

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

CRA-S-3776-SB-2015 (O&M)

Date of decision-08.11.2017

Reena

...Appellant

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None for the appellant.

Ms. Gulnoor Ghuman, AAG, Punjab.

JITENDRA CHAUHAN, J. (Oral)

The instant appeal is directed against judgment dated 11.05.2015 passed by learned Addl. Sessions Judge, Sangrur (for short, 'the trial Court'), thereby acquitting the accused-respondents in FIR No.189 dated 12.10.2012 registered under Section 306 of the Indian Penal Code (for short, 'the IPC') at Police Station City, Sangrur. The present appeal has been preferred by Reena, sister of the deceased-Ritu Sharma, as the original complainant, namely, Ramesh Kumar, the father of the deceased expired during the pendency of the trial.

It is the case of the appellant/complainant that marriage of her sister, namely, Ritu, was solemnized with the accused/respondent No.2, Tejinderpal @ Sanjeev, 17-18 years ago. Sufficient dowry had been given to the accused/respondents at the time of marriage. However, after some time, the respondents started demanding more dowry and on the pretext thereof, the deceased was subjected to continuous harassment and maltreatment at

the hands of the accused/respondents. On 10.10.2012, deceased/Ritu telephonically informed her father that her in-laws and husband had attempted to kill her. Again on 11.10.2012, her father came to know that Ritu/deceased had been burnt under a conspiracy by her in-laws and husband. On the basis of the statement of the father of the deceased, FIR was registered under Section 302 read with Section 34 IPC.

On the presentation of challan, copies of documents as required under Section 207 Cr.P.C were supplied to the accused free of cost.

Charge under Sections 306 and 302 IPC were framed against all the accused to which they pleaded not guilty and claimed trial.

In order to prove, its case, the prosecution examined PW1-Dr. Ashwani Gaur, PW2- Deepak Sharma, PW3- Rajiv Kumar, PW4- Tarsem Saini, Photographer, PW5-Inspector Parminder Singh and PW6-SC Manpreet Singh.

The statements of the accused under Section 313 Cr.P.C. were recorded wherein all incriminating evidence was put to them to which they denied and pleaded innocence. In defence evidence, the accused examined DW1-Puru Bhardwaj and thereafter, closed their evidence.

After appraisal of the evidence, the trial Court vide impugned judgment and order dated 11.05.2015, acquitted all the accused of the charges framed against them. Hence the instant appeal on behalf of the complainant.

There is no assistance on behalf of the appellant, however, it has been averred in the appeal that despite there being direct and positive

evidence against the accused-respondents, learned Court below has wrongly recorded the finding of acquittal in their favour. PW-2, Ramesh Kumar, the father of the deceased has minced no words to state that on 10.10.2012, he had received a telephone call from the deceased stating that her father-in-law Raghbir Parkash, mother-in-law Satya Sharma and husband, Tejinder Pal tried to kill her. On the very next date i.e. on 11.10.2012, he again received a telephone call from the deceased in a state of distress. In the evening, he received the information that her daughter had been set ablaze. The testimony of this witness finds corroboration from the deposition of PW5, Inspector Parminder Singh who has stated that one empty bottle of 2 litres capacity which was emitting smell of kerosene oil along with one match box were recovered from the spot. Learned trial Court has wrongly relied upon the testimony of DW1, Puru Bhardwaj, the son of the deceased as this witness was a tutored witness and deposed falsely in order to save his father and other accused persons.

Perused.

