

2019 (1) Supreme 1**SUPREME COURT OF INDIA**

Ranjan Gogoi, R. Banumathi, Navin Sinha, JJ.

a Jagdish Chand And Another – Appellant
Versus
State Of Haryana – Respondent
Criminal Appeal No. 767 Of 2012
Decided On : 07-01-2019

b *Indian Penal Code, 1860 – Sections 498-A and 304-B – Death on account of burn injuries taking place within seven years of marriage – Demand for dowry established – Presumption against appellants u/s 113-B,*
c *Indian Evidence Act, 1872 attracted – Conviction and sentence by courts below upheld. (Para 7)*

Facts of the case:

d The appellants who are the father-in-law and mother-in-law of the deceased, one Shanti Devi, have been convicted under Sections 304-B and 498-A of the IPC. They have been sentenced to undergo rigorous imprisonment for ten years for the offence under Section 304-B IPC and for a period of one year for the offence under Section 498-A IPC. Sentences of fine for each of the offences had also been imposed. In appeal, the High Court, while affirming the conviction of the accused appellants, had, however, reduced the sentence so far as the offence under Section 304-B IPC is concerned from a period of ten years custody to a period of seven years custody.

Finding of the Court:

e Courts below have rightly held appellants guilty of offence u/s 304-B and 498-A, IPC.

Result: Appeal dismissed.**Advocates Appeared :**

f Mr. Rohit Sharma, Adv. Mr. Rounak Nayak, Adv. Mr. Anshul Chowdhary, Adv. Mr. Atul Agarwal, Adv. Mr. Rahul Gupta, Adv. for the Appellant; Dr. Monika Gusain, Advocate for the State.

IMPORTANT POINT

** When ingredients necessary to draw the presumption of commission of the offence under Section 304-B IPC have been proved and established, the presumption under Section 113-B of the Indian Evidence Act has to be drawn against the accused.*

JUDGMENT**Ranjan Gogoi, C.J.I**

The appellants who are the father-in-law and mother-in-law of the deceased, one Shanti Devi, have been convicted under Sections 304-B and 498-A of the Indian Penal Code, 1860 (for short, 'the IPC). They have been sentenced to undergo rigorous imprisonment for ten years for the offence under Section 304-B IPC and for a period of one year for the offence under Section 498-A IPC. Sentences of fine for each of the offences had also been imposed. In appeal, the High Court, while affirming the conviction of the accused appellants, had, however, reduced the sentence so far as the offence under Section 304-B IPC is concerned from a period of ten years custody to a period of seven years custody. Aggrieved, this appeal has been filed.

2. The FIR in the present case was lodged by one Kalu Ram, father of the deceased, who was working as a Clerk in Government Girls High School, Pataudi. According to the complainant, the marriage between his daughter Shanti Devi and accused Raj Kumar, son of the appellants, Jagdish Chand and Mishri Devi, was solemnised on 19.4.1988. Immediately after the marriage and despite giving of sufficient gifts by the complainant to the accused party, there were demands of further dowry including demands for a scooter and television. As the complainant was unable to fulfill the demands, the deceased was turned out from the matrimonial home where-after she stayed with her parents. This had happened on several occasions. According to the

complainant, on all such occasions, the deceased returned to her matrimonial home only to be turned out again. Finally, in the night intervening 6th and 7th December, 1994, death of Shanti Devi on account of burn injuries had occurred leading to institution of the FIR in question.3. The evidence of PW-1, Dr. S.K. Gupta, who conducted the post mortem on the dead body of Shanti Devi on 8th December, 1994; the evidence of PW-6, the complainant Kalu Ram; the deposition of PW-7, Sarjit Singh, a co-employee of PW-6; and the evidence of PW-8, Sanjay, son of the complainant would be relevant to be noticed.

4. From the evidence of PW-1, it transpires that the death was on account of shock due to ante mortem burns which were sufficient to cause death in the ordinary course. According to PW-1, the extent of burns on the dead body was 100 per cent and were caused by kerosene.

5. PW-6, Kalu Ram, the complainant and father of the deceased reiterated the version stated by him in the FIR including the details of what was reported to him by the deceased with regard to her ill-treatment on account of dowry demands. PW-6 also had deposed that on several occasions the deceased Shanti Devi had been turned out from the matrimonial home and she had come to stay with her parents only to go back on assurance of good behavior finally culminating in the incident of 6th-7th, December, 1994 resulting in her death. PW-7 and PW-8 corroborated the evidence of PW-6.

6. We have heard learned counsel for the parties and we have considered the matter. We have also considered the judgments of the Trial Court and that of the High Court, presently under challenge in this appeal.

7. Admittedly, death in the instant case took place within seven years of the marriage which was solemnised on 19.4.1988 and the incident of death had occurred on 6-7.12.1994.

Though the defence had tried to prove otherwise, namely, that death had occurred beyond seven years of marriage, no concrete evidence in this regard has been forthcoming. Demands for dowry by the accused-appellants as well as the husband and ill-treatment/cruelty on failure to meet the said demands is evident from the evidence of PW-6. From the evidence of PW-1, it is clear that the death was on account of burn injuries suffered by the deceased which injuries were caused by use of kerosene. In the light of the aforesaid evidence, this Court has no hesitation in holding that all the three ingredients necessary to draw the presumption of commission of the offence under Section 304-B IPC have been proved and established by the prosecution. Consequently, the presumption under Section 113-B of the Indian Evidence Act has to be drawn against the accused and in the absence of any defence evidence to rebut the same, the Court has to hold the accused guilty of the offence under Section 304-B IPC. On the basis of the same consideration, the offence under Section 498-A must also be held to be proved against the accused persons. We, therefore, have no hesitation in dismissing the appeal and in affirming the conviction and sentence imposed by the High Court.

8. The appeal is dismissed accordingly.

2019 (1) Supreme 2

SUPREME COURT OF INDIA

Abhay Manohar Sapre, R. Subhash Reddy, JJ.

Lalichan – Appellant g

Versus

The State of Kerala – Respondent
Criminal Appeal No. 22 of 2019 (@ Special
Leave Petition (Criminal) No. 8113 of 2017)

Decided On : 07-01-2019 h

Kerala Abkari Act – Section 8(2) and Section 63 – Appellant found in possession of 4.5