



CRA-S-2228-SB-2004 and  
CRR-771-2005

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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRA-S-2228-SB-2004 and  
CRR-771-2005  
Reserved on: 19.05.2025  
Pronounced on:- 29.05.2025**

**(1)**

**CRA-S-2228-SB-2004**

**Anil Kumar**

....Appellant

Versus

**State of Haryana**

....Respondent

**(2)**

**CRR-771-2005**

**Sunil Kumar and another**

....Petitioners

Versus

**State of Haryana and others**

....Respondents

**CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI**

Present:- Mr. Kapil Aggarwal, Advocate  
for the appellant in CRA-S-2228-SB-2004 &  
for respondents No. 2 to 6 in CRR-771-2005.

Mr. Shailendra Jain, Senior Advocate assisted by  
Mr. Rahul, Advocate  
for the petitioners in CRR-771-2005 &  
for the complainant in CRA-S-2228-SB-2004.

Ms. Ambika Sood, Addl. A.G. Haryana.

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**AMARJOT BHATTI, J.**

1. Both abovementioned cases i.e. criminal appeal as well as criminal revision arising out of same judgment dated 15.10.2004 and order on question of sentence dated 19.10.2004 in FIR No. 639 dated 27.08.2002 under



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Section 304-B, 498-A, 406 of IPC Police Station City Gurgaon are taken up together for final disposal.

2. Appellant/convict Anil Kumar has filed appeal i.e. CRA-S-2228-SB-2004, whereas, petitioners/complainant in CRR-771-2005 have filed criminal revision against judgment dated 15.10.2004 and order on question of sentence dated 19.10.2004 passed by learned Additional Sessions Judge, Fast Track Court, Gurgaon, in Sessions Case No. 177 of 30.10.2003, case titled “State Vs. Anil Kumar and others”, vide which respondents No. 3 to 6/accused namely Surender, Sanjay Kumar, Phoolo Devi and Hawa Singh in CRR-771-2005 are acquitted of the charges framed against them under Sections 304-B, 498-A and 406 of IPC, whereas, appellant/convict Anil Kumar in CRA-S-2228-SB-2004 and respondent No. 2 in CRR-771-2005 was sentenced as under :-

Offence U/s	Sentence
Under Section 304-B of IPC	To undergo rigorous imprisonment for seven years with fine of Rs.2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one year
Under Section 498-A of IPC	To undergo rigorous imprisonment for 2 ½ years with fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for three months
Under Section 406 of IPC	To undergo rigorous imprisonment for one year only

3. Brief facts of the case are, on 27.08.2002, SI Rajpal received information from Safdarjung Hospital, New Delhi regarding death of one Banti due to poisoning. When he was on his way to hospital and reached near Fuwara Chowk, one Sukhbir (complainant) brother of Banti met him and got



recorded his statement. In his statement, he alleged that about four years ago, his younger sister Banti got married with Anil Kumar and sufficient dowry articles were given at the time of marriage. A girl child namely Sonia was born out of said wedlock. After marriage, all accused persons started harassing his sister Banti with their demand for more dowry. Four months prior to the occurrence, he collected a sum of Rs. 1 lac and had given to accused persons to purchase a car. Despite that, they were not satisfied and again started raising more demands. They also gave beatings to Banti. When his sister Banti came to her parental house one day prior to Raksha Bandhan, she told him and his mother Mewa Devi while crying that accused persons again demanded a new Maruti car and further told that in case their demand is not satisfied, they would kill her. She was told that they would come to her matrimonial home and would make them understood. On 26.08.2002, at about 04:00 PM, a message was received on telephone that Banti had been administered poison by accused persons. He alongwith others went to Civil Hospital, Gurgaon. She was not in a position to talk and was referred to Safdarjung Hospital, New Delhi. He alleged that accused persons had killed his sister by giving her poison. On the basis of said statement, formal FIR was registered.

