

**CRA-S-486-SB-2004 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRA-S-486-SB-2004 (O&M)****Reserved on : 06.11.2025****Pronounced on : 29.11.2025**

Vinod Kumar

.... Appellant

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGHArgued by: Mr. Vijay Kumar Jindal, Sr. Advocate with
Mr. Abhishek Shukla, Advocate for the appellant.

Mr. Parveen Kumar Aggarwal, Addl. A.G., Haryana.

SURYA PARTAP SINGH, J.

1. For the commission of offence punishable under Sections 302/304B/406/498A of the Indian Penal Code, hereinafter being referred to as 'IPC' only, arising out of FIR No.85 dated 14.07.1999, five accused were sent by SHO, Police Station Radaur to face trial for the commission of abovementioned offence.

2. The abovementioned trial, by virtue of judgment of conviction and order of sentence dated 05.02.2004, passed by the Court of learned Additional Sessions Judge Jagadhri, hereinafter being referred to as 'trial Court', culminated into acquittal of four accused, namely Rameshwar Dass, Bhushan, Naar Devi and Sarita. However, by virtue of the same judgment

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the accused Vinod Kumar has been convicted, who has preferred the instant appeal, hereinafter being referred to as 'appellant' only.

3. By virtue of abovementioned judgment, it has been observed that charge for the commission of offence punishable under Section 304B of IPC stands proved against the appellant, whereas charge for the commission of offence punishable under Sections 302 and 406 of IPC could not be proved. In view of abovementioned finding, vide order on quantum of sentence of the same date, the appellant has been sentenced to undergo rigorous imprisonment for a period of ten years.

4. Aggrieved of the abovementioned judgment of conviction and order of sentence, the present appeal has been preferred by the appellant on the ground that the impugned judgment of conviction and order of sentence are outcome of non-application of judicial mind, and that the learned trial Court has committed an error of judgment while appreciating the factual matrix of the case, vis-à-vis the law applicable thereto. It has been alleged by the appellant that the learned trial Court has ignored the basic principle of criminal jurisprudence that the prosecution is duty bound to prove its case beyond the shadow of reasonable doubt. As per appellant, merely, on the basis of presumptions and assumptions, the learned trial Court has arrived at a conclusion that charge against the appellant stands proved, whereas the evidence adduced by the prosecution was not only unreliable, but also inconsistent and contradictory. It has also been pleaded that the judgment of conviction is based on conjectures and surmises, and therefore, there is need



for indulgence and interference in the impugned verdict, by exercising the appellate jurisdiction of this Court.

5. The pith and substance of the story, set-out by the prosecution before the learned trial Court, was that 'Reena Devi' was married to 'Vinod Kumar' (appellant herein) on 21.11.1998 as per Hindu rites and ceremonies, and that at the time of her marriage, adequate dowry befitting to their status was given, but the husband, father-in-law, mother-in-law, elder brother of husband and his wife, namely Vinod Kumar, Rameshwar Dass, Naar Devi, Bhushan Kumar and Sarita, respectively, were not satisfied with the dowry, and therefore, within two months of marriage, they started harassing and maltreating the deceased-Reena Devi, hereinafter being referred to as 'deceased' only.

6. It was further alleged that about one month prior to the death of the deceased, when the deceased was subjected to cruelty, she was counselled by her father, and that during the said period, the deceased along with her husband visited her parental home, where her father gave a sum of ₹10,000/- to the appellant. Similarly, about fifteen days prior to her death, similar amount was also given. However, the in-laws of the deceased continued to remain unsatisfied and subsequently, left the deceased at her parental home. Four days prior to the incident, the deceased had again resumed living with the appellant.

7. The prosecution had further alleged that on 13.07.1999 after attending school the cousin of the deceased, namely Naveen Kumar, went to

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meet her at her matrimonial home, and that when Naveen Kumar was watching television with the deceased, the appellant arrived there, slapped the deceased, and thereafter, all the above-named five accused persons dragged her to the rooftop. It is alleged that, on the instructions of accused Bhushan Kumar, his wife brought kerosene oil, poured it on the person of the deceased, and set her ablazed. According to prosecution, Naveen Kumar had raised an alarm for help, and that in order to mislead the neighbours the accused projected as if they were attempting to extinguish the fire by pouring water upon the deceased.

