

**In the High Court of Punjab and Haryana at Chandigarh**

1. **CRA-D-737-DB-2006 (O&M)**  
**Reserved on: 06.7.2023**  
**Date of Decision: 11.7.2023**

Chhabag Singh and others .....Appellants

Versus

State of Haryana .....Respondent

2. **CRR No. 2526 of 2006**

Hardeep Singh .....Petitioner

Versus

State of Haryana and others .....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**  
**HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. S.S.Brar, Advocate  
for the applicants-appellants (in CRA-D-737-DB-2006).

Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

Mr. Jai Bhagwan Sharma, Advocate  
for the complainant (in CRA-D-737-DB-2006) and  
for the petitioner (in CRR-2526-2006).

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**SURESHWAR THAKUR, J.**

1. Since both the above appeal as well as the criminal revision petition arise from a common verdict, as, made by the learned trial Judge concerned, thus both are amenable for a common verdict being made thereons.

2. The learned Additional Sessions Judge, Kaithal, through a verdict drawn on 5.9.2006, upon case bearing S.C. No. 33 of 2003, thus recorded a finding of conviction against the accused for the commission of

an offence punishable under Section 304-B/34 of the IPC. Moreover,

through a separate sentencing order of even date, the learned trial Judge concerned, sentenced the convicts to undergo rigorous imprisonment for life, for an offence punishable under Section 304-B/34 of the IPC, besides also imposed, upon the convicts sentence of fine, comprised in a sum of Rs. 50,000/- each. In default of payment of fine amount, the learned convicting Court sentenced the convicts to undergo rigorous imprisonment for a period of two years. On realization, the fine amount was ordered to be disbursed as compensation to Hardeep Singh, the father of deceased Rajwinder Kaur.

3. However, the period of detention, as, undergone by the convicts, during the investigations, and, trial of the case, was, in terms of Section 428 of the Cr.P.C., rather ordered to be set off, from the above imposed sentence(s) of imprisonment.

4. All the convicts being aggrieved from the above made verdict of conviction, and, also becoming aggrieved from the consequent thereto sentence(s) of imprisonment, as well as of fine, as became imposed, upon them, thus become led to institute thereagainst **CRA-D-737-DB-2006**, before this Court.

5. Moreover, the complainant has also instituted **Criminal Revision No. 2526 of 2006**, before this Court, whereby he has claimed that death penalty be imposed upon the convicts-accused. Moreover, he has also claimed that fine comprised in a sum of Rs. 8.00 lacs, be also imposed, upon the convicts-accused.

6. However since the said reliefs are palpably dependent, upon, this Court affirming the above verdict of conviction, and, consequent therewith sentences of imprisonment, besides of fine, as becomes imposed upon the convicts-appellants by the learned Convicting Court. Resultantly,

**Criminal Revision Petition (supra)** would be accordingly meted an

adjudication.

**Factual Background**

7. The genesis of the prosecution case, becomes embodied in the appeal FIR, to which Ex. PG/1 is assigned. The narrations carried in Ex. PG/1, are that on 5.3.2003, when ASI Jaimel Singh alongwith other police officials namely ASI Anand Parkash, Head Constable Rajinder, Constable Manbir Singh, and constable Himmat Singh, were present in front of Pundri rest house for patrolling duty, there complainant Hardeep Singh met them, and, got recorded his statement Ex. PG wherein he has stated that his daughter Rajwinder Kaur was married on 10.2.2003 with accused Harvinder Singh s/o Chhabag Singh resident of village Dussain according to the customs, and, at the time of marriage adequate dowry was given and even Hero Honda motor-cycle was given at the time of marriage. Rajwinder Kaur stayed in her matrimonial home for eight days and narrated to Baldev Singh nephew of the complainant while weeping that her in-laws has been demanding a car from her, and, she is not in a position to disclose this fact to her parents. On 2.3.2003 there was Akhand Path at the house of the complainant and Harvinder Singh alongwith his brother-in-law Darshan Singh came to his house on 1.3.2003 and they were sent to their house after persuasion alongwith Rajwinder Kaur and he assured that at that time, he is to spend money and later on he would satisfy the demand. On 5.3.2003 complainant received the information at 4.00 PM that Rajwinder Kaur has been murdered by electric shock. At this, complainant alongwith his son Sansar Singh, brother-in-law Mukhtiar Singh and Karnail Singh went to in-laws of Rajwinder Kaur. There he found the dead body of Rajwinder Kaur lying, having murdered with electric shock. Thereafter complainant reported the matter to the police. Complainant also disclosed at that time that

