

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****(101)****CRA-D-557-DB-2004****DATE OF DECISION: 03.09.2025**

Kuldeep and others

.....Appellants

VERSUS

State of Haryana

.....Respondent

**CORAM HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL
 HON'BLE MRS. JUSTICE RAMESH KUMARI**

Present Mr. Vikas Malik, Advocate and
 Mr. Inderpreet S. Sohal, Advocate, (Amicus Curiae)
 for appellants no.1 and 3.
 Appeal qua appellant no.2 (since died) abated
 vide order dated 28.07.2025.
 Mr. Rajat Gautam, Addl. AG, Haryana.

RAMESH KUMARI, J

1. This appeal has been filed against the judgment of conviction and order of sentence dated 31.05.2004, rendered by learned Additional Sessions Judge, Rohtak in Sessions Case No.8 of 20.01.2004, in FIR No.182 dated 09.09.2003, under Sections 304-B, 201 IPC and Section 25 of Arms Act, registered at Police Station Sadar Rohtak. All three appellants were held guilty and convicted under Sections 498-A and 304-B IPC read with Section 34 IPC. The appellants are not convicted under Sections 302 and 201 IPC but there was no specific order regarding their acquittal under these two sections in the impugned judgment. Appellant no.1 Kuldeep is also acquitted under Section 25 of Arms Act.

Vide separate detailed order on quantum of sentence, all the three appellants were sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.10,000/- each, in default of payment of fine to further undergo rigorous imprisonment for a period of three years for offence punishable under Section 304-B read with Section 34 IPC. They are also sentenced to undergo imprisonment for a period of two years and to pay fine of Rs.2,000/- each and in case of default



of fine, further rigorous imprisonment for a period of six months for offence punishable under Section 498-A read with Section 34 IPC. It is further ordered that both the sentences shall run concurrently.

Being aggrieved, all the three appellants preferred the appeal in hand. Appellant no.2 Hawa Singh died during the dependency of appeal and appeal qua him was abated vide order dated 28.07.2025.

2. FACTS OF PROSECUTION CASE

Facts of the prosecution case as per report under Section 173 Cr.P.C are that PW6 Rajpal, father of two sons and two daughters moved an application Ex. PE dated 08.09.2003 seeking action against the three appellants.

The allegations against the appellants in application Ex.PA are that complainant married his daughter Poonam, since deceased to appellant no.1 Kuldeep on 11.12.2000. He gave sufficient dowry in the marriage and spent Rs.2,00,000/-. Soon after marriage, appellant no.1 Kuldeep and his parents i.e appellants no.2 and 3 Hawa Singh and Raj Bala used to taunt Poonam for bringing dowry. She used to apprise about it to him. As and when Poonam used to come she used to apprise them weepingly.

There are further allegations in the Ex.PE that in August 2001, Poonam was turned out from her matrimonial home by giving beatings by appellants and sister-in-law Savita alleging that she has not brought dowry according to their status. They demanded a motor cycle. After 10/15 days, in the interest of his daughter, PW6 Rajpal went to village Bahu Akbarpur in the house of her in-laws along with 3/4 persons of his village including his brothers Dharam Raj, Satbir and one Kartar Singh and gave a sum of Rs.25,000/- to appellants no.2 and 3 (Hawa Singh and Raj Bala) in lieu of motorcycle. Poonam was not kept in the house of her in-laws properly but again she was turned out of matrimonial home for the demand of Rs.1,00,000/- for starting shop for appellant no.1 Kuldeep (her husband) at Rohtak. Thereafter, PW6 Rajpal along with his brother PW10



Ved Pal went to the house of appellants on 26.07.2003 along with Poonam and told the appellants that PW6 Rajpal is a poor person and has not sufficient amount to fulfill their demands but within a period of one month, he would pay them more money and left Poonam in their matrimonial home. While he was returning back appellant no.1 Kuldeep asked that in case the amount is not sent, its consequences will be bad. On that day, they came to know that on 04.09.2003, appellant no.1 Kuldeep along with his parents and sister-in-law killed Poonam for not bringing Rs.1,00,000/-. Appellants have also cremated the dead body of Poonam without informing them. After returning to village Bahu Akbarpur PW6 Rajpal satisfied himself that these dowry seekers had killed his daughter and have done great crime. By way of moving complaint Ex.PE, he prayed for initiating action against them.

