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CRA-3221-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 29th OF JANUARY, 2026

CRIMINAL APPEAL No. 3221 of 2023

MANSOOR KHAN

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

None for appellant.

Shri Dharmendra Kaurav, Advocate present in Court is appointed as Amicus Curiae to assist the Court on behalf of the appellant.

Shri Manas Mani Verma, Government Advocate for State.
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JUDGMENT

Per. Justice Vivek Agarwal

This appeal under Section 372 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C") is filed by the complainant being aggrieved of judgment dated 20.1.2023 passed by learned Additional Judge to the Court of Additional Sessions Judge-Bareilly, District Raebareilly in Sessions Trial No.79/2020 acquitting the accused persons from the charges under Sections 498A and 304B/34 of the Indian Penal Code, 1860 (for short "I.P.C").

2 The prosecution case in short is that on 7.4.2022, marriage intimation was recorded by Shahruxh to the effect that three years back, his marriage was performed with Mumtaz of Village Chandon. Mumtaz was daughter of Mansoor Khan. They have a son from the marriage aged about 7 months.



When Mumtaz was alone at home, he himself, his mother Jameela Bee, father Sakoor Khan and sister Rubina Bee were harvesting wheat crop in the fields at 6:00 AM. He returned back at home at 2:00 PM to have his lunch and after lunch he had gone back to his fields. At about 3:00 PM, he had received a call from a neighbourer that Mumtaz had put herself on fire. When he returned back, he saw Mumtaz, her son Shahan were already burnt.

3 The Merg No.21/2020 was registered at Arakshi Kendra-Bareli, District Raisen. The postmortem was carried out. The doctor states that the deceased Mumtaz died because of 95% burn injury. The allegation is that because of not giving dowry to Shahrukh and his family members, Mumtaz was tortured, as a result of which, she committed suicide. After recording the statements of the witnesses, Crime No.186/2020 was registered for the offence under Section 304B/34 of the I.P.C. The investigation was carried out. The spot map was prepared. The accused persons were arrested. Viscera of deceased Mumtaz was sent for forensic science laboratory report. The charge sheet was filed. The case was committed to the Court of Sessions. The trial was conducted. The accused persons abjured their guilt and pleaded complete innocence. The learned Trial Court has acquitted the accused persons from the charges under Sections 498A and 304B/34 of the I.P.C.

4 Learned counsel for the appellant submits that present is a case where death of Mumtaz took place within seven years of her marriage with Shahrukh, therefore, presumption is to be drawn against Shahrukh and other accused persons. The death had occurred under unnatural circumstances and the prosecution witnesses have proved demand of dowry and resultant



harassment, which caused the death of Mumtaz, therefore, it is a fit case to record finding of reversal and convict all the accused persons.

5 We have heard learned counsel for the parties and gone through the record.

6 It has come on record that the FIR was lodged on 9.5.2020 i.e. after more than one month of the incident, which took place on 7.4.2020. The FIR is available on record as Exhibit P/9. Naksha Panchayatnama (Exhibit P/2) was prepared in presence of five witnesses out of which one Mansoor Khan (PW.1), father of deceased Mumtaz was present. In the Naksha Panchayatnama, it is not mentioned that there was any cruelty relating to demand of dowry, as a result of which, the deceased Mumtaz committed suicide. The dead body of deceased Mumtaz was handed over to Shahrukh and he had carried out last rites of Mumtaz and their 7 months' old son Shahan.

7 Mansoor Khan (PW.1) is father of deceased Mumtaz. He states that the marriage of Mumtaz with Shahrukh was performed in a community gathering. He alleges that there was dispute with regard to demand of dowry. However, this witness in cross-examination states that he had not made any complaint to any police station during subsistence of the marriage. This witness admits that he had not informed the police while giving his statement as to what was the demand of the accused persons. This witness admits in Paragraph No.5 of his cross-examination after denying suggestion of the defence that Mumtaz was not interested in going to her in-laws' house that he had refused to send Mumtaz to her matrimonial home. This witness admits



that he had not enquired from the neighbours of Mumtaz as to how Mumtaz caught fire. This witness admits that he had not enquired from anybody in the neighbourhood about the incident. This witness in Paragraph No.11 admits that Shahrukh never had any discussion with regard to demand of dowry with him. This witness admits that it was Mumtaz, who had informed him about the demand of dowry. He admits that delivery of Mumtaz was performed in her parental home. He states that he had refused to send Mumtaz to her matrimonial home and then states that the child was small.

