



**210 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

CRM-A-297-2021 (O&M)  
Date of Decision: 21.04.2025

VIJAY

.....Appellant

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

**CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL  
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Ishnoor Singh, Advocate and  
Mr. Vikram Singh, Advocate for the applicant-appellant.

Mr. Anant Kataria, DAG, Haryana.

\* \* \* \* \*

**DEEPAK MANCHANDA, J.**

1. The applicant-appellant, who is the brother of the deceased, is seeking leave to appeal against the judgment of the trial Court dated 28.02.2020 whereby respondent No.2 has been acquitted in case bearing FIR No.19 dated 28.01.2017 registered under Sections 498-A/304-B/34 IPC at Police Station Alewa.

2. The brief facts emanated from the pleadings of the case are that on 28.01.2017 a telephonic message was received from PGIMS, Rohtak in the police station regarding the death of Manju wife of respondent No.2-Ashok by consuming poison. On this information, the Investigating Officer along with police official reached PGIMS Rohtak for recording the statement. The complainant Vijay son of Sultan Singh r/o village Ratta Khera got recorded his statement to the effect that he is resident of above said address and is



doing private job. They are two brothers, elder is Neeraj and he is the younger one and Manju was his sister, who died on that day in PGIMS, Rohtak. He stated that they performed the marriage of his sister Manju with respondent No.2-Ashok son of Raj Kumar on 07.03.2016 as per Hindu rites and ceremonies and gave dowry beyond their capacity. After some days of the marriage, respondent No.2 started demanding motorcycle and started beating Manju and harassing her and also disliking her. On this, they took Manju in the village Ratta Khera, but in view of the compromise in the panchayat, the deceased was sent to her matrimonial home. However, within one month of sending the deceased to her matrimonial home, Neeraj elder brother of the complainant received telephonic call from the father-in-law of Manju that Manju has consumed poisonous substance and asked them to take her back to their home. Then they brought Manju to her parental home at village Ratta Khera. When they enquired about the same from Manju, she told them that she herself has not consumed poison, rather, her in-laws and husband Ashok have forcibly administered poison to her. As per the complainant, the mother-in-law, sister of mother-in-law, respondent No.2-Ashok (husband) and Sumit son of Raghbir killed his sister Manju by administering poison to her. On the basis of said complaint, FIR no.19 dated 28.01.2017, under Sections 498-A/304-B/34 of IPC was registered at Police Station Alewa, District Jind.

3. The prosecution examined as many as 17 witnesses and relied upon Ex.P-1 to Ex.P-20. Subsequently, the public prosecutor closed the prosecution evidence, wherein the accused pleaded of not guilty and claimed to have been falsely implicated; however, the accused led his defence



evidence by examining two witnesses i.e. DW 1 and DW2 and closed his evidence. The accused's statement was recorded in consonance with the spirit of Section 313 Cr.P.C, wherein he denied the allegations levelled against him by the prosecution and pleaded his false implication in the present case.

4. The DW1, Dhani Ram, Compounder of Janta Clinic, Safidon and DW2, Reena, who is neighbour of the accused, were examined as defence witnesses. Based on the evidence presented, the accused/respondent was acquitted on 28.02.2020 by the learned Additional Sessions Judge, Jind, which the complainant has now challenged through the present appeal.

5. The learned counsel for the appellant contends that the trial Court did not appreciate the evidence produced by the prosecution and acquitted the accused/respondent based on conjectures and surmises. The material witnesses had duly supported the prosecution version, which had not been objectively considered in its proper perspective. The trial Court, however, erroneously proceeded to acquit the accused/respondent on the ground that the prosecution failed to establish the case against the respondent/accused beyond the shadow of reasonable doubts. He, therefore, contends that leave be granted to file an appeal against the respondent's acquittal.

6. We have heard learned counsel for the applicant/appellant and have reviewed the Lower Court record.

7. The sole question before this court is whether the impugned judgment of acquittal dated 28.02.2020 requires interference after perusal of the impugned judgment and the evidence placed on record.

8. The perusal of impugned judgment shows that as per the



statement (Ex.P-1) of complainant-Vijay, the allegations made against the accused were that marriage of his sister was solemnized with respondent No.2-Ashok on 07.03.2016 as per Hindu rites and ceremonies, where after some days of marriage, respondent No.2 demanded dowry and started beating his sister. (Manju-deceased). Thereafter, they took his sister to their village Ratta Khera but in view of the compromise in the panchayat, the deceased was sent back to her matrimonial home, but within one month of sending the deceased to her matrimonial home, his elder brother Neeraj received a telephonic call on 27.01.2017 from Raj Kumar, father-in-law of his sister, who informed that Manju consumed poisonous substance and asked them to take her to their home. Thereafter, they brought his sister to her parental home and when they enquired about the same from his sister, then she told that her in-laws and husband have forcibly administered poison to her. As per the complainant, mother-in-law, sister of mother-in-law, husband and Sumit (dever) killed his sister. Accordingly, the police recorded his statement as Ex. P-1.

9. In contrast, the learned trial court observed that PW1 Vijay (brother of deceased) in his examination-in-chief deposed that on the way to PGIMS, Rohtak, when they enquired from his sister regarding the reason to consume poisonous substance by her then she replied that she did not consume poisonous substance by herself, rather, it was forcibly administered to her by her husband, mother-in-law, sister of her mother-in-law and her dever, but PW-2 Neeraj (another brother of deceased) in his examination-in-chief deposed that they asked the reason of consuming poison from Manju at



his house, whereas, PW-3 (father of deceased) in his cross examination stated that his daughter disclosed about the poisoning incident before his wife, but PW6 Mahabir stated that on the way to her parental home, mother of deceased asked her daughter about the incident. Therefore, there are contradictions in the statements of the witnesses. Moreover, PW-1 in his cross-examination stated that he had no complaint against respondent No.2; PW-2 in his cross-examination stated that the accused did not demand any dowry before the marriage or at the time of marriage.

10. The learned trial Court also observed that the credibility of PW-1 to PW-3 was impeached due to inconsistencies in their testimonies, as well as the improvements made by them, which suggests that the foundational facts established by the prosecution were not established beyond a reasonable doubt. Further, after reviewing the impugned judgement as well as the evidence of material witnesses mentioned therein, we also share the same view that in a criminal case, the guilt of the accused must be proved beyond a reasonable doubt. There should be no other possible inference that will be taken except the guilt of the accused, which are not the circumstances in the present case. This court also cannot lose sight of the fact that the mother of the deceased has not been cited as a witness despite the fact that the deceased disclosed the incident to her, whereas, Mother of the deceased could have been the best witness to prove the involvement of the accused, but neither she has been cited as a witness nor she has been examined otherwise in the Court.

11. Further, the complainant in his statement Ex.P1 has claimed that respondent No.2 (husband), Sunita (mother-in-law), Sheela (sister of Sunita)



and Sumit (dever of Manju) forcibly administered poison to her, but during investigation except respondent No.2, all were found innocent. During the trial, an application under Section 319 CrPC was moved for summoning of Sunita, Sheela and Sumit as additional accused, but the said application was rejected by the trial Court, vide order dated 19.12.2017 and neither the prosecution has filed any appeal or revision against the said order.

12. Learned trial Court observed that, DW-2 Reena, a neighbor of the deceased Manju and Ashok, testified in the Court that the couple had a happy marriage and there was no dispute between them. She also mentioned that Manju had shared her concern with her about her brother Vijay's dissatisfaction with Ashok, as he urged her to get a divorce, expressing his wish to arrange a different marriage for her. Taking Reena's testimony into account, the trial Court observed that this pressure may have contributed to the deceased's suicide only 10 months after their marriage.

13. According to the medical records mentioned in the judgment of the trial Court, the deceased passed away from ingesting aluminum phosphide, also referred to as celphose, supported by testimonies from PW-16, Dr. Pankaj Keswani, and the Chemical Report Ex.P18.

14. During cross-examination, PW-1, Vijay, testified that his elder brother had received a phone call from Raj Kumar, the accused's father on 27.01.2017, who informed them that Manju (deceased) had consumed poisonous and asked him to take her to their house. They returned home with their sister Manju around 6 PM. He also mentioned that Manju told them at approximately 6:45 PM that someone had poisoned her. She was taken home



on a motorcycle, where she interacted with them and appeared calm. Furthermore, PW-2, Neeraj Kumar, the second brother, stated that he received a call from Raj Kumar around 1:30 PM on 27.01.2017, and they reached the village around 3 PM, traveling on three motorcycles and after staying at their sister's matrimonial home for about half an hour, Manju had left with her brother Vijay on another motorcycle. PW-3, Sultan, confirmed during his cross-examination that the journey from the village to their home takes roughly an hour by motorcycle.