8. As per prosecution, the FIR of this case came into being at the instance of father of deceased, namely Jai Singh, and that autopsy of dead body of deceased was got conducted, and further investigation taken up. The prosecution has alleged that after completing usual formalities of investigation such as collection of evidence and arrest of accused etc., the final report was submitted in the Court. It is relevant to mention here that although the chargesheet was submitted by the police for the commission of offence punishable under Sections 304B/406/498A of IPC, but the learned trial Court in its wisdom also framed an alternative charge, i.e. charge for the commission of offence punishable under Sections 302/149 of IPC.

9. Arguments heard.

10. It has been contended on behalf of appellant that in the present case the findings returned by the learned trial Court on the face of it, are self-contradictory, as the learned trial Court has not convicted the appellant



for the offence punishable under Section 498A of the IPC. As per learned counsel for the appellant, in addition to above with respect to the charges under Sections 302 and 406 of the IPC, the appellant has been acquitted. According to learned counsel for the appellant, since the learned trial Court has convicted the appellant only for the offence punishable under Section 304B IPC, the scope of consideration before this Court is confined to determining whether in view of the evidence available on record, all the essential ingredients constituting the offence under Section 304B of the IPC are made out or not.

11. With regard to above, it has been contended by learned counsel for the appellant that in the present case, there is no denial of the fact:-

- a) that the marriage of deceased was solemnized with the appellant in the year 1998;
- b) that the deceased died an unnatural death in the year 1999; and
- c) that the death of deceased was within seven years of marriage.

However, as per learned counsel for the appellant, the most important essential ingredient, which is necessary to be proved for the commission of offence punishable under Section 304B of IPC, i.e. demand of dowry just before death of deceased, could not be proved in the present case. As per learned counsel for the appellant, the version put forth by the complainant was inherently improbable and unnatural, as an unbelievable story was sought to be set up by alleging that all five accused, in the presence of the deceased's cousin, poured kerosene oil upon the deceased and set her on fire. According to learned counsel for the appellant, such a

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version does not appeal to reason, as it is highly unlikely that the appellant and his family members, who allegedly had several prior opportunities to commit the act, would have chosen to do so exactly on the day when the deceased's cousin was visiting her and was present on the spot. It has also been contended that this very attempt on the part of the complainant and the prosecution, i.e. to exaggerate the allegations and give colour to the incident, leads to a definite conclusion that a false story had been cooked up, and therefore, there was no justification for the learned trial Court to place reliance upon the same. As per learned counsel for the appellant in fact the falsity of the story set-up by the complainant deserved that it should have been thrown at the threshold.

12. In addition to above, the learned counsel for the appellant has also argued that in the present case to prove the allegations of demand of dowry, only two witnesses are important, i.e. PW-8, Jai Singh, the father of deceased, and PW-9, Naveen Kumar, the alleged eye-witness of the occurrence. While referring to the testimonies of the aforesaid two witnesses, the learned counsel for the appellant has argued that the overall effect of their depositions indicates that the abovesaid testimonies are not good enough to support the prosecution case in material particulars with regard to the allegations of demand of dowry.

13. Lastly, the learned counsel for the appellant has argued that in the present case, the falsity of the allegations of the complainant/prosecution can also be ascertained from the fact that not only they tried to create a false story by implicating the other family members of the appellant, but also tried

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to convert a case of suicide into a case of murder by introducing a family member of complainant as an eye-witness of the occurrence. According to learned counsel for the appellant, the abovementioned conduct of the complainant speaks in volume about their conduct, and therefore, at least the testimonies of complainant (PW-8) and Naveen Kumar (PW-9), being those of interested and tainted witnesses, cannot be relied upon.

14. While referring to the principles of law propounded by the Hon'ble Supreme Court of India in the cases of 'Arun Garg Vs. State of Punjab', 2004 (8) SCC 251 and 'The State of Uttarakhand Vs. Sanjay Ram Tamta @Sanju @Prem Prakash', 2025(2) RCR(Criminal) 61, and also by this Court in 'CRA-S-323-SB of 2008, titled as 'Bhuvnesh Kapoor & Ors. Vs. State of Haryana & Ors.', the learned counsel for the appellant has contended that in the present case, since there was no evidence before the learned trial Court regarding any demand of dowry immediately preceding the death of the deceased, the charge under Section 304B of the IPC could not be proved, but due to an erroneous appreciation of facts as well as law, the learned trial Court held that the charge under Section 304B of the IPC had been proved against the appellant. Accordingly, the learned counsel for the appellant has urged that the present appeal be accepted and the impugned judgment of conviction and order of sentence be set aside.

