



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRA-D-248-DBA-2003 (O&M)
Date of Decision:- 29.05.2024

Krishan Lal Mehta

... Appellant

Versus

Harinder Kumar Chhabra and others

... Respondents

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

Present:- Mr. Aditya Sanghi, Advocate,
Amicus Curiae, for the appellant.

Mr. Ashwani Gaur, Advocate,
Amicus Curiae, with
Mr. Ajit Singh Lamba, Advocate, for respondents No.1 and 3.

Appeal qua respondent No.2 abated
vide order dated 22.05.2024.

Ms. Sheenu Sura, DAG, Haryana,
for respondent No.4.

GURVINDER SINGH GILL, J.

1. Appellant/Complainant-Krishan Lal Mehta assails judgment dated 18.11.2002 passed by learned Additional Sessions Judge, Hisar, vide which respondents No.1 to 3 have been acquitted in respect of charges framed against them for offences under Sections 304-B, 498-A and 201 IPC. It may here however, be mentioned that respondent No.2-Parkash Chand Chhabra expired during the pendency of the instant appeal and consequently



proceedings qua him already stand abated as recorded in order dated 22.5.2024.

2. The matter pertains to death of Anupam Kumari on 30.5.1996, daughter of the complainant. Although FIR No.326 dated 4.6.1996, under Sections 498-A, 304-B and 201 IPC was lodged in respect of death of Anupam Kumari, but subsequently a cancellation report having been filed, the complainant instituted a complaint in the Court of Area Magistrate, wherein the accused i.e. husband of the deceased as well as parents and sister of the husband were arrayed as accused.
3. The complainant, in his complaint alleged that his daughter Anupam Kumari was married to Harinder Chhabra on 26.2.1993 and sufficient articles of dowry were given at the time of marriage to the four accused i.e. Harinder Chhabra (husband), his parents and his sister; that the accused however, maltreated Anupam Kumari for having brought less dowry; that the deceased was not even permitted to meet her parents and was subjected to mental and physical harassment; that she was poisoned in December 1994 by her sister-in-law Anita alias Pinki, but she survived; that she was compelled to get a washing machine and cash amount of Rs.1 lakh from her parents; that when the complainant took his daughter to Sonipat i.e. to her parental home, then Parkash Chand Chhabra (father-in-law) visited the complainant at Sonipat and begged pardon and assured that deceased would not be maltreated in future and accordingly she was sent to her matrimonial home; that the accused however, did not relent and kept on maltreating the deceased as was disclosed by the deceased to the complainant as well as to



her mother telephonically; that on 20.5.1996 Dinesh Mehta son of complainant went to Anupam Kumari at Delhi where she disclosed that she was not being kept properly by her husband and was compelled to bring dowry. Although, Dinesh assured her that he shall take necessary steps for averting any crises, but she was ultimately murdered on the night intervening 29/30.5.1996 by the accused in connivance with doctor of Raheja Clinic; that on 28.5.1996 when the complainant had gone to Chandigarh in connection with official work, he received a message regarding death of Anupam Kumari on 30.5.1996 from Professor D.N.Mehta, Hindu College, Sonipat; that although the complainant's wife and her son immediately left for Hisar, but the accused did not permit them to see the dead body of Anupam Kumari; however, after much persuasion, when they saw the dead body it was found to be smeared with '*Haldi*' but they noticed that blood was oozing out of her nostrils and her belly was swollen and the body was bluish in colour; that though complainant's wife and son requested the accused to wait for the complainant before performing the last rites, but the accused hurriedly cremated the dead body between 4.00 pm to 5.00 pm; that upon inquiries the complainant came to know that Anupam Kumari had been poisoned to death by his sister-in-law Anita in connivance with her parents and brother and doctor was called for washing her stomach after her death; that when the complainant reached the house of the accused and inquired about Anupam Kumari, he was told that the body had already been taken to cremation ground by husband of the deceased who somehow was at home and when the complainant asked



Harinder Chhabra (husband) as to why he had not gone to the cremation ground, he retorted that it was none of complainant's business to inquire about the same; that upon hearing the noise of the arguments, the complainant heard hue and cry being raised by his wife and son who were found to be locked inside a room; that the complainant opened the door of the room and his wife and son came out and told him that Anupam Kumari had been murdered by the accused by administering some poison; that although the police was informed by neighbours but police did not turn up and nor any case was registered and later it was only with the intervention of the Superintendent of Police, concerned that FIR No.326 dated 4.6.1996, under Sections 498-A, 304-B and 201 IPC was registered, but the accused were never arrested and ultimately a cancellation report was filed.