15. The trial Court noted that the testimonies of PW-1, PW-2, and PW-3, which indicate that the condition of the deceased Manju was normal; she had no trouble in speaking about 1½ hours before her death. Further, the deceased was transported from her in-law's house in town to her parents' home in the village of Gohiyan on a motorcycle. The Court observed that if Manju had ingested poison at her in-law's house, she would not have been able to travel comfortably on the motorcycle. During cross-examination, PW-16, Dr. Pankaj Keshwani, acknowledged the effects of aluminum phosphide ingestion, which include severe burning pain in the mouth, throat, and stomach, vomiting mixed with blood dyspnoea (breathlessness), rapid pulse, subnormal temperature, convulsions, loss of coordination, and eventual death. He confirmed that aluminum phosphide's reaction is intensified by stomach hydrochloric acid within minutes phosphine gas dissipates and absorbed into the body. He explained that a person who ingests aluminum phosphide would likely not be able to travel comfortably on a motorcycle or avoid showing symptoms. He further indicated that without medical care for over 15 hours,



the chances of survival decrease significantly. PW-16 also stated that survival beyond 15 hours after ingestion is improbable, and the possibility of ingestion of celphose in this case at about 12.00/1.00 midnight of intervening night of 27/28.01.2017 cannot be ruled out.

16. The trial Court noted that witness statements demonstrated that Manju was taken to her parental home by motorcycle, if she had consumed poison at her in-laws' residence, how could she have travelled an hour by motorcycle without any issues? Additionally, according to her brothers and father, they were informed by Raj Kumar about Manju's poisoning on 27.01.2017, around 1:30 PM and returned to their house after picking up Manju around 6 PM, suggesting that she had not ingested aluminum phosphide at the accused's house.

17. Further, the deceased, Manju, reportedly consumed poison on 27.01.2017 and was taken to PGIMS Rohtak on 28.01.2017 at 10.25 a.m.. According to the Medico-Legal Report (MLR) Ex.P-20 provided by PW-17 Capt. Manish Verma, Manju was moved to PGIMS on 28.01.2017 at 10:25 AM, where she passed away at 11:45 AM the same day. If Manju ingested poison at her marital home on 27.01.2017 and her family learned of this at 6:45 PM that day, it raises the question why she was not transferred to a hospital immediately instead of being left overnight. The trial Court further noted that as per the statement of the PWs they were aware of the poisoning at 6:45 PM on 27.01.2017, yet they did not take her to the hospital until the following morning at 10:25 AM. To support this account, DW1 was mentioned, who claimed that he was not a medical professional but rather a



compounder. He testified that when he saw the lady outside the clinic, he refused to treat her and advised them to go elsewhere for care. He did not provide any first aid. According to PW-11 ASI Ranbir Singh, the investigation revealed that the deceased was admitted to PGIMS Rohtak without receiving treatment from any other hospital before admission. This was confirmed by PW-17, who stated that the deceased did not receive any treatment at another facility prior to being admitted to PGIMS Rohtak.

18. After reviewing the pleadings and the impugned judgment, we believe that the examination of prosecution witnesses does not match the allegations against the respondent/accused, and the evidence placed on record does not support such allegations. Therefore, the findings recorded by the trial Court do not suffer from illegality or perversity. In a criminal matter, whenever doubt is cast upon the prosecution's case, the accused is entitled to the benefit of such doubt. After examining the depositions of the prosecution and defence witnesses, the trial Court held that the prosecution had failed to prove the charges levelled against the accused and acquitted them.

19. In an appeal filed against an acquittal, the appellate Court must examine whether the findings of the Court are perverse and prima facie illegal. Once the appellate Court finds that the grounds on which the judgment is based are not depraved, the scope of the appeal filed against acquittal is limited, considering that the trial court's finding further strengthens the legal presumption of the accused's innocence. At this point, it is imperative to consider the decision of the Hon'ble Supreme Court in the case of ***Mrinal Das v. State of Tripura (2011) 9 SCC 479***, wherein it has been observed as



follows:

*“8. 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 re-appreciate, 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. 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.....”*

20. Similarly, in the case of ***Ghurey Lal v. State of Uttar Pradesh, (2008) 10 SCC 450***, the Hon'ble Supreme Court reiterated the same view and the relevant extract of the said judgment reads as follows:



*“78. On careful analysis of the entire evidence on record, we are of the view that the reasons given by the High Court for reversing the judgment of acquittal is unsustainable and contrary to settled principles of law. 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”.*

21. Thus, the judgment of acquittal is to be interfered with only for compelling and substantial reasons. In case the impugned judgment is clearly unreasonable, it would be 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. This is because the trial Court has the privilege of seeing the demeanour of witnesses and, therefore, its decision must not be upset in the absence of strong and/or compelling grounds.

22. In view of the above, we do not find any illegality or perversity in the findings recorded by the trial Court. Therefore, the application seeking grant of leave to appeal stands dismissed and leave to appeal declined.

**(DEEPAK MANCHANDA)**  
JUDGE

**(ANUPINDER SINGH GREWAL)**  
JUDGE

**21.04.2025**

*sandeep*

Whether Speaking/Reasoned :

Yes/No

Whether Reportable :

Yes/No