4. During investigation, SI Rajpal visited the spot on 28.08.2002. Statements of witnesses were recorded under Section 161 Cr.P.C. Site plan was prepared. Postmortem on the dead body was conducted. Accused persons except Hawa Singh were arrested. After completion of investigation, challan was prepared and same was presented before learned Illaqa Magistrate.

5. Accused Anil Kumar, Surender, Sanjay Kumar and Phoolo Devi



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were supplied complete set of copies of challan report as provided under Section 207 of Cr.P.C. Since the offence under Section 304-B of IPC was exclusively triable by the Court of Sessions, therefore, learned Chief Judicial Magistrate, Gurgaon committed the case to the Court of learned Sessions Judge, Gurgaon for trial vide commitment order dated 15.10.2003.

6. Learned Additional Sessions Judge, Fast Track Court, Gurgaon after hearing arguments, on 30.10.2003 framed charge-sheet against accused Anil Kumar, Surender, Sanjay Kumar and Phoolo Devi under Sections 304-B, 498-A and 406 of IPC, which was read over and explained to them in simple language to which they pleaded not guilty and claimed trial.

7. Statement of Sukhbir PW-1 was recorded in part and on dated 03.12.2003, Public Prosecutor for the State moved application under Section 319 Cr.P.C. to summon Hawa Singh as additional accused, which was allowed vide order dated 19.12.2003. Accordingly, accused Hawa Singh alongwith other co-accused were again charge-sheeted on 20.01.2004 under Sections 304-B, 498-A and 406 of IPC, to which they pleaded not guilty and claimed trial.

8. On amended charge-sheet, prosecution examined ASI Babu Lal as PW-1, Naresh Kumar, Draftsman as PW-2, Ct. Satish Kumar as PW-3, Surender Kumar as PW-4, Attar Singh, Retd. Inspector as PW-5, Sukhbir as PW-6, Sunil Kumar as PW-7, HC Samsuddin as PW-8, SI Ishwar Singh as PW-9, Dr. V.K. Thapar, Medical Officer, General Hospital, Gurgaon as PW-10, ASI Krishan Kumar as PW-11, Dr. Prem Kumar, CMO, Department of Forensic Science, Safdarjung Hospital, New Delhi as PW-12 and SI Raj Pal as PW-13. Thereafter, Public Prosecutor for the State vide separate statement



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closed prosecution evidence on 20.07.2004.

9. Statements of all accused persons were recorded under Section 313 Cr.P.C. by the trial Court to which they pleaded innocence and false implication.

Accused in defence examined six witness i.e. Siri Bhagwan as DW-1, Jai Parkash as DW-2, Jitender Mittal as DW-3, Rohtash Singh as DW-4, Balwan Singh, DSP Traffic, Faridabad as DW-5 and Kanhiya Lal as DW-6. Thereafter, learned counsel for accused alongwith accused persons vide separate statements closed defence evidence on 07.10.2004.

10. After hearing arguments advanced by learned Public Prosecutor for the State and learned counsel representing accused persons, accused Surender, Sanjay Kumar, Phoolo Devi and Hawa Singh were acquitted of the charges framed against them. Whereas, accused Anil Kumar was held guilty and convicted under Sections 304-B, 498-A and 406 of IPC vide judgment of conviction dated 15.10.2004 and sentenced as referred above vide order of sentence dated 19.10.2004 passed by learned Additional Sessions Judge, Fast Track Court, Gurgaon. Feeling aggrieved of this judgment of conviction and order of sentence, appellant Anil Kumar filed criminal appeal i.e. CRA-S-2228-SB-2004, whereas, complainant/petitioners filed criminal revision i.e. CRR-771-2005 against judgment of acquittal qua other accused/respondents No. 3 to 6.

