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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL. L. P 228/2012**

% *Date of decision :14th January, 2015*

STATE

..... Petitioner

Through : Mr. Mukesh Gupta, ASC for State with
Inspector Rajesh Sharma, PS – Prashant Vihar.

Versus

SUDESH GULATI & ORS.

..... Respondents

Through : Mr. Suraj Prakash, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

JUDGMENT (ORAL)

CRL. M. A. 5472/2012

1. In the present Criminal Application, the appellant seeks condonation of 121 days delay in filing the present leave to appeal.
2. Heard.
3. For the reasons stated in the application, the application is allowed. Delay in filing the present leave to appeal is condoned.
4. Application stands disposed of.

CRL. M. A. 2060/2014

5. This is an application seeking condonation of 7 days' delay in filing the reply to the present leave to appeal.
6. Heard. For the reasons stated in the application, the application is allowed. Delay in filing the reply to the present leave to appeal is condoned. Application stands disposed of.

CRL. L. P 228/2012

7. Trial court record has been received.
8. The present leave to appeal arises out of an order of acquittal dated 29.09.2011. The daughter of Dharampal and Suresh Rani and sister of Vijay Kumar, Shashi was married to Subhash Gulati, Respondent No. 2; Sudesh Gulati, Respondent No. 1 is the mother-in-law and Sunita, Respondent No. 3 is the sister-in-law of deceased Shashi.
9. The case of the prosecution as noticed by the trial court is as under :
 - (1) Shashi was the daughter of Dharampal and Suresh Rani and sister of Vijay Kumar. Shashi got married with Subhash Gulati on 12/12/2002. Sudesh Gulati is the mother of Subhash Gulati, Sunita is the sister of Subhash Gulati. Subhash Gulati and other family members at the time of marriage did not demand dowry from Dharampal and Suresh Rani. However, after marriage Subhash Gulati, Sudesh Gulati and Sunita have started to demand dowry from Dharampal and Suresh Rani and also used to give beatings to Shashi for none fulfillment of dowry demands. Shashi also made a complaint to CAW Cell which was compromised on 08/08/2003. Shashi was taken back at matrimonial home. Shashi had delivered a female child on 27/08/2003 and at that time Dharampal and Suresh Rani has given sufficient gifts to their daughter Shashi. Shashi came to her parental house on 16/06/2004 and told her parents i.e. Dharampal and Suresh Rani about the harassment and beatings cause to her by Subhash Gulati and other family members. On 17/06/2004 Subhash Gulati, Sudesh Gulati and Sunita came to house of Dharampal and asked for the divorce between Subhash Gulati and Shashi. Sunita lifted the female child and thereafter Subhash Gulati, Sudesh Gulati and Sunita left the house of Dharampal along with female child. Shashi also accompanied all of them and went to her matrimonial house.
 - (2) SI Daya Kishan on 18/06/2004 after being handedover DD No. 6A went to the Haider Pur Canal where he found a dead body of a lady entangled in the net in the Canal. The dead body

was taken out and sent to mortuary for postmortem after completion of inquest proceedings. The postmortem of the dead body was conducted by Dr. Anil Shandil and Dr. L.C. Gupta. The cause of death was opined as asphyxia resulting from cumulative affect of manual strangulation and smothering which was sufficient to cause death in ordinary course of nature. The involvement of more than one person was not ruled out.

(3) Subhash Gulati, Sudesh Gulati and Sunita on 26/06/2004 came to the house of Dharampal and made inquiries about Shashi and told Dharampal that Shashi had not accompanied them on 17/06/2004. Sunita told Vijay Kumar that Subhash Gulati and herself had already strangled Shashi and thereafter drowned her in Haider Pur Canal. Subhash Gulati, Sudesh Gulati and Sunita on 27/06/2004 came to the house of Dharampal and thereafter they went to Police Post, Sector-16, Rohini for lodging the missing report regarding Shashi which was recorded vide DD No. 52. Vijay Kumar also gave a written complaint on 09/07/2004 about Shashi to Missing squad at Kotwali (Daryaganj). Vijay Kumar came to know that the dead body of Shashi has already been recovered by the police on 18/06/2004 from Haider Pur Canal and was cremated as an unclaimed dead body. SI Daya Kishan on 11/07/2009 also received an information from Missing Squad Kotwali regarding the missing of Shashi from Sector- 16, Rohini which was recorded vide DD No. 32. SI Daya Kishan called Dharampal and Suresh Rani to identify the clothes and photographs of Shashi (hereinafter referred to as "the deceased"). The dowry death was suspected. Harish Ahuja, then SDM recorded the statements of Dharampal and Suresh Rani. The local police was directed to investigate. Kedar Nath, then SDM on 29/04/2005 gave direction to concerned SHO for registration of the case. FIR bearing No. 369/05 u/s 498A/304B/34 IPC was got registered. Investigation was handed over to Insp. Balender Singh. During investigation, Sudesh Gulati, Subhash Gulati and Sunita (hereinafter referred as to be "the accused") were

arrested. The investigation was completed. The accused after completion of investigation were chargesheeted for the offences punishable u/s 498A/304B/302/201 IPC. The chargesheet was submitted in the Court of concerned Metropolitan Magistrate. The accused were put to trial.

10. The charge for the offences punishable under Sections 498A/34 of the Indian Penal Code, Sections 304B/34 of the Indian Penal Code, Sections 302/34 of the Indian Penal Code and Sections 201/34 of the Indian Penal Code was framed against the respondents.
11. The prosecution examined 15 witnesses in all. Statements of the respondents were recorded U/s 313 of the Code of Criminal Procedure.
12. Learned Counsel for the State submits that the learned trial court has failed to appreciate that the material witnesses PW-1 Dharam Pal, PW-2 Suresh Rani & PW-7 Vijay Kumar had fully supported the case of the prosecution in respect to dowry demands and the last seen evidence as Shashi had followed her husband, mother-in-law and sister-in-law on 17.06.2004 from her parental house in the presence of her parents when the respondents had taken the female child of the deceased. Counsel also contends that the trial court has erred in not appreciating that the deceased was continuously harassed for dowry and a complaint Ex. PW1/A was filed before the CAW Cell. It is also submitted that the trial court has failed to consider that the deceased apprehended threat to her life and had written the same on a piece of paper dated 08.08.2003 (Ex. PW-1/X). It is also submitted that in fact the post-mortem report supports the case of the prosecution with respect to the time of the incident as the deceased had followed her in-laws and variation of few hours can not be fatal to the case of the prosecution. Mr. Gupta also contends that being a case of circumstantial evidence, the prosecution has proved the circumstances of last seen and thus the involvement of the respondents stand proved. It is

also contended that variations, if any, in the statements of the material witnesses do not touch the core issues and the evidence of PW-1, PW-2 and PW-7 conclusively prove the case of the prosecution.

13. Counsel for the State next contends that the respondents were unhappy with the articles presented to the respondents at the *Chuchak* ceremony held soon after the birth of a female child on 27.08.2003.
14. Learned counsel appearing for the respondents submits that the prosecution has not been able to prove its case beyond any shadow of doubt.
15. It is contended that there are material contradictions in the evidence of the 3 material witnesses. There is unexplained delay of 9 months and 20 days in recording of the FIR and in fact even the missing report was lodged by the father of the deceased at the instance of respondent No. 2, husband on 27.06.2004.
16. It is also submitted that as per the evidence, the father and brother of the deceased were unemployed at the time of the wedding. Only 20 or 25 persons attended the wedding and even otherwise there was no demand of dowry at the time of marriage which is evident from the reading of the statement of PW-1 that “At the time of marriage, there was no demand of dowry from the accused side.” and statement of PW-2 that “At the time of marriage, there was no dowry demand on the part of accused persons.”. Counsel contends that even the complaint filed before the CAW Cell was at the instance of the father of the deceased, however, the matter was amicably compromised on 08.08.2003. It is next contended that the deceased had come to her parental house on 16.06.2004 as per the evidence of PW-1 father and PW-7. However, as per the evidence of PW-2 mother, the deceased had come to her parental house on 15.06.2004. Counsel contends that at no point of time even after the

deceased was missing did her parents or brother make any complaint against the respondents either with regard to the demand of dowry, cruelty or casting suspicion on them for the disappearance of their daughter.

17. Counsel also contends that the sister-in-law was falsely roped in. She was married 20 years prior to the incident and is a permanent resident of Rohtak, Haryana. It is also the case of the respondents that the deceased was not last seen in the company of the respondents and even otherwise in the facts of this case, the respondents can not be convicted solely on the basis of last seen evidence. The counsel further contends that no motive has been established.
18. We have heard the learned counsel for the parties, considered their submissions and also examined the evidence.
19. With regard to the demand of dowry we deem it appropriate to discuss in detail the evidence of PW-1, PW-2 and PW-7.

Evidence of PW-1 Dharam Pal, Father of Shashi

20. PW-1 Dharam Pal deposed that Shashi was married on 12.12.02 and at the time of marriage, there was no dowry demand on the part of accused persons. He further deposed that from 13th January, 03, all 3 accused persons started demanding dowry from shashi and beating her due to non fulfilling their demand of dowry. He further deposed that due to the above facts, Shashi filed a complaint in CAW Cell which resulted in compromise and Shashi was taken to her matrimonial house on 08.08.03 and on 27.8.03, Shashi gave birth to a female child. He further deposed that at the time of *Chuchak* ceremony, they gave utensils and other articles but on 16.06.04, she came to their house and told them about the behaviour of her in-law and beatings to her by them. He further deposed that on 17.06.04, all the three accused persons came to their house asking for divorce but finally the daughter of the deceased was taken away by her

in-laws, so the deceased followed her in-laws to her matrimonial house. He further deposed that on 26.06.04, in the evening the accused persons came to his house and inquired about the deceased and they were informed that the deceased followed them on 17.06.04 but the accused persons told that she had not accompanied them on 17.06.04. He further deposed that on 27.06.04, all accused persons again came to his house and he along with them went to the police and lodged a missing report of the deceased. He further deposed that on 09.07.04, they came to know that the dead body of the deceased was recovered by police on 18.06.04 from Haider Pur canal and they were also told that the clothes recovered from dead body were kept at Police Station – Prashant Vihar. He further deposed that he went to the Police Station and identified the clothes of his daughter after which the accused persons also arrived in the Police Station and thereafter his statement was recorded by SDM.

Evidence of PW-2 Suresh Rani, Mother of Shashi

21. PW-2 Suresh Rani corroborated the testimony of PW-1, her husband and admitted that her daughter was married on 12.12.02 and at the time of marriage, there was no demand of dowry but later on the demands had started pouring in and thereafter a complaint in the CAW Cell was filed in which a compromised was arrived at. She further deposed that her daughter Shashi gave birth to a female child and at the time of *Chuchak* ceremony despite the fact that many articles were given to her in-laws, they were dissatisfied and on 15.06.04 their daughter Shashi had returned to her parents house.
22. According to this witness, Shashi, the deceased returned to her matrimonial home on 17.06.04 and her in-laws came to enquire about her whereabouts on 26.06.04 after which a missing report was lodged in the police station on 27.06.04.

23. Her testimony is in total variance to that of PW-1 Dharam Pal, father of the deceased who deposed that on 17.06.04 the accused persons came to their house seeking divorce from her daughter and finally the deceased had followed her in-laws to the matrimonial house.
24. PW-2, in the cross-examination admitted that when the missing report was lodged on 27.06.04 there was no allegation of demand of any dowry were made and she also admitted that after the compromise in the CAW Cell in August, 2003, no complaint was made by them or the deceased for dowry.
25. PW-2 further deposed that on 27.6.04 the accused persons came to their house and on the same day she did not give any paper Ex. PW1/X to the police and was not aware that the said paper was lying in the almirah.

