

PETITIONER:
STATE OF PUNJAB

Vs.

RESPONDENT:
GURDIP SINGH & OTHERS

DATE OF JUDGMENT 05/12/1995

BENCH:
RAY, G.N. (J)
BENCH:
RAY, G.N. (J)
NANAVATI G.T. (J)

CITATION:
1996 SCC (7) 163 1995 SCALE (7) 312

ACT:

HEADNOTE:

JUDGMENT:
(With Criminal Appeal No. 272 of 1982)

O R D E R

Criminal Appeal No. 919 of 1981 is directed against the judgment dated May 29, 1981 passed by the High Court of Punjab and Haryana in Criminal Appeal No.604/79. The said appeal was preferred by the respondents who were convicted by the learned Additional Sessions Judge, Amritsar on April 23, 1979, in Sessions Trial No.11/79 on a charge under Section 306 of the I.P.C. The accused Kuldip Singh and his son Gurdip Kumar and his wife Darshan Kaur were convicted under Section 306 I.P.C. by the learned Additional Sessions Judge. Kuldip Singh and Gurdip Kumar were sentenced to four year's rigorous imprisonment with a fine of Rs. 500/- in default to suffer further imprisonment for three months, but Darshan Kaur was sentenced to three years' rigorous imprisonment with a fine of Rs.500/- in default to suffer further imprisonment for three months.

According to the prosecution case, the deceased Jyoti Bala was given in marriage on February 12, 1978 at Amritsar to accused Gurdip Kumar, but shortly after the said marriage, the deceased was ill-treated by the accused as the accused felt that proper dowry had not been given by the family of the deceased. It is also the case of the prosecution that Shakuntla Devi, PW 14, the sister of the mother of the deceased and Vijay Kumar, PW 5, the son of Shakuntla Devi were the residents of Amritsar. When the deceased, her sister and mother attended the marriage ceremony of Vijay Kumar at Amritsar, the deceased and her mother came in touch with the family of the accused who are also known to the family of Shakuntla Devi and Gurdip Kumar was also a friend of Vijay Kumar. Having seen the deceased, Gurdip and his parents had liked the deceased Jyoti Bala and accordingly the proposal of marriage was finalised and the marriage was solemnised on February 12, 1978 at Amritsar itself. It is the prosecution case that Jyoti Bala used to go to her aunt, Shakuntla Devi and Shakuntla Devi also used

to go to Jyoti Bala's house but the family of the accused did not like Jyoti Bala's going to her aunt's house or the members of the aunt's family visiting the house of the accused. Being oppressed mentally Jyoti Bala ultimately committed suicide on July 28, 1978 and being severely burnt, she was admitted to the hospital where she succumbed to the injury on July 30, 1978.

The mother of the deceased PW 4, the aunt of the deceased, PW 14 and the cousin brother of the deceased Vijay Kumar, PW 5 have deposed that the accused had been making demands on account of dowry and on one occasion in Calcutta a sum of Rs.5000/- had been paid by PW 4, the mother of the deceased, but such payment did not satisfy their demand and Jyoti Bala used to be taunted and oppressed. PW 6 Madhuban has been examined by the prosecution and the said Madhuban has stated that only about 15 minutes before the incident, he had been to his friend's house which was very close to the house of the accused and therefrom he heard some noise coming from the house of the accused and he heard that Jyoti Bala was being instigated to commit suicide by burning or by drowning.

It also appears that a number of letters written by the deceased to her mother and sister in Calcutta and letter written by the mother to the deceased have been exhibited in this case and such letters are of April 4, 1978, May 29, 1978, July 18, 1978 and July 27, 1978. The letter dated July 18, 1978 is written by the mother of the deceased to the deceased and the letter dated July 27, 1978 had been written by the deceased Jyoti Bala to her mother. The learned Additional Sessions Judge came to the finding that Jyoti Bala had been ill-treated and when for a number of days she had not taken meal, nobody from amongst the accused had asked Jyoti Bala to take the food and they neglected her. The learned Additional Sessions Judge also came to the finding that demand of dowry had been made by the accused and the little girl felt humiliated because of the taunts given to her and harsh treatment meted out to her. Relying on the evidences given by the mother, aunt and cousin and the said Madhuban PW 6, learned Additional Sessions Judge held that all the said accused were guilty of the offence under Section 306 I.P.C. and accordingly they are convicted and sentenced as indicated hereinbefore.

