

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

1) **Criminal Appeal No.D-802-DB of 2002**
Date of Decision: April 9, 2015

State of Punjab

...Appellant

Versus

Harmander Singh and others

...Respondents

2) **Criminal Appeal No.260-SB-2002**

Harmander Singh and others

...Appellants

Versus

State of Punjab

...Respondent

**CORAM:HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

**Present: Mr. P.P.S. Thethi, Addl. A.G. , Punjab
for the appellant (in Criminal Appeal No.802-DB of 2002).**

**Mrs. Baljit Kaur Mann, Advocate,
for the appellants (in Criminal Appeal No.260-SB of 2002)**

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

Amol Rattan Singh, J.

These two appeals arise out of the judgment of the learned
Sessions Judge, Amritsar, dated 11.02.2002, whereby the 3 accused were
all acquitted of the charge framed against them under Section 304-B of the

IPC, but were convicted for offences punishable under Sections 306 and 498-A of the said Code. The sentence imposed upon the three appellants in Criminal Appeal No.260-SB-2002 (hereinafter referred to as the appellants), who are respondents in Criminal Appeal No.802-DBA-2002 (filed by the State of Punjab), was for a term of five years rigorous imprisonment for the offence punishable under Section 306 IPC and three years rigorous imprisonment for the offence punishable under Section 498-A of the IPC. In addition, each of them was also imposed a fine of Rs.10,000/- for the offence punishable under Section 306 and of Rs.5000/- for the offence punishable under Section 498-A of the IPC.

Thus, the State of Punjab has filed an appeal against their acquittal for the offence punishable under Section 304-B, whereas the three convicted persons are in appeal against their conviction, for the commission of the offences aforesaid.

2. The facts giving rise to the criminal proceedings are that, on 20.05.2000, Narinder Singh son of Gurbax Singh, resident of Gali Cinema Wali, Tarn Taran, running a cloth shop, aged about 54 years, approached the police of Police Station Goindwal Sahib and stated that he has three children, i.e. two daughters and a son, of whom the eldest was Kamaljit Kaur, who was married on 14.05.1997 to Harminder Singh @ Lovely son of Ranjit Singh, resident of Fatiabad.

As per the statement, Narinder Singh said that he gave sufficient dowry at the time of the marriage, but his daughters' in-laws were not happy with the dowry articles and her mother-in-law, Surjit Kaur, father-in-law, Ranjit Singh and husband, Harminder Singh (the three appellants in Criminal Appeal No.260-SB-2002), used to ask her to bring more

dowry and used to quarrel with her over the same.

The statement (Ex.PA/2 before the trial Court) further reads to say that the complainants' deceased daughter had two children, a daughter aged 1¾ years and a son aged about four months. When the elder child (daughter) was born, a demand of Rs.25,000/- cash had been made by the appellants, which was given to them by the complainant; and when his daughters' son was born, his son-in-law, Harminder Singh, had again demanded cash for his business.

However, as per the complainant, at that time he gave Rs.5100/- in cash, one gold ring and gold “karra” for the child, amongst other things.

Notwithstanding the above, deceased Kamaljit Kaurs' mother-in-law, father-in-law and husband used to quarrel with her on the ground that her parents did not give articles as per prevailing customs, on the birth of her son and that they should have given gold “karras” to all of them. The complaint further reads to say that on 13.05.2000, Kamaljit Kaur came to her parental house at Tarn Taran and weeped loudly against her fathers' (complainants') shoulder (as stated in the vernacular version of the complaint), stating that her mother-in-law, father-in-law and husband used to “tease her daily” and were making a demand of Rs.1 lac in cash, for investing the said amount in the “Kiryana” shop being run by her husband, Harminder Singh, at Fatiabad.

As alleged in the complaint, she was also told that if she did not bring the money, she should not enter their house. However, saying that, she left, stating that she would come back shortly, to collect the money.

3. The complainant further stated that he, alongwith Bhupinder Singh son of Jaswant Singh, resident of his neighbourhood at Tarn Taran,

went to his daughters' in-laws' house at Fatiabad, and pleaded with her mother-in-law, father-in-law and husband, that he was a poor man and could not fulfill their demand. However, his daughters' parents-in-law and husband did not bother about their pleadings and stated that in case they wanted to keep their daughter (in her matrimonial home), then he would have to fulfill their demand.

Upon the above having happened, it is further stated in the complaint that the complainant and Bhupinder Singh returned from Fatiabad.

Finally, the complaint further reads to say that on the day of the complaint (20.05.2000), a telephonic message was received at about 3/3:00 PM in Gupta Cycle Shop, which was situated near the complainants' shop, that his daughter had set herself on fire. Therefore, he, his wife Rattanjit Kaur, son Surinder Singh and other daughter, Harvinder Kaur, alongwith Bhupinder Singh, reached Guru Nanak Hospital, Amritsar, where they came to know that his daughter had already died.

As such, leaving the body of his daughter in the hospital, he went to the Police Station to lodge a report, but met the police party on the way, at "Wein Puein Naka".

He thus told the police, that his daughter had died due to the tension on account of the taunts and demand of dowry from her father-in-law, mother-in-law and husband and as such, action be taken against them.

The said statement is admitted to have been signed by the complainant, the vernacular version of which we have perused.

4. Upon the above complaint having been made, FIR No.64 is shown to be recorded at 9:05 PM, on 20.05.2000, at PS Goindwal Sahib.

5. Proceedings are stated to have been conducted by SI Shamsher Singh, SHO of the Police Station, at the mortuary of the hospital at Amritsar, (Ex.PB), showing that death was due to burning. The body was identified by the brother of the deceased, Surinder Singh, son of the complainant Narinder Singh, and one Vaishno Gupta, resident of Tarn Taran.

Proceedings are also shown to have been conducted at the place of occurrence, in village Fatiabad, Police Station Goindwal Sahin, at the matrimonial home of the deceased lady. A site plan (Ex.PC), was prepared by the said SHO, showing the place where Kamaljit Kaur is stated to have burnt herself, to be a room next to a verandah and a store.

6. A “cloth roller”, stated to be worn by women in their hair, which was burnt and in pieces, is stated to have been recovered, with the smell of kerosene emitting therefrom and burnt hair entangled in it.

One burnt clip of red colour, with hair entangled in it and one iron “karra” are stated to have been recovered from the body by the doctor, and handed over to HC Desa Singh and thereafter given to the SI on 21.05.2000, all of which are stated to have been packed in a parcel and sealed with the IOs' seal, “SS”. The said recovery memo (Ex.PD) is shown to be witnessed by the said HC Desa Singh and ASI Surjan Singh.

7. As per the post mortem report, the body was “about 100%” burnt and the cause of death was shock from the said burning.

The victim was otherwise shown to be moderately built and moderately nourished.

The post mortem report shows that the victim was admitted to the hospital at 4:10 PM on 20.05.2000 and expired at 4:20 PM. The body

is shown to have been brought to the mortuary by Surinder Singh, the brother of the victim, on 21.05.2000 at 11:50 AM.

Strangely, no Medico Legal Report (MLR) dated 20.05.2000, is on record to show that it was exhibited before the trial Court, showing as to by whom Kamaljit Kaur had been brought to hospital and in what condition and at what time. However, the doctor who conducted the post-mortem examination did depose with regard to the same, to a limited extent.

8. Though no arrest memo is on record, as per the IO's statement before the trial Court as PW3, the accused were all arrested on 26.05.2000.

The investigation having been completed, a report under Section 173 Cr. P.C. was filed in the competent Court, wholly indicting appellants Harminder Singh and Ranjit Singh, but placing appellant Surjit Kaur, mother-in-law of the deceased, in column No.2 thereof.

The matter was committed to the Court of Sessions and, initially, a charge under Section 304-B of the IPC was framed only against the said Harminder Singh and Ranjit Singh, husband and father-in-law respectively, of the deceased, by the learned Additional Sessions Judge, on 18.10.2000, whereas appellant Surjit Kaur was initially discharged by him, vide his order of the same date, i.e. 18.10.2000.

Subsequently, on an application moved under Section 319 Cr. P.C., after examination of the complainant as PW1 on the first occasion on 07.12.2000, Surjit Kaur was also summoned to face trial and though bailed out, was also charged with the same offence alongwith her husband and son, i.e. Ranjit Singh and Harminder Singh respectively, on

06.02.2001.

9. Before the trial Court, the following witnesses appeared for prosecution and defence:-

(i)	Narinder Singh	PW1
(ii)	Surinder Singh	PW2
(iii)	ASI Shamsheer Singh	PW3
(iv)	Dr. Ashok Chanan	PW4
(v)	Vaishno Gupta	PW5
(vi)	Rishi Ram, Draftsman	PW6
(i)	Vijay Laxmi	DW1

In addition, the following documents were relied upon by either side:-

a)	Statement of Narinder Singh (ruqa)	: Ex.PA
b)	FIR	: Ex.PA/2
c)	Inquest proceeding (report)	: Ex.PB
d)	Site plan of occurrence	: Ex.PC
e)	Recovery memo	: Ex.PD
f)	Post mortem report	: Ex.PE
g)	Site plan	: Ex.PF
h)	Statement of Surinder Singh	: Ex.DA
i)	Statement of Vaishno Gupta	: Ex.DB

10. As already stated above, the complainant, Narinder Singh, father of the deceased girl, initially appeared before the trial Court as PW1 on 07.12.2000 and thereafter, again on 16.05.2001, after appellant Surjit Kaur had also been charge sheeted.

A perusal of the examination-in-chief of Narinder Singh, on both occasions, shows that he deposed as per his statement Ex.PA (upon which the FIR was lodged), with one discrepancy, to the effect that he

stated that on the birth of a daughter to Kamaljit Kaur, Rs.20,000/- was demanded by the accused. The complaint, on the other hand, states that Rs.25,000/- was demanded and paid. On both occasions as PW1, he stated that other than the two accused present in Court, Surjit Kaur, mother of the accused Harminder Singh, had also demanded dowry. He also stated that when they reached the hospital, the accused were not present at that time.

In the English version of the testimony of PW1, as recorded on 70.12.2000, he is shown to have stated that when his daughter came on 13.05.2000, conveying the demand for Rs.1 lac, made by her in-laws, she stayed for the night, but thereafter it is stated that Kamaljit Kaur had said that her daughter was on glucose and she wanted to go back immediately.

Obviously, the two statements would be contradictory. However, upon reading the Punjabi version of the testimony, it is given there that though PW1 had asked his daughter to stay the night and that they would speak on the issue the next day, she had told him that since her daughter, Anmol, was unwell, she had to go back immediately.

In the cross-examination conducted on 07.12.2000, PW1 stated that his daughter was a Post-Graduate but had not written any letter to him. He also stated that his son-in-law had a “Kiryana” shop on the main road and Harminder Singhs' father, Ranjit Singh, had a cloth shop within the “Abadi” (of the village).

He denied knowledge as to whether the seven persons named by the defence counsel, during cross-examination, were neighbours of his son-in-law and his father or not.

He also denied that Ranjit Singh and Harminder Singh had a

separate kitchen from each other.

He further denied as to whether Ranjit Singh had got his daughter admitted in the hospital or not and still further, denied that his daughter had taken an over dose of sleeping pills before her marriage.

He gave the name of the mediator for the marriage to be one Sahib Singh of Amritsar and while obviously denying that the accused had never demanded any dowry articles or that any cash had been paid to them, he further denied that his daughter had died after catching fire accidentally.

11. When he testified again on 16.05.2001, PW1 reiterated what he had stated on the earlier occasion, including the factum of having given Rs.20,000/- at the time of birth of the daughter of Kamrajit Kaur. He also stated that his son-in-law had started the “Kiryana” shop after his marriage to his daughter. He further stated that the accused had said that the “Kiryana” shop had failed and all the accused had demanded Rs.1 lac to invest more goods in the shop.

The same discrepancy between the English and the Punjabi versions, on the issue of Kamaljit Kaur having spent the night at her parental home or having gone back the same day (13.05.2000), on account of her daughters' illness, occurs. Another discrepancy, with regard to whether Bhupinder Singh and Surinder Singh were present on that occasion, alongwith the complainant and his wife, Rattanjit Kaur, is also discernible between the English and Punjabi versions of the testimony of PW1.

12. It is necessary to notice here that, in fact, there are a large number of discrepancies between the English and Punjabi versions of the

cross-examination of this witness.

The English version of the cross-examination of PW1, conducted on 16.05.2001, reads as under:-

“House of Narinder Singh is opposite to the house of accused Ranjit Singh. I do not know whether Vijay Laxmi, Tarsem Lal, Kamlesh Rani, Saroj Bala and Gurdial Singh are neighbour of the accused. Sahib Singh was mediator for the marriage. Bhupinder Singh is my God brother. He is residing in his street near my house. Distance between Tarn Taran and Fatiabad is 5 kms. We never lodged any report with the police before the occurrence regarding any harassment. After receiving intimation regarding occurrence, we state came to the hospital at Amritsar. I do not know whether deceased was got admitted to the hospital by accused Ranjit Singh. I alongwith police reached the hospital at 10 or 10.30 P.M. Police did writing work on that night also in the hospital. I was not made to sign the papers. Police came back at 12-00 mid-night.”

(Emphasis applied)

On the other hand, as regards the neighbours of the accused, the Punjabi version of the cross-examination states that Vijay Laxmi, Saroj Bala, Tarsem Lal, Kamlesh Rani and Gurdial Singh etc. live in the neighbourhood, but that he does not know about them.

Thus, whereas the English version states that he denied of knowledge whether those people (other than Narinder Singh) lived in the neighbourhood of the accused, the Punjabi version states that they did live there, which is contrary to what is recorded in the cross-examination conducted on 7.12.2000.

Further, in the English version, it is stated that the distance between Tarn Taran and Fatiabad is 5 kms, whereas the Punjabi version

shows that he stated that it is 20-25 kms.

Further yet, the English version states that after receiving the intimation regarding the occurrence, “we state (sic-straight) came to the hospital at Amritsar”, the Punjabi version states that on receiving the report of the death, “we reported the matter to the police”, but then the witness corrected himself to say that the deceased was got admitted at the hospital at Amritsar.

Again, the English version states that PW1, alongwith the police, reached the hospital at 10/10:30 PM, whereas the Punjabi version states that they reached hospital at about 10:00 AM and that the police was with them and that it was evening time (“Waqt Shaam Da Si”).

The English version next states that the “police did the writing work on that night also in the hospital. I was not made to sign the papers. Police came back at 12-00 mid night.”

The Punjabi version, however, reads to say that the police also came and did the writing work and that he (PW1) was also not at the hospital.

Further, the English version states that the “Police came back at 12-00 mid-night”, whereas the Punjabi version translates to read that the police went back at about 12 noon.

Next again, the English version reads that the witness denied the suggestion that his daughter was very short tempered and also used to remained depressed; the Punjabi version only reads to say that he denied that she remained depressed. Thus, the part about not being short tempered is missing.

Some other discrepancies also are seen between the English and

Punjabi versions of the cross-examination of PW1, conducted on 16.05.2001, which are not being gone into in any further detail.

We shall thus, need to look into this aspect, of incorrect translations, as a general issue, and on Section 277 Cr. P.C., at the end of this judgment.

13. Coming back to the cross-examination of PW1, as is not discrepant between the two language versions, a perusal thereof further shows that PW1 stated that Bhupinder Singh “had become his brother”, (as translated from the Punjabi version, though the English versions stated that Bhupinder Singh was his “God brother”. Of course, there is no significant discrepancy in this part, as the idea was to convey he was not his real brother or his cousin).

PW1 further stated that Bhupinder Singh was residing near his house.

The witness again denied that the accused had never harassed or mal-treated his daughter or that he had not given any money to them.

He further stated that the first child was born at Amritsar Nursing Home and the second at village Fatiabad (missing from the Punjabi version). However, it is present in both versions that he admitted that a telephone was installed in his house as well as in the house of accused. He also denied that his daughter was living separately.

14. Going on to the testimony of PW2, i.e. Surinder Singh, son of PW1 and brother of the deceased, who is shown to be aged 22 years, the same is also to the same effect as is the testimony of PW1, except that PW2 stated that Rs.25,000/- were demanded when the first child was born to the deceased and another Rs.25,000/- were demanded when the second

child was born.

The Punjabi version states that upon this demand, Rs.3000/- to Rs.4000/-, a ring, a “Karra”, clothes and edible items were given to the accused, but the English version states that this witness' parents gave Rs.5100/- in cash, a gold ring, gold “Karra” and other articles.

This witness also reiterated what his father (PW1) has stated with regard to Kamaljit Kaur coming to her parental home on 13.05.2000 and narrating the demand for Rs.1 lac for running the shop and thereafter going back to Fatiabad on the same day, as her child was not well.

As regards the date of occurrence, this witness stated that on 20.05.2000 they received a telephonic call that his sister had got burnt, upon which he came to Guru Nanak Hospital along with his parents and found that his sister had died and thereafter, his father lodged the FIR with the Police Station.

Though more details are given by this witness of the events of the day on which his sister came and conveyed the demand of Rs.1 lac (on 13.05.2000), however, in essence, the testimony is the same as that of his father, as is also the case with regard to the events on the date of the occurrence.

In cross-examination, this witness stated that his statement had been correctly recorded by the police and had been signed by him (Ex.DA) and that he had stated therein that on the birth of the first child Rs.25,000/- had been paid. However, the factum of no such recording being present in Ex.DA was pointed out to this witness.

He further stated that he had also told the police that on the birth of the second child, the same amount of money was demanded but they

had paid Rs.5100/-. Again, the attention of the witness was drawn to the statement Ex.DA, wherein it was not so recorded.

It is again to be noticed that as per the Punjabi version of the cross-examination of PW2, he stated that the same amount was demanded at the time of the birth of the second child and it was given (to the accused).

On further cross-examination, this witness stated that he and his family used to talk to the deceased after one or two days, on telephone. Like his father, he also stated that she had done her Post-Graduation after marriage.

On further cross-examination, PW2 stated that he did not know whether Anmol, daughter of the deceased, was shown to any doctor on 13.05.2000, but he came to know that Glucose was being administered to Anmol on that day.

He next stated that the police reached the Amritsar Hospital at about 10:00 PM on 20.05.2000 and left at about mid-night.

He further stated that Rs.25,000/- was given on the birth of first child, by arranging the same from the bank, relatives etc. and that his father had produced the Pass-book of the bank before the police, during the investigation of the case.

He could not remember whether any list of articles as were given at the time of marriage, was given to the police or not.

He further denied the suggestion that the marriage was simple and that no demand was made by the accused or that no money was paid at any stage. He also denied that his sister had not come to them on 13.05.2000.

15. The prosecution gave up PW Rattanjit Kaur (wife of PW1 and mother of PW2) and Bhupinder Singh, the person who is stated to have accompanied PW1 to the house of the accused, as being unnecessary. It also gave up PWs ASI Surjan Singh and ASI Mohinderpal Singh, also as being unnecessary. At a later stage, PW Kulwant Singh and SI Dalbir Singh were also given up as being unnecessary.

16. The next witness was the Investigating Officer of the case, SI Shamsher Singh, who testified that on 20.05.2000 he was posted as the Additional SHO, Police Station Goindwal Sahib and that on that day he, along with other police officials, was present at Chowk "Wein Puein" for patrolling and checking, when Narinder Singh met him and gave his statement, Ex.PA, which was recorded into writing and an endorsement was made by him (PW3), on the basis of which the FIR was registered by ASI Mohinder Pal, whose signatures he identified.

He further stated that he, alongwith the police party and Narinder Singh, reached Vijay Hospital, Amritsar and came to know that Kamaljit Kaur had died and her body was lying in the mortuary, where the brother and mother of the deceased were present. (The name of the hospital is given as Guru Nanak Dev Hospital in other testimonies and documents).

He further stated that a neighbour, Vaishno Dass Gupta (as taken from the Punjabi version), and a large number of other persons were also present there. He prepared the "inquest" report and recorded the statement of Surinder Singh, Vaishno Gupta and Rattanjit Kaur and deputed HC Desa Singh and Constable Gurmit Singh with the dead body.

On the next day, he got the dead body taken for post mortem examination

at Guru Nanak Hospital (the above again is taken from the Punjabi version as the English version has some sentences missing).

The IO next stated that after leaving the place of occurrence, he prepared the site plan Ex.PC and that after the post mortem examination, recovered one roller, one “Karra” and some burnt hair, vide memo Ex.PD, which was attested by ASI Surjan Singh and another police official. He further testified that after making the parcels, these items were sealed with the seal of “SS”. He thereafter, as per the testimony, arrested the accused on 26.05.2000 and after completion of the investigation, the challan was presented by the SHO.

In cross-examination, PW3 stated that he correctly recorded the statement of PW Surinder Singh (Ex.DA) and that the DSP Goindwal Sahib also investigated the case and that Surjit Kaur was found to be innocent and was kept in column No.2. He next stated, as per the English version, that he did not know that the businesses of accused Harminder Singh and Ranjit Singh were separate. However, as per the Punjabi version, he denied that the businesses of Harminder Singh and Ranjit Singh were separate/different.

He further stated that they had reached the hospital at 9:00 PM.

The investigating Officer next stated that during the investigation no person from the complainant party had produced any evidence or Pass-book to show that payment of money had been made by them to the accused (again taken from the Punjabi version).

He further stated that he reached the spot at 2:00 PM on 21.05.2000 and recorded the statement of neighbours in the case diary.

Of course, he denied the suggestion that the “ruqa” was “ante-

timed” or that he created false circumstances against the accused.

On being further cross-examined, he again stated that he had correctly recorded the statement of Vaishno Gupta, Ex.DB.

On further cross-examination, (shown to be by the Additional Public Prosecutor), he stated that he had gone to the shop of Narinder Singh, father of the deceased, who produced before him “photo-stat copies of the bank”, (presumably meaning the photo-stat copy of the bank Pass-book.)

He further deposed that he had told him to produce the original, which was never produced.

Finally, on further cross-examination by the defence counsel, while he denied having deposed falsely, PW3 further stated that he did not mention these facts in any document or case diary.

17. Dr. Ashok Chanana, Assistant Professor, Forensic Medicine and Toxicology Department, Government Medical College, Amritsar, appeared as PW4 and stated that on 21.05.2000, at about 12:10 PM, he conducted the post mortem examination of the dead body of Kamaljit Kaur, who was aged about 28 years and a resident of village Fatiabad and that the body had been brought alongwith the papers to the mortuary on the said date at 11:50 AM by HC Desa Singh and Constable Gurmeet Singh, from the Dead House of SGTB Hospital, Amritsar.

The witness further testified that the dead body was identified by Surinder Singh son of Narinder Singh and Vaishno Gupta son of Amar Nath and the date and hour of information of death, as per police papers, was 7:30 PM on 20.05.2001. He further testified that the symptoms observed before death were, as per the Bed Head Ticket of the Guru

Nanak Dev Hospital, to the effect that the deceased had been admitted on 20.05.2000 at 4:10 PM and had expired at 4:20 PM. He further disclosed that the total number of pages of the Bed Head Ticket were “1 to 18” and that as per police information, she had died of suicidal burning. The rest of the deposition was essentially in consonance with the post mortem report.

Significantly, he further testified that remnants of a burnt underwear and white metallic “karra” in the left arm, were present.

The doctor next testified that Dr. Guriqbal Singh, Junior Resident, was another member of the Board that conducted the post mortem examination and that the body was handed over to the police. He identified the signatures of Dr. Guriqbal Singh on the original post mortem report, which he had brought to the trial Court.

18. The next prosecution witness was Vaishno Gupta, who appeared as PW5 and stated that he was running a cycle parts business and that the complainant, Narinder Singh, was his neighbour, whose shop adjoins his shop. He further stated that Narinder Singh was running a cloth shop and that he was on visiting terms to the house of Narinder Singh.

He corroborated that the complainant had married his daughter Kamaljit Kaur, on 14.06.1997 with the accused present in Court.

Again it is to be noted, for the sake of record only in this instance, that though the English version shows the name of the said accused as “Ravinder Singh”, the Punjabi version seems to give the name as Harvinder Singh.

This witness further testified that Narinder Singh had told him that he had been told by his daughter, that her in-laws had demanded more dowry. He further testified that after two months of her marriage, Kamaljit

Kaur came to the shop of her father and he (PW5) was also called there. The witness further testified that Kamaljit Kaur was being harassed by the accused for not bringing sufficient dowry.

The witness next testified that on 22.07.1998, the deceased gave birth to a female child, after which she came to her fathers' shop and he was again called and the deceased had stated that the accused were demanding a sum of Rs.25,000/- and that he (PW5) was present there (as taken from the Punjabi version, as this last part is not shown in English version).

He next stated that he was the President of the cycle shops union and that the father of the deceased used to talk about his family affairs with him.

PW5 next testified that Narinder Singh took a sum of Rs.5000/- from him and himself arranged Rs.20,000/- and paid Rs.25,000/- to the accused.

Thereafter, on 14.01.2000, as per PW5, Kamaljit Kaur gave birth to a male child and again the accused raised demands for cash (as taken from the Punjabi version).

It is to be noted that though the English version at this point states that the father of the deceased gave Rs.5100/- in cash, a gold ring, gold “karra” and other articles, the Punjabi version does not say any such thing.

The testimony further reads to say, that on 13.05.2000 Kamaljit Kaur came to the shop and was crying and asked her father to save her. (The Punjabi version gives the date as 13.09.2000 and translates to read that she was crying and told her father that the accused used to beat her

up).

The witness next stated that he also went to the shop to see her and she stated that the accused were demanding a sum of Rs.1 lac and that if the said amount was not paid, she should make her own arrangements (as translated from the Punjabi version). He further stated that she went back and did not stay the night at her parental home. (Here again, there is a discrepancy between the Punjabi and English versions of the testimony).

This witness next testified that on 20.05.2000, he came to know that Kamaljit Kaur had passed away and that a telephonic call had been received at his shop to that effect, at about 3:30 PM. He conveyed the message to Narinder Singh, who then left for the hospital. This witness also stated that he also went to the hospital, where he came to know that Kamaljit Kaur had died. He further stated that Narinder Singh then left and that the dead body was taken to the mortuary. He further stated that (as per the Punjabi version), that Narinder Singh, he himself and 2/3 more people were present there and that the police recorded his statement. It is important to notice here that whereas the English version of the testimony of PW5 states that the "Mother, father, brother and uncle of the deceased were also there at that time", the Punjabi version seems to read to say that from the house of the in-laws of Kamaljit Kaur, the accused were also present, alongwith the other members of the family. The testimony further goes on to read (both versions) that this witness had told this fact to the police. The English version further goes on to say that the police did not record these facts, though the Punjabi version does not contain any such sentence.

The last part of the examination-in-chief of PW5 states that he

left the mortuary at about 12 to 1 at night and reached his home at Tarn Taran (as per the Punjabi version). It further goes on to say that Narinder Singh had produced the Pass-book of the Punjab National Bank and “others” before the SHO.

In cross-examination, this witness stated that his statement was recorded by the police at 9:30 PM and that he had not got recorded the fact about any “give and take” about money (as taken from Punjabi version). He further stated that he had got recorded that the girls' father had taken Rs.5000/- from him and had arranged Rs.20,000/- of his own and had paid Rs.25,000/- to the accused. However, the witness' attention was drawn to Ex.DB where such was not recorded.

He further stated in cross-examination that he had got recorded that the deceased had told him that the accused were demanding Rs.25,000/-. This again was brought to his notice that it was not so recorded in Ex.DB.

He next stated that what he had told the police was that on 14.01.2000, when the deceased had given a brith to a child, an amount of Rs.5100/-, a gold ring and a gold “karra” had been given to the accused. Again, it was pointed out to the witness (as per trial Court record), that Ex.DB did not contain any such statement.

PW5 next stated that his statement was recorded by the police to this effect only and that it was recorded after one week and that other than this there were no written proceedings. (The English version however states that “My statement was recorded by the police on 20.05.2000 only. The Passbooks were given to the police after about one week.”).

The English version of the cross-examination of this witness

further states that the Pass-books were given to the police after about a week and this witness denied the suggestion that no Pass-books were given to the police. However, the Punjabi version, at this stage, does not contain any such mention of Pass-books, but like the English version, further states that it was wrong to suggest that no demand was raised by the accused.

The testimony of PW5, thus, was as above, taken from both language versions.

19. The last witness who appeared for prosecution was Rishi Ram, Draftsman, who testified to the correctness of the site plan, Ex.PF.

20. After closing of prosecution evidence, the statement of appellant Ranjit Singh was recorded under Section 313 Cr. P. C., which is substantially to the effect that he was innocent and that his co-accused (his son), Harminder Singh, had a separate kitchen from him and his wife and was also separate in business and further, that the deceased caught fire accidentally and best efforts were made to save her. He, obviously, denied the allegations of demand of dowry or money.

As per the statement of appellant Harminder Singh, the allegations of mal-treatment and demand of dowry were false and his wife had died in an accidental fire and that she used to remain under acute depression.

Lastly, the statement of appellant Surjit Kaur, recorded under Section 313 Cr. P.C., was also to the effect that she was innocent and that the allegations are false.

21. All the three accused stated that they would lead evidence in defence and one Vijay Laxmi wife of Prabhat Chander, aged 52 years, a

Government Teacher and resident of village Fatiabad, appeared as DW1 and stated that she knew Harminder Singh accused, whom she identified in Court and said that his house faces her house in the village.

The defence witness next stated that the kitchen of Harminder Singh was separate from the kitchen of Ranjit Singh and Surjit Kaur and that she was on visiting terms at the house of the accused.

DW1 further stated that she knew Kamaljit Kaur and had been meeting her off and on and relations between Harminder Singh and Kamaljit Kaur were cordial and Kamaljit Kaur never complained about anything.

In her cross-examination, she stated that she had never spoken to any person with regard to the above facts before today. DW1 further stated that she did not know the parents of the deceased nor had she ever met them. She further stated that she did not know where the deceased was cremated and denied that she had deposed falsely on account of being a neighbour of the accused.

22. The evidence before the trial Court having been detailed as above, before we come to the arguments addressed before us on both sides, we need to first look at the documents, Exhibits DA and DB, relied upon by the defence.

Ex.DA is the signed statement of Surinder Singh, brother of the deceased and as such, is obviously recorded under Section 175 Cr. P.C. and not under Section 161, even though that fact (of it being a statement recorded under Section 175 Cr. P.C.), is not stated on the document. The statement is dated 20.05.2000.

The said statement is to the effect that Surinder Singh is a

resident of Tarn Taran and works at the shop with his father and that he had two sisters, of whom the elder was married three years earlier with Harminder Singh son of Ranjit Singh Arora, resident of Fatiabad and had two children, a daughter and a son.

The statement further reads to say that the in-laws of his sister, i.e. mother-in-law, father-in-law and husband (all named), used to demand more dowry and used to quarrel with her for that very reason and that once or twice they had fulfilled the demand of his sister, but on 13.05.2000 she was sent to their house to bring Rs.1 lac from her parents and was told that if she did not bring the money, she could not come back to the house.

