

2024:PHHC:132268-DB



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

CRM-A-4-2021 (O&M)
Reserved on: 09.09.2024
Date of Pronouncement:04.10.2024

Jagwinder Singh

.....Applicant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Mr. Arnav Ghai, Advocate, Amicus Curiae
for the applicant.

Ms. Shubhra Singh, Addl. A.G., Haryana.

SUDHIR SINGH, J.

The instant application seeking leave to appeal is directed against the judgment dated 27.01.2020 passed by the learned Additional Sessions Judge, Ambala, whereby respondents No.3 and 4 (Amarjeet Kaur and Ranbir Singh) have been acquitted of the charges under Sections 302 and 304-B read with Section 34 IPC and respondent No.2-Amandeep Singh has been convicted and sentenced to undergo imprisonment for a period of 10 years for the commission of offence under Section 304-B IPC.

2. The prosecution case, as per the complaint of complainant-Jagwinder Singh (PW-1) is that his brother

Jaswinder Singh had one daughter namely, Rupinder Kaur (victim), aged about 22 years and one son namely, Sukhpreet. His brother Jaswinder Singh had died about 16 years ago. Marriage of said Rupinder Kaur (since deceased) was solemnized with Amandeep-respondent No.2 on 21.11.2016 as per Sikh rites at Welcome Palace, Shahzadpur. Before marriage, Ranbir Singh (father of Amandeep) had told that he had to send his son abroad and for that purpose, the complainant had to pay an amount of Rs.10 lakhs in cash. In order to fulfill the said demand, complainant paid Rs.2½ lakhs in cash at the time of marriage. However, after the marriage, husband and the in-laws of Rupinder Kaur, namely, Amandeep; Ranbir Singh and Amarjeet Kaur started harassing and humiliating Rupinder Kaur (victim) on the pretext of bringing less dowry. They used to taunt his niece (victim) by saying that the complainant had not given the dowry as per their status. They also told her that until their demand was not fulfilled, they would not let her reside in the matrimonial home. The said facts were disclosed by Rupinder Kaur (victim) to the complainant on telephone. On this, the complainant met Amandeep and Ranbir Singh and showed his inability to pay Rs.10 lakhs at that time. However, he assured that the said amount would be paid after some days by making arrangement. Despite giving such assurance, Amandeep and his family members did not mend their ways and kept on taunting his niece. They also used to give beatings to Rupinder Kaur. The victim had disclosed this fact to her mother Sukhwinder Kaur, brother Sukhpreet and uncle Sukhbir Singh.

It was further stated that a day prior to registration of FIR, Amandeep, his father Ranbir Singh and mother Amarjit Kaur firstly gave beatings to the victim and thereafter, forcibly administered some poisonous substance to her, due to which, she died on 17.05.2017 at about 10/11.00 O'clock. With regard to the said incident, Amandeep had informed the complainant through telephone. The dead body of the victim was sent to Civil Hospital, Ambala Cantt. Complainant sought legal action against the in-laws of the victim, namely Amandeep, Ranbir Singh and Amarjeet Kaur.

3. Based on the aforesaid statement/complaint, formal FIR No.111 dated 18.05.2017, under Sections 304-B read with Section 34 IPC, was registered against the accused-respondent Nos.2 to 4 at Police Station, Mullana, District Ambala. After investigation, the charge-sheet was submitted, whereafter cognizance was taken. Thereafter, charges were framed against the accused-respondent Nos.2 to 4, under Section 304-B read with Section 34 IPC and with alternative charge under Section 302 IPC read with Section 34 IPC vide order dated 18.08.2017 to which they pleaded not guilty and claimed to be tried.

4. During trial, the prosecution examined fifteen witnesses, namely, PW1 Jagwinder Singh (complainant), PW2 Kaptan Singh, PW3 Dr. Kulvinder Singh, PW4 Sukhwinder Kaur, PW5 ASI Sharwan Kumar, PW6 HC Narender Singh, PW7 SI Dhoop Singh, PW8 EASI Manohar Lal, PW9 Dr. Mukesh Kandara, PW10 HC Vikash Kumar, PW11 HC Rohtash Singh, PW12 C. Ombir, PW13 Inspector Mehar Singh, PW14 Dr. Nitika

Chawla and PW-15 ASI Dev Raj, Investigating Officer. On conclusion of the prosecution evidence, statements of the accused (respondent Nos.2 to 4) were recorded under Section 313 Cr.P.C., wherein entire incriminating evidence was put to them. But, they denied the same and pleaded false implication in the case. In defence, the accused-respondent Nos.2 to 4 examined DW-1 Ravinder Kumar, DW-2 Gurmeet Singh and DW-3 Tul Bahadur. After conclusion of the trial, the learned Trial Court acquitted the accused-respondent Nos.3 and 4 persons and convicted respondent No.2, as stated above.

5. The learned Trial Court, acquitted accused-respondent Nos. 3 and 4, inter-alia, on the following grounds:-

1. It was proved on record that the deceased was living separately along with her husband on the first floor with separate kitchen, whereas the parents of accused Amandeep Singh i.e. Ranbir Singh and Amarjit Kaur (respondent Nos.3 and 4) were residing separately on the ground floor. The parents of Amandeep (husband of the deceased) were not the beneficiaries of the amount of Rs.10 lakhs, which was demanded from the complainant. Since, Ranbir Singh and Amarjit Kaur (parents of Amandeep) were living separately from the deceased and her husband Amandeep, they were acquitted of the charges by giving them the benefit of doubt.

2. It was found that accused-respondent No.2, Amandeep, had subjected the deceased to cruelty in order to pressurize her for bringing more dowry and also committed dowry death by causing the death of Rupinder Kaur.

6. Learned counsel for the applicant while assailing the judgment of acquittal qua respondents No.3 and 4 submits that it has been found by the learned trial Court that the deceased

along with her husband and respondents No.3 and 4 were residing in the same house, whereas respondents No.3 and 4 residing on the ground floor, the deceased along with her husband was residing at the first floor. It was, thus, contended that merely because they were residing on the ground and first floor, is not sufficient to hold that the accused/respondents No.2 and 3 (parents –in-law of the deceased) did not play any role in the occurrence leading to the death of their daughter-in-law. It is further argued that once it was proved that the deceased had died unnatural death and she was compelled to take such an extreme step on account of demand of dowry and harassment caused to her, the role of respondents No.3 and 4 along with their son Amandeep Singh, is apparent in the occurrence and, thus, the finding of acquittal qua the said accused recorded by the learned trial Court suffers from patent illegality.

7. We have heard learned counsel for the applicant and have also gone through the record of the case.

8. The only issue that requires consideration by this Court is whether the finding of acquittal qua respondent Nos. 3 and 4, recorded by the learned trial Court, requires any interference by this Court.

9. Indisputably, it was found by the learned trial Court that the deceased had died unnatural death and the facts, circumstances and the evidence on record had proved that it was a dowry death. The ingredients of Section 304-B IPC and presumption under Section 113-B of the Evidence Act, stood proved against the accused Amandeep Singh (husband of the

deceased). So far as the said issue is concerned, the same is not in dispute in the present application seeking leave to appeal. What is disputed is the acquittal of the parents of the accused Amandeep Singh, who have been acquitted by the learned trial Court, by extending them benefit of doubt.

10. The trial Court has recorded a finding on the basis of evidence that respondents No.2 and 3, though residing in the same house, were in fact residing on the ground floor whereas the deceased and her husband were residing on the first floor of the said house. The amount of Rs.10 lakhs allegedly demanded by Amandeep Singh was for sending him abroad and, therefore, respondents No.2 and 3 were not the beneficiaries of the said amount. It was further found that respondents No.2 and 3 were implicated in the case being the parents of accused Amandeep Singh and there was a general tendency of implicating the parents and the close relatives of the husband in such cases.

