

Ram Pyarey
v.
The State of Uttar Pradesh

(Criminal Appeal No. 1408 of 2015)

09 January 2025

[J.B. Pardiwala and R. Mahadevan, JJ.]

Issue for Consideration

Correctness of the order of conviction against the brother-in-law for the offences punishable u/ss.306, 498-A IPC and s.4 of the Dowry Prohibition Act, 1961, in the absence of any cogent evidence.

Headnotes[†]

Evidence Act, 1872 – s.113A – Presumption as to abetment of suicide by a married women – Invocation of s.113A – When – Deceased died on account of severe burn injuries, by setting herself on fire – Order of conviction and sentence of the appellant-brother-in-law u/ss.306 and 498 IPC and s.4 of the Dowry Prohibition Act, however, acquitted for the offence punishable u/s.304B IPC – Correctness:

Held: When the courts below want to apply s.113A, the condition precedent is that there has to be first some cogent evidence as regards cruelty and harassment – In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightway invoke s.113A and presume that the accused abetted the commission of suicide – No evidence on the basis of which it could be said that the brother-in-law abetted the commission of suicide – Judgment and order of conviction passed by courts below set aside – Penal Code, 1860 – ss.306, 498-A – Dowry Prohibition Act, 1961 – s.4. [Paras 11, 13, 14]

List of Acts

Penal Code, 1860; Dowry Prohibition Act, 1961; Code of Criminal Procedure, 1973; Evidence Act, 1872.

List of Keywords

Abetment to suicide; Presumption as to dowry death; Presumption as to abetment to suicide; Cogent evidence as regards harassment or abetment.

Ram Pyarey v. The State of Uttar Pradesh**Case Arising From**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1408 of 2015

From the Judgment and Order dated 06.08.2013 of the High Court of Judicature at Allahabad, Lucknow Bench in CRLA No. 401 of 1993

Appearances for Parties

Bharat Bhushan, Keshav Bansal, Advs. for the Appellant.

K. Parmeshwar, Sr. Adv/A.A.G., Shaurya Sahay, Aditya Kumar, Ms. Ruchil Raj, Advs. for the Respondent.

Judgment / Order of the Supreme Court**Order**

1. This appeal arises from the judgment and order passed by the High Court of Judicature at Allahabad, Lucknow Bench dated 6th August, 2013 in Criminal Appeal No. 401 of 1993 by which the High Court dismissed the appeal filed by the appellant herein and three other co-accused and thereby affirmed the judgment and order of conviction passed by the trial court for the offence punishable under Sections 306 and 498-A of the Indian Penal Code, 1860 (for short the “IPC”) and Section 4 of the Dowry Prohibition Act, 1961.
2. It appears from the materials on record that the appellant herein is the brother-in-law (Jeth) of the deceased. The deceased was married to one Ram Sajeevan.
3. It is the case of the prosecution that there was harassment at the end of the husband, in-laws and the appellant (Jeth) herein to the deceased.
4. The deceased doused herself with kerosene and set herself on fire on 27-09-1990. She died on account of severe burn injuries. The father of the deceased lodged a First Information Report with the Ajgain Police Station, District Unnao on the very same day. The gist of the complaint lodged by the father of the deceased reads thus:-

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“To,
SHO, Police Station Ajgain,
District Unnao:

Sir,

It is respectfully submitted that the complainant Shiv Prasad Sahu, S/o. Laxman Sahu is resident of Village Bhakat, P.S. Kotwali, District Unnao. That the father in law Lal Bahadur., S/o. Jugnu, Village Sambhar Kheda, Majra Nana Tikur, P.S. Ajgain, Distt. Unnao took my daughter Kusum with him on 25.09.1990. That in the intervening night of 26.09.1990 and 27.09.1990 my daughter was killed by burning by her in-laws. Before this they were demanding the buffalo and gold chain in dowry after marriage. And told my daughter Kusum Devi if you will not give the dowry then we will kill you. They threatened her. On that I did not send her to her matrimonial house for one year and on 25.09.1990 my daughter was went to her matrimonial house alongwith her father in law Lal Bahadur, Son of Jugnu. They said that she is our responsibility. However, in the intervening night of 26.09.1990 and 27.09.1990 at about 2.00 A.M. Lal Bahadur, S/o. Jugnu, Ram Sajeevan, S/o. Lal Bahadur, Ram Pyare, S/o. Lal Bahadur, Sonawati, W/o. Lal Bahadur killed my daughter Kusum Devi by burning after pouring kerosene oil on her.

The complaint of the complainant is against all the four accused. Action may kindly be taken under law after reporting the case. Will be highly greatful.

Written by Nand Kishore Sahu,
S/o. Ram Nath, village Rajepur,
P.S. and P.O. Marvi, Distt. Unnao.

Complainant Shiv Prasad Sahu
S/o. Laxman Sahu R/o. Village
Bakhat, Distt. Unnao
27.09.1990”

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5. On conclusion of the investigation, charge-sheet was filed for the offence of dowry death punishable under Section 304B of the IPC, against four accused persons which included the appellant herein. The offence being exclusively triable by the Sessions Court was committed under the provisions of Section 209 of the Code of Criminal Procedure. Charges were framed against four accused persons including the appellant herein.
6. It appears that although the original charge framed by the trial court was one for dowry death punishable under Section 304B of the IPC yet, the trial court acquitted all the accused persons for the offence punishable under Section 304-B, however convicted them for the offence of abetment of suicide punishable under Sections 306 and 498A of the IPC respectively.
7. We are informed that the father-in-law and mother-in-law passed away while the appeal before the High Court was pending. So far as, the husband is concerned he has already undergone the sentence as imposed by the trial court. In fact, he did not file any appeal against his conviction.
8. The present appellant who is the brother-in-law of the deceased is here before us with this appeal.
9. We have heard Mr. Bharat Bhushan, the learned counsel appearing for the appellant and Mr. K. Parmeshwar, the learned senior counsel appearing for the State of Uttar Pradesh.
10. We have looked into the oral evidence on record. We have also looked into the nature of the allegations levelled against the appellant herein.
11. We are of the view that there is practically no evidence on the basis of which it could be said that the appellant herein as brother-in-law abetted the commission of suicide. We need not say anything further in the matter.
12. The law as regards the abetment of suicide punishable under Sections 306 of the IPC is now well settled. It appears that the Courts below laid much emphasis on Section 113B of the Evidence Act, 1872 (for short, "the Evidence Act"). Sections 113A & 113B of

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the Evidence Act talks about presumption. Sections 113A and 113B respectively read thus:-

“113A. Presumption as to abetment of suicide by a married woman.— When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.— For the purposes of this section, “cruelty” shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).

113B. Presumption as to dowry death.— When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation.— For the purposes of this section, “dowry death” shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860). ”

13. It is relevant to note that under Section 113B, the Court shall presume dowry death unlike Section 113A where the provision says that Court may presume abetment of suicide. This is the vital difference between the two provisions which raises presumption as regards abetment of suicide. When the Courts below want to apply Section 113A of the Evidence Act, the condition precedent is that there has to be first some cogent evidence as regards cruelty & harassment. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightway

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invoke Section 113A and presume that the accused abetted the commission of suicide.

14. In view of the aforesaid, this appeal succeeds and is hereby allowed. The judgment and order of conviction passed by the trial court as confirmed by the High Court is hereby set aside.
15. The appellant is already on bail. His bail bonds stand discharged.
16. Pending application(s), if any, stands disposed of.

Result of the case: Appeal allowed.

[†]*Headnotes prepared by:* Nidhi Jain