



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

CRA-S-767-SB-2004
Reserved on: 25.05.2026
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

SUKHWINDER SINGH & ORS.

....Appellants

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Varun Tuteja, Advocate for the appellants.

Mr. J.S. Rattu, DAG Punjab.

Mr. H.S. Dhandi, Advocate for the complainant.

RUPINDERJIT CHAHAL, J.

1. The present appeal has been preferred against the judgment of conviction and order of sentence dated 27.03.2004 passed by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Ludhiana, in Sessions Case No.152 dated 08.10.2003, whereby the appellants Sukhwinder Singh, Rajwinder Kaur, Amarjit Kaur and Surjit Singh have been convicted under Sections 313, 323 and 498-A read with Section 34 of the Indian Penal Code, 1860 (for short, 'IPC'), and each of them has been sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.500/-, with a default stipulation of rigorous imprisonment for three months, for the offence punishable under Section 313 IPC; to undergo rigorous imprisonment

for a period of three years and to pay a fine of Rs.500/-, with a default stipulation of rigorous imprisonment for three months, for the offence punishable under Section 498-A IPC; and to undergo rigorous imprisonment for a period of six months for the offence punishable under Section 323 IPC. All the substantive sentences were ordered to run concurrently, with the benefit of set off under Section 428 of the Code of Criminal Procedure, 1973.

2. Appellant Sukhwinder Singh was married to the complainant Kiranjit Kaur on 02.02.2000 at Machhiwara according to Sikh rites. Appellant Rajwinder Kaur is the sister-in-law (husband's sister) of the complainant, appellant Amarjit Kaur is her mother-in-law and appellant Surjit Singh is her father-in-law.

3. The case of the prosecution, in brief, is that the complainant moved a written application before the Senior Superintendent of Police, Khanna, alleging that sufficient dowry and *istridhan* in the shape of gold ornaments, clothes and other household articles were given at the time of her marriage, but the appellants-accused were not satisfied therewith and raised a demand for more dowry and cash. It was further alleged that on 13.10.2000 at about 1.00 P.M., appellants Sukhwinder Singh and Surjit Singh gave beatings to the complainant and threw her on the bed; appellant Amarjit Kaur pulled her legs, appellant Sukhwinder Singh caught hold of her from her arms, while appellant Rajwinder Kaur sat on the abdomen of the complainant and pressed the same, and at that time appellant Surjit Singh was standing at the door. The complainant started bleeding per vagina. She informed her parents, whereupon her father and brother came and took her with them and got her admitted in R.K. Memorial Hospital, Machhiwara. The complainant further alleged that she

was pregnant at the time of the occurrence and that she suffered a miscarriage on account of the injuries caused by the appellants.

4. On the basis of the said complaint, FIR No.6 dated 03.02.2001, under Sections 313/315/323/506/498-A/120-B IPC, was registered at Police Station Machhiwara, District Ludhiana, against the appellants-accused.

5. On completion of the investigation, challan against the accused was presented in Court. The case was committed to the Court of Session by the learned Judicial Magistrate 1st Class, Samrala vide order dated 16.02.2002 and, after completing the necessary formalities and finding a prima facie case, the accused were charge-sheeted under Sections 313, 498-A and 323 read with Section 34 IPC. The charge was read over and explained to the accused, to which they pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution examined PW-1 Kiranjit Kaur, complainant, PW-2 Jaskaran Singh, father of the complainant, PW-3 Sandeep Kumar, photographer, PW-4 Kulwinder Singh, PW-5 ASI Hakam Singh, PW-6 Dr. Rakesh Kumar, PW-7 ASI Harbans Singh, PW-8 ASI Ashok Kumar, PW-9 Dr. T.S. Cheema and PW-10 Tarlok Singh, besides tendering the documentary evidence on the record. Thereafter, the prosecution evidence was closed.