The single Bench of the High Court in disposing of the said Criminal Appeal No. 604/79 since preferred by the accused-respondent, however, did not agree with the finding made by the learned Additional Sessions Judge. It has been indicated by the High Court that the said letters were written from April 4, 1978 to July 27, 1978 and the letter of July 27, was written by the deceased just a day before the said incident of burning. From the said letters, it does not transpire that there was any case of mental torture or humiliation meted out to the deceased on account of dowry demands and there was any instigation by any of the accused to the deceased for committing suicide. On the contrary, the letters revealed that the family, though did not like the frequent visit of the deceased to her aunt's house and also visit by the aunt and members of the family to the house of the accused, they never physically prevented the deceased from visiting and as a matter of fact, even in the letter dated July 27, 1978 written by the deceased, it was indicated that the father-in-law himself dropped her near the house of the aunt. After considering the evidences and analysing the same, the learned Judge of the High Court has indicated that in the facts of the case, it cannot be held that there are convincing evidence to support the case of

instigating the deceased to commit suicide. Accordingly, the said appeal was allowed and the conviction and sentence passed by the learned Additional Sessions Judge were set aside.

The learned counsel appearing for the appellant-State has taken us through the judgments passed by the Courts below and also the evidences adduced in the case. It has been submitted by the learned counsel for the appellant that the mother, the aunt and the cousin of the deceased have deposed that demand of dowry had been made by the accused and for not getting the dowry as demanded by them, they had maltreated the deceased who was married only a few months back. The learned counsel has submitted that as a matter of fact, there is evidence that almost shortly after the marriage such maltreatment continued and the poor girl was also rebuked for visiting the house of the aunt. Even when the aunt had visited the house of the accused, the members of the family became quite cold in receiving her and the treatment meted out to the aunt had seriously injured the sentiments of the poor girl. It has been submitted by the learned counsel that there is no reason to discard the evidence of Madhuban PW 6 who had heard instigation of committing suicide immediately before the incident. If the said evidence is accepted, the case of instigation for committing suicide is clearly established by a direct evidence. The learned counsel appearing for the State has submitted that the judgment of acquittal is not justified and being against the weight of evidence, should be interfered with by this Court.

We are, however, unable to accept such contention of the learned counsel appearing for the state. It may be noted here that demand for dowry and the oppression made on account of such demand was not initially the case of the prosecution. We may indicate here that no charge under Section 304 B has been made in this case and if the allegation of such demand of dowry and the consequential torture on the newly married girl, Jyoti Bala, was there, it is reasonably expected that the charge under Section 304 B would have been made against the accused. The only charge which has been made against the accused is under Section 306 I.P.C. Although the mother, the aunt and the cousin have stated about the demand of dowry and consequential ill-treatment meted out to the deceased Jyoti Bala, the letters written by Jyoti Bala to the mother and to the sister and also the letter written by the mother which have been exhibited in this case, do not indicate in any manner, that Jyoti Bala had ever been tainted or humiliated on account of dowry demand. There is also no indication in the said letters that she had either been physically or mentally tortured in the house of the accused. The letter dated July 27, 1978 written by the deceased only indicates that she felt sad and was confused as to what should be done by her because her coming to the aunt's house or the aunt's visiting her in-law's house were being objected by the accused and she solicited advice from her mother. The learned Judge in disposing of the appeal has referred to such letter and has indicated that had there been any case of maltreatment which could have induced her to commit suicide, there should have been some indication of such inducement in the letters. It appears to us that Jyoti Bala, quite young and yet to be seasoned with discord and unpleasantness in social intercourse and not yet gaining the practical wisdom and capability of adjustment against petulance and disharmony, became very sensitive and lost the normal frame of mind which might have induced her to end her

life before it could fully blossom.

So far as PW 6 Madhuban is concerned, it appears to us he is chance witness and although he has stated that when the accused had been loudly giving suggestion to the deceased to commit suicide by burning or by drowning he could hear the same from his friend's house, his evidence should not be accepted. None of the neighbors has been examined in this case. The evidence of the said chance witness without being corroborated by any other independent witness does not inspire confidence. For the aforesaid facts, we do not find any reason to take a contrary view and the appeal, therefore, fails and is dismissed.

In view of such decision in Criminal Appeal No.919 of 1981, the other appeal namely Criminal Appeal No.272 of 1982 is also dismissed.