



**CRA-S-2012-SB-2006 (O&M)  
and CRR-541-2007**

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

**Reserved on: 29.04.2026  
Pronounced on: 22.05.2026  
Uploaded on: 22.05.2026**

**1. CRA-S-2012-SB-2006(O&M)**

**RAJ SINGH AND OTHERS**

**...Appellants**

**VERSUS**

**STATE OF HARYANA**

**...Respondent**

**2. CRR-541-2007 (O&M)**

**RAMESH MALIK**

**...Petitioner**

**VERSUS**

**RAJ SINGH AND OTHERS**

**...Respondents**

**CORAM: HON'BLE MS. JUSTICE SHALINI SINGH NAGPAL**

Present: Mr. A.S. Cheema, Advocate,  
Mr. Satish Sharma, Advocate,  
Mr. Prince Bhuroi, Advocate and  
Mr. Mahi Pal Singh Bisht, Advocate  
for the appellant(s) in CRA-S-2012-SB-2006.

Mr. Bhuwan Vats, Advocate as Legal Aid Counsel  
for the petitioner in CRR-541-2007.

Mr. Kshitij Bharti, Assistant Advocate General, Haryana.

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**SHALINI SINGH NAGPAL, J. (ORAL)**

1. This common order disposes of aforementioned appeal and revision petition filed by the accused-appellants and complainant respectively.



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2. Appellants in CRA-S-2012-SB-2006 assail judgment of conviction and order of sentence dated 18.09.2006, vide which they were convicted and sentenced as under:

<b>Name of convict(s)</b>	<b>Convicted under Section(s)</b>	<b>Sentence awarded</b>	<b>Fine imposed</b>	<b>Sentence awarded in default of payment of fine.</b>
Raj Singh	304-B IPC	Rigorous imprisonment for 07 years	Rs. 2,000/-	Rigorous imprisonment for six months
	498-A IPC	Rigorous imprisonment for 02 years	Rs. 500/-	Rigorous imprisonment for one month
Shanti Devi	304-B IPC	Rigorous imprisonment for 07 years	Rs. 2,000/-	Rigorous imprisonment for six months
	498-A IPC	Rigorous imprisonment for 02 years	Rs. 500/-	Rigorous imprisonment for one month
Rakesh	304-B IPC	Rigorous imprisonment for 07 years	Rs. 2,000/-	Rigorous imprisonment for six months
	498-A IPC	Rigorous imprisonment for 02 years	Rs. 500/-	Rigorous imprisonment for one month
Jitender	304-B IPC	Rigorous imprisonment for 07 years	Rs. 2,000/-	Rigorous imprisonment for six months
	498-A IPC	Rigorous imprisonment for 02 years	Rs. 500/-	Rigorous imprisonment for one month
Krishan	304-B IPC	Rigorous imprisonment for 07 years	Rs. 2,000/-	Rigorous imprisonment for six months
	498-A IPC	Rigorous imprisonment for 02 years	Rs. 500/-	Rigorous imprisonment for one month
Hukam Singh	498-A IPC	Imprisonment for the period already undergone by him i.e. 04 months	Rs. 500/-	-



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3. Revisionist-petitioner in CRR-541-2007, assails order dated 18.09.2006 of learned Sessions Judge, Sonipat on quantum of sentence and seeks enhancement of sentence awarded to the respondents.

4. The facts, as narrated in the report under Section 173 Cr.P.C. are that Ramesh Malik son of Ram Kumar made a report to the police that he was the only brother of 04 sisters. His sisters Babita and Pinky were married on 18.06.1997 with Rakesh and Jitender, both sons of Raj Singh, as per Hindu rites and ceremonies. In the marriage, they had given sufficient dowry beyond their means. After about 01 month of the marriage, the father-in-law Raj Singh, mother-in-law Shanti, grandfather-in-law Hukam Singh, brothers-in-law Krishan, Rakesh and Jitender started harassing both his sisters for bringing more dowry. They both narrated the demands to his cousin Naresh, his father, mother and his uncle Maha Singh, when they visited their parental home. His brother Naresh and uncle Maha Singh went to Kharkhoda to prevail over Rakesh, Jitender and their family members. All those persons raised demand of ₹1,00,000/- for installing Brick Kiln saying that they had no dearth of money, having installed another factory. His family members, Naresh and Maha Singh assured them that the demands would be met if they stopped harassing the girls. At that time ₹50,000/- was given by Naresh to Raj Singh etc., who assured that they would keep Babita and Pinky comfortably.

5. He further stated that after about 02 months, all the above persons again started harassing both his sisters and raised demand for money for Brick Kiln. His sisters conveyed the demands when they came home. He sent his brother Naresh and cousin brother Dayanand to Kharkhoda, who tried to prevail



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over the above persons but they persisted in their demands of ₹50,000/-, if they wanted to settle their daughters. His brothers promised to give the money and informed his family members about the demand, on reaching home. After 8-10 days, he reached the matrimonial home of Babita and Pinky and delivered ₹40,000/- to Hukam Singh and Raj Singh pleading that his sisters be not harassed. At that time, Hukam Singh, Raj Singh and other family members were present. Hukam Singh and Raj Singh proclaimed that they had two factories running and the money did not matter to them. After that, whenever his sisters came home, they conveyed that their parents-in-law, grandfather-in-law, brother-in-law Krishan and husbands were harassing them as before and were raising demands for money.

6. He further stated that after 01 year of the marriage, Babita delivered a girl child and at that time also, her family members demanded jewellery etc. in *Pilia*. They went to the matrimonial home after 6-7 days of the delivery, with gold rings for the boys, gold chain, clothes for the in-laws and ₹2,100/- but at that time, the attitude of the in-laws towards his sisters was not cordial. They said that the impoverished gifts were not befitting their status. They were told to take back Babita and Pinky and forcibly sent them to their parental home. For about 01 year, Babita and Pinky remained in their house. During this period, they came to Kharkhoda twice or thrice with a *Panchayat* but to no avail. After that, his uncle Maha Singh and brother Naresh went to the house of Hukam Singh in Kharkhoda and made efforts to prevail over them. Hukam Singh and Raj Singh raised demands for money for constructing separate house on a plot in front of their house. They were compelled to pay



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₹1,00,000/- to them in 2-4 installments. After construction of the house, all the kitchen articles and washing machine were given by them.

7. He went on to state further that three months ago, the girls returned to Kharkhoda and started living in the new house. On 06.10.2000, at about 10.00 AM, his sister Pinky came to Sampla and while weeping, told them that Hukam Singh grand father-in-law, Raj Singh father-in-law, mother-in-law Shanti, Rakesh, Krishan and Jitender had quarreled with them and had raised demands of ₹50,000/-, failing which they would loose Babita. When Babita protested against the demand, she was locked in the room. At the time, her uncle and Naresh were not available at home. Naresh was away to Mussoorie. They were informed, Naresh reached home at about 04.00 AM and they started for Kharkhoda, where they learnt that Babita was no more and had been killed by Hukam Singh father-in-law, Raj Singh grandfather-in-law, brothers-in-law Krishan, Jitender and mother-in-law Shanti. No information of death of Babita was given by her family members. He was sure that Babita was killed by strangulation in connection with demands for dowry.

8. Police registered FIR under Sections 498-A, 304-B Indian Penal Code on statement of Ramesh Kumar. Investigation of the case commenced. Inquest report was prepared by SI Rahul Dev. Photographer was summoned to the spot and photographs were taken. The bed sheet and pillow were taken into police possession. Dead body was sent for post-mortem examination to Civil Hospital, Sonipat. Site was inspected and rough site plan was prepared. After post-mortem examination, sealed parcels of the clothes and ornaments of deceased were taken into police possession. Accused were arrested.



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Complainant Ramesh and his sister Pinky produced list of dowry articles and photographs of the marriage which were taken into police possession. Dowry articles of Babita and Pinky were taken into police possession from the matrimonial home. Rest of the accused were arrested. On completion of investigation, accused were challaned.

9. The case was committed to the Court of Sessions vide order dated 25.01.2001. Charge sheet under Sections 498-A/304-B Indian Penal Code read with Section 34 IPC, in the alternative under Section 302 IPC read with Section 34 IPC was framed against accused, to which they all pleaded not guilty and claimed trial.

10. The case was tried by learned Additional Sessions Judge (*Ad hoc*), Fast Track Court, Sonipat, who vide his judgment dated 22.10.2003, convicted all the accused persons under Sections 498-A IPC and Section 304-B IPC read with Section 34 IPC, except accused Hukam Singh, who was convicted under Section 498-A IPC. Sentence of rigorous imprisonment for a period of 02 years with fine of ₹2,000/- was awarded under Section 498-A IPC and under Section 304-B IPC, all accused, except Hukam Singh, were awarded rigorous imprisonment for life and fine of ₹2,000/- each. In the appeal against the judgment of conviction and order of sentence, this Court vide order dated 19.12.2005 set aside the judgment of conviction of learned Additional Sessions Judge (*Ad hoc*), Fast Track Court, Sonipat and remanded the case for *denovo* trial.

11. Learned Sessions Judge, Sonipat commenced trial from the stage of prosecution evidence. 09 witnesses were examined by the prosecution. PW-1



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Ramesh Kumar complainant, PW-2 Pinky and PW-8 Naresh gave a detailed narration of the harassment of deceased by the accused persons, the demands raised by them, some of which were met, the demand of Rs. 50,000/- raised soon before death of Babita, which was conveyed by Pinki and the manner in which they reached the house of accused on 07.10.2000, where dead body of Babita was found in room of the matrimonial room. PW-3 Dr. Rajiv Sethi, Medical Officer, G.H. Sonipat conducted post-mortem examination of dead body of Babita on 07.10.2000, deposed about the injuries on the body and proved the copy of post mortem report Ex. PD. He also proved the ornaments and clothes (Ex. P-13 to Ex. P-26) removed from the dead body and made over to the police. PW-4 Inderpal Constable, proved scaled site plan Ex. PG dated 23.11.2000. PW-5 H.C. Suraj Bhan recorded formal FIR Ex. PA/1 on 07.10.2000 and made endorsement Ex. PA/2 on it. PW-6 Shiv Kumar, Photographer visited the place on occurrence on 07.10.200 to take photographs. He proved negatives Ex. P-27 to Ex.-37 and positives, Ex. P-38 to Ex. P-48. PW-7 HC Satyawar shifted the dead body for post mortem examination and handed over the parcels made over by the doctor to the MHC on 07.10.2000. PW-9 SI Rahul Dev recorded statement Ex. P-A of complainant Ramesh on 07.10.2000, made endorsement EX. PA/3 thereon. Thereafter, he went with the complainant to the house of Raj Singh, prepared inquest report Ex.PF. He proved various stages of investigation and the documents prepared, arrested the accused, recovered dowry articles and prepared the challan.



