

CASE NO.:
Appeal (crl.) 1988 of 1996

PETITIONER:
Gurucharan Kumar & Anr.

RESPONDENT:
State of Rajasthan

DATE OF JUDGMENT: 08/01/2003

BENCH:
N. SANTOSH HEGDE & B.P. SINGH.

JUDGMENT:

J U D G M E N T

B.P. SINGH, J.

Deceased Geetu was married to Parvin Kumar on 28.04.1990 at Yamunanagar. Her father Ved Prakash, PW 1 is a lawyer of standing at Yamunanagar. After the marriage she started residing with her husband and his parents at Sriganganagar. Only 2-1/2 months later, on 13th July, 1990 Geetu committed suicide by hanging. Her parents were informed and they came to Sriganganagar. The post mortem examination of the dead body of Geetu was conducted on the 14th July, 1990, whereafter her body was cremated in the presence of her parents who had come to Sriganganagar along with other relatives. After the cremation at about 4 p.m., Ved Prakash, PW 1, father of Geetu drafted an F.I.R., Ex.P-5 and lodged the same at police station, Sadar, Sriganganagar at 8.30 p.m.. After investigation the appellants herein who are the parents of Parvin Kumar, the husband of the deceased, along with Parvin Kumar were put up for trial before the Additional District & Sessions Judge No.2, Sriganganagar in Sessions Case No.40 of 1991, charged of offences under Sections 304 B and 306 I.P.C.. By judgment and order dated 16th May, 1992 the trial court found them guilty of offences punishable under Sections 304 B and 306 I.P.C. and sentenced them to undergo 7 years simple imprisonment under Section 304 B I.P.C. and 5 years simple imprisonment and a fine of Rs.1000/- each for the offence punishable under Section 306 I.P.C., and in default of payment of fine to undergo simple imprisonment for 6 months.

The appeal preferred by the appellants and Parvin Kumar (husband of the deceased) was dismissed by the High Court by its judgment and order dated 21st March, 1996.

This appeal by special leave has been preferred by Gurucharan Kumar and Smt. Sudesh, the parents of Parvin Kumar only. We were informed that Parvin Kumar has not preferred an appeal to this Court since he had already undergone the entire sentence.

The prosecution has examined several witnesses to prove its case, but considerable reliance is placed on the evidence of Ved Prakash, PW 1 the father of the deceased, Anju Ahuja PW 3, the sister of the deceased and Yashoda PW-4, the mother of the deceased. The prosecution has also brought on record several letters written by deceased Geetu to her mother, sister and Minu, a friend, as also several letters written by her mother and sister to

her. These letters and some other documents have been marked as Exhibits without objection. The letters said to have been written by Geetu have been duly proved to be in her hand-writing. There is also a suicide note left behind by the deceased, which has been marked as Ex. P-4 and has been proved to be in her hand-writing. These documents have been produced by the prosecution and the defence has not objected to the same nor has it challenged the genuineness of those documents. There is only a challenge to Ex. P-33, a letter said to have been written by Yashoda, PW-4 to her daughter on 13.7.90 just before the incident, which according to the defence was falsely got prepared to support the case of demand of dowry. We shall deal with these documents later after noticing the oral testimony of the witnesses examined by the prosecution.

The F.I.R which is a detailed report drafted by PW-1, Ved Prakash, father of the deceased, who is a lawyer by profession was lodged at 8.30 p.m. on 14th July, 1990 after they had cremated the body of the deceased. It appears to be the case of the prosecution that deceased Geetu committed suicide at about 8.00 or 8.30 p.m. on 13.07.1990.

In the FIR, it is stated by PW-1 that they came to know soon after the marriage that the appellants as well as Parvin Kumar, her husband were not satisfied with the dowry given by the informant. They felt aggrieved by the fact that the deceased had not brought sufficient dowry despite the fact that her father was a prosperous advocate and could have given more cash and also a Maruti car, if he so desired. These facts he came to know 10-12 days after the marriage when Geetu came to the house of her parents. According to the informant, Parvin Kumar and his parents repeatedly told his daughter to get a car from her father. In the month of June, 1990 Geetu made a telephone call to her father and requested him to send a demand draft for the purchase of a car, or else she would be troubled and harassed by her husband and his parents and make her life difficult. After receiving the call from his daughter the informant sent his wife Yashoda, PW-4 to visit Geetu at Sriganganagar on 27.6.1990. She stayed with her for some time and returned to Yamunanagar on 4.7.1990. While she was at Sriganganagar the husband of her daughter and his parents repeatedly made a demand for a car. Geetu also informed her that they have been harassing her for a car and were constantly taunting her for failure to get a car from her father. They also complained about the dowry provided by her father.

