



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

CRM-A-753-2022

Date of decision: 29.07.2024

Neeraj

....Applicant-Appellant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Vishva Nath Sharma, Advocate
for the applicant-appellant

Mr. Vikas Bhardwaj, AAG, Haryana.

HARPREET SINGH BRAR, J.

1. This instant application under Section 378(4) Cr.P.C. is preferred against the judgment dated 07.07.2022 passed by learned Additional Sessions Judge-cum-Judge, Special Court for Heinous Crime Against Women, Hisar in case arising out of FIR No.1087 dated 31.12.2015 registered under Sections 201, 306 of IPC, vide which respondent no.2 was acquitted of the charges framed against him.

2. The facts, in brief, are that on 30.12.2015, the concerned police received information qua death under suspicious circumstances of Renu @ Anjali wife of respondent no.2 whose dead body had been taken to Karnal. Thereafter, the concerned police officials from Hisar went to Government Hospital, Karnal where they met the present petitioner who is the brother of the deceased. The petitioner made a statement on 31.12.2015 before the police officials, wherein, it was alleged that Renu got married to respondent no.2 in 2006. It was further alleged by the petitioner that immediately after he received



information regarding the death of Renu, he along with other family members went to her matrimonial house but they were not allowed by respondent no.2 and his family to see her dead body. The concerned police reached the spot and took the dead body to mortuary in Karnal where her postmortem examination was conducted. It was alleged by the petitioner that his sister died under unnatural circumstances and was murdered by the accused for reasons unknown. Consequently, the FIR (supra) was registered. Statements of witnesses were recorded under Section 161 Cr.P.C., respondent No.2 was arrested on 29.07.2016, Section 306 was added to the case and Section 302 was deleted, and final report under Section 173(2) Cr.P.C. was submitted before the learned trial Court. After perusing the police report and hearing the parties involved, charges against respondent no.2 were framed by the learned trial Court vide order dated 17.10.2016 for commission of offence punishable under Sections 306, 201 of IPC. The trial ensued and ultimately, respondent no.2 was acquitted of the charges framed against him in the present case vide judgement dated 07.07.2022 which has been challenged by the complainant in the present petition.

3. I have heard the learned counsel for the applicant and carefully perused the record with his able assistance. It transpires that although in his initial complaint dated 31.12.2015 (Ex.P-5) the complainant failed to level any specific allegations against the accused as he only mentioned that his sister was killed by the accused due to unknown reasons but in his examination-in-chief as PW-5 he deposed that the accused used to beat and harass his sister who revealed the same to their mother on 29.12.2015. Significant improvements were made by the complainant in his statement. Furthermore, the complainant admitted in his cross-examination that his sister had pursued her studies even



after her marriage with respondent no.2-accused and father of the accused had transferred 1.5 acres of land to his nephew and a Fixed Deposit of Rs.3 Lacs was made in the name of his niece, i.e., son and daughter respectively of the deceased. The mother of the complainant was examined as PW-16 and in her cross-examination, she admitted that neither her nor her family members ever went to Hisar to confront the accused about his cruel behaviour. The photographs placed on record as Ex.D1 to Ex.D30 clearly show that the complainant and her other sister Neha unhesitatingly visited the house of the accused to celebrate their own birthdays. No cogent evidence was brought on record by the prosecution to establish that the relationship between the accused and the deceased was strained. It is quite strange that the complainant-brother or the parents of the deceased never sought custody of the children of the deceased from the accused despite labelling him as a murderer of their daughter. Moreover, the medical evidence on record, especially the Post Mortem Report (Ex.P-16) shows that cause of death was asphyxia due to ante-mortem hanging and no other injury marks except the marks of hanging were found on the body of the deceased and thereby, possibility of intentional homicide has been ruled out. All the aforesaid facts, when clubbed together, are adequate for this Court to uphold the judgment passed by the learned trial Court.

4. Furthermore, 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 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.

(HARPREET SINGH BRAR)
JUDGE

29.07.2024
Neha

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