11. Learned counsel for appellant Anil Kumar in CRA-S-2228-SB-2004 argued that judgment of conviction and order of sentence passed by learned trial Court is based on conjectures and surmises. Prosecution failed to lead convincing evidence on record to prove the guilt of appellant/convict



under the provisions of Section 304-B, 498-A and 406 of IPC. Prosecution examined Sukhbir brother of deceased victims as PW-6 who claimed that all accused started harassing his sister after 2/3 months of her marriage. Whereas, Sunil PW-7, other brother of deceased victim claimed that harassment to his sister had started after one month of marriage. Testimonies of both brothers cannot be safely relied upon. Allegations are vague and general in nature. There is no independent witness examined from the locality to confirm the allegations of maltreatment or demand of dowry. Marriage of appellant/convict Anil Kumar took place with Banti (deceased victim) about four years ago and out of this marriage, they were having a girl child. Regarding the alleged maltreatment on account of demand of dowry, no complaint was lodged against appellant or any of his family members. There was no demand of dowry. Complainant Sukhbir concocted a false version that appellant or his family members raised demand of Rs. 1 lac or said amount was given by them. Learned trial Court also reached to conclusion that there was no conclusive evidence on record to show that complainant party was in a position to give this huge amount, even then trial Court assumed raising of said demand and giving said amount to appellant/convict. Learned counsel for appellant/convict referred to the statement of Sunil PW-7 brother of deceased victim who could not tell anything as to who had come to pick up deceased victim Banti after Rakhi festival. He claimed that his mother could tell about said detail. However, mother of deceased victim has not stepped into the witness box. Therefore, material witness has been with-held by prosecution. It has come in statement of ASI Krishan Kumar PW-11 and SI Raj Pal PW-13 regarding presence of Mewa Devi mother of deceased victim when inquest



proceedings were prepared or when deceased victim was shifted to hospital at Delhi, even then, Investigating Officer did not make any effort to record the version of Mewa Devi mother of victim.

Learned trial Court wrongly presumed under Section 113A and 113B of The Indian Evidence Act, 1872 that onus was on appellant/accused that deceased was not subjected to harassment on account of demand of dowry soon before her death. Infact, it was for prosecution to lead convincing evidence on record to establish that victim was actually being harassed on account of demand of dowry soon before her death. Therefore, appellant has been wrongly convicted for the offence punishable under Section 304-B, 498-A and 406 of IPC. It has come in postmortem report Ex.PK that there was no external injury on the body of deceased victim. Therefore, it cannot be said that poisonous substance was administered to deceased victim forcibly. At the most it is a case of suicide by deceased victim.

Learned counsel for appellant/convict further raised the issue that defence raised by appellant/convict has been totally ignored. Anil Kumar-appellant/convict took the stand that he was residing separately alongwith his wife from other family members. His wife Banit was apprehended with another person Samar in a compromising position. This fact was brought to the notice of parents, sisters and brother of Banti who came and scolded her. Thereafter, due to shame she consumed some poisonous substance and committed suicide. Appellant/convict specifically denied allegations regarding demand of dowry. In order to substantiate aforesaid defence, Kanhiya Lal has stepped into the witness box as DW-6 and fully corroborated the stand taken by appellant/convict. Testimony of Kanhiya Lal DW-6 and



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defence raised by appellant/convict was wrongly ignored. Balwan Singh DW-5 in his testimony confirmed the aforesaid factual position.

12. Learned counsel on behalf of respondents No. 2 to 6 in CRR-771-2005 further raised the issue that judgment of acquittal passed in favour of respondents No. 3 to 6 does not require any interference. Initially, respondent No. 6 Hawa Singh was found innocent during investigation and accordingly, he was not challaned. Later on, prosecution filed application under Section 319 Cr.P.C. and on that basis Hawa Singh was also challaned and faced trial. This fact is confirmed by ASI Krishan Kumar Investigating Officer examined as PW-11. Balwan Singh, the then DSP, Gurgaon also stepped into the witness box as DW-5 and confirmed that Hawa Singh-respondent No. 6 was found innocent.

