

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.982 of 2024

Arising Out of PS. Case No.-239 Year-2018 Thana- CHAND District- Kaimur (Bhabua)

Suresh Ram @ Suresh Raman, Son of Devan Ram @ Dev Nandan, Resident
of Village- Bedaha, P.S.- Saidraja, District- Chandauli (U.P.)

... .. Appellant/s

Versus

1. The State of Bihar
2. Indal Ram, Son of Polhawan Ram, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
3. Mansha Devi, Wife of Nandu Ram, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
4. Meera Devi, Wife of Polhawan Ram, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
5. Savitri Devi, Wife of Vijaymal Ram, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
6. Vijaymal Ram, Son of Somaru Ram, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
7. Polhawan Ram, Son of Late Mahagu Chamar, R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua
8. Nand Kishore Ram Son of Polhawan Ram R/O Vill.- Bhaluhari, P.S.- Chand, Dist.- Kaimur At Bhabua

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Uday Pratap Singh, Advocate
		Mr. Raju Kumar Singh, Advocate
For the Respondent/s	:	Mr. Dilip Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 19-08-2025

The present criminal appeal has been preferred under
Section 372 of the Code of Criminal Procedure against the
judgment of acquittal dated 02.05.2024 passed by the learned
Additional District & Sessions Judge- III, Kaimur at Bhabhua in



Sessions Trial No. 108/2019 arising out of Chand P.S. Case No. 239/2018, whereby Respondent Nos. 2 to 8 have been acquitted by the learned Trial Court from the charges of Sections 304-B/34 and 302/34 of the Indian Penal Code.

2. The prosecution case, in brief, is that the informant had married his daughter Puja to Indal Ram (respondent No. 2) as per Hindu rituals five years before the occurrence. The informant's daughter was harassed by her husband, her father-in-law, mother-in-law, sister-in-law, brother-in-law and other in-laws members of the family for demand of dowry. Thereupon, the informant had given a gold chain of 15gm, a gold ring and Rs. 40,000/- in cash. It is further alleged that after some time, the husband of the deceased demanded one motorcycle. Thereafter, around 3 months before the alleged occurrence the accused persons demanded Rs. 1,00,000 from the deceased, and when she refused the demand of her in-laws family members, they beat her up. The informant had tried to pacify the matter, but on 14.11.2018, her daughter was beaten by her in-laws family members badly. The deceased informed her father/informant about this, who later told about the incident to his brother-in-law, Anil Ram. Later, when Anil Ram went to the matrimonial home of the victim he was informed by the



villagers that all the accused persons on 15.11.2018 at 11:00 AM had killed the daughter of the informant. Anil Ram told this to the informant and then the informant also went to the matrimonial home of his daughter and saw that his daughter was burnt to death.

3. On the basis of written complaint of the informant, Chand P.S. Case No. 239/2018 was instituted under Section 304-B/34 of the I.P.C. and investigation was taken up by the police. The police after investigation submitted charge-sheet against Respondent Nos. 2 to 8 and, accordingly, cognizance was taken. Thereafter the case was committed to the Court of Sessions. Charges were framed against the accused persons under Section 304-B/34 and Section 302/34 to which they pleaded not guilty and claimed to be tried.

4. During the trial, the prosecution examined altogether six witnesses i.e. PW1 Anil Ram, PW2 Nikhil Kumar, PW3 Suresh Ram(Informant), PW4 Upendra Kumar, PW5 Dr. Vijay Kumar Tiwary, PW6 Paras Mehta(I.O.). The prosecution has also produced certain documents which were marked as 'Exhibits', i.e., Signature of informant on written complaint; Signature of PW4 on written complaint; Postmortem report; Signature of the witness on inquest report; Identification of the



signature of the witnesses Om Prakash and Anil Kumar on the inquest report. The defence has also produced certain documents which are marked as 'Exhibits', i.e., Lagan Patri; Rasan Card of Meera Devi; Rasan Card card of Mansha Devi; Rasan Card of Marachi Kunwar; Rasan Card of Pushpa Devi. The defence has also examined two witnesses viz. DW1 Radhe Nau and DW2 Govind Dubey. After closure of prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C. and after conclusion of trial, the learned trial court has acquitted the accused persons.

