



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Crml Leave To Appeal No. 433 / 2017

Virmaram S/o Shri Lalaram, by caste Meghwal, aged about 32 years,
R/o Village Bhandukala, Tehsil Luni, District Jodhpur

----Appellant

Versus

1. State of Rajasthan
2. Dinesh S/o Shri Khinya Ram, by caste Meghwal, R/o Khatawas, Police Station, Jhanwar, District Jodhpur.

----Respondents

For Appellant(s) : Mr. J.P. Bishnoi

For Respondent(s) : Mr. V. Kachhwaha,PP

For Respondent No.2 : Mr. R.S. Sharma,

HON'BLE MR. JUSTICE GOPAL KRISHAN VYAS

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

22/11/2017

The instant criminal leave to appeal has been filed by the appellant complainant against the judgment dated 20.04.2017 passed by learned Addl. Sessions Judge (Woman Atrocity Cases), Jodhpur Metropolitan, Jodhpur in Sessions Case No.19/2015 (NCV No.56/2015) whereby the learned trial court acquitted the respondent Dinesh from the charges leveled against him for offences under Sections 498A & 304B IPC.

Learned counsel for the appellant-complainant submits that the evidence of the prosecution has not been considered properly by the learned trial court, therefore, the finding of acquittal deserves to be quashed because the presumption was to be drawn for offence under Section 304B IPC as the deceased died within seven years of her marriage. Therefore, leave to appeal may be granted.



Learned Public Prosecutor and learned counsel for respondent No.2 submit that the entire evidence has been properly considered by the trial court. There is no evidence with regard to date of marriage, therefore it cannot be said that the case falls under Section 304B IPC, therefore, there is no question to grant leave to appeal against the judgment impugned.

After hearing the learned counsel for the parties and after perusing the findings recorded by the trial court in the light of the evidence on record, we deem it appropriate to grant leave to appeal.

Consequently, the instant criminal leave to appeal is hereby granted. The memo of leave to appeal may be treated as memo of appeal. The respondent No.2 is already representing through his counsel. The learned counsel for the respondent No.2 is directed to inform the respondent No.2 Dinesh to furnish personal bond in the sum of Rs.50,000/- with one surety of like amount to the satisfaction of Dy. Registrar (Judicial) Rajasthan High Court, Jodhpur on or before 18.12.2017 to remain present as and when called upon to do so.

Admit. Record of the case has already been received.

After recording the presence of the respondent No.2 and furnishing the bail bonds, the appeal may be placed in due course.

(MANOJ KUMAR GARG) J.

(GOPAL KRISHAN VYAS) J.

ms/-5