11. Learned counsel for the applicant could not draw the attention of this Court to any evidence on record, which could conclusively prove that there was any role played by the respondents No.3 and 4 in the death of their daughter-in-law. The matter can be looked from another angle. There is no eye witness to the occurrence. Rather, DW-2 Gurmeet Singh co-villager of respondent Nos. 3 and 4 deposed that they always found relations between Rupinder Kaur (since deceased) and other family members of respondent No.4-Ranbir Singh cordial and healthy. It was further deposed that they had never noticed any dispute or quarrel between them. It was yet further stated

that on the date of occurrence, respondent No.4 Ranbir Singh was on his way to Agra and he returned only after having receipt the information about the mis-happening in the family. Similar is the testimony of DW-5-Paramjeet Singh, Ex-Sarpanch of Village Kalpi. From the aforesaid, it is clear that the relations between the deceased and her parents-in-law were cordial. The prosecution could not lead any evidence on record to conclusively prove that the said accused had played any role in the occurrence leading to the unnatural death of the deceased. Thus we do not find that the finding of acquittal qua respondents No.3 and 4 recorded by the learned trial Court suffers from any patent illegality or perversity.

12. In criminal appeal against acquittal what the appellate Court has to examine is whether the finding of the learned Court below is perverse and prima facie illegal. Once the appellate Court comes to the finding that the grounds on which the judgment is based are not perverse, the scope of appeal against acquittal is limited considering the fact that the legal presumption about the innocence of the accused is further strengthened by the finding of the Court. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in **Mrinal Das versus State of Tripura**, (2011) 9 SCC 479, wherein it has been observed as under:-

“13. It is clear that in an appeal against acquittal in the absence of perversity in the judgment and order, interference by this Court exercising its extraordinary jurisdiction, is not warranted. However, if the appeal is heard by an appellate

court, it being the final Court of fact, is fully competent to reappreciate, reconsider and review the evidence and take its own decision. In other words, the law does not prescribe any limitation, restriction or condition on exercise of such power and the appellate Court is free to arrive at its own conclusion keeping in mind that acquittal provides for presumption in favour of the accused. The presumption of innocence is available to the person and in criminal jurisprudence every person is presumed to be innocent unless he is proved guilty by the competent Court. If two reasonable views are possible on the basis of the evidence on record, the appellate Court should not disturb the findings of acquittal.

14. There is no limitation on the part of the appellate Court to review the evidence upon which the order of acquittal is found and to come to its own conclusion. The appellate Court can also review the conclusion arrived at by the trial court with respect to both facts and law. While dealing with the appeal against acquittal preferred by the State, it is the duty of the appellate Court to marshal the entire evidence on record and only by giving cogent and adequate reasons set aside the judgment of acquittal. An order of acquittal is to be interfered with only when there are “compelling and substantial reasons” for doing so. If the order is “clearly unreasonable”, it is a compelling reason for interference.”

In the case of **Ghurey Lal Vs. State of Uttar Pradesh**, (2008) 10 SCC 450 in para no. 75, the Hon'ble Supreme Court re-iterated the said view and observed as follows:

"75. The trial court has the advantage of watching the demeanour of the witnesses who have given evidence, therefore, the appellate Court should be slow to interfere with the decisions of the trial court. An acquittal by the trial court should not be interfered with unless it is totally perverse or wholly unsustainable."

13. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case the order is clearly unreasonable, it is a compelling reason for interference. But where there is no perversity in the finding of the impugned judgment of acquittal, the appellate Court must not take a different view only because another view is possible. It is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in the absence of strong and compelling grounds.

14. We find that the findings of acquittal qua respondent Nos. 3 and 4 recorded by the learned trial Court are based on evidence on record and no fault can be found with the same.

15. So far as the prayer of the applicant for enhancement of the sentence imposed upon respondent No.2 is concerned, we find that no case is made out to grant leave to appeal against said part also. Moreover, vide order dated 05.07.2024 passed in CRA-S-1110-2020, the applicant was impleaded as respondent

No.2 in the said appeal. The said appeal has been filed by respondent No.2-Amandeep Singh, against his conviction and sentence. Therefore, the applicant will be at liberty to raise all the points in the said appeal.

16. In view of the above, finding no merit in the present application, the same is hereby dismissed. Leave to appeal is declined.

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

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

04.10.2024

Ajay Prasher

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No