8 Yunis Khan (PW.2) states that Mumtaz was his sister. After making allegation with regard to demand of dowry, this witness in Paragraph No.3 of his cross-examination states that Mumtaz stayed in her in-laws' house only for one day and thereafter she was brought back to her parental home. She had stayed with him for 2-4 days and then had gone back to her matrimonial home. He admits that no documentation was carried out in the Panchayat though he states that Ramzan, Kayum Bhai and his family members were present in the Panchayat. This witness again states that he is narrating what was informed to him by Mumtaz. He admits that none of the accused persons had ever interacted with him with regard to demand of dowry.

9 Iqbal Khan (PW.3) states that Mumtaz was his sister. He alleges that Shahrukh and Afzal had killed Mumtaz. This witness was declared hostile. Leading questions were put to him. This witness in cross-examination admits that the marriage of Mumtaz and Shahrukh had taken place in a Sammelan i.e. a community gathering. The marriage was performed without exchange



of any gifts or dowry. He admits that at earlier point of time, Mumtaz had complained about rude behavior of her sister-in-law Rubina Bee but when she came back again, no complaint was made. He admits contradictions in his case diary statement (Exhibit P/4). This witness in Paragraph No.10 admits that Mumtaz used to refuse to go to her matrimonial home, yet she was forcefully sent there. This witness admits that he had no conversation with Shahrukh or Afzal.

10 Fatima Bee (PW.4) states that Mumtaz was her daughter. After having stated about demand of dowry in Paragraph No.4 of her cross-examination, this witness admits that marriage of Mumtaz was performed with Shahrukh without any exchange of any gifts or dowry. This witness in Paragraph No.6 admits that she is narrating whatever has been informed to her by her husband or children. She admits that the incident took place during Lockdown. The family members of Shahrukh are working as agricultural labourers. At the time of the incident, harvesting of wheat crop was going on. They had not taken any information from Village Kamton. They had not informed anybody in their village or society about the incident. This witness admits that Mumtaz wanted to stay at Bankhedi but this was not accepted by Shahrukh. This witness in Paragraph No.8 states that few days prior to the date of incident, Mumtaz had informed her that she was residing happily.

11 Gayatri Bai (PW.6) admits that marriage of Mumtaz was performed in a Sammelan. The family members of Mumtaz are poor. She admits that Mumtaz was not interested in going to her matrimonial home and even her parents had refused to send her to her matrimonial home. No report was



lodged that Mumtaz was forcefully taken to her matrimonial home.

12 Manzoor Khan (PW.7) states he had signed Panchnamas (Exhibits P/1 & P/2) at the instance of the police personnel and they had not read over the documents to him.

13 Narbada Prasad Sahu (PW.8) states that he stays on the rear side of the Shahrukh's house. He had never seen any dispute between Shahrukh and Mumtaz. The police had obtained his signatures on blank papers and they had never read over to him.

14 Altaf Mansoori (PW.9), another witness of seizure, states that the police had obtained his signatures and those documents were never read over to him.

15 Naib Tahsildar Neelu Jain (PW.10) states that she had not visited the place of the incident on 7.4.2020. She states that she had prepared Naksha Panchayatnama on 8.4.2020, which contains her signatures.

16 Suman Bai (PW.11) states that she had not narrated what was stated before the Court in her case diary statement (Exhibit D/1). She admits that she has been tutored by the brother of Mumtaz and she was giving statement as per that tutoring.

17 Asgar (PW.12) states that he was a witness of Nikah of Shahrukh and Mumtaz. The marriage was performed in the year 2017-218 in a Sammelan without any exchange of dowry.

18 Dr.Sajan Jee Murgan (PW.13) states that he had conducted the postmortem on the body of deceased Mumtaz alongwith Dr.Sushma Adhikari. The deceased died because of cardio respiratory arrest due to shock



and multi organ dysfunction due to the burning. The death was homicidal/accidental. The victim was carrying 95%-100% burns. There were no other marks except burning.

