

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.****Cr. A. No.274/2015****Reserved on: 14.11.2025****Date of decision: 26.11.2025**

State of Himachal Pradesh

...Appellant

Versus

Mohinder Singh & ors....Respondents

*Coram****The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.******The Hon'ble Mr. Justice Romesh Verma, Judge.****Whether approved for reporting?***For the Appellant:** Mr. J. S. Guleria, Deputy Advocate General.**For the Respondents:** Ms. Anjali Soni Verma, Advocate.

Romesh Verma, Judge

The present appeal arises out of the judgment of acquittal as passed by the learned Additional Sessions Judge-I, Kangra at Dharamshala, whereby the present respondents have been acquitted of the charges under Sections 498-A, 304-B, 302 of the Indian Penal Code (for short, 'IPC') read with Section 34 of IPC

2 The case of the prosecution, in brief, is that on 11.10.2011 a telephonic message about the death of deceased



Dimple was received in police post Gangath. ASI Ashok Kumar of Police Post Gangath along with Constable Sham Singh visited Ward No.3 of village Kathal. SI Surjeet Singh along with other police officials came on the spot. The investigating team found the situation on the spot to be suspicious and forms 25-35A and 25-39 of deceased Dimple were filled in and the dead body of deceased was taken to dead house, Civil Hospital Nurpur. Photographs of the dead body were also taken. PW1 Sanjeev Kumar (complainant) reported the matter to the police and got recorded his statement under Section 154 Cr.P.C. Ex.PWI/A stating therein that he is working in Sabzimandi. Deceased Dimple was his sister-in-law, who was married to Mohinder Singh in the month of October 2010. It is alleged that after the marriage, accused persons started harassing Dimple on account of bringing less dowry and they even used to give beatings to her. Dimple tolerated all the misdeeds of the respondents and ultimately she disclosed the entire incident to him and his wife Raj Pal Kaur and complained that she had not been married in a good family. PW1 along with other family members visited the house of the respondents and



tried to resolve the matter, but there was no improvement in the behaviour of the respondents. It is further alleged that the respondents used to demand motorcycle and money from the deceased. On 10.11.2011, at about 11.30 A.M. respondent No.4 Biaso Devi visited the house of complainant and apprised him that Dimple is indisposed and is not taking meal and accordingly complainant along with his wife visited the house of the respondents, where they found Dimple dead. On being asked, the respondents failed to give satisfactory answer about the death of the deceased. In the meantime, the complainant also informed relatives of the deceased. The complainant noticed some injury marks on the dead body of Dimple and he raised doubt on the respondents qua death of Dimple. It is alleged that all the respondents have killed Dimple for want of dowry.

3 On the basis of the statement of complainant, FIR, Ext. PW8/A came to be registered against the respondents.

4 During investigation, postmortem of the deceased was got conducted and after obtaining report, it was found that the deceased died due to haemorrhagic shock, as a result of antemortem blunt abdominal trauma caused by



blunt yielding and forceful impact. The second postmortem of the deceased was also got conducted at RPGMC, Tanda and expert opinion was also obtained.

5 Finding a prima facie case under Sections 498-A, 304-B, 302 IPC read with Section 34 IPC, the respondents were accordingly charged, to which they pleaded not guilty and claimed trial.

6 The prosecution in support of its case examined as many as 21 witnesses. After the closure of prosecution evidence, the incriminatory material on record was put to the respondents in their statements recorded as per the provisions of Section 313 of Cr.P.C., wherein they denied the case of the prosecution in toto and pleaded innocence.

7 The learned Trial Court after recording evidence and evaluating the same, acquitted the respondents. The State has preferred the present appeal against the judgment of acquittal.

8 Mr. J. S. Guleria, learned Deputy Advocate General has vehemently argued that the findings recorded by the learned trial court, while acquitting the respondents, are



not only perverse but contrary to the provisions of law, therefore, deserve to be set aside.

9 On the other hand, Ms. Anjali Soni Verma, Advocate, has urged that since the findings recorded by learned Trial Court are based on the correct appreciation of the oral and documentary evidence on record and also based on correct appreciation of the law, therefore, warrants no interference.

10 We have heard the learned counsel for the parties and have also gone through the record of the learned trial court carefully.

11 Before adverting to the rival contention of the parties, first of all, we would like to reiterate the principles laid down by the Hon'ble Supreme Court governing the scope of interference by the High Court in an appeal filed by the State challenging the acquittal of the accused.

12 The Hon'ble Supreme Court in **Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471** has encapsulated legal position covering the field after considering various earlier judgments and held as below :

“29. After referring to a catena of judgments, this Court culled out the following general principles



regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words: (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42) ‘42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.



(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.'

13 Similar reiteration of law can be found in ***H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581*** , ***Ballu @ Balram @ Balmukund vs. The State of Madhya Pradesh, 2024 (4) Scale 513*** and ***Constable 907 Surendra Singh vs. State of Uttarakhand, (2025) 5 SCC 433***

14 Perusal of the judgments, as passed by the Hon'ble Supreme Court, demonstrates that the interference with the finding of acquittal recorded by the learned court



below would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

15 Now adverting to the oral as well as documentary evidence led by the prosecution. PW1 Sanjeev Kumar has deposed and reiterated on similar lines as contained in his statement recorded under Section 154 Cr.P.C. He stated that the deceased was his sister-in-law, who was married to respondent No.1 Mohinder in the month of October 2010. He deposed that respondent No.4 Biasa is mother-in-law of deceased, respondent No. 3 Madhu is sister-in-law (Jethani) and respondent No.2 Vijay is brother-in-law (Devar) of deceased. He stated that after two months of marriage, all the respondents started torturing the deceased for want of dowry. Dimple also disclosed all these facts to him and his wife Rajpal Kaur. Dimple told PW1 that they had got her married at a wrong place. PW1 alongwith his wife had also gone to the house of respondents to make them understand,



but they did not mend their ways. He further deposed that the respondents used to give beatings to the deceased and demanded motorcycle. On 11.10.2011 respondent No. 4 Biaso Devi visited the house of PW1 and told him that Dimple was not taking food and asked him to come along with her to make Dimple to understand. Accordingly, PW1 along with his wife Rajpal and his mother Kanta went to the house of the respondents. They noticed that Dimple had expired. On his asking, the respondents did not tell anything. Then, he informed the parental side of Dimple. He deposed that Dimple died due to beatings administered by the respondents. He testified that the police had filled papers Ex. PWI/A in his presence. The police had recorded his statement Ex. PW1/B. Lastly he deposed that the tooth of Dimple was broken and she had sustained injuries on neck and stomach.

16 In his cross-examination, he stated that the house of respondents is at a distance of half Km. from his house. He denied the suggestion that on 11th, he did not report to the police. Self stated on 11th he had telephoned the police post. He admitted that at the time of marriage no dowry was given. He also admitted that the respondents did



not demand anything from him at the time of engagement, marriage and after the marriage of Dimple. He denied the suggestion they did not report on 11th because Dimple had a fall in the courtyard. He denied the suggestion that the respondents never demanded motorcycle. He also denied that on 11th respondent Biaso did not come to him and she also did not tell that deceased was not taking food. He denied the suggestion that being relative of deceased, he is deposing falsely.

17 PW2 Dr. Rahul Gupta is Registrar Department of Forensic Medicine, Dr. RPGMC, Tanda. He testified that body of the deceased was referred to him by Civil Hospital Nurpur. On 13.10.2011, as per request of Superintendent of Police, he along with Dr. Susheel Sharma and Dr. Gulab Singh conducted second postmortem of the deceased at about 12.15 p.m.. He stated that post mortem (second autopsy) was done and viscera for chemical examiner was preserved and sent for analysis. He deposed that on external appearance, no evidence of any antemortem external injury or ligature compression over the neck. During second post



mortem, the aforesaid team of doctors found the following injuries on person of the deceased:-

- 1. An abraded contusion 1 x 1 cm, red present over left side of forehead 9 cm lateral to midline and 3 cm above left eyebrow.*
- 2. An abraded contusion 1.5 x 1 cm red present over right dorsum of nose, just above right nasal alae.*
- 3. A contusion, red, 2X1.5 cm present over mid of upper lip. Frenulum intact.*
- 4. A contusion 3 x 2 cm, red present over left of lower lip just adjacent to midline. Frenulum intact.*
- 5. Right lower canine is movable, with evident caries and pus in the respective alveolar socket.*

18 PW2 further deposed that in this particular case, the deceased had died due to visceral injury (traumatic injury to spleen) with such a degree which is sufficient in ordinary course of nature to cause death of a person. He testified the opinion, Ext. PW2/C and deposed that they were of the opinion that the deceased died due to haemorrhagic shock as a result of ante-mortem blunt abdominal trauma which could be possible by either end of the submitted alleged weapon of offence. He also testified their final opinion, Ex.PW2/D.



