

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.526/2017

SANJAY KUMAR BARANWAL

APPELLANT

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

RESPONDENTS

O R D E R

The present appeal has been preferred by the de facto complainant/informant, aggrieved over the acquittal rendered by the High Court under the impugned order for the offence punishable under Section 304B and Section 201 of the Indian Penal Code.

It is informed at the Bar that two of the respondents died and, therefore, we are concerned with the acquittal rendered by the High Court of Respondent Nos.3 and 5 who are brother-in-law and sister-in-law of the deceased. The case of the prosecution is that the deceased died during the intervening night of 27.07.1989 and 28.07.1989. Without informing the family of the deceased, the body was taken to the river and an attempt was made to sub-merge it. Thereafter, in presence of 16 persons, rites were performed followed by cremation. The Trial Court convicted the respondent Nos.3 and 5 along with other accused

persons, which was overturned by the High Court.

The learned Counsel appearing for the appellant and the learned counsel appearing for the State vehemently contended that the body was disposed of in a hurried manner. There was an earlier dowry demand. The prosecution witnesses speak about the carrying of the body of the deceased and the subsequent disposal. The Trial Court has rightly applied the presumption under Section 113B of the Indian Evidence Act read with Section 304B of the IPC. The High Court has re-appreciated the evidence and came to its own conclusion. Per contra, the learned counsel appearing for respondent nos.3 and 5 submitted that the High Court has considered the evidence available on record both oral and documentary in nature. In fact, the acquittal was rendered by placing substantial reliance upon PW3 and PW5. The admission of PW2 that he merely suspected the consumption of poison by the deceased was also taken note of. The letter relied upon by the prosecution was doubted by the Court as the evidence of the expert did not show that it was written by her. Even otherwise, the contents of the letter would only reveal that she was not comfortable at the new place. Similarly, the letter written by the husband of the deceased, who is also no more, was seriously doubted in line of the evidence of the expert.

We have gone through the impugned judgment. The High

Court has undertaken a very elaborate exercise in considering the entire material available on record. As rightly submitted by learned counsel appearing for respondent nos. 3 and 5, PW3 himself has admitted that a telegram was sent to the family of the deceased. It is also the statement of PW5 that about 15 to 16 persons accompanied the dead body. He has further stated that the body, of the deceased was not thrown into the river as alleged but all the rites were performed in a two hours exercise. The evidence of PW2 who claimed to be a doctor initially and thereafter a Pharmacist was duly taken note of. While he has stated that the deceased was murdered without any basis, it is his further deposition that he merely suspected poisoning.

Then, the prevailing ground reality of the village in which the occurrence took place and the religious practices were duly taken note of.

In any case, we do not find anything which is available to implicate these two respondents who are admittedly brother-in-law and the sister-in-law of the deceased. If they merely accompanied the dead body of the deceased then all those 16 persons who were present at the place of occurrence should have been charged also. Suffice it to state that *de hors* the findings rendered by the High Court, there is absolutely no material to implicate these two

persons. An order of acquittal creates a double presumption. We do not find any clinching material to implicate respondent nos.3 and 5, as rightly held by the High Court.

The appeal stands dismissed. No costs.

Pending applications, if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[S.V.N. BHATTI]

NEW DELHI;
JANUARY 18, 2024

ITEM NO.101

COURT NO.13

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S). 526/2017

SANJAY KUMAR BARANWAL

Appellant(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

([PART-HEARD BY : HON'BLE M.M. SUNDRESH AND HON'BLE S.V.N. BHATTI ,JJ.])

Date : 18-01-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Appellant(s) Mr. Shantanu Sagar, AOR
Mr. Prabhat Ranjan Raj, Adv.
Mr. Sidharth Sarthi, Adv.
Mr. Anil Kumar, Adv.
Mr. Gunjesh Ranjan, Adv.
Mr. Vaibhav Jain, Adv.

For Respondent(s) Mr. Anuvrat Sharma, AOR
Ms. Alka Sinha, Adv.

Mr. Kumar Dushyant Singh, AOR

Mr. Kailash Pandey, Adv.
Mr. J. K. Mishra, Adv.
Mr. Ranjeet Singh, Adv.
Mr. Krishna Yadav, Adv.
Mr. Bibhu Dutt Das, Adv.
Mr. Gaichangpou Gangmei, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands dismissed in terms of the signed order which is placed on the file.

Pending applications, if any, shall stand disposed of.

(KAVITA PAHUJA)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)