Rajwinder Kaur has been murdered by Harvinder Singh, Chhabag Singh, Veer Kaur W/o Chhabag Singh on demand of dowry by electric shock. On the statement of the complainant, the appeal FIR (Ex.PG/1) was recorded and case was registered against the accused persons.

**Investigation proceedings**

8. During investigation, police party headed by Jaimal Singh SI reached dera of Chhabag Singh alongwith the complainant. Investigating Officer inspected the dead body of deceased Rajwinder Kaur and prepared report under section 174 Cr.P.C., to which Ex. PM is assigned. Post mortem on the dead body was also conducted. Site plan Ex.PN was prepared. Bangles lying at the spot were taken into police possession vide memo Ex.PJ. After conclusion of investigations, the investigating officer concerned, proceeded to institute a report under Section 173 of the Cr.P.C., before the learned committal Court concerned.

**Committal Proceedings**

9. Since the offence under Section 304-B/34 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 14.5.2003, hence proceeded to commit the accused to face trial before the Court of Session.

**Trial Proceedings**

10. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw a charge against accused, for the offences punishable under Section 304-B read with Section 34 of the IPC. The afore drawn charge was put to the accused, to which they pleaded not guilty, and, claimed trial.

and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. The accused also chose to adduce defence evidence, and, led two witnesses into the witness box.

**Submissions of the learned counsel for the appellants**

12. The learned counsel for the aggrieved convicts-appellants herein, has inter alia contended before this Court;

(i) That there is no explicit evidence on record thus personifying that within seven years of the deceased Rajwinder Kaur solemnizing marriage with accused Harvinder Singh, she was subjected to cruelty or harassment by her husband or by any of the relatives of her husband rather for, or in connection with any demand for dowry. Therefore, he argues, that since the adduction of cogent evidence in personification of the imperative penal ingredient (supra), as becomes cast in Section 304-B of the IPC, but rather became an absolute statutory necessity for the prosecution, whereas, the testifications on record of the material prosecution witnesses, thus not garnering any conclusion, from this Court, that the said imperative penal ingredient becomes satisfied. Thus, he argues, that the charge drawn against the convicts for an offence punishable under Section 304-B of the IPC rather did not come to be cogently established. Resultantly, he submits, that thereby the convicts are entitled for a verdict of acquittal, being made, in respect of a charge drawn against them for an offence punishable under Section 304-B of the IPC.

(ii) That the learned trial Judge concerned, has failed to assign any

credence to the testification of DW-1, who though has consistently spoken in his examination-in-chief, and, in his cross-examination about convict Kulwinder Kaur, residing at his home at the time of commission of the charged penal offence(s), thereby concomitantly, though the defence also did firmly establish the plea of alibi in respect of convict Kulwinder Kaur. However, yet he submits, that the above cogently established plea of alibi, as, raised by convict Kulwinder Kaur, rather became untenably discarded. Resultantly, he argues, that the verdict of acquittal, is required to be made in respect of co-convict Kulwinder Kaur.

(iii) That with DW-2 fully establishing that deceased Rajwinder Kaur, upon becoming awakened about the illicit relations inter se convict Harvinder Singh and one Raman, thereby deceased Rajwinder Kaur became goaded or instigated to commit suicide through electrocuting herself. However, he submits, that though the above exculpatory plea, became propagated by the defence through DW-2, yet the learned trial Judge concerned, has failed to assign any solemnity thereto. Thus, he argues, that a gross miscarriage of justice has occurred. Resultantly, he contends that the demise of the deceased was not a sequel of hers being electrocuted by the convicts, rather her demise is attributable to hers electrocuting herself, and/or hers committing suicide.

**Submissions of the learned State counsel**

13. On the other hand, the learned State counsel has argued before this Court, that the impugned judgment of conviction, and, consequent thereto sentence(s) of imprisonment, as became imposed upon the convicts, by the learned trial Court concerned, do not suffer from any perversity or

germane to the charge. Therefore, the learned State counsel argues, that the impugned verdict of conviction, and, the order of sentences (supra), as became made upon the convicts, are well merited, and, do not warrant any interference.

**For the reasons to be assigned hereinafter, this Court is not inclined to accept the submissions, as addressed before this Court, by the learned counsel for the convicts-appellants.**

**Appreciation of the testimony of complainant Hardeep Singh, who stepped into the witness box as PW-8**

14. During the course of his stepping into the witness box, PW-8 has ably proved, and, but with the fullest corroboration, thus his previously made statement in writing to the police, to which Ex. PG is assigned. Though, in his examination-in-chief, there are articulations about the demand for a car as dowry, being raised by convict Harvinder Singh. The said articulation, as exists in his examination-in-chief, is echoed by him to be made by convict Harvinder Singh to deceased Rajwinder Kaur, who further unfolded the said fact to one Baldev Singh. He has also spoken in his examination-in-chief, that after 20 days of the marriage of his daughter, an Akhand Path became organized at his house, and, he had then invited his daughter Rajwinder Kaur, convict Harvinder Singh, his cousin Narinder Kaur, and the latter's husband to his house. In addition, he has also spoken in his examination-in-chief, that he then assured convict Harvinder Singh, that the said demand for a car would become complied with, but after some passage of time, as he has spent a huge monetary amount in solemnizing the marriage of his daughter Rajwinder Kaur with him. Furthermore, he has also therein echoed, that two days subsequent thereafter, he had received a telephonic call from Narinder Kaur about his daughter Rajwinder Kaur

15. The import of the above testification, is that, thereby the prosecution has been able to substantiate, that during the subsistence of the marriage inter se convict Harvinder Singh with deceased Rajwinder Kaur, and, but evidently within seven years of both entering into a legal wedlock, thus evidently a demand of dowry, becoming raised by convict Harvinder Singh. Further, the prosecution has also been able to establish, that deceased Rajwinder Kaur, had informed one Baldev Singh about the said demand, being made before her, by convict Harvinder Singh. The firm reason from which the above inference stems, is comprised in the factum, that the said testification, as occurs in the examination-in-chief of PW-8, has remained unbelied, either through a negating thereto suggestion being made to him, or obviously through any affirmative thereto echoings becoming made by PW-8. Contrarily, a closest reading of the cross-examination of PW-8 discloses, that therein, a suggestion became meted to him, thus revealing that as a matter of fact, an Akhand Path was organized at the house of PW-8, and, the deceased along with the convict concerned, having then visited his house. Importantly when the said Akhand Path was rather attended by the deceased, and, by convict Harvinder Singh. Thus when PW-8 speaks, that he had then promised convict Harvinder Singh, that after some passage of time, he will accede to the said demand, besides reiteratedly when even the said factum has remained completely unbelied. Therefore, the effect thereof, is that, the speakings (supra), as made by PW-8, in his examination-in-chief, thus therefrom acquire the fullest corroboration.

16. Even though, PW-8, in his cross-examination, has spoken that at the time of his deceased daughter staying at his house, and/or at the Akhand Path Bhog ceremony, his deceased daughter did not disclose to him

examination of PW-8 rather do not carry any exculpatory effect. The reason being that when PW-8, in his examination-in-chief, has spoken about convict Harvinder Singh, rearing a demand of dowry, from the deceased, demand whereof became unfolded to one Baldev Singh (PW-9). Moreover, when, as stated (supra), in pursuance to the said demand of dowry, he, in the presence of his deceased daughter, besides in the presence of Narinder Kaur, and, her husband, thus had evidently assured convict Harvinder Singh, that the said demand would be acceded to after sometime, as he had already spent a huge sum of money in solemnizing the marriage of his daughter with him, and, thus did not hold sufficient financial resources to immediately accede to the said demand. Conspicuously, since the above factum has also remained uneroded, even during the ordeal of an exacting rigorous cross-examination, being made upon PW-8. Resultantly, thereby the prosecution has, thus succeeded in proving the requisite penal ingredients, as carried in Section 304-B of the IPC, that the deceased, evidently within seven years of her solemnizing marriage with convict Harvinder Singh, became subjected to cruelty and harassment for, on in connection with demand for dowry. Resultantly, when for the further reasons to be assigned hereinafter, this Court rather becomes coaxed to take a view, that a fatal electrocution of the deceased, by the convicts, thus has become fully established. In consequence, this Court refrains from accepting the principal argument (supra), as raised before this Court, by the learned counsel for the appellants, that the trite penal ingredient (supra), rather remained unsatiated, thereby the accused-convicts were not amenable for becoming convicted, nor became amenable for becoming sentenced for a charge drawn qua an offence punishable under Section 304-B of the IPC.

**Additional reason for cementing the above inference**

17. Baldev Singh, to whom deceased Rajwinder Kaur had revealed the harassment and cruelty, as, meted to her by her husband, convict-Harvinder Singh, thus for in connection with a demand of dowry, also stepped into the witness box as PW-9. Since PW-8, as above stated, did speak the said fact, being revealed by his deceased daughter, to PW-9 one Baldev Singh. Therefore, when the fact (supra) became also fully corroborated by PW-9 Baldev Singh, importantly with an aplomb inter se corroboration, but generating from the consistently made testifications of PW-8, and, of PW-9, thereby rather this Court becomes constrained to firmly conclude, that deceased Rajwinder Kaur was subjected to cruelty and harassment at her matrimonial home, thus for, in connection with demand of dowry. Resultantly, her fatal electrocution, but at the instance of the convicts, was but a natural sequel thereof.

18. Be that as it may, re-enforcingly the said inference becomes firmly cemented, from the learned defence counsel, rather making affirmative conceding suggestions to PW-9, thus unfolding that the said disclosures were made to him by deceased Rajwinder Kaur, and, that thereafter he had narrated the said revealed fact, thus to PW-8, who is the complainant, and, the father of deceased Rajwinder Kaur. Therefore, the said raising of a penal demand of dowry by the convict concerned, upon the deceased but obviously becomes established to the hilt, thereby the charge drawn against the convicts for an offence punishable under Section 304-B/34 of the IPC, does also become concomitantly, thus invincibly proven.

**Signed disclosure statement of convict Harvinder Singh Ex. PK**

FIR (Ex.PG/1), convict Harvinder Singh made a signed disclosure statement, to which Ex. PK is assigned. The signed disclosure statement, as made by the accused is ad verbatim extracted hereinafter.

*“In the presence of following witnesses, accused Harvinder Singh above noted made his disclosure statement that “on dated 4/5 during the night, I had administered intoxicated pills to my wife, by force, due to unconsciousness my father Chhabeg Singh caught the head of Rajvinder Kaur and my mother Veer Kaur caught both legs then I taken the antin a wire to murder Rajvinder Kaur by giving the electric shock. I have kept concealed the said antenna wire in the heap of parali in my dera. Nobody knows about this fact. I can get the same recovered by demarcation.”*

20. Pursuant to the above signed disclosure statement, convict Harvinder Singh got recovered one antenna wire, which was taken into police possession, through recovery memo Ex. PL.

21. The disclosure statement (supra), carries the signature, in Hindi, of convict Harvinder Singh. In his signed disclosure statement (supra), convict Harvinder Singh confessed his guilt in committing the murder of the deceased concerned, by electrocuting the deceased concerned, hence with the said antenna wire. The further speaking therein, is qua his keeping, and, concealing the said wire, in the heap of parali in his dera. Moreover, it also makes speakings about his alone being aware about the location of his hiding and keeping the same, and, also revealed his willingness to cause the recovery of the incriminatory item(s), to the investigating officer concerned, from the place of his hiding, and, keeping the same.

22. The above disclosure statement, does acquire utmost evidentiary solemnity, as thereons exist the signatures, in Hindi, of convict Harvinder Singh, which, however, he has neither ably denied nor has efficaciously proven the said denial. Moreover, the above confession of guilt is neither a bald, nor a simpliciter confession, nor is hit by the bar, as,

encapsulated in Section 25 of the Indian Evidence Act. The reason for drawing the above inference, ensues from the factum, that in pursuance thereof, through a proven recovery memo Ex. PL, rather convict Harvinder Singh, thus caused legally efficacious recovery of the antenna wire, to the investigating officer concerned.

23. During investigations, broken bangles belonging to deceased Rajwinder Kaur were recovered, and, the same were taken into police possession through recovery memo Ex. PJ, by the investigating officer concerned. Thus, the recovery of electrocuting item (supra), and, the recovery of bangles, does but naturally sequel an inference, that the deceased was electrocuted by the convicts, especially when the police officer concerned, has proven the drawing of inquest report Ex. PM, wherein also there is a reference of broken bangles, rather lying at the crime site, besides when he has also ably proven the making of recoveries thereof. Resultantly, the effect, of the above makings of efficacious unexplained recoveries, is that, this Court is fortified to make a firm conclusion, that the deceased, did make some struggle in evacuating herself, from the clutches of the convicts, and, that during the course of the said scuffle, her bangles got broken.

24. Be that as it may, importantly the existence of bangles, as became recovered through recovery memo Ex. PJ, rather at the crime site, and, with no evidence becoming adduced, thus reflecting that the said bangles did not belong to the deceased, rather they became planted at the crime site, is but amply suggestive, that but obviously the said broken bangles belonged, to the deceased, and, that they became broken only as a sequel of a scuffle inter se her and the accused. The said scuffle but obviously became entered into, only for facilitating the convicts to fatally

through recovery memo Ex. PL, especially when, as stated above, the efficacious making of Ex. PL, rather has been unerodedly established by the prosecution.

**Post-mortem report**

25. The post-mortem on the body of deceased Rajwinder Kaur was conducted by PW-1 Dr. Lajja Ram and Dr. S.K.Jain. PW-1 Dr. Lajja Ram has proven the post-mortem report, to which Ex. PA, is assigned. He has also proven the existence of the hereinafter extracted injuries on the person of the deceased concerned.

- 1. A burn wound of size 2.5 x .4 cm with hardening and blackening of surroundings skin, puckering was present. This wound was present over lower 1/4th of left leg on anterior aspect.*
- 2. A burn wound of size 7 cm x ..4 cm over postero lateral aspect of left leg, four cm. posterior to injury No. 1 which was present at the same level.*
- 3. A burn wound of size 5 cm x .3 cm with blackening hardening (puckering) of skin and surrounding areas was present over posterior of left leg in continuation with injury no. 2.*
- 4. A burn lesion of .4 cm was present over mid of left forearm with echymosis at the base of wound was present. This wound was interrupted on posterior aspect of left forearm.*
- 5. Another burn lesion over anterior aspect of left forearm just proximal to injury No. 4 of size 4 cm x. 4 cm on radial aspect.*
- 6. Another burn wound of size 4 cm x .4 cm on anterior aspect of left forearm, just near an ulnar aspect of left forearm adjoining to injury No. 4."*

26. PW-1 has opined that the possibility regarding the cause of death by the above injuries cannot be ruled out, and, he has also opined that

the injuries (supra) could be caused by electric current. He has further stated that, after going through the chemical examiner report Ex. PC, thus he made an opinion that the cause of death was owing to ante mortem burn injuries, as, found on the body of the deceased, at the time of conducting of post-mortem examination. Thus, the disclosure statement, as made by the convict concerned, and, also consequent therewith recoveries, do also become fully supported by the above medical account/evidence.

**Reasons for rejecting the exculpatory plea of the deceased committing suicide**

27. Though, as above stated, the learned counsel for the convicts-appellants, has vigorously argued before this Court, that since DW-2, who is the grandfather of convict Harvinder Singh, and, the father of convict Chhabag Singh, has, in his examination-in-chief, spoken that in the year 2003, one girl namely Raman, aged 17-18 years daughter of Major Singh, had been staying at the house of Harvinder Sinjgh, about one month prior to the solemnization of his marriage inter se deceased Rajwinder Kaur. Moreover, since he has also proven that the said girl namely Raman, even for a week, after the solemnization of marriage inter se convict Harvinder Singh and deceased Rajwinder Kaur, thus had stayed at the house of Harvinder Singh, and, that during the said period of stay, she had developed illicit relations with convict Harvinder Singh, about which deceased Rajwinder Kaur, became awakened, and, thereby became goaded, and, instigated to commit suicide. Resultantly, the learned counsel argues, that the charge drawn against the accused does but falter, and, that the accused-convicts are entitled to a verdict of acquittal.

28. Initially, the foremost reason for rejecting the said testification of DW-2, becomes grooved in the factum, that DW-2, is the grandfather of

convict Harvinder Singh, and, the father of convict Chhabag Singh. Even though, the said proximity of relationship inter se DW-2, and, the convicts (supra), cannot be of conspicuous importance in rejecting his testification. However, yet this Court is inclined to reject his testification, on the ground, that Major Singh, the father of Raman, with whom convict Harvinder Singh, allegedly established illicit relations, and, about which deceased became aware, and, thereby became purportedly goaded, and, instigated to commit suicide, rather never stepped into the witness box, to thus make speakings about his daughter Raman, for the period of time, as stated by DW-2, in his examination-in-chief, thus staying at the home of convict Harvinder Singh. He was the best witness to support the above fact. Therefore, his non-examination belies the above exculpatory testification made by DW-2. Therefore, it is but for the proximity of relations between DW-2, and, the convicts (supra), that the said exculpatory speakings (supra), as, made by DW-2, in his examination-in-chief, thus lose their evidentiary tenacity, especially when reiteratedly the said speakings, though required corroboration, whereas, they remained uncorroborated, by Major Singh, the father of one Raman. Even the mother of Raman, or any her any other close relatives never stepped into the witness box, to support the speakings (supra), as made by DW-2, in his examination-in-chief, whereby the deposition of DW-2, becomes both an interested, besides a tainted testification.

**Plea of alibi raised by the counsel for the appellants in respect of  
convict Kulwinder Kaur**

29. Though the above exculpatory plea of alibi, is banked upon the statement of DW-1 Lakhwinder Singh. However, for the reasons to be assigned hereinafter, even the said exculpatory plea of alibi, as becomes

raised by the learned counsel for the appellants qua convict Kulwinder Kaur, rather is also liable to be rejected.

30. The primary reason is grooved in the factum, that though in his examination-in-chief, DW-1 speaks about convict Kulwinder Kaur, in the month of 2003, visiting his home, as his wife had suffered head injury, in sequel to hers falling from the staircase, thereby his being led to, on the subsequent day, visited the parental home of Kulwinder Kaur, to fetch her therefrom, thus to enable her to look after his ailing wife. Though, thereby the plea of alibi has been strived to be established. Nonetheless, the suffering of a fatal injury by the wife of DW-1 Lakhwinder Singh, though is spoken by him, to be the reason for his fetching convict Kulwinder Kaur to his home, thus for enabling her to attend upon his ailing wife, yet on a reading of the cross-examination of the said witness, this Court finds that though the said fact was required to be established by medical records. However, strangely enough, no medical record to support the speakings (supra), became adduced on record. Therefore, though the adduction into evidence of the medical records by DW-1, as related to the entailment of injuries, upon his wife, and, which but led him to fetch convict Kulwinder Kaur from her parental home, rather was of an extreme dire necessity, thus to sustain the plea of alibi, as raised in respect of co-convict Kulwinder Kaur. However, since the said medical record, has remained unadduced, thereby convict Kulwinder Kaur has failed to establish, that on the relevant day and time, she was not present at the crime site, and, that she was present at the home of DW-1, nor also convict Kulwinder Kaur, can hence become concluded to be thereby establish the exculpatory plea of alibi.

31. Consequently, appeal bearing No. CRA-D-737-DB-2006, is dismissed. The impugned verdict of conviction, and, consequent therewith

sentence, as becomes imposed upon the convict-appellants, by the learned convicting Court, are maintained, and, affirmed.

**CRR-2526-2006 warrants rejection**

32. Since the complainant has also instituted Criminal Revision Petition bearing No. 2526 of 2006, before this Court, seeking the relief for imposition of death penalty, upon the convicts, and, has also asked for a further relief, that the fine amount, comprised in a sum of Rs. 8.00 lacs, be imposed upon the convicts, and, the same on its deposit, be ordered to be released as compensation to him. Therefore, it is deemed but necessary to adjudicate upon the meritworthiness of the above raised prayers before this Court.

33. Initially the maximum tenure of the imposable substantive sentence of imprisonment thus upon the convicts, in respect of a charge drawn qua an offence punishable under Section 304-B of the IPC, is statutorily prescribed to last upto a term of imprisonment for life. Moreover, when the maximum duration of the substantive sentence of imprisonment (supra), as contemplated in Section 304-B of the IPC, thus has become imposed upon the convicts, by the learned trial Judge concerned. Resultantly, especially when the order thus framing the charge (supra), rather remained unchallenged by the convicts, thus this Court does not deem it fit, and, appropriate to convert, at this stage, the charge drawn against the convicts for an offence punishable under Section 304-B of the IPC, to a charge drawn for an offence punishable under Section 302 of the IPC. Consequently also, when only in respect of a charge drawn for an offence punishable under Section 302 of the IPC, rather capital punishment may be imposable. Therefore, the relief (supra), as, claimed in the criminal revision

(supra), that the convicts be sentenced to capital punishment, is rejected.

34. The complainant has also claimed, that the sentence of fine, comprised in a sum of Rs. 8.00 lacs, be imposed upon the convicts, and, on realization of the said fine amount, from the convicts, the same be ordered to be released, as compensation to the victim. However, even the said prayer, is rejected, as the learned trial Court concerned, apart from imposing the substantive sentence of rigorous imprisonment for life, upon, each of the convicts, for the commission of an offence punishable under Section 304-B/34 of the IPC, has also imposed upon each of the convicts, a sentence of fine of Rs. 50,000/- each, and, has also ordered that on realization of the fine amount, the same shall be released, as compensation to the complainant. Therefore, this Court does not also deem it fit, and, appropriate to alter the sentence of fine (supra), as becomes imposed upon each of the convicts, by the learned trial Judge concerned, as the same is both reasonable, and, just.

35. Be that as it may, since though the order (supra), as, made by the learned trial Judge concerned, insofar as it relates to, upon realization of the fine amount from each of the convicts, the same being released as compensation to the complainant, though becomes covered by the provisions of Section 357 of the Cr.P.C., provisions whereof become extracted hereinafter.

**“357. Order to pay compensation.**

*(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied-*

*(a) in defraying the expenses properly incurred in the prosecution;*

*(b) in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court,*

*recoverable by such person in a Civil Court;*

- (c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855 ), entitled to recover damages from the person sentenced for the loss resulting to them from such death;*
- (d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.*

*(2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.*

*(3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.*

*(4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.*

*(5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this*

*section.”*

36. However, yet sub-Section 3 of Section 357-A of the Cr.P.C makes contemplation, that if the trial Court, on the conclusion of the trial, is satisfied, that the compensation awarded under Section 357 Cr.P.C., is not adequate, for ensuring the rehalibitation of the victim, whereby it becomes empowered to make suitable recommendations to the District Legal Services Authority concerned, thus for the victim compensation being determined, and, released to the victim complainant. However, the learned trial Judge concerned, though has not exercised the said statutory empowerment. Nonetheless, when the statutory empowerment, as becomes contemplated in sub-Section 3 of Section 357-A of the Cr.P.C., thus speaks about the inadequacy of compensation awarded under Section 357 of the Cr.P.C., and, it being thus deficit for ensuring the rehabilitation of the victim, thus whereupon the said statutory empowerment becomes amenable to become ably exercised. Therefore, even if the empowerment vested in the learned trial Judge concerned, through the mandate embodied in sub-Section 3 of Section 357-A of the Cr.P.C., has remained unexercised, yet it appears that its non-exercising, did obviously, and, naturally become stemmed from the factum of sentence(s) of fine of Rs. 50,000/-, thus becoming imposed, upon each of the convicts. Resultantly, the said quantum of fine amount, cannot be said to be either inadequate or insufficient for mitigating the agony, and, trauma, as became beset, upon the victim complainant. Since the inadequacy of fine amount is the prima donna statutory ground, for thus, leading the learned trial Judge concerned, to exercise the jurisdiction, as becomes contemplated in sub-Section 3 of Section 357-A of the Cr.P.C., whereas, when there is both an adequate, and, a sufficient sentence of fine imposed upon the convicts, by the learned trial Judge concerned. Further, when it has

been ordered to be, on its realization, thus disbursed as compensation to the victim complainant. Therefore too, it appears that the above non-exercisings of jurisdiction (supra) by the learned trial Judge concerned, does not require any interference.

37. Even though for non-deposit of the fine amount, the learned trial Judge has imposed default sentence(s), upon each of the convicts, but yet in terms of the proviso of Section 421 of the Cr.P.C., provisions whereof become extracted hereinafter, the undergoing of the default sentence(s), rather by each of the convicts, may yet not forbid, the learned trial Judge concerned, to omit to realize the fine amount from each of the convicts, nor forbids him to, on realization thereof, disburse the same as compensation to the victim. The reason being that the learned trial Judge concerned, palpably appears to, in his making the order, qua upon realization(s) of the fine amount from the convicts, thus the same being disbursed as compensation to the victim, thereby cover the same within the domain of Section 357 of the Cr.P.C. Therefore, the said order is a lawful order.

**“421. Warrant for levy of fine.**

*(1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may-*

*(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;*

*(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter: Provided that, if the sentence*

*directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.*

*(2) The State Government may make rules regulating the manner In which warrants under clause (a) of sub- section (1) are to be executed, and for the summary determination of any claims made by any person other than the offender in respect of any property attached in execution of such warrant.*

*(3) Where the Court issues a warrant to the Collector under clause (b) of sub- section (1), the Collector shall realise the amount in accordance with the law relating to recovery of arrears of land revenue, as if such warrant were a certificate issued under such law: Provided that no such warrant shall be executed by the arrest or detention in prison of the offender.”*

38. Resultantly, the undergoings of default sentence(s) by each of the convicts, on non-deposit of fine amount, may yet empower the learned trial Judge concerned, to issue warrants of fine, thus for ensuring the realization thereof from the estates of each of the convicts, and, for the same thereafter(s) being released as compensation to the victim complainant.

39. Consequently, the criminal petition (supra), is also dismissed.

**Final order**

40. The result of the above discussion, is that, this Court does not find any merit in the appeal filed by the convicts bearing No. CRA-D-737-DB-2006, and, in the criminal revision petition filed by the complainant, bearing No. CRR-2526-2006, and, is constrained to dismiss them.

Consequently, both the appeal (supra) as well as the criminal revision

petition (supra), are dismissed. The impugned verdict of conviction, as

becomes imposed upon the convicts-appellants, by the learned convicting Court, is maintained, and, affirmed, besides also the consequent thereto sentence(s), as became imposed upon the convicts, by the learned convicting Court, is also maintained, and, affirmed. If the convicts are on bail, thereupon, the sentence(s) as imposed upon the convicts-appellants, be ensured to be forthwith executed by the learned trial Judge concerned, through his drawing committal warrants. The case property be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

- 41. Records be sent down forthwith.
- 42. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)  
JUDGE

(KULDEEP TIWARI)  
JUDGE

July 11<sup>th</sup>, 2023  
Gurpreet

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