

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

CRM-A-2238-MA-2016 (O&M)

Date of decision : 04.12.2017

Ashok Kumar

...Applicant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Bikramjit Aroura, Advocate,
for the applicant-appellant.

JITENDRA CHAUHAN, J.

The applicant seeks special leave to appeal against judgment dated 14.09.2016 passed by the learned Additional Sessions Judge/Exclusive Court, Amritsar (for short, 'the trial Court'), thereby acquitting the accused-respondent in FIR 27 dated 08.02.2016, registered under Section 306 of the Indian Penal Code (for short, 'the IPC') at P.S. Chheherata, Amritsar.

It is the case of the applicant/appellant that the deceased was being harassed by respondent No.2-accused as he had been pressing up the deceased to persuade the appellant to transfer the shop owned by him, cash amount of Rupees twenty lakh and a car. The deceased had committed suicide within seven years of the marriage and the presumption under Section 113-A of the Evidence Act ought to have been drawn against the accused-respondent.

In order to prove its case, the prosecution was required to lead

cogent evidence to show that the accused-respondent had instigated or abetted the deceased to commit suicide. It has come on record that it was the accused who had initially informed the police about the incident. Furthermore, despite the information having been sent to the complainant and his family members, none bothered to reach the spot. The deceased hanged herself on 08.02.2016 but none came forward to get the case registered against the accused for abetting the commission of suicide. It has also come in the statements of PW-13, Inspector Arun Sharma and PW-3, HC Sahib Singh that even after being informed by the police about the death in question, neither the complainant (father of the deceased) nor any other family member reached her matrimonial home and no FIR was registered immediately after the death.

On the contrary, the defence taken by the accused appears to be more probable in this case. During his examination under Section 313 Cr.P.C., the accused had taken a specific stand that the marriage was a result of love affair and it was solemnized against the wishes of the complainant's family. Neither the complainant-father of the deceased, nor any other member of the family attended the marriage ceremony, therefore, no dowry was given in the marriage. Even after the marriage, none from the paternal family of the deceased had contacted her despite her best efforts to restore the ties. Rather, they used to humiliate the deceased whenever any such attempt was made by her. Therefore, the deceased used to remain under depression. Immediately before the incident, she again attempted to communicate with the complainant's family but to no avail. It was specifically stated that the couple had been leading a happy matrimonial life.

complainant and his family members in not reaching the matrimonial home of the deceased even after the news of death of the deceased was conveyed to them, leads to the irresistible conclusion that the prosecution has miserably failed to prove its case beyond reasonable doubt against the accused-respondent.

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.”

In view of the above, this Court is of the considered opinion that the findings recorded by the trial Court are based on correct appreciation of facts and evidence on record and no illegality or perversity can be said to have been committed by it. Consequently, the present

Court is affirmed.

Special leave declined accordingly.

04.12.2017
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No