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Crl.A.No. 311 OF 1999

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ITEM NO.104

COURT NO. 10

SECTION IIA

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRL. APPEAL NO. 311/1999

NAJRA

Appellant

Versus

STATE OF MADHYA PRADESH

Respondent

(With appln. for exemption from filing O.T. and
Office Report)

Date. 08.02.2001 This/These Petition(s) was/were called on
for hearing today.

CORAM:

HON'BLE MR.JUSTICE M.B. SHAH
HON'BLE MR.JUSTICE D.P. MOHAPATRA

For the Appellant(s)

Mr.N.R. Choudhury,Adv.,
Mr.J.P. Pandey,Adv.,
Mr.Somnath Mukherjee,Adv.

For the Respondent(s)

Mr.K.N. Shukla,Sr.Adv.,
Mr.Prashant Kumar,Adv.,
Mr.Uma Nath Singh,Adv.

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

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The appeal is allowed, impugned order passed by the
High Court confirming the conviction of the appellant is
set aside. The appellant be released forthwith if not
required in any other case.

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(Vijay Kumar Sharma)
Court Master

(K.K. Chadha)
Court Master

Signed order is placed on the file.

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IN THE SUPREME COURT OF INDIA
CRL. APPELLATE JURISDICTION

CRIMINL APPEAL NO. 311 OF 1999@@
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NAJRA

Appellant

Versus

STATE OF MADHYA PRADESH

Respondent

O R D E R@@
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.....L.....I.....T.....T.....T.....T.....J.....
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Being aggrieved and dissatisfied by the judgment and order dated 26.6.1998 passed by the Gwalior Bench of Madhya Pradesh High Court in Criminal Appeal No.276/82 confirming the conviction order passed by the Vth Addl.Sessions Judge, Gwalior in S.T.No.88/82, the accused-appellants preferred the special leave petition before this Court. When the matter came up for admission this Court granted leave insofar as the present appellant namely Najra wife of Najar Mohd. is concerned and dismissed the special leave petition qua rest of the accused.

The Addl.Sessions Judge arrived at the conclusion that accused were guilty for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. For that purpose the learned Judge relied upon the

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prosecution story that the daughter (Talat Nasreen) of complainant (Inayat Ali Khan PW-1) was married to accused Shakil in the year 1980. Accused Babu Khan is the father of accused Shakil. Mrs.Najra (appellant) and Mrs. Husna are the wives of accused Babu Khan. Accused Kumari Shaheen is the daughter of the accused Babu Khan. Undisputedly, the incident took place on 12.4.1981 where it is stated that death of Talat Nasreen occurred in the house of accused persons in the ground floor. Because of death of Talat Nasreen, on behalf of the accused, Mohd. Ibrahim @ Achche Mian and Khurshid Khan were sent by car to the house of the complainant to inform him. They reached Bhind on the next day morning at about 6-6.15 a.m. and came to Gwalior at about 8-8.30 hours. They reached the graveyard where the procedure for burial was going on. The prosecution has led evidence with regard to the demand of dowry and that the father of the deceased was not in a position to meet the said demand and some threat was given that if the dowry demand is not met then deceased would not go alive from their house.

For our purpose, it is not necessary to discuss the entire evidence because this appeal is confined only with regard to the role played by the appellant-Nazra. The conviction of the appellant and other accused is solely

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based on circumstantial evidence. With regard to the circumstantial evidence, the allegation against the present appellant is that she wrote one letter demanding some articles which were to be filled in in the lap of the deceased for GAUD BHARAI ceremony. Prosecution has@@
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also led evidence to the effect that before few days of the incident, the appellant uttered the words that if the said articles are not given then the deceased would not go alive from their house. Except this, there is no other evidence on record to connect the accused with the crime. It has been also pointed out that at the time of the occurrence appellant was not in the house. For this purpose, the prosecution has produced on record the evidence of Smt. Shanta Singhal (PW-24) who has specifically stated that the appellant was a Staff Nurse in J.A. Group of Hospitals at Gwalior and on 12.4.1981 she was on duty from 1 p.m. to 7.p.m. and to that effect there is entry in the duty register.

Considering the aforesaid evidence on record, in our view, it is difficult to arrive at the conclusion that the appellant is guilty for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. Prosecution itself has led evidence on record

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to the effect that the appellant was in the hospital on duty at the relevant time when the death of the deceased Talat Nasreen took place. Alleged subsequent conduct of the appellant for which she is acquitted for the offence punishable under Section 201 IPC would be of no relevance for connecting the accused with the crime for which she is convicted. The evidence on record including circumstantial evidence does not in any way connect the accused with the offence punishable under Section 302 read with Section 34 IPC.

Hence, the appeal is allowed, impugned order passed by the High Court confirming the conviction of the appellant is set aside. Appellant is acquitted for the offences for which she was convicted. Appellant be released forthwith, if she is not required in any other case.

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.....J.
(M.B.Shah)

.....J.
(D.P. Mohapatra)

New Delhi,
February 8, 2001.