

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

Criminal Misc.No. A-618-MA of 2017

Date of Decision : May 26, 2017

Kamla

....Applicant

Versus

U.T., Chandigarh and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE H.S. MADAAN**

Present : Mr. Sandeep Gahlawat, Advocate
for the applicant.

T.P.S. MANN, J.

Complainant-Kamla Devi wife of Rajinder Kumar has filed the present application under Section 378(3) of the Code of Criminal Procedure for grant of special leave to appeal against the judgment dated 20.1.2017 passed by learned Additional Sessions Judge-cum-Judge, Special Court, Chandigarh.

Vide impugned judgment, the learned trial Court acquitted the accused/respondents of the charges under Sections 304-B read with Section 120-B IPC.

The case of the prosecution, in nutshell, is that complainant-Kamla Devi had three children, one of whom was the deceased, who was aged 27 years on 19.10.2008 when she was married to Dhoop Singh accused. Since the very beginning of the marriage of her daughter, she was tortured by her husband Dhoop

Singh, brother-in-law Rajbir, sister-in-law Sonia and father-in-law Puran for lust of dowry articles. Her younger brother-in-law Kuldeep had a scuffle with her many a time. After being tortured by the accused, her daughter would inform the complainant as to how she was being abused and harassed, besides being beaten up. The complainant and her family members would counsel the deceased that she was to live with her in-laws. Despite the same, the accused did not mend their ways. Whenever the complainant and her family members visited the house of the deceased to enquire about her welfare, all the accused would abuse them. On 8.8.2015 at about 6.00 a.m., Meenu, sister-in-law of the deceased came to the house of the complainant and told her that the deceased had gone silent and was not even taking water. The complainant, alongwith Meenu, went to the matrimonial home of the deceased where she found the deceased lying on a sofa in a room on the first floor of the house. The complainant touched her and asked something from her but the deceased did not respond. She was lying dead. The complainant began to cry and beat herself at that very moment. All the members of the in-laws family of the deceased came there and took the deceased to General Hospital, Panchkula, where the doctors declared her dead. The accused had killed the deceased for lust of dowry articles.

It is also the prosecution case that on the basis of statement made by complainant-Kamla Devi on the aforementioned lines, FIR under Sections 304-B and 120-B IPC was registered. During the investigation, the post-mortem on the dead

body of the deceased was got conducted. The accused were arrested in the case. On completion of the investigation, the police presented final report against the accused respondents. They were, thereafter, charged for the aforementioned offences, to which they pleaded not guilty and claimed trial.

According to the defence, the deceased had died a natural death whereas, according to the prosecution case, the deceased had died otherwise than under normal circumstances. PW2 Dr. Himanshu Mehta, who, alongwith Dr. Ritika had conducted post-mortem on the dead body of the deceased deposed on oath that after post-mortem the parcel containing stomach with contents, part of small intestine with contents, half of each kidney, pieces of spleen, liver with gall-bladder and sample of preservative and blood was prepared. An envelope containing post-mortem report and forwarding letter to the Director CFSL, Sector 36, Chandigarh was prepared, which was duly sealed and handed over to the accompanying police official. The cause of death was reserved till the receipt of report of CFSL. The probable duration of time between death and post-mortem was 12 to 24 hours. After going through the CFSL report wherein it was mentioned that none of the common poison had been detected, the doctor opined that death was due to aspiration as few drop of yellow brownish fluid was seen in trachea. During cross-examination, PW2 Dr. Himanshu Mehta deposed that there was no internal or external injury on the body of the deceased. He further stated that aspiration could take place when a person vomits and

the part of vomit goes into trachea and it could happen when a person is sleeping or awake. He further stated that in case a person was having gastritis then fluid from the stomach could travel to trachea or mouth even if a person is sleeping or awake and, therefore, the death was not unnatural, rather it was a natural death.

Once it had been found that the deceased had died a natural death and there was no internal or external injury on the body of the deceased, this Court has no other option but to hold that one of the essential ingredients of the offence of dowry death, i.e. the death of a woman had occurred otherwise than under normal circumstances, has not been established. In such a situation no fault can be found with the impugned judgment passed by the learned trial Court while holding that the prosecution had miserably failed to prove the charge of dowry death against the accused and, accordingly, acquitted them.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

May 26, 2017
satish

(T.P.S. MANN)
JUDGE

(H.S. MADAAN)
JUDGE

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO