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2024.PHHC.073961



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

**CRA-D-766-DBA of 2002
Date of Decision: 22.05.2024**

The State of (U.T. Chandigarh) ...Appellant
Vs.
Raj Kumar and others ...Respondents

**CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present: Ms. Simsi Dhir, Addl. P.P., for U.T., Chandigarh.

Ms. Sumanjit Kaur, Advocate
for respondents no. 1, 3 and 4.

Appeal qua respondent No. 2. abated.

N.S.SHEKHAWAT, J.(Oral)

1. The present appeal has been filed by the State of U.T., Chandigarh against the impugned judgment dated 13.05.2002 passed by the Additional Sessions Judge, Chandigarh, whereby, the respondents No. 1, 3 and 4 had been acquitted of the charge under Sections 498-A, 304-B and 34 IPC. Respondent No. 2 had already expired during the course of trial and was wrongly arrayed as a respondent in the present appeal. Consequently, the appeal qua the respondent No. 2 already stood abated.
2. The FIR (Ex.PL/1) in the present case was registered in

the present case on 03.09.1997 on the basis of a typed complaint dated dated 02.09.1997 (Ex.PL), moved by Muni Lal Vansal to the Senior Superintendent of Police, Chandigarh and the copy of the same has been reproduced below:-

“That my daughter Monika aged 23 years was married to Sh. Raj Kumar son of Sh. S.N.Puri, resident of House No. 1080, Sector 23-B, Chandigarh on 27.8.1994 according to Hindu Rites at Chandigarh. At the time of marriage two gold sets for Monika, & one gold ring, one Gold Kara/for the bridegroom, one gold ring each for mother, father and sister Sonu besides other usual articles of dowry including the suits for the family and Rs.50,000/- cash for purchase of furniture was given. These articles were entrusted to Raj Kumar, his father S.N. Puri, mother Sushma and sister Sonu. At the time of marriage Raj Kumar was running Electrical business at Delhi. Soon after the marriage, all the above accused started maltreating Monika on the ground that she had not brought a sufficient dowry and a Maruti Car. Monika was even given beatings occasionally by all the accused on this score and was mentally and physically tortured by her in-laws. My daughter gave birth to baby (daughter) on 01.09.1995, namely, Bhanvi. After some days, they came to Chandigarh alongwith gifts for the entire family of Raj Kumar and small ornaments for the baby, but Raj Kumar, his parents and sister were not happy over the birth of a daughter. My daughter told me that Raj Kumar, his parents and sister are still demanding a Maruti Car. I told the family of the in-laws

of my daughter that I have three other daughters and that they were living peacefully and that I was not in a position to give cars to all of them, but they were not satisfied and we left them grumbling. Myself and my wife Tripta Rani, however, advised our daughter not to take these things to heart and that every thing will be alright with the passage of time. In the first week of August, 1996 my daughter came to Amritsar alongwith her baby in three clothes and told us weeping that she was given a severe beating by Raj Kumar, his parents and sister and was thrown out of the house, saying that either, she should bring a Maruti Car from her father or live with her parents for ever. I took respectables namely Shri Bal Kishan , my brother-in-law (sister's husband), Rakesh Kumar, my son-in-law and went to Chandigarh and requested Raj Kumar and his family with folded hands not to mis-behave with my daughter, but they, about two months ago sent my daughter to Chandigarh with the advice that she should remain at Chandigarh and not to take the things seriously. After some days, my daughter informed me on phone that her life has been made hell by her in-laws, but I consoled here and advised her to take care of her.

2. That in the month of October, 1996, the accused started constructing their house at Panchkula and they also started pressurizing my daughter to bring Rs.50,000/- from her parents for the construction of the house. Finding no way out, I paid Rs.30,000/- to my daughter in April, 1997 when she was forcibly sent to Amritsar by Raj Kumar.

3. That on 26.8.1997 myself and my wife while returning

from Delhi had stayed at Ambala Cantt. in the house of my elder daughter Vimmy Khanna. On 26.8.1997 at about 7 p.m. I rang up my daughter from the house of my elder daughter to know about her welfare and she told me that Raj Kumar and his family were demanding more money for completing their house and that their treatment towards her was unbearable. I told her that myself and my wife would be coming to Chandigarh on 27.8.1997 upon which Monika started weeping and the telephone line went off, On 27.8.97, my elder daughter Vimmy and her husband requested us to spend one more night with them and at about 11 a.m., I again rang up my daughter Monika from Ambala Cantt. to tell her that we would be coming to her on 28.8.1997 in stead of 27.8.97 whereupon my daughter started crying and told me in a choked voice that Raj Kumar, his parents and, sister wanted to kill her. My daughter told me that Raj Kumar was pressing her for money by saying that her father (myself) had bought "Maruti Car in May, 1997 and that why he could not afford an amount of Rs.50,000/- to buy peace for his daughter. It is, pertinent to mention that I have bought a new Maruti car for my family by taking loan from Punjab and Sind Bank, Amritsar. I, however, ensured my daughter that we would be coming to her the same day i.e. 27.08.1997 itself.