15. *Per contra*, the learned State Counsel has argued that the present case involves three essential components which the prosecution is required to establish: *firstly*, that the deceased had died an unnatural death;

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secondly, that the said death occurred within seven years of her marriage; and *thirdly*, that there was a demand for dowry immediately preceding her death. It has been submitted by learned State Counsel that the prosecution has successfully proved all these elements, as the father of the deceased and her cousin consistently supported the prosecution version by deposing that there was a continuous demand of dowry throughout the short matrimonial life of the deceased, which ultimately culminated into her unfortunate unnatural death.

16. According to the learned State Counsel, one of the essential ingredients required to establish the offence punishable under Section 304B of IPC is the demand for dowry, and that the PW-8 and the PW-9 have consistently deposed regarding such demand. The learned State Counsel has further argued that once the prosecution, on the basis of the testimonies of reliable witnesses, proved that there was a demand for dowry during the short span of the deceased's married life, a presumption arose against the appellant regarding his guilt for the commission of the offence under Section 304B of IPC. It has been submitted that the learned trial Court has rightly appreciated the facts and the law while convicting the appellant, and that there exists no justification for interference or indulgence in the impugned judgment of conviction and order of sentence. According to learned State Counsel, the present case is not the one in which the appellate jurisdiction of this Court ought to be exercised to interfere in the findings recorded by the trial Court.

17. The record has been perused carefully.

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18. At the very outset, with regard to instant appeal it is relevant to mention here that the prosecution version and the defence version are inconsonance with regard to two facts:

- a) that Reena Devi had died an unnatural death;
- b) that her death was within seven years of her marriage.

19. Since in order to prove charge for the commission of offence punishable under Section 304B of IPC, one of the essential ingredients is the demand of dowry. The only point, which needs to be determined in the present case, is as to whether the prosecution was successful in proving that there was demand of dowry just before the death of deceased. With regard to abovementioned point of determination, the Hon'ble Supreme Court of India in the case of *Arun Garg (supra)* has observed that "*the ingredients necessary for application of Section 304B of IPC are:*

- (i) that the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances;*
- (ii) within seven years of her marriage;*
- (iii) it must be shown that before the death she was subjected to cruelty or harassment by her husband or any relative of the husband for or in connection with the demand of dowry;*
- (iv) on satisfaction of above three ingredients, the presumption under Section 113B of Evidence Act will follow – of course, this is a rebuttable presumption and the accused by satisfactory evidence can rebut the presumption."*



20. Similarly in the case of *Sanjay Ram Tamta @Sanju @Prem Prakash (supra)*, the Hon'ble Supreme Court of India has laid down that '*the demand of dowry is an essential ingredient under Section 304B of IPC, and that the failure of prosecution to prove any such cruelty or harassment invalidates the presumption under Section 113B of the Evidence Act*'.

21. This Court also while dealing with similar situation in the case of *Bhuvnesh Kapoor (supra)* has observed that '*presumption under Section 113B is activated only upon proof of cruelty or harassment soon before the death*'. It has been further observed that if the prosecution fails to establish this prerequisite, charge under Section 304B of IPC cannot be proved.

22. In '*Rajeev Kumar Vs. State of Haryana*', (2013) 16 SCC 640, this Court held that one of the essential ingredients of dowry death is the cruelty towards woman in connection with demand of dowry soon before her death, and that the abovesaid ingredients must be proved by the prosecution beyond reasonable doubt. In the abovementioned case, it has been observed that when the prosecution proves the abovementioned ingredients beyond reasonable doubt, the presumption against the accused arises.

23. In the light of abovementioned legal principles, it becomes necessary to examine the testimony of PW-8, who is the most crucial witness in the present case. The PW-8, when appeared in the witness-box, supported the prosecution version in his examination-in-chief by deposing that two months after her marriage, when his daughter visited her parental home, she had told him (PW-8) that she was being harassed on account of



insufficient dowry. The PW-8 further deposed that he had paid ₹10,000/- to the appellant on two occasions, i.e. one month prior and fifteen days prior to the death of the deceased. He also supported the prosecution case with regard to the contents of the report under Section 173 of CrPC, which was based on the allegation that the appellant and the other accused had set the deceased on fire.

