

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.902 of 2024

Arising Out of PS. Case No.-61 Year-2021 Thana- CHANDAUTI District- Gaya

Satyadeo Kumar @ Mantu Kumar S/o Shalik Sharma R/o Maharajganj,
Rafiganj, P.s. - Rafiganj, Distt. - Aurangabad

... .. Appellant/s

Versus

1. The State of Bihar
2. Anil Kumar Sharma S/o Late Rup Narayan Sharma R/o vill - Kujapi, P.S. - Chandauti, Distt. - Gaya
3. Radha Devi W/o Late Rup Narayan Sharma R/o vill - Kujapi, P.S. - Chandauti, Distt. - Gaya

... .. Respondent/s

Appearance :

For the Appellant	:	Mr. Ashok Kumar No.6, Advocate Mr. M.K. Jha, Advocate
For the Respondent Nos. 2&3	:	Mr. Ashutosh Singh, Advocate Mr. Sanjay Kr. Sharma, Advocate
For the State	:	Mr. Parmeshwar Mehta, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 07-08-2025

The present criminal appeal has been preferred under
Section 372 of the Code of Criminal Procedure against the
judgment of acquittal dated 21.06.2024 passed by the learned



Additional Sessions Judge-III, Gaya in Sessions Trial Case No. 03 of 2022, arising out of Chandauti P.S. Case No. 61 of 2021, whereby Respondent Nos. 2 & 3 have been acquitted by the learned Trial Court from the charge of Sections 302, 304-B and 120-B of the Indian Penal Code.

2. Vide order dated 25.11.2024, Trial Court records was called for, which was received on 16.01.2025.

3. The prosecution case, in brief, is that the sister of the appellant was married with accused Anil Kumar Sharma (Respondent No. 2) five years earlier to the alleged occurrence. It was said that at the time of marriage, the informant side gave various articles to the groom side as gifts. In spite of this, dowry was being demanded on phone calls by the accused persons, and one co-accused Rup Narain Sharma gave threatening of life to the sister of the appellant. On 28.02.2021, the in-laws members killed his sister by throttling her neck. This informant received the said information on a phone call. On getting this information, the informant and his family members went to the matrimonial home of his sister where they found her lying dead on her bed. Her two kids were weeping there, whereas no major members of the family were present at the scene of occurrence as they were absconding from their house.



4. On the basis of written statement of the informant, Chandauti P.S. Case No. 61 of 2021 was instituted under Sections 302, 304-B and 120-B of the Indian Penal Code and investigation was taken up by the police. The Police after investigation, submitted charge-sheet against Respondent Nos. 2 & 3 and, accordingly, cognizance was taken. Thereafter, the case was committed to the Court of Sessions. Charges were framed against the accused persons to which they pleaded not guilty and claimed to be tried.

5. During the trial, the prosecution examined altogether nine witnesses i.e. PW1 Salik Sharma, PW2 Lalita Devi, PW3 Rahul Kumar, PW4 Balli Mistri, PW5 Dr. Randhir Kumar, PW6 Satyadeo Kumar @ Mantu Kumar, PW7 Shri Umesh Kumar Singh, PW8 Dafadar Vijay Kumar Sinha and PW9 Shri Mukesh Kumar Singh. The prosecution has also produced several documents which were marked as 'Exhibits' (Seizure memo of '*Dupatta*' with the signatures of the witnesses on it; *Post mortem* report of the deceased; Written information of the informant with his signature; Application dated 15.06.2021 of the police for permission to send the viscera of the deceased for its chemical examination to the FSL, Patna; Letter to the Director of the FSL, Patna for chemical



examination of the viscera of the deceased; Letter of the FSL, Patna; FSL report of the viscera of the deceased; Formal FIR and the charge-sheet).

The defence has also examined one witness viz. DW1 Md. Habib, who is an Advocate Clerk. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, learned Trial Court has acquitted the accused persons.

