



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Crml Leave To Appeal No. 28/2021

State of Rajasthan, Through P.P.

-----Appellant

Versus

1. Mahendra S/o Shri Ram Niwas @ Ram Lal, R/o Patel Nagar, P.S. Borunda (District Jodhpur).
2. Ram Niwas @ Ram Lal S/o Shri Pokar Ram, Aged About 43 Years, R/o Patel Nagar, P.S. Borunda (District Jodhpur).
3. Surji Devi W/o Shri Ram Niwas @ Ram Lal, Aged About 40 Years, R/o Patel Nagar, P.S. Borunda (District Jodhpur).

-----Respondents

For Appellant(s) : Mr. Laxman Solanki, P.P

HON'BLE MR. JUSTICE RAMESHWAR VYAS

Order

30/07/2021

This application seeking leave to appeal has been filed under Section 378 Cr.P.C against the judgment and order dated 10.09.2020 passed by the learned Additional Sessions Judge, Jodhpur District, camp Bilara in Sessions case No. 11/2018 (110/2017), whereby the accused-respondents were acquitted from the offences punishable under Sections 498-A & 304-B IPC.

Heard learned Public Prosecutor and perused the record.

Learned Public Prosecutor while presenting for grant of leave to appeal averred that learned trial Court has acquitted the accused-respondents on the basis of conjectures and surmises which has resulted into miscarriage of justice. He further submits that the prosecution has proved that on the date of incident, the



conversation between deceased and complainant Bhaira Ram, who is father of the deceased, took place. The deceased Pooja clearly informed her father that she was tortured and harassed for dowry reasons on the date of incident. However, learned trial Court has not properly appreciated the prosecution evidence and acquitted the accused-respondents for the offences alleged in the present case.

Heard and considered the submissions advanced by the learned Public Prosecutor and have gone through impugned judgment and the record of the case.

A perusal of the impugned judgment reveals that learned trial Court has properly appreciated the entire prosecution evidence available on record and dealt with every aspect of the incident in a just reasonable and proper manner. After appreciation of evidence, learned trial Court has rightly concluded that no telephonic talk took place on the fateful day between the deceased, her father and other relatives. In this regard, the evidence produced by the prosecution was held unreliable.

It is also pertinent to mention that the investigation officer, namely, Setharam (P.W. 13) admitted in his cross examination that in the written report (Exhibit-1), the demand of Rs. 50,000/- was absent. The investigation officer has also admitted that no injury was found on the dead body of the deceased. Investigating Officer has also stated that after investigation, he found that the deceased committed suicide by hanging from fan. He also admitted that during investigation, it was disclosed by the witnesses that on the fateful day, the deceased was insisting on for going to her parental house, to which her husband was not agreed to, on account of which verbal squabbles took place



between them and thereafter her husband Mahendra went to the field. When he came back, he found that room was closed from inside and when the gate was forcibly got opened, Pooja was found hanging from the fan.

Looking to the above conclusions of the investigating officer, the allegation levelled against the accused-respondents that deceased was killed by her in-laws proves false. As per statement of the investigating officer, the ornaments were found on the dead body of the deceased, therefore, the averment in the written report that no ornaments were found on the dead body of the deceased, also becomes false.

In the considered opinion of this Court, impugned judgment of the learned trial Court is based upon the correct appreciation of the evidence available on record and there is no illegality found in the judgment. The prosecution has failed to indicate any material substance on the basis of which judgment impugned can be interfered with.

In the facts and circumstances of the case, grant of leave to appeal from judgment and order of acquittal is refused and the same is dismissed accordingly.

(RAMESHWAR VYAS),J

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