4. That on the same day i.e. 27.8.97, when I and my wife reached the in-laws house at 9.30 p.m., where we were told that Monika was missing from the house. On this, we asked Raj Kumar and his father to accompany them to the police post, Sector 22, Chandigarh. The father of their son-in-law refused to accompany us whereupon

myself, my wife, my son-in-law went to the Police Post, Sector 22, Chandigarh, where we were told by the police that the dead body of a young woman was recovered by the police from Sukhna Lake and that we could identify the same at General Hospital, Sector 16, Chandigarh. Immediately, we reached Sector 16, General Hospital, where we identified the dead body of my daughter. When I repeatedly asked my son-in-law as to what had happened to my daughter, he confessed that Monika had a quarrel with his mother and sister, whereupon she was given beating by them and thereafter she went away from the house and that he came to know about her missing at about 3 p.m. when he came back home. When I asked him as to why he did not inform the police about the missing of Monika upto 9.30 p.m. as according to the police dead body had already been recovered at about 4 or 4.30 P.M., he started weeping, fell on my feet and begged for pardon. I then took my wife to Sector -3, Police Station, as we had been told by a Constable who was guarding the dead body that the dead body had been recovered by the police of Police Station Sector-3. At the Police Station, my statement was recorded by Moharrir Head Constable and I was also made to sign 2/3 blank papers as I was told that these were required for identifying and recovering of the dead body. At the Police Station I was ensured by Sh. Parmod Kumar Station House Officer that a case will be registered against the culprits. Now, I have come to know that nothing has been done by the police so far. When I went to the S.H.O. of Police Station Sector 3 again, I was told that an investigation in the matter was being carried out,

but I came to know from the subordinate staff that no case has been registered by the Police in connection with the murder of my daughter.

5. That I have reasons to believe that my daughter was killed by the above named accused and taking benefit of bad weather her dead body was thrown by them at a remote place in the Sukhna Lake as it had heavily rained for the entire day on 27.8.1997.

6. That my daughter Monika was a Commerce Graduate and she passed her B. Com. in Ist Division. She was a Scholarship holder in her academic career. A grave injustice has been caused to me.

It is, therefore, respectfully prayed a case for the murder of my daughter may that be registered against my son-in-law Raj Kumar, his father S.N.Puri, mother Sushma and Sister Sonu and the accused may be arrested and dealt with in accordance with law.

Yours faithfully,

*(MUNI LAL VANSAL) s/o Sh. Ganpat Rai
r/o B-574, Ranjit Avenue,
Amritsar.(Punjab).
Dated: 02-9-1997”.*

3. After the registration of the FIR, the investigation formally commenced and the respondents were arrested in the present case. The final report under Section 173 Cr.P.C. was presented before the Court of Area Magistrate. However, the offences were triable by the Court of Sessions, consequently, the case was committed to the Sessions Court, Chandigarh. Ultimately, the Court of Additional

Sessions Judge, Chandigarh ordered framing of charge under Sections 498-A, 304-B and 34 IPC against the accused/respondent, to which, they pleaded not guilty and claimed that they might be tried.

4. To bring home the guilt of the respondents, the prosecution examined 17 witnesses in the present case. Before proceeding any further, it would be appropriate to discuss the relevant part of the testimonies of all the prosecution and defence witnesses. Peru Mal @ Pirmal appeared as PW1, who saw the dead body lying in the water in Sukhna Lake at about 4.30 p.m. on 27.08.1997. He informed the Police Post Sukhna Lake in this regard and pointed the place, where the dead body was lying. As per him, it was a very windy day and it had been raining heavily. In his cross-examination, he admitted that the lake has a slope touching the water. As a very fast wind was blowing, there was lot of movement in the water. He first noticed the clothes floating in the water at about 10 feet from the stones but he did not descend to enter the water and the dead body was taken out by the police personnel. The prosecution further examined PW2 Ms. Suhag Rani, who was a witness to the recovery of all the ornaments by the police from the house of Raj Kumar, respondent No. 1. She stated that all the articles were taken into possession vide memo Ex.PA. In her cross-examination, she admitted that she had joined the cremation of Monika (since deceased) in Section 25 Chandigarh. All her relations from the maternal side

including her parents, brother and sisters had joined the cremation. Raj Kumar, respondent No. 1 had lit the funeral pyre. On 27.08.1997, when she came out to collect the milk from milk vendor, the same person supplied the milk to Monika (since deceased) also. On that day, she had seen her in the courtyard of her house. At about 01.40 p.m., Raj Kumar, respondent No. 1 came to her residence and asked her whether Monika (since deceased) had visited their place. He looked worried. On that day, she thought that Monika (since deceased) might have fallen sick as she was suffering from Asthama. In her presence, the accused telephoned the relations of Mona at various places and also rang up her parents at Ambala. He also rang up her brother at Amritsar and some relatives at Delhi. Monika @ Mona (since deceased) was a frequent visitor to her house and she became a daughter to her and she used to talk to her freely. Monika (since deceased) was very happy and satisfied at the place of her in-laws and never made a whisper of complaint about any dissatisfaction. Raj Kumar respondent No. 1 was so attached to her that he could not let her stay at her parents' place or with any other relations for more than few days. She was also present at the 'Uthala' ceremony, which was held on 04th day. On that day also, her parents and other relatives had joined the ceremony.

