



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

CRA-S-1159-SB-2004
Reserved on: 22.05.2026
Pronounced on: 28.07.2026
Uploaded on: 28.07.2026

Whether only operative part of the judgment is Pronounced: NO

Whether full judgment is pronounced: YES

SATNAM SINGH AND ORS.

....Appellants

Versus

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Ms. G.K. Mann, Senior Advocate with
Mr. Arshjot Singh Mohi, Advocate for the appellants.
Mr. J.S. Rattu, DAG Punjab.

RUPINDERJIT CHAHAL, J.

1. The present appeal has been preferred against the judgment of conviction dated 14.05.2004 and the order of sentence dated 19.05.2004 passed by the learned Additional Sessions Judge, Kapurthala, whereby the appellants Satnam Singh and Gurmit Kaur have been convicted under Sections 304-B and 498-A of the Indian Penal Code, 1860 (for short, 'IPC'), and each of them has been sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for one month, for the offence punishable under Section 304-B IPC, and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/- and in default of payment of fine to further undergo



rigorous imprisonment for one month, for the offence punishable under Section 498-A IPC. Both the substantive sentences were ordered to run concurrently.

2. Appellant Satnam Singh was married to the deceased Rajwinder Kaur on 06.12.2001. Rajwinder Kaur died on 24.02.2002, otherwise than under normal circumstances. Appellant Gurmit Kaur alias Mito is the mother-in-law of the deceased.

3. The case of the prosecution, in brief, is that about eight days prior to the occurrence, the deceased, Rajwinder Kaur, came to her parental home at Village Sangrawan. During her stay there, she disclosed to her brother, Gurbachan Singh, her mother, Malkit Kaur, her cousin, Sukhdev Singh, and her uncle, Santokh Singh, Ex-Sarpanch, that her husband, Satnam Singh, her brothers-in-law, Kundan Singh and Pargan Singh alias Gora, and her mother-in-law, Gurmeet Kaur *alias* Mito, used to taunt and harass her on account of having brought insufficient dowry and had raised a demand for a motorcycle. She further disclosed that the accused had asked her to persuade her brother, who was residing abroad, to send money for the purchase of the motorcycle. The members of the parental family assured the deceased that the demand for the motorcycle would be fulfilled. On the following day, Gurbachan Singh accompanied the deceased to her matrimonial home and informed the accused that arrangements for the motorcycle would be made shortly.

3.1 It is further the case of the prosecution that about three days prior to the occurrence, Rajwinder Kaur made a telephonic call to her paternal aunt, Manjit Kaur, wife of Avtar Singh, and informed her that her in-laws were continuing to harass her on account of the demand for a motorcycle. She requested Manjit Kaur to convey the matter to her parents and to ask them to arrange for the motorcycle at the earliest. On 24.02.2002, in the morning,



Lakhwinder Singh, the mediator who had facilitated the marriage, telephonically informed the complainant party that Rajwinder Kaur had died. Upon receiving the information, the complainant party immediately reached her matrimonial home, where they found her dead body hanging. One end of a rope was tied to an angle iron affixed to the roof of the kitchen constructed on the *chubara* of the house, while the other end was tied around the neck of the deceased.

4. Gurbachan Singh, brother of the deceased, made a statement (Exhibit PA) before the police, narrating the aforesaid facts. On the basis of the said statement, FIR No. 10 dated 24.02.2002 was registered at Police Station Dhilwan, District Kapurthala, under Sections 302/34 and 498-A of the Indian Penal Code against the present appellants as well as Kundan Singh and Pargan Singh alias Gora, who were, however, acquitted by the learned trial Court.

5. Upon completion of the investigation, the final report under Section 173 Cr.P.C. was presented before the Court. The case, being exclusively triable by the Court of Session, was committed by the learned Judicial Magistrate First Class, Kapurthala, vide order dated 16.05.2002. Upon consideration of the material placed on record and finding a prima facie case, the learned trial Court framed charges against the accused under Section 302 read with Section 34 IPC and, in the alternative, under Sections 304-B and 498-A IPC. The charges were read over and explained to the accused in simple Punjabi, to which they pleaded not guilty and claimed trial.

