about 3 p.m. complainant P. W. 3 Santosh Devi lodged a written report Ex. P/7 at Police Station, Raisingh Nagar stating inter alia therein that she had got married her two nieces Reshma and Veero with Sarjeet Singh and his younger brother respectively and both the couple resided separately. On 26.9.2002, Reshma with her husband (son-in-law) came to her house and her husband told her that Reshma was found with her a filthy letter regarding illicit relation with some other person. On asking from Reshma about the letter, she replied that the letter was given to her by her uncle's daughter telling that she was illiterate. Reshma also said that on account of that letter she was beaten by her husband. The complainant then assured her of taking the matter to Panchayat after two-three days. It was further stated in the report that for the said letter on 28.9.2002 at about 4.30 p.m. Reshma was beaten by her husband, mother-in-law, Mukhtiyar Singh and his wife Manjeet Kaur and due to that Reshma consumed poison and information about that was received telephonically at 8 p.m. that Reshma died. Knowing about that, she reached Lalpura and on inquiry being made about the episode, no reply was given. When she asked about the matter from her other niece Veero, she told that a day before in the evening Reshma died because when she went to find out about her, she found that Reshma was being taken in a jeep and she also accompanied her upto Sameja Hospital. At that time foam and saliva was coming out of her mouth. In the hospital of Sameja, the compounder gave her treatment but after 10 minutes told to take her to Raisingh Nagar. Thereafter, Reshma was brought home at Lalupura but till then she had expired. It has further been stated that on account of beating given to Reshma by the accused and his family members in connection with the letter Ex. P/7, therefore, she had consumed poison.

3. The police, on the basis of aforesaid written report Ex. P/7, First Information Report Ex. P/8 was chalked out and a Case No. 462/2002 was registered under Sections 498A, 323 and 306 IPC. After investigation, challan was filed in the Court of concerned Judicial Magistrate under Sections 498A, 323 and 306, IPC and after committal came up before the Additional Sessions Judge, Raisinghnagar from where the case was transferred to the Judge, Special Court (Women Atrocity and Dowry Cases), Ganganagar and from there ultimately came up for trial before the Special Judge, SC/ST Court where charge under Section 306, IPC was framed against the accused on 24.7.2003.

4. During trial, the prosecution in support of its case examined as many as 7 witnesses and got exhibited several documents. After close of the prosecution evidence, accused was examined and his statement under Section 313, Cr.P.C. was recorded. Accused denied the allegations levelled and took the plea of alibi. He further stated that his wife had illicit relation with Kulwant Singh, which was seen by village persons and the whole village came to know about it and due to that she might have committed suicide. He also stated that a letter was given by Kulwant Singh to the Sarpanch and thereafter he also committed suicide. He claimed himself to be innocent and stated that he was falsely implicated as on the day of incident he was not at home and came to know about the incident later on. It is further stated that a letter written by Kulwant Singh was given to police by the Sarpanch. In defence, he got examined D.W. 1 Jitendra Singh, DW2 Veero, D.W. 3 Santo @ Satveer Kaur.

5. The learned Trial Court vide its judgment dated 15.10.2003 on the basis of evidence of the prosecution witnesses came to the conclusion that Reshma committed suicide within a period of 7 years of her marriage and as the accused maltreated her and also used to give her beating and used to instigate her to commit suicide, therefore, convicted and sentenced the accused-appellant as stated hereinabove.

6. I have heard learned Counsel for accused-appellant and the learned Public Prosecutor for the State and gone through the record.

7. Before considering the submissions made by the learned Counsel for the parties, a brief resume of the prosecution evidence is as under:

