

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

**CRM-A-1757-MA of 2016 (O&M)
DATE OF DECISION :- January 13, 2017**

State of Haryana

...Appellant

Versus

Krishan

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

Present:- Mr. Kapil Aggarwal, Additional Advocate General, Punjab
for the appellant.

M.JEYAPPAUL, J.

CRM No. 30499 of 2016

Heard.

There is a delay of 98 days in filing the appeal. For the reasons set out in the application, delay is condoned and the application is allowed.

CRM-A-1757-MA of 2016

1. Accused Vikas-the husband and Krishan-the mother-in-law of the deceased Poonam were sent up to face the trial for commission of offences punishable under Sections 304B/302 read with Section 34 of the Indian Penal Code. The trial Court acquitted both the accused of the charges under Section 304B and 302 of the Indian Penal Code but convicted accused Vikas under Section 306 of the Indian Penal Code. Aggrieved by the wholesale acquittal of accused Krishan-the mother-in-law of deceased

Poonam, the State has filed the present application seeking leave to file appeal.

2. It is the case of the prosecution that accused Vikas and Krishan demanded dowry and beat Poonam on the day of occurrence and thereafter Vikas informed to the uncle of the deceased that Poonam had died.

3. PW15 Dr. Mahender conducted post mortem examination on the dead body of Poonam. He opined in his post mortem report Ex.P33 that the deceased had died due to the injuries on the vital organs namely left lung and small intestine. There was post mortem ligature mark on the neck.

4. The trial Court having found that accused Krishan, the mother-in-law of the deceased had been residing separately with her husband recorded acquittal of Krishan.

5. Learned State counsel vehemently submitted that there is evidence to establish that accused Krishan also demanded dowry and tortured the deceased. Therefore, the trial Court should not have acquitted Krishan who was the mother-in-law of the deceased.

6. PW6 ASI Gulab Singh has categorically admitted during the course of cross examination that accused Krishan was residing with her husband in a separate portion in the house. PW7 Vikas during the course of cross examination admitted that Krishan in fact visited the house of Karambir on the day of occurrence. In other words, accused Krishan, who was residing separately from his son Vikas had been away from the house at the time of occurrence. In the light of the above, in our considered view, the trial Court has rightly held that a charge under Section 306 IPC is made out only against Vikas and not against Krishan who has separate establishment

with her husband and had been away on the date of occurrence. Therefore, we find that there is no merit in the application filed by the State seeking leave to file appeal. Therefore, leave sought for is declined and the application is dismissed.

(M. JEYAPPAUL)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

January 13, 2017
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No