6. In order to substantiate its case, the prosecution examined PW1 Lakhwinder Singh, PW2 Gurbachan Singh, PW3 Sukhdev Singh, PW4 SI Satnam Singh, PW5 HC Mohinder Singh, PW6 Dr. Subhash Chandra and PW7 ASI Gyan Chand. Besides the oral evidence, the prosecution also tendered



documentary evidence on record. Upon conclusion of the prosecution evidence, the same was closed.

7. Thereafter, the statements of the accused were recorded under Section 313 Cr.P.C., wherein all the incriminating circumstances appearing in the prosecution evidence were put to them. The accused denied the allegations levelled against them, pleaded innocence and claimed false implication.

In defence, the accused examined DW1 Arvinder Singh, Clerk, District Transport Office, Kapurthala; DW2 Harbans Singh Kahlon, Junior Assistant; DW3 Gobind Swaroop Sharma, Inspector, Food and Supplies Department, Dhilwan; and DW4 Mohan Lal, Junior Assistant, District Transport Office, Kapurthala. Upon conclusion of the defence evidence, the same was closed.

8. After appreciating the evidence adduced by the parties and hearing learned counsel for both sides, the learned trial Court, vide judgment of conviction dated 14.05.2004, held the present appellants, namely Satnam Singh and Gurpreet Kaur, guilty of the offences punishable under Sections 304-B and 498-A IPC. However, the co-accused, namely Kundan Singh and Pargan Singh alias Gora, were acquitted of all the charges by extending to them the benefit of doubt. Consequent upon the judgment of conviction, the learned trial Court, vide separate order on sentence dated 19.05.2004, sentenced the convicted accused as aforementioned.

9. Learned counsel for the appellants has vehemently contended that there is not an iota of evidence on record to establish that the deceased was ever subjected to cruelty or harassment for, or in connection with, any demand for dowry. It has been argued that the deceased was, in fact, suffering from a mental ailment and remained under depression and that it was owing to her



disturbed mental condition she committed suicide. Learned counsel has further submitted that appellant Satnam Singh and the deceased were residing separately on the first floor of the house, whereas appellant Gurmeet Kaur was residing on the ground floor along with her husband and had no interference whatsoever in the matrimonial life of the deceased. Learned counsel has further argued that the complainant party had initially alleged that the deceased had been murdered by her in-laws. However, after it became evident that the deceased had committed suicide, the prosecution sought to improve its version and attempted to convert a case of suicide into one of dowry death.

10. It has next been contended that the testimonies of PW2 Gurbachan Singh, PW1 Lakhwinder Singh and PW3 Sukhdev Singh suffer from material inconsistencies with regard to the alleged disclosure stated to have been made by the deceased about eight days prior to the occurrence. Elaborating his submissions, learned counsel has drawn the attention of the Court to the testimony of PW2 Gurbachan Singh and argued that, although the prosecution case is that the deceased had disclosed to him the acts of cruelty and the demand for a motorcycle when she had visited her parental home about eight days before the occurrence, no such assertion finds place in his deposition before the Court. It has further been submitted that PW1 Lakhwinder Singh has also not supported the prosecution version on this material aspect. Learned counsel has further argued that, according to the prosecution itself, about three days prior to the occurrence, the deceased had made a telephonic call to her aunt, Manjit Kaur, wife of Avtar Singh, informing her that she was being harassed by her in-laws on account of the demand for a motorcycle and requesting her to convey the said fact to her parents so that the demand could be



fulfilled at the earliest. However, whatever has been deposed to by PW1 Lakhwinder Singh, PW2 Gurbachan Singh and PW3 Sukhdev Singh with regard to the said telephonic conversation is admittedly based upon what was allegedly conveyed to them by Manjit Kaur. Since Manjit Kaur, the person who is stated to have received the telephone call from the deceased, has not been examined by the prosecution, the aforesaid witnesses have merely deposed to what they allegedly learnt from her. Such evidence, being hearsay in nature, is inadmissible in evidence. It is, therefore, contended that no reliance can be placed upon the said statements for recording a finding that the deceased was subjected to cruelty or harassment by the appellants soon before her death in connection with any demand for dowry.

