

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-2396-MA of 2016

DATE OF DECISION: NOVEMBER 29, 2017

VINESH KUMAR

...APPLICANT

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

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

PRESENT: MR. R.A. SHEORAN, ADVOCATE FOR THE APPLICANT.

MAHABIR SINGH SINDHU, J.

1. The applicant who is father of deceased Annu, 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 of the charges under Sections 498-A, 304-B and 302 IPC.

2. Complainant Vinesh Kumar (PW8) 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. His brother-in-law (Jija), namely, Naresh Kumar son of Shri Ram Chander resident of Khanna Colony, Sirsa had arranged the marriage of 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 dowry

beyond his capacity was given to his daughter including ₹3 lakhs in cash for purchase of a car, 10 tolas of gold jewellery, LED TV, utensils, clothes, furniture etc. in the form of istri dhan was handed over to the father of respondent No.2 and his mother, namely, Kashi Ram and Suman, respectively. After two days of marriage, her in-laws 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 bring ₹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 as to fulfill their demand. 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 taunt 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. 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 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. Heard learned counsel for the applicant-complainant.

7. The grievance raised by the learned counsel for the applicant-complainant has already been dealt with and decided vide order dated 27.11.2017 in CRM-A-1226-MA of 2017, filed by the State of Haryana impugning the same very judgement, as is challenged in the present case,

granting acquittal to respondent-Gaurav. In addition to the aforesaid grievance, learned counsel for the applicant-complainant submitted that the trial Court held that Annu died natural death due to renal failure whereas, a suicide note (Mark-9) was recovered by the investigating agency from the house of the respondent-accused. It is contended that if Annu had died on account of natural death due to renal failure, then there was no reason for her to write a suicide note. Therefore, it is argued that it was the respondent-accused only who administered poison to Annu and in order to save his skin from any legal prosecution had forced Annu to write the said suicide note. Therefore, the report of the FSL which mentions the cause of death of Annu as renal failure goes to the root of the case and cannot be relied upon.

8. The argument raised by learned counsel for the applicant-complainant before this Court has no legs to stand. The prosecution had failed to prove that this is a case of suicide as there is no medical evidence to substantiate that this is a case of unnatural death.

9. As per PW6 Dr. Tarun Dagar, Annu died of kidney failure and its complications and as per the Chemical Examiner's report (Ex.P9) "*No common poison could be detected in stomach and its contents, parts of small and large intestines, parts of liver, spleen and kidneys, blood, saline preservative and colourless liquid*". No other injury was detected during post mortem examination on the body of Annu. The trial Court has observed that since there was no burn or bodily injury on the dead body of deceased Annu, therefore, it cannot be said that her death occurred otherwise than under normal circumstances. Even otherwise, the report of the Chemical

Examiner drawn by a series of analysis is an authentic piece of evidence to be relied upon in the absence of any eye witness account or circumstantial evidence, and the same cannot be doubted. No suspicion over the report of the Chemical Examiner had been raised by the prosecution during trial.

10. In his cross-examination PW6 Dr. Tarun Dagar admitted that as per inquest report, there was no apparent cause of death and no signs of any violence or poison and that there was no external visible injury on the dead body. Thus, it can be safely held that the deceased died a natural death and no attribution can be made to respondent Gaurav.

11. In view of the above, this Court is of the view that the trial Court has rightly acquitted respondent No.2-Gaurav and the application thus, lacks merit. Therefore, the application is dismissed and leave to appeal declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

November 29, 2017
Gulati

Whether Reportable	:	No
Whether Speaking/Reasoned	:	Yes