Evidence of PW-7 Vijay Kumar, Brother of Shashi

26. The testimony of PW-7 is in total contradiction to that of PW-1 & PW-2. On the point of demand of dowry, PW-7 deposed that accused Subhash had demanded Rs. 5,000/- from him on Rakshabandhan and he deposed that the deceased had come to their house on 17.06.04 but accused took her back to her matrimonial house on that day. PW-7 deposed that accused persons came to their house on 26.06.04 looking for the deceased. According to PW-7, accused Subhash and his sister told him on 26.06.03 that they had strangled the deceased and drowned her in the Haider Pur Canal. PW-7 further deposed that on 27.06.03, he and his father reported about the missing of her sister in police post and on 09.07.03, he gave written complaint in PS-Kotwali about her missing sister and came to know about the death of Shashi. In the cross-examination he recollects the dates as 17.06.04, 26.06.04, 27.06.04 and 09.07.04. He deposed in the cross-examination that on 17.06.03 Shashi returned to her matrimonial house along with her husband. He further

deposed that on 26.06.04 accused Subhash came to his house and stayed there for about 2 hours and on the same day, he along with his family members and accused Subhash went to PS to report about the missing of Shashi and on 09.07.03 he came to know about the death of Shashi and statement of parents were recorded.

27. On scrutiny of the evidence of these 3 material witnesses PW-1, PW-2 and PW-7 it has emerged that the deceased got married on 12.12.2002 and at the time of marriage there was no demand of dowry. According to PW-1 and PW-2 one month after marriage all the three accused persons started demanding dowry and gave beatings to the deceased. According to PW-7 on the occasion of Rakshabandhan, accused Subhash demanded Rs. 5000 from him. According to PW-1 and PW-2 the deceased filed a complaint in CAW Cell which resulted in a compromise and the deceased was taken to her matrimonial home and on 27.08.2003, the deceased gave birth to a female child and at the time of *Chuchak* Ceremony, the parents gave utensils and other articles to the in-laws of the deceased but they were dissatisfied.
28. PW-1, PW-2 and PW-7 however differ with respect to the date when the deceased came back to her parents house. PW-1 has deposed that the deceased came back on 16.06.2004, PW-2 has deposed that she came back on 15.06.2004 and stayed there for four days, whereas PW-7 has deposed that the deceased came back to her parents house on 17.06.2004. PW-1, PW-2 and PW-7 have further deposed that on 17.06.2004 the accused persons came to their house and took away the child of the deceased with them so that the deceased accompanied them to her matrimonial house. It has also been deposed by PW-1, PW-2 and PW-7 that on 26.06.2004 all the three accused persons came to their house and enquired about the deceased. PW-1 has deposed that the three accused

persons told him that the deceased did not accompany them back to her matrimonial house. PW-7 has deposed that one of the accused Neeru Gulati told him that she along with accused Subhash had strangled the deceased and drowned her in the canal Haider Pur. PW-1, PW-2 and PW-7 have also deposed that on 27.06.2004 they lodged the missing report with the police. PW-1 and PW-7 have deposed that on 09.07.2004 they came to know about the death of the deceased and that her body had been recovered from Haider Pur canal.

29. The evidence of the above 3 witnesses would also show that there is material contradictions as to when the deceased came to the material home and in the evidence of PW-2 it has been testified that she came to the matrimonial home on 15.06.2004 whereas as per the testimony of PW-1 & PW-7 she came only on 17.06.2004. There is also no clarity if the deceased had followed her in-laws or had accompanied her in-laws to the material home. We have also examined the missing report lodged at the instance of the father of the deceased as per which the deceased had not reached her matrimonial home on 17.06.2004 which would show that even as per the missing report the deceased had not accompanied her in-laws. There is unexplained delay in registration of the FIR of 10 ½ months. We also find that there was no demand of dowry at the time of marriage. Only 20 – 25 persons were present in the marriage. As per the testimony of the father of the deceased “It is correct that I am unemployed. But my son, Vijay is employed but is not earning much.”. As per the testimony of the brother of the deceased “It is correct that at the time of marriage of my sister both myself and my father were unemployed.”, the father and brother were both unemployed. The evidence also shows that no demand was made at the time of marriage. There is also nothing on record to explain as to why no complaint was

lodged after 17.06.2004 when admittedly the first complaint missing report was lodged on 27.06.2004. We may also notice that there is no evidence to show that between 27.06.2004 and 20.08.2004 the parents of the deceased made any complaint to the police with regard to the demand of dowry or with regard to any cruelty inflicted on the deceased or raising a suspicion on the in-laws with regard to their daughter's disappearance.

30. In **Phool Singh and Anr. Vs. The State** (2010) ILR 3 Delhi 700, it has been held that :

*“It would be worthwhile herein to refer to the decision rendered by the Apex Court in the case of **Satvir Singh v. State of Punjab** reported at (2001) 8 SCC 633. The Apex Court observed that:*

21. Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is 'at any time' after the marriage. The third occasion may appear to be an unending period. But the crucial words are 'in connection with the marriage of the said parties'. This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not enveloped within the ambit of 'dowry'. Hence the dowry mentioned in Section 304-B should be any property or valuable security given or agreed to be given in connection with the marriage.

*42. It would be also relevant to refer to the case of **Appasaheb and Anr. v. State of Maharashtra** reported at AIR 2007 SC 763 wherein it was held as under:*

In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said

parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India.... A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained.

43. Further in the case of **Narayanamurthy v. State of Karnataka and Anr.** reported at AIR 2008 SC 2377, it has been held as under:

28. It is proved on record that deceased B.V.D. Mani, father of deceased Jagadeshwari, gifted a silver Panchapatre and silver plate to A-1 at the time of performing customary thread changing ceremony in connection with birth of girl child and such ceremony is prevalent in their society. Such gifts are not enveloped within the ambit of 'dowry'....

45. In view of the decision rendered by the Supreme Court in the case of **Satvir Singh (supra); Appasaheb (supra); Narayanamurthy (supra); and Kamesh Panjiyar (supra)** and applying the settled position of law to the facts and circumstances of this case, I find that prosecution witness Kedar Nath (PW-8, father of the deceased) has stated in his deposition before the court that "all the five accused persons were sitting there. They asked us that as a son had been born to my daughter, what would us give to them on this occasion. They asked us to give...in chuchak ceremony." The learned trial Court has also explained this ceremony in the judgment passed by him and

observed that, "Here I would like to clarify that in Hindus, the parents of the girl give gifts etc. to the daughter and her-in-laws, in case the daughter is blessed with a son. This giving of the gifts at that time is described as "chhuchak" in the Northern India". The learned trial Court while observing that PW-8 had made an exaggeration in his statement before the Court with regard to the demand of jewellery/articles, went on to give a finding that since the demand of Rs. 20,000/- had been mentioned by PW-8 in his statement before the SDM, the same was a demand for dowry. I find that the learned trial court has committed a manifest error herein inasmuch as, it failed to appreciate the fact that it was none other than PW-8's (father of the deceased) own version that the sum of Rs. 20,000/- was to be given in 'chuchak' ceremony. As already stated above, the term 'dowry' mentioned in Section 304-B, IPC implies any property or valuable security which is given or agreed to be given either directly or indirectly at or before or any time after the marriage and 'in connection with the marriage of the said parties'. The giving or taking of property or valuable security must have some connection with the marriage of the parties. There can be many other instances for payment of money or giving of property. For example, some customary payments in connection with the birth of a child or other ceremonies as are prevalent in different societies, such payments are not enveloped within the ambit of 'dowry' as per various judgment of the Supreme Court. In my considered opinion, admittedly, Rs. 20,000/- was to be given in terms of the customary giving at the time of birth of a child and not 'in connection with the marriage of the parties'. Infact, PW-8 (father of the deceased) has further deposed in his cross-examination that it was correct that a male child was born to his daughter, Raj Bala one month prior to the incident and that as per the custom prevailing in their society, the in-laws of his daughter had to come to the parental house of Raj Bala to inform about the birth of male child and also to inform about their demand on this occasion. However, none of the family members or the appellants came to the parental house. The deposition of PW-8 is specific that although there was a custom, no person from the in-laws of Rajbala came to make any demand. Thus, it is not established beyond reasonable doubt that any dowry in terms of Rs. 20,000/- was demanded in connection with marriage. There is no merit in the contention of learned Counsel for the State that the said demand of Rs. 20,000/- was a demand of dowry under

Section 304-B of the Indian Penal Code read with Section 2 of the Dowry Prohibition Act.

