

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

CRM-A No. 195-MA of 2015
Date of decision: 30.10.2015.

State of Haryana

..... Applicant.

Versus

Sunil Kumar

..... Respondent.

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Pawan Girdhar, Additional Advocate General, Haryana,
for the applicant – State.

S.S. SARON, J

The applicant - State of Haryana has filed the present application under Section 378 (3) of the Code of Criminal Procedure ('Cr.P.C.' - for short) for grant of leave to appeal against judgment and order dated 06.05.2014 passed by the learned Additional Sessions Judge, Gurgaon whereby Sunil Kumar (respondent) has been acquitted.

Roop Chand, who is the complainant and father of the deceased in the case namely, Meenu, filed criminal appeal, i.e. CRA-D No. 1159-DB of 2014. The record of the learned trial Court was requisitioned and perused and after hearing learned counsel for the complainant - Roop Chand, the appeal was dismissed on 20.01.2015 by a Division Bench of this Court in which one of us (S.S. Saron, J.) was a member.

Roop Chand, father of the deceased - Meenu, made a statement (Ex. PI) on the basis of which FIR (Ex. PA) was registered on 04.04.2013 for the offences under Sections 306 and 304-B Indian Penal Code ('IPC' - for short). According to the complainant, he was sixth pass and did welding work. He was handicapped. He had a daughter namely Meenu (deceased in the

case) who was aged about 24 years. Her marriage was solemnized with Sunil Kumar (respondent) on 25.12.2012. Dowry was given in the marriage according to his capacity. His daughter was M.A. pass while his son-in-law was fifth-seventh class pass. Sunil (respondent) had taken the daughter of the complainant i.e. Meenu from his house on 02.04.2013 at about 06:00 p.m. in the evening. The wife of the complainant namely Smt. Kaushlaya Devi (PW5) was called by Meenu on the date of lodging the complaint i.e. on 04.04.2013 in the morning and she spoke to her i.e. wife of the complainant. Meenu informed her mother that from the day she had been got back, she was being given a beating by Sunil (respondent). He was saying that he did not like her. Then at about 11:00 a.m., Om Parkash an uncle (father's younger brother) of Sunil (respondent) on phone informed that Meenu by bolting herself in a room had hanged herself.

The complainant and his family members on getting this information, reached Sohna and saw that the hasp of the room of 'chaubara' (a room above the house with four sides open) was bolted from inside and his daughter had hanged herself by tying a knot with a green colour 'chunni' (veil) with the hook of the fan. In the presence of the complainant and his family members, the hinges of the door were broken and the crime team entered the room and conducted inspection; besides, photographs etc. were taken. In the presence of the complainant, the dead body was brought down from the hook of the fan.

The complainant found that on the mirror of the dressing table, the daughter of the complainant had written a suicide note. It was to the effect that Sunil (respondent) was responsible for her death. It was mentioned that it was better to die than to live with him. It was also mentioned that the decision to

marry her was correct but it was with a wrong person. The handwriting was that of Meenu, the daughter of the complainant. In the note, which was written with a 'maroon' colour lipstick it was mentioned that the lady who also called herself as an aunt (father's younger brother's wife) of Sunil (respondent) used to say that the daughter of the complainant was educated.

The complainant alleged that his daughter being fed up with the atrocities, assaults etc. committed by his son-in-law had put a knot with a 'chunni' (veil) around her neck and had committed suicide by hanging herself from the hook of the fan. In other words, the son-in-law Sunil (respondent) of the complainant had compelled Meenu to kill herself and, therefore, she had done this. He had got his statement recorded without any fear or pressure and with his own understanding and thinking, besides, seeing the actual position at the spot. Legal action was asked to be taken so that in future no excesses are committed on any girl. The statement is signed by Roop Chand (complainant).

Police proceedings were recorded by ASI Mahesh Vashisht (PW14) In-charge, Police Post City Sohna on 04.04.2013 at 5:00 p.m. that on the said day, information was received that in Ward No.6 in front of Verma Cycles, one girl had hanged herself. On receiving the information, he (PW14) along with Head Constable Mahabir, Lady Constable Beermati (PW9) reached the house of Dharampal Bajara at Ward No.6, Sohna where inside the 'chaubara' a young girl by closing the hasp of the door from inside had hanged herself from the fan. Information in this regard was already given to the girl's side. The scene of crime team reached the spot and conducted inspection in the presence of the family of the complainant. The complainant got his above statement recorded, which was written word by word and read over and heard by the complainant and his family. They, after understanding it and accepting

it as correct without any pressure, signed the same in Hindi, which was attested by Mahesh Vashisht, In-charge, Police Post Sohna (PW14). From the said statement, offences under Sections 306 and 304-B IPC were found to be made out.

The writing and proceedings for registration of a case (FIR) were sent to the police station through Lady Constable Beermati (PW9). Special reports were asked to be got sent to the higher officers through special messenger. Mahesh Vashisht, In-charge Police Post (PW14) was busy in conducting proceedings under Section 174 Cr.P.C. On receipt of the writing/ complaint at the police station, case FIR No.243 dated 4.4.2013 (Ex. PA) was registered for the aforesaid offences i.e. Sections 306 and 304-B IPC by ASI Rajesh Kumar (PW1) and formal endorsement Ex. PA/1 was made on the writing. Copies were prepared, which were sent through post to the Illaqa Magistrate and also in favour of higher officers. Copy of the police file along with the original writing was being sent to the ASI at the spot.

Investigation in the case was conducted by ASI Mahesh Vashisth (PW14). Rough site plan (Ex. PL) with correct marginal notes was prepared. The suicide note which was written on the mirror (Ex. P24) of the dressing table by the deceased with a lipstick (Ex. P25) was converted into a sealed parcel vide recovery memo with nine seals of 'KS'. A separate parcel of the lipstick which was lying on the table was also prepared which bears the seal impression of 'KS'. It was taken in possession vide recovery memo (Ex. PC). The same was attested by HC Mahavir and Lady Constable Beermati (PW9). A parcel of the 'chunni' (veil) with which Meenu (deceased) had hanged herself was prepared which was taken in possession vide recovery memo (Ex. PD). It was attested by HC Mahavir. Mahesh Vashisth (PW14) also recorded the

statement of HC Mahavir, Raghuvir Singh (PW7), Balbir and Lady Constable Beermati (PW9). The inquest report (Ex. PM) was prepared by him; besides, he recorded the statements of the witnesses. Application (Ex. PN) for conducting postmortem of the dead body of deceased Meenu was moved. Photographs Ex. P1 to Ex.P23 were taken at the spot. The ornaments that were worn by the deceased i.e. two silver rings, two silver 'Panjebs', two gold tops, two gold 'ballis' (ear rings), two gold key rings, one gold nose pin, one gold chain were handed over to Raghuvir Singh (PW7) vide handing over memo Ex.PO. It was attested by Raghuvir Singh (PW7) and Raj Kumar. ASI Mahesh Vashisht (PW14) also recorded their statements. On the same day, the case property was deposited with the MHC/MM (Mohrar Head Constable/Munshi Mohrar) of Police Station.