INVESTIGATION

3(i) Initially the investigation was carried out by PW-11 SI Rajinder Singh. He visited the place of occurrence, prepared site plan Ex.PM. Regular site plan Ex.PC was got prepared on 04.12.2003 from draftsman C. Sumit Kumar PW3.

3(ii) On 15.09.2003, all the three appellants were arrested. On the basis of disclosure statement Ex.PG dated 15.09.2003 of appellant no.1 Kuldeep country made pistol Ex.P2 of 315 bore was got recovered from him, allegedly used for killing Poonam. Its sketch Ex.PJ was prepared.

One blood stained Gudara Ex.P3 and blood stained Baan Ex.P4 of the cot were taken into possession vide recovery memo Ex.PH, site plan EX.PM of place of recovery was also prepared. Burnt bone pieces and ash of the dead body were also recovered from the cremation ground at the instance of appellant no.1 Kuldeep and were taken into possession vide recovery memo Ex.PK. These recoveries were attested by Vedpal PW10 and EHC Shri Krishan (given up as



being unnecessary). On the basis of recovery of country made pistol, offence punishable under Section 25 of Arms Act was also added.

3(iii) The parcels were sent to FSL, Madhuban and vide its report EX.PO, human blood was found on Baan Ex.P4, burnt bones were found of human origin and pistol Ex.P2 was found as fire-arm in working order.

3(iv) On 20.11.2003 marriage card Ex.P1 of Poonam with appellant no.1 Kuldeep was taken into possession vide recovery memo Ex.PD.

3(v) Sanction Ex.PF from District Magistrate, Rohtak for trial of appellant no.1 Kuldeep for offence punishable under Section 25 of Arms Act was obtained.

4. After completion of investigation, challan was presented against appellants in the Court of learned Illaqa Magistrate.

The case was committed to the Court of Sessions vide order dated 13.01.2004 by the then learned Addl. Chief Judicial Magistrate, Rohtak.

CHARGES

5. All the three appellants were charged for committing offences punishable under Sections 498-A, 304-B, 201, 302 IPC and Section 25 of Arms Act to which they pleaded not guilty and claimed trial.

5(i) Prosecution examined 12 witnesses and tendered report Ex.PO of FSL and closed prosecution evidence.

STATEMENTS OF APPELLANTS AND THEIR PLEA

6. Statements of appellants under Section 313 Cr.P.C were recorded by the learned trial Court. Appellant no.1 pleaded that on the fateful day of 04.09.2003, Raj Singh his next door neighbour was with him in his house. When he asked his wife Poonam, since deceased, to take money, as he had to go to market to purchase some articles, she went to chhaubara to bring money from his mother and while she was coming down, accidentally she fell down from the roof on the ground. Her head directly struck against the floor. She suffered head



injuries and became unconscious. On hearing alarm, several neighbours came there including Suman, sister of his wife. Doctor was called, who after examining Poonam, declared her dead. He sent telephonic message to Work Manager, Haryana Roadways Workshop, Rohtak where his father Hawa Singh (since died) appellant no.2 and his father-in-law PW6 Rajpal were working. He also made telephonic call at the house of Satbir, uncle of his wife in village Sanghi. The police was also called. His father-in-law PW6 Rajpal also made enquiries and after being satisfied that it was accidental death of Poonam and there was no fault on his part, they gave statements to the police and dead body of Poonam was cremated in their presence. Later on, a false case was registered against them. He also pleaded that after the marriage, Poonam was never harassed nor they demanded or given dowry articles by her parents. She lived with him happily and enjoyed matrimonial life till her death. His parents appellants no.2 and 3 took the same plea.

DEFENCE EVIDENCE

7. Appellants in defence have examined DW1 ASI Mahinder Singh, DW2 Surjan, DW3 Dhanraj Singh Kundu, Works Manager, DW4 Ashok Kumar Mechanic and DW5 Suresh.

8. After perusal of prosecution evidence and defence evidence as well as statements of the witnesses, learned trial Court rendered the judgment of conviction and order of sentence as discussed in para no.1 of this judgment.

9. We have heard Mr. Vikas Malik, Advocate for the appellants and Mr. Inderpreet Singh, Amicus Curiae for appellants no.1 and 3 and Mr. Rajat Gautam, learned Additional Advocate General, Haryana for respondents and have gone through the file carefully.

ARGUMENTS OF LEARNED AMICUS CURIAE

10.(i) Learned counsel for the appellants No. 1 and 3 as well as Amicus Curiae contend that learned trial Court has committed error in passing the



judgment of conviction and order of sentence. The marriage of Poonam with Kuldeep was solemnized on 11.12.2000. She lived in her matrimonial home happily. No demand of dowry in any form was made. She was never harassed and never turned out of matrimonial home. Appellants never demanded a motorcycle and Rs.1,00,000/- from Poonam or her parents. Her death on 04.09.2003 was accidental as she fell down from the staircase of the roof of her house. Learned trial Court wrongly invoked Sections 113(B) and 106 of the Evidence Act against the appellants.

10.(ii) Learned Amicus Curiae contends that learned trial Court has not appreciated the statement of DWI ASI Mahinder Singh, who recorded the statement of PW6 Rajpal, father of deceased, PW9 Kitabo Devi, mother of deceased and PW10 Vedpal, uncle of deceased and other relatives vide Ex.DB, DD and DG that death of Poonam was by accident and they have no objection if body was cremated. Learned trial Court also given the findings that body of Poonam was cremated in the presence of PW6 Rajpal and other family members and there is unexplained delay of 4 days in lodging the FIR which is afterthought. Had accused committed dowry death of Poonam, her parents would not have let her body cremated without her postmortem.

10.(iii) Learned trial Court, on the one hand, is suspicious of the conduct of DW1 Mahinder Singh, who was the first one to visit the spot and recorded the statements of parents and other relatives of Poonam but on the other hand learned trial Court also disbelieved the evidence of PW6 Rajpal, father of deceased, PW9 Kitabo Devi, mother of deceased and PW10 Vedpal, uncle of deceased to the effect that they have thumb marked and signed blank papers which were later on converted into their statements Ex.DB, DD and DG. If their statements were recorded by DW1 ASI Mahinder Singh and this witness thumb marked and signed these statements and it was not signed on blank papers, in that eventuality, the statement of DW1 ASI Mahinder Singh cannot be doubted.



10.(iv) Alleged recovery of country made pistol from appellant no.1 Kuldeep was not believed by the learned trial Court and appellant no.1 Kuldeep was acquitted of the charge framed under Section 25 of Arms Act. Once the prosecution acquitted appellant no.1 Kuldeep under Section 25 of Arms Act, the prosecution story that Poonam was shot dead with fire arm is totally dis-believable and cannot be accepted.

10. (v) Learned trial Court also rendered the finding that there was neither demand of motorcycle in August 2021 nor of Rs.1,00,000/-. Once, this fact finding has been recorded then the harassment of Poonam on the ground of demand of dowry does not arise at all and the ingredient of Section 304-B IPC are missing, Section 113-B of Evidence Act, cannot be invoked.

10. (vi) The trial Court convicted the appellants on the basis of statements of PW6 Rajpal, father of deceased, PW9 Kitabo Devi, mother of deceased and PW10 Vedpal, uncle of deceased. They are interested witnesses and their statements regarding demand of motor cycle and Rs.1,00,000/- dowry are not believed by the learned trial Court but the general allegations of demand of dowry are believed. Their statements are not trustworthy and they are deposing against the appellants only at the instance of police whereas in their initial statements recorded by DW1 Mahinder Singh, they did not doubt the death of Poonam being allegedly caused by appellants.

10. (vii) Learned counsel and Amicus Curiae further contend that Suman, cousin of Poonam, since deceased, was the best witness to depose whether Poonam was ever mal-treated or harassed or tortured for demand of dowry but she is not examined neither cited as witness nor examined which is fatal to the case of prosecution.

Pointing out the findings of the learned trial Court in their favour and the statement of these witnesses, learned Amicus Curiae vehemently prayed for



acquittal of the appellants for the offence they have been convicted and sentenced to.

ARGUMENTS OF LEARNED STATE COUNSEL

11. Learned State counsel supported the impugned judgment and order of conviction. He contends that appeal has been filed with absolute false and baseless allegations which is liable to be dismissed. Learned trial Court has rightly invoked Sections 106, 113-B and 32 of Evidence Act against the appellants no.1 and 3. In support of his contention, learned State counsel relied upon oral and documentary evidence led by the prosecution before learned trial Court.

DISCUSSION

12.(i) Upon hearing learned Amicus Curiae for appellants no.1 and 3 and perusal of record as well as paper book and learned trial Court's record, it transpires that appellant no.1 Kuldeep was married with Poonam, since deceased, on 11.12.2000 and her death took place on 04.09.2003 and appellant no.2 Hawa Singh (since died) is father of appellant no.1 Kuldeep and appellant no.3 Raj Bala is his mother. Meaning thereby, she died within seven years of solemnization of her marriage with appellant no.1 Kuldeep.

12. (ii) Undisputedly, no postmortem report on her body was conducted and there is no medically approved case of death of Poonam. Appellants are convicted under Sections 304-B read with Section 34 IPC and 498-A IPC read with Section 34 IPC, which defines and provides the punishment for dowry death reads as under:-

304B. Dowry death.—

(1)Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and



such husband or relative shall be deemed to have caused her death.

Explanation.— *For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961). (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.*

Section 113-B of Indian Evidence Act inserts statutory presumption as to dowry death. This Section reads as under:-

Section 113 B

1. 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).

Hon'ble Supreme Court in **Gurmeet Singh Vs. State of Punjab**, AIR 2021 SC 2616 held that

“Section 304-B(1) IPC defines ‘dowry death’ of a woman. It provides that ‘dowry death’ is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven years of marriage, and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of her husband, in connection with demand for dowry. Further, [Section 304-B\(2\)](#), IPC provides punishment for the aforesaid offence.

This Court, in the recent judgment of Satbir Singh v. State of Haryana, Criminal Appeal Nos. 1735-1736 of 2010 summarized the law under [Section 304-B](#), IPC and [Section 113B](#), Evidence Act as under:



“i. [Section 304-B](#), IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

ii. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under [Section 304-B](#), IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under [Section 113-B](#), Evidence Act operates against the accused.

iii. The phrase “soon before” as appearing in [Section 304-B](#), IPC cannot be construed to mean ‘immediately before’. The prosecution must establish existence of “proximate and live link” between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

iv. [Section 304-B](#), IPC does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental. The reason for such non categorization is due to the fact that death occurring “otherwise than under normal circumstances” can, in cases, be homicidal or suicidal or accidental.”

Similar opinion is expressed in **Kans Raj v. State of Punjab**, (2000)

5 SCC 207; **Rajinder Singh v. State of Punjab**, (2015) 6 SCC 477.

12. (iii) In the present case, as observed earlier, since death of Poonam took place on 04.09.2003 and her marriage was performed on 11.12.2000, her death being taken place within seven years of marriage is proved. Now it is for the prosecution to prove that her death was by burning or bodily injuries or occurs otherwise than under normal circumstances.

12. (iv). It is to examine whether the prosecution proved the existence of dowry demand “soon before her death”.



Now, here the evidence of prosecution witnesses became all the more important. The evidence of three witnesses i.e PW6 Rajpal, father of deceased, PW9 Kitabo Devi, mother of deceased and PW10 Vedpal, uncle of deceased is to be scrutinized.

12.(v) PW6 Rajpal in his examination-in-chief proved statement Ex.PE recorded by SI Rajinder Singh. He when subjected to cross examination and stated that EX.PE was got typed by his brother. He was with him at that time. He also stated that Suman, daughter of Satbir is married with Anil, a collateral of Kuldeep. His house is nearby house of appellant no.1 Kuldeep in the same locality. Marriage of Suman and Poonam was solemnized on the same day in the house of his brother Satbir. She is still living in her matrimonial home.

This part of the statement of PW-6 Raj Pal proved that his niece Suman is married with the cousin of appellant-Kuldeep and residing in the neighbourhood. She was best witness to depose about the conduct of appellants with Poonam with regard to demand of dowry but she is not joined in the investigation neither cited as a witness. Thus, the best available witness is withheld by the prosecution for reasons known to it fully knowing that had she been examined in the Court, she would have thrown light on the relationship of Poonam with her husband.

PW6 Rajpal also deposed that appellants started harassing and torturing her daughter after one year of her marriage. He also alleged that Panchayat was convened on two occasions, and no other Panchayat was convened. He also stated that they did not make any complaint to any authority regarding demand of Rs.25,000/- or motorcycle or Rs.1,00,000/-. Had any demand been made by the accused, they would have made any complaint to the higher authorities or in the department, where he is working with appellant-Hawa Singh (since died), because PW-6 Raj Pal also deposed that he himself and appellant no.2 Hawa Singh were working in Haryana Roadways, Rohtak depot. He never



made any complaint to the department against Hawa Singh, appellant no.2 (since died).

At another stage of his cross-examination, he deposed that he borrowed Rs.10,000/- from neighbourer Ram Pal s/o Deep Chand and rest of Rs.15,000/- was arranged by him for giving Rs.25,000/-. He could not repay the said borrowed amount of Rs.10,000/-. No person from village Bahu Akbarpur was present at the time of giving Rs.25,000/-. No writing was executed at the time. There was no writing for giving assurance to him by the accused person. Demand of Rs.1 lac after one year of payment of Rs.25,000/-. At that time, Poonam stayed with him for 15 days before being taken to her matrimonial home. He was not in a financial position to give Rs.1 lac. He did not report the matter to police, since the matter pertains to his daughter. He also did not report the matter to the police regarding aforesaid threat extended by appellants Kuldeep. Till the date of recording of his statement, he had not made any complaint against appellants persons except Ex.PE.

PW-6 Raj Pal admitted his signature on complaint Ex. DB but alleged that his signature was obtained on blank paper.

12. (vi) PW9 Kitabo Devi, mother of the deceased, in her examination-in-chief also levelled the same allegations as are stated by PW6 regarding demand of dowry in the form of motorcycle and Rs.1,00,000/- and giving of Rs.25,000/- in cash to appellants in lieu of Motorcycle. She also stated that please took them to the house of somebody else where their signatures and thumb impressions were obtained on blank paper on the pretext that Poonam was to be medically examined.

She when subjected to cross-examination stated that her daughter was harassed by appellants persons after one year of her marriage when she was sent to her matrimonial home for the first time. Her daughter was never got medically examined. They never made any complaint to any authority or any



person against the mis-behaviour of appellants. They paid aforesaid amount of Rs.25000/- after one year of sending Poonam to her in-laws and after two years of her marriage. Rs.1,00,000/- was demanded after 10-15 days of the payment of Rs.25000/-. They never made any complaint to any authority against appellants persons prior to lodging complaint Ex. PE.

PW-9-Kitabo, at another stage of cross examination deposed that Rs.12,000/- was borrowed from her brother-in-law Satbir and the rest of Rs.13,000 was arranged by them from the cash in hand for the said payment of Rs.25,000/-. Amount borrowed from Satbir Singh has not been paid back to him.

She also deposed that she does not know who sent telephonic message regarding the death of Poonam on 04.09.2023. Her husband, brothers three in number, Kartara Singh, uncle of her husband and they four other ladies reached Bahu Akbarpur at about 02:00 pm or 02:30 pm. She also stated that about 10 gents and 4-5 ladies were present in the house of appellants persons. Gents were sitting outside the house. Dead body was lying in the backside room of their house. After seeing the dead body, they informed the police, which reached there within 30 minutes. Police remained there for half an hour, they did not make any enquiry from any person as to how Poonam died. But they had made up their mind after seeing dead body. When police left the place, within 30 minutes thereafter they also left that place and come to their village. Her brother-in-law and her husband remained at Rohtak Police station. She did not go to PGI MS Rohtak. She had inadvertently mentioned regarding her visit to PGI MS Rohtak whereas she had not gone. Only her husband and brother-in-law had gone.

12.(vii) PW10 Vedpal in his examination-in-chief also corroborated the statement of PW6 Rajpal and PW9 Kitabo Devo and he is eye witness of recoveries i.e *Baan*, *Godara* and pistol vide Ex.PH and recovery memo vide which pieces of bone and ash were recovered vide EX.PK.



PW10 Vedpal when subjected to cross-examination stated that he had told to the police that on 04.09.2003, on receiving telephonic information regarding death of Poonam he alongwith his brothers Rajpal, Dharam Pal, Kartar Singh and 2-3 ladies alongwith Satbir reached village Bahu Akbarpur and found the dead body of Poonam in the house of her in-laws on the ground, they made a telephonic call to the police, in the wake of which police reached there and obtained their signatures on blank papers. He was confronted with the contents of Ex.DE, wherein this fact is not recorded. He in his examination-in-chief has improved his testimony than what was recorded under Section 161(4) Cr.P.C. At another stage of his cross-examination, he stated that they stayed in village Bahu Akbarpur on 04.09.2003 for two hours i.e around 02:30 pm, police was there when they left the village. They reached PGIMS, Rohtak at about 03:30 pm and waited for the police there upto 06:00 pm. They did not visit to DC or IG police at Rohtak. On the next day they did not visit till 08.09.2003 to any authority. He time and again reiterated that on 04.09.2003 police obtained signatures of Rajpal, Satbir, himself and Dharam Raj on blank sheets. On 04.09.2003, Balbir, his brother-in-law Sunil and Parkash son of Balbir were also with them. Their signatures were obtained at the same time. He alleged that at that time nothing was written on the paper, on which their signatures were obtained on blank papers in the presence of so many persons.

12.(viii) If parents of deceased along with others including PW-10, Ved Pal reached the in-laws house of deceased Poonam on the day of her death, then their conduct is extremely unnatural. They did not enquire from any person how their daughter died. Had they been suspicious about the death of Poonam, they would have got lodged FIR against the accused immediately then and there. Rather they got recorded their statements Ex.DB, DD and DG recorded to DW1 ASI Mahinder Singh and thereafter took the plea that their signatures were obtained on blank paper by the police. It is not possible that the police and DW-1 ASI Mahinder



Singh would have obtained the signatures of parents of the deceased who assembled in the house of accused alongwith large number of persons on blank papers.

12(ix) On the other hand, the appellants have examined DW1 ASI Mahinder Singh, who was first to visit the spot and he specifically stated that on 04.09.2003, he went to village Bahu Akbarpur in connection with death of Poonam wife of appellant no.1 Kuldeep. Dead Body of Poonam was lying at her matrimonial home. Many persons were present there. They questioned the presence of police and asked to go away as they do not want any action by the police and have arrived at a compromise. Appellants were not present at their house, however, parents, brother and 6-7 persons from the side of deceased were present outside the house of appellants. He asked them to make the statements to which they replied that they do not want any action and want to cremate Poonam without postmortem as they were satisfied with the cause of death of Poonam. He recorded the statements of Rajpal, Kitabo and joint statement of Dharam Raj, Ved Pal, Balbir, Parkash, Satbir and Sunil. Ex. DB, DD and IG are the true and correct photostate copies of those statements, under his handwriting and SHO was informed on the telephone about the situation to which he replied that after recording the statements whatever he feel proper, he should do it and should proceed as per wishes of the parties. After returning from the spot, he gave original statements to SHO Bijender Singh. Statements Ex. DB, DD and DG were given by the parties voluntarily and without any pressure or threat.

His examination reveals that only he attended the crime meeting in the office of IG, Rohtak and he returned back to Police Station around 12 or 12:30 pm and only this was entered in rojnamcha but his arrival was not recorded. He also went to village Bahu Akbarpur without making any entry in rojnamcha and returned from village Bahu Akbarpur around 06:30 pm and entry in this regard was made in rapat. Additional entry of last two and half lines was made by



C. Ramesh Kumar, who was working as Asstt. Clerk in Police Station, at his instance because he had not specifically mentioned regarding his visit to Bahu Akbarpur which is not disputed by PW6 Rajpal, PW9 Kitabo Devi and PW10 Vijaypal. Therefore, non mentioning of time in the rapat regarding visit is not important. It is another matter that departmental proceedings are going on against him in connection with this case which is regarding interpolation of DDR No.30 and for giving copies of those statements to the opposite party, when they file the bail application but the recording of statements vide Ex. DB, DD and DG by this witness is not challenged by the State/prosecution. The learned trial Court in its judgment in para no.22 observed that *“complainant Raj Pal PW6, Kitabo PW9 and Ved Pal PW10 have stated that their signatures and thumb impressions were obtained when these were blank papers, but these statements are not trustworthy, especially when it is stated by them that they were taken in the house of neighbourer by the police. If it was so, then there was no rhyme or reason for ASI Mahinder Singh to obtain their signature or thumb impressions on blank papers and then later on to prepare the same. Otherwise, also from the perusal of these documents, it is very clear that these documents were written in normal and natural course writing the document in the same flow. There is no attempt to adjust the space with regard to the places of signatures/thumb impressions, Ex.DG also shows that thumb impression of Balbir was obtained when body of the document was already written including his name, as well name of other witness Satbir. Moreover, had thumb impression been obtained prior to writing document then, in all probabilities, names of all witnesses would have been written on the blank space after giving sufficient space around it but it seems that thumb impression was put after the writing of the names of the witnesses and not vice-versa.”* Therefore, the statement of prosecution witnesses Raj Pal PW6, Kitabo PW9 and Ved Pal PW10 that their statements were written and signatures were obtained on blank papers were rightly not believed by the learned trial Court. In



para no.23 of the impugned judgment learned trial Court further observed that *“Moreover, explanation of these witnesses for giving their signatures and thumb impressions to the police does not inspire confidence that these were obtained for sending the dead body for postmortem examination and that too of so many persons on three different papers. Signature and thumb impression would have been obtained only at the time of handing over the dead body after postmortem examination and that too only to the legal heirs and not to so many persons. It is very clear that this lame excuse has been extended by these PWs only in order to come up from their said statements given to the police at that time.”* These observations of the learned trial Court and perusal of evidence and statements and first recorded statement to DW-1 ASI Mahinder Singh, proved that initially, parents of Poonam i.e. PW6 and PW9 and uncle PW10- Ved Pal did not have suspicion regarding the unnatural death of Poonam and opted not to lodge any FIR against the accused and FIR is lodged by way of moving complaint Ex.PE, after four days of death of Poonam. Her dead body was also cremated without postmortem in the presence of her parents and other relatives and the learned trial Court did not believe that the dead body of Poonam was cremated in the absence of her parents.