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12. Learned Public Prosecutor for the State tendered in evidence, copies of statement of accused Ex. PL/1 to Ex. PL/6, recorded at the time of previous trial and closed his evidence.

13. In their statements under Sections 313 Cr.P.C., the accused denied the incriminating evidence as false and claimed false implication. All of them stated that family members of Babita and Pinki settled their matrimonial alliance after verifying the financial and social status of their family. They had agricultural land, numerous vehicles at the time of marriage, besides a *Kiryana* shop, a Tata spare parts shop and two Brick Kilns. After marriage, Babita stated living at Kharkhoda but Pinki was not brought to the house, as she was not even 16 years of age and was studying in Class 10-11. There was never any demand of dowry nor cash was demanded or received. Rakesh and Babita started living separately after the birth of their daughter. In June 1999, when the daughter was 01 year old, Rakesh started living in the new house, which was constructed in a plot near the old house. Ration Cards of Raj Singh and Rakesh were separately prepared in June 1999. In July 2000, Pinky was brought by Jitender and she started living with her in-laws in the old house. She left for Sampla on 06.10.2000. On 06.10.2000, Rakesh went to the shop in the morning. When he came home in the evening, he found Babita lying dead. Parents-in-law of Rakesh came in the evening of 06.10.2000. Naresh talked about breaking the marriage of Pinki and asked for return of dowry articles and cash, for which they refused. Consultations went on till next morning, whereafter, Naresh Malik, who was a politician, got the entire family involved in the false case.



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14. In defence, accused examined DW-1 Ram Kishan, Inspector Food and Supplies, Kharkhoda, who proved the Ration Cards Ex. D-1 and Ex. D-2, issued on 22.06.1999 and 21.06.1999. DW-2 Satya Gupta, Clerk, Vaish College, Bahadurgarh stated that Pinki daughter of Ram Kumar resident of Sampla, took admission in B.A. First Year in Vaish Arya Kanya Mahavidhyala, Bahadurgarh in 1999-2000 and completed the academic session from June 1999 to May 2000. DW-3 Ishwar Singh Clerk, Kanya Mahavidhyala Kharkhoda brought the admission register and attendance register of Pinki, who was admitted in July 2000 in B.A. Part III as a regular student and attended classes upto 26.09.2000. Thereafter, she was marked absent.

15. Learned Sessions Judge, Sonipat heard respective submissions, considered the evidence led by prosecution and defence and found the evidence of repeated demands raised by the accused persons, consistent, convincing and reliable. The minor discrepancies in statements of PW-1 Ramesh Kumar, PW-2 Pinki and PW-8 Naresh Kumar were not found to materially affect their version. The evidence of demand of Rs.50,000/- by the accused conveyed through PW-2 Pinki, soon before the death of Babita, was also found credible. The fact that none of the accused were able to explain how Babita, a young 23 years old girl turned into corpse also weighed in the mind of learned Sessions Judge to believe version of prosecution witnesses. Defence plea that there was no evidence of harassment by particular accused and entire family members had been roped in on general allegations was negated. Though offence under Section 302 IPC was not found made out, presumption of dowry death was raised, as all ingredients of the offence under Section 304-B IPC stood proved.



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16. All accused, barring accused Hukam Singh, were convicted under Sections 498-A and 304-B IPC. Accused Hukam Singh, who was more than 80 years of age at the time of death of Babita, was convicted only under Section 498-A IPC. Sentence was awarded as indicated in the preceding paragraph. Accused Hukam Singh was sentenced to imprisonment already undergone by him.

17. Aggrieved with the decision, all convicts, preferred an appeal, which this Court is now seized of.

18. During the pendency of appeal, sentences of appellants Raj Singh, Rakesh, Krishan, Shanti and Jitender were suspended vide order dated 26.10.2006. Appellants Raj Singh son of Hukam Singh (Father-in-law) and Hukam Singh son of Chand Ram (grandfather-in-law) died on 23.06.2023 and 23.03.2013 respectively. The State filed status report verifying their deaths. Appeal qua Raj Singh and Hukam Singh, therefore, abates.

19. Learned counsel for rest of the appellants initiated arguments submitting that prosecution case rested primarily on statements of three prosecution witnesses, PW-1 Ramesh Kumar, PW-2 Pinki and PW-8 Naresh Kumar. Statements of all these witnesses being hear-say, marred by inconsistencies, were erroneously relied upon by learned trial Court. It was urged that appellants already owned a Brick Kiln before marriage and the version that they demanded Rs. 50,000/- after one month of the marriage, was apparently false. Moreover, the demand was allegedly raised by the appellants in the presence of PW-8 Naresh Kumar, who had considerably improved his version before the trial Court by naming all the accused persons, regarding



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which he was duly confronted with his earlier statement. Payment of Rs.50,000/-, as per FIR, was made on the same day, however, when PW-8 appeared in the witness box, he claimed that the payment was made after one or two months. PW-2, Pinki stated that she was present at the time when the demand was raised but in cross-examination, she contradicted herself stating that she and her sister were present in their parental home, when the demand was made. It was further urged that with regard to the second demand of Rs.50,000/-, two months thereafter, also, there were discrepancies. While PW-1 Ramesh Kumar stated that the demand was raised after 01 or 02 months, PW-2 Pinki stated that the demand was raised after 01 month. FIR version was that the payment was made to Hukam Singh and Raj Singh, but the witnesses improved over first version to state that it was made to all the appellants. There were also discrepancies regarding the day when the payment was made.