11. Per contra, learned State counsel has supported the judgment of conviction and the order of sentence passed by the learned trial Court. It has been argued that the deceased died an unnatural death within about two and a half months of her marriage while residing at her matrimonial home. Referring to the medical evidence on record, learned State counsel has submitted that the deceased died due to asphyxia as a result of strangulation. It is, thus, contended that the prosecution has successfully established that the deceased died otherwise than under normal circumstances within seven years of her marriage, thereby satisfying the foundational requirements of Section 304-B IPC. Learned State counsel has further argued that the testimonies of PW2 Gurbachan Singh, brother of the deceased, PW1 Lakhwinder Singh and PW3 Sukhdev Singh consistently establish that the deceased was subjected to cruelty and harassment in connection with the demand for dowry. It has been submitted that the minor discrepancies, if any, appearing in their testimonies are but natural and do not go to the root of the prosecution case so as to discredit the



otherwise reliable evidence adduced by the prosecution. It has further been contended that the evidence on record establishes a live and proximate nexus between the cruelty meted out to the deceased on account of the demand for dowry and her death. Learned State counsel has argued that once the prosecution has proved the essential ingredients of Section 304-B IPC, the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 stands attracted, whereupon the burden shifts upon the accused to rebut the said presumption. According to the learned State counsel, the appellants have failed to discharge the said burden. Lastly, it has been argued that although the defence has taken the plea that the deceased was suffering from depression and had committed suicide on account of her mental condition, there is not an iota of evidence on record to substantiate the said plea. It has, therefore, been prayed that the present appeal, being devoid of merit, deserves to be dismissed and the judgment of conviction and order of sentence passed by the learned trial Court be affirmed.

12. I have heard learned counsel for the parties at length and have carefully gone through the record with their able assistance.

13. Before advertng to the rival submissions, it would be apposite to notice the essential ingredients of Section 304-B IPC which are:-

(a) the death of a woman must have been caused by burns, bodily injury or otherwise than under normal circumstances (including suicide or any other unnatural death);

(b) the death must have occurred within seven years of her marriage;

(c) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relative of her husband; and



(d) such cruelty or harassment must be for, or in connection with, the demand for dowry.

There must, in addition, be a proximate and live link between the dowry-related cruelty or harassment and the death. The expression “soon before death” does not mean “immediately before death”, and depends upon the facts of each case.

14. In the present case, it is not in dispute that the death of the deceased occurred within about two and a half months of her marriage and that it was otherwise than under normal circumstances. PW6 Dr. Subhash Chandra, who was a member of the Board of Doctors who conducted the post-mortem examination on the dead body of the deceased, deposed that a ligature mark measuring 2.2 cm in width was present on the upper part of the neck between the larynx and the chin, running obliquely upwards along the line of the mandible and extending up to the mastoid process behind the ear. He further deposed that the ligature mark was absent on the posterior aspect of the neck and that the knot was present on the right side of the neck, where the ligature mark was irregular and measured 3.5 cm at its widest point. According to the opinion of the Medical Board, the cause of death was asphyxia resulting from the ante-mortem injury to the neck, which was sufficient to cause death in the ordinary course of nature. The post-mortem report (Exhibit PH) duly corroborates the said medical opinion. Thus, the prosecution has succeeded in establishing that the death of the deceased occurred otherwise than under normal circumstances within seven years of her marriage, thereby satisfying the first two ingredients of Section 304-B IPC.

15. However, proof of the aforesaid two circumstances, by itself, is not sufficient to bring home the charge under Section 304-B IPC. The prosecution is further required to establish that the deceased was subjected to cruelty or



harassment by the accused for, or in connection with, any demand for dowry and that such cruelty or harassment was inflicted upon her soon before her death.

