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213 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARHCRM-A-196-2023 (O&M)
Date of Decision: 06.11.2024

STATE OF HARYANA

...Applicant

V/S

RAJESH

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vikas Bhardwaj, AAG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. The present application is preferred under Section 378(3) of the Cr.P.C. against the judgment of acquittal dated 07.06.2022 passed by learned Additional Sessions Judge, Bhiwani, in case bearing FIR No. 265 dated 12.06.2020 registered under Section 306 of Indian Penal Code at Police Station Tosham District Bhiwani.

2. Brief facts of the case of prosecution are that on 11.06.2020, an information was received in the police station regarding suicide committed by Neetu by hanging. On this information, ASI Om Parkash (PW10), alongwith other police personnel reached at the spot. On 12.06.2020, Phoolwari (PW9) father of deceased, his wife alongwith some respectables of village reached there. PW9 made his statement (Ex.PW9/A), wherein he alleged that for last 10 years, he alongwith his family, resides at village Paluwas in the house of Dholu Sarpanch as tenant. He has four children. His elder daughter Neetu was married with Rajesh (accused-respondent) five years ago and one male child was born out their wedlock. Rajesh and his two younger brothers Gagan and Pawan and their mother Sumitra

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tortured and harassed Neetu for tiny issues. Ten days ago, his daughter Neetu came to them and told that Rajesh and his family taunted her by saying "*bihari ki beti*" and also gave beatings to her. They made understood their daughter and sent her with Rajesh. However, on 11.06.2020 at about 7/8.00 pm, he received a telephonic message through Rajesh that Neetu has committed suicide by hanging herself. Upon this they reached there and saw that dead body of Neetu was lying on the floor and he noticed rope mark on her throat and he prayed for taking strict legal action against Rajesh and his all other family members.

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that learned Court below has rightly observed that in the FIR, there was no mark of injury i.e. deep cut of 1-1 1/2 inches on the neck of the deceased. In PMR, only ligature mark of size 0.7 cm in breadth present on neck above thyroid cartilage obliquely placed except bare area on side of occipital region. No other external mark of injury seen. During inquest proceedings under Sections 174 Cr.P.C., statements of PW-8 and PW-11 were recorded on 12.06.2020, but they did not mention in their statements about the presence of alleged deep cut of 1-1 1/2 inches on neck of deceased. Thus it was found that testimony of PW-8, PW-9 and PW-11 to the effect that accused committed murder of deceased by cutting her throat and they noticed a deep cut of 1-1 1/2 inches on her neck is contrary to record. Secondly, mother of deceased had appeared as PW-8 and she, in her cross-examination stated that she had taken a sum of Rs. 50,000/- from the accused-respondent Rajesh in the marriage of her daughter. So, when

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mother of deceased had received cash of Rs. 50,000/- at the time of marriage from accused, in those circumstances, it cannot be said that accused demanded dowry from the deceased and it also falsifies the case of the prosecution that accused harassed and tortured deceased for demand of dowry. Therefore, learned Court below rightly observed that prosecution has failed to prove its case of abetment to commit suicide against the respondent as nothing incriminating was available on record to prove the charges under Section 306 of Indian Penal Code.

4. 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. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (**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.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-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 hence, the leave to appeal is denied.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

06.11.2024
Ajay Goswami

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No