

State Vs. Kiran Chand

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Court : Delhi

Decided On : May-24-2011

Judge : S. Ravindra Bhat; G.P.Mittal, Jj.

Acts : Indian Penal Code (IPC) - Sections 498, 304B, 34

Appeal No. : CRL.L.P. 78/2011

Appellant : State

Respondent : Kiran Chand

Advocate for Pet/Ap. : Mr.Manoj Ohri, Adv.

Judgement :

1. Through this leave petition the petitioner/State seeks leave to file an appeal against the judgment and order by the learned Additional Sessions Judge dated 12.8.2010 acquitting the accused-Respondent of the charge of having committed offence under Section 498/304B/34 Indian Penal Code (IPC).

2. The brief facts alleged by the prosecution were that the deceased-Munni married Chandra Kant on 22.11.2002. She committed suicide on 11.09.2003 by hanging herself at her parents' house at T-125, Mangolpuri, Delhi. During investigation it transpired that the deceased (Munni) had left a suicide note which was produced and marked as Ex.2/A. The prosecution alleged that the deceased was inter alia meted out with cruelty which also pertains to demands for dowry

made to her which compelled her to commit suicide. The prosecution primarily relied upon the testimony of PW-1 Lalita (Bhabi of the deceased), PW-2 Sh.Kailash Kumar (brother of the deceased) and PW-4 Sh.Bhoma Ram (father of the deceased).

3. The testimonies of the three relatives broadly were to the effect that the deceased was subjected to cruelty inasmuch as Kiran Chand (father-in-law of deceased), Chandra Kant (husband of deceased) and Kanta (mother-in-law of deceased) (the later two having being declared as proclaimed offenders) had made dowry demands and also treated Munni (deceased) with cruelty including acts of physical assault. The Trial Court, after considering the entire evidence on record concluded that the allegations of cruelty and violence were not believable so far as the respondent-Kiran Chand was concerned.

4. We had on the previous date of hearing called for the Trial Court record. We have carefully considered the Trial Court Record and have given our thoughtful consideration to the submissions made by the learned APP for the State/Petitioner.

5. The Trial Court while acquitting the Respondent-Kiran Chand observed as follows:

" The accused Kiran Chand is father-in-law of the deceased and so far as he is concerned, it would be pertinent to mention that the testimonies of PWs 1,2 and 4 have suffered from certain very basic and grave infirmities which effect the merits of the case U/Ss 498A/304B IPC qua the accused Kiran Chand is concerned. To quote a few, Smt.Lalita (PW-1) has stated that after few days of marriage of Ms.Munni with the accused Chander Kant (PO), the accused Kiran Chand alongwith Smt.Kanta (mother-in-law-proclaimed offender) had raised demand for gold chain and motor cycle and they also instigated her husband Chander Kant (PO) to harass and beat her whereas Kailash Kumar (PW-2) has been very specific in stating before the court that after the marriage, only her husband i.e. the accused Chander Kant (PO)

would object as to why gold chain was not given in marriage and it was Chander Kant (PO) who used to repeatedly harass the deceased Ms.Munni, however both her parents-in-law including the accused Kiran Chand would also join and he would also raised demand for motor cycle, however Bhoma Ram (PW-4) has been very specific in stating that immediately after marriage, the accused persons had taken her jewellery and clothes and it was her husband Chander Kant (PO) who used to demand gold chain who also demanded motor cycle and has been very specific in stating that the deceased Ms.Munni never made any complaint regarding any dowry demand or harassment by the accused Kiran Chand and simply told him that he also used to join in demanding dowry and harass her. It cannot be lost sight of that the present case was registered against the accused Kiran Chand also for committing offences as punishable U/s 498A/304B/34 IPC and so far as demands for dowry from the deceased Ms.Munni are concerned, as per record, contradictions have crept on record which seem to have shaken the basic versions of these witnesses as depositions of the said witnesses are contradicted by each other so far as demands of dowry and consequent harassment by the accused Kiran Chand are concerned. It would also be relevant to mention here that from the entire version of Smt. Lalita (PW-1), it is revealed that she has nowhere stated if at all the accused Kiran Chand on any other occasion had ever demanded any dory from the deceased Ms.Munni or due to its non-fulfillment, he committed any cruelties upon her person. She has been very specific in narrating before the court that in fact it was her husband Chander Kant (PO) who used to harass and torture her on various counts. Though, she has stated that the accused Kiran Chand alongwith them had also left Ms.Munni to her parental house a few days prior to first Raksha Bandhan by leveling false allegations on her character, yet it does not attract the