Commenting heavily on the conduct of Investigating Officer SI Rajender Singh PW-11, learned trial Court in para 26 of the impugned judgment observed that *“26. It is also very sorry state of affair to note that Rajender Singh PW11 has stated that PWs Rajpal and the complainant party were saying to him that at that time they were subject to pressure and so, Poonam was cremated in their presence, but he did not record their statements, in this regard thinking that writing statements in this regard would adversely affect the prosecution case. It shows that he was not properly discharging his official duties and conducted the investigations impartially to find out the truth but becoming party in favour of the complainant and against the accused.”*



Learned trial Court also observed in para no.39 of the judgment that *“all three material witnesses have been cross-examined at length. They have been groomed to a great extent. But it is very clear that on material aspects of harassment of the deceased, at hands of appellants persons on account of dowry, their evidence is trustworthy and reliable. But their evidence regarding specific demand of motor cycle of August 2001 and later demand of Rs. 1,00,000/- or that the dead body was cremated in their absence are not trustworthy or reliable. They were not children, for being befooled by the police for going away from the spot to PGIMS Rohtak, without the dead body or they would have waited there indefinitely, allowing the cremation in their absence especially, when they were so many persons. They had informed the police. At that time there was also no rhyme or reason for the police to be party for one or, against the other. It is very clear that under some constraints or pressure may be due to some compromise, they that time did not require the postmortem of the dead body and allowed its cremation but later on they became wise. Because of their this conduct, it cannot be said that appellants would come out from the crime they committed.”*

12.(x) If the alleged demand of motorcycle and Rs.1,00,000/- by the appellants from Poonam or her parents is not proved by the prosecution during trial as concluded by learned trial Court then, the general and vague allegations that appellants were not satisfied with the dowry and were demanding dowry and harassing Poonam cannot be believed. Prosecution has to prove what kind of dowry was allegedly being demanded by the appellants from deceased or her parents. The vague allegations regarding the demand of dowry or subjecting the deceased to cruelty are general in nature. If the demand of motor cycle and Rs. 1 Lac are not proved, general allegations of demand of dowry, cruelty or harassment of Poonam by appellants cannot be believed and appellants cannot be linked to the death of Poonam. Moreover, the appellants has come up with



explanation regarding the death of Poonam that when she went upstairs to take money from appellants/appellant no.3 at the asking of appellants/appellant no.1 Kuldeep, she fell down and suffered injuries on her head. Section 106 of Evidence Act cannot be invoked against the appellants. The appellants would have simply claimed innocence and ignorance regarding the cause of death of Poonam as no postmortem was conducted on the dead body of Poonam, inspite of the fact that her parents and other relatives visited her home on the fateful day of 04.09.2003. The accused Kuldeep has already been acquitted under Section 25 of Arms Act, therefore, the allegation that the accused caused the death of Poonam by gun shot injury are already disbelieved by the learned trial Court. In the absence of postmortem the cause of death is not proved and her death as a result of cruelty cannot be proved. Section 113-B of Evidence Act can only be invoked against the appellants, in case, the prosecution proved that she was subjected to cruelty or harassment by the appellants in connection with any demand of dowry.

CONCLUSION

In view of above analysis of prosecution evidence, the only conclusion that can be drawn is that learned trial Court committed error by rendering the judgment of conviction and consequent order of sentence. The appellants are acquitted of charges for the offences for which they are convicted and sentenced. Their bail bonds and surety bonds also stand discharged.

Miscellaneous application(s) if any, also stand(s) disposed of.

(MANJARI NEHRU KAUL)
JUDGE

(RAMESH KUMARI)
JUDGE

03.09.2025
mamta/sonia/pooja saini

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No