19 In his cross-examination, he denied the suggestion that the injuries sustained by deceased on the face could not be caused by fall. He also denied the suggestion that the said injuries are possible if one falls from a considerable height. He denied that if stomach is struck against a hard surface then there can be rupture of spleen. Self stated that there is no such possibility in this case also. He admitted that in the event of first post mortem when any organ of the body is cut, changes occur in that organ. He deposed that when he conducted the second post mortem they had gone through the earlier post mortem report. He further deposed that he did not notice any injury on the external part of abdomen. Self stated if a person is hit by some object on abdomen then on front of the abdomen injury marks may not occur.

20 PW3 is Dr. Mukesh Bhardwaj, who, on receipt of application, dated 12.10.2011 Ext. PW3/A, moved by the Incharge, Police Post Gangath, along with Dr. SDS Manhas conducted the first post mortem of the deceased Dimple on the same day and found the following injuries on her person:-

- 1. Contusion 2 cm x 1 cm dark brown on middle of lower lip matching the pattern of upper central incisors.*



2. 1 cm X 1 cm dark brown contusion on middle part of upper lip.
3. 1 cm X 1 cm abrasion dark brown on tip of nose.
4. 1 cm x 1 cm dark brown contusion on left side of forehead.
5. 2 cm X 0.5 cm abrasion on left elbow.
6. Clotted dark brown blood in left nostril.
7. Right lateral and left middle (lower denture) teeth are mobile and right middle incisor missing. No blood stain present in the socket.

21 He testified that he and Dr. SDS Manhas had issued post mortem report, Ext. PW3/B. They had also sent letter, Ext. PW3/C to head of department of Forensic Expert of Dr. RPGMC Tanda for their expert opinion. He also proved on record his final opinion Ext PW3/D.

22 In his cross-examination, he admitted the suggestion that the injuries sustained by the deceased could be by fall. He stated that there is no direct relation between hypovolumic shock and smothering.

23 PW4 Dr. Shivdarshan Singh, testified that he along with Dr. Mukesh Bhardwaj had issued post mortem report, Ext. PW3/B.

24 PW5 Rajinder Soga has deposed that on 12.10.2011, on the request of investigating agency, he had



taken the photographs of dead body, Ext. PW5/1 to Ext. PW5/4 in dead house Nurpur.

25 PW6, Dr. Susheel Sharma, deposed that on 12.10.2011, the deceased Dimple was referred for expert opinion by CHC Nurpur vide application, Ex. PW3/C. An application, Ex. PA2/A, was also moved by the S.P. Kangra for expert opinion. He testified that he alongwith Dr. Rahul Gupta Registrar, Tanda Medical College and Dr. Gulab Saroha conducted the second post mortem, Ex. PW2/B. They gave the opinion of weapon of offence, Ex. PW2/C and final opinion, Ex. PW2/D. He stated that traumatic spleen rupture is sufficient to cause death of person and said injury could be possible with Danda Ex. P-2.

26 In his cross-examination, he admitted that injury of abdomen in column No.5 of Ext.PW2/B has not been shown by them in Ext. PW3/B in the first post mortem and said injury is pertaining to abdomen.

27 PW7 Vikramjeet Singh deposed that the deceased Dimple was his sister-in-law in relation, who was married to respondent No. 1 Mohinder. He stated that all the respondents used to give beatings to Dimple after marriage.



The respondents had been torturing Dimple by demanding dowry. The respondents used to demand motorcycle in dowry. He further deposed that all these facts were told to him by PW1 Sanjeev Kumar. On 10.10.2011 he had gone to Kathal Bhaleta with one vehicle. He had parked his vehicle at Godown. Next day, he came back and in the evening at 3.00 P.M., he received phone call from Sanjeev that Dimple had expired. At 4.00 P.M., he reached the house of the respondents. The respondents were preparing to take away dead body for cremation. He got suspicion that the respondents have killed Dimple. Then he telephonically informed the parental house of Dimple. Police reached the spot and took away the dead body to Nurpur hospital for post mortem.

28 In his cross-examination, he deposed that he was not present at the time of marriage, therefore, he feigned ignorance whether anything was given at the time of marriage or not. He denied the suggestion that being relative of deceased, he is deposing falsely.