The postmortem examination (Ex. PK) on the dead body of Meenu (deceased) was conducted on 05.04.2013 by a Board of Doctors which included Dr. Neena Ghatwal, Senior Medical Officer, Civil Hospital, Gurgaon (PW12); Dr. Jai Bhagwan, Senior Medical Officer and Dr. Ashish Singhla, Medical Officer. In their opinion the cause of death in the case was due to hanging which was ante-mortem in nature and sufficient to cause death in natural course. A copy of the postmortem report (Ex. PK) was tendered in evidence by Dr. Neena Gathwal, Senior Medical Officer, Civil Hospital, Gurgaon (PW12). In cross-examination it is stated by Dr. Neena Gathwal (PW12) that it was a case of suicidal hanging.

The dead body, after postmortem examination had been conducted, was handed over to her relatives. The complainant Roop Chand produced a register/notebook (Ex. PJ/1) which was used by the deceased Meenu during her studies. 'Mansa Special - Usain Bolt Jamaica notebook', was

written on the cardboard cover of the notebook. The notebook contained the handwriting of Meenu. The accused (Sunil - respondent) was arrested by ASI Mahesh Vashisht (PW14). A search memo was prepared and he was produced before the learned 'Illaqa' (Area) Magistrate. The accused was brought out from the police lock up on 06.04.2013 and he was interrogated. A disclosure statement (Ex. PE) was made by him, which was followed by another disclosure statement (Ex. PF). He disclosed that he would get the dowry articles recovered. Both the disclosure statements (Ex. PE and Ex. PF) were attested by HC Mahavir Singh and also signed by the complainant. The dowry articles were recovered on 07.04.2013 in pursuance of the disclosure statements and these were taken in possession vide recovery memo (Ex. PK). These articles were identified and handed over to the complainant Roop Chand. A list of the articles that were recovered was prepared, which was signed by Roop Chand (complainant) and Dhanpat, Sarpanch. Their statements were recorded by ASI Mahesh Vashisht (PW14). Scaled site plan (Ex. PG) of the place of occurrence was got prepared by ASI Mahesh Vashisht (PW14) from Naresh Kumar, Draftsman. His statement was recorded. The articles were sent to FSL for handwriting comparison. The statements of the witnesses were recorded by ASI Mahesh Vashisth (PW14) on various dates. After completion of investigation, he handed over the case file to Inspector Anil Kumar (PW11), who on 02.07.2013 prepared the final report ('challan') in terms of Section 173 Cr.P.C. and submitted the same for trial.

The police report ('challan') was filed in the Court of the learned Judicial Magistrate 1st Class, Gurgaon alleging commission of offences punishable under Sections 304-B/306 IPC. The learned Magistrate vide order dated 08.07.2013 observed that the police had filed a report alleging

commission of offences punishable under Sections 304-B/306 IPC, which offences were exclusively triable by the Court of Session at Gurgaon. The case was accordingly committed by the learned Magistrate to the court of learned Sessions Judge at Gurgaon for 18.07.2013. The accused was ordered to be produced before the learned Sessions Judge, Gurgaon.

The learned Additional Sessions Judge, Gurgaon framed charges against Sunil Kumar (respondent) on 29.07.2013 to the effect that the death of Meenu who was married with him on 25.12.2012 was caused otherwise than under normal circumstances, that is, Meenu was found to be hanging in her room with the hook of a ceiling fan on 02.04.2013 and her death had occurred within seven years of her marriage and Sunil Kumar (respondent) being the husband subjected her to cruelty and harassment on account of demand of dowry soon before her death and thus he committed an offence punishable under Section 304-B IPC and within the cognizance of the said Court. Alternatively, it was alleged that on 02.04.2013 at about 11:00 a.m., Meenu committed suicide and Sunil Kumar (respondent) created such circumstances so as to cause the abetment of death of Meenu wherein she was found hanging with the hook of a ceiling fan inside her room at Ward No.6, Sohna and thus, he (Sunil Kumar) thereby committed an offence punishable under Section 306 IPC within the cognizance of the said Court. Sunil Kumar (respondent) was directed to be tried by the Court. He pleaded not guilty to the charge and claimed trial.

The prosecution in order to establish its case examined Raj Kumar, ASI (PW1) who was posted at Police Station Sohna on 4.4.2013. On that day, on receipt of 'ruqqa' (memo), he recorded formal FIR (Ex. PA) and made endorsement Ex. PA/1 on the memo. He also sent special report through

constable whose name he did not know. In cross-examination he stated that it was incorrect that the FIR was ante-timed and ante-dated.

Narender Kumar HC (PW2) was posted as Assistant Reader to ACP, Sohna. He tendered in evidence his affidavit Ex. PB. It is deposed in the affidavit that he was posted as Assistant Reader in the office of ACP, Sohna. He was investigating officer at Police Post Sohna City on 04.04.2013. The case property of the present case was given by the MM (Munshi Mohrar) of the police station to him for depositing it with the Forensic Science Laboratory (FSL), Madhuban and he was sent for depositing it. He deposited the case property on 01.07.2013 vide RC No. 648 with FSL, Madhuban. The same comprised of a suicide note, a mirror sealed with seal 'KS', a register sealed with seal 'KS', a parcel containing lipstick duly sealed and a sample seal duly sealed. The same was deposited on the same day with the FSL, Madhuban for the purposes of investigation. It was deposited without any tampering. Due receipt of deposit was obtained and given to MM (Munshi Mohrar) Satish Kumar, No.987 at Police Station Sohna. This case property was not tampered with by him nor was anybody else allowed to tamper the same.

Mahavir, Head Constable (PW3) deposed regarding the investigation conducted by Mahesh Chand, ASI (PW14) and that he had taken in possession a suicide note, a dressing table mirror, nail paint and a pair of slippers vide recovery memo Ex. PC, which bears his signatures. The articles were sealed with seal monogram 'KS'. These were taken in possession at the spot. The postmortem of cadaver of Meenu was got conducted from General Hospital, Sohna on 5.4.2013. On the same day, a parcel of 'chhuni' (veil) by which Meenu had hanged herself, was prepared. Recovery memo Ex. PD of the 'chhuni' bears his signatures. Sunil (respondent) was arrested on the same

day i.e. 04.04.2013. He on interrogation, made a disclosure statement (Ex. PE) stating that he could get the dowry articles recovered. He disclosed that some of the dowry articles were lying in the house while some were lying in the house of his sister at Rewari. Subsequently, he retracted from his earlier disclosure statement (Ex. PE) and made an another disclosure statement (Ex. PF) that the entire dowry articles were lying in the house at Sohna and no dowry articles were kept at Rewari.

