

REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1278 OF 2014

(@SPECIAL LEAVE PETITION (CRL.) No.1696 of 2006)

STATE OF PUNJAB

..... APPELLANT

VERSUS

GURMIT SINGH

.... RESPONDENT

J U D G M E N T

Chandramauli Kr. Prasad

State of Punjab aggrieved by the order dated 7th of September, 2005, passed by the Punjab and Haryana High Court in Criminal Revision No. 320 of 2000 whereby it has set aside the order of the trial court dated 24th of January, 2000 summoning the respondent Gurmit Singh to face trial under Section 319

of the Code of Criminal Procedure, has preferred this special leave petition.

Leave granted.

Facts lie in a very short compass. On the basis of a report a case under Section 304B of the Indian Penal Code (for short 'IPC') was registered at Police Station, Kharar. In the first information report, the names of various accused persons figured including Gurmit Singh, the respondent herein. Police after usual investigation, submitted the charge-sheet in which the respondent did not figure as an accused. However, the respondent along with some other accused persons who were not charge-sheeted were summoned to face the trial. They challenged the said order before the High Court in Criminal Misc. No. 1584-M of 1999 and the High Court by its order dated 25th of February, 1999 set aside the order

summoning those accused persons including the respondent but while doing so gave liberty to take recourse to the provisions of Section 319 of the Code of Criminal Procedure, hereinafter referred to as the 'Code', at an appropriate stage of the trial. During the course of trial, evidence of one Shakuntla Rani, PW-1 was recorded, who averred that the respondent herein was also responsible for the death of Gurjit Kaur, the wife of Paramjit Singh. Thereafter, an application was filed by the prosecution for summoning aforesaid Gurmit Singh and other accused persons before the trial court in exercise of the power under Section 319 of the Code. The trial court by its order dated 24th of January, 2000, summoned the respondent besides other accused persons to face trial, for commission of offence under Section 304B IPC, inter alia, observing that the names of those persons figured in the FIR, statement of the witnesses recorded under

Section 161 of the Code and the evidence of Shakuntla Rani, PW-1.

Respondent challenged the aforesaid order in a revision application filed before the High Court inter alia on the ground that he cannot be tried for offence under Section 304B of the Code because he is not a relative of the husband of the deceased. It was pointed out that Paramjit Singh happened to be the husband of the deceased whereas the respondent is the brother of his aunt (chachi) and, therefore, cannot be said to be a relative of the deceased's husband. Aforesaid submission found favour with the High Court and, accordingly, it quashed the order summoning the respondent to face the trial. While doing so, the High Court observed as follows:

"Even the dictionary meaning of a relative is one who is related by blood or marriage. Gurmit Singh is certainly not related to Paramjit Singh either by blood or by marriage. Gurmit Singh would not fall in the category of

relative of the husband. Therefore, Gurmit Singh must be excluded from the array of the accused. It is not necessary to try him under Section 304B I.P.C. for the dowry death of Paramjit Singh's wife.

Mr. V. Madhukar, learned Additional Advocate General appearing on behalf of the State submits that the High Court erred in holding that the respondent is not a relative of the husband of the deceased. He points out that Balbir Kaur is the wife of Paramjit Singh's father's brother and Gurmit Singh respondent herein happens to be Balbir Kaur's brother, hence, a relative of Paramjit Singh. According to him, the High Court erred in holding that he is not a relative of the husband of the deceased. Mr. C.D. Singh, learned counsel appearing on behalf of the respondent, however, submits that the respondent cannot be said to be related to the husband of the deceased in any manner and, therefore, cannot be prosecuted for offence

under Section 304B of the IPC. The rival submission necessitates the examination of Section 304B of the IPC, same reads as follows:

"304B. Dowry death.—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."

(underlining ours)

From a plain reading of the aforesaid provision it is evident that when a woman dies by any burns or bodily injury or otherwise than under normal circumstances within seven years of the marriage, her husband or any relative of her husband shall be deemed to have committed the offence of dowry death if it is shown that soon before the death the woman was subjected to cruelty or harassment by her husband, or by any relative of her husband. This section therefore, exposes the husband of the woman or any relative of her husband for the commission of offence of the dowry death. Admittedly, the respondent is not the husband of the woman who died and, therefore, the question which falls for determination is as to whether he comes within the ambit of "any relative of her husband". The expression "relative" has not been defined in the IPC. The provision with which we are concerned is a penal provision which deserves

strict construction. It is well settled that when the words of a statute are not defined, it has to be understood in their natural, ordinary or popular sense. For this purpose, it shall be permissible to refer to dictionaries to find out the general sense in which the word is understood in common parlance. In Ramanatha Aiyar's, Advance Law Lexicon (Vol.4, 3rd Edn.), the word relative means any person related by blood, marriage or adoption. A large number of dictionaries give this word relative, in context, same meaning.

It is relevant here to state that the expression "relative of the husband" has been used in Section 498-A of the I.P.C. While interpreting the said expression, this Court in the case of **U. Suvetha vs. State by Inspector of Police and Anr. (2009) 6 SCC 787** held it to mean a person related by blood, marriage or adoption. Relevant portion of the judgment reads as follows:

"10. In the absence of any statutory definition, the term "relative" must be assigned a meaning as is commonly understood. Ordinarily it would include father, mother, husband or wife, son, daughter, brother, sister, nephew or niece, grandson or granddaughter of an individual or the spouse of any person. The meaning of the word "relative" would depend upon the nature of the statute. It principally includes a person related by blood, marriage or adoption."

The expression relative of the husband further came up for consideration in the case of **Vijeta Gajra vs. State of NCT of Delhi (2010)11 SCC 618** and while approving the decision of this Court in **U. Suvetha (Supra)**, it was held that the word relative would be limited only to the blood relations or the relations by marriage. It is appropriate to reproduce the following passage from the said judgment:

"12. Relying on the dictionary meaning of the word "relative" and further relying on Ramanatha Aiyar's, Advance Law Lexicon (Vol.4, 3rd Edn.), the Court went on to hold that Section 498-A IPC being a penal provision would

deserve strict construction and unless a contextual meaning is required to be given to the statute, the said statute has to be construed strictly. On that behalf the Court relied on the judgment in **T. Ashok Pai vs. CIT (2007) 7 SCC 162**. A reference was made to the decision in **Shivcharan Lal Verma vs. State of M.P. (2007) 15 SCC 369**. After quoting from various decisions of this Court, it was held that reference to the word "relative" in Section 498-A IPC would be limited only to the blood relations or the relations by marriage."

It is well known rule of construction that when the Legislature uses same words in different part of the statute, the presumption is that those words have been used in the same sense, unless displaced by the context. We do not find anything in context to deviate from the general rule of interpretation. Hence, we have no manner of doubt that the word "relative of the husband" in Section 304 B of the IPC would mean such persons, who are related by blood, marriage or adoption. When we apply this principle the respondent herein

is not related to the husband of the deceased either by blood or marriage or adoption. Hence, in our opinion, the High Court did not err in passing the impugned order. We hasten to add that a person, not a relative of the husband, may not be prosecuted for offence under Section 304B IPC but this does not mean that such a person cannot be prosecuted for any other offence viz. Section 306 IPC, in case the allegations constitute offence other than Section 304B IPC.

In the result, we do not find any merit in the appeal and it is dismissed accordingly.

JUDGMENT

.....J

(CHANDRAMAULI KR. PRASAD)

.....J

(PINAKI CHANDRA GHOSE)

NEW DELHI,
July 2, 2014.

SUPREME COURT OF INDIA



JUDGMENT