4. The complainant led preliminary evidence in support of his complaint on the basis of which the accused were summoned by learned Judicial Magistrate 1st Class, and the case was committed to the Court of Sessions. Learned Additional Sessions Judge, to whom the case was entrusted, framed charges against the accused for offences punishable under Sections 498-A, 304-B and 201 IPC on 24.5.2002.
5. The complainant in order to establish his case himself stepped into witness box as PW-1 and also examined PW-2 Head Constable Suraj Bhan who proved a copy of FIR, PW-3 Dinesh Kumar (brother of deceased) and PW-4 Sushila Devi (mother of deceased).



6. Upon conclusion of complainant evidence, statements of the accused were recorded in terms of Section 313 Cr.P.C. wherein they pleaded innocence and their false implication.
7. The plea of false implication as raised by accused Harinder (husband of deceased) is reproduced herein under:-

“It is a false case. We used to live happily at Delhi. We had no problem between me and my wife. Anupam had delivered a male child and she had resigned from the job after the birth of child of her own free will. I had not compelled her to leave the job. There was no restriction on Anupam. She was free to go anywhere she likes. She was not starved of money. I used to give her the money and she herself was spending it and noting out the daily expenditure in the diary. She was also maintaining the daily balance of amount with her. Anupam was having good relations with my parents and my other relations. It was the ‘NIRJALA AKADASI FAST’ and Anupam fasted for whole day. We were asleep on the roof during the night time when Anupam complained of some problem. She started vomiting. Our family doctor is R.P.Gahlotra in Mohalla Dogran Hisar. I took her to doctor. He referred her to Dr.Raheja. We took her to Dr.Raheja where she was admitted and treated and died about 8 in the morning on 30.5.96. We informed her parents. Dinesh Sushila and Jagdish had come and they attended the cremation which was done at about 4.30 or 5 P.M. 5-6 days afterwards they instituted the suit because they were insisting that I should transfer some property in the name of my son Anupam. Aditya, my son from Anupam is with me. I have married again in September 99. My second wife is Veena. She was a widow having a daughter about 11 years of age. My son from the first marriage and daughter of Veena from her first marriage are living with me. We had never demanded any dowry and no dowry item was given by Krishan Lal etc.”



8. The accused in their defence examined DW-1 R.P.Galhotra, DW-2 Dr. B.B.Raheja and DW-3 Sub Inspector Ram Dhan.

9. The learned trial Court framed the following points for adjudication:

- “1. When was Anupam married with Harinder accused?
2. Did the complainant spend Rs.3.75 lacs on marriage?
3. What major items were given by the parental side as dowry at the time of marriage?
4. Was any demand of specific item such as sewing machine washing machine, colour T.V. made if so, to what effect?
5. Was any of the above demands satisfied by complainant? If so, when?
6. Were the cash amounts of Rs.70,000/- and Rs.1,00,000/- demanded if so, when, by which of the accused and to what effect?
7. Was any cash amount paid by the complainant to satisfy the demand of Rs.70,000/- and Rs.1,00,000/-?
8. Was Anupam harassed and subjected to cruelty in connection of demands of dowry by (a) compelling her to resign from service (b) by isolating her socially (c) by depriving her of even a rupee (d) and by not providing her with daily needs of food, clothing etc.?
9. Was Anupam administered poison around December 1994, if so, by whom, and whether she got long treatment for the purpose?
10. Did Anupam die in otherwise than in normal circumstances if so, to what effect?
11. Were mother and brother of the deceased put under any illegal confinement as alleged?
12. Did brother, mother and uncle of deceased attend the cremation of Anupam, if so, to what effect?



13. Is the conduct of the accused normal and the parental side was informed in time about death?
 14. Is the FIR delayed, if so, whether delay stands explained and justified?
 15. Were the couple and child living separately at the time of death, if so, to what effect?
 16. Are parents of the deceased entitled to the return of dowry items in the presence of son of the deceased and husband of the deceased?
 17. Has the prosecution made material improvements in the case if so, to what effect?
 18. Were Investigating Officer investigating the case with any inclination towards the accused to favour them, if so, to what effect?”
10. The learned trial Court upon considering the evidence on record held that the complainant had failed to establish the charges framed against the accused and consequently acquitted the accused.
11. Learned counsel for the appellant submitted that the trial Court did not appreciate the evidence in the correct perspective and has given undue weightage to minor discrepancies, whereas the evidence brought on record clearly established that it is a case where the deceased had been subjected to cruelty in connection with demand of dowry and had ultimately been killed by the accused. It has thus been submitted that the impugned judgment cannot sustain and deserves to be reversed.
12. On the other hand, learned counsel representing the respondents submitted that the judgment under challenge is a well reasoned judgment passed after



due appreciation of evidence on record and does not suffer from any infirmity.