In cross-examination it is stated by HC Mahabir (PW3) that they went to the spot at about 1:00 p.m. on 04.04.2013 and remained there for two and a half to three hours. During this period, they called the forensic team at the spot. He did not know what the forensic team lifted from the spot. It is stated as wrong to suggest that he was not present at the spot and nothing was recovered in his presence at the spot and that nothing was recovered from the accused in pursuance of his disclosure statements in his presence. It is stated as wrong to suggest that the accused never suffered any disclosure statements. It is also stated as wrong to suggest that being a police official, he was deposing falsely.

Naresh Kumar, Draftsman (PW4) on the asking of ASI Mahesh (PW14) prepared scaled site plan (Ex. PG) with correct marginal notes and it bears his signatures. In cross-examination it is stated as incorrect to suggest that the scaled site plan was prepared while sitting in the Police Station.

Kaushalya Devi (PW5) who is the mother of the deceased deposed regarding the incident on the lines of the statement of the complainant Roop Chand. It is *inter alia* stated that her daughter was married with Sunil on 25.12.2012 . She gave sufficient dowry articles as per her capacity. She gave a motorcycle in the marriage. At the time of departure of 'barat', Sunil

(respondent) as well as his uncle Om Parkash refused to accept the motorcycle. They demanded a four wheel vehicle or cash in place of the motorcycle. She (PW5) said that she had given dowry beyond her capacity. Thereafter, they took her daughter with them where they used to quarrel with her and they used to demand cash or car. Omprakash, his wife Savitri and Guddi, mother-in-law of the deceased, it is stated, used to beat her daughter. They used to say that until a four wheel vehicle or cash in place of that was got they would not allow her to reside in their house. Her daughter Meenu, however, expressed inability of her father to fulfil these demands as he was a handicapped person. When her daughter came to their house at the time of 'Holi' in that year, Sunil came to their house and mercilessly beat her. Her daughter again disclosed that her husband and his family members had been teasing (sic. troubling) her and demanding dowry. Sunil came to take her daughter back on 02.04.2013. She persuaded her daughter to settle in her matrimonial home and again sent her with Sunil. She tried to contact Sunil on 02.04.2013 as well as on 03.04.2013 but there was no response. Her daughter telephoned her on 04.04.2013 at about 09:00 a.m. She informed that she was not permitted to remain in her matrimonial home and she was given a beating during the night on 02.04.2013. She was kept outside the house and was not even given food. She disclosed that she was being given a beating by Sunil, Om Prakash, Savitri and Guddi for their demand of dowry. After about half an hour Om Prakash made a telephone call to her and informed that her daughter had committed suicide by hanging herself. She along with her husband and other family members immediately rushed to Village Sohna and found the police there in their house. Her husband had lodged the FIR.

Kaushalya Devi (PW5) was cross-examined initially on

12.11.2013 on behalf of Sunil (respondent). She stated that her statement was not recorded by the police. She then said that she was not in a fit state of mind, therefore, she did not know whether her statement was recorded or not. Meenu had done her M.A. from Nehru College. Sunil (respondent) was a matriculate. Chander was mediator in the marriage of her daughter. The engagement of her daughter took place eight months prior to the marriage. There was no demand of dowry before marriage. Her daughter was never medically examined for the beatings meted out to her as it was a usual family dispute and she was always impressed upon her to settle in her matrimonial house. They had not moved an application with the police at the time of 'Holi' when accused Sunil (respondent) had given a beating to her daughter. At that time none of their neighbours had come. Om Prakash is an uncle of Sunil (respondent) and Savitri is the wife of Om Prakash. It is stated as correct that Sunil at the time of marriage was running a shop at Tauru which is at a distance of 10 Kms. from Sohna. It is stated as correct that the accused used to go to his shop in the morning and used to return in the evening. It is stated as incorrect that the accused was only third class pass. She voluntarily stated that he had disclosed that he was a matriculate. It is stated as incorrect that her daughter was never teased (sic. troubled) for dowry demands by accused Sunil (respondent) and his family members. After marriage of her daughter, she had visited Sohna once. No panchayat was convened with regard to the maltreatment of her daughter. Cross examination was then deferred.

At the said stage, on 29.11.2013, an application was filed by the complainant - Roop Chand through the State under Section 319 Cr.P.C. for summoning of Om Parkash son of Ghisaram, Savitri wife of Om Parkash paternal uncle and aunt of Sunil and Guddi Devi widow of Dharam Pal, mother

of Sunil, as co-accused along with the accused (Sunil) facing trial in the case.

The learned Additional Sessions Judge, by her detailed order dated 02.12.2013, dismissed the application. It was noticed that the father of the deceased namely Roop Chand had specifically detailed in his complaint that his daughter was forced to bring an end to her life due to the atrocities faced by her at the hands of her husband Sunil (respondent). It was noticed that he had nowhere named any other family member. The police during investigation of the case had collected the suicide note of the deceased and in the suicide note also, the deceased had specifically named the accused Sunil only. A reference was made to the FSL report received in this regard which revealed that the writing of the suicide note appeared to be similar with the writing of the deceased. Therefore, all the said circumstances pointed towards the fact that the police investigation after threadbare interrogation had concluded that Guddi, Om Parkash, Rattan Lal and Savitri Devi were not at all involved in the crime was prima facie correct. The police had opted to file 'challan' against Sunil only. A reference was also made to the deposition of Kaushalya (PW5). It was observed that when her testimony was scrutinized as a whole it revealed that she had just named the accused and there were vague and general allegations against the proposed accused in the FIR. It was also observed that the complainant side had never moved the authorities for alleged maltreatment of her daughter (Kaushalya's daughter) in her matrimonial home. The other witnesses examined till then were formal in nature. Therefore, the testimony of Kaushalya (PW5) was held to be insufficient enough to point towards actual involvement of the proposed accused in the crime.

After considering the case law, the application was dismissed.