*56. As a final court of facts, the High Court is entitled to re-appraise the evidence and arrive at its own independent conclusion as to the guilt or innocence of the accused. This Court must thus be satisfied that the case of the prosecution is substantially true and that the guilt of the appellant has been established beyond reasonable doubt. It is only when the prosecution has proved its case beyond reasonable doubt that conviction cannot be disturbed in appeal. It will be useful to reproduce the observations of the Hon'ble Supreme Court in the case of **Kali Ram v. State of Himachal Pradesh** AIR 1973 SC 2773 which are as follows:*

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 the 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. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations.

Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures.

The guilt of the accused has to be adjudged not by the fact that a vast number of people believe him to be guilty but whether his

guilt has been established by the evidence brought on record. Indeed, the courts have hardly any other yardstick or material to adjudge the guilt of the person arraigned as accused. Reference is sometimes made to the clash of public interest and that of the individual accused. The conflict in this respect, however is more apparent than real.

It is no doubt true that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse, however, is the wrongful conviction of an innocent person. The consequences of the conviction of an innocent person are far more serious and its reverberations cannot but be felt in a civilised society. All this highlights the importance of ensuring, as far as possible, that there should be no wrongful conviction of an innocent person. Some risk of the conviction of the innocent, of course, is always there in any system of the administration of criminal justice. Such a risk can be minimised but not ruled out altogether.

57. In my considered opinion, the trial court has committed a manifest error and there is nothing on record to suggest that any dowry was demanded from Rajbala by the appellants or that she was ever subjected to harassment in connection with the demand of dowry, or even otherwise. Having given a careful consideration to the above-stated submissions made by the learned Counsel for the parties and in the backdrop of the evidence discussed hereinabove and tested in the light of the principles of law, I am of the firm view that the evaluation of the findings recorded by the trial Court suffer from an improper appreciation of the evidence on record. For the reasons stated above, CrL. A. No. 280/2001 is allowed and I find that no case is made out against appellants, Phool Singh and Kanta Devi under Section 498-A, IPC. Accordingly the judgment and order on sentence passed against them by the trial Court is set aside. Further, CrL. A. No. 333/2001 is also allowed and I find that no case is made out against appellants Smt. Dropadi; Sh. Sohan Lal; and Sh. Jai Prakash under Section 304-B, IPC as well as Section 498-A, IPC. Bail bonds be cancelled.

58. Appeals are allowed accordingly.”

31. It is a settled legal position that the powers of the court in appeal against an order of acquittal are limited. The Apex Court in the case of **Ghurey Lal vs. State of U.P.**, reported at 2008 4 CCC SC 49 has laid down the following principles before granting leave to appeal against an order of acquittal:

“1. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has 'very substantial and compelling reasons' for doing so.

A number of instances arise in which the appellate court would have 'very substantial and compelling reasons' to discard the trial court's decision. 'Very substantial and compelling reasons' exist when:

- i) The trial court's conclusion with regard to the facts is palpably wrong;
- ii) The trial court's decision was based on an erroneous view of law;
- iii) The trial court's judgment is likely to result in "grave miscarriage of justice";
- iv) The entire approached of the trial court in dealing with the evidence was patently illegal;
- v) The trial court's judgment was manifestly unjust and unreasonable;
- vi) The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the Ballistic expert, etc.
- vii) This list is intended to be illustrative, not exhaustive.

2. The Appellate Court must always give proper weight and consideration to the findings of the trial court.

3. If two reasonable views can be reached-one that leads to acquittal, the other to conviction-the High Courts/appellate courts must rule in favour of the accused.

32. We have examined the judgment of the trial court. Upon examining the case in hand on the touch-stone of the aforesaid principles, we do not find that there is any illegality or perversity in the reasoning given by the learned Additional Sessions Judge in disbelieving the case of the prosecution. This court cannot lose track of the settled law that interference is called for only when there are substantial and compelling reasons for doing so.
33. In view of the aforesaid facts, we do not find that this is a fit case for grant of leave to appeal. Consequently, leave to appeal stands dismissed.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

JANUARY 14, 2015

sc/ssn