24. However, the cross-examination of PW-8 assumes utmost significance. During his cross-examination, the PW-8 admitted that in Ex.P8, there was no mention of the visit of his daughter fifteen days prior to the incident, when he purportedly paid ₹10,000/- to the appellant. The PW-8 was further confronted with a question regarding the purpose for which the amount of ₹10,000/- was paid by him to the appellant one month prior to the incident. Qua abovementioned question, the PW-8 stated that the appellant had not informed him about the purpose for which the money was required; however, in Ex.PD, the PW-8 had specifically mentioned that the demand was made to meet the expenses for the repair of a tractor.

25. In his further cross-examination, the PW-8 clarified that when the deceased visited him two months after her marriage, she had not specified the item which article/item was demanded by the appellant or his family members. The most crucial part of his deposition was that he categorically stated that at the time of marriage, there had been no demand of dowry either by the appellant or by his family members.

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26. Another relevant aspect with regard to deposition of PW-8 in his cross-examination was that he had deposed that except the appellant, nobody had demanded dowry from PW-8 directly. If the abovementioned part of cross-examination of PW-8 is compared with his examination-in-chief, it leads to the conclusion that it is not in consonance with the examination-in-chief, wherein the allegations were against all the accused for the demand of dowry.

27. The next witness examined by the prosecution to prove the aforesaid component was PW-9, the cousin of the deceased. In his examination-in-chief, the PW-9 supported the prosecution case by reiterating the allegations similar to those mentioned in the FIR. However, he made certain improvements over his earlier statement by introducing a new version. He deposed that when the deceased was being taken to the hospital, he had insisted on accompanying her, but he was slapped and prevented from doing so. The most significant portion of his cross-examination reveals that he stated that he had reached the matrimonial home of the deceased at about 03:00 p.m., when the deceased was sleeping, and that he met her at around 04:00 p.m. According to the PW-9, from 04:00 p.m. until the time of the occurrence, no dispute of any kind had taken place between the deceased and her husband. He further deposed that at the time of the incident, the appellant was thrashing the deceased, but there had been no conversation between them prior to the alleged thrashing. The PW-9 also admitted that he had not raised any hue and cry when kerosene oil was allegedly poured upon the deceased. He further stated that the appellant and his family members

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had extinguished the fire, and only thereafter did the neighbours arrived at the spot.

28. Although several other witnesses, too, were examined by the prosecution, but their depositions were only formal in nature, to prove various steps taken by the Investigating Agency during the course of investigation. None of the remaining witnesses had deposed anything about the demand of dowry.

29. As far as the abovementioned evidence, adduced by the prosecution, is concerned, a careful scrutiny of the same shows that the entire prosecution case is resting upon the plea that the appellant along with other accused had forcibly poured kerosene oil upon the deceased and set her ablaze. To prove the abovementioned story, there is the testimony of PW-9 only. If the testimony of PW-9 is analyzed, it transpires:

- (a) that it appears too unnatural to convince a prudent mind. It is difficult to believe that the accused would have chosen a day and time to kill the deceased, when her own cousin brother was present in the house, especially when the deceased had already been residing there for several days and was expected to stay after the visit of her cousin also, which was only for a day or two. Thus, the appellant and the other accused, if they truly intended to commit such an act, could have chosen any other day for the killing of deceased. This very circumstance in itself is grave enough to erode the credibility of the prosecution story;
- (b) that testimony of PW-9 shows that in very specific and categorical words the PW-9 deposed that in the afternoon, when he reached the matrimonial home of the deceased, she and

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appellant were sleeping in their room, and therefore, he had to wait outside while sitting with Sarita, the sister-in-law of deceased. The abovementioned behaviour on the part of appellant and deceased shows that they were having normal relations as husband & wife; and

- (c) that as per PW-9, in the night when the incident took place, he and the deceased were watching television when the appellant entered the room and asked him to go to the rooftop. Thereafter, the appellant, along with the other accused, allegedly dragged the deceased into the courtyard and set her ablaze. According to PW-9, when the appellant entered the room there had been no quarrel or altercation of any kind between the appellant and the deceased.