16. The expression “soon before her death” has not been defined in the Code. It is, however, well settled that the expression is a relative one and necessarily postulates the existence of a live and proximate link between the dowry-related cruelty or harassment and the death of the deceased. The interval between the cruelty and the death should not be so remote as to snap the nexus between the two.

17. It is equally well settled that only after the prosecution succeeds in proving the foundational facts constituting the offence under Section 304-B IPC does the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 become operative, whereupon the burden shifts to the accused to rebut the said presumption. Whether the prosecution has succeeded in establishing the aforesaid foundational facts is the principal question that falls for determination in the present appeal.

18. The aforesaid legal position has been succinctly explained by the Hon’ble Supreme Court in ***Hira Lal and others v. State (Govt. of NCT), Delhi, (2003) 8 SCC 80 : 2003(3) RCR (Criminal) 830***, wherein it was held as under:-

“9. A conjoint reading of Section 113-B of the Evidence Act and Section 304-B I.P.C. shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. The prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of “death occurring otherwise than in normal circumstances”. The expression “soon before” is very relevant where Section 113-B of the Evidence Act and Section 304-B I.P.C. are pressed into



service. The prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led by the prosecution. “Soon before” is a relative term and it would depend upon the circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. 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. The expression “soon before her death” used in the substantive Section 304B I.P.C. and Section 113B of the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression “soon before” is not defined. A reference to the expression “soon before” used in Section 114 Illustration (a) of the Evidence Act is relevant. It lays down that a court may presume that a man who is in the possession of goods “soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for their possession”. The determination of the period which can come within the term “soon before” is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression “soon before” would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.”



19. The aforesaid principle was emphasized by the Hon'ble Supreme Court in ***Kans Raj v. State of Punjab and others, (2000) 5 SCC 207***, wherein the Hon'ble three-Judge Bench held that:-

“14. “Soon before” is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. ... In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. ... Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.”

20. Again, in ***Satbir Singh and another v. State of Haryana, (2021) 6 SCC 1 : AIR 2021 SC 2627***, the Hon'ble Supreme Court while explaining the import of the expression “soon before her death”, held that Courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term “soon before”, and that what is pivotal to the said determination is the establishment of a “proximate and live link” between the cruelty and the consequential death of the victim.

21. The Hon'ble Supreme Court in ***Baijnath and others v. State of Madhya Pradesh, (2017) 1 SCC 101***, further held that proof of dowry-related cruelty or harassment is the very foundation for raising the statutory presumption under Section 113-B of the Indian Evidence Act, 1872, and that



the said presumption cannot be invoked to fill up the lacunae in the prosecution case. It was observed as under:-

“33. A conjoint reading of these three provisions, thus predicate the burden of the prosecution to unassailably substantiate the ingredients of the two offences by direct and convincing evidence so as to avail the presumption engrafted in Section 113B of the Act against the accused. Proof of cruelty or harassment by the husband or her relative or the person charged is thus the sine qua non to inspirit the statutory presumption, to draw the person charged within the coils thereof.”

22. Reverting to the facts of the present case, the prosecution has relied upon two circumstances to establish that the deceased was subjected to cruelty and harassment in connection with the demand for dowry. The first circumstance pertains to the alleged disclosure made by the deceased about eight days prior to the occurrence when she visited her parental home and allegedly informed her brother Gurbachan Singh, her mother Malkit Kaur, her cousin Sukhdev Singh and her uncle Santokh Singh, Ex-Sarpanch, that her husband, brothers-in-law and mother-in-law were harassing her for bringing insufficient dowry and had raised a demand for a motorcycle. The second circumstance relates to the alleged telephonic conversation made by the deceased about three days prior to the occurrence to her aunt, Manjit Kaur, wherein she is alleged to have disclosed that her in-laws were still harassing her on account of the demand for a motorcycle and requested that her parents be asked to arrange the same at the earliest. According to the prosecution, Manjit Kaur thereafter conveyed the said information to the parental family of the deceased.

23. Insofar as the first circumstance is concerned, the prosecution has



sought to prove the same through the testimonies of PW1 Lakhwinder Singh, PW2 Gurbachan Singh and PW3 Sukhdev Singh. It may be noticed that the FIR came to be registered on the basis of statement Ex.PA made by PW2 Gurbachan Singh before the police, wherein he stated that about eight days prior to the occurrence, his sister Rajwinder Kaur had come to her parental home and disclosed before him, his mother Malkit Kaur, his cousin Sukhdev Singh and his uncle Santokh Singh, Ex-Sarpanch, that her husband, brothers-in-law and mother-in-law were harassing her for bringing insufficient dowry and were demanding a motorcycle. However, while appearing in the witness box, PW-2 Gurbachan Singh has, inter alia, deposed as under:-

“.....About 15 days after the marriage, Satnam Singh, husband, Kundan Singh brother-in-law, Pargan Singh brother-in-law, Gurmit Kaur @ Mito mother-in-law of the deceased started demanding motorcycle from us. The accused told Rajwinder Kaur that in case she failed to bring the motorcycle she could not come to their house. They turned out Rajwinder Kaur from her bridal house and then she went to her parents house. When Rajwinder Kaur came to our house, she told my mother Malkiat Kaur, Santokh Singh Ex-Sarpanch, my uncle from the brotherhood, Sukhdev Singh my uncle's son that Satnam Singh, Kundan Singh, Pargan Singh alias Gora brothers-in-law and Gurmit Kaur accused present in the Court were taunting her and asking her to bring insufficient dowry. She told about this about 8 days before her death. On the next day, I took my sister Rajwinder Kaur to her in-laws house at village Bhandal Bet and told Satnam Singh, Kundan Singh, Pargan Singh and Gurmit Kaur accused that we had already given telephonic message to Gurdial Singh my elder brother in Kuwait. We further told that they should not harass and

taunt my sister and as soon as they receive the amount from Gurdial Singh, they will give the motorcycle to them....”

24. A careful reading of the aforesaid testimony reveals that PW2 Gurbachan Singh has nowhere stated that the deceased had made the aforesaid disclosure to him. Rather, on his own showing, the deceased disclosed the alleged acts of cruelty and the demand for a motorcycle to his mother Malkit Kaur, his uncle Santokh Singh, Ex-Sarpanch, and his cousin Sukhdev Singh. To that extent, the testimony of PW2 Gurbachan Singh is not based upon any disclosure made directly to him by the deceased and, therefore, cannot be relied upon to conclude that the deceased had informed him that she was being subjected to cruelty or harassment in connection with the demand for dowry.

25. No doubt, PW2 Gurbachan Singh has stated in the opening part of his deposition that about fifteen days after the marriage, the accused had started demanding a motorcycle. The said assertion, however, is wholly bald and omnibus, bereft of any material particulars regarding the date, place, manner or circumstances in which such demand was allegedly raised. Significantly, the allegation pertains to a point of time falling about the third week of December, 2001, i.e. more than two months prior to the death of the deceased. Even if the said assertion is accepted at its face value, a demand allegedly raised at such a distant point of time, in the absence of any cogent evidence of proximate cruelty or harassment, cannot satisfy the statutory requirement of “soon before her death” occurring in Section 304-B IPC, having regard to the proximity test explained by the Hon’ble Supreme Court in the decisions noticed hereinabove.

26. Insofar as the testimony of PW1 Lakhwinder Singh is concerned, he has deposed that about eight days prior to the occurrence, the deceased Rajwinder Kaur came to her parental home and that thereafter Gurbachan

Singh, Sukhdev Singh and Trilok Singh came along with her to the house of the accused. According to him, he was also called there and all of them prevailed upon the accused not to harass the deceased, whereafter they returned to their village leaving Rajwinder Kaur at her matrimonial home. The testimony of PW1 Lakhwinder Singh, however, does not inspire confidence for more than one reason.