19 Sub Inspector Sahadat Ali (PW.14) states that merg intimation was received by him as was given by Shahrukh and he had registered the FIR. He admits that at the time of the incident, the family members and the accused Shahrukh had gone for harvesting wheat crop. He admits that some persons from the Colony had called Shahrukh on telephone to inform him that Mumtaz had put herself on fire. By the time, Shahrukh returned back, Mumtaz and her son Shahan had already burnt. He could not state as to what was the cause for Mumtaz to put herself on fire.

20 Retired S.D.O.P Ashok Ghanghoria (PW.16) states that he had carried out investigation and had prepared the spot map etc. This witness in Paragraph No.7 categorically admits that he had recorded the statements of Mansoor, Yunis, Iqbal & Fatima Bee on 11.5.2020. This witness in Paragraph No.8 admits that in the statements of Mansoor, Yunis, Iqbal and Fatima Bee, it is not mentioned that the accused persons had ever visited the Village Kamton or had met or discussed the aspect of the victim being tortured for demand of money either with Patel, Sarpanch, Chowkidar or any other resident of the village. He admits that he had not taken the statements of Patel, Sarpanch, Chowkidar or residents of Village Kamton. Accused Afzal is not a resident of Village Kamton. He resides in Udaipura. Sakoor Khan, aged about 90 years, was present at home. The arrest was made on 3.6.2020.



21 Lalchandra Kushwaha (DW.1) states that Shahrukh is his neighbour. He states that Mumtaz was residing cordially in her matrimonial home. Mumtaz wanted to reside separately in a rented house. Shahrukh had refused to leave his parents when this witness had counselled both Shahrukh and Mumtaz. This witness admits that Shahrukh, his parents and sister had gone to harvest wheat crop when the incident took place.

22 When all these pieces of evidence are taken into consideration then it is evident that from none of the prosecution witnesses, any demand was made by the accused persons. All the prosecution witnesses have admitted that they were informed by Mumtaz that she was tortured for want of dowry. All the prosecution witnesses have also admitted that the marriage of Mumtaz was performed with Shahrukh in a Sammelan without exchange of any gift or dowry. It has come on record that the family members of Mumtaz are poor. It has also come on record that Shahrukh and his family members were working as agricultural labourers. Mumtaz wanted to reside separately and that was the cause of discord.

23 When all these facts are taken into consideration then non-fulfillment of the demand to live separately from the parental home may be a cause of anguish resulting in the unfortunate incident of a young woman setting herself and her infant child on fire but at the same time, if Section 113B of the Indian Evidence Act, 1872 is not proved then conviction of the accused persons for the offence under Section 304B of the I.P.C. cannot be recorded.

24 All the facts and evidence have been rightly appreciated by learned Trial Court and the learned Trial Court has recorded a finding of acquittal,



which does not call for any interference especially when the judgment of the Apex Court in **Mahabir and Others versus State of Haryana 2025 SCC Online SC 184** is taken into consideration whereby in Paragraph No.42, the Apex Court has observed as under:-

"42. This Court in **Ganesha v. Sharanappa & Anr. reported in (2014) 1 SCC 87**, in para 11, clarifies that :-

... Interference with the order of acquittal is called for only in exceptional cases – where there is manifest error of law of procedure resulting into miscarriage of justice, and, where the acquittal has been caused by shutting out evidence which otherwise ought to have been considered or where material evidence which clinches the issue has been overlooked. In such exceptional cases, the High Court can set aside an order of acquittal, but it cannot covert it into one of conviction. The only course left to the High Court in such exception cases, is to order retrial.”

25 When the law on the subject is taken into consideration then admittedly we find no illegality in the impugned judgment judgment dated 20.1.2023 passed by learned Additional Judge to the Court of Additional Sessions Judge-Bareilly, District Raebareilly in Sessions Trial No.79/2020 acquitting the accused persons from the charges under Sections 498A and 304B/34 of the I.P.C.

26 Accordingly, this appeal fails and is dismissed.

27 Let record of the Trial Court be sent back forthwith.

28 Shri Dharmendra Kaurav, learned Amicus Curiae, is entitled to receive remuneration from the Madhya Pradesh State Legal Services Authority for



the valuable assistance rendered to this Court in the adjudication of the present appeal.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE

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