Thereafter, further cross examination of Kaushalya Devi (PW5)

was conducted on 08.01.2014. She (PW5) stated that she had mentioned in her statement to the police that accused Sunil (respondent) was raising demand for dowry from her daughter. She was confronted with her statement Ex. DA recorded by the Police on 05.04.2013 wherein demand made by accused Sunil (respondent) was not specifically mentioned. It is stated by her that she had mentioned in her statement (Ex. DA) that an uncle of Sunil had raised a dowry demand for a car at the time of marriage. She had mentioned in her statement that the uncle, aunt and mother-in-law (sic. mother) of Sunil (respondent) used to beat her daughter since she was more educated and they were unable to live with her. She had not mentioned in Ex. DA that the aforesaid persons used to tell her daughter that they did not like her. She was confronted with her statement Ex. DA wherein it is so recorded. She had not mentioned in Ex. DA that on 03.04.2013, she had tried to contact her daughter on telephone. Her daughter had told her when she rang her up on 02.04.2013 that Sunil; besides, other family members used to beat her. She was confronted with her statement Ex. DA where name of Sunil (respondent) is not specifically mentioned. Her daughter was studying in Nehru College. She did not know in which subject she had done her M.A. She was in search of a job and she would go out of her house to apply for a job. Chander Pal, it is stated, was the mediator in the marriage. It is stated as incorrect that Sunil (respondent) was third class pass. She voluntarily stated that he was a matriculate. It is stated as incorrect that her daughter was not interested in marrying Sunil (respondent) since he was less educated. It is further stated as incorrect that they had forcibly married their daughter with Sunil. It is also stated as incorrect to suggest that on account of said fact, she had committed suicide. It is stated as incorrect that her daughter was neither teased (sic. - troubled) for dowry nor she was ever beaten.

Roop Chand complainant (PW6) was examined by the prosecution. He deposed on the lines of his statement (Ex. PI) on the basis of which FIR (Ex. PA) was registered. It is stated by him that his daughter Meenu was married to Sunil (respondent) on 25.12.2012. He gave sufficient dowry at the time of her marriage. She was M.A. pass and Sunil (respondent), it was informed, was matriculate. At the time of departure of the marriage party, he gave a motorcycle along with other articles. Sunil (respondent) and his uncle raised a protest and demanded a car or money in cash. He requested them that he would pay for this dowry and assured them to fulfill their demand in future. On the sixth day of her marriage, when a cousin of his daughter went to her matrimonial home to bring her, Sunil, Om Parkash, Savitri and Guddi all started taunting her for bringing less dowry. She was brought to her parental home and after eight days she was again sent back to her matrimonial home. When her mother i.e. Kaushalya visited her to bring her back, she (Meenu) informed her that all the accused were demanding a car or money in cash. They had been treating her with cruelty for the same. At the time of 'Holi', Sunil (respondent) came to their house and he beat his daughter Meenu. He (Sunil) again raised a demand of dowry. He demanded a car and said that in case, car was not given Meenu would not be permitted to live in her matrimonial home. In the month of April, Sunil (respondent) again came to bring Meenu back. At that time, he was told that he should keep Meenu nicely and his demands would be met at the earliest. They sent their daughter with accused Sunil on 02.04.2013 at about 06:00 p.m. They persistently contacted Meenu and Sunil on their mobile phones on 02.04.2013 as also on 03.04.2013 but they did not answer the phone. The daughter of the complainant made a telephone call on 04.04.2013 and she informed that she was being assaulted by

Sunil, Savitri, Om Parkash and Guddi. She was not being permitted to enter her house and she asked her father Roop Chand (PW6) to let her talk to her mother. She spoke to her mother also. After about half an hour, Om Parkash made a telephone call and informed him that his daughter had committed suicide by hanging herself and he immediately disconnected the phone. When they tried to contact him, he did not answer the phone. When they contacted Sunil (respondent) on phone and asked about the whereabouts of her daughter Meenu, he told them that Meenu was sleeping in her room. Thereafter, on the same day, he along with his family members reached the house of his daughter at about 02:00 p.m. There Om Parkash asked them to take their gift. Police had also reached there. The door of the room was removed and his daughter was hanging loosely with the hook of the fan. She had written a suicide note on the mirror with a lipstick in which she named Sunil and she also named Om Parkash. He then lodged a complaint with the police as she had committed suicide since she was being troubled by the accused Sunil, Om Parkash, Savitri and Guddi who were demanding dowry. He vide memo Ex. PJ handed over a note-book (Ex. PJ/1) of his daughter to the police on 05.04.2013 for comparison of her handwriting. He had named Sunil and Om Parkash, Savitri and Guddi as the persons who had teased (sic. troubled) him by demanding a car in dowry but he did not know whether the police had mentioned their names or not. Some dowry articles given to his daughter were recovered by the police which were identified by him and were seized by the police vide recovery and identification memo Ex. PK. The memo was signed by him as an attesting witness.

In cross-examination, it is stated by Roop Chand (PW6) that he had stated before the police that Sunil before the marriage had informed that he

was a matriculate. He also stated that in his application (sic. complaint) he had stated that at the time of 'vidai' (departure of 'barat' after marriage with the bride) when he gave a motorcycle with other articles, Sunil and his uncle both lodged a protest and demanded a car or money in cash. He was confronted with Ex. PI wherein it was not so recorded. It is stated that he stated before the police that on the sixth day of marriage when a cousin of his daughter went to meet her at her matrimonial home to bring her back, Sunil, Om Parkash, Savitri and Guddi had started taunting her for less dowry that she had brought from her parental home. He was confronted with Ex. PI wherein it was not so recorded. He further stated that he had stated before the police that after eight days she was again sent back to her matrimonial home. When the mother of Meenu visited her daughter at her matrimonial home to bring her back, she informed that all accused were demanding a car and money in cash and had been treating her with cruelty for the same. He was confronted with his statement Ex. PI wherein it was not so recorded. He further stated that he had stated before the police that at the time of 'Holi', Sunil came to their house and he beat his daughter namely Meenu and again raised a demand for dowry by demanding a car and said that in case car was not given, Meenu would not be permitted to live with him in her matrimonial home. He was confronted with Ex. PI wherein it was not so recorded. He stated that he had stated before the police that in the month of April, Sunil again came to take Meenu back and that at the time he was told that he should keep Meenu nicely and his demand would be fulfilled at the earliest. He was confronted with Ex. PI wherein it was not so recorded. The other discrepancies and improvements which are quite substantial in nature have been made by Roop Chand complainant (PW6) and he was cross-examined at length.

Raghuvir Singh (PW7) who is the brother of Roop Chand, complainant (PW6) was examined by the prosecution. He deposed on the same lines as Roop Chand (PW6) had deposed. The improvements made by him were also got confronted with his statement Ex. DB made before the police.

Rajesh, Photographer (PW8) proved the photographs Ex. P1 to Ex. P23. It is stated as incorrect to suggest that he took the photographs as per the desire of the Investigating Officer.

Lady Constable Beermati (PW9) was posted as General Duty Constable at PS Sohna on 04.04.2013. On that day, she had remained associated with the investigation in the case with ASI Mahesh Vashisth (PW14). HC Mahabir (PW3) was also with them. On that day i.e. 04.04.2013 the Investigating officer had taken one dressing table mirror on which a suicide note was written with a lipstick. The lipstick was taken in possession vide recovery memo (Ex. PC) by converting it into a different sealed parcel which was duly sealed with seal of 'KS'. The memo was signed by her as an attesting witness and HC Mahabir (PW3). The sealed parcel was produced and opened and out of the same a dressing table mirror (Ex. P24) was taken out. On seeing the same, Beermati stated that it was the same mirror which was taken by the Investigating Officer in his possession from the place of occurrence. From another parcel, a lipstick (Ex. P25) was taken out. In cross-examination it is stated by Beermati (PW9) that it was incorrect to suggest that such type of articles were not taken into possession as had been stated.

