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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.L.P. 658/2017**

THE STATE GOVT OF NCT OF DELHI Petitioner
Through: Mr. Kewal Singh Ahuja, APP.

versus

PURSHOTTAM LAL & ORS Respondents
Through: Mr. Chander M. Maini, Mr. B.
K. Wadhwa & Mr. Mayank
Maini, Advocates.

CORAM: JUSTICE S. MURALIDHAR
JUSTICE VINOD GOEL

ORDER
04.10.2018

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1. The State seeks leave to appeal against the impugned judgment dated 11th August 2017 passed by the learned Additional Sessions Judge-04, Delhi in SC No.28610/2016 arising out of FIR No.179/2009 registered at PS Burari acquitting the Respondents of the offences under Sections 498A/304B IPC read with Section 34 IPC.

2. The reason for registration of the criminal case against the Respondents was that Savita, the wife of Respondent No.1, had hanged herself in her matrimonial home on 31st May 2009 which was within 7 years her marriage to Respondent No.1 which took place on 13th April 2006. That her death was not homicidal is not in dispute.

3. In order to bring the case against the Respondents, the prosecution had to prove beyond reasonable doubt that the deceased had been subjected to cruelty after the marriage and that soon before her death, she had been subjected to harassment in connection with the demand of dowry.

4. One of the factors which was relied upon by the prosecution is the payment in the sum of Rs.90,000/- by way of cheque to Respondent No.1 soon before his departure to Italy where he was to take up a job. While not disputing this fact, the accused contended that this was not a demand by way of dowry.

5. The case of the prosecution was that the Respondents accused used to beat and taunt the deceased, made demands of dowry, accused her of being in the grips of a bad omen, and otherwise treated her with cruelty. In this regard, the trial Court has discussed in detail, in the impugned judgment, the evidence of the sister of the deceased (PW-9) and has pointed out at least 10 instances of improvements made by PW-9 in her deposition in Court. In other words, she spoke about instances which she had not mentioned to the police in her statement under Section 161 Cr PC. The testimonies of the other PWs, i.e. brothers of the deceased (PWs 10 and 11) and her father (PW-12) and mother (PW-16), also contained numerous improvements. This led the trial Court to conclude that there was not even an *iota* of evidence to

show that the deceased was treated cruelly soon prior to her death. The trial Court has observed that none of the aforementioned PWs inspired the Court's confidence. Therefore, the key ingredients of Section 304B IPC were held not to have been established against the accused persons.

6. Even in respect of the charge under Section 498A IPC, the trial Court was not satisfied that the aforementioned evidence was sufficient to bring home the guilt of the accused. The trial Court has, in that process, discussed in detail Sections 113A Indian Evidence Act and the legal position in respect thereof by referring to case law.

7. Having examined the evidence again with the help of the learned APP, this Court is satisfied that the trial Court has not committed any legal error either in its analysis of the evidence or its conclusions.

8. No grounds are made out for interference with the impugned judgment of the trial Court. The petition is dismissed.

S. MURALIDHAR, J.

VINOD GOEL, J.

OCTOBER 04, 2018

"shailendra"