The statement further reiterates what was stated by the complainant in his statement, Ex.PA, except that there is no mention of any specific amount of Rs.25,000/- demanded and paid as cash, or of Rs.5100/- and other articles having been given on the birth of the second child.

The statement, though mentions that Surinder Singhs' father, i.e. complainant Narinder Singh, and Bhupinder Singh went to the house of the in-laws of the deceased to try and make them withdraw the demand of Rs.1 lac, however, Surinder Singhs' statement (EX.DA) does not specifically name Bhupinder Singh as one of the persons who accompanied his father, himself, his mother, Vaishno Gupta and others to Guru Nanak Hospital, upon receiving information that Kamaljit Kaur had set herself on fire.

On the other hand, Narinder Singhs' statement, Ex.PA, does not specifically give the name of Vaishno Gupta as one of those who had accompanied himself, his daughter Harvinder Kaur, his son, wife Rattanjit

Kaur and Bhupinder Singh, to the hospital; though that statement also states that the telephone was received at Gupta cycle shop.

23. Coming to Ex.DB, which is the statement of Vaishno Gupta aforesaid, recorded under Section 161 Cr. P.C., it is to the effect that he is a resident of Tarn Taran and his cycle shop is situated near the cloth shop of Narinder Singh and because of that he is well aware of the domestic situation of Narinder Singh and the activities of his home.

His statement further states that he knew that Narinder Singh had married his elder daughter with Harminder Singh at village Fatiabad and that her in-laws demanded more dowry, about which Narinder Singh used to consult him.

The statement further goes on to say that he (Vaishno Gupta) knew that on 13.05.2000 Kamaljit Kaur had come to Narinder Singh and had told him about the demand of Rs.1 lac from her in-laws, alongwith their ultimatum that if she did not bring the money, she would not be allowed to enter her matrimonial home.

Vaishno Guptas' said statement further states that at about 3/3:30 in the after-noon, when he was present in his shop, he got a telephone call, informing that Kamaljit Kaur had set herself on fire and had been brought to hospital at Amritsar by her in-laws, which fact he told Narinder Singh, after which the whole family proceeded to G. N. D. Hospital, Amritsar and came to know that Kamaljit Kaur had died.

The statement further goes on to state that "leaving behind us" at the hospital, Narinder Singh went to the Police Station to inform the police and all those left behind (including Vaishno Gupta) were present outside the Dead House at the hospital, where the body was lying.

It further goes on to say that “inquest” proceedings were initiated and written work completed in his presence and others. It lastly states that the statement had been correctly recorded on his (Vaishno Guptas') dictation.

Thus, the essence of the statement of Vaishno Gupta, (Ex.DB recorded under Section 161 Cr. P.C.) is not different either from what was stated by the complainant in Ex.PA, or what is contained in the testimonies of PWs1, 2 and 5 (Vaishno Gupta himself), though certain discrepancies in detail, do occur.

24. One of the questions which is to be examined, after considering the arguments addressed on both sides, is as to whether the testimony of Vaishno Gupta, as also of PWs1 and 2, are to be believed with regard to the visit stated to have been made by the deceased, to her fathers' shop, on 13.05.2000.

We shall deal with that issue at the appropriate stage.

25. Addressing arguments on behalf of the appellants, learned counsel for the appellants submitted that, firstly, no offence of a demand for dowry is made out at all against any of the appellants and in any case, not against appellants No.2 and 3, i.e. the mother-in-law and father-in-law of the deceased.

Mrs. Baljit Kaur Mann and Mr. A. P.S. Mann submitted that, as a matter of fact, Section 304-B of the Code would be attracted only if, firstly, the demand was made soon before the death of the deceased and secondly, if it was connected with the marriage of the deceased.

Learned counsel submitted that since the demands for Rs.25,000/- were admittedly made at the time of birth of the children,

there was no question of the demand being made in connection with the marriage of the deceased. In this regard, reliance was placed on the judgment of the Apex Court in **Satvir Singh vs. State of Punjab** (2001)

(4) RCR (Criminal) 355), wherein it was held as under:-

“24. Applying the said principle in this case we have to refer to the evidence of the prosecution to know whether the findings made by the High Court on the facts warrant interference. PW-5 Tejinder Pal kaur in her evidence said that 4 or 5 months after her marriage, she was ill-treated on the ground of insufficiency of dowry and then she reported the matter to her father. But PW-5 did not say one word in her evidence regarding any other ill treatment relating to dowry thereafter. It is true, she said in her evidence that in November 1995, a sum of Rs.20,000/- was paid by her father. But neither PW-5 neither PW-5 (Tejinder Pal Kaur) nor PW-6 (Narendra Singh testified that the said amount was made as part of the dowry or in connection with the marriage. We cannot overlook two important events which had happened in the family during the said long interregnum of three years. One is the birth of the elder son on 12.11.1993 and the other is the birth of the second son on 10.06.1995. We have to bear in mind the payment of Rs.20,000/- was made five months after the birth of the second son. Even PW-6 had no case that his daughter was subjected to any ill treatment in connection with the demand for dowry on any day after she reported to him about the demand for further dowry way back in the early 1993 months. All amounts paid by the in-laws of the husband of a woman cannot become dowry.”

As regards the alleged demand of Rs.1 lac on 13.05.2000, learned counsel submitted that, firstly, there was no specific proof that such amount had been demanded or paid, other than the statements of PWs1, 2 and 5. They further submitted that, even presuming (though not

admitting), that such a demand was made, it was admittedly for running of the shop of the first appellant and as such was not connected with the marriage of the said appellant and the deceased. Thus, learned counsel submitted, that such a demand would not come within the definition of dowry.

Further in this regard, it was submitted that, in any case, even as per the statements of the prosecution witnesses, i.e. the father and brother of the deceased (PWs1 and 2), appellants no.1 and 2 had separate businesses and since the demand was only with regard to the running of the business of appellant no.1, it would be a demand made for the benefit of the nuclear family consisting of the first appellant, his deceased wife and their two children, with no benefit thereof to the parents of appellant no.1, i.e. appellants no.2 and 3.

Therefore, learned counsel for the appellants submitted, that even though Kamaljit Kaur had died due to burning within seven years of her marriage, in her matrimonial home, it could not be called a dowry death under any circumstances and as such, the trial Court had correctly acquitted the appellants of the charge framed under the said provision of the IPC, i.e. Section 304-B.

26. As regards the charges under Section 306 and 498-A IPC, for which the appellants stand convicted, learned counsel submitted that in the absence of any evidence showing that an actual demand had been made by the appellants to the deceased or her parents and since there was no proof of such payment, at any stage, the appellants could not be held guilty of having abetted the suicide of the deceased, even presuming it was suicide and not by accidental fire.

Mr. Mann reiterated that, especially in the case of appellants no.2 and 3, such demand cannot be connected with them, in view of the fact that appellant no.1 was admittedly running a separate business and even as per the testimony of DW1, Vijay Laxmi, a neighbour, even the kitchen of appellant no.1 was separate to that of his parents.

27. On the submission that no offence punishable under Section 304-B could be made out as no demand was made in connection with the marriage, learned counsel relied upon various judgments, including one of a Single Bench of this Court, in **Gurcharan Singh vs. State of Punjab** 2011 (1) RCR (Criminal) 180, which in turn had relied upon judgments of the Supreme Court in *Satvir Singh vs. State of Punjab (supra)* and **Appasaheb vs. State of Maharashtra** 2007 (1) RCR (Criminal) 747.

Reliance was also placed on **Kans Raj vs. State of Punjab and others** (2002) CLJ 2993 (SC). The reliance placed on this case, was specifically in relation to the tendency to rope in all relatives of the husband of the deceased; as such it was contended that the merits of the case in favour of appellant no.1 apart, appellants no.2 and 3 in any case cannot be held guilty of any offence.

