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CRA-2757-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&amp;

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI

ON THE 9<sup>th</sup> OF FEBRUARY, 2026CRIMINAL APPEAL No. 2757 of 2024*THE STATE OF MADHYA PRADESH**Versus**BHAGWATI RAIKWAR AND OTHERS*

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Appearance:

*Shri Ajay Tamrakar - Government Advocate for the appellant/State.**None for the respondents.*  
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JUDGMENT

*Per. Justice Rajendra Kumar Vani*

This appeal under Section 378(1) of Cr.P.C. has been filed by the State assailing the judgment and order of acquittal dated 30.11.2023 passed in S.T.No.32/2020 (State of M.P. vs. Bhagwati Raikwar and others) by learned First Additional Sessions Judge, Jatara, District Tikamgarh (M.P.) whereby respondents /accused persons, Bhagwati Raikwar, Haricharan Raikwar, Mahendra @ Pappu Raikwar and Sanju Raikwar have been acquitted of the offence under Section 304-B read with Section 34 of IPC and Section 3/4 of the Dowry Prohibition Act, 1961.

2. It is not in dispute that five years ago the deceased -Sunita Raikwar, was married to the accused - Pappu alias Mahendra. Accused Harcharan Raikwar is the deceased's father-in-law, accused Pappu alias Mahendra is the deceased's husband, and accused Sanju, Vanshi Raikwar are the deceased's



brothers-in-law. The deceased died after consuming a poisonous substance.

3. The prosecution's case in brief is that on 11.06.2020 Pappu alias Mahendra Ahirwar, a resident of village Gadari village, appeared at the Khajri police chowki and reported that he was at home on 11.06.2020. His wife Sunita (deceased) and children were also at home. His eldest daughter Karishma, aged two years, had asked his wife Sunita for money to buy biscuits. When she was asking for money, she slapped the girl. He angrily asked the deceased why she was slapping the girl. Upon saying this, his wife went inside the house and came out and said that she had consumed fly repellent (poison) and he should take care of her children well and Sunita was feeling dizzy. He took Sunita to village Taktoli for treatment, where the doctor refused to treat her, so he took her to Mauranipur by taxi for treatment. The doctor checked and told that Sunita was dead. Based on the above information, a case of untimely death was registered at the Khajri police station under Section 174 of Cr.P.C. and the case was registered and the investigation was started.

4. During the inquest, the investigating officer recorded the statements of the deceased's parents and other witnesses, in which it was found that due to the accused physically and mentally torturing the deceased for demanding Rs.50,000 and a motorcycle as dowry, the deceased consumed poisonous substance and died under other than normal circumstances within 07 years of marriage. Thereafter, a case was registered against the accused in Police Station Palera at Crime No. 235/2020 for offence under Sections 304-B, 34 IPC and Section 3/4 Dowry Prohibition Act.



5. After completion of investigation, a charge-sheet was filed in the competent court which, on its turn, committed the case to the court of Sessions and from where it was received by the court of First A.S.J., Jatara, District Tikamgarh for trial.
6. The learned trial Judge on going through the evidence available in the charge sheet framed charges against the appellants for the offences punishable under Sections 304-B, 34 IPC and Section 3/4 Dowry Prohibition Act. The accused persons abjured their guilt and pleaded complete innocence. The defence of accused persons is of false implication.
7. In order to bring home the charges, the prosecution examined as many as 10 witnesses, namely, Phoolwati Raikwar (PW-1), Usha Raikwar (PW-2), Malkhan Raikwar (PW-3), Bhagunti Raikwar (PW-4), Kashiram Raikwar (PW-5), Dhruv Pateriya (PW-6), Pushpa Dheemer (PW-7), Dr. Pushpalata Bharti (PW-8), Ramsahai Ahirwar (PW-9) and Yogendra Singh Bhadoriya (PW-10) and placed Ex.P/1 to P/19 the documents on record. The accused persons examined Jeevanlal Tiwari (DW-1) and Chintaman Kushwaha (DW-2) in their defence.
8. The learned Trial Court having analyzed and marshalled the testimonies of witnesses and examined the documentary evidence available on record found that the prosecution has failed to prove its case beyond all reasonable doubts and eventually acquitted the accused respondent of the charges under Section 304-B read with Section 34 of IPC and Section 3/4 of the Dowry Prohibition Act, 1961 . Hence, this appeal.
9. It is submitted by learned Government Advocate appearing for the



appellant/State that despite there being ample evidence available on record against the accused/respondents, the learned trial Court has not properly appreciated the evidence and erred in acquitting the respondents. Thus, it is prayed that allowing the appeal impugned judgment be set aside and the respondents/accused be convicted and punished appropriately for the aforesaid offences.

10. We have heard learned Government Advocate for the appellant/State and perused the record meticulously.

11. As far as the conclusion of learned Trial Court in respect of consideration of Point No.1 is concerned, it is found warranting no interference. It is rightly found by the learned Trial Court in light of evidence on record that the deceased had died within seven years of her marriage and the death was unnatural. As regards points for consideration No.2 & 3, the story of prosecution is supported by parents mother Phoolwati (PW-1) and father Malkhan Raikwar (PW-3). The other witnesses, namely, Smt Usha Raikwar (PW-2), Bhagunti Raikwar (PW-4), Kashiram Raikwar (PW-5) and Pushpa Dheemer (PW-7) have not substantiated the prosecution story at all. Except Bhagunti Raikwar (PW-4), other aforesaid witnesses have been declared hostile and cross-examined by the prosecution but no fact supporting the prosecution story is revealed from their testimonies. The testimonies of Phoolwati (PW-1) and Malkhan Raikwar (PW-3) which are not supported by independent witnesses, are under the scrutiny with circumspection.

