

CRA-AD-824-2019 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.229

CRA-AD-824-2019 (O&M)

Date of Decision: 10.02.2020

SHIV KUMAR SINGH

....Appellant

VS

STATE OF HARYANA AND ANOTHER

....Respondents

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MRS. JUSTICE ARCHANA PURI**

**Present: Mr. K.L. Kohli, Advocate,
for the appellant.**

ARCHANA PURI, J. (ORAL)

CRM-38956-2019

Present application has been filed under Section 5 of the Limitation Act for condonation of delay of 2 days in filing the appeal.

In view of the averments made in the application, the same is allowed, and the said delay is condoned.

MAIN CASE

Respondent-Manjit Singh was sent up to face trial for commission of offences punishable under Section 304-B of Indian Penal Code. After conclusion of the trial, vide judgment dated 23.07.2019, learned Additional Sessions Judge held that prosecution has failed to bring home the guilt to the accused. Accordingly, he was acquitted of the charges framed against him under Section 302/304-B, 498-A read with Section 34 of Indian Penal Code.

Aggrieved against the judgment of acquittal, complainant-

Shiv Kumar Singh, the father of the deceased, has preferred the

present appeal under Section 372 Cr.P.C.

The case of the prosecution is that marriage of the deceased-Poonam and accused-Kameshwar was solemnized on 19.05.2014 as per Hindu rites and ceremonies and the complainant-Shiv Kumar Singh had spent around Rs.15,00,000/- cash and had given dowry articles worth Rs.5,00,000/- but the members of her nuptial family, including the elder brothers of Kameshwar, namely, Ajit Singh and Brijesh Singh, mother-in-law and sisters-in-law (jethanies), namely, Sunita and Neelam, were demanding a Scorpio make car. They threatened to kill her, in case, she did not get a car from her father. The deceased unable to bear the harassment and torture further, ended the chapter of her life by hanging herself to death on 15.04.2015. Shiv Kumar Singh, father of the deceased, suspected some foul play in the aforesaid version that deceased had hanged herself to death, and accordingly lodged an FIR bearing number 248 dated 16.04.2015 under Sections 304-B read with Section 34 of Indian Penal Code at Police Station Saran, Faridabad. He identified Kameshwar and Rama Devi as the perpetrators of the crime.

Statement of Dr. Smriti Dhami, PW-2, reveals that as per the opinion of the Board, the cause of death of Poonam Devi, in the instant case, was asphyxia due to hanging, which was antemortem in nature and sufficient to cause death in ordinary course of nature. No external marks of fresh injury were present over the body of deceased-Poonam and no force was used by any other person upon the deceased.

While passing the judgment, learned trial Court has cited judgment of Hon'ble the apex Court passed in *State of Madhya Pradesh versus Raj Gopal Asawa and another, 2004 (2) Criminal Court Judgments 415 (S.C.)*, and other relevant judgments.

In the instant case, no demand for dowry, at the time of marriage was made and the said fact is also proved from the statement of Vikram Singh, brother of the deceased (PW-5), as he had deposed that he respected accused immensely for performing a dowry-less wedding with his sister. Further, the matter with regard to alleged harassment and torture of the deceased was never reported to any authority, during her lifetime.

The telephonic conversation (Ex.D-22) goes to show that the deceased continuously insisted on living with her husband at the station of his posting. The accused was required to report on duty on 15.04.2015 and in fact, exhibited great annoyance by not rising early in the morning to prepare and serve breakfast to him. Accused commenced his journey at 4:00 A.M. and arrived at Jammu i.e. his place of posting, at 9:00 A.M.

The defence version appear to be more probable that deceased was not ready and willing to let her husband go to the place of his posting all alone and leave her behind. She demanded more time from him by asking him to ignore family responsibilities and concentrate only on her. On the other hand, when the accused arrived at Jammu, he advised deceased to maintain her cool, in the telephonic conversation (Ex.D-22), however that did not have the desired effect.

In view of the aforesaid evidence on record, we are of the

view, that lower Court has rightly held that the evidence lends credence to the defence version that the deceased was a short-tempered female, who could not cope-up with the idea of her husband staying at the station of his posting without her and probably found it too painful and distressing to live at her matrimonial home without her husband. Further, there is no trustworthy evidence on record to hold that the accused had ever harassed or tortured his wife for the demand of dowry.

Keeping in view the above facts, we are of the view that learned Lower Court has rightly acquitted the accused-Kameshwar Yadav of the charges levelled against him.

As such, the appeal sans merit and the same is hereby dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

10.02.2020
Himanshu

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No