

PETITIONER:
SANTOSH RANI JAIN & ANR.

Vs.

RESPONDENT:
STATE OF WEST BENGAL

DATE OF JUDGMENT: 23/07/1998

BENCH:
G.T. NANAVALI, S.P. KURDUKAR

ACT:

HEADNOTE:

JUDGMENT:

J U D G M E N T

NANAVALI J.

Both these appeals arise out of the judgment of the High Court of Calcutta in criminal appeal No. 337/85. accused and criminal Appeal No. 483/87 is filed by the two convicted accused and Criminal Appeal No. 411/95 is filed by the State as the third Accused was acquitted by the High court. All the three accused were convicted by trial court under Section 302 read with section 34 IPC for causing death of Neelam @ Pinky. The High Court confirmed the conviction of santosh Rani and Virendra, mother-in-law and husband of Neelam respectively but acquitted Rabindra, brother-in-law of Neelam.

Neelam and married Virender Kumar Jain about 4 months before the date of the incident which took place on 7.9.1980. The prosecution case was that soon after the marriage, particularly the mother-in-law and her husband started harassing and torturing her as proper amount of dowry was not paid. Initially the brother of Neelam had paid Rs. 11,000/- and after few days Rs. 11,000/- more were paid as dowry. As chiman Lal, father-in-law of Neelam was still not satisfied with that amount The brother of Neelam gave a pay order of Rs. 22,500/- in his name. A few days prior to the incident her brother gave some golden ornaments also. All the ornaments of Neelam were taken away from her by her in-laws. It was also the prosecution case that on the day of the incident all the 3 accused mercilessly beat her and threw her dead body on the pavement outside their residential building. After some time they took the dead body to the hospital and reported to the hospital authorities that she had jumped from 11th floor of their house and had received injuries as a result of the fall.

As there was no direct evidence to prove who caused the death of Neelam, the prosecution led evidence to show that there was a demand for more dowry; and that she was tortured and even beaten on some occasions; that she was administered something few days prior to the date of the incident as a result of which she was required to be taken to a private hospital. The prosecution also led evidence to prove that the accused had thrown the dead body of Neelam on the

payment and after few minutes had taken it in a car to the hospital. It also relied upon the circumstance that no blood was found at the place where the dead body was seen lying. Relying upon these circumstances and the medical evidence which proved that all the injuries found on the body of Neelam could not have been caused by a fall from 11th floor of a house and were more consistent with her being given blows and her being killed in that manner, the trial court came to the conclusion that it was not a case of suicide as contended by the accused by it was a case of homicide. The trial court also held that the circumstances established by the prosecution proved beyond reasonable doubt that all the 3 accused had caused the death of Neelam in furtherance of their common intention. The involvement of rabindra was believed relying upon the circumstances that he had along with the other two accused taken her to the hospital in a private car. The defence of the accused was that Neelam. had committed suicide by jumping from the terrace on the 11th floor. The trial court gave good reasons for not accepting this defence and also the writing alleged to have been written by Neelam indicating that she was committing suicide as she was unhappy because of harassment and ill treatment by her in-laws. The trial court convicted all the three accused under Section 302 and 201 read with Section 34 IPC.

The High Court after reappreciating the evidence agreed with the findings of the trial court regarding the demand of dowry, harassment and beating. The High Court held that other incriminating circumstances were also satisfactorily established by the prosecution. The High Court believed the medical evidence and held that the injuries found on the person of Neelam were not caused by a fall, but were caused as a result of severe beating given to her. The High Court also relied upon the circumstance that no ornaments were found on her body and no blood was found at the place where her dead body was seen lying on the pavement. The High Court therefore agreed with the findings of the trial court that it was a case of homicide and not suicide. The High Court believed involvement of the mother-in-law and husband as both of them used to harass, torture and beat her and the mother-in-law also used to say that she would soon get her son married again. The High Court did not agree with the finding of the trial court that Rabindra was also involved in committing those offences.

This being a case of circumstantial evidence, learned counsel for the appellants took through the relevant evidence in order to show that all the circumstances were not satisfactorily established. He was, however, not able to point out how the evidence establishing the incriminating circumstances was not reliable. Both courts below have believed the witnesses and on reappreciation, we find that the evidence led by the prosecution was reliable and sufficient to establish all the circumstances which have been relied upon. The medical evidence very clearly established that it was not a case of suicide and death of Neelam was homicidal. We also agree with the High Court that death of Neelam was caused in furtherance of the common intention of the husband and the mother-in-law. We see no good reason to differ from the view taken by the High Court.

For the reasons stated above, both these appeals are dismissed.

The two appellants were released on bail. Their bail is cancelled and they are directed to surrender to custody to serve out the remaining sentence.

JUDIS