26.1 Firstly, according to the prosecution itself, it was PW2 Gurbachan Singh who had taken the deceased to her matrimonial home on the following day. However, PW2 Gurbachan Singh has nowhere deposed that PW1 Lakhwinder Singh had also been called to the matrimonial home of the deceased or that he had joined them in persuading the accused not to harass the deceased.

26.2 Secondly, while PW2 Gurbachan Singh has stated that he alone had taken his sister to her matrimonial home, PW1 Lakhwinder Singh has introduced an altogether different version by stating that Gurbachan Singh, Sukhdev Singh and Trilok Singh had accompanied the deceased to her matrimonial home and that he too had reached there. Thus, the two witnesses are at variance on material particulars regarding the persons who had allegedly accompanied the deceased to her matrimonial home and the events which are stated to have transpired there.

26.3 Thirdly, the testimony of PW1 Lakhwinder Singh is not only inconsistent with the statement of PW2 Gurbachan Singh but also with his own previous statement (Ex.DA) recorded during the course of investigation. In the said statement, PW1 Lakhwinder Singh had merely stated that he was called to Village Sangrawan by the complainant party, where he was informed that the accused were demanding a motorcycle in dowry and that he was requested to



persuade them. He further stated that he made the deceased understand and sent her back to her matrimonial home. Significantly, in the said previous statement, he did not state that he had accompanied the deceased to her matrimonial home or that he, along with the complainant party, had prevailed upon the accused not to harass the deceased.

26.4 These omissions assume significance as they relate to the very occurrence sought to be proved by the prosecution. Viewed in the light of the aforesaid inconsistencies and omissions, the testimony of PW1 Lakhwinder Singh does not inspire sufficient confidence to safely rely upon the same for holding that the deceased had, in fact, visited her parental home about eight days prior to the occurrence and that the accused were confronted with the allegation of dowry demand and harassment on that occasion.

27. Insofar as the testimony of PW3 Sukhdev Singh is concerned, it is evident that the same also fails to lend assurance to the prosecution version. During his cross-examination, the witness admitted that in his statement recorded under Section 175 Cr.P.C., he had not stated that Rajwinder Kaur had visited her parental home about eight days prior to the occurrence or that she had disclosed that she was being harassed by her in-laws in connection with the demand for dowry. Further, a perusal of his statement recorded under Section 161 Cr.P.C., which was duly put to him during the course of his cross-examination, reveals material departures from his deposition before the Court. In the said statement, PW3 Sukhdev Singh had stated that the deceased had visited her parental home about three days prior to her death and had disclosed to her mother and brother that her in-laws were demanding dowry and harassing her for bringing insufficient dowry. He had further stated that the family members persuaded the deceased and sent her back to her matrimonial home.



Significantly, in the said statement, the witness neither stated that the deceased had visited her parental home about eight days prior to the occurrence nor that PW2 Gurbachan Singh had accompanied her to her matrimonial home. He also did not state that PW1 Lakhwinder Singh had been called either to Village Sangrawan or to the matrimonial home of the deceased to apprise him of the alleged demand for dowry. It is, no doubt, well settled that a statement recorded under Section 161 Cr.P.C. is not substantive evidence and can be used only for the limited purpose of contradiction in the manner contemplated under Section 145 of the Indian Evidence Act, 1872. It is in that limited perspective alone that the aforesaid contradictions have been noticed. However, the omissions and improvements made by PW3 Sukhdev Singh are not with respect to trivial or insignificant matters but relate to the very foundation of the prosecution case regarding the alleged visit of the deceased to her parental home eight days prior to her death and the disclosure allegedly made by her on that occasion.

28. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to establish the first circumstance relied upon by it, namely, that about eight days prior to the occurrence, the deceased had visited her parental home and disclosed to the members of her parental family that she was being subjected to cruelty or harassment by the appellants in connection with the demand for a motorcycle.

28.1 The evidence of PW1 Lakhwinder Singh, PW2 Gurbachan Singh and PW3 Sukhdev Singh suffers from material inconsistencies, omissions and improvements touching the very genesis of the prosecution case. These are not mere minor discrepancies, but strike at the root of the prosecution version. Thus, the prosecution has remained unsuccessful in proving, beyond reasonable doubt, the alleged disclosure said to have been made by the deceased eight days

prior to her death. The first circumstance relied upon by the prosecution, therefore, cannot be said to have been proved.

28.2 Coming now to the second circumstance, the prosecution has sought to establish that about three days prior to her death, the deceased had telephonically informed her aunt, Manjit Kaur, that she was being subjected to cruelty and harassment by her in-laws on account of the demand for a motorcycle and had requested her to convey the said fact to her parents so that the demand could be fulfilled at the earliest. It is the further case of the prosecution that Manjit Kaur, in turn, conveyed the said information to the parental family of the deceased. However, Manjit Kaur, being the recipient of the alleged telephonic conversation and, thus, the most material witness to prove its contents, has not been examined by the prosecution. No explanation whatsoever has been furnished for withholding the said witness.

28.3 The testimonies of PW1 Lakhwinder Singh, PW2 Gurbachan Singh and PW3 Sukhdev Singh, insofar as they relate to the alleged telephonic conversation, are admittedly not based upon their personal knowledge but upon what was allegedly communicated to them by Manjit Kaur. Such evidence is, therefore, hearsay in nature and cannot be accorded the same evidentiary value as the testimony of a witness who had directly heard the deceased. The non-examination of Manjit Kaur assumes considerable significance, particularly when the alleged telephonic conversation constitutes the principal circumstance relied upon by the prosecution to establish that the deceased was subjected to dowry-related cruelty or harassment soon before her death. In these circumstances, the prosecution has failed to produce the best available evidence to substantiate this material allegation. Consequently, the alleged telephonic disclosure made by the deceased cannot be safely relied upon to hold that she

was subjected to cruelty or harassment in connection with the demand for dowry soon before her death.

28.4 In view of the findings recorded hereinabove, this Court is of the considered opinion that the prosecution has failed to establish the essential ingredients of Section 304-B IPC. Consequently, the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 does not arise. The conviction of the appellants under Section 304-B IPC, therefore, cannot be sustained.

29. The conviction of the appellants under Section 498-A IPC also cannot be sustained. The charge under the said provision rests upon the very same evidence, namely, the testimonies of PW1 Lakhwinder Singh, PW2 Gurbachan Singh and PW3 Sukhdev Singh regarding the alleged demand for a motorcycle and the consequent harassment of the deceased. The said evidence having already been found to be unreliable for the reasons recorded hereinabove, no independent or other cogent evidence survives on record to establish that the appellants subjected the deceased to cruelty within the meaning of the Explanation appended to Section 498-A IPC. It may also be noticed that the learned trial Court itself acquitted co-accused Kundan Singh and Pargan Singh alias Gora, against whom substantially identical allegations had been levelled by the very same prosecution witnesses, holding that they appeared to have been falsely implicated with a view to exaggerate the number of the accused. The correctness of the said acquittal is not the subject matter of the present appeal. Nevertheless, the said finding lends further assurance to the conclusion arrived at by this Court regarding the reliability of the prosecution evidence.



30. As a necessary corollary to the foregoing discussion, the present appeal deserves to succeed and is, accordingly, allowed. The judgment of conviction dated 14.05.2004 and the order of sentence dated 19.05.2004 passed by the learned trial Court are hereby set aside. The appellants are acquitted of all the charges framed against them by extending to them the benefit of doubt. Their bail bonds and surety bonds shall stand discharged.

31. Pending application(s), if any, shall also stand disposed of.

(RUPINDERJIT CHAHAL)
JUDGE

28.07.2026
puneet

1. Whether speaking/reasoned: Yes
2. Whether reportable: Yes/No