

CRA-S-2146-SB of 2003;
CRA-S-389-SB of 2004 &
CRR No.460 of 2004

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

(1) CRA-S-2146-SB of 2003
Date of decision: 23.9.2015
Somi Devi and another
...Appellants

Versus

State of Haryana
...Respondent

(2) CRA-S-389-SB of 2004
Date of decision: 23.9.2015
Rajinder Kumar
...Appellant

Versus

State of Haryana
...Respondent

(3) CRR No.460 of 2004
Date of decision: 23.9.2015
Raja Ram
...Petitioner

Versus

Rajinder Kumar and ors.
...Respondents

CORAM:- HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. Dinesh Trehan, Advocate
for the appellant (s) in
CRA-S-2146-SB of 2003 and
CRA-S-389-SB of 2004.

Mr. G.S. Sandhu, Advocate
for the petitioner in
CRR No.460 of 2004.

Mr. Vijesh Sharma, D.A.G., Haryana.

GURMIT RAM, J.

The above noted CRA-S-2146-SB of 2003 has been preferred

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by the appellants – accused Somi Devi and Mehar Singh and CRA-S-389-SB of 2004 has been preferred by the appellant – accused Rajinder Kumar against the impugned judgment and order of sentence dated 11.11.2003 and 13.11.2003, respectively, passed by the Court of learned Additional Sessions Judge, Karnal in criminal case bearing FIR No.397 dated 23.8.2002, under Sections 304-B, 201, 120-B/34 of IPC vide which they were held guilty for the offence punishable under Sections 304-B and 201 of IPC whereas their remaining co-accused namely Ram Bhaj, Sher Singh, Phulla, Jai Kishan, Dharma and Mange Ram were acquitted of the said charges.

The above noted CRR No.460 of 2004 has been preferred by complainant Raja Ram against the above-said impugned judgment and order of sentence for the enhancement of sentence of the present appellants by modifying the quantum of sentence and further to punish their co-accused (now respondents No.3 to 6 and 8 to 10) who have been acquitted vide the impugned judgment.

2. Briefly stated, the case of the prosecution before the learned trial Court was that on 23.8.2002 complainant Raja Ram son of Kanta Ram, resident of village Moonak, District Karnal came to Police Post, Ram Nagar and presented an application. The contents of the application were as under:-

“That he performed the marriage of his daughter namely Bhateri with one Rajinder Kumar son of Mehar Singh, resident of Gali No.9, Shiv Colony,

Karnal about three years ago according to Indian rites and ceremonies. In the month of January, 2002, his son-in-law came to him and demanded a sum of Rs.50,000 - 55,000/- on the plea that he required this amount for getting some Government job. He assured him that he will return this amount to him on joining his job. Upon this, complainant told him that he is not having so much amount since he is a poor man. He further told him that he could give him only small amount which he can get from him after coming to him within few days. Then his said son-in-law came to him after 5-7 days and demanded money from him. When the complainant offered him a sum of Rs.3,000-4,000/-, then his son-in-law told him that his demand was for a sum of Rs.50,000-55,000/- and whereas you are giving him only Rs.3,000 - 4,000/-. The complainant expressed his inability to pay the above-said amount on the plea of his poverty. On this his son-in-law told him that he will send his daughter to him for collecting this amount, failing which, to keep his daughter alongwith him. He further told him that he has many other offers for his matrimonial alliance.

Then his daughter came to his house after 4-5

days. On inquiry, she started weeping and told that her in-laws are raising a demand of Rs.50,000-55,000/-. They also asked her that in case she does not bring this amount from her parents, then they will finish her. Then on 25.5.2002, the complainant alongwith his brothers Badlu Ram, Parmal Singh and Ram Kumar etc. etc. took his daughter to her in-laws house. They made Mehar Singh, father-in-law of his daughter to understand that he is not having so much amount. After persuading the other members of family of her in-laws also, they came back. On 29.5.2002, complainant came to know that his above-said daughter has expired. When they reached in the house of in-laws of his daughter at about 10:00/11:00 a.m., then they came to know that cremation of Bhateri Devi has already been done. When they raised protest in this regard then the family members of the in-laws of his daughter told them that Bhateri Devi had died on account of stomach pain in the last night. Initially, the complainant relied upon their version to be true, but on making inquiry from the neighbourhood, it was learnt that his daughter was killed by way of strangulation during the night of 28.5.2002 by her husband Rajinder Kumar, her

father-in-law Mehar Singh and mother-in-law Somi
Devi for not bringing ₹50,000/-.”