Satish Kumar (PW10) tendered in evidence his sworn affidavit Ex. PW10/A. In his affidavit (Ex. PW10/A), he deposed that he was posted as MM (Munshi Mohrar) at Police Station Sohna, District Gurgaon. ASI Mahesh Chand (PW14) on 05.04.2013, the Investigating Officer in the case, deposited

the case property including suicide note mirror, register duly sealed in a sealed parcel, lipstick duly sealed with sample seal of 'KS' which was entrusted to him. The case property was taken from police possession and entrusted to him. It was sent to the FSL vide RC No. 648 dated 07.07.2013 through HC Narender (PW2) who deposited the same. The result of the same had been received. Till the case property remained with him neither he nor anyone else tampered with it.

Anil Kumar, SHO (PW11) prepared the final report under Section 173 Cr.P.C and filed the same.

Dr. Neena Gathwal, Senior Medical Officer, Civil Hospital, Gurgaon (PW12) along with the Board of Doctors including Dr. Jai Bhagwan, Senior Medical Officer, and Dr. Ashish Singhla, Medical Officer, conducted the postmortem examination on the dead body of Meenu. In their opinion the death in the case was due to hanging which was ante-mortem in nature and sufficient to cause death in natural course. In cross-examination, it is stated that it was a case of suicidal hanging.

Dr. Kanta Malik (PW13) Senior Scientific Officer (Documents) FSL, Madhuban, Karnal proved the FSL report dated 03.10.2013 (Ex. PH) which was prepared by her by using scientific techniques.

The report (Ex. PH) is regarding the comparison of the handwritten suicide note written on a mirror with a lipstick with the standard handwriting of deceased Meenu on her register (Ex.PJ). It was questioned whether the red enclosed Hindi writings marked Q1 on the mirror appearing on the dressing table with no date was a suicide note. It was also questioned regarding the lipstick Enrich Satins 422 of Lakme marked R and its cap marked R1. The standard writing contained red enclosed admitted writings marked A1

to A15 in a long note-book titled 'Mansa Special Usain Bolt' (Ex.PJ) with no date, which was stated to be that of deceased Meenu. It was opined that the similarities that had been observed amongst the admitted and questioned writings were significant and sufficient and could not be attributed to accidental coincidence and when considered collectively, they led to the opinion that the person who wrote the red enclosed writings stamped and marked A1 to A15 also wrote the red enclosed questioned writings similarly stamped and marked Q1. It was also opined that comparison of lipstick marked 'R' with the material used to write the questioned writings marked Q1 showed that the nature and colour of the material of the lipstick marked 'R' and nature and colour of the material used to write the questioned writings marked Q1 appeared to be similar.

ASI Mahesh Vashisth (PW14) as already noticed conducted the investigation in the case. In his cross-examination he stated that he correctly recorded the statements of the witnesses without any omission and addition. It is stated that the deceased was double M.A. while the accused was fifth/sixth class pass. In his investigation it had been brought out that the girl was not happy with the marriage as she was more qualified in comparison to the boy. Many villagers also came to the police station after the death along with the complainant and all of them were rebuking the father of the girl as to how she had been married with an illiterate boy. It is stated that they were making allegations against the father of the deceased that he was responsible for the death of his daughter as he had performed her marriage with an illiterate boy. It is stated that the girl might have been cremated at Sohna. He received information at about 11:00 a.m. and he reached there within half an hour and remained there for about one hour. No recovery was effected in pursuance of

the alleged disclosure statement. He visited the house of the accused many a times. He did not join any independent persons who attended the marriage. It is stated as incorrect to suggest that the accused never suffered any disclosure statement. It is also stated as incorrect to suggest that the accused had been falsely implicated in this case or that his investigation was tainted.

The prosecution evidence was closed by the learned public prosecutor as the list of witnesses had been exhausted. After closing the prosecution evidence, the statement of Sunil (respondent) was recorded in terms of Section 313 Cr.P.C. The substance of the evidence appearing against him was put to him. He inter alia stated that he was innocent and had been falsely implicated in the case. It was a simple marriage with the deceased Meenu, who was double M.A. Moreover, she was working in some company before marriage. He was fifth class pass. She was not happy with him. She performed marriage with him under the pressure of her parents. The same was disclosed by the deceased to him. There were lot of differences in their life and education and she could not adjust with him and committed suicide.

In defence, Dalip Kumar (DW1) was examined. He disclosed that Roop Chand complainant (PW6) was his relative. Meenu was daughter of Roop Chand and was married with Sunil (respondent). He attended the marriage as well as all the functions of the marriage. No demand of dowry was ever made by Sunil and his family members before the marriage or after marriage. Financial condition of Roop Chand (PW6) was not good. No dowry was given in the marriage. It was a simple marriage. Meenu (deceased) was double M.A. and accused Sunil Kumar was fifth class pass. He came to know that Meenu performed marriage with an illiterate person under pressure of her father and she could not adjust herself with Sunil. Meenu was never harassed

or maltreated by Sunil and his family members.

Dalip Kumar (DW1) was cross-examined by the learned public prosecutor for the State. It was stated by him that he did not remember the date of marriage. However, it was performed in the month of December, 2012. It is stated as incorrect to suggest that the deceased was maltreated by accused Sunil and his family members. It is also stated as incorrect to suggest that Sunil used to demand dowry. It was a general rumour. It was also told by the neighbours regarding the illiteracy of the accused Sunil. He did not remember the names of the neighbours. It was incorrect to suggest that Meenu did not commit suicide as her husband was less educated.

Bhim Singh (DW2) was also examined in defence. He was known to Roop Chand complainant (PW6). He deposed on the same lines as Dalip Kumar (DW1). He denied the suggestions made by the learned public prosecutor.

The learned Additional Sessions Judge, vide her detailed judgment and order, has acquitted Sunil (respondent). The State aggrieved against the acquittal of Sunil (respondent), has filed the present application for grant of leave to appeal.

Mr. Pawan Girdhar, Additional Advocate General, Haryana, learned counsel for the State has contended that Meenu died an unnatural death in her matrimonial home within three months of her marriage and there is material on record to show that she was subjected to cruelty for and in connection with demands for dowry, which were raised by Sunil (respondent). According to learned counsel for the State, there has been a misreading of the statements of the prosecution witnesses, namely, Smt. Kashulaya Devi (PW5), Roop Chand - complainant (PW6) and Raghuvir Singh (PW7). It is submitted

that a perusal of the said statements clearly establish that Meenu was subjected to cruelty soon before her death in connection with demands for dowry. It is submitted that the learned Additional Sessions Judge, Gurgaon gravely erred in acquitting Sunil (respondent) and, therefore, leave to appeal be granted and the respondent Sunil (respondent) be summoned and convicted and sentenced.