5. SI Sat Pal, who was on duty at Police Post Sukhna Lake appeared as PW3. He had initially conducted the investigation after

calling the senior police officers and a Duty Magistrate. He also prepared the inquest report Ex.PD and the dead body was sent to the mortuary. He got the postmortem conducted from the hospital and recorded the statements of Raj Kumar, S.N. Puri, respondents No. 1 and 2 and Muni Lal, complainant. He further stated that after the postmortem, the dead body was handed over to her husband, father-in-law and her father. He proved on record the statements of her husband, father-in-law and her father. He also identified the signatures of Muni Lal, complainant/father of the deceased on the inquest report Ex.PD at Mark 'A'. The statement of PW4 HC Chhatar Singh, PW5 Constable Yashpal, PW6 HC Ashok Kumar and PW7 SI Jaspal Singh are formal in nature. While appearing as PW8 Muni Lal, complainant, who was father of Monika (since deceased) had reiterated the averments made in the complaint Ex.PL and supported the case of the prosecution. However, he was cross-examined at length by the defence. Rakesh Vansal son of Muni Lal brother of the deceased had appeared as PW9 and supported the statement of PW8 Muni Lal. The prosecution further examined PW10 Constable Mohinder Singh, who had taken the photographs at the spot. Dr. K.L. Rastogi, appeared as PW11, who had conducted the postmortem examination on the dead body of Monika (since deceased) and he stated as under in his testimony:-

“Dead body of Monika was brought by C. Ram Saran

No.1532 of PS North and was identified by Muni Lal s/o Ganpat Rai and Raj Kumar s/o S.N. Puri. I recorded the following injuries on the dead body of Monika

- 1. Contusion in an area of 5 cm x 5 cm in the centre of forehead which was reddish-bluish in colour.*

- 2. ½ cm x ½ cm contusion on the tip of nose reddish-bluish in colour.*

- 3. Whole of the lower lip was contused reddish-bluish in colour.*

As per record submitted by the police the dead body was found floating in Sukhna lake at 4.30 p.m. on 27.8.97. Length of the body was 5'-5", moderately built and nourished. Her face was pale, conjunctiva slightly congested, pupils dilated. She was wearing salwar, kamij and underwear and Bra. Rigormortis was present all over her body. Fine froth was present, larynx and trachea was present. Vessels of meninges were congested. Lungs were oedematous and fine froth out of cut section. Fine froth was also present in pharynx and oesophagus was present, stomach was full with muddy water and meuchosa was normal. Uterous size was normal measuring 8 cm x 5 cm, tubes ovaries, cervix were normal, cavity was empty.

In our opinion the cause of death was asphyxia due to drowning. However, However, viscera was sent on 07.11.97 for chemical examination to rule out any associated poisoning.

On 22.12.97 on perusal of the report of Chemical Examiner no poison was detected in any of the contents. The probable time elapsed between injuries and death was within five minutes and death between postmortem

was within 24 hours. I have bought original postmortem register, carbon copy of the same is Ex.P. N. (six pages). The postmortem report was prepared by me. It bears my signatures and also the signatures of Dr. Usha Bishnoi. I identify my signatures and signatures of Dr.Usha Bishroi. Pictorial diagram is Ex.PN/1. On application of police Ex.PN/2, I gave my opinion Ex.PN/3”.

In the cross-examination, Dr. K.L. Rastogi admitted that in the column of identification of the dead body in Ex.PN, he had obtained the signatures of Muni Lal and Raj Kumar, respectively. All the injuries mentioned by him in his report Ex.PN were possible by a single fall on a rough surface.

6. Major Singh Mann, Manager Accounts, Hotel Shivalik View appeared as PW12 to prove the bills of marriage function. PW13 Pardip Kumar was examined by the prosecution to prove the photographs of marriage ceremony of respondent No. 1 with Monika (since deceased) in Arya Samaj Temple Sector 7, Chandigarh and also of the reception ceremony a few days later in Hotel Shivalik View. As per him, at the time of the marriage, which was held in Sector 7, parents of the girl were not present. However, at the time of reception, parents of the girl were present. The said witness also admitted that the photos and video films were prepared on 26.08.1994 at Arya Samaj Mandir, Sector 7, Chandigarh on the occasion of the marriage and he had also prepared the video film and had taken the

photographs on 03.09.1994 in Hotel Shivalik View at the time of reception. The prosecution examined Vijay Kumar as PW14, who proved the bills of purchase of clothes from the showroom of Vimal Cloth in Katra Jamal Singh, Amritsar. Maninder Singh was examined as PW15, who had proved the original bills of jewelry. PW16 SI Gurjeet Kaur appeared as a prosecution witness who conducted part of the investigation in the present case. She admitted in the cross-examination that she had joined the neighbours of the accused residing at adjoining houses and the residents of several other houses situated in the locality. All those persons had stated that they had good relations with the accused. They also stated that they did not hear any quarrel or dispute in the family. Still further, PW17 Baljit Lal, Chief Section Supervisor of G.M. Telephones, Ambala Cantt. was examined to prove the call details made from telephone installed at Ambala at the house of parents of Monika (since deceased) to the telephone at Chandigarh, i.e. at the house of the accused.

7. After concluding the evidence, the entire evidence was put to the accused in the shape of the statement under Section 313 Cr.P.C. Raj Kumar respondent No. 1 stated that he and Monika (since deceased) had performed love marriage. The marriage was conducted without the consent and blessings of their parents. At the time of marriage, neither the parents of Monika nor his parents were present. After recall, his further statement was also recorded under Section

313 Cr.P.C. as follows:-

2. *I and Monika (deceased) had met while travelling in train from Bombay to Delhi, sometime in June, 1991. Relations between us developed thereafter. Monika belonged to Amritsar, whereas my maternal home is also at Amritsar.*

3. *We continued to meet without the knowledge of our parents, exchanged letters, cards etc. My maternal uncle who resides in Amritsar, namely K.L. Mahindru came to know about our relationship and informed my parents.*

4. *Thereafter a meeting was arranged with Monika's parents at Amritsar, where my said maternal uncle requested Monika's parents to permit us to get married. When Monika's father came to know that I was residing in Sector-23, Chandigarh, he flared up and flatly refused to allow the marriage. The reason he showed his hostility towards the marriage, was that his elder daughter, namely Simi Kundra had been married in Sector-23, Chandigarh but her husband had committed suicide, therefore, he was not ready to let his another daughter to get married in Chandigarh. much less in Sector-23, Chandigarh. He was head strong person and was obsessed with the idea that a marriage in Sector-23 was bound to result in disaster and calamity. Despite hostility of Monika's father towards our desire for marriage we continued to meet and eventually decided to get married. We met in Delhi in July, 1994 and travelled separately to Chandigarh. Monika went to stay with paternal aunt (Bua), namely Indu, living in House No. 1287, Sector-18, Chandigarh.*

5. On 26-8-94 myself and Monika got married in Arya Samaj Mandir, Sector-7, Chandigarh, with the help of my friends, like Rajinder Bhatia and Sanjiv Bhatia. Resident of 1742, Sector-43 B. Chandigarh, and Rajnish Bansal, resident of 641, Sector-12 A, Panchkula. My parents also refused to participate in the marriage on the ground that as long as the Monika's parents did not participate in the marriage they (my parents) would not accept our marriage.

6. Prior to the marriage, Monika swore an affidavit to the fact that she was getting married without pressure, undue influence etc. The marriage was also got registered. After the marriage Monika addressed a registered written letter dated: 26-8-94 informing her parents about the marriage. Monika had also requested her parents to come to Chandigarh. Initially upon their arrival at Chandigarh they riased hue & cry and threatened to report the matter to the police. Her father told every body present that he was not ready to get his daughter married at Chandigarh and that also with a person residing in Sector-23, Chandigarh. He again raised earlier objection that his elder son-in-law, Vinod Kumar was a resident of Sector-23, Chandigarh and had committed suicide and therefore, he was not ready to let Monika remain in Chandigarh. However, after intervention of all relatives, i.e. Monika's brothers-in-law from Ambala and Amritsar, sister's husband of Monika's father from Jalandhar, Monika's father relented and agreed to bless us with great reluctance. Thereafter, a joint reception was arranged in Hotel Shivalik View, Chandigarh on 3-9-94. No dowry was either demanded

or received by our family members. At the time of reception, Monika's parents presented one gold set to her, a gold ring to me, a saree to Monika, one suit for me and a suit & saree for my parents. No cash or articles of dowry were demanded or received except gifts mentioned above which were voluntarily given at the time of joint reception. The expenses of this reception were shared between my family and my in-laws' family.

7. Even after the marriage and joint reception, no dowry articles or cash for the purchase of any dowry article was ever demanded or given by Monika's father or her family members.

8. During the subsistence of marriage, I and Monika were very much attached to each other and Monika gave due respect to my parents and shared a normal affectionate relationship with my sister. Neither myself nor any of my family members ever had a grievance against Monika. During subsistence of marriage Monika also did not have any complaint against my member of my family.

