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**“that the Marriage of Amandeep Singh Accused Was Vs. State of Punjab
.....Applicant-appellant**

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Court : Punjab and Haryana

Decided On : May-13-2013

Appellant : “that the Marriage of Amandeep Singh Accused Was

Respondent : State of PunjabApplicant-appellant

Judgement :

CRM-A No.191-MA of 2013 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH ***** CRM-A No.191-MA of 2013 Date of decision :

13. 5.2013 State of PunjabApplicant-appellant versus Ajaib Singh and anotherRespondents CORAM: Hon'ble Mr.Justice Jasbir Singh, Acting Chief Justice.

Hon'ble Mr.Justice Rakesh Kumar Jain Present:- Mr.P.S.Bajwa, Addl.

AG, Punjab, for the applicant/appellant Mr.S.S.Sandhu, Advocate, for the respondents --- Jasbir Singh, ACJ.

This application has been filed by the State of Punjab under Section 378(3) Cr.P.C.seeking leave to file an appeal against judgment dated 19.12.2012 acquitting the respondents of the charges framed against them.

The respondents along with their son namely; Amandeep Singh were made to face trial in FIR No.114 dated 8.5.2010, Police Station City Rajpura, District Patiala, for commission of an offence punishable under Section 304B/34 IPC.

It is necessary to mention here that marriage between Amandeep Singh and deceased Gagandeep Kaur was solemnized on 14.3.2010.

It was an allegation against all the accused that, on 8.5.2010, CRM-A No.191-MA of 2013 -2- they had committed murder of Gagandeep Kaur, when she failed to bring dowry as per their desire.

The trial Judge has noted the following facts regarding case of the prosecution :- That the marriage of Amandeep Singh accused was solemnized with Gagandeep Kaur daughter of Balwinder Singh on 14.3.2010.

Before the marriage, the accused had demanded a Swift car and the same was got booked by the complainant.

The marriage party was looked after well and about 20 tolas gold articles along with other articles were given at the time of marriage, as per demand of the accused.

After some time of the marriage, the accused started maltreating Gagandeep Kaur on account of less dowry.

Accused Amandeep Singh had been saying that his father is a gazetted officer and she has been married in a big family.

As and when Gagandeep Kaur visited her parental house, she had been narrating all the incidents to her parents.

Balwinder Singh complainant along with his wife had been trying to persuade Amandeep Singh accused not to maltreat Amandeep Kaur but he had been raising demand of car and other articles.

Amandeep Singh was impressed upon that there was shortage of cars and the demand will be met with shortly.

One day Gagandeep Kaur informed her father on telephone that her husband had given beatings to her in the presence of her father-in-law and mother-in-law and requested the complainant to persuade the accused and to honour the demand raised by them.

On 2.5.2010, Dr.

Rupinder Kaur, elder sister of Gagandeep Kaur informed Amandeep Singh accused and his parents that the demand will be met with shortly and they should not torture Gagandeep Kaur, but to no effect.

Thereafter, Gagandeep Kaur again telephonically CRM-A No.191-MA of 2013 -3- informed her father and asked as to whether the demand will be met with after her death and whatsoever demand is being raised by the accused should be honoured, so that she may live comfortably.

On 5.5.2010, at about 6 A.M., the mother of Gagandeep Kaur visited the house of her in-laws and requested all the accused not to maltreat Gagandeep Kaur and ensured that Swift car will be given within a week along with other articles.

On 8.5.2010, at about 8 A.M.the complainant received telephonic call from Ajaib Singh that Gagandeep Kaur was not speaking and are taking her to hospital and that he should reach immediately and after some time, Amandeep Singh informed him on telephone that Gagandeep Kaur has died.

When the parents of Gagandeep Kaur reached the house of accused, they found her dead body lying on a cot.

The process of law was started on a statement made by Balwinder Singh (PW-3) father of the deceased.

The Investigating Officer Inspector Amandeep Singh (PW-30) went to the place of occurrence, prepared inquest report on the dead body and sent it for post mortem examination.

This witness got the dead body and the spot photographed.

After post mortem, death was declared un-natural.

He arrested the accused.

Their disclosure statements led to the recovery of dowry articles.

The Investigating Officer recorded statements of the witnesses and on completion of investigation, final report was put in Court against Amandeep Singh.

Respondents No.1 and 2 were declared proclaimed offenders. Subsequent thereto, they were arrested and supplementary challan was presented in Court against them.

Copies of the documents were supplied to the respondents-accused as per norms. Case was committed to the competent Court for trial vide order dated 15.10.2010.

CRM-A No.191-MA of 2013 -4- The accused were charge sheeted on 21.7.2011 to which, they pleaded not guilty and claimed trial.

The prosecution produced 33 witnesses and also brought on record documentary evidence to prove its case.

On conclusion of prosecution's evidence, statements of the accused were recorded under Section 313 Cr.P.C. Incriminating evidence on record was put to them, which they denied, claimed innocence and false implication.