20. It was further argued that with regard to the third demand of Rs.1,00,000/- for construction of house, no date, time or place was given, nor the amount of installments was mentioned. In fact, the house was already in existence as proved by Ration Cards Ex. D1 and Ex. D2. Learned counsel went on to submit that version of PW-2 Pinki, that she moved to the matrimonial home post her marriage, was not worth believing and was belied by documents and her cross-examination. She was living in her parental home till July 2000. Statement of defence witnesses DW-2 Satya Gupta, Clerk, Vaish College, Bahadurgarh and cross-examination of PW-1 Ramesh Kumar proved that Pinki was studying in a College in Bahadurgarh in 1998-1999 and took admission in a College in Kharkhoda only in July 2000, which fact was admitted by Pinki as



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well. Separate Ration Cards Ex. D1 and Ex. D2 of the family of Rakesh and Babita on one hand and the family of Raj Singh on the other hand prepared way back on 22.06.1999 and 21.06.1999, proved that Babita and Rakesh were residing separately. The recovery memos Ex. PC and Ex. PC/1 also proved that dowry articles of Babita and Pinki were recovered from separate houses. The photograph in the Ration Card of Raj Singh was not of Pinki and PW-1 Ramesh admitted in cross-examination that the photograph was of Babita, which again proved that Pinki was not living in the matrimonial home and her entire deposition regarding harassment in connection with dowry demands in the matrimonial home was, thus, falsified.

21. Learned counsel for the appellants urged that all witnesses PW-1, PW-2 and PW-8 admitted that family of the appellants was financially sound. It was, therefore, unbelievable that they would raise demand of cash from the family of the daughters-in-law. It was claimed PW-1 and PW-8 even stated that they had taken bricks for construction of their house from Brick Kiln of the appellants, showing that relations between the parties were cordial.

22. Another submission of learned counsel for the appellants was that though it was prosecution case that PW-2 Pinki was sent to the house of her parents with demand of Rs. 50,000/-, who disclosed that Babita was confined in a room, yet, complainant party did not reach the house of accused immediately, which was improbable and unnatural. Even if, prosecution version was believed that all the demands raised by the appellants were met, there was no reason for the appellants to have killed the deceased.



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23. Next material argument raised by learned counsel for the appellants was that act and role of each and every accused who allegedly subjected the deceased to cruelty and harassment in connection with demands for dowry, was not brought out in evidence. 06 members of the appellants family were implicated in the case and mere mention of the word 'harassed' or 'tortured' was not sufficient. In the absence of evidence of overt acts by each of the appellants, all relations of the husband could not be held guilty for the offence relating to dowry death of the deceased. In support of his arguments he referred to *Amar Singh Vs. State of Rajasthan 2010(9) SCC 64*, *Bhola Ram Vs. State of Punjab AIR 2014 SC 241*, *Asha and Another Vs. State of Uttarakhand 2014(4) SCC 174*, *Bakshish Ram and Another Vs. State of Punjab 2013(4) SCC 131*, *Vipin Jaiswal Vs. State of Andhra Pradesh 2013(3) SCC 684*, *Bharat Bhushan and Another Vs. State of Madhya Pradesh 2013(2) RCR (Cri) 444*, *Om Parkash Vs. State of Haryana 2004(3) RCR(Cri) 508 (P&H)*, *Sunil Bajaj Vs. State of M.P 2001(9) SCC 417*.

24. Learned State counsel, assisted by learned counsel for the complainant refuted the arguments referring to para No. 21 of the judgment of learned Sessions Judge. It was argued that marriage of deceased Babita and PW-2 Pinki was solemnized with accused Rakesh and Jitender on 18.06.1997, three years prior to death of Babita. The husbands and their family members were not satisfied with the dowry brought and persistently raised demands for cash by constantly harassing the deceased, PW-2 Pinki for satisfaction of the demands. One day before the death, demand of Rs. 50,000/- was raised and PW-2 was sent to the parental home to bring the amount, while deceased was



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confined in a room. The demand raised soon before the death was well established. The delay in reaching the house of the appellants occurred as uncle and brother the deceased were not in station. It was not a case of suicide but a case of death by strangulation. Defence version that PW-2 Pinki was not residing in the matrimonial home was belied by the Ration Card, which the appellants themselves got prepared. Presumption under Section 113-B of Indian Evidence Act was attracted, which the appellants failed to rebut. Supporting the judgment of conviction of learned Sessions Judge, Sonipat, they prayed for dismissal of the appeal.

25. Learned counsel for the revisionist-petitioner has urged that in view of the cause of death i.e. asphyxia as a result of smothering, it was not a simple case of dowry death. Even though appellants were acquitted of the charge under Section 302 IPC, the crime was heinous and the sentence awarded to the appellants deserved to be enhanced to life imprisonment.

26. Prayer for enhancement of sentence has been strongly opposed by learned counsel for the appellants who asserted that the appellants deserved to be acquitted.

27. Though appellants were charge sheeted under Sections 498-A, 304-B and Section 302 IPC read with Section 34 IPC, learned Sessions Judge, Sonipat, found on the basis of evidence led by the prosecution that the charge of murder of deceased by the appellants was not substantiated on record and no appellant could be held responsible under Section 302 IPC. No appeal has been filed challenging the finding recorded by learned Sessions Judge, Sonipat,



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under Section 302 IPC. This Court, therefore, is only required to confine itself to the charges under Sections 304-B and 498-A IPC.

28. The Apex Court in *Kunhiabulla and Another Vs. State of Kerala AIR 204 SC 1731* has held that in order to attract application of Section 304-B IPC, the essential ingredients are as follows:-

*(i) The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstance.*

*(ii) Such a death should have occurred within seven years of her marriage.*

*(iii) She must have been subjected to cruelty or harassment by her husband or any relative of her husband.*

*(iv) Such cruelty or harassment should be for or in connection with demand of dowry.*

*(v) Such cruelty or harassment is shown to have been meted out to the woman soon before her death.*

29. PWs 1-Ramesh Kumar, PW-2 Pinki and PW-8 Naresh Kumar have all stated that deceased Babita and Pinki were married with the two brothers Rakesh and Jitender sons of Raj Singh on 18.06.1997. Their statement regarding date of marriage has not been challenged in cross-examination. During the course of arguments also, appellants' counsel did not dispute the date of marriage. It is, therefore, held that appellants Rakesh and Jitender were married with deceased-Babita and Pinki on 18.06.1997.

30. PW-3 Dr. Rajiv Sethi, Medical Officer, G.H. Sonipat was a member of Board of doctors which conducted post mortem examination on the dead body of Babita wife of Rakesh, 23 years old female, on 07.10.2000. He



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stated that rigor mortis was present. Post mortem staining was present on the back and that following injuries were found on the dead body:

- (i) *“There was a small abrasion 0.5 cm x 0.2 cm on the lower lip almost in the middle. Clotted blood was present.”*
- (ii) *A small abrasion 0.5 cm x 0.2 cm on the inner side of lower lip with clotted blood.*
- (iii) *An abrasion 0.6 cm x 0.2 cm on the inner side of upper lip.*
- (iv) *Small abrasions were present just below the right eye with infiltration of blood in subcutaneous tissue.*
- (v) *Contusions were present around the nostrils and adjoining part of cheek were mingling with each other. Infiltration of blood was present in underlying subcutaneous tissue.*

*Eyes were closed, conjunctiva was congested, pupils were diverted, mouth was open, tongue was synosed and lying between the teeth. Cyanosis was present around the nostrils, mouth and cheeks, finger-nail and toes were also cyanosed, upper part of the chest and neck was also cyanosed. Bloody froath was present around nostrils.*

*Scalp, skull, vertebrae and chest wall were healthy. Brain, pleurae, larynx and trachea and both side of heart contained blood while the left side was empty. Abdominal wall and peritoneum were healthy. Mouth, pharynx and esophagus, stomach, liver, spleen and kidneys were congested. Stomach contained fluid and small amount of digested matter. Bladder was empty. Uterus was healthy and empty.*



*In our opinion, the case of death was asphyxia as a result of smothering which was ante-mortem in nature and sufficient to cause death in ordinary course of life.*

*The time between the injuries and death was instantaneous and between death and post mortem was within six to 24 hours.”*

He proved the carbon copy of post mortem report Ex. PD.

31. The death in the present case was on account of smothering, which altogether rules out suicide. Clearly, the death was homicidal. The injuries on the body of the deceased are indicative of the fact that she was subjected to violence and there was struggle between her and the assailant(s). Clotted blood was present on her lips and bloody froth was present around nostrils. The death undoubtedly was unnatural, cause of death being ante mortem asphyxia as a result of smothering, sufficient to cause death.

32. The questions which fall for consideration by this Court relate to points No. 3, 4 and 5 posed in paragraph No. 28.

33. Prosecution case is predicated on the testimony of PW-1 Ramesh Kumar, PW-2 Pinki and PW-8 Naresh Kumar. What emerges from the statements of these witnesses is that after marriage of Babita and Pinki with Rakesh and Jitender on 18.06.1997 at Kharkhoda, things were normal in the first month of marriage, whereafter, the appellants namely Raj Singh, Hukam Singh, Rakesh, Jitender, Krishan and Shanti Devi started harassing both the sisters for bringing less dowry. The sisters, on visit to their parental home, shared the harassment and demands with their family members including PW-1 Ramesh Kumar and PW-8 Naresh and also uncle Maha Singh, whereupon Maha



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Singh and Naresh (PW-8) went to the house of appellants at Kharkhoda in an attempt to persuade them all to treat the sisters well and not to harass them. All the appellants, at that time, raised demand of Rs.1,00,000/- from Maha Singh and Naresh for starting a Brick Kiln, saying that they were to install second factory. They were assured of all possible help and a sum of Rs.50,000/- was paid to the appellants at Kharkhoda by PW-8 Naresh, upon which the appellants assured that both the girls would be kept well. For some time, things were normal. Yet again, when the sisters visited the parental home, after 1 to 2 months, they again conveyed the demands of Rs.50,000/-. On that, PW-8 Naresh along with his cousin Dayanand again went to the house of appellants to prevail over them and the appellants repeated their demand of Rs.50,000/-. They assured that the demand would be met, returned home and disclosed the demand to the family. After 8-10 days, PW-1 Ramesh Kumar went to the house of the appellants and paid them Rs. 40,000/-, requesting them not to harass the sisters. The witnesses have also stated that after about 01 year of the marriage, Babita delivered a girl child, 6-7 days whereafter, appellants again raised demand of gold ornaments. PW-1 and PW-8 reached the house of the appellants with *Pilia* (customary gifts) comprising of gold chains for the two sisters, cash of Rs. 2,100/-, clothes for the father and mother, gold rings for both the husbands. Yet, the appellants were not happy and remarked that the gifts were not befitting their status. Both the sisters Babita and Pinki were forcibly sent with their brothers to the parental home, where they lived for about 01 year, during which period *Panchayats* were convened but to no avail. It further emerges that after about 1 year of the marriage, when PW-Ramesh Kumar and



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PW-8 Naresh along with their uncle Maha Singh again approached the accused for settlement of their sisters, demand was raised for Rs.1,00,000/- for construction of a house in the vacant plot, which too was paid in 2-3 installments and the sisters were sent back to the house of the appellants. At that time, house hold articles including washing machine and kitchen articles utensils etc. were given. The witnesses have consistently stated that on 06.10.2000 at about 10-11 AM, Pinki was sent back to the parental home at Sampla. She reached and weepingly informed that appellants were again demanding Rs.50,000/-, threatening that if the demand was not fulfilled, they would loose their sister and that Babita was confined in a room when she objected to the demands. Since Maha Singh and Naresh were not present in the house and returned only at 4.00 AM in the morning, PW-1 Ramesh Kumar, PW-8 Naresh Kumar and Maha Singh went to Kharkhoda at 06.00 AM, the next day where they learnt that Babita had been killed.

34. Statements of PW-1 Ramesh Kumar, PW-2 Pinki and PW-8 Naresh are above board and free from taint. They are all family members of the deceased and natural witnesses of the incidents. Statement of PW-2 Pinki is on a higher pedestal as she was a member of the matrimonial home, where the incidents took place.

35. Learned defence counsel has tried to make much from the minor discrepancies in the statements of prosecution witnesses, regarding the day when the money was paid to the accused on their demands. The demands were raised between 1997 to 2000 and statements of the witnesses were recorded in 2006. Human memory has it own shortcomings and minor discrepancies are



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bound to arise when witnesses are examined after some time gap. Law does not insist upon word to word narration of the complaint in the Court. A parrot like reproduction is neither expected nor desirable from truthful witnesses. The discrepancies pointed out are only minor variations and do not strike at the credibility of statements of the witnesses, which are consistent regarding the demands. The statements of the three witnesses, read as a whole appear to be truthful and the discrepancies pointed out do not touch the core of the case, sufficient to reject their evidence.

36. It has been argued that the witnesses improved over their first versions to state that the payments were made to all the appellants. FIR version is that demands were raised by all family members and payments were made in the presence of all. It is not the law that whenever a witness improves over his version, his statement is to be thrown out and discarded. The improvements pointed out are minor and not fundamental enough to strike at the root of the case. Evidence of the three witnesses is found to be reliable, trustworthy and learned Sessions Judge, Sonipat rightly relied upon the same.

37. There is evidence showing that the appellants were owners of numerous immovable properties, vehicles and were running a Brick Kiln, a Tata Spare parts show room and Kiryana Shop. The argument of learned counsel for the appellants that the appellants being financially sound had no occasion to ask for money for installing Brick Kiln, which was already in existence, fails to impress. Financial status of a family has nothing to do with greed for dowry. PW-1 Ramesh Kumar has explained that the appellants raised demand for Rs. 1,00,000/- for installing a second Brick Kiln. Mere fact that no time or place



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was mentioned regarding the third demand of Rs. 1,00,000/- for construction of house does not affect the credibility of the witnesses, who were examined after lapse of considerable time. Learned trial Court has rightly observed that even if the demand of Rs. 1,00,000/- made by the appellants for constructions of new house was taken to be not proved, prosecution case was not affected as the other demands were well proved on record. PW-1 Ramesh Kumar and PW-8 Naresh Kumar, no doubt admitted that they had taken bricks for construction of their house from the Brick Kiln of the appellants. They also, at the same time, added that payment of the bricks taken was duly made.

38. The reason why complainant party did not reach the house of the appellants immediately on information that Babita was confined in a room, nor the police was informed, has been disclosed in evidence. The delay occurred as PW-8 Naresh was away to Mussoorie and reached only at 04.00 PM on 07.10.2000, whereafter entire family reached house of the appellants. Why appellants killed the deceased, though their demands were being fulfilled, is best known to them, yet no explanation thereof regarding homicidal death has been offered.

39. It has been argued that the statements of the witnesses were hearsay. As usually happens in a crime of dowry death, this case too, is based on circumstantial evidence. It would not, however, be possible to brand the testimony of prosecution witnesses PW-1, PW-2 and PW-8 hearsay in the wake of clear evidence coming on record that on three occasions, demands were raised i.e. Rs.50,000/- after one month of the marriage, Rs.50,000/- after two months thereof and Rs. 1,00,000/- for construction of house was directly made



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to PW-1 and PW-8. The strongest and unique feature of the case is the testimony of PW-2 Pinki, who is no other than sister of the deceased, married to one of the appellants on the same day i.e. 18.06.1997. In no uncertain words, she has given an account of the cruelty meted out to her and to her sister in connection with demands of cash and dowry, which began soon after the marriage and continued till the death of Babita. Her version is consistent with the testimony of PW-1 Ramesh Kumar and PW-8 Naresh Kumar, her brothers. She has given a succinct narration of the events which occurred one month after the marriage, when the appellants started harassing her and Babita on account of dowry, how her brother Naresh and uncle Maha Singh were asked to give Rs.1,00,000/-, whereupon Rs. 50,000/- was paid; how after one month, again demand of Rs.50,000/- was raised, against which Rs.40,000/- was paid after 8-10 days. She also deposed regarding misbehaviour of the appellants at the time of birth of girl child, when her family members came with *Pilia* gifts, the demand of Rs.1,00,000/- for construction of house and finally the demand of Rs.50,000/- raised by the appellants on 06.10.2000, for which she was sent to the parental home, while Babita, who objected to the demand was confined in a room. The Court finds her testimony faith inspiring.