29 Raj Pal Kaur is the wife of PW1 Sanjeev, complainant. She stepped into the witness box as PW8 and



deposed on the same and similar lines as has been stated by PW1 to the effect that after the marriage the respondents used to maltreat the deceased for want of dowry and motorcycle. She stated that on 11.10.2011, respondent No.4 Biaso Devi telephonically informed her that the deceased had not taken the meal and thereafter, she along her mother-in-law Kanta Devi visited the house of the respondents, where they noticed that Dimple was lying dead and only respondents were present there and they were preparing for her last rites. When she inquired from the respondents whether they informed the parents of the deceased, they replied in negative and as such, she was having suspicion that Dimple was murdered by the respondents.

30 In her cross-examination, PW8 stated that she attended the marriage of Dimple, which was performed in Gurudwara. She admitted the suggestion that at the time of ring ceremony and marriage no dowry was demanded by the respondents. Even after marriage the respondents did not demand anything from PW8. No dowry was given at the time of marriage. She denied the suggestion that at 10.30 a.m. on 11-10-2011, she came to know that the Dimple had already



died due to fall. She stated that she visited the house of the deceased Dimple on week before her death.

31 PW9 Rajinder Singh is the witness to seizure memo, Ex. PW9/A, whereby respondent No.2 got recovered Danda from the kitchen.

32 In his cross-examination, he admitted that heap of Bajri and bricks were lying in the courtyard. The respondents disclosed and shown the place where the deceased Dimple fell down and the blood was also lying there. He admitted that the respondents had disclosed that they already informed the parents of the deceased and were waiting for them. He stated that the police conducted the inquiry in his presence and the parents of the deceased were not suspecting the involvement of the respondents in the death of the deceased.

33 In his re-examination conducted by Public Prosecutor, he admitted that only heap of earth was lying there. Self stated that Bajri and bricks were also lying there. He admitted that in his statement recorded by the police under Section 161 Cr.P.C., he did not disclose anything about the bajri and bricks on the spot.



34 PW10 ASI Ashok Kumar deposed that he remained posted as Incharge of Police Post Gangath since 2011. On 11.10-2011 at about 10.15 p.m. M.C. received a telephonic message about the death of Dimple and accordingly, Rapat Ex. PW10/A was registered. He alongwith constable Sham Lal visited the spot on official motorcycle and filled in inquest papers Ex. PW1/A. The body of deceased was taken to dead house Nurpur, where the photographs of the dead body Ex. PWS/A to Ex. PW5/4 were got clicked from photographer. He further deposed that on 12-10-2011 he recorded the statement of Sanjeev Kumar Ex. PW1/B under Section 154 Cr.P.C. . He also moved an application Ex. PW3/A before Medical Officer Civil Hospital, Nurpur, for the post mortem of the deceased. The statement recorded under Section 154 Cr.P.C. Ex. PW1/B was sent to Police Station, Nurpur through Constable Sham Singh. He prepared the spot map Ex. PW10/C. He also recorded the statements of the witnesses, namely, Rajinder Sogha- photographer, Kanta Devi, Raj Pal Kaur, Vikramjeet and Sulwant Singh. Thereafter he handed over the case file to the DSP Nurpur for further investigation. On 19.10.2011 respondent No. 2 Vijay Kumar



made a disclosure statement under Section 27 of Indian Evidence Act, Ext. PW10/D, in his presence, which led to recovery of Danda Ex. P1 from the kitchen of his house, which was taken into possession by the police after warping in the Parcel Ex. P2 vide seizure memo Ex. PW9/A. The parcel was also sealed with seal impression 'A' and the sample seal Ex. PW10/E was taken on a piece of cloth. The seizure memo was prepared on the spot.

35 In his cross-examination, he admitted that while the statement of Sanjeev Kumar was recorded on 12.10.2011 under Section 154 Cr.P.C. he did not assign any reason as to why he did not report the matter to the police on 11.10.2011. On 19-20-2011. He denied the suggestion that respondent No.2 Vijay Kumar did not get recovered Danda, Ext. P1 from the kitchen of his house.

36 PW11 Salwant Singh is real brother of deceased Dimple. He deposed that his sister Dimple was married with respondent No.1 Mohinder one year before her death. He stated that his sister Dimple was maltreated by the respondents after the marriage. His sister disclosed all these facts to him on telephone. The respondents were demanding



dowry including motorcycle. They demanded motorcycle from him and he gave Rs. 50,000/- in cash to them and reconciled the matter. Rs. 25,000/- was also given in cash thereafter. On 11.10.2011 at night he received telephonic call from Raj Pal Kaur, who informed him that Dimple was killed by the respondents and the respondents were trying to perform her last rites. On the same night at about 11.30- 12.00 o'clock he visited the house of the respondents and brought the dead body of Dimple to Civil Hospital, Nurpur, for post mortem. The police recorded his statement under Section 161 Cr.P.C.