3. Upon the above-said statement of complainant Raja Ram, SI Rajinder Singh, Incharge, Police Post Ram Nagar made his endorsement on the same day, on the basis of which the instant case was registered. Accused were apprehended. The investigation of this case was started by DSP Om Parkash Narwal. Dowry articles were got recovered. Site-plan of the place of occurrence was also prepared. During investigation of the case, accused Ram Bhaj, Sher Singh, Phulla, Jai Kishan, Dharma and Mange Ram were also found involved in this occurrence and as such they were named as accused persons in this case. Statements of witnesses were recorded. On completion of investigation, challan in this case was presented in the Court of learned Chief Judicial Magistrate, Karnal who further committed this case to the Court of learned Sessions Judge, Karnal for trial after making compliance of the provisions of Section 207 of Cr.P.C.

4. Finding a prima-facie case under Sections 120-B, 201 read with Section 34 and 304-B of the IPC, the accused were charge-sheeted accordingly, to which, they pleaded not guilty and claimed trial.

5. During the trial of the case, the prosecution examined as many as eight witnesses in total in order to prove its version and further to punish the accused according to law.

6. Then the accused were duly examined as required under Section 313 of Cr.P.C. Entire incriminating evidence and other

circumstances as brought on the file during the trial of the case against them were put to them, which they denied. Further accused Rajinder Kumar took the plea that he and other accused have been enmeshed in this case falsely by complainant Raja Ram in collusion with PW SI Rajinder Singh. He never harassed Bhateri Devi on any account. Even after the pre-mature delivery, her treatment had continued from S.D. Mahabir Dal Hospital, Karnal. It was further his plea that his sister Pinki through his mother Somi Devi had filed a petition under Sections 12(i) and 13 of Hindu Marriage Act at Karnal on 17.7.2002 and as a result thereof the complainant in connivance with the police had succeeded to get them involved in this case without their no fault. Even co-accused Ram Bhaj had filed a complaint against said PW SI Rajinder Singh before Inspector Vigilance for demanding bribe from him on 1.9.2002 on which Tehsildar Karnal was ordered to be a member of the raiding party by Deputy Commissioner, Karnal, but that raid did not succeed due to its leakage. Then said accused Ram Bhaj also sent telegrams to SSP, Karnal and DGP, Panchkula against said SI Rajinder Singh. Further he pleaded his innocence and took the plea of his false implication in this case since SI Rajinder Singh was inimical towards him and his co-accused. His co-accused also adopted his plea in their respective statements recorded under Section 313, Cr.P.C.

7. In their defence, accused also examined two DWs besides tendering some documents i.e. copy of judgment and decree-sheet dated 1.5.2003 Ex.DP and Ex.DO respectively, copy of an order dated

29.7.2002 Ex.DR, copy of petition Ex.DS and copy of telegrams sent to DGP, Chandigarh and SP, Karnal Ex.DT and Ex.DU, respectively, along with copy of two applications Mark-X and Mark-Y.

8. The learned trial Court after hearing the learned Public Prosecutor for the State, learned defence counsel and going through the record held the present appellants guilty for the offences punishable under Sections 304-B and 201, IPC and sentenced them thereunder vide the impugned judgment and order of sentence, while acquitting their remaining co-accused.

9. The appellants as well as the above-said revisionist being not satisfied with the impugned judgment and order of sentence recorded by the learned trial Court have come up in the instant appeals and revision, notice of which was given to the respective respondents. Record of the learned trial Court was also requisitioned.

10. Learned counsel for all the parties were heard and record was also examined with their able assistance.

11. In this case, some of the admitted facts are that marriage of Bhateri Devi (since deceased) took place with accused Rajinder Kumar on 21.2.2000 and she died on 28.5.2002 in her in-laws house within about two years three months after the date of her marriage i.e. within seven years from the date of her marriage. Then it is also admitted that she gave birth to a male child in the seventh month of her pregnancy. In the case in hand, the appellants were to prove that the death of deceased was natural death and not in any abnormal circumstances in order to get themselves

exonerated from the criminal liability qua the death of the deceased.

12. Learned counsel for the appellants has contended that there is a delay of about four months in lodging the FIR in this case since the alleged occurrence took place on the night of 28.5.2002 and the matter in this regard was reported to the police on 23.8.2002. This delay has not been explained by the prosecution satisfactorily and as such it is fatal to the case of prosecution. Rather it could be interpreted in a way that the same had been used by the complainant to make out a cock and bull story in order to implicate the present appellants and others in this case falsely.

13. Now it is required to see as to what evidence has been led by the prosecution with regard to this delay during trial of the case. In this regard PW1 Raja Ram – complainant deposed that on receipt of a telephonic message about the death of his daughter - Bhateri Devi, he along with his brothers and other persons reached at the house of Mehar Singh accused i.e. father-in-law of his daughter (since deceased). Her cremation had already been done before their arrival. When they inquired about the cause of death of deceased, then Mehar Singh and others told them that the panchayat will be held for their satisfaction in order to clear their doubt about the cause of death of deceased. But no panchayat was held on that day and rather the same was held on 14.7.2002 at the house of Mehar Singh. During that panchayat, they were told that Bhateri Devi had committed suicide. The above discussed statement of PW1 is also corroborated by Parmal brother of PW1, who appeared in this case as PW2.

14. Initially, the complainant party relied upon the version qua the death of deceased as told to them by the accused persons and remained contented. It showed a good sense on the part of the complainant party and they remained silent about the matter in issue while relying upon the accused that a panchayat will be held for their satisfaction with regard to death of the deceased. This panchayat was held on 14.7.2002 in which the complainant party was apprised by Sher Singh, brother of Mehar Singh that Bhateri Devi had committed suicide. The complainant was an illiterate and rustic villager. Then copy of judgment dated 1.5.2003 Ex.DP also depicted that Jogindero @ Pinki daughter of Mehar Singh had been married with Som Parkash @ Som son of Raja Ram, who was the complainant in the case in hand. So as such both the complainant party and the accused persons were thickly related to each other on account of marriage of Bhateri Devi (since deceased) daughter of present complainant with accused Rajinder Kumar son of Mehar Singh accused and in turn Jogindero alias Pinki daughter of accused Mehar Singh was married with Som Parkash @ Som son of present complainant Raja Ram. So due to the above-said reasons, initially the complainant might not have thought to proceed against the accused persons on criminal side in order to bring them to book. The complainant party came to know from the neighbourers of the accused persons on making injury that Bhateri Devi had been killed by the accused persons by hanging. Then in panchayat dated 14.7.2002, Sher Singh disclosed to the complainant party that Bhateri Devi had committed suicide. So from this

very date, the complainant came to know about the real cause of death of his daughter and he moved an application Ex.PA to the police for initiating criminal action against the accused persons which resulted into the registration of FIR in the case in hand. So the above-said delay of about four months in lodging the FIR stood satisfactorily explained by the prosecution.

15. Then it is also contended by the learned counsel for the appellants that deceased suffered stomach pain on the night of 28.5.2002 and died on account of that pain and as such it was a case of natural death. It is a fact that on the date of alleged occurrence, the deceased along with her husband and other members of her in-laws family was residing at Shiv Colony, Karnal. Had she been suffered any stomach pain during the night of 28.5.2002, then it was the duty of her husband to bring her to some hospital for her medical check-up and also for providing medical aid to her with regard to her alleged stomach pain. But he did nothing in this regard. Then there was no history of the deceased that she was either suffering from stomach pain since long or that she had remained under treatment of any doctor due to her said ailment.

Even if it is believed that deceased had died a natural death on account of her alleged stomach pain, even then the conduct of her husband and other members of his family does not justify the same. In the case in hand, it had come on the record in the statements of PW1, PW2 and PW6 that when they reached the in-laws' house of Bhateri Devi (since deceased) after coming to know about her death, then her in-laws had

already cremated her dead body prior to their arrival. So they may be of guilty conscience and they wanted to conceal something with regard to death of Bhateri Devi from her parents and her other relatives.

16. Then it is also contended that it was the case of prosecution that appellant Rajinder Kumar, the husband of deceased had been demanding a sum of Rs.50,000-55,000/- from the complainant for getting a government job for him and that this plea of the prosecution is not well proved on the file nor the prosecution version to that extent is believable. Herein counsel for appellant has contended that said Rajinder Kumar had studied up to 3rd standard only and hence was not eligible for any government job. In support of his contention, he has referred to the statement of DW1 Ashok, J.B.T. Teacher who had proved the school leaving certificate of Rajinder – appellant as Ex.DD. This certificate shows that earlier the appellant was got admitted in Government Primary School village Pingli, District Karnal and he left the school while studying in 3rd standard. But this school leaving certificate is not sufficient to hold that it was an absolute bar for the further study of the appellant – Rajinder Kumar. He might have taken his admission in some other school after leaving the said school. PW1 Raja Ram complainant qua the educational qualification of appellant Rajinder Kumar has stated that he does not know about his educational qualification. He did not make any inquiry qua this fact before the engagement of his daughter with him. So the certificate Ex.DD does not support the defence plea that appellant Rajinder Kumar was ineligible for a government job. Even

otherwise, he might have been requiring above said sum of Rs.50,000-55,000/- for some other purpose and had pretended before the complainant that he required the same for getting some Government job.

17. Then learned counsel for the appellants has contended that appellant Rajinder Kumar was keeping his wife in a good condition and he also took her to the hospital at the time of delivery for providing her all kind of necessary medical care. In this connection, he has referred to the statement of DW2 - Raj Kumar who had proved certain medical documents Ex.DE to Ex.DH and Ex.DJ to Ex.DO pertaining to admission of patient Sunita wife of Rajinder Kumar and her newly born baby in the hospital. Ex.DE is the discharge card of said Sunita who was admitted in S.D. Mahabir Dal, Hospital, Karnal on 5.10.2001 for delivery and discharged on 6.10.2001. So far the remaining documents Exs.DF, DG, DH, DJ, DK, DL, DM, DN and DO are concerned, these are pertaining to the baby of Sunita. Meaning thereby that patient Sunita was kept admitted in the said hospital only for one day and whereas her baby was kept hospitalized till 25.10.2001. Except document Ex.DE, there is no other document on the record with regard to medical treatment of patient Sunita stated to be provided to her at the time of her alleged delivery. Then it is admitted case of both the parties that she delivered pre mature child in the seventh month of her pregnancy. So as such she as well as her baby both were requiring immense care for the sake of their good health. As above said she was got discharged from the hospital on the very next day of the delivery which fact itself suggests that her husband was not taking her

proper care to keep her physically fit. Moreover, it was the moral duty of her husband to get her admitted in any hospital regarding her alleged delivery. So this medical record also does not help this appellant from any angle to prove his innocence. Then it has also come on the record that Bhateri Devi since deceased was also known as Sunita.

18. Then the learned counsel for the appellants has also contended that SI Rajinder Singh, the Investigating Officer, was inimical towards accused persons and that they were involved in this case falsely by the complainant in connivance of said SI Rajinder Singh. Herein he has also referred to the documents Ex.DT and Ex.DU. Ex.DT is the copy of the telegram dated 2.9.2002 sent by Ram Bhaj to DGP, Haryana, Chandigarh and Ex.DU is the copy of telegram sent by him to SSP, Karnal. The subject of both the telegrams was that he has filed a complaint before the Vigilance Bureau against Incharge, Police Post, Ram Nagar namely SI Rajinder Singh on the allegations that he has been demanding from him a sum of Rs.15,000/- as a bribe, failing which, to involve him in the instant case under Section 120-B, IPC. Due to the filing of this complaint, said Incharge of Police Post, Ram Nagar, was inimical towards him. So as such he had been involved in the instant case falsely by complainant Raja Ram in connivance of said *Chowki* Incharge. But as per the record both these documents were not put to PW8 SI Rajinder Singh in his cross-examination in order to challenge the veracity of his statement. Moreover, Ram Bhaj has been acquitted in this case along with five others by the learned trial Court vide the impugned

judgment. No appeal against their acquittal has been preferred by the State. So on this account, above-said both the documents are not found to be relevant for the decision of the appeals in hand. Hence the above contention of learned counsel for the appellants stands declined and disposed of accordingly.

19. Then it was also contended by the learned counsel for the appellants that Jogindero @ Pinki daughter of Mehar Singh had filed a petition for divorce under Sections 12(i) and 13 of the Hindu Marriage Act against Som Parkash @ Som son of Raja Ram complainant and that the instant case was got registered against them falsely by complainant party after filing of this divorce petition. A copy of judgment and decree-sheet vide which this petition was disposed of were placed on the record during the trial of this case as Ex.DP and Ex.DQ respectively. A perusal of Ex.DP shows that this petition was instituted on 29.7.2002, but there is no evidence on record as to when service of the respondent Som Parkash @ Som son of Raja Ram was effected in this petition. It is only from the date of service of respondent it can be said that the family of the present complainant had come to know about the filing of this divorce petition. Then PW1 Raja Ram – complainant in his cross-examination has deposed that he came to know about this divorce petition on 20.9.2002. As above-said, the FIR Ex.PA/1 in the instant case was registered on 23.8.2002. This petition was also not contested by the respondent and was allowed ex-parte vide judgment Ex.DP and decree Ex.DQ dated 1.5.2003. Even daughter of Mehar Singh accused might have filed this divorce petition in

order to save herself from harassment at the hands of her husband and his family members in retaliation to the death of sister of her husband in the house of her parents' family in the area of Shiv Colony, Karnal since the said sister of her husband (now deceased in this case) was married to her real brother. So the above-said judgment and decree as such has no bearing on the merits of the instant case.

20. The learned trial Court has succeeded to separate the grain from chaff while delivering the impugned judgment. If the co-accused of the present appellants are acquitted vide this judgment, then that does not mean that they are also entitled to the same benefit. The said co-accused were acquitted for the reason that prosecution did not succeed to prove their guilt in this case.

21. So far the words "soon before the death" are concerned, the same cannot be described or defined within any prescribed limit. This concept as such is to be determined by the Court in the light of the circumstances of each and every case and the conduct of the parties. What is required for this purpose is that there should not be any inordinate delay between the alleged cruelty and the date of death of the victim. Meaning thereby there must be proximity between these two events. Facts of the case in hand have already been discussed above in para No.2 of this judgment. For clarity sake, it is mentioned herein that appellant Rajinder Kumar made a demand of Rs.50,000-55,000/- from the complainant in the month of January, 2002 on the plea of getting some government job. The complainant expressed his inability to pay such a big amount. He again

came to the complainant after 5-7 days and raised his earlier demand. The complainant offered him a sum of Rs.3,000-4,000/-. Then his son-in-law told him that his demand was for a sum of Rs.50,000-55,000/- and whereas he was giving him only Rs.3,000 - 4,000/-. When the complainant showed his inability to do so, then he left the spot by telling the complainant that he will send his daughter to him and arrange the above-said amount by that time and send her daughter back along with this money. The daughter of the complainant came to him after 4-5 days and narrated him her woeful tale that her in-laws are demanding the above said sum from her, failing which to kill her. She was taken to her in-laws house by the complainant along with some other respectables on 25.5.2002 and after persuading her in-laws not to do so, they came back after leaving the daughter of complainant there. On the night of 28.5.2002, she had expired in her in-laws house and the complainant got wind of her death on 29.5.2002. So, the above-said entire facts are the pointer to an irresistible conclusion that daughter of the complainant was subjected to cruelty on the demand of cash soon before her death by her husband and her death had occurred in abnormal circumstances in an unnatural manner.

Herein the principles as laid down by the Hon'ble Apex Court in case titled **Ashok Kumar Versus State of Haryana, 2010(12) SCC 350** are followed which are detailed as under:-

“The Courts have also taken the view that where the husband had demanded a specific sum from his father-in-law and upon not being given, harassed and tortured the wife

and after some days she died, such cases would clearly fall within the definition of 'dowry' under the Dowry Prohibition Act, 1961. Section 4 of this Act is the penal Section and demanding a 'dowry', as defined under Section 2 of this Act, is punishable under this section.

The most significant expression used in Section 304-B, IPC, is 'soon before her death'. In our view, the expressions 'soon before her death' cannot be given a restricted or a narrower meaning. They must be understood in their plain language and with reference to their meaning in common parlance. These are the provisions relating to human behaviour and, therefore, cannot be given such a narrower meaning, which would defeat the very purpose of the provisions of the Act. Of course, these are penal provisions and must receive strict construction. But, even the rule of strict construction requires that the provisions have to be read in conjunction with other relevant provisions and scheme of the Act. Further, the interpretation given should be one which would avoid absurd results on the one hand and would further the object and cause of the law so enacted on the other.

Further, presumption as provided under the provisions of Section 113-B of Indian Evidence Act, 1872 can be drawn against Rajinder Kumar – appellant, who was the husband of Bhateri Devi (since deceased). Herein support is taken from the case law as laid down by the Hon'ble Full Bench of Apex Court in **V.K. Mishra and another Versus State of Uttarakhand and another**, Criminal Appeal No.1247 of 2012, decided on 28.7.2015. Para No.38 of this authority is relevant for this purpose which is reproduced as under:-

Where the prosecution has shown that 'soon before her death' the deceased was subjected to cruelty or harassment by the husband or in-laws in connection with demand for dowry, the presumption under Section 113-B of Evidence Act arises and the Court shall presume that such person who had subjected the woman to cruelty or harassment in connection with any demand for dowry shall be presumed to have caused the dowry death. The presumption that arises in such cases may be rebutted by the accused.

But in the case in hand, the appellant – Rajinder Kumar did not bring on record any material to rebut the aforementioned presumption.

22. The case law titled **Vijay Bahadur Singh and others Versus State of M.P., 2010 (3) MPHT 378** as cited by the learned counsel for the appellants is found to be on different footings for the reason that in that case the husband of deceased was doing service at some other place and used to reside there. His brother, mother and sister were prosecuted in this case on the ground of demand of dowry. So this case law has no bearing on the merits of the case in hand.

23. The main plea of the complainant as per the version of the prosecution which had come on the record was that appellant Rajinder Kumar was harassing his wife (since deceased) as well as his in-laws to give him a sum of Rs.50,000 – 55,000/- in order to enable him to get some Government job. For this purpose, he visited the house of his father-in-law twice and when his father-in-law could not meet out his this demand, then he asked him that he will send his daughter to him for

collecting the said amount from him and in case he could not arrange this amount, then there is no need to send his daughter to him and rather to keep her in his own house. His daughter came to him and told him her tale of woes . The complainant took her to her in-laws house along with some respectables and on persuasion of her in-laws, she was left in her in-laws house on 25.5.2002, wherein she died on the intervening night of 28/29.5.2002. So in such like a situation the benefit, if any, by receiving the above-said sum of Rs.50,000-55,000/- from the complainant was to her son-in-law Rajinder Kumar only. There is no concrete and reliable evidence on record that appellants Somi Devi and Mehar Singh had ever harassed the daughter of the complainant (since deceased) by making any demand of dowry either in kind or in cash. Moreover, it is a general trend in our society to rope in all the nears and dears of the husband (bridegroom) up to a maximum number in case of any unnatural death of the bride in her in-laws' house or somewhere else by projecting her alleged death as the dowry death. So the evidence on record is held to be sufficient to sustain the conviction and order of sentence qua appellant Rajinder Kumar and whereas the same is not found up to the mark to sustain the conviction and order of sentence of appellants Somi Devi and Mehar Singh.

24. So far as the CRR No.460 of 2004 is concerned, the learned counsel for the revisionist-petitioner has failed to point out any substance on record in order to convert the acquittal of respondent No.3 - Ram Bhaj, respondent No.4 - Sher Singh, respondent No.5 - Phulla, respondent No.6

- Jai Kishan, respondent No.8 - Dharma and respondent No.9 - Mange Ram into their conviction. The learned trial Court has appreciated the entire evidence on record while acquitting the above-said respondents vide the impugned judgment. Then there is nothing on record to hold that the sentence of imprisonment awarded to appellant Rajinder Kumar is inadequate on any account.

25. In the light of the above discussion, it is concluded as under:-

(i)CRA-S-389-SB of 2004 of appellant Rajinder Kumar stands dismissed being found meritless. The impugned judgment of conviction and order of sentence except the fine qua this appellant is upheld. Bail bonds and surety bonds furnished by appellant – Rajinder Kumar stand cancelled.

(ii)CRA-S-2146-SB of 2003 of appellants Somi Devi and Mehar Singh stands accepted. The impugned judgment of conviction and order of sentence qua them stand set aside. They are acquitted of the charges framed against them by granting them the benefit of doubt.

(iii)CRR No.460 of 2004 being meritless stands dismissed and disposed of accordingly.

Copy of this order be sent to the trial Court as well as to Chief Judicial Magistrate, Karnal for strict compliance. The appellant – Rajinder Kumar is directed to surrender before the Court of learned Chief Judicial Magistrate, Karnal within fifteen days from today and in that eventuality, the Chief Judicial Magistrate, Karnal shall commit him to jail for undergoing

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remaining period of substantive sentence imposed upon him by learned trial Court. In case, he does not surrender within this stipulated time then in that eventuality, Chief Judicial Magistrate, Karnal is directed to procure his presence by all possible means and then to send him to jail for the purpose aforementioned.

(GURMIT RAM)
JUDGE

23.9.2015
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1. Whether to be referred to the Reporters or not? Yes
2. Whether the judgment should be reported in the Digest? Yes