6. The learned Trial Court acquitted the accused on the ground that the prosecution was unable to prove the allegations against the accused beyond a shadow of reasonable doubt. The learned Trial Court, while dealing with the charge under Section 304-B, held that the prosecution has not been able to prove that there was any demand for dowry by the accused persons, and medical report, i.e., *post mortem* report suggests that death was caused due to hanging, and not by throttling, as claimed by the prosecution. With respect to the offence charged under Section 302 of I.P.C, the learned Trial Court held that there was no distinct allegation for constituting the offence under section 302 of I.P.C. and in course of trial, the prosecution has confined its case to the dowry death, and not of murder. However, the case of dowry death, as set out by the prosecution,



has not been proved.

7. Learned counsel for the appellant submits that the learned Trial Court has failed to consider the evidence of prosecution witnesses with respect to demand of dowry. The learned Trial Court also failed to consider the evidence on record that the death of the deceased was within seven years of her marriage because of torture, cruelty and for non-fulfilment of demand of dowry and came to the conclusion that offence under section 304-B of the I.P.C. is not made out.

8. The learned counsel for the respondent submitted that the learned Trial Court had covered all the aspects of the alleged occurrence and had rightly acquitted the accused in the present case, and the judgment of the learned trial Court requires no interference.

9. We have heard learned counsels for the appellant and the respondent and have also gone through the records of the case.

10. The sole question that requires consideration by this Court is whether the impugned judgment of acquittal requires any interference by this Court.

11. Before the learned Trial Court, the prosecution was unable to prove that the victim was being harassed for



dowry by the accused. As per the Trial Court record, the prosecution was unable to prove the allegations of demand of dowry. For constituting an offence under Section 304-B of the I.P.C., the major ingredient is that there should be a demand for dowry, and consequent harassment for non-fulfillment of the said demand. Here, no such demand has been proved by the prosecution before the learned Trial Court. As such, the alleged offence under Section 304-B of the I.P.C. is not made out.

12. For constituting offence under Section 302 of the I.P.C., the ingredients of the offence of murder has to be fulfilled. Murder is defined as causing death of any person with an intention and within knowledge that his action would cause death, and which does not fall in any exception given under Section 300 of the I.P.C. Here, the ingredients for the offence under Section 302 I.P.C. is not fulfilled as per the Trial Court record. No intention or any such knowledge has been proved by the prosecution. Therefore, the offence under Section 302 of I.P.C. is not proved.

13. Indisputably, the cause of death as per the medical report examined before the learned Trial Court is 'death by hanging', and not 'throttling' as claimed by the prosecution which is also mentioned in the F.I.R.. The onus of proving the



death caused by ‘throttling’ lies on the prosecution. It cannot be said that since the place of occurrence was the home of the accused, then the onus would shift to the accused. In the present case, the prosecution has been unable to prove their case beyond the shadow of reasonable doubt, and, in our opinion, the judgment of the learned Trial Court requires no interference, especially taking into consideration the *post mortem* report.

14. We find that the findings recorded by the learned Trial Court do not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt beyond the shadow of a reasonable doubt. Wherever any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of doubt.

15. 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 is 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 the case of ***Mrinal Das vs. State of Tripura (2011) 9***

SCC 479, paragraphs 13 & 14 of which read 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 reappraise, 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 versus State of Uttar Pradesh*** reported in (2008) 10 SCC 450 in paragraph 75, the Hon’ble Supreme Court reiterated the said view and observed as under:

“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.”

16. Thus, an order of acquittal is to be interfered with only for compelling and substantial reasons. In case if 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 demeanor of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

17. In view of the above, we do not find any illegality



and perversity in the findings recorded by the Trial Court.

18. Accordingly, the present appeal is dismissed.

(Sudhir Singh, J)

(Ramesh Chand Malviya, J)

Sachin/-

AFR/NAFR	N.A.F.R.
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