37 In his cross-examination, he deposed that marriage of his sister was performed in Gurudwara to avoid unnecessary expenses. After the marriage, Mohinder and his sister visited his house 3-4 times. He stated that he is having documentary proof of handing of Rs. 50,000/ and Rs. 25,000/- to the respondents which fact he had also brought to the notice of the police. He did not lodge any complaint with the police about the harassment and maltreatment given by the respondents to his sister. He denied the suggestion that Dimple died because of fall on bricks. He also denied the



suggestion being real brother of the deceased, he has given false statement against the respondents.

38 Renu Devi appeared in the witness box as PW12 and deposed that the deceased Dimple was her sister-in-law. On 21.10.2011, she remained associated with police. After the marriage respondents used to harass and maltreat the deceased. She stated that first of all, the deceased informed her mother-in-law Kamlesh and then her husband Salwant Singh about the harassment given to her by the respondents. The respondents used to harass the deceased for want of dowry. They tried to reconcile the matter, but failed to do so. She further stated that in the month of June, 2010 her husband had given Rs. 50,000/- to the respondents and after two months i.e. in the month of August, they again gave Rs. 25,000/- to the respondents. Then again stated that these payments were made in the year 2011. Dimple died on 10.10.2011 and they received the telephonic information from their cousin that the deceased was killed by the respondents. Her statement was recorded by the police as per her version.

39 In her cross-examination, she admitted that she did not make any statement to the police on the said date.



She feigned ignorance that the respondents had informed her cousin that the deceased had died due to fall. PW12 stated that she did not receive the telephonic message directly about her death. She admitted the suggestion that at the time of marriage the respondents did not demand any dowry. She denied that after the marriage the respondents did not demand dowry from them. Self stated that motorcycle was demanded by the respondents. She admitted that they did not lodge any complaint about the demand of dowry made by the respondents.

40 PW13 HHC Subash Chand deposed that he remained posted at Police Post Gangath in the year 2011. He testified that Manohar Lal, Panchayat Secretary, produced copy of family register to the police which was taken into possession vide seizure memo, Ext. PW13/A.

41 PW14 Manohar Lal, testified that he had issued copy of parivar register, Ext PW14/B on the application, Ext. PW14/A, vmoved by the police.

42 PW15 HC Budhi Singh, on 12.10.2011 ASI Ashok Kumar, Incharge P.P. Gangath deposited with him viscera of deceased Dimple alongwith papers. He entered the same in



Malkhana Register, the extracts whereof are Ex. PW15/A and Ex. PW15/B. On 17.10.2011 viscera of the deceased was sent to RFSL, Dharamshala through HHC Dev Raj R.C. No. 237/11. On 18.10.2011 HHC Satish Kumar deposited with him one container sealed with three seals impression "SSQ" which was entered by him in the Malkhana Register. This container was sent through H.C. Tungal Singh to RFSL, Dharamshala, on 27.10.2011 vide R.C. No. 244/11. He stated that the case property remained intact while in his possession.

43 PW16 HHC Dev Raj deposited that on 17.10.2011 MHC, P.S. Nupur handed over to him viscera of deceased Dimple alongwith papers vide R.C. No. 237/11 for depositing the same RFSI Dharamshala, which he deposited on the same day at RFSL, Dharamshala and the receipt of the same was handed over to MHC.

44 PW17 HC Tungal Singh deposited that on 27.10.2011 MHC Nurpur handed over to him blood sample container of deceased Dimple, sealed with three seal of seal 'SSQ' vide R.C. No. 244/11 for being deposited at RFSL,



Dharamshala, which he deposited on the same day and the receipt of the same was handed over to MHC.

45 PW18 ASI Ramesh Kumar deposed that he lodged FIR, Ext. PW18/A on the basis of statement of PW1 Sanjeev Kumar, Ext. PW1/B.

46 PW19 HHC Tara Singh testified rapat No.19, dated 11.10.2011 Ext. PW10/A which was registered on the basis of telephonic information about the death of Dimple having been given by Ward Members Narinder Singh and Kanta Devi.

47 PW20 ASI Ramesh Chand, deposed he remained posted as ASI/IO, Police Station Nurpur in the year 2011. On 13.10.2011 as per letter, Ext. PW2/A issued by Superintendent of Police Kangra, the dead body of the deceased was taken to RPGMC Tanda for expert opinion.

48 PW21 Rajinder Kumar deposed that he remained posted as SDPO Nurpur during the year 2011. On 13.10.2011, he arrested the respondents. In police custody respondent No.2 Vijay Kumar gave disclosure statement under Section 27 of Indian Evidence Act, Ex. PW10/D which led to recovery of Danda Ex. P1 and same was put in cloth



parcel Ex. P2 and sealed with seal impression 'A'. The sample seal Ex. PW10/F was taken on a separate piece of cloth. Site plan of the place of recovery of Danda Ex. PW21/A was prepared. He moved an application to Secretary Gram Panchayat Bhaleta Ex. PW14/A to get copy of family register and the same was obtained Ex. PW14/B and taken into possession vide recovery memo Ex. PW13/A. He recorded the statements of witnesses as per their respective version. After completion of investigation the challan was prepared by Inspector Brij Mohan Sharma.

49 In his cross-examination, he admitted that he had not inquired the reason for delay in making the statement Ex. PW1/B. Self stated that the complainant reached late on the spot, because the parents of the deceased hailed from Amritsar. He feigned ignorance that after the fall the deceased received injuries on her person and thereafter the relatives were informed by the respondents and that the relatives visited the matrimonial house of deceased on 11.10.2011. He denied the suggestion that respondent No.2 Vijay had not made any disclosure statement nor he got recovered 'Danda' Ex. Pl.



50 Before adverting to merits of the case, it would be apt to reproduce Section 304-B IPC and Section 113-B of the Indian Evidence Act.

304B. Dowry death. - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation: For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

113-B of Indian Evidence Act: Presumption as to dowry death- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.



Explanation - For the purposes of this section 'dowry death' shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)."

51 A conjoint reading of Section 113-B of the Evidence Act and Section 304-B IPC shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. Prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the ambit of the '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 IPC are pressed into service. 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 prosecution. 'Soon before' is a relative term and it would depend upon circumstances of each case and no strait-jacket 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 113-B of the Evidence Act. The expression 'soon before her death' used in the substantive Section 304-B IPC and Section 113-B 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 expression 'soon before' used in Section 114.

52 So, by virtue of the above, it is very clear that "soon before" is a relative term and it would depend upon the circumstances of each case and no straightjacket formula can be laid down as to what would constitute a period of soon before the occurrence. The Court has to decide as to what is soon before death, basing on the proximity test.

53 Therefore, now looking into the facts and circumstances, this Court would like to deal with as to whether the prosecution has proved that the death of the deceased occurred within a period of seven years from the date of marriage otherwise than in normal circumstances and whether the evidence on record establishes another ingredient that soon before death, the respondents subjected the deceased to cruelty and harassment in connection with a demand for dowry.



54 Coming to the prosecution case, it would be noticed that it is at the instance of Mohinder Singh, Member, Ward No.2, Ward Member Kanta Devi and Anju Devi who vide rapat, Ext. PW10/A informed the Police Post Gangath about the death of the deceased and criminal law was set into motion. However, all the three persons named hereinabove were not examined by the prosecution and even in list of witnesses only name of Kanta Devi has been cited as witness, but even Kanta Devi has not been examined what to talk of Mohinder Singh and Anju Devi, that too without any justification because being material witnesses, they could have unfolded the genesis of incident, thus, by not examining material witnesses, adverse inference can be drawn against the prosecution.

55 According to the prosecution story, vide rapat , Ext. PW10A, ASI Ashok Kumar and Constable Sham Singh, Police Post Gangath, visited Ward No.3 of village Kathal. SI Surjeet Singh, who has not been examined by the prosecution, along with other police officials also visited the spot. The investigating team found the situation on the spot



to be suspicious and the dead body of deceased was taken to dead house, Civil Hospital Nurpur.

56 Prosecution in order to bring home the guilt of the respondents, who are husband, mother-in-law, sister-in-law (Jethani) and brother-in-law (Devar) of the deceased, has examined four witnesses, who, according to prosecution, were well aware of maltreatment being meted out to the deceased at the hands of the respondent as they were being apprised by the deceased a number of times after the marriage of the deceased with respondent No.1 Mohinder Singh. But surprisingly, no material has been placed on record to indicate them any one of them, after the marriage of the deceased with respondent No.1 till her death, ever reported the matter either orally or in writing, before the Gram Panchayat or police or any other competent authority alleging therein that all the respondents used to treat the deceased with cruelty that too for want of dowry and so-called demand of motorcycle, though PW1 and his wife PW8 alleged to have visited the house of the respondents to make them understand and resolve the matter qua demand of dowry, but the respondents did not mend their ways.