Other co-accused i.e. respondents No. 3 to 5 had nothing to do with matrimonial life of Anil Kumar-respondent No. 2 and Banti (deceased victim) who were already residing separate after their marriage. Jitender Mittal DW-3 proved separate Ration Card of Anil Kumar on the one hand and of Hawa Singh on the other hand. Rohtash Singh, House Tax Clerk, Municipal Committee, Gurgaon as DW-4 also produced record of two houses to confirm that Anil Kumar was residing separate from the rest of family. Respondent No. 4 was having his own business of transportation. He was having Tata Sumo vehicle with All India Tourist Permit. This fact is proved on record by Siri Bhagwan DW-1 and Jai Parkash as DW-2. Other co-accused/respondents No. 3 to 6 were leading their independent lives. Therefore, judgment of acquittal passed by learned trial Court does not require any interference and accordingly, revision preferred by petitioners



Sunil Kumar and Sukhbir both brothers of deceased victim deserves dismissal.

13. On the other hand, learned counsel representing petitioners Sunil Kumar and Sukhbir in CRR-771-2005 alongwith learned counsel representing State of Haryana pointed out that prosecution had led convincing evidence on record to prove the charges framed against all accused persons. There is testimony of complainant Sukhbir PW-6 as well as his brother Sunil Kumar PW-7 who fully supported prosecution case regarding maltreatment given to their sister on account of their repeated demands. Unnatural death of Banti is confirmed from medical record. Prosecution examined Dr. V.K. Thapar, Medical Officer, General Hospital, Gurgaon as PW-10 to prove the MLR and Dr. Prem Kumar, CMO, Department of Forensic Medicine, Safdarjung Hospital as PW-12 who conducted postmortem examination on the dead body. As per CFSL/FSL report Ex.PD, Aluminium Phosphide was detected and cause of death is duly proved by Dr. Prem Kumar as PW-12. Investigation carried out by police is proved by ASI Krishan Kumar PW-11 and SI Ishwar Singh PW-9. In the case in hand, other police officials are also examined to prove link evidence. After completion of entire investigation, challan report was prepared by Inspector Attar Singh (retired) as PW-5. Therefore, judgment of conviction and order of sentence qua Anil Kumar-appellant/convict in CRA-S-2228-SB-2004 and respondent No. 2 in CRR-771-2005 does not require any interference.

14. So far as other co-accused i.e. respondents No. 3 to 6 in CRR-771-2005 are concerned, learned counsel argued that there were specific allegations against them alongwith Anil Kumar. There is no convincing



evidence on record to show that they were residing separate from respondent No. 2 Anil Kumar. Their Aadhaar Card could not produce on record to confirm their stand. Infact, deceased victim was harassed by entire family. Subsequently, false allegations were levelled against their sister that she was having illicit relations with some other person. During her stay in matrimonial home, no such complaint was ever filed against her. Therefore, learned trial Court rightly ignored the stand taken by accused persons. Respondents No. 3 to 6 are equally responsible for untimely death of their sister Banti. Therefore, judgment of acquittal qua them is liable to be set aside and they may also be convicted for the offence punishable under Section 304-B, 498-A and 406 of IPC, by accepting present criminal revision.

15. I have considered the arguments advanced by learned counsel(s) for all the parties and have gone through the trial Court file with their able assistance. In the case in hand, occurrence took place on 26.08.2002. Present FIR was registered on the statement of Sukhbir brother of deceased victim who stated that he received message on telephone at about 04:00 PM regarding the fact that his sister Banti was administered poison by accused persons. Firstly, he alongwith his family went to Civil Hospital, Gurgaon where she was under treatment. Since her condition was critical, she was referred to Safdarjung Hospital, New Delhi, where she ultimately expired. Statement of Sukhbir was recorded by police on 27.08.2002 (Ex.PA) and endorsement of Investigating Officer of the same day, at 04:00 AM is Ex.PA/2. On the basis of this information, present FIR was registered, which is Ex.PA/1. Aforesaid facts clearly indicate that FIR was lodged promptly without any delay. On the basis of this information, investigation was carried



out. Initially accused Anil Kumar, Surender, Sanjay Kumar and Phoolo Devi were challaned and were charge-sheeted on 30.10.2003. Thereafter, other co-accused Hawa Singh was also summoned on application under Section 319 Cr.P.C. and amended charge-sheet under Section 304-B, 498-A and 406 of IPC was framed on 20.01.2004.

