

Supreme Court of India

Karan Singh & Anr vs State Of Haryana on 15 April, 1947

Bench: Ranjana Prakash Desai, Madan B. Lokur

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 666 OF 2009

Karan Singh & Anr.
...Appellants

Versus

State of Haryana
...Respondent

J U D G M E N T

Madan B. Lokur, J.

1. The question before us is whether the appellants are guilty of an offence punishable under Section 304-B or under Section 306 of the Indian Penal Code (IPC). In our opinion, they are guilty of an offence punishable under Section 306 of the IPC.

The facts

2. Manju and her sister PW-5 Sunita, were married on 17th May, 1993 to Satbir and his brother Sukhbir respectively. PW-4 Ram Kishan, the father of the two brides spent a considerable amount on the wedding, beyond his means, and also gave several articles in dowry. However, the parents of Satbir and Sukhbir that is Karan Singh (father) and Mukhtiari (mother) were apparently not satisfied with the dowry.

3. According to the prosecution Karan Singh and Mukhtiari would often harass and beat Manju and Sunita and demand some more dowry. It was alleged that Manju and Sunita were also turned out from their matrimonial home on some occasions.

4. Sometime in August, 1994 Manju gave birth to a baby boy and her father Ram Kishan again spent some money on the occasion and gave gifts. Unfortunately, however, within ten days thereafter Manju and Sunita were turned out from their matrimonial home. They informed Ram Kishan that they were being harassed and demands were being made for dowry. On this, Ram Kishan called and spoke to Satbir and Sukhbir and persuaded them to take Manju and Sunita back in their matrimonial home, which they did. However, according to the prosecution there was no change in the behaviour of Karan Singh and Mukhtiari.

5. At this stage, it may be noted that Manju and Sunita made no allegations regarding dowry demands by their respective husband. The demand for dowry and allegations of harassment were made only against Karan Singh and Mukhtiari.
6. On or about 10th December, 1995 Sunita was given a beating and turned out of the matrimonial home. However, Manju stayed back in the matrimonial home in village Raiya.
7. On 13th December, 1995 at about 4.00 p.m. Manju consumed or was made to consume some poison. She was then taken to the Community Health Centre in Jhajjar and thereafter referred to the Medical College and Hospital (MCH) at Rohtak.
8. At about 6.30 p.m. on 13th December, 1995 a rukka (Exh. PL) was sent by the Community Health Centre at Jhajjar to the Station House Officer, Police Station, Jhajjar.
9. Manju was taken to the MCH at Rohtak by her husband Satbir and was examined at about 8.15 p.m. The doctor in Rohtak then sent another rukka (Exh. PH) to the Police Post, MCH at Rohtak at about 9.30 p.m. along with a medico-legal report.
10. PW-9 ASI Raj Kumar, the Investigating Officer had, in the meanwhile, received the first rukka (Exh. PL) but since he was busy in connection with another case, he went the next day on 14th December, 1995 at about 8.00 a.m. to Rohtak where he picked up the rukka (Exh. PH) and the medico-legal report from the concerned Police Post in Rohtak. He then went to the emergency ward in the MCH and learnt that at about 2.00 a.m. (early morning of 14th December, 1995) Manju had expired. According to Raj Kumar no one from her family was present at the spot and therefore the dead body was placed in the dead house. Raj Kumar conducted inquest proceedings on 14th and 15th December, 1995. During the inquest proceedings on 15th December, 1995 Ram Kishan met Raj Kumar at Rohtak and his formal statement was recorded only at about 5.30 p.m. and a First Information Report (FIR) was registered under Section 304-B of the Indian Penal Code.
11. After carrying out investigations Raj Kumar arrested Karan Singh and Mukhtiari on 26th December, 1995 and subsequently a charge sheet was filed against them alleging offences punishable under Sections 304-B and 498-A of the IPC.

Decision of the Trial Court

12. The Trial Judge hearing the case delivered his judgment and order on 12th February, 1997 and acquitted Karan Singh and Mukhtiari. The two principal grounds on which they were acquitted were that there was an unexplained delay in lodging the FIR. It was held that Manju's mother PW-6 Vidya Devi and her sister Sunita had come to know on 14th December, 1995 that Manju had died but the FIR was registered by Ram Kishan only on 15th December, 1995. In view of the unexplained delay, the case of the prosecution was liable to fail.
13. It was held that the inquest report showed that Ram Kishan had met Raj Kumar on 14th December, 1995. However, we have seen the inquest report and find this is factually incorrect.