13. This Court has considered rival submissions addressed before this Court.

14. Since, it is a case where allegations mainly pertain to offence punishable under Section 304-B IPC, it is apposite to bear in mind the bare provisions of Section 304-B IPC and the same are reproduced herein-under:-

“304B. Dowry death. - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation. For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life"

15. Offence under Section 304-B IPC is such wherein presumption of guilt under Section 113-B of the Indian Evidence Act may be drawn against the



accused and the onus to establish innocence shifts upon the accused. The necessary ingredients of Section 304-B IPC may be spelt out as follows:

- (i) that deceased died due to burning or bodily injury or any other un-natural death;
- (ii) that the deceased died within seven years of her marriage;
- (iii) that the deceased was subjected to cruelty or harassment by her husband or his relatives;
- (iv) that such cruelty or harassment was in connection with demand of dowry;
- (v) that such cruelty or harassment was soon before her death.”

16. One of the foremost and necessary ingredient is an “unnatural death” which upon being proved would tilt the scales in favour of the complainant. In the instant case it is worth mentioning that the dead body was never got subjected to post mortem examination. The stand of the accused is that the deceased had died on account of dehydration as she was ‘fasting’ on account of ‘*Nirjala Ikadshi*’ and which was in the peak of summers. The accused in order to establish the said plea examined the doctors to whom the deceased had been taken when she became unwell on 30.5.1996. Examination-in-chief of DW-1 Dr. R.P.Galhotra is reproduced herein under:-

“I am running a clinic in Mohalla Sangran Hisar. I am GAMS. I know accused Prakash Chand. I am family doctor of Prakash Chand accused.

On 30.5.96 at about 6-00 AM Anupam patient, wife of Sh. Harminder Kumar came to my clinic. She had *Nirjala Akadshi* fast and she was having vomiting and Diarrhia. I



gave her drip as she was having dehydration with low B.P. I referred her to the Nursing Home of Dr. Raheja. The patient had herself told me about having fasted day before. My certificate in this respect was collected by the police. The photocopy of the same is Ex.D-33 (objected to). I had also made the statement to the police also.”

17. After Dr. R.P. Galhotra had referred the deceased to the Nursing Home of Dr. Raheja, the deceased was taken to the said doctor. The accused have examined Dr. B.B.Raheja as DW-2 and his examination-in-chief is reproduced herein under:-

“I am M.D. Medicine from PGI Chandigarh. I am in practice since 1984. My nursing home is in old Kachari Chowk Hisar. Anupam w/o Harinder came to my clinic at about 6.30 A.M. on 30th May 1996. She was conscious at that time and she gave the history of fast of AKADASI on the earlier date that is on 29.5.96 and she was having vomiting with diarrria since mid night. She was in a shock, Pulse was not countable and B.P. was not recordable. There was no synosis central or peripheral. There was no smell from the mouth or clothes. Chest was clear CVS(Cardio vescular system) showed tachy cardia (fast rate of the heart) Per abdomen there was no abnormality. Central nervous system. Pupils were equal and reacting to life.

I treated her for accute gastroentriti. The medicine are indicated in the bed head ticket which is in my hand and it is Ex.D-34. Dr. Bansal was called by me for endotric heal incubation. It was done by Dr. Bansal and she was put on ventilater to help for lungs. She had She had cardiac arrest and died at 8 A.M. I had prepared the death certificate and the original one is Ex. D-35. I have mentioned the cause of death in this certificate as gastro-



entius with dehydration with hypoxia and shock. The dead body was handed over to the relations. The police had come to me and I gave the certificate P-36. I had certified that there was nothing to suggest that there was posion etc. I had certified it to be a natural death. I had specifically asked Anupam whether she had consumed any poison thing or not and she had told me that she had not consumed any such thing. The entry in my register was also made and it is on Sr. No. 198.