Reliance was also placed on behalf of the appellants, by learned counsel, on **Mankamma vs. State of Kerala** 2010(1) RCR (Criminal) 227. Reference to this judgment was made again on account of the tendency to unnecessarily rope in the mother-in-law of a deceased woman.

Mr. Mann next relied upon **Rohtash vs. State of Haryana** (2012)(4) RCR (Criminal) 539 and **Geeta Mehrotra and another vs. State of U.P. and another** (2012) (4) RCR (Criminal) 813.

Other than the above judgments of the Supreme Court, learned

counsel for the appellants relied upon various judgment of Single Benches of this Court, in relation to Section 304-B, as also on Sections 306 and 498-A of the IPC, to submit that the facts of the present case do not make out any offence against the appellants.

Accordingly, both learned counsel for the appellants submitted that the appeal filed by the appellants against their conviction for the offences punishable under Sections 306 and 498-A deserves to be allowed and the appeal filed by the State against the acquittal of the appellants of the offence punishable under Section 304-B, deserves to be dismissed.

28. Arguing for the State of Punjab on the other hand, Mr. P.P.S. Thethi, learned Additional Advocate General, submitted that the unshaking testimonies of PWs1, 2 and 5, which substantially give the same sequence of events when compared to each other and also when compared with the initial statements of the complainant and of Vaishno Gupta, i.e. Exhibits PA and DB respectively, proves that Kamaljit Kaur committed suicide by burning herself, only because of the harassment consistently meted out to her right since her marriage, through the births of her children and even till a week before her death.

Mr. Thethi therefore submitted, that taking into consideration the strong and unimpeachable testimonies of PWs1 and 2, i.e. the father and brother of the deceased and even of a neighbour of the complainant (PW5), and in the absence of any motive even vaguely pointed out at any stage, including the statements made under Section 313 Cr. P. C., for false implication of the appellants, the conviction under Sections 306 and 498-A IPC needs to be upheld and further, the acquittal by the learned trial Court, for the offence punishable under Section 304-B of the IPC, needs

to be reversed and the appellants convicted of the said charge as well, with consequent enhancement in punishment.

Mr. Thethi relied upon the following judgments of the Apex Court, to support his contentions:-

- (i) **Satyapal vs. State of Haryana and another** (2013)(2) RCR (Criminal) 403;
- (ii) **Bachni Devi and another vs. State of Haryana through Secretary, Home Department** (2011)(1) RCR (Criminal) 868

29. Having considered the arguments on both sides and having gone through the entire evidence on record before us, as also having perused the judgments relied upon by both sides, we are unable to accept the contention of learned counsel for the appellants on the issue that the charge under Section 304-B IPC has been rightly decided by the trial Court and that the conviction under Sections 306 and 498-A has been wrongly imposed, at least qua appellant no.1.

We say this for the reasons that we shall discuss hereinafter.

30. Despite all the discrepancies that we have pointed out earlier between the English and the Punjabi versions of the testimonies of different witnesses, essentially there is nothing that we find which rescues at least appellant no.1 from the charge of having caused a dowry death.

Section 304-B of the IPC reads as under:-

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

relative shall be deemed to have caused her death.

Explanation.- For the 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.”

The definition of dowry, taken from Section 2 of Act of 1961, is as follows:-

“2. Definition of 'dowry'.- “Dowry” means any property or valuable security given or agreed to be given either directly or indirectly--

(a) By one party to a marriage to the other party to the marriage; or

(b) By the parent of either party to a marriage or by any other person to either party to the marriage or to any other person, at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I--..... (Omitted). Explanation II-- The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code, 1860.”

31. Two things need to be pointed out at the outset itself.

Firstly, though it has been held in *Satvir Singhs' case (supra)* that a demand for money made at the time of the birth of a child, would not amount to a demand of dowry, however, in the present context it is to be seen with the fact that the said demands were made in quick

succession, after the marriage of appellant no.1 and Kamaljit Kaur, as both their children were born within three years of the marriage itself, with the 1st born after about 14 months. Thus, the demand for money from the parents of the daughter-in-law of the house, in such a situation, in our opinion, cannot be entirely dichotomised from the fact that such a demand was made from the parents of the deceased and was not money gifted of their own accord.

Even ignoring the above, in view of the fact that admittedly they were demands made at the time of the births of children and possibly the judgment in *Satvir Singhs' case* may be held to be applicable, the fact is that another demand was made for Rs.1 lac, which was conveyed by the deceased to her parents on 13.05.2000, i.e. one week before her death.

It is important to notice that as per the statements of PWs1, 2 and 5, “the threat given to the deceased was that in case she could not arrange the money (Rs.1 lac) she should not enter her matrimonial home”. Obviously, with that kind of a threat, of being debarred from entry into her matrimonial home, we fail to understand how the demand of Rs.1 lac is not a demand in connection with the marriage of the deceased and appellant no.1, even if the marriage took place about 2 years and 11 months earlier.

In this regard, we now cite from *Bachni Devis' case (supra)*, wherein their Lordships held as under, while distinguishing the earlier judgment in *Appasahebs' case (supra)*.

“15. 1961 Act was enacted to prohibit the giving or taking of 'dowry' and for the protection of married woman against cruelty and violence in the matrimonial home by the husband and in-laws. The mere demand for 'dowry' before marriage, at the time of marriage or any time after the marriage is an offence. 1961 Act has been amended by the Parliament on more

than one occasion and by the (Amendment) Act, 1986, Parliament brought in stringent provisions and provided for offence relating to 'dowry death'. The amendments became imperative as the dowry deaths continued to increase to disturbing proportions and the existing provisions in 1961 Act were found inadequate in dealing with the problems of dowry deaths. The definition of 'dowry' reproduced above would show that the term is defined comprehensively to include properties of all sorts as it takes within its fold 'any property or valuable security' given or agreed to be given in connection with marriage either directly or indirectly. In **S.Gopal Reddy v. State of A.P., 1996 (3) R.C.R. (Criminal) 153 : (1996) 4 SCC 596**, this Court stated as follows:-

“9. The definition of the term 'dowry' under Section 2 of the Act shows that any property or valuable security given or “agreed to be given” either directly or indirectly by one party to the marriage to the other party to the marriage “at or before or after the marriage” as a “consideration for the marriage of the said parties” would become 'dowry' punishable under the Act. Property or valuable security so as to constitute 'dowry' within the meaning of the Act must therefore be given or demanded “as consideration for the marriage”.

.....

11. The definition of the expression 'dowry' contained in Section 2 of the Act cannot be confined merely to the 'demand' of money, property or valuable security “made at or after the performance of marriage” as is urged by Mr. Rao. The legislature has in its wisdom while providing for the definition of 'dowry' emphasised that any money, property or valuable security given, as a consideration for marriage, “before, at or after” the marriage would be covered by the expression 'dowry' and this definition as contained in Section 2 has to be read wherever the expression 'dowry' occurs in the Act. Meaning of the expression 'dowry' as commonly used and understood is different than the peculiar definition thereof under the Act. Under Section 4 of the Act, mere demand of 'dowry' is sufficient to bring home the offence to an accused. Thus, any 'demand' of money, property or valuable security made from the bride or her parents or other relatives by the bridegroom or his parents or other relatives or vice versa would fall within the mischief or

'dowry' under the Act where such demand is not property referable to any legally recognised claim and is relatable only to the consideration of marriage. Marriage in this context would include a proposed marriage also more particularly where the non-fulfilment of the “demand of dowry” leads to the ugly consequence of the marriage not taking place at all. The expression 'dowry' under the Act must be interpreted in the sense which the statute wishes to attribute to it..... The definition given in the statute is the determinative factor. The Act is a piece of social legislation which aims to check the growing menace of the social evil of dowry and it makes punishable not only the actual receiving of dowry but also the very demand of dowry made before or at the time or after the marriage where such demand is referable to the consideration of marriage. Dowry as a quid pro quo for marriage is prohibited.....”.