We have given our thoughtful consideration to the matter.

It is to be noticed that the marriage between Meenu and Sunil (respondent) was solemnized on 25.12.2012 and Meenu was found dead in her matrimonial home on 02.04.2013. This indeed was an unnatural death of Meenu in her matrimonial home and gives an impression that her in-laws were responsible for her death. However, it is to be noticed that in the initial statement (Ex. PI) on the basis of which FIR (Ex. PA) was registered, there is no mention of any demand for dowry and it is stated by the complainant Roop Chand (PW6) that he was sixth pass and did welding work, besides, he was handicapped. His daughter namely Meenu aged about 24 years was married with Sunil Kumar (respondent) on 25.12.2012. Dowry was given in the marriage according to his capacity. His daughter was M.A. pass while his son-in-law was fifth-seventh class pass. Sunil (respondent) had taken the daughter of the complainant from his house on 02.04.2013 at about 6.00 p.m. in the evening. The daughter of the complainant called his wife Smt. Kaushlaya Devi (PW5) on 04.04.2013 in the morning and she spoke to her. She informed her mother that from the date she had been got back, she was being beaten by Sunil. He was saying that he did not like her. Then at about 11:00 a.m. in the morning, Om Parkash an uncle (father's younger brother) of Sunil on phone informed that Meenu by bolting herself in a room had hanged herself. On getting this information, the complainant and his family members reached

Sohna and saw that the hasp of the room of the 'chaubara' was bolted from inside and his daughter had hanged herself by tying a knot with a green 'chunni' (veil) to the hook of the fan. In the presence of the complainant and his family members the hinges of the door were broken and the crime team entered the room and conducted inspection; besides, photographs etc. were taken. In the presence of the complainant, the dead body was brought down from the hook of the fan.

On the dressing table mirror, a suicide note was written by Meenu with a maroon colour lipstick. The note to the effect that Sunil (respondent) was responsible for her death. It was mentioned that it was better to die than to live with him. It was also mentioned that the decision to marry her was correct but it was with a wrong person. In the suicide note it was also mentioned that the lady who called herself an aunt (father's younger brother's wife) of Sunil (respondent) used to say that the daughter of the complainant was educated. His daughter being fed up with the atrocities, assaults etc. committed by his son-in-law had put a knot with a 'chunni' (veil) around her neck and had committed suicide by hanging herself from the hook of the fan. In other words, the son-in-law Sunil (respondent) of the complainant had compelled Meenu to kill herself and, therefore, she had done this. He had got his statement recorded without any fear or pressure and with his own understanding and thinking and seeing the actual position at the spot.

The said statement Ex. PI makes no mention of any demand for dowry. In fact even when Meenu spoke to her mother Smt. Kaushlaya Devi (PW5) on 04.04.2013 in the morning, she informed her mother that from the date she had been got back from her parental home, she was being assaulted by Sunil as he did not like her. It is later that Kaushalaya Devi (PW5) in her

statement Ex. DA recorded by the police on 05.04.2013 that improvements were made by her. Besides, during trial of the case improvements were made by Roop Chand (PW6), his wife Kaushalya Devi (PW5) and his brother Raghuvir Singh (PW7) in their depositions made in Court. In the later statements that were recorded in Court, the said witnesses did not confine their allegations to Sunil (respondent) only but also made allegations of the involvements of his uncle namely Om Parkash son of Ghisaram, Savitri wife of Om Parkash and Guddi Devi widow of Dharampal as well.

Kaushalya Devi (PW5) while appearing in Court made improvements in her statement by stating that Om Parkash, his wife Savitri and mother-in-law Guddi used to beat Meenu and they used to say that until she brought a four wheel vehicle or cash in place of that they would not allow her to reside in their house. It is further stated by her (PW5) that when her daughter came to their house at the time of 'Holi' in 2013, Sunil came to their house and mercilessly beat her. She then again stated that her husband and her family members had been troubling her and demanding dowry. It is further stated by her that when she had a telephone conversation with her daughter on 04.04.2013 in the morning at about 9:00 a.m., she had disclosed that she had been kept outside the house and was not given food. Besides, she was given a beating by Sunil, Om Parkash, Savitri and Guddi as they were demanding dowry. In the cross-examination of Kaushalya Devi, she was confronted with her statement Ex. DA recorded by the police in which she had not mentioned that accused Sunil had raised demands for dowry from her daughter. The allegations of demand for dowry were got confronted with the statement Ex. DA where there is no mention of demands for dowry by Sunil or the in-laws of Meenu.

Roop Chand, complainant (PW6), is the father of Meenu (deceased) and, as has already been noticed above, he in his cross examination was confronted with his statement (Ex. PI) with the improvements that he made while deposing in Court. It is stated by him that at the time of 'vidai' of his daughter Meenu, he had given a motorcycle along with other articles. Sunil and his uncle, it is stated, both lodged a protest and demanded a car or money in cash. He requested them that he would pay this dowry and assured them to complete their demands in future. It is further stated that on the sixth day of the marriage of his daughter when her cousin went to the nuptial home of his daughter to bring her back then Sunil, Om Parkash, Savitri and Guddi, it is stated, all taunted her for bringing less dowry. After eight days Meenu was again sent back to her matrimonial home. When her mother visited her nuptial home to bring her back, his daughter informed her that all the accused were demanding a car and money in cash and had been treating her with cruelty for the same. At the time of 'Holi', Sunil came to their house and he gave a beating to his daughter Meenu. Besides, he again raised a demand for dowry by demanding a car and in case it was not given Meenu, it was stated, would not be permitted to live in her matrimonial home.

In the month of April, Sunil again came to take Meenu back. At that time he was told that he should keep Meenu nicely and his demand would be met at the earliest. They sent their daughter with Sunil on 02.04.2013 at about 6:00 p.m. She could not be contacted on 02.04.2013 and 03.04.2013. Meenu made a telephone call on 04.04.2013 stating that she was being beaten by all the four accused i.e. Sunil, Savitri, Om Parkash and Guddi and she was not even permitted to enter her house. She asked her father to let her talk to her mother. She spoke to her mother also. After about half an hour, Om Parkash

made a telephone call and informed that Meenu had committed suicide by hanging herself. He then immediately disconnected the phone. When they tried to contact him, he did not pick up the phone. When they contacted Sunil on phone and asked about the whereabouts of his daughter Meenu, he told them that Meenu was sleeping in her room. On the same day, the complainant Roop Chand (PW6) along with his family members reached the nuptial home of his daughter at about 2:00 p.m. where he found his daughter dead. It is stated that he lodged the complaint with the police as Meenu had committed suicide since she was being teased (sic. troubled) by Sunil, Om Parkash, Savitri and Guddi in connection with demand for dowry. He also handed note-book (Ex. PJ/1) of his daughter to the police for comparison of her handwriting vide memo Ex. PJ.

