

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

JUDGMENT

S.B. CRIMINAL APPEAL NO. 375/2004

MANOJ KUMAR Vs. THE STATE OF RAJASTHAN

S.B. CRIMINAL APPEAL UNDER SECTION
374 CR.P.C. AGAINST THE JUDGMENT
AND ORDER DATED 06.02.2004 PASSED
BY THE SPECIAL JUDGE (WOMEN
ATROCITIES AND DOWRY CASES) &
ADDITIONAL SESSIONS JUDGE, JAIPUR
CITY/DISTRICT IN SESSIONS CASE
124/2002.

Date: 29/08/2008.

HON'BLE MR. JUSTICE K.S. RATHORE

Ms. Shefali Sharma for the accused-appellant.
Mr. B.S. Chhaba, Public Prosecutor for the State.

The present criminal appeal is directed against the impugned judgment dated 06.02.2004 passed by the Special Judge (Women Atrocities & Dowry Cases) & Additional Sessions Judge, Jaipur City/District, whereby the accused-appellant has been convicted and sentenced as under:-

U/s 304-B IPC Rigorous imprisonment for 10 years with a fine of Rs. 1,000/-, in default of payment of fine to further undergo rigorous imprisonment for six months.

U/s 201 IPC Rigorous imprisonment for one year with a fine of Rs. 200/-, in default of payment of fine to further undergo rigorous imprisonment for twenty days.

U/s 176 IPC Rigorous imprisonment for one month with a fine of Rs. 100/-, in default of payment of fine to further undergo rigorous imprisonment for seven days.

All the sentences were ordered to run concurrently.

2. Brief facts of the case are that on the basis of the written report submitted by complainant Ajit Kumar, FIR No. 319/2002 was registered against the accused-appellant for the offences under Sections 304-B, 176 and 201 IPC at Police Station Kotputli, District Jaipur and investigation commenced. After completion of the investigation, the police submitted the charge-sheet against the accused-appellant in the Court of Additional Chief Judicial Magistrate, Kotputli, District Jaipur. Thereafter charges for the offence under Sections 304-B, 201 and 176 IPC were framed against the accused-appellant, who denied the charges and claimed trial. The prosecution, in support of its case, examined as many as 22 witnesses. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., in which he stated that he has been falsely implicated in the case.

3. The Special Judge (Women Atrocities & Dowry Cases) & Additional Sessions Judge, Jaipur City, District after hearing rival submissions of the respective parties, convicted and sentenced the accused-appellant as indicated herein above.

4. The main contention of the learned counsel

for the accused-appellant is that the prosecution has utterly failed to prove that any demand of dowry was made by the accused-appellant and he has been falsely implicated in this case, on the contrary, after death of Manish @ Ravita, her parents were informed about the death of Ravita and the brother of deceased Ravita had demanded Rs. 50,000/- from the accused-appellant for not lodging any complainant, which he refused to give and, therefore, a false case has been registered against the accused-appellant.

5. It is also contended that there is no complaint of any kind regarding alleged demand of Rs. 51,000/- at the time of Neg of Khand Ka Katora or Hero-Honda motorcycle at the time of untiding the knot of Pandal (Mandap) and at the time of 'Gona'. Since the date of marriage i.e. 07.11.2000 till the date of lodging of the FIR i.e. 10.06.2002, no dowry was ever demanded.

6. Learned counsel for the accused-appellant more particularly referred the statements of PW4 Hardwari Lal, PW12 Maniram, PW15 Smt. Rajbala and PW22 Umesh Bhardwaj. He further submits that the cause of death of Ravita was electrocution as it is stated by the prosecution witness that illegal electric connection was taken in the house of the accused-appellant and there is probability of

electrocution as no earthing was there. Learned counsel further submits that the accused-appellant has already remained in custody for about 6 years and 2 months.

7. On the other hand, learned Public Prosecutor appearing for the State has strongly controverted the submissions made on behalf of the accused-appellant and submits that the relatives of the deceased were not informed. The accused-appellant also not informed the police and without informing the police, funeral of Ravita was undertaken. Further the contention of the accused-appellant that Ravita died due to electrocution has not been supported by any medical evidence as no post-mortem was conducted. In such circumstances, as the prosecution witnesses have proved the guilt against the accused-appellant beyond reasonable doubt, therefore, the impugned judgment dated 06.02.2004 requires no interference whatsoever by this Court.

8. I have heard learned counsel for the accused-appellant, learned Public Prosecutor for the State and have also carefully gone through the impugned judgment dated 06.02.2004 passed by the trial Court. I also minutely scanned the statements of the prosecution witnesses and the other evidence and material available on the record.

9. It is no doubt that report was not lodged by the accused-appellant and admittedly the death of Ravita was unnatural and occurred within a period of about 20 months after their marriage, therefore, the version of the accused-appellant is not acceptable that Ravita died due to electrocution, whereas the prosecution witnesses have stated that the cause of death of Ravita was on account of strangulation.

10. Since neither the report was lodged nor the post-mortem of deceased Ravita was conducted, therefore, the accused-appellant has rightly been convicted and sentenced for the offence under Sections 201 and 176 IPC.

11. As regards offence under Section 304-B IPC, having considered the rival submissions and after carefully going through the material and evidence available on the record, this Court is fully satisfied that the prosecution is also able to prove the guilt of the accused-appellant under Section 304-B IPC beyond reasonable doubt and he has rightly been convicted for the aforesaid offence, but looking to the age of the accused-appellant and considering the fact that he has already remained in custody for about 6 years and 2 months, the sentence of 10 years rigorous imprisonment awarded to the accused-appellant for the offence under Section 304-B IPC is reduced to rigorous imprisonment for 7

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years with a fine of Rs. 1,000/-, in default of payment of fine to further undergo rigorous imprisonment for six months.

12. In the result, the present criminal appeal is partly allowed. The conviction of the accused-appellant Manoj Kumar under Sections 201 and 176 IPC is confirmed and the sentences awarded to him thereunder also stands confirmed and the conviction of the accused-appellant under Section 304-B is also confirmed but instead of sentence of rigorous imprisonment for 10 years awarded under Section 304-B IPC, the accused-appellant is sentenced to undergo rigorous imprisonment for 7 years with a fine of Rs. 1,000/-, in default of payment of fine to further undergo rigorous imprisonment for six months. The impugned judgment dated 06.02.2004 passed by the Special Judge (Women Atrocities & Dowry Cases) & Additional Sessions Judge, Jaipur City/District stands modified accordingly.

(K.S. RATHORE), J.

/KKC/
(Reserved/Hearing)