16. While dealing with the term 'dowry' in Section 304B Indian Penal Code, this Court in this case of Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar, 2005(1) R.C.R. (Criminal) 861: 2005(1) Apex Criminal 390: (2005) 2 SCC 388, held as under:

“14. The word “dowry” in Section 304-B Indian Penal Code has to be understood as it is defined in Section 2 of the Dowry Act. Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third “at any time” after the marriage. The third occasion may appear to be unending period. But the crucial words are “in connection with the marriage of the said parties”. As was observed in the said case “suicidal death” of a married woman within seven years of her marriage is covered by the expression “death of a woman is caused or occurs otherwise than under normal circumstances” as expressed in Section 304-B Indian Penal Code.”

17. *Learned counsel for the appellants heavily relied upon the following observations made by this Court in the case of Appasaheb:*

“A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood”.

The above observations of this Court must be understood in the context of the case. That was a case wherein the prosecution evidence did not show 'any demand for dowry' as defined in Section 2 of the 1961 Act. The allegation to the effect that the deceased was asked to bring money for domestic expenses and for purchasing manure in the facts of the case was not found sufficient to be covered by the 'demand for dowry'. Appasaheb1 cannot be read to be laying down an absolute proposition that a demand for money or some property or valuable security on account of some business or financial requirement could not be termed as 'demand for dowry'. It was in the facts of the case that it was held so. If a demand for property or valuable security, directly or indirectly, has a nexus with marriage, in our opinion, such demand would constitute 'demand for dowry'; the cause or reason for such demand being immaterial.

18. *In the backdrop of the above legal position, if we look at the facts of the case, it is clearly established that Kanta died otherwise than under normal circumstances. There is no dispute of fact that death of Kanta occurred within seven years of her marriage. That Kanta was subjected to harassment and ill-treatment by A-1 and A-2 after PW-8 refused to accede to their demand for purchase of motorcycle is established by the evidence of PW-8 and PW-9. Then there is evidence of PW-10 that PW-8 had called him and DW-1 to his house where A-1 had made demand of motorcycle. PW-10 stated that he sought to reason to A-1 about inability of PW-8 to give motorcycle at*

which A-1 got angry and warned that Kanta would not be allowed to stay in her matrimonial home. It is true that the appellants produced DW-1 in defence and he did state in his examination-in-chief that he did not meet A-1 at the house of PW-8 but in cross-examination when he was confronted with his statement under Section 161 Criminal Procedure Code (portion A to A) where it was recorded that he and PW-10 had gone to the house of PW-8 and both of them (PW-10 and DW-1) counselled A-1 to desist from demanding motorcycle but she stuck to her demand, DW-1 had no explanation to offer. The evidence of DW-1 is, therefore, liable to be discarded. In light of the evidence let in by the prosecution, the trial court cannot be said to have erred in holding that it was established that unlawful demand of motorcycle was made by A-1 and A-2 from PW-8 and Kanta was harassed on account of his failure to provide the motorcycle and that led Kanta to commit suicide by hanging. Pertinently, the demand of motorcycle by A-1 from PW-8 was for A-2 and when PW-8 showed his inability to meet that demand, A-2 started harassing and ill-treating Kanta. In this view of the matter, it cannot be said that there was no demand by A-2.”

(All emphasis applied by us)

Thus, in a nutshell, an unreasonable demand made within seven years of marriage, was held to be a demand for dowry.

Again, in **Ashok Kumar vs. State of Haryana** (2012) 12 SCC 350, it was held as under:-

“11. The appellant was charged with an offence under Section 304-B of the Code. This penal section clearly spells out the basic ingredients as well as the matters which are required to be construed strictly and with significance to the cases where death is caused by burns, bodily injury or the death occurring otherwise than under normal circumstances, in any manner, within seven years of a marriage. It is the first criteria which

the prosecution must prove. Secondly, that “soon before her death” she had been subjected to cruelty or harassment by the husband or any of the relatives of the husband for, or in connection with, any demand for dowry then such a death shall be called “dowry death” and the husband or the relative, as the case may be, will be deemed to have caused such a death. The Explanation to this section requires that the expression “dowry” shall have the same meaning as in Section 2 of the Act.

12. XXXXXX XXXXXXXXXX XXXXXXXXXX
13. XXXXX XXXXXXXX XXXXXXX

14. *The expressions “or any time after marriage” and “in connection with the marriage of the said parties” were introduced by the amending Act 63 of 1984 and Act 43 of 1986 with effect from 2-10-1985 and 19-11-1986 respectively. These amendments appear to have been made with the intention to cover all demands at the time, before and even after the marriage so far they were in connection with the marriage of the said parties. This clearly shows the intent of the legislature that these expressions are of wide meaning and scope. The expression “in connection with the marriage” cannot be given a restricted or a narrower meaning. The expression “in connection with the marriage” even in common parlance and on its plain language has to be understood generally. The object being that everything, which is offending at definition, but the demand of dowry has to be “in connection with the marriage” and not so customary that it would not attract, on the face of it, the provisions of this section.*

15. XXXXXXXX XXXXXXXXXX XXXXXXXX
16. XXXXXXXX XXXXXXXXXX XXXXXXXX
17. XXXXXXXX XXXXXXXXXX XXXXXXXX

18. *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 Act. Section 4 of the Act is the penal section and demanding a “dowry”, as defined under Section 2 of the Act, is punishable under this section. As already noticed, we need not deliberate on this aspect, as the accused before us has neither been charged nor punished for that offence. We have examined the provisions of Section 2 of the Act in a very limited sphere to deal with the contentions raised in regard to the applicability of the provisions of Section 304-B of the Code.”

(Emphasis applied)

32. Thus, in the light of the law enunciated by the Apex Court, and applying it to the circumstances of the case before us, we have no hesitation in holding that the demand for Rs.1 lac, as was made from the complainant through his deceased daughter, would amount to a demand of dowry, even almost three years after the marriage and even if it was for investing money for more goods in the shop of appellant no.1.

Further, the threat to not enter the house/make her own arrangement, obviously related to her marriage, inasmuch as, a woman was being threatened to be ousted from her matrimonial home. Thus, we do not see why the provisions of Section 304-B IPC, would not be attracted.

33. However, we would still, naturally, need to consider the lacunae in the prosecution evidence.

We have seen that, Bhupinder Singh, who is stated to have accompanied the complainant to the house of the accused, after the demand was made, was given up as a prosecution witness, being “unnecessary”, which is an inference that is to be taken against the

prosecution; however, despite this, the fact is that the case of the prosecution has remained consistent right from the time of lodging of the complaint (Ex.PA) by PW1, his testimony before the Court on two occasions and the testimony of his son, PW2, as also of his neighbour, PW5. We therefore, are to see the quality of the evidence adduced and not its 'quantity'.

No doubt, there are some improvements in the statement of PW5, to the effect that in his statement before the police under Section 161 Cr.P.C. (Ex.DB), he did not specifically state that he had also gone to the shop of complainant Narinder Singh, when the deceased met her father on 13.05.2000. He had only stated that he knew that she had come there, whereas his testimony states that he was present when she narrated the matter to her father and conveyed the demand of her-in-laws to him. Yet, we cannot discard the testimony of PW5 in its entirety, even though it is very possible that he may not have been present when the deceased had conveyed the demand to her father. A perusal of Ex.DB and the testimony of PW5 shows that, being an immediate neighbour, at the work place of the complainant, the complainant was sharing his family problems with him and he knew about the same and had also accompanied the complainant and his family to the hospital, after he came to know that Kamaljit Kaur had set herself on fire.

34. It is also important to note that the telephonic call is stated to have been received in the shop of PW5, even as per his statement, Ex.DB. Though a question was put to PW1 as to whether he had a telephone at home and he replied in the affirmative, we are not inclined to discard the statement of all the prosecution witnesses to the effect that the telephonic

call was actually received in the shop of PW5. That could be for any reason, including the fact that the appellants did not wish to communicate directly with the parents of the daughter-in-law who had set herself on fire in her matrimonial home.

