

Neutral Citation No. - 2025:AHC:152680-DB

Judgement reserved on 04.08.2025

Judgement delivered on 29.08.2025

Court No. - 47

Case :- CRIMINAL APPEAL U/S 413 BNSS No. - 124 of 2025

Appellant :- Dharam Das

Respondent :- State Of U.P. And 4 Others

Counsel for Appellant :- Ardhendu Shekhar Sharma,Ram Babu Sharma

Counsel for Respondent :- G.A.

Hon'ble Siddharth,J.

Hon'ble Avnish Saxena,J.

(Per Justice Avnish Saxena)

1. Heard Sri Ram Babu Sharma, learned counsel for the appellant and learned AGA for the State.
2. The present criminal appeal is filed against the judgement and order of acquittal dated 16.01.2025 passed by Additional Sessions Judge, Court No.2, Meerut in Sessions Trial No. 302 of 2018 (State Vs. Mithun alias Monti and others) arising out of Case Crime No. 781 of 2017, under Section 498A, 304B IPC and Section 3/4 D.P.Act, P.S. Kharkhauda, District Meerut, whereby the respondents-accused Mithun alias Monti, Neeraj, Brahma Singh and Smt.Vidya Devi, have been acquitted of the charges framed for the offence under Sections498A, 304B IPC and Section 3/4 D.P.Act.
3. The FIR has been registered on 20.12.2017 by the appellant against the respondents for the dowry death of his daughter Neha, who was married to Mithun alias Monti on 16.01.2017 as per Hindu rites and rituals from village Muradpur, P.S. Hapur Dehat, wherein Rs. 4,00,000/- was spent. After the marriage, the in-laws of deceased-Neha, namely, Brahma Singh (father-in-law), Smt. Vidya Devi (mother-in-law), Neeraj (brother-in-law/Jeth), Shravan (brother-in-law/Nandoi) and Geeta (sister-in-law/Nanad) were not satisfied with the dowry and commit atrocities for

the demand of dowry. The in-laws demanded a car. Deceased Neha has intimated the accused that her father is not in capacity to give car, being annoyed the in-laws had ousted Neha after beating her on 05.12.2017 and left her at Nai Mandi. Somehow the informant and family members of Neha had persuaded the in-laws that they are not in capacity to give additional dowry and left Neha in her matrimonial home. On 20.12.2017 at about 4.00 p.m. the village Pradhan of village Setkua had called the informant through his mobile phone that in-laws of Neha have killed by hanging her.

4. After the investigation, charge sheet is submitted against Mithun alias Monti, Neeraj, Brahma Singh, Vidya Devi for offence under Sections 498A, 304B IPC and Section 3/4 D.P.Act.

5. The charge is framed under Section 498A, 304B IPC and Section 3/4 D.P.Act against all the accused-respondents.

6. During trial Dharam Das, the father of the deceased is examined as PW-1; Shravan, the brother of the deceased is examined as PW-2; Yograj, one of the witness of inquest is examined as PW-3; Dr. Radho Kumar, who has conducted the post mortem examination, is examined as PW-4; Constable Pramod Kumar, scribe of chik FIR is examined as PW-5; Santosh Kumar, A.D.M. who has conducted the inquest, prepared inquest report and other necessary documents has been examined as PW-6; and Investigating Officer- C.O. Hari Mohan Singh is produced as PW-7.

7. The trial court has acquitted the respondents by impugned judgement on evaluating the oral and documentary evidences on record considering the statement of informant that he has no knowledge about the contents of the FIR; which is written by Pradhan of the village. In his further statement, the informant has deposed in his cross examination that he is a labour/rickshaw puller and the accused- husband is also labour. The marriage was settled between his daughter and accused-Mithun as both of them liked each other. As such, there was no demand of dowry prior to marriage. He further states that prior to the incident no complaint

has been lodged against the in-laws for the demand of dowry or cruelty committed by the in-laws. The trial court found same answers in the cross examination of PW-2, brother of deceased. In his cross examination, he states that his sister was not having any problem in her matrimonial home. He states that accused-Mithun has bought mobile phone for his sister. The trial court further considers that there was no injury on the person of deceased- Neha, which reveals from the post mortem report. The cause of death was on account of ante-mortem hanging. The trial court further evaluated the evidences and found that the Investigating Officer has not taken into consideration the financial capacity of informant from whom a demand of car was raised as dowry. In totality the trial court found that the parental home of deceased was situated 15 kms. away from her matrimonial home and there was frequent visit of family members at each other's residences, where they exchange gifts, as such, the trial court found that there is no demand of dowry, no cruelty attributed for the demand of dowry and it is not the prosecution case that any of the respondents has abated the suicide of deceased-Neha.

8. Learned counsel for the appellant submits that the trial court has passed the impugned judgements without application of mind, incorrectly appreciated the evidences on record against the law. The prosecution has established beyond doubt that the deceased was killed by the accused-persons. The cause of death is asphyxia as result of ante mortem hanging. The nanad-Geeta and nandoi- Shravan were dropped in charge sheet and rest of the accused have been acquitted in trial. The prosecution has established a case of unnatural death of Neha within seven years of marriage, who was treated with cruelty by the accused-respondents for the demand of car in dowry. Prior to the fateful day of 20.12.2017 the deceased was beaten by the respondents and left abandoned at Nai Mandi on 05.12.2017. The evidences of witnesses are trustworthy and shall be relied on, whose testimonies are sufficient to convict the respondents. It is, therefore, prayed that the judgment of acquittal be set aside and the accused be convicted.