14. The second ground on which the Trial Judge acquitted Karan Singh and Mukhtiari was that there was nothing to show that soon before her death, Manju was subjected to cruelty and harassment for or in connection with a demand of dowry. It was held that Manju had died under circumstances that were not normal and her death had occurred within seven years of her marriage but there was no evidence of her being harassed for dowry. She had not sent any letter to her parents complaining of dowry harassment.

15. The Trial Judge also relied on the statement of DW-2 Badlu aged about 75 years and a respectable person of village Raiya that both Manju and Sunita were treated with love and affection and there was no demand for dowry from Karan Singh or Mukhtiari. Badlu further stated that Ram Kishan used to come to village Raiya to enquire about the welfare of his daughters but he was frequently drunk. This was objected to by Mukhtiari which annoyed Ram Kishan. It was also stated by Badlu that Ram Kishan wanted his daughters and their respective husband to stay separately from Karan Singh and Mukhtiari and he had also tried to persuade Karan Singh to give his lands to Satbir and Sukhbir and live on his pension. This was not acceptable to Karan Singh. The Trial Judge was of the opinion that in view of all these facts, Ram Kishan blamed Karan Singh and Mukhtiari for Manju's death.

Decision of the High Court

16. Feeling aggrieved by the judgment and order passed by the Trial Court, the State preferred an appeal in the Punjab and Haryana High Court being Criminal Appeal No. 575-DBA of 1997. By its Judgment and Order dated 12th May, 2008 the High Court set aside the decision of the Trial Judge and convicted Karan Singh and Mukhtiari for an offence punishable under Section 304-B of the IPC and punished them to imprisonment for the minimum period of seven years.

17. The High Court was of the opinion that the delay in lodging the FIR was satisfactorily explained inasmuch as Vidya Devi and Sunita could not be expected to lodge the FIR and would have waited for Ram Kishan to arrive and take necessary steps. There was no undue delay in Ram Kishan's arrival in Rohtak and the FIR was lodged thereafter within a reasonable time. We agree with this finding since the record shows that Ram Kishan was informed of some untoward happening by his son Surinder Singh only on 14th December, 1995 and thereafter he reached Rohtak at about 10.00 p.m. the same day. Not finding anybody there, he went to his village Dhani Phogat and came back to Rohtak on the morning of 15th December, 1995. The FIR was lodged in the afternoon on completion of the inquest proceedings.

18. The High Court also held that it was significant that Satbir and Sukhbir were not examined by Karan Singh and Mukhtiari as defence witnesses. If there was no substance in the allegations made against them, surely Satbir and Subkhbir would have come to their defence. It was also held that merely because there was some disagreement between Ram Kishan on the one hand and Karan Singh and Mukhtiari on the other, that was no reason for Manju to have committed suicide or be killed. The evidence of Sunita as well as that of Ram Kishan clearly pointed to the fact that both Manju and Sunita were being harassed for dowry and were turned out from their matrimonial home on more than one occasion. It was held that just a few days before Manju's death, Sunita was given a

beating and turned out of her matrimonial home. Therefore, soon before her death, Manju was subjected to harassment and she died under unnatural circumstances.

19. Accordingly, the High Court convicted Karan Singh and Mukhtiari of an offence punishable under Section 304-B of the IPC and reversed the order of acquittal passed by the Trial Court.

20. Karan Singh and Mukhtiari are in appeal against the judgment and order of the High Court and the sentence awarded to them. Discussion

21. We have been taken through the evidence of Ram Kishan, Sunita and Vidya Devi. On an analysis of the oral testimony given by them, it is quite clear that the marriage of Manju and Sunita was performed in a comparatively simple manner although a considerable amount seems to have been spent. Ram Kishan categorically stated in his testimony that before the marriage there was no demand for any dowry. Subsequent to the marriage of Manju and Sunita, there also does not seem to be any specific demand for dowry as per the statement of Ram Kishan. All that he testified is that Karan Singh and Mukhtiari would say that his daughters should bring money for raising the construction of a house where they could reside separately. Other than this, there is no mention of any demand having been made by Karan Singh and Mukhtiari for any dowry.

