



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Reserved on: 18th March, 2025**

Pronounced on: 27th June, 2025

+ **CRL.REV.P. 457/2009**

SMT. RAMESHWARI
W/o Late Kishen Lal
R/o J-555, Shakurpur
Delhi

.....Petitioner

Through: Ms. Rakhi Dubey, Advocate along with
Petitioner in person.

versus

1. STATE
Government of NCT of Delhi
2. PREM KUMAR
S/o Sh. Om Prakash
R/o H.No.897/898, JJ Colony,
Shakur Pur,
Delhi
3. AJAY KUMAR
S/o Sh. Tara Chand
R/o J-563, JJ Colony
Shakur Pur,
Delhi

.....Respondents

Through: Mr. Yudhvir Singh Chauhan, APP for
State with SI Ali Akram, P.S. Patel Nagar.
Mr.Rajesh Khanna, Advocate for R-4.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

CRL.M.A. 9628/2009 (condonation of delay)

1. Application under Section 5 of the Limitation Act read with Section 482 of the Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) has



been filed on behalf of the Petitioner seeking condonation of delay of 401 days in filing the accompanying the Criminal Revision Petition bearing CRL. REV. P. 457/2009.

2. For the reasons stated in the Application and in the interest of justice, the delay of 401 days in filing the accompanying Revision Petition is condoned and the same is allowed.

3. The Application is disposed of accordingly.

CRL.REV.P. 457/2009:

4. Criminal Revision Petition under Section 397 read with Section 401 Cr.P.C., has been filed on behalf of the Petitioner/Complainant, Smt. Rameshwari against the *Judgment dated 12.06.2008* whereby the learned ASJ, Delhi *has acquitted Prem Kumar, Shiv Kumar and Ajay Kumar*, the accused/Respondent Nos. 2, 3 and 4 respectively, for the offences under Section 306 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*).

5. Briefly stated, on 19.11.1999, upon receipt of DD No. 16A, SI Shri Kumar along with Constable, Mr. Sukan Pal, went to Madan Sweets, Ranjit Nagar, Delhi where they found one person hanging from the ceiling fan in a room. The area SHO and ACP were informed about the incident. The room was broken open. The photographs of the scene were taken. The deceased was found to be one Mr. Arjun, whose identity was established from the Driving License recovered from his possession.

6. Smt. Rameshwari, mother of the deceased Arjun/Petitioner, gave a Complaint that her son, Arjun aged about 26 years, had a relationship with Ms Rekha, aged about 22 years, for more than seven years. On the day of Karvachauth, Rekha came and touched her feet and informed her that she



has got married to Mr. Arjun in a temple. She further stated that she would not get married to any other person and if she refused or informed anybody about this, she would commit suicide. However, Mr. Kallu and Mr. Ajay, the two brothers of Ms. Rekha and one person who were their friend, started threatening her son to leave their sister or else, they would harass him to such an extent that he would be compelled to commit suicide.

7. She further asserted that she belongs to “Jatav” family while Rekha belongs to a “Brahman” family, on account of which the brothers of Ms. Rekha, were annoyed with her son. The family members of Ms. Rekha, were not happy with this marriage. The two brothers and their friend started threatening her son, Mr. Arjun. Consequently, Mr. Arjun and Ms. Rekha went to some place in Shakurpur, on 11.11.2009.

8. She received a phone call on 19.11.2009 from Rekha that Mr. Arjun had gone to meet his friend, Mr. Rakesh, for financial assistance. Subsequently, in the evening at about 6:30 p.m., the Complainant was informed by the Policeman to reach PS Patel Nagar. When she reached there, she found her son lying dead. She submitted that her son was being threatened by three Respondents. They had taken him to the hotel and apparently, the hotel owner is also involved in the death of her son. She suspected the Respondents to be responsible for the suicide of her son and submitted that the legal action be initiated against them.

9. On her Complaint, *FIR No. 854/1999 dated 25.11.1999 under Section 341/342/306/34 of IPC was registered in Police Station Patel Nagar*. Due investigations were carried out and the post-mortem of the deceased was conducted. The Statements of the witnesses were recorded. The ***Charge-Sheet against the four Accused, namely, Narender Kumar, Prem Kumar,***



Shiv Kumar and Ajay Kumar, was filed under Section 341/342/306/34 IPC.

10. ***Learned Sessions Judge discharged Narender Kumar vide Order dated 10.07.2008, the Charges against the three Respondents i.e. Prem Kumar, Shiv Kumar and Ajay Kumar, were framed under Section 306/34 IPC.***

11. The Prosecution in support of its case, examined 12 witnesses. PW-2 Rameshwari was the mother, PW-4 Sudhir was the cousin brother of the deceased and PW-2 Smt. Santosh was the neighbour, who all deposed about the affair between Rekha, Sister of two respondents and Arjun, son of PW-1, but were all cross examined by the Ld. Add. PP. The other material witness was PW-12 Inspector Parvati, the IO. Their detailed testimony shall be considered subsequently.

12. The *Statement of the Accused persons were recorded under Section 313 Cr.P.C.*, in which they pleaded their innocence and all of them claimed that they had been falsely implicated in this case.

13. Learned ASJ *vide* the Impugned Judgment dated 12.06.2008 concluded that no offence was proved against the Respondents and consequently, acquitted them.

14. ***Aggrieved, the Complainant, Smt. Rameshwari, mother of the deceased, Mr. Arjun, has filed the present Appeal.***

15. The ***grounds of challenge*** are that the learned ASJ has overlooked the material evidence and has not appreciated it in the right perspective. The evidence available has wrongly been disbelieved to acquit the Appellants.

16. The ***Respondent No. 4, Ajay Kumar*** in his Reply-cum-Objections submitted that the Impugned Judgment has been passed after due



consideration of facts and circumstances and the available material on record. The Prosecution has miserably failed to prove its case and the Respondents have been rightly acquitted by the learned ASJ.

17. A **Preliminary Objection** is taken that the Impugned Judgment/Order is dated 12.06.2008 while the present Revision Petition has been filed in July/August, 2009 i.e. after a delay of one year, which has not been explained by the Petitioner and the present **Appeal** is liable to be dismissed on this ground itself.

18. Furthermore, the Apex Court in D. Stephens vs. Nosiballa (1951 SCR 284) had observed that the revisional jurisdiction under Section 439, Cr.PC., is not to be exercised lightly when it is invoked by a private Complainant against the Order of acquittal, against which the Government has a right to Appeal under Section 417 Cr.P.C. It must be exercised only in exceptional cases where the interests of public justice require interference for the correction of a manifest illegality, or the prevention of a gross miscarriage of justice.

19. The Apex Court in the Case of K. Chinna Swamy Reddy vs. State of Andhra Pradesh, AIR 1962 SC 1788 had held that though it is open to the High Court in Revision to set aside the Judgment of acquittal at the instance of private parties even though the State has not preferred an Appeal, but this jurisdiction should be exercised only in exceptional cases, when there is some glaring defect in the procedure or there is a manifest error on the point of law leading to flagrant miscarriage of justice.

20. It is further submitted that the learned ASJ had duly appreciated the evidence to arrive at the conclusion of acquittal. In the case of Dhirendra Nath Mitra and Anr. vs. Mukanda Lal Sen, AIR 1955 SC 584 the Apex



Court had observed that it may well be that a different view may be taken on the evidence, but that is not enough to justify interference in revision with the Order of acquittal on the application of the private parties.

21. Similar observations were made by the Apex Court in the case of *Ramu vs. Jagannath*, 1995 SCC (CrI) 181.

22. Likewise, in *Vimal Singh vs. Khuman Singh and Anr.*, AIR 1998 SC 3380, the Supreme Court of India observed that the High Court must not exercise its revisional jurisdiction under Section 401 Cr.P.C., to interfere with Judgments of acquittal passed by the Trial Court, unless there is a manifest error of law or procedure.

23. Similar views have been expressed by the Apex Court in *Hydru vs State of Kerala*, (2004) 13 SCC 374; *Baldev Raj vs. Chander Prakash*, (2007) 6 AD Delhi 617 and *Bindeshwari Prasad Singh vs. State of Bihar*, AIR 2002 SC 2907.

24. It is, therefore, submitted that there is no ground to interfere with the Order of acquittal, which is based on due appreciation of evidence.

25. ***On merits***, all the averments made in the Appeal, are denied.

26. ***Written Submissions have been filed on behalf of the Respondent No. 4, to similar effect.***

27. **Submissions heard and the Record Perused.**

28. The case of the prosecution was that on 19.11.1999, Arjun was found hanging in an Hotel Room, which was suspected to be murder by Smt. Rameshwari, mother of the deceased.

29. The main witness of Prosecution was the testimony of PW-3, Smt. Rameshwari, the Complainant. She deposed that her son, Mr. Arjun had



been in love with Ms. Rekha, for the last many years. The Respondent, Shiv Kumar, was the brother of Ms. Rekha. On the day of Karvachauth, she came to know about the marriage of Ms. Rekha with her son, Mr. Arjun, when she came to touch her feet. Thereafter, her son and Ms. Rekha, left the house. According to her, the marriage between Ms. Rekha and Mr. Arjun, was solemnised by Mr. Sudhir, son of her elder sister and thereafter, they both were sent to the Village, where they stayed for seven days in the house of her *Jeeja* (brother-in-law). She deposed that her son was killed by the Respondents, Shiv Kumar and Ajay along with Vijender, Vijay, Vinod and Pramod, the sons of *Tau* of the Respondent, Ajay Kumar. The Respondent, Prem Kumar was stated to be the friend of Shiv Kumar and Ajay Kumar. She had given her Statement Ex.PW-3/A to the Police, and was not aware whether it was correctly recorded. She asserted that it was not recorded correctly by the Police.

30. She, in her cross examination made significant admissions that on 11.11.1999, her son along with Ms. Rekha, left the house. She further admitted that on 19.11.1999, a phone call was made by Ms. Rekha that the deceased Mr. Arjun had gone to Patel Nagar, for taking financial help from his friend, Mr. Rakesh. She denied that her son died because of the torture of the Respondents. She, however, claimed that they had murdered her son. She further reasserted that her brother-in-law, Mr. Jamna Prashad and his son, Deepak, were also involved in this case. It is Jamna Prashad, who had kept her son in his house for seven days. She was confronted with her Complaint where these facts had not been mentioned. She was duly cross-examined on behalf of the Respondents wherein she reiterated that she had



told the Police that her son had been killed by the Respondents and other named persons.

31. Though a pained and hapless mother, but her entire testimony merely reflects her suspicion which too is conjectural, on the respondents as they happened to be Ms. Rekha's brothers and their friend and who according to PW-1, Rameshwari were inimical to the relationship between her and her son, being from different community. It may be sufficient to establish **Motive**, but she in no manner, has been able to prove even one link in the chain of alleged commission of offence.

32. The **second material witness was PW-4, Sudhir Kumar**, who deposed that the deceased, Arjun, was his cousin. He used to have quarrels with his mother and for this reason, he used to rarely live in the house. He had told him that he was having a love affair with a girl Rekha. On the day of the incident, he was getting ready to go to the marriage of his friend, when Patel Nagar Police came to his house and inquired from his brother, about Arjun and also that he had met with an accident. Beyond this, he did not state anything. He was cross-examined by the Additional PP, wherein he denied that about 15-20 days before the demise, the deceased had made a phone call to him requesting him to meet at Jhandewalan Temple. While he admitted that he knew Ms. Rekha since his childhood and that the deceased used to generally say that he would marry her in the temple, but he denied that the brothers of Ms. Rekha had threatened the deceased.

33. The testimony of **PW-4** also establishes the proximity between the deceased and Sister of the Respondents, but there is not a whisper about any evidence, whether direct or circumstantial, linking the respondents to the



commission of alleged murder or even of abetment to suicide by the deceased.

34. The **third material prosecution witness was PW-2, Smt. Santosh.** She being a neighbour in the locality, deposed that on the festival of *Karvachoth*, she saw Ms. Rekha in the house of the Complainant, Smt. Rameshwari, touching her feet. She had also heard Smt. Rameshwari, telling her not to touch her feet as she was like her daughter. ***She in her cross-examination by the learned APP,*** admitted that the deceased, Arjun was in love with Ms. Rekha, who was the sister of Respondents, Ajay and Kallu. Nothing further could be elicited from her cross-examination either by the Prosecution or by the Respondents. However, it emerged in her cross-examination by the Respondents that her deposition in the Court was in complete variance to her Statement recorded under Section 161 Cr.P.C.

35. The testimony of **PW-2, Smt. Santosh also does not establish any incriminating circumstance against the Respondents.** She also could not bring forth any circumstance of torture or murder of the deceased by the accused persons.

36. The ***other material witness is PW-12, Inspector Parvati,*** PCR, PHQ, who deposed that on 20.01.2000, investigations in the case were marked to her. She went to the house of the Complainant and Smt. Rameshwari handed her two love Letters written in Hindi, which were taken in possession *vide* Memo Ex.PW-12/A. She had obtained the specimen signatures of Ms. Rekha, for the comparison and to ascertain if she had written those Letters to the deceased. She admitted that the *specimen hand writing* of Ms. Rekha, which was sent to Hand Writing Expert. The Hand Writing Expert Report from FSL Calcutta, was exhibited as PW-12/B.



37. Her testimony also proved that two love Letters were written by Ms. Rekha, but it is only corroborated of the fact that the deceased was having an affair with Ms. Rekha for the last many years and they had intended to get married. There is no other evidence brought forth in the entire prosecution evidence. No material evidence emerged in regard to the alleged torture of her son, Mr. Arjun, by the Respondents nor was there any evidence to explain the reasons why her son committed suicide.

38. None of the witness as examined by the Prosecution, could establish that there was any kind of threat, torture or intimidation to the deceased Arjun, by any of the Respondents. There is no act whatsoever imputed to any of the Respondents, which can be held to have **instigated, aided or abetted** the deceased in any manner whatsoever, to commit suicide. There is not an iota of evidence in respect of the alleged torture, threat or intimidation extended by the Respondents.

39. *To conclude*, the learned ASJ has rightly observed that the mere suspicion or conjecture, sans the legal proof, cannot be permitted to demolish the facts, which otherwise have been proved by legal and convincing evidence.

40. The Respondents have been rightly acquitted for the offence under Section 306/34 IPC, by the Ld. ASJ. There is no merit in the present Revision Petition, which is hereby dismissed.

41. The Criminal Revision Petition along with pending Application(s), is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE



2025:DHC:5153



JUNE 27, 2025/RS