5. The learned trial court acquitted the Respondent Nos. 3 to 8. It was held by the learned trial court that the victim was not living in jointness with Respondent Nos. 3 to 8 and they used to live separately with her husband in another nearby house. The learned trial court held that on the basis of the evidence available on record and on account of the victim living separately with the rest of the relatives, it could not be said that the victim was being harassed for dowry by the accused, except the husband. Regarding the husband, who is respondent no. 2 in the present case, the learned trial court held that the prosecution was unable to prove any harassment for dowry by the husband soon before the death of the victim, which is an essential



element to invoke Section 304-B of the I.P.C. The learned trial court further held that a material witness, namely, the mother of the victim, to whom the victim had confided about the alleged harassment, was not examined before the learned trial court.

6. The learned counsel for the appellant has submitted that the trial court has failed to consider the consistent deposition of the prosecution witnesses regarding demand of dowry and cruelty soon before the death of the victim and that the deceased died in her matrimonial home by burn injury as the smell of kerosene was coming from her dead body. He further submitted that the trial court has overlooked the provisions of Section 304-B of the I.P.C. that if a lady died unnatural death in her matrimonial home, the cause of death has to be explained by the accused persons. It has been submitted that though the trial court has held that the victim had died unnatural death within seven years of her marriage but has acquitted the accused respondents.

7. The learned counsel for the respondents submitted that there is no perversity in the judgment of the learned trial court and the prosecution had failed to prove the guilt of the accused before the learned trial court. Therefore, the order of the



learned trial court requires no interference in the present case.

8. We have heard learned counsel for the appellant and the respondents, and have also gone through the records of the case.

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

10. Altogether seven persons were made accused in the present case, including the husband. The other accused persons are the relatives of the husband who are the in-laws of the victim. As per the evidence of the I.O. before the learned trial court, it is categorically stated that the family was not in jointness rather they all were living separately from the victim. Hence, the question of demand of dowry by the in-laws does not arise. Furthermore, the prosecution has not presented any independent witness, or other evidence before the learned trial court which would show the demand of dowry by the in-laws. It is further noted that the mother of the victim has not been examined before the learned trial court. As per the evidence of the informant, i.e., P.W. 3, the victim had told about the demand of dowry and the harassment for the same to her mother. Thus, a material witness, i.e., the mother of the deceased has not been



examined before the learned trial court.

11. We also find that there is a dispute regarding the date of marriage of the victim. PW-1 in his cross-examination has admitted that the marriage had taken place on 29.05.2010. From the deposition of PW-2, it appears that the marriage is said to have taken place on 29.05.2014. Admittedly, there is a contradiction between the deposition of PW-1 and PW-2 with respect to the date of marriage of the deceased. The incident is of 2018. Since, there is a vital material contradiction regarding the date of marriage of the deceased, therefore, the prosecution has not been able to discharge the primary burden of proof in respect of the definition of dowry death.

12. From the deposition of PW-3, it appears that the FIR was instituted on 16.11.2018 at 6:30 PM when the postmortem of the deceased was conducted on 16.11.2018 at 04:00 PM. Therefore, definitely the FIR was instituted after the postmortem was conducted for which the prosecution has no explanation. The registration of FIR after the postmortem was conducted, adversely affects the case of the prosecution.

13. PW-1, the maternal uncle of the deceased, in his evidence, has stated that on his information the police had arrived at the place of occurrence, but from perusal of the FIR, it



appears that there is no statement of PW-1 showing that on his information the police had arrived at the place of occurrence. In the evidence of I.O. (PW-6) in his examination-in-chief, nowhere he has stated that he had reached the place of occurrence on the information given by PW-1 nor he has stated that PW-1 was present at the place of occurrence when inquest report was prepared. PW-6 in his examination-in-chief has stated that the inquest report was prepared in presence of Om Prakash and Anil Kumar, but from the records, it could not be ascertained whether this Anil Kumar is the same person as Anil Ram, who is PW-1 in the present case.

14. We find that the prosecution has been unable to prove a case against the accused beyond the shadow of reasonable doubt in the present case. We also find that there are some material contradictions related to some important facts of the case, which have been discussed above.

15. We, therefore, find that the judgment of the learned trial court does not suffer from any illegality and perversity. In a criminal case, it is incumbent upon the prosecution to prove the guilt of the accused beyond the shadow of all reasonable doubts. Wherever, any doubt is cast upon the case of the prosecution, the accused is entitled to the benefit of



doubt.

16. 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 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 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."



17. 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 demeanour of witnesses and, therefore, its decision must not be upset in absence of strong and compelling grounds.

18. In view of the above, we do not find any illegality and perversity in the findings recorded by the Trial Court.

19. Accordingly, the present appeal is dismissed.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Rajesh/Suruchi

AFR/NAFR	NAFR
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