9. After marriage, Monika's father continued to mention the fact of suicide of his elder son in law at Chandigarh. Whenever Monika and myself visited Amritsar, he always obliquely hinted to Monika that she should try to get out of the marriage as Sector-23, Chandigarh had proved unlucky for their family. By such attitude he mentally tortured his daughter Monika who was highly sensitive and a emotional woman. On 1-10-95, a daughter was born to Monika, which was an occasion for happiness in our family. The family of my in-laws showed total indifference towards the child which was a very harsh

attitude and caused much anguish to Monika.

10. Sometime after the birth to the girl, Monika developed serious case of Asthma. I and my family got her examined in Chandigarh from doctors at PGI and from Homeopathic Doctor, in Sector-35, Chandigarh but her medical problem did not subside. On one of his visit to Chandigarh, Monika's father informed that he would take her to Amritsar and would get her treated from a Homeopathic Doctor in Amritsar, from whom she had once earlier taken treatment. For this purpose I took Monika to Amritsar and stayed there with her for sometime to get her treated from a Homeopathic Doctor. After a gap, I went to Amritsar to bring Monika back to Chandigarh. On this trip to Amritsar, I suddenly had an attack by Dengue fever and was hospitalized there.

11. During the days when Monika was undergoing treatment in Amritsar for her asthma problem her father persistently tried to torture her mind by reminding her about the suicide of her brother-in-law in Chandigarh. Even in my presence and by persistent telling her that she had betrayed his confidence brought humiliation to his family. On some occasion I asked him not to keep on repeating those things these reminders had begun to affect Monika as sometimes she used to wake up at night and in terrified condition she used to say that her deceased brother-in-law had appeared in her dreams.

12. Monika's father continued to make references of suicide of his elder son-in-law even during the marriage of Monika's brother namely Rakesh Kumar, in the presence of my friends present at the time of marriage in June, 1995. I had attended that marriage with some of

my friends. Monika's father did not take proper arrangement for our stay and when I talked to him regarding this then he said that he had invited me only for the sake of appearance.

13. In month of March, 1997, a Jagrata was organized by Monika's father at Amritsar. Monika and myself had participated in that Jagrata. Monika's father again started repeating references of suicide of his elder son-in-law at Chandigarh. When I protested against such repeated references on such an occasion. Then Monika's father got angry and told me to leave the place. I thereafter left the house and stayed in a hotel at night. In reality my father-in-law had never accepted me as a son in law and never reconciled to our marriage.

14. Repeated references to suicide of his elder son-in-law and begun to have an affect on the mind of Monika. Monika had been complaining that her brother-in-law appeared in her dreams and she was scared of him. Due to this she began to wear a black thread.

15. On 26-8-97 our marriage anniversary was to be solemnized with friends and family members for which Monika's parents had also been invited. My mother purchased a gold Mangal Sutra for Monika and presented to her. In the evening Monika's father telephoned from Ambala, where he and his wife on their way back from Delhi had stayed at the house of his son-in-law and daughter and told Monika that they would not be able to come to Chandigarh and would be reaching Chandigarh the following day. Monika felt shattered by such refusal of her father to attend the marriage anniversary. when she insisted that it would

make her look small before her in laws family, her father replied that she had also insulted him by marrying. After this Monika was acutely depressed and the enthusiasm for celebrations of the marriage anniversary was totally lost.

16. On 27-8-97, I took leave from my office and returned at about 11.50 .m. so as to receive my in-laws when they were to arrived at Chandigarh. When I reached home I round that Monika was n Depressed state of mind and she told me that her father had again telephoned at about 10.00 am and talked to her repeatedly about suicide of her brother-in-law and as she was alone, she had felt scared and depressed. She had also stated that her father had refused to come on 27-8-97 also and they would come the next day. In order to comfort her, I did not go back to my office. At that time only myself, Monika and our daughter were present at home My mother namely Mrs.. Sushma Puri was away to Government School, namely Government Senior Secondary School, Sector-15, Chandigarh, where she taught. Sonia Puri, my sister was away to College, namely Government College for girls, Sector-11, Chandigarh, where she studied. Around 1.00 pm. Monika beat up our daughter. I protested against her beating, upon which, Monika got enraged and said that she was leaving the house and then walked out. I brought Monika back. In the mean time, the child started crying. I went up to pick up the child and found that the child had wet herself. I then went into other room to change the child's clothes. When I came back in the drawing, I found that Monika was missing. I immeidately began

searching for her, went into the houses where she could have gone, searched lanes went to Sector-23, market and mandir but could not find her. I then returned home and took out the car and went to my mother's school. I brought my mother back home and after dropping her I again searched for Monika every where possible visited every relative's house, friends, house went to bus stand, railway station, Pancukula, but all in vain. I rang up Monika father at Ambala, at the residence Kumar, brother-in-law of Monika, at telephone No.641560 at about 6.30 pm and asked as to whether Monika had arrived there at Ambala. Monika's father replied in the negative. More telephone calls were also made subsequently as Monika's father did not seem to understand the seriousness of the situation. The calls were made at 6.30 p.m., 6.38 p.m. and 9.30 p.m. The calls at 6.30 p.m. and 6.38 p.m. were made from a friend's house and other calls were made from our own house. Telephone calls of Monika's father also came at about 7.15 p.m. and 7.45 p.m. enquiring from our family as to whether Monika had come back or not. It was only after my call at 9.30 p.m. that he agreed to come from Ambala to Chandigarh. I also rang up Monika's brother-in-law at Amritsar, at telephone No.548373 at about 8 p.m. and also Monika's brother at Amritsar at telephone No. 503634 at 8.39 p.m. I also rang up Police Control Room at 7.p.m. and received no information about Monika.

