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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.L.P. 122/2018**

RAM NIWAS

..... Petitioner

Through: Mr. Aakash Naval, Advocate

versus

THE STATE GOVT OF NCT OF DELHI

& ORS

..... Respondents

Through: Mr. Rajat Katyal, Additional Public
Prosecutor for the State with
Inspector Saroj Bala, PS – Sagar Pur

+ **CRL.L.P. 172/2018 & CRL.M.A. 4891-4892/2018**

STATE

..... Petitioner

Through: Ms. Aashaa Tiwari, Additional Public
Prosecutor for the State with
Inspector Saroj Bala, PS – Sagar Pur

versus

MANGAT RAM & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE P.S.TEJI

ORDER

06.04.2018

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The State and the complainant have preferred the aforesaid two leave petitions to seek leave to appeal against the judgment dated 14.10.2017 rendered by the learned Additional Sessions Judge – 2, Fast Track Court,

New Delhi District, Patiala House Court, Delhi in Sessions Case No. 31/2017 titled as 'State versus Mangat Ram and Others' based on FIR No. 101/2013, registered at Police Station – Sagar Pur, under Section 498A/304-B/34 IPC. The learned Additional Sessions Judge acquitted the accused by giving them the benefit of doubt.

The brief case of the prosecution was that the deceased – Savita got married to the accused Mangat Ram on 23.01.2013 as per the Hindu rites and ceremonies. The said marriage was solemnised on the advice of the Maut of the deceased – Sh. Munna Lal. On the intervening night of 11-12.05.2013, information was received at Police Station – Sagar Pur that the deceased had consumed poison and was admitted in Bhagat Nursing Home at 12.15 AM. The statements of the parents of the deceased were recorded by the executive Magistrate and on that basis a complaint was recorded directing the SHO, Police Station – Sagar Pur to register the FIR in question. The father of the deceased claimed that in the marriage of his daughter on 23.01.2013, he handed over a cash of Rs.5 lakhs to accused – Mangat Ram and articles of dowry worth Rs.1 lakh. He claims that soon after the marriage, accused – Mangat Ram alongwith the other co-accused persons i.e. mother-in-law - Mithlesh Gupta, sister-in-law – Sanjay Gupta, *devar* of the deceased – Radhey Shyam Gupta and maternal uncle of the deceased – Nathu Ram Gupta had raised demands of dowry. The deceased died within 2 ½ hours after being admitted in the ICU of Bhagat Nursing Home. No suicide statement was left behind by the deceased and no statement of the deceased could be recorded. The prosecution examined 28 witnesses, including the parents of the deceased, PW-3 – Ms. Komal, friend of the deceased, and other relatives of the deceased. The reasoning found in the

impugned judgment for the acquittal of the respondents reads as follows: --

- “8. I proceed to examine the evidence produced by the prosecution to find out if the ingredients are satisfied or not. In the present case the victim had died due to poisoning. It is not disputed that there is no suicide note. It is also not disputed that the victim was taken to the hospital by the accused persons. It is also seen that there is no dying declaration. It is also seen that as per the postmortem report there are no visible or external injuries on the body of the deceased. It is also not disputed that there is no previous complaint prior to the death of the deceased regarding cruelty or dowry harassment.*
- 9. It has also come in evidence that the deceased was taken to the best hospital available in the locality and the accused persons duly informed uncle Munna Lal PW-5 and her parents and the accused persons remained present in the hospital all throughout. It is also seen that the source of obtaining poison has not been investigated nor any bottle or container containing the poison had been recovered by the police. It is also seen that there is no list of dowry articles given at the time of marriage. Counsel for the accused persons has argued that the marriage of the deceased with accused Mangat Ram took place in Delhi and only the relatives and friends of the husband i.e. accused Mangat Ram were present in the marriage, but none of the relative and persons from the village from the deceased belonging came to attend the marriage. It has also come in evidence that even real brother and bhabhi of the deceased did not attend the marriage. It has also been admitted by PW-1 (father of the deceased), PW 2 (mother of the deceased) that no photography or videography of marriage took place. It was also admitted that there was no marriage card printed on behalf of the family of the deceased at the time of marriage.*