The informant often talked to his daughter on telephone. On 13th July, 1990 when he gave a call to his daughter he was informed by appellant Gurucharan Kumar that Geetu was sleeping in her room. He again rang up at about 8.30 p.m. when he was told by the appellant, Gurucharan Kumar that Geetu was all right. But soon thereafter he received a call from Gurucharan Kumar informing him that she was inside her room for about 2 hours and was not opening the door and they were therefore seeking police help. He also requested him to come to Sriganganagar immediately. On getting such information the informant and others reached Sriganganagar at about 6.30 a.m. on 14.7.1990. The police had already come on the spot by then.

With this background it was complained that Parvin Kumar, his father, Gurucharan Kumar as also his brother Sanjeev Kumar had harassed and troubled his daughter Geetu to such an extent that life became difficult for her and she was compelled to commit suicide.

The informant was examined as PW 1. In his deposition the informant narrated the facts in the same manner as alleged in the F.I.R. A request was made by his daughter in June, 1990 to send a

demand draft for the purchase of a car, since she was being taunted and harassed by the appellants. He also deposed to the fact that his wife went and stayed at Sriganganagar with Geetu for some time, and even then repeated demands were made for a car. In his deposition, however, he stated about a call from Geetu to his wife on the 12th July, 1990. Geetu appeared perplexed and his wife told her that she would talk to her again. When Geetu was talking to her mother on phone he was sitting nearby. This fact, however, has not been mentioned by the informant in the F.I.R. He also deposed to the fact that on 13th July, 1990 his wife had sent a gift parcel to Parvin Kumar whose birthday fell on 19th July, 1990. That parcel had not been received and was returned to Yamunanagar, where the parcel was received by the informant in the presence of police at the Yamunanagar post office. On opening the parcel it was found to contain a piece of warm cloth for a coat, a currency note of Rs.100/- denomination and a letter written by his wife, PW 4. This witness proved the letters Exs. P-17 to P-25 to be in the hand-writing of his daughter, Geetu. He also proved Ex. P-4, the suicide note which was in the hand writing of his daughter. He further stated that Exs.P-26 and P-29 were written by his wife, PW-4 and the letter Ex. P-30 was written by Mini, a friend of his daughter, Geetu.

In the course of his deposition the informant stated that he had asked his friend, Gulshan Rai to get a demand draft made for the purchase of a car but this fact he had not stated either in his F.I.R or in his statements made before the police on 15th July, 1990 and 27th July, 1990. He denied the suggestion of the prosecution that the accused had not made any demand for a car nor had they treated his daughter with cruelty and that a false case has been lodged.

PW-3, Anju Ahuja and PW-4, Yashoda have more or less deposed on the same lines as the informant. According to Anju Ahuja, PW-3 when Geetu came to Yamunanagar 10-12 days after the marriage she did not tell her anything, but about a month later she rang her up and asked her to tell mother to send a demand draft for the purchase of a car at the earliest. Later she rang up to tell her not to say anything to mother and that she would herself talk to her. She has deposed to the fact that whenever she talked to her on phone Geetu informed her about the harsh behaviour of her in-laws and that she was constantly being taunted for not bringing sufficient dowry. She talked last to Geetu on telephone on 12th July, 1990 when she found her to be very perplexed. When she questioned Geetu, she told her that she was all right and it appeared to be so since she had just got up.

PW-4, Yashoda, stated that when Geetu came back to Yamunanagar 10-12 days after her marriage she had told her about the harassment being caused to her by the appellants and her husband. In the middle of June Geetu rang up and asked her to send a demand draft for the purchase of a car. She, therefore, went to Sriganganagar on 27.6.1990 and returned on 4.7.1990. During her stay at Sriganganagar Geetu told her several times about the demand of car made by her in-laws. On return from Sriganganagar she told the entire story to her husband who talked to Gulshan Kumar, a friend, and it was decided to give a car as demanded by the appellants. Since they had to arrange for money they requested Gulshan Kumar to get a demand draft prepared. On 12th July, 1990 she talked to her daughter Geetu on phone who appeared to be perplexed but she had no opportunity to tell her that they had decided to give a car and that a demand draft was being prepared, nor had she written to her that they were getting a demand draft prepared for the purchase of a car. This witness admitted having written the letters Ex.P-26 to Ex.P-29.

