(Non-Reportable)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1850 OF 2010

Jatinder Kumar .....Appellant

Vs.

State of Haryana .....Respondent

J U D G M E N T

ANIRUDDHA BOSE, J.

The appellant has been found to be guilty by the High Court of Punjab & Haryana at Chandigarh, which finding affirms the judgment of the Trial Court convicting him for commission of offences under the provisions of Sections 304-B and 498-A of the Indian Penal Code 1860. The offences were related to suicidal death of his wife, Meenakshi. The High Court, however, set aside his conviction under Section 306 of the Code by the Trial Court. The appellant was charged for subjecting his deceased wife Meenakshi to cruelty or harassment in connection with demand for dowry coupled with cruelty during the subsistence of her

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marriage during her stay in her matrimonial home at Mullana in the Ambala district, Haryana. Charge was also framed against him for abetting Meenakshi's suicide. She had committed suicide in the night of 20th September 1991. Her marriage with the appellant was solemnised on 7th March 1991. On 20th September 1991, the deceased victim had come to her parental home to attend "pagree ceremony" of a relative and ultimately returned to her matrimonial home along with the appellant on that very evening. The mother and two brothers of the appellant were also implicated with the same charges and convicted by the Trial Court. The High Court, however, acquitted them.

2. The father of the deceased, Som Prakash (PW-1) received a message on that very night from another relative of his, Parveen Kumar (PW-4) that his daughter, Meenakshi had been taken to the Civil Hospital, Ambala. She was found dead in the said hospital. The cause of death was consumption of aluminium phosphide. In early morning of 21st September 1991(2.30 A.M.), father of the deceased (PW-1) lodged the First Information Report. On the basis of statement of P.W.1 recorded by the SHO/SI of Police Station Mullana, Kewal Krishan (P.W.7), said First Information Report was registered. The P.W.1 implicated, along with the appellant, his mother, two brothers Atul Mittal and Anil Kumar of subjecting the victim to various

types of torture for not bringing sufficient dowry. In his statement, as recorded, he said that before marriage, Anil Kumar, along with the appellant, made the demand of Rs. 1,00,000/- for purchasing a Maruti vehicle. He has also stated in his deposition that he spent a sum of Rs. 2,50,000/- in marriage ceremony of his daughter. He also stated in his deposition that taunting of her daughter had continued for bringing insufficient dowry. Moreover, on certain occasions of bereavement in the family, PW-1 stated in his examination-in-chief, that Meenakshi was not allowed to visit her parental home and on other occasions, his relations were not allowed to meet her in the matrimonial home either. Further demand of dowry was made, according to him, to help the appellant in respect of his clinic, in response to which PW-1 gave Rs.20,000/- to his daughter for her well-being. The statement forming the basis of F.I.R. broadly corresponds to the deposition of PW-1 and there has been no major contradiction or discrepancy between the version of the P.W.1 concerning the antecedents and circumstances of Meenakshi's death in the F.I.R. statement and P.W.1's witness statement.

3. Charges were framed under Sections 306, 406, 304-B and 498-A of the Code before the Trial Court against all the persons arraigned as accused in the F.I.R., following charge-sheet submitted by the police on completion

of investigation. Altogether seven witnesses were examined by the prosecution, of which four were witnesses of fact. All of these four, however, were near or distant relatives of the deceased. The father of the deceased deposed as PW-1 whereas her paternal uncle, Bharat Bhushan was examined and he deposed as PW-2. We have already referred to Parveen Kumar, who appears to be a relative of the deceased and also the mediator in the marriage. He was examined as PW-4 and one Rajat Kumar, maternal cousin of the deceased, deposed as PW-5. There were two police witnesses, Jeet Ram (PW-3) and Kewal Krishan, the Investigating Officer who deposed as PW-7. PW-6 was Dr. Tarsem Kumar Monga, the Medical Officer of Civil Hospital, Ambala Cantonment who had conducted post-mortem of the deceased along with two other doctors, P.S. Ahuja and Mrs. Rozy Aneja. The PW-6 confirmed death of Meenakshi on account of aluminium phosphide poisoning.

