

# Go beyond prosecution's case for the truth: court

Harish V. Nair  
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UNCOVERING THE truth has never been easy. More so in courts. Observing that the "vindictive" attitude of complainants in various cases is leading to the use of false evidence, the Delhi High Court has warned that "the task of criminal courts to find the truth is becoming increasingly difficult". And the result is that at times innocent people are convicted.

So what is the solution? The court prescribes that evidence submitted by the prosecution should not be taken at face value and every effort must be made to get to the bottom of the case. It says evidence is not everything and the proof, which the judge has to admit, is the one which "affirms moral certainty".

"After considering the entire evidence, if the court feels that it is being confronted by an incredible version, the benefit of the doubt should go to the accused," said Justice Shiv Narayan Dhingra.

He made these observations recently while acquitting two persons—Surendra and Ashwini—convicted by a trial court of harassing a woman, Mamta, for dowry and of trying to kill her. Surendra is Mamta's husband and Ashwini her brother-in-law.

Justice Dhingra gave them the benefit of the doubt after finding that Mamta's version was "wholly incredible". Mamta married Surendra on February 2, 1992.

She alleged that on the night of March 8 he had beaten her up for not bringing enough dowry and had then thrown her from the third floor of their residence with the help of Ashwini.

The court not only perused the "evidence", but also studied the atmosphere at her husband's home. The judge concluded that there might have been a sudden quarrel between the two over some other issue after which she tried to commit suicide by jumping from the building. The court found nothing to prove dowry harassment. Another thing that went against Mamta was that there were no complaints from her parents.

The judge pointed out that the couple had happily returned from a honeymoon a few days before the incident. Mamta's relationship with Surendra's family was also excellent and he always accompanied her whenever she visited her parents. "If she was being regularly beaten up, there was no reason for her to come back to her husband's home," said the court.

Justice Dhingra said that there was proof that the relationship between the couple had been cordial before Surendra, according to Mamta, had thrown her out of the building. "The entire story put forward by her does not inspire confidence. The court must give advantage to the accused if, after considering the entire evidence, a judge conscientiously and reasonably entertains a grave doubt regarding the guilt of the accused," said Justice Dhingra.

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— High Court while acquitting a man and his brother in a dowry harassment case

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