In cross examination, the complainant Roop Chand (PW6) was confronted with regard to the discrepancies in his statement made in Court from the statement Ex. PI made before the police and the improvements that were made are clearly brought out. He stated that in his application, he had stated that at the time of 'vidai' when he gave a motorcycle along with other articles, Sunil and his uncle both protested and demanded a car or money in cash. He was confronted with Ex. PI where it is not so recorded. He also stated that before the police he had stated that he requested them that he would pay this dowry and assured them to complete their demand in future. He was confronted with Ex. P1 wherein it is not so recorded. He also stated that before the police he had stated that on the sixth day of the marriage when her cousin went to the nuptial home of his daughter to bring her back, Sunil, Om Parkash, Savitri and Guddi started to taunt her for bringing less dowry and that what had she brought from her parental home. He was confronted with Ex. PI wherein it was not so recorded. He also stated that he had stated before the police that

after eight days she (Meenu) was again sent back to her matrimonial home and when her mother visited her nuptial home to bring her back, she (Meenu) told her mother that all the accused were demanding a car or money in cash and had been treated her with cruelty for the same. He was confronted with Ex. PI wherein it is not so recorded. Even the allegation of stating before the police that at the time of 'Holi', Sunil came to their house and he beat Meenu, the daughter of the complainant, and he again raised a demand for a car and said that in case a car was not given, Meenu would not be permitted to live in her matrimonial home. On confrontation with Ex. PI, it was found that it was not so recorded. He also stated that he stated before the police that in the month of April, Sunil again came to bring Meenu back and at that time he was told that he should keep Meenu nicely and his demand would be met at the earliest, was not mentioned in his statement Ex. PI, with which he was confronted. Similar is the position with regard to the deposition of Raghubir Singh (PW7) an uncle of the deceased who made material improvements from his earlier statement Ex. DB made before the police with which he was confronted with.

In short it is to be noticed that the allegations of demand for dowry are not mentioned in the initial statement (Ex. PI) made before the police by Roop Chand (PW6). Even in the statement Ex. DA made by Kaushalya Devi (PW5), it is not specifically mentioned that there had been demands for dowry by Sunil (respondent) who only has been sent up for trial.

Therefore, it is to be taken that there have been improvements in the depositions of the material witnesses, that is, the parents and uncle of the deceased Meenu with regard to demands for dowry. These improvements are that of material witnesses and these are not such which can be said to be usual discrepancies which normally occur as errors of memory due to lapse of time or

errors of observations. Marginal or trivial variations in deposition of prosecution witnesses do not normally affect the core of the prosecution case and is not to be made a ground on which the prosecution evidence is to be rejected in its entirety; however, when these are of material witnesses and improvements are such so as to include that the death of the woman occurred otherwise than under normal circumstances and that soon before her death she was subjected to cruelty or harassment for or in connection with demands for dowry so that the case falls within the ingredients and parameters of Section 304-B IPC, then such evidence is to be considered and examined with care and circumspection. The evidence and deposition of material witnesses who have made improvements, during trial of the case, regarding demands for dowry soon before death of the woman, does affect the prosecution evidence and the veracity of the prosecution witnesses who have deposed does become doubtful. Therefore, when there are improvements in the deposition and evidence of the related witnesses of a person who committed suicide because of maltreatment and harassment, then the prosecution evidence does get affected and impaired and especially so where the trial Court has not accepted the same.

The improvements made in the statements and depositions in Court by Roop Chand (PW-6) – father of the deceased, his wife Kaushalaya Devi (PW-5) and his brother Raghuvir Singh (PW-7) with regard to demand for dowry which were not there initially and were raised during the deposition in Court without any other supporting material like convening of panchayats, meetings of the brotherhood and respectable persons, do create a doubt of the death of Meenu having occurred otherwise than under normal circumstances due to her being subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry.

Besides, in the suicide note of Meenu (deceased) which was recorded on the dressing table mirror with a maroon colour lipstick, there is no mention of any demand for dowry, which further highlights and brings to the fore the improvements that have been made by the material prosecution witnesses.

It is also to be noticed that the prosecution case is that when Meenu had hung herself in a room by bolting the door from inside. The parents of the deceased Meenu and others entered the room after the hinges of the door were got broken and Meenu was found hanging from the hook of the ceiling fan with a green colour 'chunni' (veil). This is a circumstance which by itself goes to show that the act of hanging was done by Meenu herself and there is nothing to show that Sunil had participated in the hanging. In other words, there is no conduct shown on the part of the Sunil that he had any close nexus with a fact in issue or a relevant fact, that is of abetting the commission of suicide by Meenu. Explanation I to Section 8 of the Evidence Act is clear to the effect that mere statements as distinguished on facts do not constitute 'conduct' unless the statements 'accompany and explain acts other than statements'. Statements that accompany the acts are considered to be an evidence of *res gestae*. Therefore, on mere statements made by the complainant Roop Chand (PW-6) and his wife Kaushalya Devi (PW-5) while appearing in Court by itself would not constitute such circumstances to show that the death of Meenu had occurred in her matrimonial home otherwise than under normal circumstances for, or in connection with, any demand for dowry so as to make out an offence punishable under Section 304-B IPC.

The expressions “soon before” as used in Section 113-B of the Evidence Act relating to creating a presumption as to dowry death and in Section 304-B IPC relating to commission of an offence of dowry death are

very relevant. The prosecution evidence must show that soon before the unnatural death of a 'victim', there was cruelty or harassment for or in connection with demand for dowry in which case the presumption would be operative. No strait jacket formula can be laid down as to how much before a demand for or in connection with dowry was raised.

The learned trial Court noticed that after registration of the case when statements of witnesses were recorded. Smt. Kaushalaya Devi (PW5), who is the mother of the deceased, in her statement (Ex. DA) before the police for the first time on 05.04.2013 recounted a version that her daughter was treated with cruelty on account of demand of dowry by her mother in law, husband, uncle in law and aunt in law, who also used to instigate her for committing suicide. However, except for Sunil, the others were found innocent and not sent up for trial. Besides, Smt. Kaushalaya Devi (PW5) too made improvements in her testimony while deposing in Court. She deposed that Sunil (respondent) and his family members namely Om Parkash, Savitri and Guddi used to beat her daughter and raised demands for cash and car. She was confronted with her statement Ex. DA wherein she did not mention that Sunil (respondent) had raised demand for dowry from her daughter.