10. It is admitted in the cross-examination by PW 1 as well as PW 2 that on the first meeting roka ceremony took place and within few days the marriage took place at Delhi and PW 1 handed over a sum of Rs. 5 lacs to the family of the accused to make the arrangements. However, PW 2 and PW 3 did not know as to when Rs. 5 lacs were paid by PW 1. PW 1 stated in his examination in chief that he paid Rs. 5 lacs together but in cross-examination he stated that he paid the same in three instalments. However, there is no eye witness at the time of making the payment. It is also seen that there are vast improvements made with respect to the demand of dowry in cash of Rs. 5 lacs along with motor car, as PW 1 did not make any such allegation when his statement was recorded by the SDM. PW 1 also admitted before the Juvenile Justice Board when his evidence at the time of trial of juvenile Shivam was recorded where he categorically stated that he did not make any allegation regarding demand of motor car by the accused persons. Further in the evidence recorded before this court he made the improvement and stated that there was a demand of motor car. As per the evidence recorded of PW 1, PW 2, PW 3 and PW 4, the cruelty and harassment allegations are vague and no specific date, time or incident is stated by any of the witness. All the above witnesses are hostile to the case of the prosecution on material points and they have been declared hostile and cross examined by the Ld. Addl. PP for the State. It is also seen that PW 28 Rajiv is a very crucial witness. The case of the defence is that the deceased was having an affair with PW 28 Rajiv before the marriage and her family pressurized her to marry the accused Mangat Ram and as she was not happy with the marriage, she committed suicide.
11. Ld. Counsel for the defence has stated that even as per the admitted case of the prosecution PW 4 Soni

Gupta, who is aunt of PW 3 Komal stated that the SIM card for mobile no. 8745066837 was purchased in her name, giving her ID card which she gave to Komal, who handed over the same to the deceased. It is seen that the deceased was talking from this number to PW 28 Rajiv on number of occasions (approximately 10 times as per the CDR) and even on the date of suicide she had a lengthy conversation with the said Rajiv. It therefore cannot be ruled out that due to a failed love relationship deceased committed suicide.”

The submission of learned counsel for the petitioner / complainant is that the trial court has failed to appreciate the consistent statements made by the parents of the deceased with regard to the dowry demands made by the accused and the harassment of their daughter for that purpose.

A perusal of the testimonies of the said witnesses shows that though allegations with regard to the dowry demands and harassments of the deceased were made, they are bereft of any particulars whatsoever with regard to the date, place and time when they were made. This aspect has been considered by the trial court in the extract from the said judgment, which we have taken note of hereinabove. Pertinently, the deceased was removed to the best hospital available in the locality by the accused persons and information of the medical condition of the deceased was provided to Mr. Munna Lal (PW-5) and the parents of the deceased were also present in the hospital. Throughout, the accused persons remained in hospital with the deceased. The body of the deceased did not bear any visible external injury marks. The testimony of Dr. B.N. Mishra, Medical Officer-cum-Medico Legal Expert and Criminologist, Department of Forensic Medicine, DDU

Hospital shows that the manner of death was consistent with suicide as the poisonous substance consumed by the deceased is not suitable for accidental or homicidal consumption because of its highly bitter taste and pungent smell. The trial court has also noted the fact that there was hardly any elaborate arrangement made by the parents of the deceased at the time of marriage since no photographer/ videographer was engaged, no marriage card was printed and even the close relatives did not attend the marriage including her own real brother and *bhabhi*.

The claim made by father of the deceased (PW-1) that he had delivered Rs.5 lakhs to accused - Mangat Ram, at the time of marriage was not corroborated, in as much as, there was no eye-witness and his wife was not even aware of the said money being paid to the accused. The said witness also made improvements with regard to the dowry demands while recording statement in Court, when compared to his earlier statements recorded by the SDM. Before the SDM, no statement was made with regard to the demand of motor-car by the accused person. Pertinently, the material witnesses did not narrate their statements before the Court as were recorded before the learned Magistrate and consequently, they were declared hostile and leading questions were put to them. It is also pertinent to note that a mobile SIM card was purchased by PW-4 Soni Gupta, Aunt of PW-3 Komal, friend of the deceased in her own name and given to Komal (PW-3), who in turn handed over the same to the deceased. The call details record of the said mobile number show that the deceased was in frequent conversation with Rajeev Gupta (PW-28), with whom the deceased was claimed to be having a relationship even prior to her marriage. Even on the date of suicide, the deceased appears to have had a lengthy conversation with Rajeev. The

defence of the accused that the deceased committed suicide on account of the said failed love relationship was therefore probablised.

In view of the aforesaid, we find no merit in the two petitions. The same are accordingly dismissed.

VIPIN SANGHI, J

P.S.TEJI, J

APRIL 06, 2018

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