It is the admitted case of the prosecution that the marriage in question was solemnized about 17-18 years prior to the alleged occurrence. It has further come on record that the couple along with their son, DW1, Puru Bhardwaj, had been residing separately from the co-accused parents-in-law. It has come in the testimony of PW3, Rajiv Kumar, brother of the deceased that FIR No.134 dated 13.10.2007, under Sections 452, 323 and 506 read with Section 34 IPC had been registered against him and Rahul @ Sudhir Nain, Jaydeep Nani and Narinder Singh @ Binder, at the behest of

accused Satya Sharma, mother-in-law of the deceased. He also admitted that all the accused were convicted by the Court of learned JMIC, Dhuri, vide judgment/order dated 28.10.2009. The said judgment has attained finality. He further admitted that earlier also, some dispute arose between his deceased sister and the accused persons, which was subsequently compromised and thereafter, they had been residing peacefully.

Similarly, PW5, Inspector Parminder Singh has admitted in his cross-examination that as per the investigation, the deceased and her husband had been residing separately from co-accused Raghvir Parkash and Satya Sharma for the last more than three years. He further stated that during the investigation, it was revealed that Tejinder Pal @ Sanjiv Kumar, husband of the deceased had tried his best to save the deceased by providing her medical assistance. During investigation, he found that the deceased had set herself afire due to usual matrimonial discord and not due to any demand of dowry. It is apparent from the perusal of the postmortem report, Ex.PZ that there was no external injury on the person of the deceased.

The most crucial witness in the instant case is the son of the deceased, Puru Bhardwaj, who was examined as DW1. He has categorically deposed that the deceased was his mother, whereas, accused Raghbir Parshad and Satya Sharma were his grandparents, who had been residing separately for the last more than three years. His mother (since deceased) used to remain upset due to her maternal family. His grandparents and father never maltreated her or ever demanded any dowry. On the fateful day, he was present at the house of his grandmother. At about 7.00 – 7.15

p.m., a telephonic message was received that his mother had set herself ablaze. He, along with his grandmother, immediately rushed to his house on motorcycle. When he reached back home, people had gathered there. His father also reached thereafter. His father put blanket on her body but she succumbed to the injuries. Thereafter, his father informed his maternal parents and relatives.

Thus, a conjoint appreciation of the evidence led by both the rival parties coupled with the admitted facts that the marriage in question was about 18-19 year old and the parents-in-law of the deceased had been residing in a separate premises for the last more than three years, leads to the irresistible conclusion that the prosecution has not been able to prove the charges framed against the accused persons beyond a shadow of reasonable doubt. Learned court below has appreciated the evidence available on record in the right perspective and no fault can be found with the findings recorded by it. It is a settled law as has been held in ***C. Antony Vs. K.G. Raghavan Nair, 2002(4) R.C.R. (Criminal) 750*** that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption of innocence; and secondly, the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible.

In ***State of Rajasthan vs Shera Ram @ Vishnu Dutta, (2012) 1 SCC 602***, Hon'ble the Supreme Court has held as under:-

“13. When an accused is acquitted of a

criminal charge, a right vests in him to be a free citizen and this Court is very cautious in taking away that right. The presumption of innocence of the accused is further strengthened by the fact of acquittal of the accused under our criminal jurisprudence. The courts have held that if two views are possible on the evidence adduced in the case, then the one favourable to the accused, may be adopted by the court. However, this principle must be applied keeping in view the facts and circumstances of a case and the thumb rule is that whether the prosecution has proved its case beyond reasonable doubt. If the prosecution has succeeded in discharging its onus, and the error in appreciation of evidence is apparent on the face of the record then the court can interfere in the judgment of acquittal to ensure that the ends of justice are met. This is the linchpin around which the administration of criminal justice revolves.

14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system but once the prosecution has proved its case and the evidence led by

the prosecution, in conjunction with the chain of events as are stated to have occurred, if, points irresistibly to the conclusion that the accused is guilty then the court can interfere even with the judgment of acquittal. The judgment of acquittal might be based upon misappreciation of evidence or apparent violation of settled canons of criminal jurisprudence.”

As a consequence of the above discussion, the instant appeal fails and is accordingly dismissed, whereas, the impugned judgment dated 11.05.2015, rendered by the trial Court is, hereby, affirmed.

08.11.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No