7. Upon conclusion of the prosecution evidence, the accused were examined under Section 313 Cr.P.C., wherein they denied the prosecution allegations and pleaded false implication. In defence, the accused examined 06 witnesses, namely, DW-1 Mela Singh, DW-2 C. Parminder Singh, DW-3



Surinder Singh, DW-4 Sultan Singh, DW-5 Prabh Kiran Singh and DW-6 Jasbir Singh, and thereafter closed their defence evidence.

8. Learned counsel for the appellants has vehemently argued that the learned trial Court committed a grave error in convicting the appellants, inasmuch as there is absolutely no legally admissible evidence on the record to prove that the complainant was pregnant at the relevant time or that she suffered any miscarriage or abortion. It has been contended that the laboratory report Mark 'A', upon which the entire prosecution case rests, is a mere photocopy which has never been proved in accordance with law, and that the said report was procured for the purposes of the case. It has further been contended that, as per the medical evidence on the file, no injury whatsoever was found on the person of the complainant apart from bleeding per vagina, and that the offence under Section 323 IPC is, therefore, not made out.

9. Learned counsel for the appellants has further contended that the allegations regarding the demand of dowry are wholly vague and general, inasmuch as neither any specific date nor any specific instance has been mentioned as to when the appellants allegedly raised such a demand. He has further argued that soon after the marriage the complainant and appellant Sukhwinder Singh could not adjust with each other on account of a difference in their temperaments, and that the complainant got the FIR registered by concocting a false story merely in order to pressurise the appellants into agreeing to a divorce. He has further pointed out that the matrimonial dispute between the parties has since been settled and that the marriage of the complainant with appellant Sukhwinder Singh has already been dissolved by a decree of divorce by mutual consent, whereafter the complainant has moved

forward in her life, whereas the appellants continue to face the agony of a criminal prosecution founded upon false facts. He has accordingly prayed for acquittal of the appellants.

10. Per contra, learned State counsel has argued that vide laboratory report Mark 'A' it stood revealed that the complainant was pregnant on 04.10.2000, and that on account of the beatings and other acts committed by the appellants, the complainant suffered a miscarriage and her pregnancy of ten weeks was aborted against her wish and without her consent. He has further argued that since the very inception of the marriage the appellants were not satisfied with the dowry given in the marriage and were continuously raising demands of dowry. He has further argued that the learned trial Court has correctly appreciated the evidence on the record and that there is no scope for interference with the findings so recorded. He has accordingly prayed for dismissal of the appeal. Learned counsel for the complainant has adopted the submissions advanced on behalf of the State.

11. I have heard learned counsel for the parties and have gone through the record with their able assistance.

12. The appellants have been convicted under Sections 313, 323 and 498-A IPC. Section 313 IPC is a penal provision which draws its definitional content from Section 312 IPC. The said provisions read as under:-

“312. Causing miscarriage.-

Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term



which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry, is within the meaning of this section.

313. Causing miscarriage without woman's consent.-

Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

13. In order to secure a conviction under Section 313 IPC, the prosecution is required to establish, beyond reasonable doubt, the following essential ingredients:-

- (a) the woman was with child, that is to say, pregnancy is the foundational fact upon which the charge rests and it must be established by reliable medical or other cogent evidence;
- (b) the accused voluntarily caused the woman to miscarry, there being a direct act or omission attributable to the accused which resulted in the miscarriage;
- (c) the miscarriage was caused without the consent of the woman, the absence of free and voluntary consent being the very feature which distinguishes Section 313 from Section 312 IPC;
- (d) the act was intentional, that is to say, the miscarriage was voluntarily caused; and
- (e) the act was not done in good faith for the purpose of saving the life of the woman.



14. To prove the aforesaid essential ingredients, the prosecution case rests upon the statements of PW-1 Kiranjit Kaur, complainant, PW-6 Dr. Rakesh Kumar, PW-9 Dr. T.S. Cheema and PW-10 Tarlok Singh.

15. PW-1 complainant has categorically stated that on 04.10.2000 she came to know that she was pregnant. She stated that on 04.10.2000 she got herself medically checked and it was revealed that she was pregnant. However, she has not disclosed the name of the doctor, hospital or any laboratory from where she got herself medically checked. A critical analysis of her testimony reveals that she has nowhere stated that she got herself medically checked from Abhisekh Laboratory, or that any report was issued to her revealing the factum of pregnancy. The single most material fact in the prosecution case is thus left wholly unanchored in the deposition of the complainant herself.

16. PW-10 Tarlok Singh, Technician, Abhisekh Laboratory, has deposed that vide report Mark 'A', the pregnancy of the complainant was tested positive. However, no reliance can be placed upon the said report as the same has not been proved as per law. Under Section 61 of the Indian Evidence Act, 1872, the contents of documents may be proved either by primary or by secondary evidence, and Section 64 mandates that documents must be proved by primary evidence except in the cases thereafter mentioned. Section 63 exhaustively defines secondary evidence and Section 65 sets out the limited circumstances in which secondary evidence relating to documents may be given.

17. The Hon'ble Supreme Court in *J. Yashoda v. K. Shobha Rani*, (2007) 5 SCC 730 : AIR 2007 SC 1721, has observed as under:-



“8. Essentially, secondary evidence is an evidence which may be given in the absence of that better evidence which law requires to be given first, when a proper explanation of its absence is given. The definition in Section 63 is exhaustive as the Section declares that secondary evidence ‘means and includes’ and then follow the five kinds of secondary evidence.

9. The rule which is the most universal, namely that the best evidence the nature of the case will admit shall be produced, decides this objection that rule only means that, so long as the higher or superior evidence is within your possession or may be reached by you, you shall give no inferior proof in relation to it. Section 65 deals with the proof of the contents of the documents tendered in evidence. In order to enable a party to produce secondary evidence it is necessary for the party to prove existence and execution of the original document. Under Section 64, documents are to be proved by primary evidence. Section 65, however, permits secondary evidence to be given of the existence, condition or contents of documents under the circumstances mentioned. The conditions laid down in the said section must be fulfilled before secondary evidence can be admitted. Secondary evidence of the contents of a document cannot be admitted without non-production of the original being first accounted for in such a manner as to bring it within one or other of the cases provided for in the section.”

18. The said exposition of law proceeds upon the earlier pronouncement of the Hon'ble Supreme Court in ***Ashok Dulichand v. Madavlal Dube and another., (1975) 4 SCC 664***. Applying the aforesaid principles to the case in hand, report Mark 'A' being admittedly a photocopy, of which the original was never produced and the non-production whereof was never accounted for, was not receivable in evidence at all, much less capable of



forming the foundation of a conviction carrying a sentence extending to imprisonment for life.

19. Quite apart from the legal inadmissibility of the document, a careful perusal of the statement of PW-10 Tarlok Singh reveals that the photocopy of report Mark 'A' is surrounded by suspicious circumstances. PW-10 Tarlok Singh has stated in his cross-examination that a serial number is mentioned in the register maintained in the laboratory. However, he admitted that report Mark 'A' does not bear the serial number of the register. He further admitted that in a photocopy of a report, the result of the patient, the date, the name of the patient and other particulars can be changed. He further stated that he cannot identify the complainant. He further stated that he has not seen the original of Mark 'A'. He further admitted that in the absence of the original report, it cannot be said if the pregnancy test of the complainant was found positive or negative. In the teeth of such admissions made by the prosecution's own witness, the document is not merely unproved, but is affirmatively unreliable.

20. So far as the testimony of PW-9 Dr. T.S. Cheema is concerned, it is observed that the same is not relevant for the adjudication of the controversy in dispute. PW-9 Dr. T.S. Cheema has deposed that the complainant came to him on 31.05.2000, i.e. much prior to the alleged occurrence. Moreover, this witness has nowhere stated that the complainant was pregnant at that time. Rather, he has categorically stated that in the scan of the uterus, no significant abnormality was found at that time. His evidence, far from advancing the prosecution case, is at its highest neutral.