12. When we travel through the testimonies of Phoolwati (PW-1) and



Malkhan Raikwar (PW-3), it revealed that the deceased was short tempered and she was living along with her husband separately from her in-laws and there was no prior complaint against respondents/accused persons lodged by the parents of the deceased qua the demand of dowry and harassment or cruelty meted out to the deceased. It is also admitted by Phoolwati (PW-1) categorically in her cross-examination that after the marriage of deceased with respondent Mahendra, the accused persons used to treat the deceased well and a daughter Karishma @ Pari was also born during the period. In para 11 she categorically admitted that her daughter Sunita (the deceased) never told her or her relatives about any serious problem facing by her with her in-laws. Sunita (deceased) used to say that she had minor family disputes with her husband.

13. It is also revealed from the testimony of Investigating Officer Yogendra Singh (PW-10) that the FIR has been lodged after 25 days of the incident. At the time of taking the statement under marg inquiry, no complaint was made to him by the parents or the relatives of the deceased qua the demand of dowry or any harassment or cruelty meted out to the deceased by the accused persons.

14. Phoolwati (PW-1) has stated that the accused persons have demanded Rs.50,000/- and a 'vehicle' and twenty days after giving Rs.5000/- to accused Pappu, the accused persons started committing *marpeet* with the deceased and on 11th of that month the information about death of deceased has been received by her. Malkhan (PW-3) has stated in his chief examination that accused persons have demanded Rs.50,000/- and a 'motorcycle' and after 8



to 10 days since giving Rs.5000/- to Mahendra, Mahendra called him and informed that the deceased has died. There is variation in respect of what is demanded as dowry as well as the duration after such giving when the death of the deceased took place.

15. That apart, both the witnesses Phoolwati (PW-1) and Malkhan Raikwar (PW-3) in their statements have categorically stated that when they saw the deceased, there were several injuries on her persons while as per the statement of Dr. Pushpalata Bharti (PW-8), who conducted postmortem of the deceased, in her chief examination has stated that there was no injury mark on the person of the deceased, which indicates falsity of the statements of these two witnesses i.e. Phoolwati (PW-1) and Malkhan Raikwar (PW-3) on the aforesaid point. It is also revealed from the statement of Malkhan Raikwar (PW-3) that the financial condition of the family of accused persons was weak and, therefore, accused Mahendra and his wife Sunita (deceased) used to go to Delhi for doing labour work.

16. Investigating officer Yogendra Singh (PW-10) in his cross-examination has admitted that it is surfaced from the police statement of Pushpa that accused Sanju, Vanshi and Mahendra all were living separately from their father Haricharan. Similar is the statement given by Bhagunti (PW-4) and Kashiram (PW-5). He also admits that Ramswaroop in police statement (Ex.P/6) has also deposed in similar line and has also stated that there was no trouble/pressure to the deceased in her in-laws house. He also admits that Pushpa (PW-7) in her police statement has stated that since a dispute arose between the deceased and her husband, the deceased consumed poison. This



fact has also been substantiated by the defence witnesses Jeevanlal Tiwari (DW-1) and Chintaman Kushwaha (DW-2) that there was no demand of dowry or harassment or cruelty meted out to the deceased by the accused persons.

17. The aforesaid factual scenario revealed from evidence does not inspire confidence of court in placing reliance on such evidence. The learned Trial Court while considering the evidence available on record has rightly concluded that the points No.2 and 3 are not found to be proved beyond reasonable doubt and this court finds no ground warranting any interference with the findings of the learned Trial Court.

18. In the case of **State of Gujarat v. Jayrajbhai Punjabhai Varu**, (2016) 14 SCC 151 the Hon'ble Apex Court has held that prosecution has to prove the guilt of the accused beyond all reasonable doubt. It is also the rule of justice in criminal law that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other towards his innocence, the view which is favourable to the accused should be adopted. In case of **Nikhil Chandra Mondal v. State of W.B.**, (2023) 6 SCC 605 Hon'ble Apex Court has observed that it is a settled principle of law that however strong a suspicion may be, it cannot take place of a proof beyond reasonable doubt. Unless finding of the trial Court is found to be perverse or illegal/impossible, it is not permissible for the appellate Court to interfere with the same.

19. Recently in the case of **Mallappa & others v. State of Karnataka**, (2024) 3 SCC 544 the Hon'ble Apex Court has again summarized the



principles while deciding the appeal against acquittal which are as follows :-

*"42. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarised as :*

*(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive -- inclusive of all evidence, oral or documentary;*

*(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;*

*(iii) If the court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;*

*(iv) If the view of the trial court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;*

*(v) If the appellate court is inclined to reverse the acquittal in appeal on a reappraisal of evidence, it must specifically address all the reasons given by the trial court for acquittal and must cover all the facts;*

*(vi) In a case of reversal from acquittal to conviction, the appellate court must demonstrate an illegality, perversity or error of law or fact in the decision of the trial court."...*

20. In the backdrop of foregoing discussion and the legal principles laid down in the aforementioned cases, it is found that the acquittal of the present respondent rests on cogent and well-reasoned grounds, warranting no interference. We are of the considered view that the acquittal of respondent from the charges under Section 304-B read with Section 34 of IPC and Section 3/4 of the Dowry Prohibition Act, 1961 is based on sound legal reasonings. No perversity or illegality is committed while passing the impugned judgment of acquittal.





21. Accordingly, the appeal, being devoid of merit, is hereby **dismissed**.

(VIVEK AGARWAL)  
JUDGE

(RAJENDRA KUMAR VANI)  
JUDGE

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