IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1752-SB-2004 (O&M)
Reserved on: 11.03.2026
Pronounced on: 29.05.2026

Uploaded on: 29.05.2026

Whether only operative part of the judgment is Pronounced : No

Whether full judgment is pronounced: ***Yes***

JIT KAUR & OTHERS

....Appellants

Versus

STATE OF PUNJAB **....Respondent**

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Mr. Ashok Singla, Advocate
for the appellants no. 1 and 2.

Mr. Ruhani Chadha, Advocate
For appellant no. 3.

Mr. Ravinder Singh, DAG, Punjab.

*****

RUPINDERJIT CHAHAL, J.

1. The present appeal arises out of the judgment of conviction and order of sentence dated 10.08.2004 passed by the learned Sessions Judge, Sangrur, in FIR No. 122 dated 03.05.2003 registered under Sections 304-B and 498-A of the Indian Penal Code, 1860, at Police Station Dhuri, District Sangrur, whereby the appellants were convicted under Section 304-B IPC and sentenced to undergo rigorous imprisonment for a period of 10 years along with fine of ₹2,000/- each and, in default of payment of fine, to further

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undergo rigorous imprisonment for six months each. The appellants were also convicted under Section 498-A IPC and sentenced to undergo rigorous imprisonment for one year each. Both the sentences were ordered to run concurrently.

2. The prosecution case, in brief, is that the FIR in question was registered on the statement of complainant Manjeet Singh, brother of deceased Gurmeet Kaur.

2.1. As per the prosecution, Gurmeet Kaur was married to appellant no.2 Jaspal Singh on 17.03.2002. At the time of marriage, sufficient dowry articles were allegedly given according to the financial capacity of the parental family of the deceased and a further amount of ₹25,000/- was allegedly paid on the occasion of the reception ceremony.

2.2. It is alleged that after a few months of marriage, the accused persons (appellants herein) namely Jaspal Singh (husband), Jeet Kaur (mother-in-law) and Seema Rani (sister-in-law) started harassing and maltreating the deceased on account of insufficient dowry and raised a demand for a scooter. The deceased is stated to have informed her parental family on various occasions regarding the said harassment.

2.3. The prosecution further alleged that approximately two and a half months prior to the occurrence, both families had attended a marriage where substantial dowry had allegedly been given and thereafter the accused again taunted the deceased for not bringing adequate dowry and reiterated their demand for a scooter.

2.4. It is further the case of the prosecution that about 22 days prior to her death, the deceased delivered a female child and while admitted in the

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hospital at Sangrur, she again disclosed to her mother and brother that she was being harassed on account of dowry demands.

2.5. On 03.05.2003, information regarding the death of Gurmeet Kaur was received by the complainant party. It was alleged that being unable to bear the continuous harassment and cruelty at the hands of the accused persons, the deceased consumed poisonous substance and died.

2.6. After investigation, challan was presented against the accused persons.

3. In order to substantiate its case, the prosecution examined PW-1 Dr. R.P. Jindal, PW-2 Manjeet Singh, PW-3 Jeet Kaur, PW-4 MHC Satwinder Singh, PW-5 Constable Jagtar Singh, PW-6 DSP Gurbachan Singh, PW-7 Jagdev Sharma, PW-8 ASI Balbir Chand and PW-9 SI Kulwant Singh.

4. After the closure of the prosecution evidence, the statements of the accused persons under Section 313 Cr.P.C. were recorded, wherein all the incriminating circumstances appearing against them in the prosecution evidence were put to them.

4.1. The accused (appellants herein) denied all the allegations levelled by the prosecution and pleaded false implication and examined DW-1 Gurinder Singh and DW-2 Inder Singh. It was specifically denied that any demand for dowry had ever been raised or that the deceased had been subjected to harassment or cruelty on account thereof. The defence taken by the accused was that the deceased was treated properly in her matrimonial home and that she remained under mental stress after giving birth to a

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female child, as there were already six daughters in the in-laws family and she had given birth to the seventh daughter.

4.2. The learned trial Court, after appreciating and evaluating the evidence available on record, held the accused guilty and convicted them under Sections 304-B and 498-A IPC.

5. For sake of convenience, arguments advanced by learned counsel for appellants No.1 and 2 and arguments advanced for appellant No.3 are taken up together to avoid repetition.

5.1. Learned counsel for the appellants have vehemently argued that the prosecution has failed to prove the essential ingredients required for constituting an offence under Section 304-B IPC. Learned counsel for the appellants contended that the allegation regarding payment of ₹25,000/- towards the reception ceremony expenses are totally vague. It is argued that the complainant, during the course of cross-examination, categorically stated that the said amount had allegedly been arranged by mortgaging the house with one Subegh Singh of Patiala, however, the prosecution failed to examine him before the Court. It has been further argued that no documentary evidence whatsoever, including mortgage documents, bank withdrawal records, receipts, or any other financial material, has been produced by the prosecution to establish that the complainant party had actually borrowed any amount or was compelled to arrange funds on account of any alleged demand raised by the appellants.

5.2. It has been contended that there is no cogent, independent or reliable evidence to establish any demand of dowry or cruelty in connection therewith. The allegations regarding demand of scooter are vague, omnibus

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and unsupported by any independent witness. No independent witness has been produced to prove such demand. Moreover, it has come on record that the appellant-Jaspal Singh was already in possession of a scooter prior to the marriage, which renders the alleged demand doubtful.

5.3. It is further argued that the mediators of the marriage, namely Sangat Singh and Kaka Singh, who were material and independent witnesses, were neither examined nor associated with the investigation. This omission warrants an adverse inference under Section 114(g) of the Evidence Act, 1872 that their testimony would have been unfavourable to the prosecution.

5.4. Learned counsel for the appellants submit that there are material contradictions in the statements of PW-2 Manjeet Singh and PW-3 Jeet Kaur regarding the mediators and the alleged instances of harassment.

5.5. It is further contended that the medical evidence does not support the prosecution version of physical cruelty, inasmuch as no external injury was found on the body of the deceased as per post-mortem report Ex.PA.

5.6. It is further argued that no complaint, panchayat, or legal action was ever initiated by the complainant party during the lifetime of the deceased. Such silence is inconsistent with the allegations of continuous harassment and creates a serious doubt about the veracity of the prosecution case.

5.7. It has further been argued that the deceased had delivered a female child merely 22 days prior to the occurrence and was suffering from

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post-partum depression. The accused family had taken proper care of the deceased and got her admitted in a private hospital at their own expense.

5.8. Reliance has also been placed upon the testimony of DW-1 Gurinder Singh, who stated that there was no demand of dowry or harassment, and DW-2 Inder Singh, who deposed regarding the possibility of post-partum depression after childbirth.

5.9. On the basis of the aforesaid submissions, learned counsel for the appellants submit that the prosecution has failed to prove cruelty or harassment "soon before death", which is a *sine qua non* for attracting Section 304-B IPC. The essential ingredients of Sections 304-B, 498-A and 306 IPC are not made out, and the impugned judgment of conviction is liable to be set aside. The appellants, therefore, deserve to be acquitted of all the charges by giving them the benefit of doubt.

6. Per contra, learned State counsel has supported the impugned judgment and contended that the prosecution has successfully established that the deceased was subjected to cruelty and harassment in connection with dowry demands.

6.1. It is argued that the testimonies of PW-2 Manjeet Singh and PW-3 Jeet Kaur clearly prove that the accused persons were dissatisfied with the dowry given and were persistently demanding a scooter. It is further submitted that the death of the deceased occurred within seven years of marriage and under unnatural circumstances. The Chemical Examiner's report established presence of organophosphorus pesticide in the viscera, thereby proving death by poisoning.

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6.2. Learned State counsel further contends that once it is established that a woman died otherwise than under normal circumstances within seven years of marriage and was subjected to cruelty or harassment in connection with dowry demand soon before her death, the presumption under Section 113-B of the Indian Evidence Act automatically arises against the accused.

6.3. It is thus argued that the prosecution has duly proved all foundational facts necessary for attracting Section 498-A and 304-B IPC and the learned trial Court rightly convicted the appellants.

7. Heard the counsels appearing for both sides and have carefully gone through the record. Sections 498-A and 304-B of IPC read as under:

> "**498-A. Husband or relative of husband of a woman subjecting her to cruelty**.-
>
> Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.
>
> Explanation.-For the purposes of this section, "cruelty" means-
>
> (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or
>
> (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

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"**<u>304-B. Dowry death</u>**.-

(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 purpose 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."

8. The following are the essential ingredients of Section 304-B IPC:

a) The death of a woman must have been caused by any burns or bodily injury, or must have occurred otherwise than under normal circumstances;

b) The death must have been caused within seven years of her marriage;

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

d) Cruelty or harassment must be for, or in connection with, any demand for dowry.

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9. It is undisputed in the present case that the wife of appellant no.2 died within seven years of their marriage, thereby it is to be seen whether the provisions of Section 113-B of the Indian Evidence Act are attracted or not. Section 113-B of Indian Evidence Act reads as under:

> "**113-B. 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 had 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 304-B of Indian Penal Code (45 of 1860)."

10. The presumption under Section 113-B of Indian Evidence Act will apply when it is established that soon before her death, the woman has been subjected by the accused to cruelty or harassment for, or in connection with, any demand for dowry. Therefore, even for attracting Section 113-B of Indian Evidence Act, the prosecution must establish that the deceased was subjected by the appellant to cruelty or harassment for or in connection with any demand of dowry soon before her death. Unless these facts are proved, the presumptions under Section 113-B of the Evidence Act cannot be invoked.

11. The Hon'ble Supreme Court, in the judgment of ***Satbir Singh v. State of Haryana, 2021 AIR (SC) 2627;*** has summarised the law under Section 304-B, IPC and Section 113-B, Evidence Act as under:

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"i. Section 304-B, IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

ii. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-B, IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B, Evidence Act operates against the accused.

iii. The phrase "soon before" as appearing in Section 304-B, IPC cannot be construed to mean `immediately before'. The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

iv. Section 304-B, IPC does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental. The reason for such non categorization is due to the fact that death occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental."

12. In the present case, it is not disputed that the death of the deceased took place within seven years of marriage and that the same occurred otherwise than under normal circumstances. However, these two circumstances alone are insufficient to attract the provisions of Section 304-B IPC. The prosecution is further required to establish that the deceased was subjected to cruelty or harassment in connection with demand for dowry soon before her death. It is only upon proof of these foundational facts that

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the statutory presumption under Section 113-B of the Indian Evidence Act can be invoked against the accused.

13. Adverting to the facts of the present case, upon careful appraisal of the entire evidence available on record, this Court finds that the prosecution has failed to establish beyond reasonable doubt that the deceased, Gurmeet Kaur, was subjected to cruelty or harassment by the appellants in connection with a demand for dowry soon before her death. Though it has been alleged by the complainant–PW2 Manjeet Singh that sufficient dowry articles were given at the time of marriage. However, except for the bald and omnibus assertions of the complainant, no independent witness has been examined by the prosecution to substantiate the said allegation which forms the substratum of the FIR. Even if it is presumed that certain customary articles were given at the time of marriage, there is nothing on record to establish that the same were given pursuant to any specific demand raised by the accused persons. Mere giving of gifts or articles at the time of marriage, in the absence of cogent evidence regarding demand, cannot be termed as dowry within the meaning of law.

14. The second allegation against the appellants pertains to an alleged demand of ₹25,000/-, which, according to the complainant party, was paid towards the reception party expenses after the marriage. The complainant, during cross-examination, has stated that the above amount of ₹25,000/- was arranged by mortgaging the house with one Subegh Singh of Patiala. Said Subegh Singh would have been the best witness to corroborate the version of the complainant regarding the alleged financial compulsion and borrowing of money to satisfy the alleged demand of the appellants. However, the prosecution has failed to examine the said witness.

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Furthermore, no documentary evidence such as bank withdrawal records, mortgage documents, or any other financial record has been produced to establish that the complainant party had borrowed money or was compelled to arrange funds to meet any alleged demand raised by the accused persons. No relative, employer, or even the maternal uncles of the deceased, who allegedly contributed towards the marriage expenses, have been examined by the prosecution to lend support to the complainant's version.

15. The further allegation regarding demand of a scooter at the time of birth of a female child also does not find support from any reliable or independent evidence available on record. Rather, it has come in evidence that the in-laws of the deceased had borne the medical expenses relating to the delivery and had got the deceased admitted in one of the reputed hospitals in the town. In such circumstances, the allegation that, on the one hand, the accused persons were bearing the medical expenses of the deceased and, on the other hand, simultaneously raising a demand for a scooter, appears improbable. Moreover, it has also come on record that the appellant's family was already in possession of a scooter prior to the marriage, thereby rendering the said allegation further doubtful.

16. Even in the FIR and in the statements of the complainant, no specific instance of harassment immediately prior to the death of the deceased has been mentioned so as to satisfy the essential requirement of "soon before death". Neither the FIR nor the testimonies of the material witnesses specify with clarity the date, time, place, or manner of any particular incident of cruelty.

17. The prosecution case mainly rests upon the testimonies of PW-2 Manjeet Singh, brother of the deceased, and PW-3 Jeet Kaur, mother of the

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deceased. However, a close scrutiny of their depositions reveals material discrepancies and omissions, which render their testimonies unreliable and unworthy of reliance. Manjeet Singh (PW-2), during the course of his cross-examination, admitted that he had not stated in his statement made to the police, Ex.PE, that the accused used to beat the deceased. The said assertion, having been introduced for the first time during trial, amounts to a material improvement. PW-3 Jeet Kaur, mother of the deceased, during her cross-examination, admitted that in her statement she did not mention the names of the accused and only referred to the family of the in-laws of her deceased daughter. She further stated that she had not recorded in her statement under Section 161 Cr.P.C. that the accused had misbehaved with them at Renu Singla Hospital. She also admitted that she had not got it recorded that Seema (appellant no.3/ sister-in-law) had told them that upon their return to the hospital, they should have given a scooter, failing which their daughter would be sent back. PW-2 Manjeet Singh, during his cross-examination, stated that the mediators did not meet them after the marriage and that he had not complained to them regarding the alleged harassment or demand for a scooter made by the accused family. He specifically stated that he did not visit their house. On the other hand, PW-3 Jeet Kaur stated during her cross-examination that Sangat Singh and his son Kaka were the mediators of the marriage, and that they had approached both mediators informing them that the accused were harassing Gurmeet Kaur (since deceased). According to her, the mediators told them that they would call the accused.

18. This contradiction between the testimonies of PW-2 and PW-3 with regard to approaching the mediators of the marriage for the alleged demand of dowry and harassment caused to deceased Gurmeet Kaur creates

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a serious doubt in the prosecution story, particularly when the prosecution has failed to examine the mediators of the marriage who were the most natural and independent witnesses to whom complaints were allegedly made. Their non-examination, without any plausible explanation, invites an adverse inference under Section 114(g) of the Indian Evidence Act that their testimony would not have supported the prosecution case.

19. On the contrary, the defence examined DW-1 Gurinder Singh, who categorically stated in his examination-in-chief that he had acted as a mediator in the marriage of Gurmeet Kaur with Jaspal Singh and had been visiting their house even after the marriage. He further deposed that Gurmeet Kaur was living happily in her matrimonial home and had never made any complaint to him regarding any demand of dowry, scooter or harassment at the hands of the accused persons. He also stated that neither the brother, father, mother nor any other member of the parental family of Gurmeet Kaur had ever complained to him regarding any demand of dowry by the accused. Though the witness was cross-examined at length by the prosecution, no suggestion was put to him that he was not a mediator of the marriage. He was also not confronted on any material aspect of his testimony, except for a bald suggestion that he had deposed falsely to save the accused, his testimony remained substantially unshaken.

20. Another important circumstance which creates doubt in the prosecution case is the absence of any medical evidence supporting the allegations of physical assault or beating. The post-mortem examination of the deceased was conducted by Dr. R.P. Jindal (PW-1), who specifically stated in his examination-in-chief that there was no external mark of injury on the body of the deceased. Had the deceased been subjected to physical

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cruelty or beatings, as alleged by the prosecution, some visible injury marks would ordinarily have been found on her body. The absence of any such injury materially weakens the prosecution version regarding physical cruelty.

21. Another aspect which assumes significance is that PW-2 Manjeet Singh during cross-examination admitted that when Gurmeet Kaur was expecting a child, she was not brought to her parental home as Singla Nursing Home, was considered to be a reputed hospital which was at Sangrur. He further admitted that although there exists a customary practice whereby the first delivery of a woman ordinarily takes place at her parental home, but neither did he request the accused to send Gurmeet Kaur to her parental house, nor did the accused ever expressed any intention to send her there. It is also an admitted position that the deceased continued to reside at her matrimonial home at the time of her delivery. The defence has strongly contended that this circumstance demonstrates that the deceased was being properly looked after by her in-laws; otherwise, in the ordinary course of human conduct and prevailing custom, she would have been taken to her parental home for delivery. The testimony of PW-2, therefore, to some extent supports the inference that the deceased was receiving adequate care and attention at her matrimonial home.

22. It is an admitted position on record that the deceased had delivered a female child about 22 days prior to the occurrence. The defence has taken the plea that the deceased was suffering from post-partum depression and remained under mental stress after the birth of the child, particularly as there were already six daughters in the in-laws family of the deceased. In support of the said plea, the defence examined DW-2 Inder Singh, who stated in his examination-in-chief that after the birth of the

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female child, Gurmeet Kaur used to remain under depression. Though the said witness was subjected to lengthy cross-examination by the prosecution, no suggestion was put to him disputing the fact that the deceased was suffering from depression after childbirth. The Division Bench of Hon'ble Karnataka High Court in ***State of Karnataka v. Prakash, Law Finder Doc Id # 2147274, decision dated 13.12.2022;*** after taking into consideration the fact of post partum depression apart from others could be a possible cause of suicide of the deceased and upheld the acquittal of the accused therein. The relevant paragraph is reproduced below:

> "*24. In the case on hand, within a short period of time from the time of marriage, she had given birth to a female child and she started to live in the village which was smaller than the village in which she was brought up. Further, it is also available on record that the accused as well as PWs 1 and 3 were earning their livelihood by coolie work. The cross-examination of the prosecution witnesses also disclose that deceased was not sent for the coolie work and it was only accused Nos. 1 to 3 who are going for coolie work. If that is so, the question of harassment appears to be figment of imagination but nothing else. Evidently, such harassment is not disclosed to a close relative who was instrumental in the marriage of the accused and the deceased. The hostility of PW- 12 who was instrumental in settling the marriage raises a serious doubt about the contention of the prosecution and also the evidence of PWs 1,3 and 4. The possibility of a post partum depression and complications cannot be ruled out in the fact circumstances of the case.*"

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23. Though the defence version by itself may not be sufficient to discard the prosecution case in toto, yet in the present matter, the prosecution has failed to produce any convincing and reliable evidence to establish that the deceased was subjected to cruelty or harassment in connection with demand for dowry soon before her death.

24. In the present case, the conduct of the complainant party also creates doubt regarding the prosecution version. The evidence on record shows that despite the alleged harassment, no complaint was ever made to any Panchayat, respectable persons of the village or any legal proceedings were initiated by the complainant party. Both PW-2 Manjeet Singh, brother of the deceased, and PW-3 Jeet Kaur, mother of the deceased, have admitted that neither any Panchayat was ever convened, nor respectable persons of the Village were met to complain about the alleged harassment on account of dowry. There is also no reliable evidence to show that the complainant party had ever approached the alleged mediators of the marriage regarding harassment of the deceased on account of dowry demands.

25. Insofar as the presumption under Section 113-B of the Evidence Act is concerned, the same arises only when the prosecution first establishes the foundational facts, particularly cruelty or harassment for dowry soon before death. The allegations levelled by the prosecution remain general, vague and unsupported by any independent evidence. Most importantly, the prosecution has failed to prove that any such cruelty or harassment was meted out to the deceased "soon before her death", which is a *sine qua non* for attracting the provisions of Section 304-B IPC. Consequently, the statutory presumption does not arise. Reliance in this regard is placed upon decision of Hon'ble Supreme Court in ***Baijnath v. State of Madhya***

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Pradesh, 2017 (1) SCC 101; wherein it was held that the factum of unnatural death in the matrimonial home and that too within seven years of marriage is ipso facto not sufficient to bring home the charge under Sections 304B and 498A of I.P.C. against accused and to convict the accused prosecution has to prove ingredient of cruelty on account of demand of dowry by cogent evidence beyond reasonable doubt. It was also held that general allegations unsupported by cogent and reliable evidence are insufficient to invoke the statutory presumption under section 113-B of Indian Evidence Act. The relevant paragraphs are reproduced below:

> *"31. Section 113B of the Act enjoins a statutory presumption as to dowry death in the following terms:*
>
> *"113B. 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 purpose of this section, "dowry death" shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)"*
>
> *32. Noticeably this presumption as well is founded on the proof of cruelty or harassment of the woman dead for or in connection with any demand for dowry by the person charged with the offence. The presumption as to dowry death thus would get activated only upon the proof of the fact that the deceased lady had been subjected to*

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cruelty or harassment for or in connection with any demand for dowry by the accused and that too in the reasonable contiguity of death. Such a proof is thus the legislatively mandated prerequisite to invoke the otherwise statutorily ordained presumption of commission of the offence of dowry death by the person charged therewith.

33. A conjoint reading of these three provisions, thus predicate the burden of the prosecution to unassailably substantiate the ingredients of the two offences by direct and convincing evidence so as to avail the presumption engrafted in Section 113B of the Act against the accused. Proof of cruelty or harassment by the husband or his relative or the person charged is thus the sine qua non to inspirit the statutory presumption, to draw the person charged within the coils thereof. If the prosecution fails to demonstrate by cogent coherent and persuasive evidence to prove such fact, the person accused of either of the above referred offences cannot be held guilty by taking refuge only of the presumption to cover up the shortfall in proof.

34. The legislative primature of relieving the prosecution of the rigour of the proof of the often practically inaccessible recesses of life within the guarded confines of a matrimonial home and of replenishing the consequential void, by according a presumption against the person charged, cannot be overeased to gloss-over and condone its failure to prove credibly, the basic facts enumerated in the Sections involved, lest justice is the casualty.

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35. This Court while often dwelling on the scope and purport of Section 304B of the Code and Section 113B of the Act have propounded that the presumption is contingent on the fact that the prosecution first spell out the ingredients of the offence of Section 304B as in ***Shindo Alias Sawinder Kaur and another v. State of Punjab, 2011(2) RCR (Criminal) 878 : 2011(3) Recent Apex Judgments (R.A.J.) 123 : (2011) 11 SCC 517*** *and echoed in* ***Rajeev Kumar v. State of Haryana, 2013(4) RCR (Criminal) 964 : 2013(6) Recent Apex Judgments (R.A.J.) 362 : (2013) 16 SCC 640****. In the latter pronouncement, this Court propounded that one of the essential ingredients of dowry death under Section 304B of the Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the Court will presume that the accused has committed the offence of dowry death under Section 113B of the Act. It referred to with approval, the earlier decision of this Court in* ***K. Prema S. Rao v. Yadla Srinivasa Rao, 2002(4) RCR (Criminal) 697 : (2003) 1 SCC 217*** *to the effect that to attract the provision of Section 304B of the Code, one of the main ingredients of the offence which is required to be established is that "soon before her death" she was subjected to cruelty and harassment "in connection with the demand for dowry*

36. Tested on the judicially adumbrated parameters as above, we are of the unhesitant opinion that the prosecution has failed to prove beyond reasonable doubt, cruelty or harassment to the

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deceased for or in connection with any demand for dowry as contemplated in either of the two provisions of the Code under which the accused persons had been charged. Noticeably, the alleged demand centers around a motorcycle, which as the evidence of the prosecution witnesses would evince, admittedly did not surface at the time of finalisation of the marriage. PW-5, the mother of the deceased has even conceded that there was no dowry demand at that stage. According to her, when the husband (who is dead) had insisted for a motorcycle thereafter he was assured that he would be provided with the same, finances permitting. Noticeably again, the demand, as sought to be projected by the prosecution, if accepted to be true had lingered for almost two years. Yet admittedly, no complaint was made thereof to anyone, far less the police. Apart from the general allegations in the same tone in geminated with parrot like similarity by the prosecution witnesses, the allegation of cruelty and harassment to the deceased is founded on the confidential communications by her to her parents in particular and is not supported by any other quarter.".

…….emphasis supplied

26. In the present case the prosecution has not been able to produce on record sufficient material to indicate that the deceased was subjected to cruelty or harassment by the appellants in connection with demand of dowry. There is also no specific allegation that the appellants directly incited or compelled the deceased to commit suicide.

27. Criminal jurisprudence mandates that prosecution must prove its case beyond reasonable doubt. Where material contradictions, and other

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factors coexist, the benefit of doubt must necessarily ensue to the accused, In ***Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116***; while relying upon its previous decision in ***Kali Ram v. State of Himachal Pradesh, 1973 (2) SCC 808***; had emphasised that where circumstances create reasonable doubt, the accused is entitled to its benefit. The relevant part is reproduced below:

> *"162. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt. In* ***Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808****, this Court made the following observations :*
>
> *"Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."*

28. More recently, In ***Narendra Singh v. State of Madhya Pradesh, 2026 (2) RCR (Criminal) 800***; the Hon'ble Supreme Court has held that in a criminal trial, in case there are two inferences possible, then the one favouring the accused must be followed.

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29. Accordingly, the present appeal is allowed. The impugned judgment of conviction and order of sentence dated 10.08.2004 passed by the learned Sessions Judge, Sangrur, are hereby set aside. The appellants are acquitted of the charges framed against them by extending benefit of doubt to them.

31. The bail bonds/surety bonds of the appellants shall stand discharged. Pending miscellaneous applications, if any, shall also stand disposed of.

(RUPINDERJIT CHAHAL)
JUDGE

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

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