

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-1226-MA of 2017

DATE OF DECISION: NOVEMBER 27, 2017

STATE OF HARYANA

...APPLICANT

VERSUS

GAURAV

...RESPONDENT

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN.
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.**

PRESENT: MR. PRAVEEN BHADU, A.A.G., HARYANA

MAHABIR SINGH SINDHU, J.

1. The State of Haryana has filed this application for grant of leave to appeal against the judgement dated 21.10.2016, passed by learned Addl.Sessions Judge, Sirsa vide which respondent-Gaurav has been acquitted for the charges under Section 498-A, 304-B and 302 IPC.
2. PW8 Vinesh Kumar made a complaint dated 31.3.2014 (Ex.P6) on the basis of which FIR No.326 dated 31.3.2014 under Sections 498-A, 304-B and 302 IPC was registered at Police Station City Sirsa to the effect that he works as a Fitter in the Agriculture Department at Bhiwani. He has a son aged 24 years and a daughter, namely, Annu aged 22 years. The brother-in-law (Jija), namely, Naresh Kumar son of Shri Ram Chander resident of Khanna Colony, Sirsa had arranged the marriage of his daughter Annu with the accused-respondent Gaurav, which was solemnized on 14.2.2014 as per Hindu rites and ceremonies at Bhiwani. It is further alleged that that dowry

beyond his capacity was given to his daughter including 3 lakhs in cash for purchase of a car, 10 tollas of gold jewellery, LED TV, utensils and clothes, furniture etc. in the form of istri dhan was handed over to the father of the respondent and his mother, namely, Kashi Ram and Suman, respectively. After two days of marriage, the father-in-law expressed their unhappiness with the dowry articles and all of them taunted that they were expecting big car and they have been let-down in the society for giving less dowry in the form of small car. It was also alleged that all the accused asked the deceased that if she wanted to get herself settled in her matrimonial home then she should have brought ₹4 lakhs cash from her parents for purchasing a big car. Upon hearing so, the deceased retaliated and told her in-laws that her parents have already given the dowry more than their capacity and they cannot afford anything more so that the demand of the accused can be fulfilled. Upon this, all of them started misbehaving and giving beatings also to Annu and thereafter, on 9.3.2014, the complainant brought Annu to Bhiwani and she narrated the entire story to the complainant and her mother Rajni. After 3 days, the complainant and his wife came to the matrimonial house of Annu and requested all the four accused not to harass and humiliate their daughter and whatever dowry was given was beyond their capacity and still whatever is possible, they would continue in future, but they should not tease Annu and treat her as their own family member. But despite that they continued to harass and humiliate Annu. Ultimately on 31.3.2014 at about 12.00 noon, the complainant received a telephonic call from the father-in-law of Annu that she was seriously ill and therefore, he

should come immediately. Apprehending suspicion in his mind, the complainant and his wife alongwith brother of the complainant, namely, Balbir, son of the complainant (Gaurav, PW9), nephew Sanjay and other relatives reached Khanna Colony in the house of the respondent, but no one was available there. Then on reaching there they came to know that Annu had expired and her dead body was in Civil Hospital, Sirsa. Consequently, the complainant and other persons mentioned above reached Civil Hospital, Sirsa, but even there no family member from the in-laws of the deceased was noticed there. Then they came to know that the dead body was kept in mortuary and Annu had been murdered by her in-laws for demand of dowry or she had committed suicide being harassed by them within less than a period of 2 months from marriage.

3. The investigation of the case was conducted and report under Section 173 Cr.P.C. was submitted vide which only accused Gaurav was charge-sheeted under Sections 498-A, 304-B and 302 IPC to which he pleaded not guilty and claimed trial.

4. To prove its case the prosecution examined 12 witnesses. In defence, the accused examined 5 witnesses.

5. The trial Court after going through the evidence on record acquitted Gaurav accused of the charges levelled against him.

6. Learned State counsel argued that the trial Court has erred in acquitting the respondent-Gaurav. The trial Court has failed to appreciate the evidence that there was some suspicion with regard to administration of rare poison which could be the cause of death. It has been further argued

that the trial Court has also not gone into the allegations of demand of dowry and harassment and cruelty being meted-out to the deceased.

7. PW6 Dr. Tarun Dagar, Resident, Department of Forensic Medicine, PGIMS, Rohtak has categorically deposed that the cause of death in this case was renal pathology (kidney failure) and its complication and that there could be some rare poison and that only Chemical Examiner could detect such type of rare poison. He further opined that kidney pathology could be due to multiple reasons which could be ischemia, toxins/poison, any major injuries etc. or it could be any idiopathic etiology. In his cross-examination PW6 admitted that as per inquest report, there was no apparent cause of death and no signs of any violence, poison and that there was no external visible injury on the dead body. He further admitted that as per Chemical Examiner's report Ex.P9, the cause of death is not because of any common poison and that no signs of poison were visible on the dead body of Annu externally. The trial Court has also rightly come to the conclusion that if the complainant party was not satisfied with the report of the Chemical Examiner, the prosecution could have summoned the Chemical Examiner, which the prosecution failed to do so. The trial Court has also rightly observed that since no burn or bodily injury was on the dead body of deceased Annu, therefore, it cannot be said that her death occurred otherwise than under normal circumstances. Thus, it can be safely held that the deceased died under normal circumstances and no attribution can be made to respondent Gaurav.

8. As far as the demand of dowry, harassment and cruelty to

deceased Annu is concerned, the prosecution failed to show any document or produce any call records that deceased Annu was being maltreated by the respondent. An affidavit Ex.DB, duly attested by the Executive Magistrate, Sirsa was also produced before the trial Court vide which complainant Vinesh Kumar (PW8) admitted that out of tension due to death of his daughter, he lodged the said FIR against the respondent and other accused and that after enquiring all the facts, he reached to the conclusion that respondent Gaurav and other accused had no hand in the death of Annu and that she died due to illness which was natural and he did not want to take any action pertaining to the abovesaid FIR. The prosecution has also failed to examine Naresh Kumar, brother-in-law of the complainant who had arranged the marriage between Annu and respondent Gaurav. However, on the side of defence, DW3 Lalit Kumar was examined and he deposed that he and said Naresh Kumar were the mediators to the engagement and that there was no demand of dowry, neither at the time of finalization of marriage nor at the time of marriage and the relations between respondent and Annu were cordial.

9. DW3 Lalit Kumar and DW5 Chander Shekhar deposed in one voice that after the death of Annu when PW8 Vinesh Kumar lodged an FIR against the respondent and his family members, a panchayat was convened on 19.6.2014 where both the parties came to the conclusion that Annu had died natural death and that there was no demand of dowry. A compromise Ex.DC was also struck between the parties.

10. Therefore, keeping in view the aforesaid circumstances, this

Court is of the view that the trial Court has rightly acquitted the respondent and therefore, leave sought for is declined and the application is dismissed.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 27, 2017
Gulati

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes