

A RAJBIR @ RAJU AND ANR.
v.
STATE OF HARYANA
(S.L.P. (Crl.) No. 9507 of 2010)

B NOVEMBER 22, 2010.

[MARKANDEY KATJU AND GYAN SUDHA MISRA, JJ.]

PENAL CODE, 1860:

C s. 304-B – Conviction of accused-husband and mother-
in-law by trial court – Husband sentenced to imprisonment for
life and mother-in-law to 2 years RI – High Court reducing
sentence of husband to 10 years RI –Appeal by accused –
D Held: It appears to be a case of barbaric and brutal murder –
Injuries sustained by the deceased prima facie indicate that
her head was repeatedly struck and she was also throttled –
Notice to issue to accused-husband why his sentence be not
enhanced to life sentence as awarded by trial court –
Administration of criminal justice – Sentence/sentencing.

E **ADMINISTRATION OF CRIMINAL JUSTICE:**

F Framing of charge – Directions given to all trial courts in
the country, ordinarily, to add s. 302 IPC to the charge of s.
304-B IPC so that death sentences can be imposed in such
heinous and barbaric crimes against women – Penal Code,
1860 – ss. 304-B and 302 IPC – Sentence/sentencing –
Enhancement of sentence.

G Satya Narayan Tiwari @ Jolly & Anr. vs. State of U.P.
[2010] 12 SCR 1137, relied on.

Case Law Reference:

[2010] 12 SCR 1137 relied on para 5

CRIMINAL APPELLATE JURISDICTION : SLP (CRL.) No. 9507 of 2010. A

From the Judgment & Order dated 21.01.2010 of the High Court of Punjab & Haryana at Chandigarh in Criminal Appeal No. 505 of 2001. B

A..P. Mohanty for the Petitioners.

The following Order of the Court was delivered

ORDER

1. Delay of 158 days in filing the special leave petition is condoned. C

2. The petitioner No.1 Rajbir (husband) was found guilty of murdering his pregnant wife Sunita for demanding cash amount barely 6 months after their marriage. He was awarded life sentence under Section 304 B, IPC, apart from sentences under other sections. The Punjab & Haryana High Court has reduced the sentence to 10 years rigorous imprisonment. Petitioner No.2 (mother of Rajbir) was awarded two years rigorous imprisonment. D E

3. We fail to see why the High Court has reduced the sentence of petitioner No.1 Rajbir. It appears to be a case of barbaric and brutal murder. This is borne out by the injuries, which are in the evidence of Doctor, PW 2, which are as follows: F

"1. A diffused contusion reddish in colour on right side of face extending between left half of both lips and upto right pinna.

And from the zygomatic area to right angle mandible. On dis-section underline tissue was found Ecchymose. G

2. On right side of neck, a diffused contusion 3.5 cm x 2.5 cm situated, 2.5 cm posterior inferior to right angle of H

A mandible. On dis-section underlying area was Ecchmosed.

3. A contusion size of 7.5 cm x 5 cm over left side of neck just below angle of mandible. Underlying area on dissection was Ecchymesed.

B 4. Multiple reddish contusion of various sizes from 0.5 cm x 0.5 cm to 1 cm to 1 cm x 0.5 cm on both lips including an area of 6 x 4 cms. On dissection, underlying area was Ecchymesed.

C 5. A laceration of size of 1.5 cm x 1 cm present inside the lower lip corresponding to lower incisor tooth and all of the neck on both sides below thyroid bone was found Echhymesed on dis-section.

D Scalp and skull were healthy. Uterus contained a male foetus of four months.

Cause of death in our opinion was due to smothering and throttling which was ante-mortem in nature and was sufficient to cause death in ordinary course of nature."

E 4. The above injuries, prima facie, indicate that the deceased Sunita's head was repeatedly struck and she was also throttled.

F 5. We have recently held in the case of *Satya Narayan Tiwari @ Jolly & Another vs. State of U.P.*, Criminal Appeal No. 1168 of 2005 decided on 28th October, 2010 that this Court is going to take a serious view in the matters of crimes against women and give harsh punishment.

G 6. This view was reiterated by us in another special leave petition in the case of *Sukhdev Singh & Another vs. State of Punjab* and we issued notice to the petitioner as to why his life sentence be not enhanced to death sentence.

H 7. Issue notice to petitioner No.1 why his sentence be not

enhanced to life sentence as awarded by the trial Court. A

8. As regards petitioner No. 2 (Mother of petitioner No. 1), it is alleged that: she is about 80 years of age.

9. Issue notice to the respondent-State regarding petitioner No. 2. B

10. In the meantime, petitioner No. 2 only is ordered to be released on bail to the satisfaction of the trial Court in connection with case arising from FIR No. 279 of 1998 dated 4.9.1998, P.S. Sadar Rohtak. C

11. We further direct all trial Courts in India to ordinarily add Section 302 to the charge of section 304B, so that death sentence can be imposed in such heinous and barbaric crimes against women. D

12. Copy of this order be sent to Registrar Generals/ Registrars of all High Courts, which will circulate it to all trial Courts.

R.P. Special Leave petition adjourned.