22. Even the statement given by Sunita does not disclose any specific demand for dowry except that there is bald statement that she and Manju were taunted for bringing insufficient dowry. The tenor of her testimony suggests that she and Manju were being generally harassed and ill-treated by Karan Singh and Mukhtiari. The ill-treatment and harassment does not appear to be related to any specific demand for dowry.

23. Even Vidya Devi in her statement makes a general allegation of demand for dowry and the consequent harassment of Manju and Sunita but again the statement is only of a very general nature.

24. Neither Ram Kishan nor Vidya Devi nor Sunita has given any indication of any specific demand for dowry. Under these circumstances, it is difficult for us to conclude that the provisions of Section 304-B of the IPC would be attracted. It has been held times without number that, "To establish the offence of dowry death under Section 304-B IPC the prosecution has to prove beyond reasonable doubt that the husband or his relative has subjected the deceased to cruelty or harassment in connection with demand of dowry soon before her death." [1] As such the ill-treatment and subsequent death of Manju would not fall within the meaning of a dowry death under Section 304-B of the IPC.

25. But, there is no doubt that Manju and Sunita were subjected to ill-treatment and harassment from time to time by Karan Singh and Mukhtiari though it was not relatable to any demand for dowry. The evidence on record shows that they were turned out from the matrimonial home on more than one occasion. They were even turned out from the matrimonial home within about ten days after Manju gave birth to a baby boy. Ram Kishan had spoken about this to Satbir and Sukhbir but in spite of this, the attitude of Karan Singh and Mukhtiari did not change. As mentioned above,

no allegation has been made against Satbir and Sukhbir. Again, a few days before Manju's death, Sunita was subjected to beating and turned out of the matrimonial home. Although, Manju did not accompany her sister, she paid the price for staying back in village Raiya. From the facts of the case it is quite clear to us that although there may be no evidence of Manju having been compelled by Karan Singh and Mukhtiar to consume poison, they had created a situation over a sufficiently long period of time whereby she was left with no option but to take her life. It is quite unlikely that a young lady, particularly one having a year old child, would take her life unless she had some mental health issues (which is not the case) or was compelled by circumstances to do so. An offence of abetment of suicide punishable under Section 306 of the IPC is much broader in scope than an offence punishable under Section 304-B of the IPC.[2] In this case an offence punishable under Section 306 of the IPC is clearly made out against Karan Singh and Mukhtiar.

26. It is significant that when Manju was admitted in the MCH at Rohtak, and even when the inquest proceedings were being conducted on 14th and 15th December, 1995 neither Karan Singh nor Mukhtiar was present at any time. They seem to have had some antipathy towards Manju and Sunita and this resulted in their harassing and treating Manju with cruelty such that she could not bear it any further and therefore decided to take her life.

27. The testimony of Badlu does not assist Karan Singh and Mukhtiar. His testimony in their favour was in the context of dowry demands but, as we have held, that is not the question agitating us. His testimony also showed that there was some friction between Ram Kishan on the one hand and Karan Singh and Mukhtiar on the other. This part of Badlu's testimony does not assist Karan Singh and Mukhtiar. On the contrary, the friction may have been an aggravating factor in the relationship between Manju and Sunita and their parents in law. In any event, it is not necessary for us to read too much, either way, in the statement of Badlu and we leave it at that.

Conclusion

28. Under these circumstances, we modify the judgment and order passed by the High Court and convict Karan Singh and Mukhtiar for an offence punishable under Section 306 of the IPC. The sentence awarded to them by the High Court would necessarily have to be modified. In our opinion, keeping in view the fact that both Karan Singh and Mukhtiar are in their mid-sixties and we are told by their learned counsel that Satbir and Sukhbir are living separately from them due to their differences and taking into consideration the fact that Manju's son is being looked after by Karan Singh and Mukhtiar for the last almost twenty years, we are of the opinion that the ends of justice would be met if they are sentenced to rigorous imprisonment for a period of two years. We are also of the opinion that each one of them should be subjected to pay a fine of Rs. 50,000/- each and in default of payment thereof to undergo simple imprisonment for a further period of six months.

29. With this modification in the conviction and sentence, the appeal is disposed of.

.....J (Ranjana Prakash Desai)J (Madan B. Lokur)
New Delhi;

April 15, 2014

- [1] More recently in *Indrajit Sureshprasad Bind v. State of Gujarat*,
(2013) 14 SCC 678
- [2] *Bhupendra v. State of U.P.*, (2014) 2 SCC 106