16. On this point, gainful reference can be made to the judgment of **Supreme Court of India** cited in **2013(2) RCR(Criminal) 75**, case titled **“Kashmir Kaur and another Versus State of Punjab”**, where in order to constitute the offence under Section 304-B of IPC, following principles were culled out, which are as under :-

“16. From the above decisions the following principles can be culled out :

- a) To attract the provisions of Section 304B Indian Penal Code the main ingredient of the offence to be established is that soon before the death of the deceased she was subjected to cruelty and harassment in connection with the demand of dowry.
- b) The death of the deceased woman was caused by any burn or bodily injury or some other circumstance which was not normal.
- c) Such death occurs within seven years from the date of her marriage.
- d) That the victim was subjected to cruelty or harassment by her husband or any relative of her husband.
- e) Such cruelty or harassment should be for or in connection with demand of dowry.
- f) It should be established that such cruelty and harassment was made soon before her death.
- g) The expression (soon before) is a relative term and it would depend upon circumstances of each case and no straightjacket formula can be laid down as to what would constitute a period of



soon before the occurrence.

h) It would be hazardous to indicate any fixed period and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113B of the Evidence Act.

i) Therefore, the expression "soon before" would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question. There must be existence of a proximate or life link between the effect of cruelty based on dowry demand and the concerned death. In other words, it should not be remote in point of time and thereby make it a stale one.

j) However, the expression "soon before" should not be given a narrow meaning which would otherwise defeat the very purpose of the provisions of the Act and should not lead to absurd results.

k) Section 304B is an exception to the cardinal principles of criminal jurisprudence that a suspect in the Indian Law is entitled to the protection of Article 20 of the Constitution, as well as, a presumption of innocence in his favour. The concept of deeming fiction is hardly applicable to criminal jurisprudence but in contradistinction to this aspect of criminal law, the legislature applied the concept of deeming fiction to the provisions of Section 304B.

l) Such deeming fiction resulting in a presumption is, however, a rebuttable presumption and the husband and his relatives, can, by leading their defence prove that the ingredients of Section 304B were not satisfied.

m) The specific significance to be attached is to the time of the alleged cruelty and harassment to which the victim was subjected to, the time of her death and whether the alleged demand of dowry was in connection with the marriage. Once the said ingredients were satisfied it will be called dowry death and by deemed fiction of law the husband or the relatives will be



deemed to have committed that offence.”

In order to prove the charge-sheet in this case, prosecution has examined complainant Sukhbir as PW-6 and Sunil as PW-7 who are brothers of deceased victim Banti. Both witnesses categorically stated that their sister Banti got married with Anil Kumar about four years ago. They had given sufficient dowry at the time of marriage. Their sister Banti gave birth to a girl child. The husband and in-laws family started harassing their sister in order to compel her to bring more dowry. Both witnesses stated that four months prior to occurrence, they had collected Rs. 1 lac and gave it to accused to buy a car. Even then, accused persons were not satisfied with dowry. She was maltreated and even beaten up in matrimonial home. When their sister came on the festival of Rakhi, she further disclosed that now there was demand for a new Maruti Car, otherwise, she will be done to death. On 26.08.2002, information was received that Banti was administered poison by accused persons and on this they reached Civil Hospital, Gurgaon, from where she was shifted to Safdarjung Hospital, New Delhi, where she ultimately expired.

I have carefully gone through the cross-examination of both the aforesaid witnesses. Apart from minor discrepancy, learned counsel for appellant failed to pin-point any material discrepancy in statements of aforesaid witnesses to shatter their credibility. During the course of arguments, learned counsel for appellant raised the issue that prosecution has failed to examine Mewa Devi mother of deceased victim who was also present in hospital when her daughter was under treatment as well as when inquest proceedings were being conducted after her death. Mewa Devi being



