

CASE NO.:
Appeal (crl.) 277 of 2000

PETITIONER:
Devender Singh

RESPONDENT:
State of Haryana

DATE OF JUDGMENT: 29/11/2006

BENCH:
S.B. Sinha & Markandey Katju

JUDGMENT:
JUDGMENT

S.B. SINHA, J.

The appellant before us is the husband of the deceased Sumitra. They were married on 7.2.1984. A child was born to them in 1985. The incident occurred on 11.3.1987 at about 11.00 a.m. Indisputably, the two-year old child of the appellant was also injured in that incident. It has also not been disputed that the father of the appellant received burn injuries when he tried to save the lady and the child. Whereas the deceased Sumitra died on the spot, her son and father-in-law died subsequently.

Three witnesses, namely, both the parents and the brother of the deceased were examined to prove the purported demand of dowry and harassment allegedly meted out to the deceased by the appellant. The entire prosecution case is based on some letters which were said to have been written by the deceased and her husband in the years 1984-85. The learned Trial Judge as also the High Court based their entire judgments of conviction and sentence on the basis of said letters and the conduct of the appellant and other family members.

From a perusal of the judgment of the High Court it appears that the appellant is said to have demanded some money from his in-laws to raise some construction. The High Court opined that the said demand does not strictly come within the purview of the definition of dowry. But despite the same, it proceeded to hold that such demands spoil the atmosphere of the matrimonial home; the wife was embarrassed and as a result of such embarrassment committed suicide. As regards the fact that the appellant's father had tried to save the lady and the child, who ultimately died, was although considered by the High Court, but it proceeded to hold that he also must have known the contents of the letters (Exts PU and PU/1) and the behaviour of his son to be totally untoward a married life and he did not resort to anything which could have solved the problem in the family. The High Court states:

"He may not have contributed to the deceased to have died but he also did not help her to live. In such a situation even if he tried to save the infant and the daughter-in-law, it could not absolve the appellant of his misdeeds which are proved and as referred to above are in writing. The husband was supposed to bring cordiality, cooperation and peace in the home even if he needed some monetary help from the others instead of maltreating his wife which led to such a grave situation which he did not contemplate that his son could be lost."

Having considered the judgment of the High Court, we are of the opinion that the approach of the High Court is not correct. As the purported demand made by the husband had no direct nexus or immediate cause for commission of suicide by his wife, the same would not amount to abetment of commission of such suicide.

The very fact that the High Court has proceeded on the basis that the demand made by the husband did not amount to dowry, in our opinion, negates the prosecution case. It should not have jumped to the conclusion that the same must have caused embarrassment to the deceased which led to her commission of suicide. The observations were in the realm of conjectures and surmises. In a criminal case, no conviction can be based on conjectures and surmises.

The prosecution should have proved its case beyond reasonable doubt. It is accepted at the Bar that when the incident took place, the appellant was not in his house.

He was prosecuted together with his brother. The learned Trial Judge acquitted the brother of the appellant. This fact also should have been taken into consideration by the High Court.

For the reasons aforementioned, we are of the opinion that it is a fit case where the appellant is entitled to benefit of doubt. Accordingly, the impugned judgment passed by the High Court and the judgment and order of the Trial Court are set aside and the appeal is allowed. The appellant is on bail, the his bail bonds shall stand discharged.