

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Appeal No. S-1956-SB of 2003

Date of decision : 21.07.2016

Yashpal

... Appellant

versus

State of Punjab

... Respondent

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? Yes
3. Whether the judgment should be reported in the digest?

**Present: Ms. Tanu Bedi, Advocate assisted by
Mr. Shivam Grover, Advocate
for the appellant**

Mr. Deep Singh, AAG Punjab

ANITA CHAUDHRY, J.

The appellant was convicted and sentenced to undergo 10 years rigorous imprisonment alongwith fine of Rs. 2000/- under Section 304-B IPC. In default of payment of fine he was to further undergo rigorous imprisonment for a month. Aggrieved by the judgment, this appeal.

The unfortunate incident took place in November 1996 but the case was registered in December 1997 on the basis of a letter sent by the Addl. DGP (Crimes), Chandigarh to the Senior Superintendent of Police, Kapurthala. The brief facts are adumbrated below :-

Anju Bala was taken to the Civil Hospital, Phagwara with burn injuries on 18.11.1996. Ruqa was sent to the police. Mohinder Singh SI recorded her statement on the next day. It was disclosed that burn injuries were suffered while preparing meals. Anju died on 24.11.1996. No FIR was registered and SI Mohinder Singh concluded that no cognizable offence was made out. The proceedings under Section 174 Cr.P.C. were drawn up.

Jagdish Mittar father of Anju Bala approached the High Court with a complaint that his daughter had been set on fire in connection with demand of dowry. He named the husband and other relatives for the incident. The letter was sent by the Addl. DGP (Crimes), Chandigarh to the Senior Superintendent of Police, Kapurthala and FIR was registered on the statement made by the father. Jagdish Mittar disclosed that his daughter was frightened and did not narrate the incident for 2/3 days. She was carrying pregnancy of four months. He had disclosed that Anju was married in February 1996 and was treated with cruelty and beaten up for demand of dowry. He was poor and was unable to fulfill the demands. It was found in the enquiry that Anju Bala did not catch fire accidentally. It was also found that Mohinder Singh SI was extremely careless and departmental proceedings were recommended against him. Site plan was prepared and the accused were arrested. The police filed the challan against the husband and the mother-in-law under Sections 304-B and 498-A IPC. At the trial the prosecution examined Jagdish Mittar, Kanta (mother of the deceased) and the uncle namely Ramesh Kumar. Besides them Dr. Harbans Kaur who was on emergency duty at Civil Hospital, Phagwara. She had referred the patient to DMC Ludhiana on the same day. Dr. U.S. Sooch, Medical Officer, Civil Hospital Ludhiana had conducted the post-mortem examination. The body was identified by Ramesh Kumar and Tarsem Lal.

The Medical Officer had found the following injuries: -

“Superficial to deep burns all over the body except the lower part of front of the abdomen and perinium and sides of both feet. Pus and slough were present at many places on the deadbody. The crest formation was present at the other places on the deadbody. The singeing of hair of body was present and the scalp the cause of death, in this case, in the opinion of the doctor, was as a result of septicemia due to

extensive infected burns which were sufficient to cause death, in the ordinary course of nature. The time lapsed between the burns and death was about 6 days and the time between death and post mortem examination was about 24 hours. He proved Ex. PE, the carbon copy of the post mortem report and Ex.PE/1, the pictorial diagram.”

The prosecution also examined Inspector of the Crime Branch. He also proved the record and the letter sent by the Addl. DGP (Crime Branch), Punjab. He also proved the statement given by Jagdish Mittar.

SI Mohinder Singh left for Canada and did not come back and the prosecution was unable to examine him and gave him up. Kuldip Singh the second Investigating Officer meanwhile had died.

In the statement recorded under Section 313 Cr.P.C. the accused abjured the trial and pleaded that the relations between the couple were cordial and there was no demand of money nor the girl was harassed and it was an accidental fire while preparing meals on the stove. It was stated that the dispute arose when Jagdish Mittar asked for return of the household articles and since they had refused, the complaint was given to the High Court. A similar defence was raised by Shakuntla.

The accused had examined Vinay Kumar Sharma DW1.

The trial Court accepted the statement of the witnesses and rejected the dying declaration of Anju Bala as no declaration regarding mental fitness was taken. It noted that the statement was not made in the presence of Doctor or a Magistrate. The trial Court convicted only the husband.

I have heard learned counsel for the parties.

The submissions made on behalf of the appellant were that elder

brother of the accused had taken Anju to the hospital and though the death had taken place within 9 months of marriage but there is no evidence that soon before her death there was any harassment or cruelty at the hands of the accused and in connection with demand of dowry. It was urged that brother of the complainant was Reader with the Sessions Judge and had ample legal assistance and there was no explanation as to why no complaint was made. It was urged that FIR had been lodged after a delay and the essential ingredients of Section 304-B IPC have not been fulfilled and the witnesses are not credible and the dying declaration Ex. PK supports the defence. It was urged that the DDR though not proved but is part of challan and can be seen. It was urged that 32 persons had signed Ex. D-2 and they have vouched that it was a case of accidental death and, therefore, the investigating officer did not find it a fit case for registration of the FIR. It was urged that dowry demand has not been proved. The submission was that there was delay in lodging the FIR and it lacked spontaneity and the death was accidental. It was urged that according to the prosecution witnesses a sum of Rs. 40,000/- was demanded and if that demand had been fulfilled there was no demand which was pending. It was urged that there should be proximate link between cruelty and death and that evidence was missing. Reliance was placed upon *Ram Badan Sharma vs. State of Bihar, AIR 2006 SC 2855*, *Kunhiabdulla and another vs. State of Kerala, AIR 2004 S 1731*, *Baljeet Singh and another vs. State of Haryana, AIR 2004 SC 1714*, *M. Srinivasulu vs. State of A.P., AIR 2007 SC 3146*, *Baljeet Singh and another vs. State of Haryana, AIR 2004 SC 1714*, *Biswajit Halder @ Babu Halder and others vs. State of West Bengal, JT 2007(5) SC 360* and *State of Rajasthan vs. Teg Bahadur and others, JT 2004(8) SC 116*.

