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DEVENDER SINGH
v.
STATE OF HARYANA

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NOVEMBER 29, 2006

[S.B. SINHA AND MARKANDEY KATJU, JJ.]

Penal Code, 1860:

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ss. 306 and 498-A—Married woman died of burn injuries—Her son and father-in-law also received burn injuries, the latter while saving her—Cause of suicide alleged to be demand by her husband of money for raising some construction—High Court holding that purported demand did not strictly fall within the definition of dowry but convicting the husband—Held, as the

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purported demand made by the husband had no direct nexus or immediate cause for commission of suicide by the wife, it would not amount to abetment of commission of such suicide—Husband being entitled to benefit of doubt, acquitted.

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A married woman died of burn injuries within seven years of her marriage. In the incident her two years old son also received burn injuries, as also her father-in-law who tried to save her and the child. Both of them also died subsequently. Her husband and brother-in-law were prosecuted on the basis of some letters containing demand of money to raise some construction, which was said to have embarrassed the victim and was a cause

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to commit the suicide. The trial court acquitted the brother-in-law but convicted the husband. The High Court affirmed the conviction and sentence.

Allowing the appeal of the husband, the Court

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HELD: 1.1. The High Court is not correct. As the purported demand made by the husband had no direct nexus or immediate cause for commission of suicide by his wife, the same would not amount to abetment of commission of such suicide. The very fact that the High Court has proceeded on the basis that the demand made by the husband did not amount to dowry negates the prosecution case. [842-E-F]

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1.2. The prosecution should have proved its case beyond reasonable doubt. A
It is accepted at the Bar that when the incident took place, the appellant was
not in his house. He was prosecuted together with his brother. The trial Judge
acquitted his brother. This fact also should have been taken into consideration
by the High Court. On the facts and circumstances of the case, it is a fit case B
where the appellant is entitled to benefit of doubt. Accordingly, the impugned
judgment of the High Court and the judgment and order of the trial court are
set aside. [842-G-H; 843-A-B]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 277/
2000. C

From the Judgment and Order dated 1-6-1999 of the High Court of
Punjab and Haryana at Chandigarh in CrI. A. No. 604-SB/1987.

Sanjay Sharawat for the Appellant.

Manjit Singh, Harikesh Singh and T.V. George for the Respondent. D

The Judgment of the Court was delivered by

S.B. SINHA, J. The appellant before us is the husband of the deceased
Sumitra. They were married on 7.2.1984. A child was born to them in 1985. E
The incident occurred on 11.3.1987 at about 11.00 a.m. Indisputably, the two-year
old child of the appellant was also injured in that incident. It has also not been
disputed that the father of the appellant received burn injuries when he tried
to save the lady and the child. Whereas the deceased Sumitra died on the
spot, her son and father-in-law died subsequently. F

Three witnesses, namely, both the parents and the brother of the
deceased were examined to prove the purported demand of dowry and
harassment allegedly meted out to the deceased by the appellant. The entire
prosecution case is based on some letters which were said to have been
written by the deceased and her husband in the years 1984-85. The learned G
Trial Judge as also the High Court based their entire judgments of conviction
and sentence on the basis of said letters and the conduct of the appellant
and other family members.

From a perusal of the judgment of the High Court it appears that the
appellant is said to have demanded some money from his in-laws to raise H.

A some construction. The High Court opined that the said demand does not strictly come within the purview of the definition of dowry. But despite the same, it proceeded to hold that such demands spoil the atmosphere of the matrimonial home; the wife was embarrassed and as a result of such embarrassment committed suicide. As regards the fact that the appellant's father had tried to save the lady and the child, who ultimately died, was B although considered by the High Court, but it proceeded to hold that he also must have known the contents of the letters (Exts PU and PU/1) and the behaviour of his son to be totally untoward a married life and he did not resort to anything which could have solved the problem in the family. The High Court states:

C "He may not have contributed the deceased to have died but he also did not help her the live. In such a situation even if he tried to save the infant and the daughter-in-law, it could not absolve the appellant of his misdeeds which are proved and as referred to above are in writing. The husband was supposed to bring cordiality, cooperation D and peach in the home even if he needed some monetary help from the others instead of maltreating his wife which led to such a grave situation which he did not contemplate that his son could be lost."

E Having considered the judgment of the High Court, we are of the opinion that the approach of the High Court is not correct. As the purported demand made by the husband had no direct nexus or immediate cause for commission of suicide by his wife, the same would not amount to abetment of commission of such suicide.

F The very fact that the High Court has proceeded on the basis that the demand made by the husband did not amount to dowry, in our opinion, negates the prosecution case. It should not have jumped to the conclusion that the same must have caused embarrassment to the deceased which led to her commission of suicide. The observations were in the realm of conjectures and surmises. In a criminal case, no conviction can be based on conjectures G and surmises.

The prosecution should have proved its case beyond reasonable doubt. It is accepted a the Bar that when the incident took place, the appellant was not in his house.

H He was prosecuted together with his brother. The learned Trial Judge

acquitted the brother of the appellant. This fact also should have been taken into consideration by the High Court. A

For the reasons aforementioned, we are of the opinion that it is a fit case where the appellant is entitled to benefit of doubt. Accordingly, the impugned judgment passed by the High Court and the judgment and order of the Trial Court are set aside and the appeal is allowed. The appellant is on bail, the his bail bonds shall stand discharged. B

R.P.

Appeal allowed.