40. The argument of learned counsel for the appellants that PW-2 Pinki was living in her parental home upto July 2000, as she was only 16 years of age at the time of marriage, based on a testimony of DW-2 Satya Gupta, Clerk, Vaish College, Bahadurgarh and DW-3 Ishwar Singh Clerk, Kanya Mahavidhyala Kharkhoda, fails to convince. When confronted, PW-2 Pinki categorically denied that she started living with her in-laws only in July 2000.



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She explained that she was studying in a College at Bahadurgarh and used to attend the College sometimes from the house of her in-laws and at times from the house of her father. The explanation appears to be plausible, given the admitted fact that house of complainant and appellants was only at a distance of 20 kilometers. Ex. D1 and Ex. D2 are Ration Cards duly proved by DW-1 Ram Kishan, Inspector Food and Supplies, Kharkhoda. Ex. D2 is Ration Card of the family of Raj Singh comprising of Raj Singh, Hukam Singh, Shanti Devi, Jitender, Pinki, Krishan Kumar, Mukesh and Vijender, whereas Ex. D1 is the Ration Card of the family of Rakesh comprising him, Babita and their minor child. PW-2 Pinki is shown as a member of the family of Raj Singh on 21.06.1999, when the Ration Card Ex.D2 was prepared. At that time, as per testimony of DW-2, she was studying in a College at Bahadurgarh. Ex. D1 would itself prove that Pinki was residing with her family in the year 1999, when the Ration Card was prepared. Although PW-1 Ramesh admitted in his cross-examination that Ration Card Ex. D1 did not have the photograph of Pinki but of Babita, that appears to be for the reason that PW-2, Pinki was a College going student and may not have been available for the photograph.

41. PW-2 Pinki has painted a poignant picture of the manner in which appellants raised demands of cash on various occasions, persistently harassed the two sisters in connection with the demands of dowry, so much so that for 01 year, during the period of 03 years from 1997-2000 when the marriage subsisted, both sisters were compelled to live in their parental home. There is a clear evidence of PW1, PW-2 and PW-8 regarding stay of Babita and Pinki in the parental home on account of the harassment meted by the appellants. It is



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fairly well settled that cruelty or harassment need not always be demonstrated in the form of physical violence. The fact that the two sisters had to leave the matrimonial home and were compelled to stay in the parental home for a year during which *Panchayats* were held at local level to sort out the issue are sufficient indicators of cruelty and harassment, mental, if not physical.

42. For the sake of discussion, even if defence claim that Pinki joined the matrimonial home only in July 2000 is believed, then also, she being a member of the family of appellants, her evidence is the best available evidence to establish cruelty and harassment in connection with dowry demands.

43. There is evidence that deceased Babita, her husband and their minor daughter were residing separately in a new house. Ex. D1 dated 21.06.1999 is the separate Ration Card of appellant Rakesh with deceased Babita and their minor daughter. The site plan Ex. PG on record shows that the new house and the old house were opposite each other with a narrow lane in between. Learned Sessions Judge has observed in the impugned judgment that there was easy access of every member of the family of the accused to the old as well as the new house. There is evidence in the shape of PW-1, PW-2 and PW-8 that the appellants together raised the demands and the payments were also made in the presence of all of them. It is equally pertinent that the demand was not made for a particular domestic article, which could be used by an individual member of the family. Every time, the demand raised, was of cash. There is no denying that the entire family was joint in business. This is evident from the statements of appellants under Section 313 Cr.P.C. The money demanded by the appellants was for common interest of all the family members,



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and separate residence of Babita and Rakesh from rest of the family members, is not a circumstance from which appellants can derive any benefit. Moreover, the new house was constructed only in the year 1999. Before that, all the appellants were jointly residing in the old house.

44. It has been argued that specific overt acts were not attributed to the appellants and all the relations of the husband could not have been convicted for the offence relating to dowry death. Numerous judgments have also been relied upon, on this aspect.

45. Learned Sessions Judge, Sonipat has, in considerable detail dwelled on this aspect finding it immaterial that specific allegations of demand of dowry were not attributed to specific accused. On the basis of evidence led, learned trial Court held that payment was made to Raj Singh and Hukam Singh in the presence of other appellants and different amounts were also paid by family members of Babita in the presence of all the appellants. The usual tendency to rope in all family members was not found to exist in this case, as none of the accused made an attempt to explain the manner in which Babita died. Death of Babita on 06.10.2000, undisputedly took place in the house of the appellant-Rakesh, adjoining the house of other appellants who were all joint in business and on all family occasions. The circumstance that defence version of all appellants was the same without exception, with no explanation coming forward with regard to violent death of the young bride, within 03 years of marriage, was rightly taken as a strong one to hold that appellants were together in causing harassment to the deceased in connection with dowry demands, shortly after marriage and soon before the death of Babita. The proved fact that after the girl child was born, both sisters were sent back to the parental home due to dis-satisfaction with the gifts



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given, was also rightly construed against the appellants. Considering that the old and new houses of the appellants were in front of each other; that appellants were joint in business and every time, demands for cash were raised to be invested in the joint business, coupled with the evidence that the demands were raised and payments made in presence of all the accused, the participation of all the appellants in making demands and causing harassment was correctly fixed.

