

**(2013) 03 P&H CK 0101**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CRM A-88-MA of 2013**

|                             |    |            |
|-----------------------------|----|------------|
| Balwinder Singh and Another | Vs | APPELLANT  |
| State of Punjab and Others  |    | RESPONDENT |

---

**Date of Decision :** 11-03-2013

**Acts Referred:**

Criminal Procedure Code, 1973 (CrPC) — Section 313  
Penal Code, 1860 (IPC) — Section 304B

**Citation :** (2013) 2 DMC 696

**Hon'ble Judges :** Jasbir Singh, J;Inderjit Singh, J

**Bench :** Division Bench

**Advocate :** T.S. Sangha with Mr. H.S. Sangha, for the Appellant;

**Final Decision :** Dismissed

---

## Judgement

Jasbir Singh, J.—Vide judgment dated 19.12.2012, respondent No. 2 Amandeep Singh was convicted for commission of an offence u/s 304B, IPC whereas his parents i.e. respondent Nos. 3 and 4 were acquitted of the charges framed against them. Marriage between respondent No. 1 and Gagandeep Kaur was solemnized on 14.3-2010. She died on 8.5.2010. Process of law was started on a statement made by the applicant Balwinder Singh (P.W.3). FIR No. 114 dated 8.5.2010 was recorded in Police Station City Rajpura against the respondents-accused. The Trial Judge has noted the following facts regarding case of the prosecution:

That the marriage of Amandeep Singh accused was solemnized with Gagandeep Kaur, daughter of Balwinder Singh, on 14.3.2010. Before the marriage, the accused had demanded a Swift Car and the same was got booked by the complainant. The marriage party was looked after well and about 20 Tolas gold articles along with other articles were given at the time of marriage, as per demand of the accused. After some time of the marriage, the accused started maltreating Gagandeep Kaur on account of less dowry. Accused Amandeep Singh had been saying that his father is a gazetted officer and she has been married in

a big family. As and when Gagandeep Kaur visited her parental house, she had been narrating all the incidents to her parents. Balwinder Singh complainant along with his wife had been trying to persuade Amandeep Singh accused not to maltreat Amandeep Kaur but he had been raising demand of car and other articles. Amandeep Singh was impressed upon that there was shortage of cars and the demand will be met with shortly. One day, Gagandeep Kaur informed her father on telephone that her husband had given beatings to her in the presence of her father-in-law and mother-in-law and requested the complainant to persuade the accused and to honour the demand raised by them. On 2.5.2010, Dr. Rupinder Kaur, elder sister of Gagandeep Kaur, informed Amandeep Singh accused and his parents that the demand will be met with shortly and they should not torture Gagandeep Kaur, but to no effect. Thereafter, Gagandeep Kaur again telephonically informed her father and asked as to whether the demand will be met with after her death and whatsoever demand is being raised by the accused should be honoured, so that she may live comfortably. On 5.5.2010, at about 6 a.m. the mother of Gagandeep Kaur visited the house of her in-laws and requested all the accused not to maltreat Gagandeep Kaur and ensured that Swift Car will be given within a week along with other articles. On 8.5.2010, at about 8 a.m. the complainant received telephonic call from Ajaib Singh that Gagandeep Kaur was not speaking and are taking her to hospital and that he should reach immediately and after some time, Amandeep Singh informed him on telephone that Gagandeep Kaur has died.

On getting a telephonic call regarding death of their daughter the applicants reached her in-laws house. The Investigating Officer Inspector Amrik Singh went to the place of occurrence, prepared inquest report upon the dead body and sent it for post-mortem examination. He also got the place of occurrence and the dead body photographed. He prepared rough site plan with correct marginal notes. Respondent No. 1 was arrested on 9.5.2010. On a disclosure statement made by him, dowry articles were recovered, which were taken into possession against recovery memos. The Investigating Officer recorded statements of the witnesses and on completion of investigation, final report against accused Amandeep Singh was put in Court, whereas Ajaib Singh and Devinder Kaur accused were declared as proclaimed offenders. Copies of the documents were supplied to the respondent-accused as per norms. Case was committed to the competent Court for trial on 15.10.2010. Supplementary challan against accused Ajaib Singh and Devinder Kaur was filed in the Court. The respondent accused were charge-sheeted, to which they pleaded not guilty and claimed trial. The prosecution produced 33 witnesses and also brought on record documentary evidence to prove its case. On conclusion of prosecution's evidence, separate statements of all the accused were recorded u/s 313, Cr.P.C. Incriminating circumstances appearing against them in the evidence of the prosecution, were put to them, which they denied, claimed innocence and false implication. They also led evidence in defence. The Trial Judge on appraisal of evidence found respondent Nos. 3 and 4 not guilty and accordingly their acquittal was ordered,

whereas respondent No. 1 was convicted and sentenced for commission of an offence u/s 304B, IPC.

2. To say that death was unnatural reference has been made to statement made by Dr. Gurcharan Singh Sidhu (P.W.2). After discussing the evidence, it was rightly noticed that death was not the result of epileptic attack.

3. The parents respondent Nos. 3 and 4 were given benefit of doubt by noting that the allegations levelled against them were only general in nature. No specific instance of harassment to the deceased by them was brought on record. It was observed as under:

The learned Defence Counsel has further raised the plea that there is no immediate demand of dowry by the accused Ajaib and Devinder Kaur nor there is any evidence that any specific act of harassment was there on their part. In this regard, he referred to the judgments cited as Amar Singh Vs. State of Rajasthan, (SC Joginder Singh and others Vs. The State of Haryana, ) Kans Raj Vs. State of Punjab and Others, Kans Raj v. State of Punjab. Considering these arguments in the light of the evidence on record, I find force in these arguments because as per the law laid down by the Hon"ble Apex Court, mere demand is not sufficient to conclude that the parents are guilty for the same moreover these are general type of allegations without there being any specific overt act on the part of parents in harassing the deceased for demand of dowry. For the fault of the husband, other relations cannot in all the cases be held involved for demand of dowry. Applying this proposition to the facts of the present case, it is observed that P.W.3 Balwinder Singh, father of the deceased and complainant has not uttered even a single word qua the demand of Rs. 5 lacs by these accused while making statement before the police and not even while deposing as P.W.3 in Court. So far as the version coming in the statements of P.W.13 and P.W.14 is concerned, they have claimed that all the accused made the demand of Rs. 5 lacs from P.W.13 Paramjit Kaur but this fact has not been stated by P.W.3, who is none else than the husband of P.W.13 and father of P.W.14. Moreover there is no evidence against the accused Ajaib Singh and Devinder Kaur that they had harassed or treated the deceased with cruelty in pursuance of any such demand from the deceased. These allegations being general in nature cannot be made basis of the conviction of Ajaib Singh and Devinder Kaur. There is no specific cogent evidence adduced on record by the prosecution that the accused Ajaib Singh and Devinder Kaur were harassing or maltreating the deceased on account of any demand of dowry, thereby leading to her unnatural death. Thus the version of prosecution qua accused Ajaib Singh and Devinder Kaur is found doubtful and giving them the benefit of doubt, both these accused Ajaib Singh and Devinder Kaur are hereby acquitted from the charges framed against them.

4. This Court feels that the view taken is as per evidence on record. Falsehood has been separated from truth by taking note of evidence on record. Respondent No. 2 was rightly convicted, whereas his parents have been acquitted. No misreading of evidence has been indicated at the time of arguments.

5. The law to interfere in a judgment of acquittal is well settled. It is only in those cases where there are compelling circumstances and judgment under challenge is perverse, the appellate Court can interfere with an order of a acquittal. The appellate Court is supposed to bear in mind the presumption of innocence of the accused and that the Trial Court's acquittal order further strengthen that presumption. Interference in a routine manner, where other view may be possible, should be avoided unless there are good reasons to do the same.

6. Their Lordships of the Supreme Court in Allarakha K. Mansuri v. State of Gujarat, II (2002) SLT 21 : I (2002) CCR 163 (SC) : 2002 (1) RCR (Criminal) 748, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

7. A Division Bench of this Court in State of Punjab Vs. Hansa Singh while dealing with an appeal against acquittal, has opined as under:

We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in Ashok Kumar Vs. State of Rajasthan, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a misreading of the evidence. and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

Similarly, i State of Goa Vs. Sanjay Thakran and Another, and in Chandrappa and Others Vs. State of Karnataka, it was held that where, in a case, two views are possible, the one which favours the accused has to be adopted by the Court.

8. In Urinal Das & others v. The State of Tripura, III (2011) CCR 469 (SC) : VI (2011) SLT 779 : 111 (2011) DLT (CrI) 806 (SC) : 2011 (9) SCC 479, decided on September 5, 2011, the Supreme Court, after looking into many earlier judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under: "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. When the Trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/ report of ballistic experts, etc., the appellate Court is competent to reverse the decision of the Trial Court depending on the materials placed." Similarly, in the case of State of Rajasthan Vs. Shera Ram @ Vishnu Dutta, , the Hon'ble Supreme Court has observed as under:

7. A judgment of acquittal has the obvious consequence of granting freedom to the accused. This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the Court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal.

8. The penal laws in India are primarily based upon certain fundamental procedural values, which are right to fair trial and presumption of innocence. A person is presumed to be innocent till proven guilty and once held to be not guilty of a criminal charge, he enjoys the benefit of such presumption which could be interfered with only for valid and proper reasons. An appeal against acquittal has always been differentiated from a normal appeal against conviction. Wherever there is perversity of facts and/or law appearing in the judgment, the appellate Court would be within its jurisdiction to interfere with the judgment of acquittal, but otherwise such interference is not called for.

Thereafter, in the above case a large number of judgments were discussed and then it was opined as under:

10. There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion of this Court is that there is no substantial difference between an appeal against conviction and an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the High Court is a reasonable one and the conclusion reached by it had its grounds well set out on the materials on record, the acquittal may not be interfered with. Thus, this fine distinction has to be kept in mind by the Court while exercising its appellate jurisdiction. The golden rule is that the Court is obliged and it will not abjure its duty to prevent miscarriage of justice, where interference is imperative and the ends of justice so require and it is essential to appease the judicial conscience.

Counsel for the applicant has failed to indicate any misreading of oral as well as documentary evidence on record by the Trial Court. No case is made out for interference.