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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 595/2018**

STATE OF NCT OF DELHI Petitioner

Through: Mr. Kewal Singh Ahuja, APP

versus

ARJUN PASWAN & ORS Respondent

Through: None.

CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL

ORDER

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12.09.2018

Crl.M.A. 31846/2018 (exemption)

1. Allowed, subject to all just exceptions.

Crl.M.A. 31847/2018 (delay)

2. For the reasons stated in the application, the delay in filing the petition is hereby condoned. The application is disposed of.

CRL.L.P. 595/2018

3. The State seeks leave to appeal against the judgment dated 20th March 2018 passed by Special Judge (NDPS), North District, Rohini Courts, Delhi in SC No.57674/2016 arising out of FIR No.288/2011 registered under Sections 498A/304B/34 IPC at PS Aman Vihar whereby the husband (Respondent No.1) and the in-laws (Respondent Nos.2 & 3) of the deceased were acquitted of the aforementioned offences.

4. The deceased died at the home of her parents on 22nd September 2018 by committing suicide. Her father Ram Paswan (PW-1) called the police to inform them that she had hung herself with the help of a *chunni* from the ceiling fan. The deceased had got married to Respondent No.1 on 20th February 2011.

5. The case of the prosecution is that after the marriage, the in-laws of the deceased had demanded a car and Rs.1.5 lakhs but PW-1 was unable to satisfactorily fulfill these demands. The deceased conveyed to him over telephone that her in-laws were harassing her and therefore, he should take her back home. His son, Rakesh (PW-10), then brought her back home after two months of her marriage. PW-1 disclosed that the deceased was mentally disturbed and that he got her treated for that condition at RML Hospital. According to him, despite his requests, the Respondents refused to take the deceased back until their demands were met.

6. The post mortem report confirmed that the cause of death was asphyxia due to ante mortem hanging. However, the trial Court noticed certain anomalies in this regard. When the police team reached the spot, it was found that the dead body had been taken down and even the *chunni* had been removed and was lying on the bed. According to PW-1, his wife (PW-7) went upstairs to

give juice to the deceased but found her hanging by the ceiling fan. At the spot, no sign of any glass containing juice was found. In other words, the crime scene had already been altered by the time the police reached the spot. Furthermore, none of the witnesses have spoken about the sequence of events a few days prior to the day of the deceased committing suicide.

7. It is further noticed that in the room, below the ceiling fan, there was a double bed and there were objects put below the legs of the double bed to raise its height. However, there was no explanation as to how the deceased was able to reach the ceiling fan. There was a contradiction in the two site plans prepared in this regard as one showed the presence of a plastic chair at the spot where the deceased committed suicide whereas it was not shown in the other. The Trial Court has observed “missing of this material link creates suspicion over the prosecution story”.

8. As regards the deceased being subjected to cruelty and harassment, the trial Court noticed inconsistencies and contradictions in the three witnesses, i.e. PW-1, PW-7 and PW-10. In particular, PW-10 did not support the version of PW-1 as regards the demand for a car being made by her in-laws. PW-7 deposed that after the marriage, the deceased had visited her parental home on two occasions along with Respondent No.1 and on the third occasion, he had demanded a car. This was not

corroborated by either PW-1 or PW-10. On 15th June 2011, it was recorded by the CAW Cell that the deceased was undergoing treatment at RML Hospital as she had some mental problem due to which she was suffering. Thereafter, on 18th June 2011, it was noted that, as per the family members of the deceased, she was mentally ill and was receiving treatment and therefore, permission was sought to temporarily close the case.

9. All the above factors led the trial Court to the conclusion that the testimonies of the PWs were insufficient to discharge the burden of the prosecution to prove the guilt of the accused persons beyond reasonable doubt.

10. Learned APP sought to submit that the mental illness of the victim was only on account of the cruelty suffered at the hands of the Respondents. However, there is no such evidence that emerged to support such a contention. In the circumstances, the Court finds no ground is made out for granting leave to appeal.

11. The petition is, therefore, dismissed.

S. MURALIDHAR, J.

VINOD GOEL, J.

SEPTEMBER 12, 2018

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