46. The other essential ingredient which the prosecution was required to establish is whether “soon before” the death of deceased Babita, she was subjected to cruelty or harassment in connection with the demand for dowry. The fact that PW-2 Pinki was living in the matrimonial home with her husband on 06.10.2000, has not been disputed. Her statement that she was sent to her parental home to bring Rs.50,000/- while deceased-Babita was confined in a room, when she raised protest against the demand, is found cogent, convincing and reliable to show that cruelty was meted out to the deceased, one day before her death. The existence of proximate and live link between the acts of cruelty based on dowry demand and death, is proved on record.

47. The presumption under Section 113-B of the Indian Evidence Act is thus attracted in the case.

48. Once the presence of the essential ingredients, (i) to (v) is established even by preponderance of possibility, the initial presumption of innocence is replaced by an assumption of guilt of the appellant, thereupon, transferring heavy burden of proof upon them and requiring him to produce evidence dislodging their guilt, beyond reasonable doubt.

49. Both Sections 304B of IPC and 113-B of Evidence Act were inserted by Dowry Prohibition (Amendment) Act, 43 of 1986 with a view to



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combat the increasing menace of dowry deaths. Section 113-B of Evidence Act is phrased as under:

*“113-B Presumption as to dowry death – When the question is whether a person had committed the dowry death of a woman and it is shown that soon before her death such woman had 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 304-B of the Indian Penal Code (45 of 1860).”*

50. The explanation appended to Section 304-B IPC states that the word dowry shall have the same meaning as provided in Section 2 of the Dowry Prohibition Act, 1961, which reads as follows:

*“Definition of “dowry”.*

*In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly--*

*(a) by one party to a marriage to the other party to the marriage;*

*or*

*(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;*

*at or before <sup>1</sup>[or any time after the marriage] <sup>2</sup>[in connection with*



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*the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.”*

51. Once prosecution successfully proved harassment and cruelty meted out by the appellants in connection with dowry demand soon before the death, the onus shifted on the appellants to rebut the presumption. The appellants have offered no explanation worth the name for the violent death by strangulation of the deceased in the precincts of the matrimonial home. Their defense is identical, with no explanation. Thus, presumption as of dowry death under Section 113-B of India Evidence Act stands unrebutted. Learned Sessions Judge, Sonipat, rightly ordered conviction of the appellants (except Hukam Singh), under Section 304-B IPC and 498-A IPC.

52. Judgments relied upon by learned counsel for the appellants were rendered on their own facts and are of no help in the peculiar facts and situation of the case. It is well settled that criminal matters are to be decided on their own peculiar facts, without any universal generalization.

**ON SENTENCE:**

53. Revision petition has been filed by the complainant challenging the order of quantum of sentence vide which rigorous imprisonment of 07 years and fine of Rs. 2,000/- each was awarded to all the appellants under Section 304-B IPC besides rigorous imprisonment of 02 years awarded under Section 498-A IPC along with fine of Rs. 500/- each, except to appellant-Hukam Singh, who was convicted only under Section 498-A and was awarded sentence already undergone by him with fine of Rs.5,00/-. As discussed hereinbefore, the death is homicidal, there are ante mortem injuries on the dead body which prove violence and



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resistance before the death. The proved homicidal death does not call for imposition of minimum punishment. The crime of killing the bride, who was only 23 years of age at the time of her death, is brutal and barbaric. It is a social crime which disrupts the social fabric and calls for harsh punishment. Minimum sentence may be called for in a suicidal death but not in a homicidal one. Considering the manner in which the death was caused, regarding which none of the accused, even put forward the slightest of explanation, the Court is of the view that the sentence deserves to be enhanced. Even though, all the appellants are first time offenders, they do not deserve the leniency of minimum sentence for the offence under Section 304-B IPC. Thus, while maintaining the sentence under Section 498-A IPC, the sentence of appellants Rakesh, Krishan, Shanti and Jitender under Section 304-B IPC is enhanced to 10 years rigorous imprisonment, each.

54. Learned trial Court appears to have erroneously ordered the appellants to pay fine of Rs. 2,000/- each, for the offence under Section 304-B IPC and has also imposed sentence in default of payment of fine, in violation of statutory provisions. To that extent, the sentence deserve to be modified. The sentence of fine of Rs. 2,000/- each, imposed under Section 304-B IPC is accordingly set aside.

55. Appeal bearing No. CRA-S-2012-SB-2006, filed by the appellants is hereby dismissed and revision petition bearing No. CRR-541-2007 filed by the complainant is allowed. Sentences of appellants Rakesh, Krishan, Shanti and Jitender under Section 498-A is maintained, however sentence under Section 304-B IPC of appellants Rakesh, Krishan, Shanti and Jitender is enhanced to 10 years rigorous imprisonment, each. Sentences of the appellants Raj Singh, Rakesh, Krishan, Shanti and Jitender were suspended vide order dated 26.10.2006. As



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appellant Raj Singh and Hukam Singh have expired and their appeals have abated, remaining appellants i.e. Rakesh, Krishan, Shanti and Jitender are ordered to be taken into custody to undergo the remaining sentence.

56. A photocopy of this order be placed on the file of other connected case.

**(SHALINI SINGH NAGPAL)  
JUDGE**

**22.05.2026**

*Ajay Goswami*

*Whether speaking/reasoned* : *Yes*  
*Whether reportable* : *Yes*