

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1429-MA-2015 (O&M)

State of Haryana

... **Appellant**

v.

Chirag and others

... **Respondents**

Date of decision: October 09, 2015.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters? yes*
3. *Whether the judgment should be reported in the Digest?*

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Argued by: Shri Vivek Saini, Assistant AG, Haryana
for the appellant-State.

Raj Rahul Garg, J.

The instant appeal at the behest of the State of Haryana – appellant is directed against the judgment of acquittal dated 16.12.2014 recorded by the Court of Additional Sessions Judge, Karnal whereby the accused (respondents herein) were acquitted of the charge framed against them under Section 304-B IPC.

As per the prosecution allegations, which ensued on an application moved by PW2 Kanta Rani, mother of deceased Neha Sharma, marriage of her daughter Neha was solemnized with Chirag on 5.3.2011. Neha died an unnatural death on 18.7.2013. Besides being charge sheeted under Section 304-B IPC, the accused were alternatively charged under Section 302/34 IPC.

We have heard learned Counsel for the State and perused the paper book.

Learned counsel for the appellant-State has vehemently argued that necessary ingredients required to be fulfilled to make out a case of dowry death under Section 304-B IPC are duly proved in the facts and circumstances of the instant case, inasmuch, as the unnatural death of a married woman had taken place within 7 years of her marriage due to harassment and cruel treatment meted out to her. He has further argued that the learned trial court has wrongly relied upon the statements of the defence witnesses to term it as a case of suicide as the disease, namely, Psoriasis with which the deceased was suffering, was not of alarming nature so as to drive someone to commit suicide.

However, we are not impressed with the arguments advanced by learned Counsel for the appellant-State and find no ground to interfere with the judgment rendered by learned trial court.

Firstly, the allegations of demand of dowry levelled by PW2 Kanta Devi, PW9 Om Parkash and PW10 Nitish, who are mother, father and brother respectively of the deceased, are vague and evasive. These

witnesses have not given specific details as to when such demand was raised and/or the occasions when the deceased was harassed and ill-treated due to non-fulfillment of such demands. The FIR lodged at the instance of the complainant does not corroborate the allegations in regard to demand of dowry, of harassment caused to the deceased by the accused persons with specific details, even though, as per the law laid down by the Hon'ble Supreme Court as well as different High Courts, the FIR cannot be an encyclopedia, but the same should at least contain the basic reason behind commission of an offence. The trial court has noticed material discrepancies in the statements of PW9 Om Parkash and PW10 Nitish as regards the demand of Rs.50,000/- and payment thereof to the accused.

Secondly, PW7 Dr. Shinu Chaudhary, who conducted autopsy on the dead body, has categorically stated that the cause of death was asphyxia as a result of hanging and even the scarf used for hanging by the deceased was recovered. This witness was not put a suggestion as to whether the above said was not the reason for the death of the deceased.

Thirdly, even the 11 month old daughter of the deceased was also suffering from the same disease with which the deceased was suffering. The deceased could not reconcile to such fact. It has been proved on record by the defence by leading cogent evidence that the deceased was suffering from Psoriasis and she could not reconcile to her medical condition. Furthermore, the defence has been able to fully prove that the marriage between the deceased and accused Chirag was due to love affair and that PW9 Om Parkash, father of the deceased, was not in a position to meet the

demand of money of the accused with the meagre sources of income at his disposal and the number of dependents on such sources.

In the totality of the facts and circumstances of the case, we are of the opinion that there is no illegality, perversity or irregularity in the judgment rendered by the learned trial court and the same is not contrary to the evidence on record, which has been dealt with in detail and thus, warrants no interference by this Court.

Consequently, leave to appeal is declined.

October 09, 2015.	[Raj Rahul Garg]	[Hemant Gupta]
<i>kadyan</i>	Judge	Judge