



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

CRM-A-1223-MA-2017
Date of decision: 23.07.2024

State of Haryana

....Appellant

Versus

Roshan Lal

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Sandeep Berwal, Advocate
for the respondent.

HARPREET SINGH BRAR, J.

CRM-19319-2017

The present application is filed under Section 5 of the Limitation Act, 1963, seeking condonation of delay of 136 days in filing the application under Section 378(3) Cr.P.C. For the reasons mentioned in the application, the same is allowed and the delay of 136 days in filing the said application is condoned.

CRM-A-1223-MA-2017

1. The present application is preferred against judgment of acquittal dated 05.10.2016 passed by learned Additional Sessions Judge (Exclusive Court for Heinous Crimes Against Women), Kurukshetra in FIR, bearing no. 294 dated 01.07.2015 registered under Sections 323, 498-A, 406 and 306 of the IPC at Police Station Pehowa, Kurukshetra.

2. The facts, tersely put are that the respondent is the husband of the victim. The present case was instituted upon the statement of the complainant—victim (since deceased), recorded under Section 164 of Cr.P.C. which is reproduced as follows:



“For the last eight days, there was a quarrel between her and her husband. Her husband Roshan Lal harassed, beat her and said that she had not brought sufficient dowry. Yesterday in the morning, her husband distorted her hand and gave kick blow to her. She said to her husband that the monthly menstrual period has not come to her and brought something for checking, on this her husband said that he does not know whose child is in her womb and it was not him. Aggrieved by all this, at about 6 PM, she set herself on fire by pouring kerosene on her. At that time her husband was not at home. Her jeth extinguished the fire and her jeth, jethani and her husband took her to the hospital. The behaviour of her jeth, mother-in-law and father-in-law was not proper towards her.”

3. On the basis of the aforesaid statement, the instant FIR was registered. After completion of the investigation, *challan* under Section 173 of Cr.P.C. was presented against the respondent. Following that, he was charged for offence punishable under Sections 498-A, 323 and 306 IPC, vide order dated 28.08.2015, to which the respondent pleaded not guilty and claimed trial.

4. The prosecution examined as many as 12 witnesses to prove its case. The statement of the accused under Section 313 of the Cr.P.C. was recorded, wherein the respondent pleaded false implication, however, no witness was examined in order to prove the innocence of the respondent-accused.

5. After taking into account all the material on record, the respondent-accused was acquitted by the learned trial Court vide judgment dated 05.10.2016.

6. Learned State counsel assails the judgment of acquittal on the ground that the learned trial Court mechanically decided the case without due application of mind and not recording any reasoned and concrete observations. PW-2, namely, Sanjiv Kumar, who is the brother of the deceased, has clearly deposed in support of the prosecution version to the effect that the respondent – accused harassed his sister in connection with demand of dowry. Further, Dr. V.K. Gupta, Medical Officer (PW-10), testified that on 30.06.2015, he examined the deceased, who had sustained 90-95% burn injuries and proved



MLR (Ex. 21) in this regard. The dying declaration of the victim was duly recorded by the learned Chief Judicial Magistrate-cum-secretary, DLSA, Narnaul (PW-11), which clearly establishes the complicity of the respondent, and as such, he ought to have been held guilty by the learned trial Court on this ground alone. The brother and the father of the victim have given cogent reasons as to why the victim died by suicide. The death took place at the matrimonial house due to unnatural reasons. There is no reasonable explanation rendered by the respondent either in his statement recorded under Section 313 Cr.P.C. or in his defence. The learned trial Court below completely disregarded the fact that the charges of offences punishable under Sections 498-A, 323 and 306 IPC, has been clearly and unimpeachably proved, thus leading to material irregularity and perversity.

7. Learned counsel for the respondent opposes the present application filed by the State on the ground that the learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record, and therefore, no interference is warranted by this court in the instant appeal.

8. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement of the learned trial Court to indicate perversity or misreading of evidence. In order to hold a person guilt under Section 306 IPC, there has to be clear mens rea to instigate and aid the victim to take such a drastic step before a person can be said to be abetting. There ought to be an active or direct act leading the deceased to die by suicide. In the present case, mens rea was conspicuously absent. Nothing has been brought on record by the prosecution to establish a nexus between the act(s) of the respondent and the extreme step



taken by the victim. At the time of the unfortunate incident, the respondent was not at home. With respect to the allegations of dowry harassment, it is pertinent to mention that upon the investigation conducted by the Investigating Officer (PW-9), it was found that no dowry was either given or demanded at the time of solemnisation of marriage. The matrimonial life of the victim and the respondent subsisted for a period of 10 years and through out this period, no complaint was moved either by the victim or her family members regarding dowry harassment. Moreover, mere utterance of unsavoury words and regular wear and tear of matrimonial life cannot be equated with the respondent possessing the guilty intention to push the victim to die by suicide.

9. Furthermore, there are glaring lacunae in the prosecution which further stifle the prosecution case. As per the prosecution case, *panchayat* was convened to resolve the matrimonial disputes, however, no member of the said *panchayat* has been summoned as a witness. Also, there are no specific incidents of physical and mental harassment proved by the prosecution. It is trite law that mere vague and omnibus allegations against the respondent and his family members cannot be the sole basis for convicting the respondent under Section 498-A of IPC. The evidence on record does not suggest even remotely any act of cruelty, oppression, harassment or inducement so as to provoke or compel the deceased to lose all hope from life. There are inconsistencies in the testimonies of the prosecution witnesses as well. While the father of the victim, who was examined as PW-1, stated that soon after marriage, the respondent started harassing his daughter on account of dowry, the brother of the victim held that it was only about 3 years after the solemnisation of marriage that the respondent started torturing his sister for



dowry. As such, the prosecution case remains uncorroborated based on the material available on record, affirming the innocence of respondent-accused.

10. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. (See **H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415**). A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others** passed CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

11. In view of the facts and circumstances of the case, this Court finds that learned counsel for the appellant has failed to point out any perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and the leave to appeal is accordingly denied.

12. Pending miscellaneous application(s) if any, stand disposed off.

(HARPREET SINGH BRAR)
JUDGE

23.07.2024
Neha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No