21. So far as the testimony of PW-6 Dr. Rakesh Kumar is concerned, it is observed that the same also falls short to prove that the complainant was pregnant at the time of the alleged occurrence or that she suffered a miscarriage. This witness has deposed that on 14.10.2000, the complainant came to his hospital; at that time she had bleeding per vagina; the complainant had disclosed the history of 10 weeks pregnancy; and he had only given her treatment for stopping the bleeding. It is thus manifest that the factum of pregnancy did not rest upon any clinical finding recorded by this witness, but upon the history volunteered by the complainant herself. A history so disclosed by a patient is not substantive proof of the fact stated therein; it is, at best, a record of what the patient said.

22. During his cross-examination, PW-6 Dr. Rakesh Kumar stated that he is not a Gynaecologist but his wife, who is BAMS, MD, is a Gynaecologist. He further stated that the complainant was checked by and remained under the treatment of his wife. He further stated that there was no other injury on the person of the complainant except per vagina bleeding. Thus, on the showing of the prosecution itself, the wife of Dr. Rakesh Kumar, who alone examined and treated the complainant, was the best and indeed the only competent witness to depose regarding the pregnancy and the termination thereof. She has not been examined. No explanation whatsoever has been furnished for withholding this crucial witness.

23. Illustration (g) to Section 114 of the Indian Evidence Act, 1872 permits the Court to presume that evidence which could be, and is not, produced would, if produced, be unfavourable to the person who withholds it. Where the prosecution, having it in its power to examine the one witness who



could speak to the foundational fact from her own professional knowledge, has chosen instead to rest upon the hearsay recital of a history and upon an unproved photocopy, the Court would be abdicating its function were it to supply by presumption what the prosecution has failed to establish by proof.

24. As a result of the above discussion, this Court is of the view that the prosecution has failed to establish the foundational facts necessary to attract Section 313 IPC. There is no cogent medical evidence proving that the complainant was pregnant at the relevant time or that any miscarriage was caused by the act of the accused. Even otherwise, the prosecution has failed to adduce reliable evidence to prove that the alleged miscarriage was caused without the consent of the woman, which is the sine qua non for constituting an offence under Section 313 IPC. The distinction between Sections 312 and 313 IPC lies precisely in the element of consent, and the learned trial Court has returned no finding at all upon this indispensable ingredient. The conviction under Section 313 IPC is, therefore, unsustainable.

25. So far as the offence under Section 498-A IPC is concerned, the said provision reads as under:-

**“498-A. Husband or relative of husband of a woman
subjecting her to cruelty.-**

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, ‘cruelty’ means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave



injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

26. Suffice it to say that vague and general allegations have been levelled in the present case. It is settled law that general and omnibus allegations are not sufficient to conclude that a woman was being harassed in connection with the demand of dowry. The allegations levelled by the complainant are lacking in material particulars, inasmuch as no date, no occasion, no specific article demanded and no specific role attributed to any individual appellant has been brought on the record, and the same are not supported by any independent or reliable evidence. It is also an admitted fact that the marriage between the complainant and appellant Sukhwinder Singh has been dissolved by a decree of divorce by mutual consent.

27. The Hon'ble Supreme Court in ***Kans Raj v. State of Punjab, (2000) 5 SCC 207 : AIR 2000 SC 2324***, wherein the Hon'ble three-Judge Bench held as under:-

“5. ... For the fault of the husband, the in-laws or the other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than husband are required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths. A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the



matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused.”

28. The aforesaid position was reiterated by the Hon'ble Supreme Court in ***Preeti Gupta and another v. State of Jharkhand and another, (2010) 7 SCC 667***, wherein it has been observed:-

“30. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive.”

29. That vague, general and omnibus allegations against the relatives of the husband are not sufficient to sustain a prosecution stands authoritatively settled by the Hon'ble Supreme Court in ***Kahkashan Kausar alias Sonam and others v. State of Bihar and others, (2022) 6 SCC 599***, wherein it has been held:-

“18. The above-mentioned decisions clearly demonstrate that this Court has at numerous instances expressed concern over the misuse of Section 498-A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long-term ramifications of a trial on the complainant as well as the accused. It is further manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law. Therefore, this



Court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.”

30. To similar effect are the observations of the Hon'ble Supreme Court in ***Geeta Mehrotra and another v. State of U.P. and another, (2012) 10 SCC 741***, wherein, approving the earlier view taken in ***G.V. Rao v. L.H.V. Prasad and others, (2000) 3 SCC 693***, it was held that where all the family members are roped into matrimonial litigation upon omnibus allegations, such proceedings ought not to be permitted to continue. Tested on the anvil of the aforesaid authorities, the material on the record against appellants Rajwinder Kaur, Amarjit Kaur and Surjit Singh, being respectively the husband's sister, the mother-in-law and the father-in-law of the complainant, consists of nothing beyond a bald and undifferentiated assertion of cruelty and demand of dowry. Not a single independent witness has been produced by the prosecution to establish either the demand or the harassment, notwithstanding that the occurrence is alleged to have taken place in a residential locality and that the complainant herself deposed that the neighbours were standing outside the door. The persons allegedly informed contemporaneously by the complainant were likewise never produced in the witness box. The conviction under Section 498-A IPC, resting upon such a foundation, cannot be sustained.

31. So far as the offence under Section 323 IPC is concerned, 'hurt' is defined in Section 319 IPC to mean the causing of bodily pain, disease or infirmity to any person, and Section 321 IPC defines the expression 'voluntarily causing hurt'. PW-6 Dr. Rakesh Kumar has clearly stated that except per vagina bleeding, no other injury was found on the person of the complainant. There is no medico-legal report on the record evidencing any injury referable to the



beatings alleged. Once the prosecution has failed to establish the commission of the offence under Section 313 IPC for the reasons discussed hereinabove, and the per vagina bleeding is not shown by any acceptable evidence to be attributable to any act of the appellants, the conviction of appellant Rajwinder Kaur under Section 323 IPC and that of the remaining appellants under Section 323/34 IPC is also liable to be set aside. Where the substratum of the prosecution case fails, Section 34 IPC can fasten no vicarious liability, there being no proved criminal act in furtherance whereof a common intention could operate.

32. It may be noticed that the learned trial Court, while repelling the contention that PW-1 and PW-2 were interested witnesses, placed reliance upon *Rizan and another v. State of Chhattisgarh*, (2003) 2 SCC 661. The proposition therein enunciated, namely, that relationship is not by itself a factor which affects the credibility of a witness, is unexceptionable and is respectfully adopted. That principle, however, presupposes that the testimony under scrutiny is otherwise cogent and credible, and it cannot be pressed into service to cure a failure of proof upon the foundational facts themselves. The infirmity in the present case is not that PW-1 and PW-2 are related to each other; it is that the objective, documentary and expert evidence upon which their version depended has either collapsed in cross-examination or was never brought on the record in a legally admissible form.

33. The cumulative effect of the foregoing discussion is that the prosecution has failed to bring home the charge against the appellants under Sections 313, 323 and 498-A read with Section 34 IPC beyond reasonable doubt. The findings recorded by the learned trial Court are based upon a



misappreciation of the evidence and upon material which was never legally proved, and the same cannot be sustained. The appellants are entitled to the benefit of doubt.

34. As a result of above discussion, appeal is allowed. Impugned judgment of conviction and the order of sentence dated 27.03.2004 are set aside. Appellants-accused are acquitted of the offences charged with by extending benefit of doubt. Their bail bonds and surety bonds stand discharged.

35. Pending application(s), if any, shall also stand disposed of. Trial Court record be sent back forthwith.

(RUPINDERJIT CHAHAL)
JUDGE

28.07.2026

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