

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

CRA-D-929-DB-2015

Date of Decision: 27.11.2015

Subhash

.....Appellant

Vs.

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. Gurmail Singh Duhan, Advocate,
for the appellant.

S.S. Saron.J.

The appeal has been filed by the complainant-Subhash against acquittal of Gurpal (respondent No. 2) for the offence under Section 304-B read with Section 34 of the Indian Penal Code, 1860 (for short --'IPC').

FIR in the case was registered on the statement of Subhash (appellant/complainant), who alleged that the marriage of his sister Mamta (deceased in the case) was solemnized with Karim Pal resident of village Surmi on 24.02.2012 according to Hindu rites and ceremonies. It is alleged that after about six months of the marriage, the father-in-law Rishi Pal @ Richhpal, mother-in-law Murti Devi, husband's elder brother ('Jeth') namely Gurpal (respondent No. 2) and husband Karim Pal of Mamta started harassing her for bringing more dowry and a car. The sister of the

appellant/complainant on telephone informed him about the demands that were raised by her in laws. They brought Mamta to their house and then a Panchayat from village Surmi came to village of the complainant. The accused assured that Mamta (deceased) would not be harassed and the demand for bringing a car would not be raised. Thereafter, Rishi Pal @ Richhpal took the sister of the appellant/complainant to her matrimonial home at village Surmi after two-three days. She was kept properly for one month but later they again started harassing her for bringing a car. On getting to know this, Subhash (appellant-complainant) and the son of his mother's sister ('Mausi') namely Karta Ram went to village Surmi where Gurpal (respondent No. 2) met them in his house. He was asked about the harassment meted out to Mamta and demand of a car. The appellant/complainant side informed Gurpal Singh (respondent No. 2) that they were poor and as such they could not give a car. Gurpal Singh (respondent No. 2) then told them that they would not harass Mamta again. After that they came back to the village. However, after one month, the accused again started harassing Mamta (deceased). She had been talking on telephone with her parents' side in this connection. Then Ram Chander son of Ram Diya of the village of the complainant on 18.05.2013 at about 4:00 p.m. informed the appellant/complainant about the death of his sister Mamta. The appellant/complainant on getting to know this along with his parents and other villagers reached village Surmi. They saw Mamta (deceased) was lying on the ground in the 'Veranda' with froth

present in her nostrils and mouth. The appellant/complainant alleged that his sister had committed suicide on account of the harassment for not bringing a car and more dowry. It was prayed that action be taken against Karim Pal, Gurpal (respondent No. 2), Rishi Pal @ Richhpal and Murti Devi.

The learned trial Court after considering the evidence and material on record, has convicted Rishipal @ Richhpal, Karim Pal and Murti Devi for the offence under Section 304-B read with Section 34 IPC. They have been sentenced to undergo rigorous imprisonment for ten years, besides pay a fine of Rs. 25,000/- each and in default thereof undergo simple imprisonment for three months. However, Gurpal (respondent No. 2) has been acquitted and the appellant/complainant aggrieved against the same has filed the appeal.

Learned counsel for the appellant/complainant has submitted that there are specific allegations against Gurpal (respondent No. 2) as well and the learned trial Court has erred in acquitting him. He has referred to the deposition of Subhash (complainant) PW-6 as also while appearing as PW-7 i.e. after Gurpal (respondent No. 2) was summoned as an additional accused, in terms of Section 319 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'). On the strength of the same, it is submitted that Gurpal (respondent No. 2) was liable to be convicted and sentenced.

We have given our thoughtful consideration to the matter.

The learned Additional Sessions Judge, Kurukshetra in

her impugned judgment dated 03.03.2015 held that there is a difference in respect of the allegations levelled against Gurpal (respondent No. 2) being brother of Karim Pal (husband of deceased Mamta) was concerned. It was observed that he (respondent No. 2) being brother was a relative of Karim Pal, husband of the deceased Mamta. He was married on the same day when the marriage of Karim Pal was solemnized with Mamta (deceased). According to Subhash-PW-7 (complainant), he was assured by Gurpal (respondent No. 2) that Mamta (deceased) would not be harassed by his parents and brother (Karim Pal). On his assurance, the complainant side came back from the in-laws of Mamta. It was held that there were no direct allegations against Gurpal (respondent No. 2). During the investigation, Gurpal (respondent No. 2) was found innocent and was not sent up for trial. He was summoned as an additional accused in terms of Section 319 Cr.P.C. It was held that it would not be acceptable on the face of being the husband's elder brother (Jeth) could have raised demand for a car from the wife of his brother (Karim Pal) because he could have raised such a demand from his in-laws, if he so desired. The Court, it was observed could not loose sight of the fact that after the death of Mamta, the relations between the complainant side and the accused side had become sour. It was observed that it had been experienced time and again that with the death of a woman, her parents try to involve every family member in order to teach them a lesson as the woman had died in the house of her in-laws. This was what had

exactly happened in the present case. However, the whole case of the prosecution could not be held to be doubtful.

The Investigating Officer Raj Singh, Inspector/SHO then SHO Police Station Pehowa while appearing as PW-12 stated that he had conducted investigation in the present case. In his cross-examination, he had stated that he had verified as to where Gurpal (respondent No. 2) and his wife were residing. During investigation, it was revealed that he (respondent No. 2) and his wife used to reside on the first floor of that house. He did not arrest Gurpal (respondent No. 2) till the investigation remained with him.

The reasoning given by the learned trial Court in respect of Gurpal (respondent No. 2) that the marriage ceremonies of Gurpal (respondent No. 2) and that of his brother Karim Pal were solemnized on the same day and in case Gurpal (respondent No. 2) was to raise a demand for dowry, he would have raised the same from his own wife and not from the wife of his brother i.e. Mamta is a possible and a convincing view. Besides, the endeavour on the part of the family of the victim to a matrimonial dispute to rope in and involve all family members of the in-laws of the victim is also quite possible and cannot be ruled out. The said reasonings being possible and merely because an other view may be possible would not be a ground to interfere with the conclusions reached at by the learned trial Court.

In the circumstances, we find no merit in the appeal and the same is accordingly dismissed. However, nothing observed or

stated herein shall be construed as an expression of opinion on the merits in the connected appeal filed by the convicts and the Court shall consider the case against them on the basis of evidence and material on record.

**(S.S. SARON)
JUDGE**

**(AMOL RATTAN SINGH)
JUDGE**

November 27, 2015
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