9. Countering the arguments, learned AGA submits that the trial court has rightly appreciated the oral as well as documentary evidences. The witnesses in their cross-examination have stated that the content of the FIR is not known to the informant. The marriage between deceased and accused-Mithun was solemnized according to their choice. There was no demand of dowry at the time of marriage. The informant is a labour, who is not having the financial capacity to give a car in dowry. The prosecution has not proved the atrocities for the demand of dowry and soon before the death. The death of deceased is on account of hanging, which is rightly held to be suicidal death. It is not the case of the prosecution that in-laws had abated suicide. The prosecution is failed to prove demand of dowry. The grounds taken in appeal are devoid of merit and hence the appeal is liable to be dismissed. Ther trial court has rightly acquitted the accused-respondents holding that the prosecution has failed to prove its case beyond reasonable doubt.

10. The appellate Court is usually reluctant to interfere with a judgment of acquitting an accused on the principle that the presumption of innocence in favour of the accused is reinforced by such a judgment. The above principle has been consistently followed by the Constitutional Court while deciding appeals against acquittal by way of Article 136 of the Constitution or appeals filed under Section 378 and 386 (a) Cr.P.C. in **State of M.P. Vs. Sharad Goswami**, (2021) 17 SCC 783; **State of Rajasthan Vs. Shera Ram alias Vishnu Dutta**, (2012) 1 SCC 602, **Shivaji Sahabrao Bobade Vs. State of Maharastra**, (1973) 2 SCC 793.

The Supreme Court in the case of **Ramesh Babulal Doshi Vs. State of Gujarat**, (1996) 9 SCC 225 has observed that the High Court must examine the reasons given by the trial Court for recording their acquittal before disturbing the same by re-appraising the evidence recorded by the trial court. For clarity, para 7 is extracted herein below:

"Before proceeding further it will be pertinent to mention that the entire approach of the High Court in dealing with the appeal was patently wrong for it did

not at all address itself to the question as to whether the reasons which weighed with the trial Court for recording the order of acquittal were proper or not. Instead thereof the High Court made an independent reappraisal of the entire evidence to arrive at the above quoted conclusions. This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellant Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellant Court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellant Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then - and then only - reappraise the evidence to arrive at its own conclusions. In keeping with the above principles we have therefore to first ascertain whether the findings of the trial Court are sustainable or not."

The Supreme Court in the case of **Sadhu Saran Singh Vs. State of U.P., (2016) 4 SCC 357** has observed that an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity.

The Supreme Court in the case **Basheera Begam Vs. Mohd. Ibrahim, (2020) 11 SCC 174** has held that the burden of proving an accused guilty beyond all reasonable doubt lies on the prosecution. If, upon analysis of evidence, two views are possible, one which points to the

guilt of the accused and the other which is inconsistent with the guilt of the accused, the latter must be preferred. Reversal of a judgment and other of conviction and acquittal of the accused should not ordinarily be interfered with unless such reversal/acquittal is vitiated by perversity. In other words, the court might reverse an order of acquittal if the court finds that no person properly instructed in law could have, upon analysis of the evidence on record, found the accused to be "not guilty". When circumstantial evidence points to the guilt of the accused, it is necessary to prove a motive for the crime. However, motive need not be proved where there is direct evidence. In this case, there is no direct evidence of the crime.

The Supreme Court in the case of **Kali Ram Vs. State of H.P.**, (1973) 2 SCC 808 has observed as under:

"25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."

11. In the background of the law discussed herein above, we have examined the trial court's findings and evidence adduced during the trial by the witnesses to test the legality and soundness of the impugned judgement and order.

12. The suicidal death of Neha within seven years of marriage at the matrimonial home on 20.12.2017 is an undisputed fact, but to hold the in-laws guilty for the death of deceased-Neha is based on two factors. Firstly, the death is in pursuance to demand of dowry coupled with committing of cruelty for the said demand; secondly, if the demand of dowry is not the reason, then the abatement of suicide and the person, who abets the same.

13. In the present case, the prosecution case hinges upon the demand of dowry, as such, the second line of action, that deal with abatement to suicide is not the matter of concern.

14. Learned trial court has rightly appreciated the fact, arose out in the cross examination of PW-1, informant, who has stated that he is not aware about the facts mentioned in the FIR, written by Gram Pradhan. The Gram Pradhan is neither named in the FIR, nor examined during the investigation or produced as witness. This made the FIR, doubtful.

15. The trial court has also evaluated and appreciated the facts regarding no demand of dowry at the time of marriage from the cross examination of PW-1 Dharam Das and PW-2 Shravan being father and brother, respectively of deceased.

16. The trial court while negating the factum of demand of dowry has also observed and held that there was usual continuous visitation and observation of customaries between the families. Besides, the statement of accused recorded under Section 313 Cr.P.C. is of little value, which showed the other side of the picture that the deceased committed suicide as her husband was not ready to move to City from village.

17. We, therefore, are of the opinion that the trial court has rightly appreciated the evidences on record and acquitted the accused, which does not warrant interference, accordingly, the appeal is liable to be dismissed.

18. Therefore, the appeal is hereby **dismissed**.

Order Date :- 29/08/2025

Abhishek Sri.

(Avnish Saxena,J.) (Siddharth,J.)