Gulshan Vinayak, a friend of the informant was examined as PW-5. He was the person who was requested to get a demand draft

prepared. According to him in the first week of July he was requested to get a demand draft prepared for the purchase of a new car, however, he admitted that he did not get any demand draft prepared nor was any amount paid to him then or later. He was expected to purchase the demand draft from his own funds.

A perusal of the oral evidence on record creates an impression that the appellants as well as the husband of the deceased were constantly taunting Geetu, (deceased) for the failure of her father to provide them with a car despite his prosperity and status, and ultimately this led her to commit suicide. However, the documentary evidence on record of contemporaneous nature some of them written by Geetu herself give quite a different picture. They do indicate that Geetu was unhappy and depressed for some reason, but they also reveal that so far as the appellants are concerned they treated her with love and affection and there is no complaint in any of the letters against their conduct. There is not even a whisper in any of the letters written by the deceased or anyone else about a demand for a car. On the other hand the letters indicate that Geetu (deceased) was finding some difficulty in adjusting herself to her new surroundings in her matrimonial home.

We shall now proceed to consider the letters which have been brought on record by the prosecution itself to support its case. These letters are significant as they were written at a time when the dispute had not arisen. They are substantially contemporaneous because they were written at a time when, according to the prosecution, Geetu was being subjected to harassment and cruelty and was repeatedly taunted by her husband as well as her father and mother-in-law for the failure of her father to give a car in dowry. These letters, therefore, throw considerable light on the circumstances that prevailed during the period of her stay in her matrimonial home; resulting ultimately in her death. Most of the letters written by the deceased are undated, but there is intrinsic evidence in them to show that they were written at a time when she was living in her matrimonial home. Since the unfortunate incident took place within 2-1/2 months of the marriage we may safely conclude that the letters were written between the 28th April, 1990, the date of marriage, and 13th July, 1990 the day on which she committed suicide. While appreciating the contents of these letters one has to keep in mind the categorical case of the prosecution that soon after Geetu went to her matrimonial home there was a persistent demand for a car, and this fact was narrated by her to her parents 10-12 days after the date of marriage, when she came to her parents along with her husband.

Ex.P-17, is a letter written by the deceased to her sister, PW-3. In this letter she has stated that she is facing a lot of difficulties and she had no option but to confide in her, as she did not want to bother her parents. She has stated that she feels suffocated and wanted to feel comfortable by talking to her. She has sought her advice, but has added that no one has said anything to her in her matrimonial home. Everyone loves her so much, but she failed to understand why such a feeling has come in her, so much so that she had started feeling guilty. She has then observed that relationship should be maintained with people of the same status and if the status is too high or too low, one has to face sufferings. She, who used to live with her head high, has to keep her head down. She used to remain happy but now she is crying continuously. She has requested her sister to tell her what she should do.

From this letter it is obvious that there is no complaint of any mal-treatment by her in-laws or by her husband, nor have they said anything to her. There is also no whisper about any demand being made by her in-laws or her husband. She has talked about the status of the families and she was depressed and unhappy because she was not

able to adjust herself.

Ex. P-22 is a letter written by the deceased to her mother. In this letter she has written that everyone in her matrimonial home is good to her and that they really love her very much, but the love and affection showered by her mother and father was such that she finds difficulty in her matrimonial home. It appears that a flying bird from open sky has been imprisoned and put in a cage. How can a free bird be imprisoned in a cage whether the cage is of gold or iron because the cage is after all a cage? She has written that the atmosphere in her matrimonial home was such that it required a lot of adjustment for a girl who had been brought up in a different atmosphere, because one may have to sacrifice his wishes and desires. She remembers her parents all the time and that despite the fact that there were so many people in her matrimonial home who treated her with love and affection. In the end she writes that she will try to adjust herself according to the atmosphere in her matrimonial home. She has concluded by saying that she should not talk to anyone about these things, since she does not want anyone to get opportunity to say anything.

This letter also does not contain any imputation against her husband or in-laws. There is no reference to any demand made by anyone. On the contrary there is acknowledgement of the fact that in her matrimonial home she was the recipient of abundant love and affection. However, she was unhappy because she was finding it difficult to adjust in an atmosphere different from the atmosphere that prevailed in her parental home. She had to adjust herself and in doing so she was finding difficulty.

Ex. 21 is a letter written by the deceased to her friend Minu. In this letter she has written to her friend how she spends her time in her matrimonial home and how she remembers her friends. There is one significant sentence in this letter. She has stated that everyone in her matrimonial home is good natured, and all of them love her.

Ex.18 is a letter written by the deceased to her sister on the 4th July, 1990. In this letter she has stated that she has been feeling very lonely after her departure. The reference obviously is to her mother's departure, who according to the prosecution returned to Yamunanagar on 4th July, 1990. She has then referred to her other friends and about the gift sent by her sister. She has mentioned about her going to her sister's place at Bikaner along with her mother and her husband and how they exchanged gifts. She has requested her sister to come as soon as possible. She has further made a request to her sister to find a good match for the brother of her husband, named Sanjeev. There was no demand of any sort but they wanted a girl with fair complexion. She has shown her keenness to get her brother-in-law married as soon as possible. She has also described Sanjeev as a good-natured person.

It will thus appear from the contents of this letter as well that she was not being treated in a cruel manner or that any demand was being made by her husband or her in-laws. There is not even a whisper about any unpleasant event, except for her saying that she has been feeling lonely after her mother's departure, which was natural. What is significant is that she has requested her sister to find a good match for her brother-in-law, Sanjeev and she has further clarified that the only condition is that the girl must have a fair complexion. Apart from that there was no other demand whatsoever. The fact that she was keen to get her brother-in-law married and was requesting her sister to find a good match, if at all, is indicative of the fact that she found her husband, father-in-law, mother-in-law and other members of the family to be good natured persons, and was therefore keen to get her brother-in-law married. If she was really being tortured and

harassed and demands were being made, it is unlikely that she would have written such a letter to her sister. The letter also indicates that there is no demand of any sort for the marriage of Sanjeev, her brother-in-law.

Exs. P-26, P-27, P-28 and P-29 are letters written by Yashoda, the mother of the deceased to her daughter, Geetu and her son-in-law, Parvin Kumar. In none of these letters is there any indication of the fact that there was any unpleasantness in the family or that there was a demand for a car from the in-laws of Geetu. If Geetu was really being harassed and taunted as alleged, one would have expected some mention, direct or indirect, of such conduct of the husband or in-laws of Geetu. These letters indicate a normal happy relationship.

These letters which we have noticed above do not support the case of the prosecution that Geetu was being subjected to torture and harassment or was being constantly taunted for not bringing a car in dowry. On the contrary, it appears from these letters that she was loved by all members of her matrimonial family who showered affection on her. The only indication, if at all, is about her finding it difficult to adjust in the new surroundings for which she found herself guilty for entertaining such feelings. She has referred to the freedom that she enjoyed in her parental home but now feels suppressed because she cannot do all that she used to do in her parental home. As we have observed earlier these letters were written during the period when, according to the prosecution, she was being subjected to cruelty and torture and a consistent demand for a car was being made. These letters, however, do not support the case of the prosecution and on the other hand are indicative of the fact that she was well looked after in her matrimonial home and that all members of her matrimonial family showered on her love and affection. So much so that she was very keen to get her brother-in-law married to a good girl of fair complexion as there was no other demand.

We may now refer to the suicide note left behind by the deceased Ex.P-4. The said note reads as under:-

"Sorry.

I really mean it.

What I am going to do is by my own will and no one else is responsible for it. Geetu".

In the said note also there is no statement to the effect that she was committing suicide because she had been harassed or tortured by her husband or her in-laws or that she was compelled to end her life because she was being constantly taunted for having not got a car in dowry. In fact the note says that no one was responsible for what she was doing, and that what she was doing was entirely of her own will. It was sought to be argued before us by counsel for the State that the said suicide note only indicates that she was committing suicide voluntarily, and did not amount to the exoneration of the accused. That may be one way of reading the suicide note, but it is equally possible to read the suicide note to mean that she was entirely responsible for what she was doing and no one else was to blame. The suicide note does not contain any statement which can be used against the accused, as there is nothing in the suicide note which may even remotely suggest that she was ending her life because of the mal-treatment meted out to her by the members of her matrimonial family.