mother lost her daughter. It is highly probable that due to sudden death of her daughter, she might not be in a fit state of mind to get her statement recorded. There is no reason to discard the testimony of Sukhbir PW-6 and Sunil PW-7, both brothers of deceased victim. Even otherwise, it is not the quantity of evidence but it is the quality of evidence that matters. In the light of this, non-examination of Mewa Devi mother of deceased victim will have no bearing on the merits of case. Prosecution led convincing evidence on record regarding maltreatment given to Banti on account of their one demand after the other and due to continuous harassment, victim died unnatural death in matrimonial home. Victim was married with Anil Kumar about four years ago. Four months prior to occurrence, parental family of deceased victim had collected Rs. 1 lac and same was given to accused persons to buy a car. When victim came on Rakhi festival, she again disclosed that she was again being harassed on account of demand to buy a new Maruti car. After Rakhi festival, when she went back to matrimonial home unfortunate occurrence took place on 26.08.2002, which clearly indicates that soon before the occurrence she was being subjected to cruelty on account of their repeated demand of one article or the other in the shape of dowry.

17. In order to prove the death of deceased victim, prosecution examined Dr. V.K. Thapar, Medical Officer, General Hospital, Gurgaon PW-10, who deposed that on 26.08.2002 at about 03:45 afternoon, he medically examined Banti age about 23 years with alleged history of intake of poison/celphos at about 03:15 afternoon. Doctor observed that patient was smelling of celphos poison. He handed over gastric lavage sample, blood sample to police and patient was referred to Safdarjung Hospital, Delhi. Copy



of MLR is Ex.PH. Police request for medical examination is Ex.PH/1 and opinion to refer her to Safdarjung Hospital, Delhi is Ex.PH/2. Prosecution further examined Dr. Prem Kumar, CMO, Department of Forensic Medicine, Safdarjung Hospital, Delhi as PW-12, who conducted postmortem examination on the dead body of deceased Saroj @ Banti on 27.08.2002. There was alleged history of celphos poisoning, as per the MLC, patient died on 26.08.2002 at 09:35 PM and observed as under :-

“General Observation:-

Deceased wearing red coloured salwar kameez (suit), bra, underwear, three bangles in her wrists, cooper ring in the ring finger left hand, white metal ring in right ring finger, small tops in ears, all were intact.

External examination:-

There was no external injury found on the body.

Internal examination:-

Brain was congested and other structures were N.A.D. Neck and Spine N.A.D.

Chest:- Both lungs were edematous and congested.

Abdomen:- Liver/spleen/both kidneys were congested, stomach was empty and its mucosal was congested. Rest of the structures of the body were N.A.D.”

On receipt of report of CFSL/FSL Ex.PD, cause of death was due to Aluminium Phosphide poisoning. Detailed Postmortem Report is Ex.PK. Therefore, from the medical record, it is duly established that deceased victim died unnatural death due to Aluminium Phosphide poisoning.

18. In the case in hand, appellant Anil Kumar in CRA-S-2228-SB-2004 and respondents No. 2 to 6 in CRR-771-2005 took the stand that there



was no maltreatment on account of demand of dowry. Infact, deceased victim was caught with another boy Samar in a compromising position and for this reason, said boy was also apprehended. Family of deceased victim was informed. In return, brother and elder sister of deceased victim came. It was decided to send her to parental home in order to make her understand. However, due to shame she consumed poison and ended her life. In order to establish aforesaid defence, Kanhiya Lal has been examined as DW-6. During cross-examination, he categorically stated that regarding the aforesaid incident he did not give anything in writing to any authority. He further showed his ignorance if his statement was recorded by Investigating Agency. Present witness was allegedly residing in same locality. He conceded that Hawa Singh was serving in Haryana Police but he claimed that he alongwith Hawa Singh never served together at one place of posting. Aforesaid cross-examination of this witness clearly indicates that Kanhiya Lal DW-6 was colleague of co-accused Hawa Singh. Therefore, testimony of this witness has to be considered carefully. Apart from this, there is statement of Balwan Singh, DSP Traffic, Faridabad DW-5 who during his examination-in-chief further confirmed the aforesaid incident. Fact remains that during investigation no statement of any person living in said locality was recorded. Surprisingly, Anil Kumar-husband of deceased victim is totally silent regarding his presence in the house on the day unfortunate incident took place when his wife consumed poison. It is rightly pointed out by learned counsel representing petitioners in CRR-771-2005 that prior to this, no complaint was ever filed regarding the character of their deceased sister Banti. In the light of aforesaid factual position, stand taken by appellant/convict Anil Kumar in



CRA-S-2228-SB-2004 and respondents No. 2 to 6 in CRR-771-2005 appears to be after-thought and it was rightly rejected by learned trial Court while deciding present case.