17. Monika's parents arrived at 10.30 p.m. alongwith Monika's brother-in-law, Rakesh Kumar. They and my friends accompanied me to go the Police Post, Sector-22,

Chandigarh to lodge a report where we were informed that a girl whose description matched to that of Monika had committed suicide by jumping in to the lake. The police officials concerned took her to General Hospital, Sector-16, Chandigarh where her dead body was lying in morgue. In the morgue dead-body was identified to be that of Monika. At the hospital itself Monika's father started saying that Monika had been taken away by his elder son-in-law and that he already used to say that Sector-23, Chandigarh, was unlucky for them and that this had again happened. Then myself and my friends went to Police Station, Sector-3, Chandigarh, where we were told to come in the next morning. Thereafter, in front of S.I. Satpal as well as in the presence of said Rakesh Kumar, the statements of myself and Monika's father were recorded. Monika's father did not disclose any knowledge or suspicion of foul play and as such he did not name anybody. The statements were recorded by S.I. Satpal. Monika's father requested the said SI Satpal not to get the postmortem conducted and at his request an application was made to SDM concerned, which was signed by myself and Monika's father. In that application it was stated that no foul play was suspected, and therefore, the postmortem may kindly not be conducted. However, the SDM refused to this request. Subsequently, the dead-body of Monika was released after postmoretem and was cremated. During the cremation Monika's father and various other family friends of my in-laws side took part in the cremation on 20-0-97 and also subsequently in Uthala Ceremony on 30-8-27. The SHO of Police Station, Sector-3, Chandigarh had called

Monika's father and his family friends for recording their statement. But they did not go to the police station.

19. *During the days after the cremation, my father-in-law gave strong hints that he was interested in the marriage of his widowed daughter, Simi Kundra to me and that they were ready to share the burden of her children. I did not give any attention to such proposals. It appears that he was deeply incensed by my refusal of his proposal. This was a last straw on the camel's back. And we were shocked to know that he had lodged a false complaint against me and my family members on 3-9-97. It appears that subsequently on some false sense of prestige, the complaint was filed by Monika's father on the basis of which F.I.R. was lodged.*

20. *My version was brought to the notice of competent authority at the earliest but it was not effectively and honestly verified.*

21. *The dominating, obstinate and autocratic streak in the personality of my father-in-law led to a firm rejection of her marriage by him. He was so hostile to this alliance that he started persistently pestering Monika about her blunder which he affirmed would lead to some grim tragedy. This loud and deeply hurting pronouncements appeared too harsh even to his own relatives. He was counseled to be patient and reasonable but that led to even more aggressive denunciation of the marriage.*

22. *Being a traditional Indian daughter, she was psychologically shattered by her father's rejection of her marriage and his open indifference bordering on hostility towards me and our daughter. Without bothering for the feelings of Monika, my father-in-law,*

would harp on his pet theme day in and day out. The constant harassment and psychological torture caused unbearable anguish and agony to Monika.

23. Intentional ridicule with which my parents-in-law avoided to attend our small celebration. on 26-8-97 was too much for her to bear”.

8. The defence examined Tarsem Chand as DW1 who brought copy of newspaper dated 11.03.1995. Lal Singh, Senior Clerk, D.C. Office, Chandigarh appeared as DW2, who produced the Register No. 451 dated 26.08.1994 and stated that there was an entry regarding the marriage between Raj Kumar and Monika. He had proved the marriage certificate issued by their office. Sandeep Jindal, Pharmacist was examined as DW3, who had proved the OPD register. Rajinder Bhatia was examined as DW4, who knew Raj Kumar respondent No. 1 since 1973-74 and was a family friend of respondent No. 4. As per him, the parents of Monika were not agree to marriage of Raj Kumar and Monika and he met Raj Kumar and Monika in Hotel Mountview before marriage. Monika told him that her parents were not agree to the marriage. She told him that her elder sister had also been married in Sector 23 Chandigarh and Jija Ji of Monika had committed suicide. Due to this, father of Monika had objection to the marriage of Monika with Raj Kumar. On 26.08.1994, the marriage between Raj Kumar and Monika (since deceased) was performed in Arya Smaj Mandir Sector 7 Chandigarh. His aunt Mamta, who was issueless, had performed ‘Kanyadaan’ of Monika. She was