provisions U/s 498A IPC or U/s 304B IPC. Similarly PWs 2 and 4 at length narrated regarding the manner in which Ms.Munni was repeatedly treated cruelty and was harassed for non- fulfillment of dowry demands at the hands of her mother-in- law and her husband and as such even if the said witnesses have stated only about one solitary incident of demanding by the accused Kiran Chand, yet in considered opinion of court, the same does not fall within the provisions of Section 498A IPC and as such there is nothing on record as to how and in what manner the accused Kiran Chand harassed Ms.Munni so that the demands for dowry are fulfilled. Now, so far as Section 304B IPC is concerned, the same relates to dowry death and to bring (SIC) home guilt, the prosecution must prove that before her death, Ms.Munni was subjected to cruelty or harassment by her husband or any of his relative in connection with demands for dowry and so she committed suicide. As per evidence as adduced on record, the deceased Ms.Munni was admittedly left at her parents' house for about 15/20 days prior to Raksha Bandhan and admittedly her father (PW-4) had taken her to Rajasthan, however on one day, she left from there on her own alone without even informing her father and though the journey was of few hours only, yet she reached to Delhi only after 2- 3 days which an admitted fact in which circumstances it cannot be stated that the accused Kiran Chand had caused dowry death of the deceased as from the testimonies of PWs 1,2 and 4, it is revealed that in Rajasthan, Ms.Munni had telephonic conversation/communication with her husband and mother-in-law who only are stated to have leveled false allegations on her character and also mentally tortured her and harassed her as well for not bringing sufficient dowry and also for not fulfilling their demands for dowry. The other witnesses as examined by the prosecution, considering the totality of peculiar facts and circumstances of the case are more or less formal in nature and

do not throw any light on merits of the case. On the basis of evidence as adduced on record and considering the other documents as placed on case file, this court is of the opinion that prosecution has failed to bring home the guilt of the accused Kiran Chand regarding his demanding dowry from the deceased Ms.Munni and causing consequent cruelties upon her person and also that if at all he is responsible for the death of Ms.Munni and accordingly the accused Kiran Chand is acquitted of the charges leveled against him for committing offences punishable U/Ss 498A/304BIPC. His surety is discharged. Original documents of surety be returned as rules. Endorsement, if any on the documents of surety is cancelled. File be adjourned sine die and be accordingly consigned to record room as the accused Chander Kant and Smt. Kanta are proclaimed offenders and file be revived as and when needs arises.

6. The suicide note Ex.PW-2/A in this case lists out various acts of cruelty and physical violence on the deceased. Significantly it speaks only about the role attributed vis-a-vis the other two accused who were proclaimed offenders i.e. Chander Kant (husband of the deceased) and Smt.Kanta Devi (mother-in-law of deceased). Furthermore the specific monetary demands spoken to by the witnesses in this case i.e.PW-1, PW-2 and PW- 4 are particularly with regard to the role played by the husband and mother-in-law of the deceased. The only allegation leveled against the father in law i.e. Respondent-Kiran Chand in the present case is that he was party to general demand for more dowry and that he was allegedly present when a demand for getting a written note absolving the accused in case Munni committed suicide was made to the parents of deceased

7. The standard which every High Court has to apply while considering petitions for leave to appeal against judgments of acquittal are clear and well-established. It is only where the petitioner/State discloses compelling or substantial reasons calling for interference with acquittals that the court proceeds to grant leave to appeal to the State. It is not that every error or misapprehension of facts can

persuade the Court to take a second look through an appeal. It is worth remembering that the presumption of innocence which an accused is entitled to, at the commencement of trial receives judicial seal of affirmation in the event he is acquitted of the charges. The High Court, therefore, exercises its discretion and grants leave to appeal to the State only when there is serious infirmity in the appreciation of evidence or application of law which would lead to miscarriage of justice.

8. After considering the material on record we are satisfied that the Trial Court's findings as well as conclusions were well founded and well reasoned. The suicide note which according to the prosecution was written by the deceased, (a circumstance established by the evidence of PW-7 handwriting expert) lists various instances of cruelty meted out to her. No specific role is attributed to the Respondent (father-in-law of the deceased) to treat the deceased Munni with cruelty. On the other hand oral testimony presented at the Trial Court during the evidence is unsatisfactory and does not prove beyond any reasonable doubt the guilt of the Respondent

9. Having regard to these circumstances this Court is satisfied that no interference is called for. We do not find any error or infirmity in the impugned judgment. The State is, therefore, not entitled to a leave to file an Appeal. The petition is meritless and has to fail.

10. The leave petition is accordingly dismissed.

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