They also led evidence in defence.

The trial Judge on appraisal of evidence found Amandeep Singh- husband of the deceased, guilty whereas benefit of doubt was given to the respondents, who are father-in-law and mother-in-law respectively of the deceased.

When giving above benefit to the respondents, it was noted by the trial Court that allegations against both the respondents were general in nature.

No specific overt act has been attributed to them, so far as demand of dowry is concerned.

For any default committed by husband of the deceased, they cannot be penalized.

The trial Court has analyzed the entire evidence in the following manner :- It is observed that PW-3 Balwinder Singh father of the deceased and complainant has not uttered even a single word qua the demand of ` 5 lacs by these accused while making statements before the police and not even while deposing as PW-3 in Court.

So far as the version coming in the statements of PW-13 and PW-14 is concerned, they have claimed that all the accused made the demand of ` 5 lacs from PW13 Paramjit Kaur but this fact has not been stated by PW3, who is none else than the husband of PW13 and father of PW14.

CRM-A No.191-MA of 2013 -5- Moreover, there is no evidence against the accused Ajaib Singh and Devinder Kaur that they had harassed or treated the deceased with cruelty in pursuance of any such demand from the deceased.

These allegations being general in nature cannot be made basis of the conviction of Ajaib Singh and Devinder Kaur.

There is no specific cogent evidence adduced on record by the prosecution that the accused Ajaib Singh and Devinder Kaur were harassing or maltreating the deceased on account of any demand of dowry, thereby leading to her unnatural death.

Thus, the version of prosecution qua accused Ajaib Singh and Devinder Kaur is found doubtful and giving them the benefit of doubt, both these accused Ajaib Singh and Devinder Kaur are hereby acquitted from the charges framed against them.

Both the respondents have nothing to do, so far as dowry articles are concerned.

They are old persons aged about 60 yeRs.It appears that they were named as accused only because they were living with their son and the deceased daughter-in-law.

This Court feels that the view taken by the trial Court is perfectly justified as per evidence on record.

Their Lordships of the Supreme Court in 'Allarakha K.Mansuri v.

State of Gujarat, 2002(1) RCR (Criminal) 748', held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

A Division Bench of this Court in 'State of Punjab v.

Hansa Singh, 2001(1) RCR (Criminal) 775', while dealing with an appeal against acquittal, has opined as under:- We are of the opinion that the matter would have to be CRM-A No.191-MA of 2013 -6- examined in the light of the observations of the Honble Supreme Court in Ashok Kumar v.

State of Rajasthan, 1991 (1) SCC 166. which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

Similarly, in State of 'Goa v.

Sanjay Thakran, (2007) 3 SCC 755', and in 'Chandrappa v.

State of Karnataka, (2007) 4 SCC 415', it was held that where, in a case, two views are possible, the one which favours the accused has to be adopted by the Court.

In 'Mrinal Das & others v.

The State of Tripura, 2011(9) SCC 479', decided on September 5, 2011, the Supreme Court, after looking into many earlier judgments, has laid down parameters in which interference can be made in a judgment of acquittal, by observing as under: 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.

When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc., the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

Similarly, in the case of 'State of Rajasthan v.

Shera Ram alias Vishnu Dutta, (2012) 1 SCC 602', the Honble Supreme Court has observed as under:- 7.

A judgment of acquittal has the obvious consequence of CRM-A No.191-MA of 2013 -7- granting freedom to the accused.

This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal.

8. The penal laws in India are primarily based upon certain fundamental procedural values, which are right to fair trial and presumption of innocence.

A person is presumed to be innocent till proven guilty and once held to be not guilty of a criminal charge, he enjoys the benefit of such presumption which could be interfered with only for valid and proper reasons.

An appeal against acquittal has always been differentiated from a normal appeal against conviction.

Wherever there is perversity of facts and/or law appearing in the judgment, the appellate court would be within its jurisdiction to interfere with the judgment of acquittal, but otherwise such interference is not called for.

Thereafter, in the above case a large number of judgments were discussed and then it was opined as under:- 10.

There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other.

The preponderance of judicial opinion of this Court is that there is no substantial difference between an appeal against conviction and an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the High Court is a reasonable one and the conclusion reached by it had its grounds well set out on the materials on record, the acquittal may not be interfered CRM-A No.191-MA of 2013 -8- with.

Thus, this fine distinction has to be kept in mind by the Court while exercising its appellate jurisdiction.

The golden rule is that the Court is obliged and it will not abjure its duty to prevent miscarriage of justice, where interference is imperative and the ends of justice so require and it is essential to appease the judicial conscience.

Counsel for the applicant-appellant has failed to show any error in law on the basis of which interference can be made by this Court in the judgment under challenge.

Accordingly, the application is dismissed.

(Jasbir Singh) Acting Chief Justice (Rakesh Kumar Jain) Judge 13.5.2013
Ashwani

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