

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Appeal D-1387-DB of 2015
Date of Decision: October 30, 2015**

Balraj Panchal

.....Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. Parminder Singh, Advocate
for the appellant.

T.P.S.MANN, J.

Appellant-Balraj Panchal, who is the father of deceased-Pooja has filed the present appeal for challenging the acquittal of respondents Balbir and Maya Devi of the charges under Sections 304-B, 302, 120-B, 498-A and 316 IPC. He has also prayed for enhancing the sentence of imprisonment of respondent-Manoj Kumar.

The case of the prosecution, in nutshell, is that the marriage of Pooja was solemnized with respondent-Manoj Kumar on 29.7.2007 as per the Hindu rites and ceremonies. From this wedlock, one son and one daughter were born. At the time of the

marriage, the appellant had given sufficient dowry to his daughter, her husband-Manoj Kumar, father-in-law Balbir, mother-in-law Maya Devi, brother-in-law Pawan and sister-in-law Dimple. However, the in-laws of Pooja were not happy with the dowry. On that account, they used to taunt her and also started harassing her. They raised a demand for a car. However, Pooja showed her inability to fulfill their demand. On this, her in-laws started giving her beatings. She disclosed about the same to her father-Balraj Panchal, mother-Kesar and brother-Vinod Kumar. The appellant along with his family members visited the matrimonial home of Pooja and tried to make her in-laws understand, but despite the same her in-laws remained adamant in their demand. The appellant assured them that he would fulfill their demand but asked for some time. The in-laws of Pooja agreed to the same. The in-laws of his daughter were successful in persuading her and, accordingly, brought her back to the matrimonial home. For some days, the behaviour of her in-laws remained normal but after some time, demand was raised for a car and they even started giving beatings to Pooja. A meeting of the brotherhood was held and, accordingly, after persuading his daughter the appellant sent her back to her matrimonial home. At that time, she was again pregnant. When the appellant along with his wife-Kesar, Balbir and Balbir's wife Maya Devi was returning from

village Kalupur, District Sonapat, after attending last rites of some relatives of theirs' Balbir received a phone call that Pooja had expired. On this, all of them reached Karnal and found Pooja lying dead on the bed. There were bluish marks on her neck and eyes. The appellant claimed that his daughter had been done to death by her in-laws after hatching a criminal conspiracy. Accordingly, on the basis of her statement, FIR No. 670 dated 16.9.2013 was registered at Police Station, Sadar, Karnal against the in-laws of the deceased for committing offences under Sections 304-B, 316, 302, 498-A and 120-B IPC.

On completion of the investigation, final report under Section 173 Cr.P.C. was submitted against Manoj Kumar (husband), Balbir (father-in-law) and Maya Devi (mother-in-law) and they were charged for the aforementioned offences.

The trial ended with the acquittal of respondents Balbir and Maya Devi of the charges against them. Only respondent- Manoj Kumar was convicted under Sections 302 and 316 IPC and sentenced to undergo imprisonment for life and imprisonment for ten years, respectively.

In support of its case, the prosecution examined the appellant, namely, Balraj Panchal as PW1, his wife Smt. Kesar as PW2, the father and mother, respectively, of the deceased.

Though, in their examination-in-chief, both of them supported the prosecution case, yet in their cross-examination, they admitted that accused Balbir and Maya Devi were not responsible for the death of Pooja. They never demanded any dowry nor harassed their daughter Pooja. PW1 Balraj Panchal admitted that Balbir and Maya Devi did not demand dowry either before settlement of marriage or Tikka ceremony of Manoj Kumar. He further admitted that his daughter Pooja and her husband Manoj Kumar used to reside separately from Balbir and Maya Devi. Though they lived in the same house, yet they were having separate kitchens. Further, after the marriage, Balbir and Maya Devi never tortured or coerced her daughter Pooja till her death nor demanded anything. He further admitted that Balbir, Maya Devi, Pawan and his wife Dimple never harassed his daughter nor they demanded any dowry from his daughter or from him. He went on to state that he had given their names under the pressure of his relations and other persons of his family. Similarly, PW2 Kesar, in her cross-examination admitted that Balbir, Maya Devi, Pawan and Dimple never tortured her daughter Pooja and Pooja was residing separately on the ground floor along with her children. Further, Manoj was not sharing the kitchen with the other accused. Balbir and his wife were not at all responsible for the death of Pooja. She even went on to admit that Manoj was not even caring about

the advise of his parents. However, her daughter was given due respect and regard by Balbir and his wife Maya Devi, who had no hand in the death of their daughter as they were with them on that day.

From the aforementioned admissions made by PW1 Balraj and PW2 Kesar, it can safely be concluded that Balbir and Maya Devi had not treated the deceased with cruelty on account of demand of dowry. Further, the deceased along with her husband and children was living separately from them.

In view of the above, no case is made out for any interference in the impugned judgment to the extent of acquitting respondents Balbir and Maya Devi, father-in-law and mother-in-law, respectively of Pooja, of the charges against them. Accordingly, this Court has no other option, but to uphold their acquittal.

As regards the prayer made by the appellant for enhancement of sentence of imprisonment of respondent Manoj Kumar, it may be noticed that proviso to Section 372 Cr.P.C. does not give right of appeal to the victim for asking for such an enhancement. The victim can, at the most, challenge the acquittal of the accused, conviction of the accused for a lesser offence or for enhancement of compensation by filing an appeal but no right

has been given to him to seek enhancement of sentence of imprisonment.

Faced with the above, learned counsel for the appellant submits that he may be allowed to withdraw the present appeal qua respondent No. 2-Manoj Kumar with liberty to seek any other remedy available under the law.

Resultantly, the appeal qua respondent No. 2-Manoj Kumar is dismissed as withdrawn with liberty to the appellant to seek any other remedy available under the law. At the same time, the appeal filed qua acquittal of respondents No. 3 and 4, namely, Balbir and Maya Devi, respectively, is dismissed.

**(T.P.S. MANN)
JUDGE**

October 30, 2015
amit rana

**(GURMIT RAM)
JUDGE**