(Emphasis Supplied)”

18. The aforesaid consistent testimony of two doctors clearly shows that it is not a case of death due to poisoning, but is a case of extreme dehydration, as the deceased was ‘fasting’ on account of ‘*Nirjala Ikadshi*’ and that too during peak summer i.e. the last week in the month of May. DW-2 Dr. B.B.Raheja runs a Nursing Home in Hisar and is a fully qualified doctor being M.D. Medicine from PGI Chandigarh. He has categorically stated that there was nothing to suggest that it was a case of poisoning and that he had certified it to be a natural death.
19. Both the aforesaid doctors were cross-examined at length, but nothing substantial could be elicited during their cross-examination so as to doubt their credibility and opinion. Under these circumstances, this Court has no hesitation in affirming the findings, as recorded by the learned trial Court to the effect that the cause of death of the deceased was not poisoning, but on account of dehydration.
20. The accused examined DW-3 Sub Inspector Ram Dhan who had partly investigated the matter who stated that he had collected the record from the



Clinic of Dr. R.P.Galhotra and Dr. B.B.Raheja and had recorded their statements and found the death was natural. As a matter of fact when the FIR was lodged initially i.e. FIR No.326 dated 4.6.1996, under Sections 498-A, 304-B and 201 IPC, the same had been investigated thoroughly and upon finding no substance in the allegations of demand of dowry etc., a cancellation report had been presented, but the complainant being dissatisfied had filed a complaint.

21. Although, the complainant apart from himself stepping into the witness box had also examined his wife and his son to lend corroboration to his statement, but the complainant's case stands substantially shattered, having found that the complainant had come out with false allegation regarding death due to poisoning which stands falsified by the medical evidence as discussed above. In any case, the said fact will not preclude the Court from examining the allegations pertaining to the maltreatment of the deceased on account of demand of dowry which, in any case, is an independent offence punishable under Section 498-A IPC. The FIR which was lodged by complainant was lodged on the basis of an application submitted by complainant Kishan Lal before the SHO on 04.06.1996. The translated gist of the said application reads as under;

“To

The S.H.O.,

City Police Station, Hisar.

Subject: About getting registered FIR (murder of daughter Smt. Anupam Kumari by administration of poison).

Sir,



I beg to state that I Krishan Lal Mehta had married my daughter Anupam Kumari on 26.2.93 with Harinder Chhabra s/o Sh.Perkash Chand Chhabra, House No.258/3, Chhabra Niwas, Near Luxmi Bai Dharamshala, Mohalla Rampura, Hisar-125001. After some days of the marriage, threats were held to bring dowry and money from the parental house. Whenever she showed her inability, she was harassed more and more. Her Nanad Kumari Anita and mother-in-law used to harass her much and they used to beat her. Her husband also used to harass her much. She was compelled to leave her job against her wishes. She was made thorough dependent that she had to beg from her in-laws even for an expenditure of one rupee. My daughter was educated and was M.Sc. B.Ed. She was not allowed to meet others. So much so that she could not come to her parental house. She was threatened many a times that she would be killed. Once in December 1994, she was given tablets of poison, but, she survived. She was threatened that if she told this to anybody, her parental side would be finished. But, few days back, when my son Dinesh, went to meet her in Delhi, she said that she was very much grieved there and she repeated the demand of her in-laws for the cash and told that this time she may not survive. My son told her that we would do some 'Karayawahi' soon. Before, we could do something, her husband took her to Hisar and this accident (Hadsa) took place. I was on government duty at Chandigarh from 28th May to 30 th May. On 30.5.96, in the morning, this information was received at my house that my daughter had breathed her last at 4.00 in the morning. My son and my wife started at that very moment for Hisar. I, received the information at about 2 P.M. in the Office of the Director Primary Education, Haryana, that I should reach Hisar soon. When, I reached Hisar, my daughter had been cremated. No post-mortem examination was got done in spite of repeated insistence of my son and my wife for the purpose, intentionally, the cremation of my daughter was done before my arrival here. On inquiry, in the neighbourhood, it came to our knowledge that my daughter was in



fit condition till 11.00 in the night of 29.5.96. The information is that in the night, her Nanad Anita alias Pinki had given her some medicine. When, my wife saw the dead body of my daughter, she found her body blue in colour and there was blood from her nose. I believe that my daughter has been murdered forcibly.