57 Now as regards allegations qua dowry having been demanded by the respondents from the deceased after the marriage, while appearing in the witness box PW1 Sanjeev Kumar, his wife PW8 Raj Pal Kaur, PW11 Salwant Singh, brother of the deceased, PW12 Renu Devi, sister-in-law (Nanad) of the deceased, have tried to portray in their examination-in-chief that the respondents used to harass, maltreat and even beat the deceased for want of dowry, however, it would be noticed that PW1, Sanjeev Kumar and PW11, brother of the deceased, while being subjected to cross-examination, have categorically admitted that marriage of the deceased was performed in a Gurudwara, obviously to avoid necessary expenses. None of them has deposed in their deposition that at the time of marriage, any demand of dowry or motorcycle was raised by the respondents, rather they have admitted in their cross-examination that at the time of marriage, no dowry of any kind was demanded from either the deceased or his relatives. Even PW8 Raj Pal Kaur has admitted to have visited the house of the respondents just one week before her death, but she also did not lodge any



complaint qua alleged demand of dowry or maltreatment being meted out to the deceased.

58 The brother of the deceased in his examination-in-chief has stated that he had given a sum of Rs. 50,000/- and Rs. 25,000/- against demand of dowry raised by the respondents, however he did not produce any documentary evidence to substantiate this allegation.

59 From the combined reading of PW1 Sanjeev Kumar, his wife PW8 Raj Pal Kaur, PW11 Salwant Singh, brother of the deceased, PW12 Renu Devi, sister-in-law (Nanad) of the deceased, it is clear that none of them has substantiated in any manner the allegations of dowry, beatings and cruelty and have not placed on record any material be it in the form of complaint or report registered before the Gram Panchayat and the prosecution has miserably failed by leading cogent evidence any specific instance of any harassment or maltreatment meted out to the deceased. Even demand of dowry has not been established, as a result the prosecution case comes under shadow of doubt.



60 Apart from the relatives of the deceased, no independent witness has been associated or examined by the prosecution to corroborate the version of the relatives that the respondents used to maltreat or ill-treat the deceased for want of dowry.

61 Now, coming to prosecution case, as per PW1 Sanjeev Kumar, being one of the main prosecution witnesses, who claims himself to be the first person along with his wife Raj Pal Kaur (PW8) and mother, Kanta Devi visited the house of the respondents where they found Dimple lying dead. It was he on whose instance, FIR was got registered against the respondents when he alleged that on 10.11.2011 at about 11.30 A.M., respondent No.4 Biaso Devi visited his house and apprised him that Dimple is not feeling well and is not even taking meal. He has also specifically deposed that however, when they visited the house of the respondents to ask wellbeing of the Dimple they found her dead. On being asked about the death of deceased, the respondents failed to give satisfactory answer to them and accordingly PW1 informed relatives of the deceased. It was PW1, who alleged to have noticed tooth of Dimple was broken and she had



sustained injuries on neck and stomach and accused the respondents for commission of death of Dimple by giving her beatings for want of dowry and motorcycle.

62 However, when the testimony of PW8 Raj Pal Kaur is seen, she has different story to tell as according to her, on 11.10.2011 respondent No.4 Biaso Devi had only telephonically informed her, whereas PW1, her husband, says that respondent No.4 visited their house. PW8 further stated that when on telephone, respondent No.4 disclosed that the deceased had not taken the meal, she along with her mother-in-law Kanta Devi visited the house of the respondents, where they noticed that Dimple was lying dead.

63 Surprisingly, PW8 has nowhere in her deposition testified that her husband PW1 was also accompanying her along with her mother-in-law. PW8 seems to have not seen the suspicious things as have been disclosed by PW1 on the spot about beatings to the deceased allegedly given by the respondents as a result of which, she died or alleged to have been murdered.

64 Apart from above, when deposition of PW9 Rajinder Singh, who is the witness to seizure memo, Ex.



PW9/A, whereby respondent No.2 got recovered Danda from the kitchen, is scanned, it would be noticed that it is he in the list of prosecution witnesses, who has specifically admitted that heap of Bajri and bricks lying in the courtyard of the respondents. He also deposed that the respondents had disclosed and shown the place where the deceased Dimple fell down and the blood was also lying there. He also admitted that the respondents had disclosed that they already informed the parents of the deceased and were waiting for them. This witness also testified that the police conducted the inquiry in his presence and the parents of the deceased were not apprehending the involvement of the respondents in the death of the deceased. Even though, the Public Prosecutor re-examined the witness, however, he though admitted that only heap of earth was lying there, but self stated that Bajri and bricks were also lying there. Surprisingly, the Public Prosecutor put a suggestion to this witness to which he admitted that in his statement recorded by the police under Section 161 Cr.P.C., he did not disclose anything about the bajri and bricks on the spot, however no suggestion was put to rebut his deposition that parents of the deceased were not



apprehending the involvement of the respondents in the death of the deceased.

65 From the factual matrix, prosecution story also becomes doubtful with regard to visit of respondent No.4 Baiso Devi to the house of PW1 stating about health of the deceased and thereafter the prosecution story qua presence of PW1, PW8 and Kanta Devi and that the dead body of the deceased being witnessed in suspicious condition, by them. Further, mother of PW1, who, being one of the material spot witnesses, though was in the list of witnesses, but was not examined by the prosecution, reasons best known to it.

66 Now coming to the medical evidence, as available on record, PW2 is Dr. Rahul Gupta, Registrar Department of Forensic Medicine, RPGMC, Tanda, who testified that post mortem (second autopsy) was done and viscera for chemical examination was preserved and sent for analysis. He, on external appearance of the dead body of the deceased observed no evidence of any antemortem external injury or ligature compression over the neck. He gave the opinion, Ext. PW2/C and deposed that the deceased died due to haemorrhagic shock as a result of ante-mortem blunt



abdominal trauma which could be possible by either end of the submitted alleged weapon of offence. He has denied the suggestion that the injuries sustained by the deceased on the face could not be caused by fall. PW3 Dr. Mukesh Bhardwaj also admitted the suggestion that the injuries sustained by the deceased could be by fall and deposed that there is no direct relation between hypovolumic shock and smothering.

67 From the above, what has been noticed by PW1 and PW8 when they saw dead body of the deceased alleging her death to be suspicious having injuries is not corroborated by the medical evidence as in the instant case, no external injury had been noticed on the abdomen of the deceased. Therefore, the medical evidence available on record does not corroborate the prosecution story nor it connects the respondents with the commission of offence of murder of the deceased and therefore, the weapon which is alleged to have been used was not corroborated by sufficient evidence. The prosecution has miserably failed to lead clear and cogent evidence on record establishing ingredients of Section 498-A, 304-B, 302 IPC read with Section 34 IPC to bring home charge of the respondents.



68 It has been held by the Hon'ble Supreme Court in catena of its decision that the prosecution in order to prove its case must establish the guilt of the accused from the oral as well as documentary evidence placed on record. It is a primary principle that the accused 'must be' and not merely 'may be' proved guilty before a court can convict the accused. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved'. The facts so established should be consistent only with the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty. The circumstances should be such that they exclude every possible hypothesis except the one to be proved. There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probabilities the act must have been done by the accused.

69 Equally it is settled law that the suspicion, however strong it may be, cannot take the place of proof beyond reasonable doubt. An accused cannot be convicted



on the ground of suspicion, no matter how strong it is. An accused is presumed to be innocent unless proved guilty beyond a reasonable doubt.

70 The finding as the reasons and conclusion given by the learned trial Court were examined and in view of the evidence on record, this Court finds no illegality or infirmity in the same. As a matter of fact, there is no evidence against the respondents so as to convict them under Section 498-A, 304-B and 302 IPC read with Section 34 IPC.

71 Learned Addl. Sessions Judge has passed the judgment of acquittal of the respondents under Section 498-A, 304-B and 302 IPC read with Section 34 IPC, which in the given circumstances, is justified in law, because as per the settled principles of law as laid down by the Hon'ble Apex Court, in the aforementioned judgments, to the effect that the judgment of the court below can be reversed by the Appellate Court only when it demonstrates perversity or error of law or fact in arriving at such decision. But, in the present case, the learned Court below passed a well reasoned judgment after appreciating oral as well as documentary evidence on record. Thus, the impugned judgment does not suffer from



perversity or error of law or fact, so as to warrant any interference by this Court in the instant appeal.

72 Consequently, the instant appeal is dismissed, so also the pending application(s), if any.

73 The bails bonds furnished by the respondents are discharged.

74 Records be sent down.

(Vivek Singh Thakur)
Judge

26th November, 2025
(pankaj)

(Romesh Verma)
Judge