accompanied by her husband Gulshan Malhotra. Neither the parents of Raj Kumar nor of Monika (since deceased) participated in this marriage. His younger brother, his wife, Ashwani and his wife, Rajnish and his wife were present. After the marriage, they went to the office of Registrar, Marriages Sector 17 Chandigarh and the marriage was registered there. He further stated that Monika was never harassed by the accused. As per him, after the incident, the statements of Raj Kumar (respondent No.1), respondent No.2, father-in-law of Monika and brother of Raj Kumar were recorded by the police. Muni Lal, father of Monika had told the police that his daughter has committed the suicide in heat of passion and he did not have any grudge against the accused. After the postmortem examination, Monika was cremated in the presence of her parents and other relatives. Surinder Singh Bhatti was examined as DW5. DW6 Ram Garib, Sewak at Arya Samaj Mandir, Sector 7 Chandigarh had produced the marriage record of Arya Samaj Mandir, Sector 7 Chandigarh. Pardeep Kumar son of Ram Murti had appeared as DW7. He had taken the photographs on the occasion of marriage of Raj Kumar with a lady whose name he did not remember. Gurmail Chand was examined as DW8, who had produced the record relating to the print outs relating to phone numbers. Sanjiv Bhatia appeared as DW9, who knew respondent No. 1 as well as his wife Monika (since deceased). The marriage between the parties was solemnized on

26.08.1994 in absence of both the families. He further supported the case of the accused, as stated by him in his statement under Section 313 Cr.P.C. Raj Kumar, respondent No.1 appeared as DW10 and stated that it was a case of love marriage and the love letters Ex.D1 to Ex.D9 were written by Monika (since deceased) to him and the original letters were placed on record. He stated that the circumstances explained by him in his statement under Section 313 Cr.P.C. may be read as part of his testimony.

9. Learned counsel for the appellant vehemently argued that in the present case, Monika (since deceased) was harassed in connection with dowry soon before her death and the prosecution had been able to prove the ingredients of offence under Section 304-B IPC in the present case. Learned counsel further submitted that PW8 Muni Lal, complainant had supported the version as mentioned in the complaint Ex.PL and his testimony was duly supported by PW9 Rakesh Kumar. She further submitted that even after giving sufficient dowry at the time of marriage and after the marriage, Monika was subjected to cruelty and specific demand of dowry was raised by the accused in the present case. However, in spite of making various payments, the respondents had harassed Monika and ultimately she committed suicide by jumping in Sukhna Lake. Still further, the trial Court wrongly held that it was a case of love marriage and there was no demand of dowry at the time of marriage in the present case. In

fact, sufficient evidence was led by the parties to show that the reception party was held jointly by parents of both the sides and the gifts were handed over by the family of Monika to the respondents. Even all the respondents were staying together after the marriage and the prosecution case was clearly ignored by the trial Court. Thus, the impugned judgment is legally unsustainable.

10. On the other hand, learned counsel appearing on behalf of respondents/accused submitted that in fact the family of Raj Kumar, respondent No. 1 as well as family of Monika (since deceased) had not attended the marriage, which was held on 26.08.1994 and even the complainant wrongly stated that the marriage was performed on 27.08.1994. Still further, the family members had not attended the marriage function. Since, it was a case of love marriage, so neither at the time of marriage nor on subsequent dates, any dowry was demanded by the respondents. Further, even from the prosecution evidence and the statement of the defence witnesses, it was apparent that Monika was never subjected to cruelty in connection with demand of dowry. Thus, the appeal filed by the appellant was liable to be dismissed by this Court.

11. We have heard the rival submissions made by learned counsel for the parties and perused the trial Court record carefully.

12. It has been held by the Hon'ble Supreme Court in the matter of **“Bhaskarrao and others Vs. State of Maharashtra”**,

2018 AIR (Supreme Court) 2222; 2018 (5) RCR (Criminal) 228 as follows:-

*“14. As the trial court and High Court, having appreciated the evidence on record, has come to diametrically opposite conclusions, mandating herein to observe certain witness statements which may have an important bearing in this case. In the processes of appreciating the evidence at the appellate stage, we need to keep in mind the views of this court as expressed in **Tota Singh and Anr. v. State of Punjab, 1987(2) RCR (Criminal) 35 : 1987 CriLJ 974** -*

"The High Court has not found in its judgment that the reasons given by the learned Sessions Judge for discarding the testimony of PW2 and PW6 were either unreasonable or perverse. What the High Court has done is to make an independent reappraisal of the evidence on its own and to set aside the acquittal merely on the ground that as a result of such reappraisal, the High Court was inclined to reach a conclusion different from the one recorded by the learned Sessions Judge. This Court has repeatedly pointed out that the mere fact that the Appellate Court is inclined on a reappraisal of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the Appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the

order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any court acting reasonably and judiciously and is, therefore, liable to be characterized as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the court below has taken a view which is plausible one, the Appellate Court cannot legally interfere with an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

15. In *Ramesh Babulal Doshi v. State of Gujarat, 1997(3) RCR (Criminal) 62 : 1996 CriLJ 2867*, this Court observed:

"This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellate Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellate court answers the above question in the negative the order of

acquittal is not to be disturbed."

