

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. A-723 of 2019 (O&M)

Date of Decision: May 21, 2019

Akhtar Ali

.....Appellant

versus

Gulzar and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY.
HON'BLE MR. JUSTICE SUDHIR MITTAL.**

Present: Mr. Pankaj Bali, Advocate
for the appellant

Sudhir Mittal, J.

On 01.03.2016 information was received by the police regarding death of some lady in village Uchana whereupon the Investigating Officer reached the site and met one Nasim. He informed him that Aasma wife of Gulzar Singh had committed suicide by hanging herself. The deceased was shifted to Kalyani Hospital, CHD Karnal, where she was declared brought dead. The next day Akhtar Ali (brother of the deceased) got his statement recorded with the police leading to registration of FIR No. 179 dated 02.03.2016 at Police Station Sadar, District Karnal under Sections 304-B, 120-B/34 of Indian Penal Code (45 of 1860) (for short 'IPC'). According to his statement, marriage of deceased Aasma had been solemnized with Gulzar Sigh son of Bhura Khan in October 2013. Her husband, in-laws and other family members used to maltreat her on account of demand for dowry. Gulzar Singh husband of the deceased Aasma also had an extra marital relationship and he wanted to marry that girl which made his attitude more cruel by the day. The deceased had stayed at her parental house from January 2015 to August 2015. A panchayat had been convened at Jagadhri in which in-laws of

Aasma had tendered an apology. However, the harassment started after few days. The accused persons even did not inform the complainant side regarding death of Aasma and they acquired knowledge of the same through relatives on 01.03.2016 at about 10.00/11.00 p.m.

2. The accused were charge-sheeted under Sections 304-B and 120-B IPC but they pleaded not guilty and claimed trial.

3. The prosecution examined as many as 16 PWs and produced documentary evidence Ex. P-1 to P-32 and Ex. MO/1. The defence produced three DWs and led documentary evidence by way of Ex.D1 to Ex. DW3/B, Ex.DA and Mark-DA.

4. The trial Court held that the prosecution had failed to establish beyond reasonable doubt that Aasma (deceased) was tortured or treated cruelly on account of demand for dowry or because her husband Gulzar Singh was having an extra marital affair. Accordingly, the accused have been acquitted.

5. Learned counsel for the appellant submits that Aasma died within about 2 ½ years of her marriage. The prosecution witnesses had proved that she was being ill-treated on account of demand for dowry. Her husband Gulzar Singh was in extra marital affair which was another cause of ill-treatment. Death was caused in the matrimonial home and, thus, the prosecution had proved its case beyond reasonable doubt.

6. Learned trial Court has examined the entire evidence on record in detail. Although, the prosecution witnesses have deposed in accordance with the case of the prosecution, glaring infirmities have been pointed out by the trial Court. According to the case of the prosecution, a panchayat had been convened in August 2015 but not even a single member of the said panchayat, has been produced as prosecution witness. The family members who deposed regarding

Panchayat failed to give exact location thereof. The story regarding extra marital affair of Gulzar Singh also could not be proved as no details regarding identity of the girl could be furnished by the prosecution. Thus, the finding of the trial Court that the prosecution has not been able to prove its case beyond reasonable doubt cannot be faulted.

7. The appeal is without merit and consequently application seeking leave to appeal is dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

May 21, 2019
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No