30. If the overall deposition of PW-9 is taken into consideration, in its entirety, it makes abundantly clear that, merely, to give colour to the story surrounding the unnatural death of the deceased, the PW-9 was introduced as an eye-witness, and his testimony, by any standard, cannot be regarded as reliable. Thus, it can be observed that the aforesaid conduct of the complainant and his nephew, PW-9, speaks in volumes against them and clearly indicates that they were not stating the truth.

31. As far as testimony of PW-8 is concerned, with regard to above it is relevant to mention here that the PW-8 in his cross-examination had specifically admitted:-

- (a) that at the time of marriage, there was no demand of dowry;
- (b) that except the appellant, no one else had ever demanded dowry from him;

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32. If the abovementioned part of the testimony of PW-8 is taken into consideration, it leads to the conclusion that there was an admission on the part of PW-8 itself that at the time of marriage, there was no demand of dowry. In addition to above he also failed to prove that other family members of the appellant had raised the demand of dowry. Thus, the abovementioned testimony of PW-8 is in contradiction not only to his examination-in-chief, but also to his statement before the police, Ex.PD, wherein allegations with regard to demand of dowry were levelled against the appellant and other accused. Otherwise also it cannot be believed at all that the appellant and his family members, who had not demanded dowry at the time of marriage would have become so greedy within few months of marriage that they killed the deceased within one year of marriage despite money given to the appellant few days prior to death.

33. In addition to above, it is relevant to mention here that PW-8 attempted to set-up a story that at the time of the incident, the deceased's cousin, PW-9, was present on the spot. However, as already observed above, the aforesaid story put forth by the complainant is unreliable and, therefore, reflects adversely on the conduct of PW-8, who has supported a false narrative. Consequently, this circumstance seriously impeaches the credibility of his testimony.

34. As a sequel to the aforesaid discussion, if the evidence adduced by the prosecution is analyzed, it transpires that the entire case of the prosecution regarding the demand for dowry was solely resting upon the testimony of PW-8. However, PW-8, who has already been found to have



deposed falsely before the Court regarding the presence of PW-9 at the spot, had himself stated that at the time of marriage, there was no demand for dowry by the appellant or his family members. This deposition by PW-8 makes it abundantly clear that the prosecution story pertaining to the alleged demand for dowry is not good enough to believe. Thus, in the present case the situation did not warrant to draw a presumption under Section 113B of the Evidence Act. In fact the evidence adduced by the prosecution is, too, unreliable and unnatural to inspire confidence.

35. The abovementioned observations are fortified from the observations made by the Hon'ble Supreme Court of India in the case of '*Hira Lal Vs. State (Govt. of NCT) Delhi*', 2003 (8) SCC 830, wherein the Hon'ble Supreme Court of India found the allegations with regard to demand of dowry to be unreliable in view of the fact that there was no demand of dowry at the time of marriage.

36. The principles of law laid down by the Hon'ble Supreme Court of India in the case of '*Charan Singh @Charanjit Singh Vs. The State of Uttarakhand*' 2023 SCC OnlineSC 454, are also relevant, wherein the Hon'ble Supreme Court of India observed that the demand made two months prior to incident cannot be held to be a demand soon before death.

37. As a sequel to abovementioned observations, it is hereby held that the evidence, adduced by the prosecution, was not sufficient and good enough to prove the demand of dowry just before death. The factual matrix of the present case is squarely covered by the principles of law laid down in

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Charan Singh's case (supra). Thus, it is hereby held that the learned trial Court committed an error of judgment when it relied upon the unreliable evidence led by the prosecution with regard to demand of dowry, and by believing the abovementioned evidence held that the essential ingredients meant for the commission of offence punishable under Section 304B of IPC had been established. Hence, it is hereby held that the impugned judgment of conviction and order of sentence are not sustainable in the eyes of law and deserves to be set aside.

38. In view of abovementioned observations, it is hereby held that the present appeal deserves to be allowed. Accordingly, the same is hereby allowed and the impugned judgment of conviction and order of sentence are hereby set aside. The appellant is hereby acquitted of the charges framed against him. The bail bonds and surety bonds of appellant stand discharged.

39. Pending miscellaneous application(s), if any, also stand(s) disposed of.

**(SURYA PARTAP SINGH)
JUDGE**

NOVEMBER 29, 2025

Gaurav Thakur

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No