The prosecution in this case has examined as many as 7 witnesses. P.W. 3 Smt. Santosh Devi is the star witness of the prosecution and she has stated that accused is her son-in-law. She has also stated that accused was married with Reshma. She has also stated that before 11 months of recording her statement, her son-in-law and deceased Reshma had come to her house and at that time her son-in-law (accused) told her that a filthy letter was found with the deceased and since she was an illiterate person it was told to her that the letter was given to the deceased by her Tai's daughter. She has further stated that the deceased told her that her father-in-law, mother-in-law and others used to maltreat her and used to beat her in relation to the letter. She has also stated that a telephonic message was received from the in-laws of deceased that deceased had died, therefore, she had gone to the village Lalupura and she found deceased lying dead in the house. She has also stated that her other daughter Smt. Veeru, who was also married in the same house to the younger brother of the accused, on inquiry, stated that a day before when she was going to village from her house, she saw a jeep in which deceased was being taken to the hospital and she, therefore, accompanied the deceased upto the hospital and there compounder gave the deceased some treatment and after 10 minutes she died. She has stated that report in this regard is Ex. P/8. She has also proved the other memos. In the cross-examination, she has stated that she did not hear about the illicit relations of the deceased with Kulwant Singh. She has denied the suggestion that on account of illicit relations coming to the knowledge of the villagers the deceased committed suicide.

8. P.W. 4 Bali Singh is the husband of P.W. 3 Santosh Devi. He has stated that Reshma and Veeru were married in the same house. Reshma was married to Sarjeet and the accused used to beat her on the pretext that the deceased was not a woman of good character. He has stated that about 11 months before recording of his statement, accused along with his wife Reshma came to his house and told that Reshma was found with a letter, which according to the deceased was given to her by the daughter of her Tau. He has further stated that he and his wife both advised accused and his wife not to quarrel. He has further stated that

he told them that he will be coming after few days from Jaipur and thereafter the matter will be discussed. He has further stated that after two days of the above incident, one Harbans of his village told him that a telephone was received from the in-laws of Reshma that Reshma had died. He has further stated that on the next day, he along with his wife and Sarpanch Kartar Singh and others went to the house of the in-laws of the deceased and there he saw that Reshma was lying dead. He has proved Ex. P/7, the First Information Report lodged by his wife. He has stated in the cross-examination that two days before Reshma's death she had come to their house. He has further stated that accused also showed them the letter found with Reshma and Reshma told that the letter was given to her by the daughter of her Tau. He has denied the suggestion that deceased was having illicit relation with Kulwant Singh, who was in their relation. He has denied the suggestion that in-laws never beat her (Reshina).

9. In the other evidence, P. W. 1 Dr. Dharamveer Gupta has stated that he was Medical Officer posted in PHC, Raisinghnagar, a Board was constituted to conduct autopsy on the dead body of Reshina on 29.9.2002 and he along with other members of the Board conducted post-mortem. He has proved Ex. P/1 the post-mortem report. He has stated that in the opinion of the Board deceased Reshma died due to asphyxia as she had consumed organo phosphorous as per the FSL report Ex. P/2. He has further stated that visras were sent for chemical examination, no infirmity was found on the person of the deceased.

10. P. W. 2 Jaylal is the Malkhana Incharge. P. W. 5 Neeluram has handed over the sealed packet and three jars to Jaylal in sealed condition for depositing the same in the FSL for chemical examination. P. W. 6 is Arvind Singh and he has conducted part of the investigation in this case.

11. P.W. 7 is Yogesh Goyal, who has conducted investigation in this case. In the cross-examination, he has stated that some of the witnesses stated that Reshma was having illicit relation with Kulwant Singh. He further stated in the cross-examination that Kulwant Singh has admitted that he was having illicit relation with the deceased. He has also admitted that some of the witnesses stated that many persons of the village used to visit the deceased at her house.

12. In defence evidence, D.W. 1 is Jitendra Singh. He has handed over a letter to the police persons when police came for investigation to the house of the deceased. D.W. 2 is Veeru, the real younger sister of the deceased and she has stated that her elder sister was never maltreated by any body in the house. In the cross-examination, she has stated that she could know about the illicit relations of the deceased with Kulwant Singh on account of the letter. D.W. 3 is Santosh @ Satveer Kaur. She has stated about the illicit relation of the deceased with Kulwant.

13. In view of the evidence led by the prosecution, it is now to be seen as to whether the death of the deceased was natural or homicidal?

14. According to the statement of P.W. 1 Dr. Dharmveer Gupta and the postmortem report Ex. P/1 the cause of death of deceased was asphyxia due to consumption of organo phosphorous. Therefore, there is no difficulty in reaching the conclusion that the deceased did not die a natural death and it was homicidal.