13. Still further in **Criminal Appeal No(s.) 410-411/2015 [Ravi Sharma Vs State (Government of N.C.T. of Delhi) and another]**, decided on 11.07.2022, Hon'ble the Supreme Court has held as under:-

*"Before venturing into the merits of the case, we would like to reiterate the scope of Section 378 of the Code of Criminal Procedure (for short 'Cr.P.C.') while deciding an appeal by the High Court, as the position of law is rather settled. We would like to quote the relevant portion of a recent judgment of this Court in **Jafarudheen and Others v. State of Kerala (2022 SCC Online SC 495)** as follows:*

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused.

Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal.

Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted

legal parameters.”

14. In the present case, first question was with regard to the demand of dowry at the time of marriage between the parties. In fact, in the complaint Ex.PL, PW8 Muni Lal stated that the marriage was solemnized between the parties on 27.08.1994 in the temple situated at Sector 23-B Chandigarh. However, while appearing as witness he stated that the marriage had taken place in the temple of Sector 22 Chandigarh. Rakesh Kumar brother of Monika (since deceased) was examined as PW9 who stated that the marriage between the parties was solemnized on 27.08.1994 in Sector 23 Mandir. However, the stand taken by PW8 Muni Lal and PW9 Rakesh Kumar was falsified by the statement of PW13 Pardip Kumar, who had taken the photographs at the time of marriage ceremony in Arya Smaj Temple Sector 7 Chandigarh. He stated that at the time of marriage, which was held in Sector 7 Chandigarh, the parents of Monika (since deceased) were not present. Still further, some witnesses had stated later that the marriage took place in Arya Smaj Mandir Sector 7 Chandigarh on 26.08.1994. Apart from that, Rajinder Bhatia DW4 and Sanjiv Bhatia DW9 clearly stated that the marriage was solemnized in Sector 7 Chandigarh on 26.08.1994. Apart from that, the accused had also examined Lal Singh, Senior Clerk, Office of Deputy Commissioner, Chandigarh to prove the marriage certificate

as Ex.DW2/A, which clearly proved that the marriage was solemnized on 26.08.1994. Thus, the trial Court was right in holding that the marriage had taken place in Arya Smaj Mandir, Sector 7 Chandigarh on 26.08.1994 and had not taken place in the Mandir of Sector 22 or 23 Chandigarh on 27.08.1994. Apart from that, it was clear from the statement of respondent No. 1 and the love letters mark D-2 to D-9 that there was a love affair between respondent No. 1 and Monika and it was a case of love marriage between the parties. Even, the parents of both the sides had not joined the marriage ceremony and the evidence clearly suggested that there was no demand of dowry at the time of marriage between the parties.

15. Apart from that, soon after the occurrence, the statement of Muni Lal, complainant was recorded by the police. In his statement Ex.PD/1, Munil Lal, complainant clearly stated that his daughter was well educated and his daughter had not made any complaint against the accused till date and his daughter has committed suicide in anger and he had no suspicion against anyone regarding the death of his daughter. Even, it was apparent from the prosecution evidence itself that PW8 Muni Lal, his other family members had also attended the cremation of Monika and the complaint Ex.PL was made to the Senior Superintendent of Police on 02.09.1997 and the FIR was registered in the present case on 03.09.1997 after a delay of 10 days. In fact, the death of Monika was known to PW8 Muni Lal and he

could have reported the matter to the police on 27.08.1997 itself. However, he made a statement apparently and had clearly exonerated the respondents No. 1 to 4 in his statement Ex.D1. The first version of the complainant was without any influence on him and this Court has no reason to disbelieve the said statement and the findings recorded by the trial Court in this regard are upheld. Still further, it has also appeared in the evidence that the complainant had time to manipulate the documentary evidence in the present case to falsely involve the respondents. The trial Court correctly held that bills Ex.P-61 to Ex.P-63 issued by Maninder Singh, jeweler, were false as counterfoils of the bills had not been produced. Apart from that, the evidence was discrepant with regard to the recovery of other bills as well. Still further, the trial Court had correctly held that the complainant had fabricated the bills of purchase of clothes in collusion with PW14 Vijay Kumar. Thus, it is apparent that even the evidence was forged and fabricated by Muni Lal complainant in the present case. Still further, there was sufficient evidence to show that Monika (since deceased) had not spoken to Muni Lal, complainant soon before her death. Thus, the ingredients of the offences under Sections 498, 304 and 34 IPC were completely missing in the present case. Even otherwise, we have carefully perused the findings recorded by the trial Court and the findings did not suffer from any illegality or perversity and the judgment dated 13.05.2002 passed by the

Additional Sessions Judge, Chandigarh is ordered to be upheld. The appeal is accordingly dismissed.

16. All pending applications, if any, are disposed off, accordingly.
17. Trial Court record be sent back to the trial Court.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

22.05.2024
amit rana

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No