4. So far as the judgment of conviction of the Trial Court is concerned, not much came out from the depositions of the two police witnesses, except that PW-7 stated that dowry articles were produced before him by Bimla Wanti, mother of the appellant. The Trial Court, primarily relying on the depositions of PW-1, PW-2 and PW-4 convicted all the four persons finding them guilty of offences under Sections 304-B, 306 and 498A of the 1860

Code and awarded sentence of rigorous imprisonment for a period of 10 years to each one of them under section 304-B and four years rigorous imprisonment under Section 306 of the Code. No separate sentence was awarded under Section 498-A because of sentence having been passed against the accused for major offence under Section 304-B of the Code. Fine of Rs.1,000/- was imposed on each one of them on both counts with direction of six months additional rigorous imprisonment in the event of failure to pay the fine. As we have already narrated, the High Court however acquitted the mother and two brothers of the appellant and set aside the judgment of their conviction and order of sentence. Conviction of the appellant under Section 306 of the 1860 Code was set aside but conviction and sentence on other counts were sustained. This is the judgment which is under appeal before us, instituted by the appellant-convict.

5. Main case of the appellant, argued by Mr. Harin Raval, Senior Counsel has been that there was no evidence of any torture for demand of dowry against the appellant. On the other hand, our attention was drawn to a part of the deposition of Bharat Bhushan (PW-2). He stated in his deposition that Meenakshi had told them (possibly implying his other family members) that she had been taunted by all the accused persons

excluding the husband. But the same witness also stated in his deposition:-

> "Thereafter, Meenakshi came to her parental house for the purpose of taking her examination. She again told her parents and me that Dr. Jitender Mittal accused and other accused had demanded a sum of Rs.50,000/- for extension of clinic. My involvement in my niece was little more than usual because my wife's brother had proposed that alliance and I was also married at Mullana. I persuaded Meenakshi's father to pay up that amount if that could ensure her happiness at the matrimonial house. Som Parkash PW handed over a sum of Rs.20,000/- to Meenakshi when she left for the matrimonial house after taking her examinations. She had earlier told that the accused used to harass her and had told her to return only if she could bring a sum of Rs.50,000/-."

6. Mr. Raval relied on decision of this Court in the case of ***Appasaheb & Anr. vs. State of Maharashtra (2007) 9 SCC 721,*** in this judgment it was observed:

> "11. In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well-known social custom or practice in India. It is well-settled principle of interpretation of statute that if the Act is

> passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning.(See *Union of India v. Garware Nylons Ltd. (1996) 10 SCC 413 and Chemical and Fibres of India Ltd. v. Union of India (1997) 2 SCC 664*.) A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellant cannot be sustained."

7. But the view of the Court reflected in that judgment that seeking financial assistance would not per se constitute demand for dowry has been rejected by a later judgment of a three-Judge Bench of this Court in the case of ***Rajinder Singh vs. State of Punjab (2015) 6 SCC 477.*** Upon considering the case of **Appasaheb (supra)** and certain other authorities, it was held in the case of **Rajinder Singh (supra)**:-

> "20. Given that the statute with which we are dealing must be given a fair, pragmatic, and common-sense interpretation so as to fulfil the object sought to be achieved by Parliament, we feel that the judgment

> in *Appasaheb* case followed by the judgment of *Vipin Jaiswal* do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise."

8. It was also held in the **Rajinder Singh (supra)** that the expression "soon" is not to be construed as synonymous with "immediate". The observation of the three-Judge Bench on this point is:-

> "23. We endorse what has been said by these two decisions. Days or months are not what is to be seen. What must be borne in mind is that the word "soon" does not mean "immediate". A fair and pragmatic construction keeping in mind the great social evil that has led to the enactment of section 304B would make it clear that the expression is a relative expression. Time lags may differ from case to case. All that is necessary is that the demand for dowry should not be stale but should be the continuing cause for the death of the married woman under section 304B."

