

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

**CRM No.5534 of 2017 in/and
CRA-AD-21 of 2016**

Decided On : 21.02.2018

Sonam Dhillon Applicant/Appellant

VS.

State of Punjab and others Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Eklavya Kumar, Advocate
for the applicant.

Mr. Gaurav Garg Dhuriwala, Senior DAG, Punjab
for respondent no. 1- State.

Mr. Vinod Ghai, Senior Advocate
with Mr. Simrandeep Singh Sandhu, Advocate
for respondents no. 2 to 4.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.) and appeal, the applicant/appellant seeks grant of special leave to appeal against the judgment dated 30.10.2015 passed by the Additional Sessions Judge, Ludhiana (for short – the trial court), through which the respondents, though convicted under Sections 498-A, 323 and 506 of the Indian Penal Code, 1860 (for short – IPC), have been acquitted of the charges framed against them under Section 307 IPC.

Briefly stated, the case of the prosecution is that on 11.03.2007, the applicant Sonam Dhillon was married to Gur Iqbal Singh. At the time of

her marriage and even prior thereto, sufficient dowry was given to the applicant's in-laws by her parents. However, her in-laws remained unsatisfied. On 20.05.2008, on the birth of a son out of the wedlock, the applicant's husband Gur Iqbal Singh asked her to bring Rs. 2 lacs from her parents. Such demand was satisfied by the applicant's father. In August 2008, on demand made by him, the applicant gave Rs. 1 lac and one gold bracelet to her husband. In the summer vacations of the year 2011, the applicant's husband dropped the applicant in the house of her maternal aunt and after two days, he conveyed to her maternal aunt about the medical expenses incurred on the treatment of applicant in Apollo Hospital. Thereafter, there were talks between the families but no settlement was arrived at and the demands by the in-laws of the applicants continued. On 02.09.2011, at 07:00 PM, when she was in her matrimonial home, respondents no. 2 to 4 threatened to kill her if she did not fulfill their demand of Rs. 10 lacs. Her husband beat her with a stick and her mother-in-law gave her kick blows. Thereafter, applicant's father-in-law and husband put a rope around her neck and started strangulating her with intention to kill her but she rescued herself from their clutches and along with her son, initially went to the house of one Manjit Kaur, from where she got in touch with her maternal uncle and maternal grandfather, who took her to the hospital.

On the basis of above allegations, the FIR was registered under Sections 307, 406, 498-A, 323, 506 IPC and after investigation, challan was filed before the court of JIlaqa Magistrate. Since the offence under

Section 307 IPC was exclusively triable by the court of Sessions, the case was committed to the court of Sessions Judge, Ludhiana from where it was entrusted to the court of Additional Sessions Judge, Ludhiana, where, on finding a prima facie case, the private respondents were charged under Sections 307, 406, 498-A, 323, 506 IPC and on them pleading not guilty, put on trial.

The trial court, after sifting the evidence which had come on record, convicted the private respondents under Sections 498-A, 323 and 506 IPC but not under Section 307 IPC. It is the acquittal of the respondents under Section 307 IPC, which is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the applicant before the trial court, submitted that the trial court erred in not convicting the respondents under Section 307 IPC as there was overwhelming evidence on record to prove their guilt in this regard. It was argued that the injuries on the neck of the applicant clearly proved that the respondents had attempted to kill her by strangulating her and therefore, there was no reason in fact or in law with the trial court for not convicting them under Section 307 IPC.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant a favourable consideration.

PW-5 Dr. Ravneet Kaur deposed that she could not verify

whether the injury around the applicant's neck was caused by a rope since the imprints which are caused by a rope were not found present on her neck. The doctor further went on to state that the possibility of self-infliction of the injuries on the applicant's neck could not be ruled out and that such injuries could have been caused by application of any irritant chemical such as nail polish remover etc. The injuries on the neck of the applicant also do not show a complete ligature all around the neck. The injuries on the applicant's neck also do not reveal the tying of a rope allegedly around her neck.

It is also improbable that had the respondents, who were three in number, put a rope around the applicant's neck to strangle her, she could have firstly freed herself from the rope and then along with her son, escape from her matrimonial home.

It is the prosecution's case that after the occurrence on 02.09.2011, at 07:00 PM the applicant was taken to a Government Hospital. However, neither any prescription given by such Hospital nor any medico-legal report with regard to her examination at that time was produced. The explanation by the prosecution that the applicant was not medico-legally examined at Civil Hospital, Ludhiana as the place of occurrence fell within the area of another Government Hospital is not acceptable. PW-4 Head Constable Mohd. Sadiq also conceded in his cross-examination that the applicant was having no injury on her body at the time her statement was recorded by the police.

It is the case of the prosecution that after the occurrence, the applicant went to the house of one Manjit Kaur. Interestingly, neither Manjit Kaur nor her husband were produced.

In view of the above, no fault can be found in the judgment of the trial court acquitting the respondents of the charge for commission of an offence under Section 307 IPC.

Resultantly, the present application is devoid of any merit and, therefore, dismissed. Special leave to appeal is declined and the appeal dismissed.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 21, 2018

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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*