Much was sought to be made by the counsel for the State of Ex.P-33, the parcel allegedly sent by PW-4 to her daughter on the 13th July, 1990. That was supposed to be a gift parcel sent to Parvin Kumar, husband of the deceased, whose birthday fell on 19th July, 1990. The parcel contained a letter in which there is

mention of a car being repaired for being sent to the deceased. Nothing much turns on this. It was submitted on behalf of the appellants that Geetu may have felt the absence of a car as she was accustomed to moving about on her own in her father's car. The accused could not afford a car and therefore could not provide her with a car. In these circumstances if the parents of the deceased thought of sending her an old car after repairs, it does not necessarily follow that car was being sent in response to any demand by the husband or in-laws of the deceased.

Unfortunately, the High Court has not even referred to the aforesaid letters and was content to reach its conclusion on the basis of the oral evidence on record. We are satisfied after having read the letters placed before us that the case projected by the prosecution at the trial about the demand of a car cannot be accepted. There is no evidence on record to suggest that the deceased was being mal treated or tortured, except that she was constantly being taunted for not bringing a car in dowry. Even the story about PW-1 having asked PW-5 to get a demand draft prepared for the purchase of a car appears to be an afterthought because PW-5 admitted that he neither got a demand draft made nor was he paid any amount by the father of the deceased for the purpose. Moreover, no one informed the deceased that demand draft was about to be sent for the purchase of a car. In normal circumstances one would have expected that the deceased would have been informed of the fact that a demand draft was being sent for the purchase of a car, particularly when it is the case of the prosecution that Geetu was under a terrible strain and depression on account of her being consistently taunted for not bringing a car in dowry.

Moreover, the informant has not mentioned about the decision to send a demand draft for purchase of a car either in the F.I.R or in his two subsequent statements before the police. Moreover, this story is not consistent with the version given out in the letter Ex.33 of 13.7.90 wherein it was stated that a car was being repaired for being sent to Geetu.

The letters which we have noticed are substantially contemporaneous, written at a time when it is alleged she was being subjected to cruelty at the hands of her husband, father-in-law and brother-in-law. Rather than supporting the case of the prosecution, these letters support the case of the defence that so far as they were concerned they had showered love and affection on Geetu and not subjected her to cruelty or harassment in connection with any demand for dowry. We are of the view that Geetu may have committed suicide, as she was unable to adjust herself in the changed surroundings of her matrimonial home being a highly emotional person. The evidence on record does not suggest that she was subjected to cruelty or harassment by her husband or by her father and mother-in-law for or in connection with any demand for dowry.

We are, therefore, of the considered view that the prosecution has failed to prove its case beyond reasonable doubt, and that the appellants are entitled to acquittal. Accordingly, we allow the appeal, set aside the judgment and order of the High Court as well as that of the trial court and acquit the appellants of the charges levelled against them. They are on bail. Their bail bonds stand discharged.

As noticed earlier accused Parvin Kumar, husband of the deceased, Geetu has not preferred an appeal before this Court, on account of the fact that he has already served out the sentence imposed against him. However, though we cannot obliterate the sufferings of Parvin Kumar, we can certainly obliterate the stigma that attaches to him on account of his conviction for a heinous offence under Section 304 B of the I.P.C. This Court has laid down a

judicious principle that even in a case where one of the accused has not preferred an appeal, or even if his Special Leave Petition is dismissed, in case relief is granted to the remaining accused and the case of the accused, who has either not appealed or whose Special Leave Petition has been dismissed, stands on the same footing, he should not be denied the benefit which is extended to the other accused. This has been held in Harbans Singh Vs. State of Uttar Pradesh & Ors. (1982) 2 SCC 101, Raja Ram & Ors. Vs. State of M.P. (1994) 2 SCC 568, Dandu Lakshmi Reddy Vs. State of A.P. (1999) 7 SCC 69 and Akhil Ali Jehangir Ali Sayyed Vs. State of Maharashtra JT 2002 (2) SC 158.

In the instant case we find that the case of Parvin Kumar, who has not filed an appeal, is not distinguishable from the case of the appellants. Since we have acquitted the appellants of the charges levelled against them, we also set aside the conviction and sentence passed against the said Parvin Kumar and acquit him of the charges levelled against him. This appeal is accordingly allowed.