Moreover, as already observed earlier, there is nothing at all in anybody-elses' testimonies and not even in the statements recorded under Section 313 Cr. P.C., that there was any cause for false implication of the appellants by the complainant and his family. If the statements recorded under Section 313 Cr. P.C. are to be believed, the deceased caught fire accidentally. As to why the complainant, his son and his neighbour, as also the police, would want to falsely implicate everybody for an accident, is something which the defence has not been able to explain at any stage.

We are also obviously fully aware that, unfortunately, connivance between unscrupulous elements amongst the investigating agency and complainants, is not an unknown phenomenon in this part of the country; however, the present set of circumstances does not indicate any such thing and no such defence was taken by making such an allegation.

Therefore, keeping in view all the above discussed circumstances and evidence, we cannot but hold that Kamaljit Kaur died a "dowry death" by burning herself, due to harassment in the form of demand of money from her parents, which demand was not fulfilled.

35. Having held as above, it is now to be seen as to whether all the three appellants are guilty of the offence punishable under Section 304-B of the IPC, or only one or two of them are so guilty.

Even though we find it difficult to believe that the parents of the

first appellant, i.e. the father-in-law and mother-in-law of the deceased woman would not also have been a party to the harassment of the deceased, leading her to commit suicide, the fact that, admittedly, the business of appellants no.2 and 1, i.e. father and son, was separate to each other, even as per the case of the complainant himself, needs to be considered. Further, the neighbour of the appellants, who was a Government School Teacher, deposed to the effect that the kitchen of appellants no.2 and 3 was separate from that of appellant no.1 and his wife, i.e. deceased Kamaljit Kaur, which fact does cast a doubt on their role, as compared to appellant no.1, Harminder Singh.

Hence, whether or not they are actually party to the demand made on 13.05.2000, of Rs.1 lac, for investment in the shop of appellant no.1, or they were simply roped in being in-laws of the deceased girl, is something which we are not certain about. Normally, a young man would generally not make a demand of dowry from his in-laws, without the consent of his parents. However, since the business of appellant no.1 was admittedly separate to that of appellant no.2 and, other than the statements under Section 313 Cr. P.C., a defence witness, being a Government teacher, has also testified, perhaps truly or may be falsely, that the kitchens of respondents no.1 and 2 were also separate, we are inclined to grant the benefit of doubt to appellants no.2 and 3, also keeping in mind the fact that appellant no.3 had, though without any reasoning given, been placed in column no.2 of the report submitted under Section 173 Cr. P.C.

Further still, looking to the fact that appellants no.2 and 3 are, 15 years down in time, obviously in their 60s with appellant no.2 almost touching 70 years, (he being shown to be 54 years old in the trial courts'

judgment), we grant them benefit of doubt and allow Criminal Appeal No.260-SB of 2002, to the above extent.

36. However, as regards appellant no.1, Harminder Singh, having found that a demand for dowry was actually made on different occasions and the last demand was made for replenishing goods in his “Kiryana” shop, a week before the death of Kamaljit Kaur, and obviously that was the last straw beyond which the deceased could not endure harassment and had set herself on fire, we find no ground to acquit him, or to even let him be punished only for a lesser offence under Section 306 of the penal code.

Admittedly, the deceased had set herself on fire and had not been set on fire by any of the appellants, even as per the case of the prosecution. However, suicide on account of harassment in her matrimonial home, alongwith a demand of dowry, obviously brings the crime within the ambit of Section 304-B of the IPC as already held. In fact, Section 304-B is an aggravated form of abetment to suicide (where the woman has committed suicide), relatable to a demand for dowry.

37. Hence, the finding of the trial Court, by which the appellants, including appellant no.1, were only held guilty for the commission of an offence punishable under Section 306 IPC, is not accepted by us and appellants no.2 and 3 having been given the benefit of doubt by us, appellant no.1 alone is held guilty for the commission of an offence punishable under Section 304-B IPC.

38. Criminal Appeal No.260-SB-2002 is, consequently, partly allowed and appellants No.2 and 3, i.e. Ranjit Singh and Surjit Kaur are given the benefit of doubt and are acquitted of both, the charge framed against them under Section 304-B, for which they, alongwith appellant

no.1, have already been held to be not guilty by the trial Court and are also acquitted of having committed the offences punishable under Sections 306 & 498-A of the IPC, for which they were convicted by the trial Court.

The State appeal, i.e. Criminal Appeal No. 802-DBA-2002 is also partly allowed to the above extent. Respondent no.1, Harminder Singh, is held guilty of having committed an offence punishable under Section 304-B IPC and is sentenced to ten years rigorous imprisonment. He is also held guilty of the offence punishable under Section 498-A IPC and the sentence of three years rigorous imprisonment imposed upon him by the learned trial Court alongwith a fine of Rs.5000/- for that offence, is maintained.

Both the substantive sentences are ordered to run concurrently.

As regards the offence punishable under Section 306 IPC, since he has already been convicted and sentenced for the aggravated form of abetment to suicide in the form of Section 304-B of the IPC, it would be superfluous to sentence him for the said offence.

His bail bonds are ordered to be cancelled and he is ordered to be taken into custody immediately.

39. We now come to the issue which we have referred to earlier in this judgment, of erroneous/callous recording/translation of evidence in trial Courts.

In this particular case, as in some other cases, we have pointed out extensive differences between the English and the vernacular versions of the testimonies given in Court by different witnesses.

In terms of Section 277(b) of the Code of Criminal Procedure, 1973, the evidence recorded in Court may, if practicable, be taken down in

the language in which it is given and if it is not practicable to do so, a true translation of the evidence, in the language of the Court, is to be prepared as the examination of the witness proceeds, signed by the Magistrate or the Presiding Judge. Rule 3 of Part E of Chapter 1, Vol.3 of the Rules & Orders of this Court is essentially to the same effect, though with reference made to the provisions of the old Code of Criminal Procedure, 1898.

As is the normal practice, in the States of Punjab and Haryana, the language of the District Courts being English, the testimony of a witness, whether delivered in Hindi or Punjabi, is simultaneously translated in Court, as the deposition proceeds. Subsequently, the translated version is “retranslated” into Hindi or Punjabi, as the case may be, i.e. the language in which the testimony has been given by the witness.

This very often results in too many mistakes, even in the English version itself, which sometimes makes no sense at all and, when compared with the Punjabi or Hindi version, there often results a large confusion and, especially as seen in the present case, the facts recorded in English and the Hindi/Punjabi version, are sometimes completely contradictory to each other.

Thus, we again emphasise the need to make electronic recording, whether by audio or video methodology, compulsory in all cases, so as to ensure that at least the vernacular version of the testimony is correctly recorded from the audio or video recording of the evidence in Court and if it is necessitated, then the English translation, if it is wrong, can be corrected accordingly.

In the present case, since the discrepancies are so great that

distance is given to be 5 km in English, but is shown to be 20-25 km in Punjabi, and the negative has been recorded as a positive between one version to the other, as in the case of the cross-examination of PW3, there is obviously complete callousness in the recording, either as given in the English version or in the Punjabi version. Worse still, we are not sure whether the discrepancies are coming due to callousness in translation/“retranslation,” or due to any extraneous consideration. We, therefore, direct the learned Sessions Judge, Amritsar, to hold an enquiry into this matter, even though it is now 15 years old and submit his report to this Court within 2 months, of the date of receipt of a certified copy of this order. Thereafter, it would be seen as to what corrective measures can be taken by this Court, to ensure that evidence is correctly recorded.

For that limited purpose, i.e. for submission of the report of the Sessions Judge, Amritsar, let this matter be put up again for hearing on 29.05.2015.

(AMOL RATTAN SINGH)
JUDGE

April 9, 2015
vcgarg

(RAJIVE BHALLA)
JUDGE