19. As discussed above, once it is established on record that deceased victim was being subjected to cruelty on account of demand of dowry soon before the unfortunate occurrence, then Section 113B of The Indian Evidence Act, 1872 comes into play. Provision of Section 113B of the Act runs as under :-

**“113B. Presumption as to dowry death** - When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

*Explanation.*- For the purposes of this section, “dowry death” shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860).”

It was for accused persons to rebut said presumption. In the case in hand, accused persons examined Kanhiya Lal DW-6 who tried to make out altogether a different case levelling allegations on the character of deceased victim Banti. As discussed above, said stand was rightly rejected by the trial Court. There is ample evidence on record that deceased victim was facing hostile atmosphere in the matrimonial home on account of demand raised from her parental family. She lived in the matrimonial home for a period of four years. She gave birth to a girl child. Despite all this, she could not make a place for herself in the matrimonial home and preferred to end her life.



Considering the sequence of events, learned trial Court rightly held Anil Kumar (husband) guilty for maltreatment to his wife Banti on account of demand of dowry and which ultimately resulted into her unnatural death. Thus, judgment of conviction dated 15.10.2004 passed by learned Additional Sessions Judge, Fast Track Court, Gurgaon under Section 304-B, 498-A and 406 of IPC does not require any interference and same is, accordingly, upheld.

I have also considered the quantum of sentence imposed by learned trial Court vide order dated 19.10.2004. Considering the gravity of offence, quantum of sentence does not require any interference except imposing fine under the provisions of Section 304-B of IPC which is beyond the provisions of Section 304-B of IPC. Therefore, fine imposed by learned trial Court is, accordingly, set aside and with aforesaid modification, quantum of sentence imposed by learned trial Court is, accordingly, upheld.

20. I have also considered the stand taken by petitioners in CRR-771-2005. In the case in hand, other family members namely Surender, Sanjay Kumar, Phoolo Devi and Hawa Singh also faced trial with accused Anil Kumar. Admittedly, they are family members of Anil Kumar. I have considered the testimonies of Sukhbir PW-6 and Sunil PW-7. In their statements, no specific role is attributed to aforesaid accused/respondents No. 3 to 6. Respondents/accused have led evidence in defence to show that Sanjay Kumar, Surender and Hawa Singh were having independent source of income. They were not having any connection with Anil Kumar and his family. In defence, learned counsel for accused examined Jitender Mittal DW-3 who confirmed that Anil Kumar on the one hand and Hawa Singh on



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the other hand were having separate Ration Cards. In the light of this, judgment passed by learned trial Court is fully justified vide which respondents No. 3 to 6/accused were acquitted of the charge framed against them. Thus, judgment of acquittal qua respondents No. 3 to 6 does not require any interference. Accordingly, **criminal revision i.e. CRR-771-2005 preferred by petitioners Sunil Kumar and Sukhbir stands dismissed.**

21. Present appeal i.e. **CRA-S-2228-SB-2004** preferred by the appellant Anil Kumar is, accordingly, dismissed with aforesaid modification. Sentence of appellant Anil Kumar was suspended by the Coordinate Bench of this Court, now he is directed to surrender before learned Chief Judicial Magistrate, Gurgaon, within one month from today, failing which learned Chief Judicial Magistrate, Gurgaon would issue warrants of arrest to secure his presence and send him to jail to undergo the remaining sentence. Necessary intimation be sent to the concerned Court for information and compliance.

22. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

**(AMARJOT BHATTI)  
JUDGE**

**29.05.2025**

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Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/No