

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

233

CRM-A-3009-2019
Date of Decision: 23.04.2024

State of Haryana

...Applicant

Versus

Harish and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: - Mr. Vikas Bhardwaj, AAG Haryana.

Mr. Rakesh Dhiman, Advocate for the respondents.

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 24.01.2019 passed by learned Additional Sessions Judge-cum-Special Judge, Rohtak, in the case stemming from FIR bearing No. 112, dated 14.04.2015 under Sections 306, 323, 342, 506, 498-A and 34 of IPC, registered at Police Station Kalanaur, District Rohtak.
2.
- Briefly, the facts are that the marriage of the daughters of the complainant, namely Sunita and Pooja were solemnized with Ashok and Harish respectively, sons of Prithvi Singh Saini, about 15 years ago according to Hindu rites and rituals. Pooja (deceased) had a son and a daughter from the said marriage. On 08.04.2015, the complainant, who is the mother of the deceased, received a call from Sandeep, whereby she was informed of her daughter's suicide. Thereafter, the complainant along with other family members rushed to PGIMS, Rohtak. A post-mortem report was conducted at the behest of the complainant and her family members. Suspecting that the in-laws of the deceased had a role to play in her suicide, the complainant sought legal action against the respondents-accused.

3. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the deceased and her sister, Sunita (PW1) were married into the same family. With regard to the allegations of ill-treatment and cruelty, it is imperative to mention that no complaint was ever made by the deceased or her sister regarding the demand of dowry or physical assault from the date of their marriage till the day Pooja died. No evidence has been brought on record to show that any *panchayat* was convened by the family members of the deceased, prior to the occurrence and thus it becomes even more difficult to infer any sort of family discord. Further, as per the deposition of Sunita (PW-1), she was beaten by her in-laws, however, no independent witnesses have been examined to this effect. Surprisingly, Sunita did not even inform her family members of the alleged physical assault she was subjected to. PW-1 failed to prove that she was beaten by the respondents-accused either at the time of the suicide or at the time Pooja was cremated. Moreover, the injuries on the person of Sunita could be self-inflicted as they were declared superficial and abrasions in nature.

4. Furthermore, Pooja died on 08.04.2015 but the complainant and other family members of the deceased reached PGIMS, Rohtak on the next day. Even on the next day, Yashoda (PW2) informed the Investigating Officer that they were waiting for the post-mortem examination of Pooja and only after verification of the circumstances surrounding her death, they would be lodging the complaint. The complaint was ultimately lodged on 14.04.2015 i.e. after a delay of 6 days. This delay becomes even more suspicious when Sunita (PW1) has clearly stated that she was an eye witness to the alleged occurrence. Clearly then, the complaint could have been filed the very next day. Hence, the

complaint being a result of consultations and due deliberations cannot be ruled out.

5. 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.

6. In view of the facts and circumstances of the case, this Court finds that learned State counsel 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.

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

(HARPREET SINGH BRAR)
JUDGE

April 23, 2024
manisha

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |