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

+ CRL.A. 298/2016

SHAHNAWAZ @ SONU

..... Appellant

Represented by: Mr.Vikas Pahwa, Sr.Advocate
instructed by Mr.Vikas Arora,
Mr.Mohit Taneja, Ms.Kinnori
Ghosh, Mr.Aditya Dogra,
Ms.Ashtha Sharma, Mr.Tushar
Sharma, Mr.Vipul Sharma,
Advocates.

versus

STATE (GNCT OF DELHI)

..... Respondent

Represented by: Mr.Varun Goswami, APP with
Insp.Vipin Kumar Sharma,
P.S.New Usmanpur

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **10.05.2016**

1. Wife of the appellant : Fareen Khan, died on account of a gunshot injury. Death being within seven years of marriage and there being allegations by the relatives of the deceased of dowry harassment, investigation was conducted and a charge-sheet was filed for offences punishable under Section 304B/498A IPC and in the alternative under Section 302 IPC as also under Section 27 of the Arms Act.
2. Twenty six witnesses were examined by the prosecution. Four witnesses in defence were examined.

3. Various issues concerning dowry demand including a demand for motorcycle seem to have been urged before the learned Trial Court. Issue concerning talks through mobile phone No.9313096097, 9999983835, 9212671881, 9289457530 and 9899574796 arose. Issue concerning a fire arm being the weapon of offence also arose. At the end of the trial the learned Trial Court has penned a decision spanning 54 pages.

4. As we proceeded to read the impugned judgment, we find that there is no reasoning whatsoever on the basis whereof the learned Trial Court has convicted the appellant for offence punishable under Section 302 IPC. The entire discussion spans conviction for offence punishable under Section 304B/498A IPC. Charge framed for offence punishable under Section 27 of the Arms Act has gone unnoticed as neither any discussion nor any order has been passed in regard to the said charge. The judgment is sketchy and does not conform to the principles on which the judgment should be authored. At a criminal trial the judgment must capture the evidence and deal with the admissibility, relevancy and incriminating nature of the evidence. It must succinctly bring out such evidence which the Court opines to be incriminating. Reason for such conclusion must be recorded. Thereafter, the nuances of the law concerning the circumstances found incriminating needs to be discussed followed by a conclusion drawn with clarity. For if the charge is of two alternative offences, the discussion must bring out the reason for the conviction for one of the two alternative offences charged of.

5. We set aside the impugned decision dated January 20, 2016 as also the sentence imposed on January 28, 2016 with a direction that Sessions Case No.44592/2015 pertaining to FIR No.222/2010 P.S. New Usmanpur

would be re-decided after hearing learned counsel for the accused and the State, and for which we direct that arguments would be heard by the learned Additional Sessions Judge on May 23, 2016. Arguments would be heard on day to day basis till they are concluded. Decision shall be pronounced latest by July 30, 2016.

6. TCR be returned through special messenger forthwith.
7. Superintendent Jail, Tihar is directed to produce the appellant before the Trial Court on May 23, 2016.
8. Copy of this order be supplied to learned counsel for the parties under the signatures of Court Master today itself. A copy of the order be also sent to the Superintendent, Central Jail Tihar for compliance.

Crl.M.(Bail) No.642/2016

Dismissed.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MAY 10, 2016
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