Therefore, it is to be noticed that the allegation of demand for dowry were made against other family members of Sunil, who have not been sent up for trial. However, there is no allegation of demand for dowry in respect of Sunil even in the initial statement Ex. DA of Kaushalaya Devi (PW5). It is also to be noticed that Kaushalaya Devi (PW5) in her deposition stated that at the time of 'Holi' festival, the accused Sunil (respondent) had come to their house. At that time her daughter was present there. Sunil had given a beating to her. However, no complaint in this regard is stated to have

been lodged nor any one in the village informed about the beating. Kaushalaya Devi (PW5) also stated that her daughter made a phone call to her on 02.04.2013 and she informed her that she was being beaten by the accused and his family members. The case of the prosecution is that Om Parkash, an uncle of Sunil had informed the complainant Roop Chand at around 11:00 a.m. on 02.04.2013 that Meenu had committed suicide by hanging herself after bolting the door of the room. In the postmortem report (Ex. PK) there is no mention of any injury on the dead body of Meenu (deceased). Dr. Neena Gathwal, SMO, Civil Hospital, Gurgaon (PW12) has deposed that in the opinion of the Board of Doctors that had been constituted which comprised of herself, Dr. Jai Bhagwan, SMO and Dr. Ashish Singhla, MO, the cause of death was mentioned as due to hanging which was ante mortem in nature and sufficient to cause death in natural course.

From the evidence of the prosecution witnesses and the material produced on record, it can be said that the inference drawn by the learned Additional Sessions Judge, Gurgaon that the witnesses had made deliberate improvements in their testimonies so as to bring this case in the shape of a dowry death, cannot be faulted. It was observed that the witnesses had tried to make the present case as one of dowry death by alleging that Meenu was assaulted by Sunil and his family members for demand of dowry. However, the police had not found the allegations against family members of Sunil as correct and had not sent them up for trial.

Insofar as allegation qua demand of dowry in respect of Sunil was concerned, it was observed that the same was not established as the witnesses were making deliberate improvements on the material aspects qua alleged demand of dowry by Sunil as also the ill-treatment of Meenu. It was observed

that it stood established on record that there was no demand of dowry at the time of marriage and the allegations of Kaushalaya Devi (PW5) that Sunil and his uncle demanded a car at the time of marriage was sheer improvement. It was also observed that the matter about alleged harassment of Meenu at the hands of her husband and his other family members was never reported to the authorities and even a meeting of respectable persons of the society was never convened. The said circumstances, it was observed go to show that in fact it was not a case of dowry demand and Meenu (deceased) was never treated with cruelty in connection with demand for dowry as had been projected by the witnesses.

A noticeable feature in the case is that Meenu (deceased) was double M.A. and was more educated than Sunil, who was only fifth-seventh pass as had been deposed by the witnesses. Some improvements have been made by witnesses on this aspect also inasmuch as Smt. Kaushalaya Devi (PW5) and Roop Chand (PW6) in their deposition in Court stated that Sunil was a matriculate while Meenu (deceased) was M.A. pass. However, in the initial complaint (Ex. PI) on the basis which FIR (Ex. PA) was registered, Roop Chand (complainant) had stated that his daughter was M.A. pass while his son-in-law Sunil was fifth-seventh pass. It is a known fact that there can be incompatibility between the marriage partners where one is more educated than the other. In the present case, this has been amply brought out from the deposition of ASI Mahesh Vashisth (PW14) who was the investigating officer in the case. He has stated that during investigation many villagers came to the police station after the death of Meenu along with the complainant i.e. father of Meenu and they were rebuking him as to how Meenu was married with an illiterate boy. It is stated by him (PW14) that they were alleging that the father

of the deceased was responsible for the death of his daughter as he performed her marriage with an illiterate boy. Therefore, it appears that Meenu (deceased) was unable to adjust herself in her matrimonial home and she committed suicide.

The learned trial Court has referred to the suicide note of the deceased which has been proved to be written by her from the testimony of Smt. Kanta Malik (PW13), Scientific Expert, who compared the same with her admitted handwriting. The suicide note of Meenu (deceased) mentions that Sunil (respondent) was responsible for her death and that it was better to die than to live with him. It was also mentioned that the decision to marry her was correct but it was with a wrong person. The said note is indicative of the fact that Meenu (deceased) was not happy with her marriage and it was with a wrong person. Sunil (respondent) in his statement under Section 313 Cr.P.C. states that Meenu (deceased) was double M.A. and she was working with some company before marriage and he was fifth class pass. He further states that she was not happy with him and she had performed marriage with him under pressure of her parents. This was disclosed to him by her. There were lot of differences in their life and education so she could not adjust with him and committed suicide.

Dalip Kumar (DW1), a relative of the complainant Roop Chand (PW6), besides, stating that no demand of dowry was made by Sunil and his family members, also stated that the financial condition of Roop Chand (complainant) was not good and that Meenu was double M.A. and Sunil Kumar (respondent) was fifth class pass. He further stated that he came to know that Meenu performed marriage with an illiterate person under the pressure of her father and she could not adjust herself with Sunil. Bhim Singh (DW2) an

acquaintance of Roop Chand complainant (PW6) also stated that Meenu was double M.A. and Sunil Kumar was fifth class pass.

This aspect has also been adverted to by the learned trial Court and it was noticed that it had come on record that Meenu was 24 years of age and while Sunil (respondent) was only 20 years old. The learned trial Court observed that certainly there was mismatch in the matrimonial alliance and these facts go to show that Meenu was not happy with her marriage.

The question of abetting the commission of suicide has also been considered by the learned trial Court. It was observed that the suicide note cannot be taken as a conclusive proof for holding that Sunil (respondent) was responsible for abetting the commission of suicide by Meenu as there was no evidence on the record of the case as to what act of Sunil (respondent) had driven her to commit suicide. In the suicide note, Meenu had not mentioned that she was treated with cruelty by Sunil or that he had been demanding dowry from him. She simply mentions that Sunil was responsible for her death. Indeed conviction cannot be recorded merely on the basis of a suicide note. There is no mention in the suicide note that Sunil (respondent) had done any wilful act or had intentionally aided or instigated Meenu to commit suicide.

The learned trial Court having taken a view finding Sunil (respondent) to be innocent and acquitting him, the reasons and findings are not to be interfered with merely because another view may be possible. After considering the entire facts and circumstances and going through the evidence on record, it is found that the learned trial Court has recorded cogent and convincing reasons for acquitting Sunil (respondent), which warrant no interference.

For the foregoing reasons, there is no merit in the application seeking leave to appeal and the same is accordingly dismissed.

(S.S. SARON)
JUDGE

(RAJ MOHAN SINGH)
JUDGE

30.10.2015
A.Kaundal