9. So far as present appeal is concerned, the depositions of the prosecution witnesses about torture and demand for dowry made by the appellant have been believed by the Trial Court as also the High Court. Barring the stray remark by P.W.2, both P.W.1 and P.W.2 have narrated facts which would constitute demand for dowry as also inflicting cruelty and torture upon the deceased victim. Such consistent stand of these two

witnesses cannot be said to have been overshadowed by the above-referred stray statement of P.W.2 which is not in tune with rest of his deposition. As regards the appellant, it is a finding on fact upon proper appreciation of evidence. We do not find any major contradiction in the statements made by P.W.1 and P.W.2 on demand for dowry and subjecting the deceased victim to cruelty. They stuck by their statements in cross-examination. From their depositions, a link can be established between such acts of the appellant and death of the deceased victim. Once these factors are proved, presumption rests on the accused under Section 113-B of the Indian Evidence Act, 1872. The appellant in his statement made in response to his examination under Section 313 of the Code of Criminal Procedure, 1973 attributed suicide of the victim to depression on account of several of her relatives' deaths within a short spell of time. Though the factum of several deaths in her family has been established, there is no corroboration of such a depressive state of mind of the deceased. The other defence of the appellant is that she was a modern urban lady and could not adjust to the life style of Mullana, a small town where her matrimonial home was situated. But both the Trial Court and the High Court rejected this defence. We find no reason to reappreciate evidence on this aspect. Father of the deceased, as also P.W.2 have proved the demand for dowry. This version

has run consistently from the statement forming the basis of F.I.R. to deposition stage and we do not think the Trial Court and High Court had come to such conclusion in a perverse manner.

10. It is also argument of the appellant that since on the basis of same set of evidences, the co-accused persons were acquitted, the appellant only for the reason of being husband of the deceased could not be subjected to a different standard or yardstick in the guilt finding process. The High Court has given the following reasoning for letting off the co-accused persons:-

> "23. The next question, that arises for consideration is, as to which of the accused, could be said to have tortured Meenakshi, continuously, in connection with the demand of dowry, aforesaid leading to her death. It has come in the evidence, that Anil Kumar, and Atul Mittal, brothers of Jatinder Kumar, were living separately, from him. They had their separate mess, and business. It has come in the evidence, that Bimla Wanti, mother of Jatinder Kumar, was residing with her son Atul Mittal, who was unmarried, at that time. Under these circumstances, the only beneficiary, of the cash amount, for the purchase of car, or for extension of clinic, in the shape of dowry, could be said to be to the Jatinder Kumar, accused husband of deceased Meenakshi. A married brother, Atul Mittal, unmarried brother, and Bimla Wanti, mother of Jatinder Kumar, were not be benefitted, either on account of the demand of car, in the shape of dowry, or, on account of demand of cash, for the extension of clinic. It is matter of common knowledge that, when the bride dies, in the house of her in-laws, under unnatural circumstances, then no love is lost between the parents of the deceased, and members of her in-

> laws family. In such a situation, the parents of the deceased are out and out, to rope in, as many members of the in-laws family of the bride-groom, as they could possibly do. The evidence of Som Prakash, complainant, Bharat Bhushan, paternal uncle of the deceased, and Parveen Kumar, mediator, that the accused, other than Jatinder Kumar, used to torture Meenakshi, in connection with the demand of dowry, as a result whereof, she died, could not be said to be reliable. The basis of omni-bus allegations, against Bimla Wanti, Atul Mittal, and Anil Kumar, that they subjected Meenakshi to cruelty, in connection with the demand of dowry continuously, until her death, they could not be convicted. It appears that, Anil Kumar, Bimla Wanti, and Atul Mittal, were falsely implicated, in the instant case, with a view to exaggerate the number of the accused. Only Jatinder Kumar, committed the offences, punishable under Sections 304 -B and 498-A of the Indian Penal Code. Out of abundant caution, Anil Kumar, Bimla Wanti, and Atul Mittal, accused, are required to be given the benefit of doubt, and, thus, are entitled to acquittal. The findings of the trial court, only to the extent aforesaid are affirmed."

11. We are not testing the legality of acquittal of the co-accused persons in this appeal. On the basis of the evidence on record, we are satisfied that the judgment and order of conviction and sentence was rightly confirmed by the High Court so far as the appellant is concerned. The factors which the High Court found for convicting the appellant, in our opinion, establishes guilt of the appellant beyond reasonable doubt. We find no reason to interfere with the judgment and order under appeal. The appeal is

dismissed. We are apprised that appellant, at present, is on bail. The appellant's bail bond stands cancelled. Let the appellant surrender before the Trial Court within four weeks from date and undergo rest of the sentence.

…….J.
(Deepak Gupta)

New Delhi.
Dated: December 17, 2019

…….J.
(Aniruddha Bose)