Therefore, my prayer with you is that on the above mentioned circumstances, the FIR of this matter be registered and the appropriate action be taken and whatever dowry we had given be got returned to us. Action be taken against the accused persons. I shall be highly obliged.

Yours faithfully,

Sd/-

Krishan Lal Mehta
s/o Jeevan Lal Mehta
House No.256, Housing
Board Colony, Near Subji
Mandi, Sonapat 131001
Haryana”

22. A perusal of the contents of the aforesaid application on the basis of which the FIR was lodged and also the contents of the complaint filed by the complainant would show that the complainant has made several improvements while filing the complaint which is an extensively elaborated professionally drafted complaint. However, even if the said improvements are overlooked, still there are several unexplained circumstances which are material. For instance in the complaint it is alleged that even on an earlier occasion i.e. in the year 1994, the deceased had been administered poison, but somehow there is no evidence with regard to the said incident of said poisoning. In the complaint, it is alleged that when the complainant upon receiving information regarding death of his daughter went to the house of



the accused, he came across Harinder Kumar Chhabra (husband) who somehow was present at home though the other members had gone to the cremation ground and that the complainant upon hearing alarming voices of his wife and son came to know that his wife and son had been locked in a room, but surprisingly there is no mention of the same i.e. regarding the wife and son being locked, in the FIR. In case, the aforesaid two had actually been forcibly detained in a room, it remains unexplained as to why such an alarming fact was not mentioned in the application moved by the complainant to the police on the basis of which FIR was lodged. Still further, although in the FIR there is reference that the neighbors of the complainant had informed the police, but none of the said neighbors has been examined by the complainant. There are several other inconsistencies in the statements of the witnesses particularly as regards the demand of dowry. The trial Court upon scrutinizing the evidence minutely and upon finding various chinks in the case of the complainant had thus reached at a conclusion that the complainant had been unable to establish the alleged maltreatment of the deceased at the hands of the accused and consequently acquitted the accused.

23. It is well settled that finding of acquittal is not to be readily interfered with.

In this context, a reference can be made to a judgment passed by Hon'ble the Apex Court rendered in 2023(8) SCC 197, Central Bureau of Investigation Vs. Shyam Bihari & others, wherein Hon'ble the Apex Court while examining a case of acquittal where some infirmities in impugned



judgment were noticed but the appeal had remained pending for a decade, held as under:

“26. At the outset, we may observe that no doubt the judgment and order of the High Court appears a bit cryptic but that by itself need not be a ground for us to set aside the order and remit the matter to the High Court, particularly, when we have the relevant record to assess the merit of the prosecution case. More so, because the incident is of the year 1987 and the appeal has remained pending since more than a decade. In such circumstances, if we remit the matter to the High Court only to rewrite the judgment, it would be travesty of justice. Consequently, as the trial court has dealt with the matter at great length and has discussed each and every piece of evidence on which the prosecution seeks to rely, it would be apposite for us to assess whether, by not granting leave to appeal against the judgment of the trial court, there has been a miscarriage of justice.

27. It is trite law that in an appeal against acquittal, the power of the appellate court to re-appreciate evidence and come to its own conclusion is not circumscribed by any limitation. But it is equally settled that the appellate court must not interfere with an order of acquittal merely because a contrary view is permissible, particularly, where the view taken by the trial court is a plausible view based on proper appreciation of evidence and is not vitiated by ignorance/misreading of relevant evidence on record.”

24. In the instant case the stand of the complainant regarding death of deceased being unnatural death stands categorically negated from the testimony of the two doctors who opined the cause of death to be on account of dehydration and not poisoning. There is no convincing evidence even as



regards the allegation pertaining to the demand of dowry or maltreatment of the deceased. Examining the facts of the instant case in light of ratio of the above referred judgment, this Court is of the opinion that having regard to the doubtful credibility of the complainant who has chosen to come out with false allegations of the accused regarding poisoning the deceased and further there being no convincing evidence as regards the allegations pertaining to demand of dowry or maltreatment of the deceased, there is no room for reversal of the findings of acquittal, as recorded by the trial Court.

25. Under these circumstances, this Court does not find any perversity in the findings of the trial Court pertaining to complainant having failed to establish its case. This Court does not find any infirmity in the judgment passed by the trial Court and the same is hereby upheld.
26. Finding no merit in this appeal, the same is dismissed.

(GURVINDER SINGH GILL)
JUDGE

(N.S.SHEKHAWAT)
JUDGE

29.05.2024
mohan

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