15. Now, another aspect of the matter, which requires consideration is as to whether the accused instigated the deceased to commit suicide because a charge under Section 306 has been framed against him.

16. In the present case, in the statements of P.W. 3 Smt. Santosh Devi and P.W. 4 Ball Singh it has come that two days before the date of incident accused and his wife came to their house and a letter was shown to them regarding illicit relation of the deceased with one Kulwant Singh. P.W. 4 stated that the matter will be discussed later on as he was going to Jaipur.

17. In the evidence with regard to the illicit relation of the deceased with Kulwant, the Investigating Officer Yogesh Goyal has stated that some of the witnesses disclosed about the illicit relation of deceased with Kulwant Singh. Kulwant Singh also stated to the Investigating Officer about his illicit relation with the deceased. A letter Ex. P/16 has been placed on record said to be written by Kulwant Singh. Kulwant Singh has also committed suicide as it has come in the evidence. In view of statement of I.O. and other witnesses of the prosecution, it appears that the deceased was having illicit relation with one Kulwant Singh and the villagers also

came to know about that.

18. The present case is one where it appears that on account of illicit relations the deceased committed suicide when it came to the knowledge of many persons in the village and she was seen by them in compromising state with Kulwant Singh. The I.O. has also admitted this position when was cross-examined. The accused has also stated about illicit relations of his wife with Kulwant Singh. There is no allegation of cruelty for demand of dowry etc. in the present case. P.W. 3 and P.W. 4 have stated that two days before the death, accused and his wife both had visited their house. It appears that when it came to the knowledge of the accused that deceased wife was having illicit relation with Kulwant, he might have thought it proper to bring the fact to the notice of P.W. 3 and P.W. 4. The behaviour of the accused cannot be said to be abnormal while deciding the fact of illicit relation of the deceased with Kulwant Singh to her parents. The entire episode appears to have taken place within a period of 4-5 days and in the above circumstance it cannot be presumed that accused and other family members of the accused were regularly giving beatings to the deceased. Post-mortem report also nowhere suggests any injury mark on the person of the deceased. The real sister of deceased D. W. 2 Veero has stated that deceased was never maltreated and was never beaten by the family members or the accused.

19. The learned Trial Court with the aid of Section 113A of the Evidence Act found proved the charge against accused under Section 306 of IPC.

20. A perusal of Section 113A of the Evidence Act suggests that if death of a woman has taken place within a period of 7 years of the marriage then the Court may presume that the suicide was the result of abetment by her husband having regard to all the other circumstances of the case.

21. In the present case, the over all circumstances as have been brought on record, are suggestive of the fact that the deceased has illicit relation and a letter was received from her possession and the fact of illicit relation came to the knowledge of the villagers and other persons and the husband brought this fact to the notice of P.W. 3 and P.W. 4, who are the parents of deceased. In these circumstances, in my opinion, simply because she has died within 7 years of her

marriage, to say that a presumption under Section 113A of the Evidence was available, would not be legal because when the accused came to know about illicit relation of his wife with somebody then it was absolutely a normal behaviour of the accused to have asked his wife about it and discuss the matter with his in-laws and if it is done then to presume that accused and his family members were instigating the deceased to commit suicide, in my considered opinion, would not be a proper appreciation of the evidence even if she was subjected to some maltreatment in relation to the letter Ex, P.6 found in possession of deceased which disclosed that there had been illicit relation of deceased with Kulwant Singh. The younger sister of the deceased is married to the brother of the accused and she has stated that for the reason of filthy letter found with the deceased, the family members of the accused never beat the deceased. No charge-sheet has been filed against any family member of the accused after investigation.

22. After considering the entire matter, I am of the opinion that the requisite ingredients for the offences under Section 306 of Cr.P.C. are missing in this case and, therefore, the conviction and sentence of the accused in this regard is required to be set aside and he be acquitted of the charge framed against him in the absence of convincing evidence to prove the charge. The accused is in jail for nearly last three years and has been sentenced for a term of four years by the Trial Court. He deserves acquittal.

23. In the result, the appeal is allowed, the judgment of conviction and order of sentence dated 15.10.2003 passed by the learned Trial Court against the accused is set aside. Accused Sarjeet Singh is in Jail. He be set at liberty, if not required in any other case.