On the other hand, learned State counsel supported the judgment and it was urged that the Investigating Officer did not even care to visit the spot and had

the doctor and investigation was blotched up. It was urged that the appellant was wanting to take benefit of panchayatnama and the parents have denied that they had given any statement and their signatures were taken for taking possession of the body from the hospital. It was urged that there was no cross examination on the Medical Officer that it was accidental death and the death had taken place within 9 months and the girl was four months pregnant and the FIR was registered only after the father had approached High Court and the matter was investigated and the Investigating Officer absented from duty and had gone abroad and departmental proceedings were initiated against him. It was urged that the history given to the doctor was by the persons who had accompanied her but when the matter was enquired into no such evidence could be produced and all the ingredients of Section 304-B IPC are satisfied and the presumption under Section 113-B of the Evidence Act would be available and the statement of the witnesses were credible.

I have carefully considered the rival submissions and perused the material available on record. Among the various contentions raised by both the sides the major part relates to the legal submissions relating to the admissibility and reliability of the dying declaration made by the deceased before the Investigating Officer. Before examining the merits of the submissions it is necessary to notice the law on dying declaration.

In ***Munnu Raja and Another vs. The State of Madhya Pradesh, (1976) 3 SCC 104***, the Apex Court held:-

"....It is well settled that though a dying declaration must be approached with caution for the reason that the maker of the statement cannot be subject to cross- examination, there is neither a rule of law nor a rule of prudence which has hardened into a rule of law that a dying declaration cannot be acted upon unless it is corroborated...."

It is true that in the same decision, it was held, since the Investigating Officers are naturally interested in the success of the investigation and the practice of the Investigating Officer himself recording a dying declaration during the course of an investigation ought not to have been encouraged.

In *Paras Yadav and Ors. vs. State of Bihar, (1999) 2 SCC 126*, the Apex Court held that lapse on the part of the Investigation Officer in not bringing the Magistrate to record the statement of the deceased should not be taken in favour of the accused. This Court further held that a statement of the deceased recorded by a police officer in a routine manner as a complaint and not as a dying declaration can also be treated as dying declaration after the death of the injured and relied upon if the evidence of the prosecution witnesses clearly establishes that the deceased was conscious and was in a fit state of health to make the statement.

The effect of dying declaration not recorded by the Magistrate was considered and reiterated in *Balbir Singh & Anr. Vs. State of Punjab, (2006) 12 SCC 283*. Paragraph 23 of the said judgment is relevant which reads as under:

"23. However, in State of Karnataka v. Shariff, (2003) 2 SCC 473, this Court categorically held that there was no requirement of law that a dying declaration must necessarily be made before a Magistrate. This Court therein noted its earlier decision in Ram Bihari Yadav v. State of Bihar, (1998) 4 SCC 517, wherein it was also held that the dying declaration need not be in the form of questions and answers. (See also Laxman v. State of Maharashtra, (2002) 6 SCC 710)."

It is clear that merely because the dying declaration was not recorded by the Magistrate, by itself cannot be a ground to reject the whole prosecution case. It also clarified that where it appears from the records that the dying declaration is not reliable, a question may arise as to why the Magistrate was not called.

In State of *Rajasthan vs. Wakteng*, (2007) 14 SCC 550, the view in Balbir Singh's case(supra) had been reiterated. The following conclusions are relevant which read as under:

"14. Though conviction can be based solely on the dying declaration, without any corroboration the same should not be suffering from any infirmity.

15. While great solemnity and sanctity is attached to the words of a dying man because a person on the verge of death is not likely to tell lie or to concoct a case so as to implicate an innocent person but the court has to be careful to ensure that the statement was not the result of either tutoring, prompting or a product of the imagination. It is, therefore, essential that the court must be satisfied that the deceased was in a fit state of mind to make the statement, had clear capacity to observe and identify the assailant and that he was making the statement without any influence or rancour. Once the court is satisfied that the dying declaration is true and voluntary it is sufficient for the purpose of conviction."

It is to be determined whether the dying declaration recorded in this case can be held to be a truthful one and voluntarily given. It has been laid down in numerous judgments that before recording the declaration, the officer concerned must find that the declarant was in a fit condition to make the statement.

The analysis of the above clearly shows that a dying declaration can be the sole basis of conviction if it inspires full confidence. The Court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and it was not a result of tutoring, promoting or imagination. Dying declaration can be accepted if the Court is satisfied that the declaration is true and

voluntary and can be acted upon. Where the dying declaration is suspicious then it can not be acted upon without corroborating evidence but dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement can not form the basis of conviction.

In the present case the trial Court did not find the dying declaration credit worthy and had made scathing remarks against the Investigating Officer for the sake of repetition it needs to be mentioned that the Investigating Officer was not available and the prosecution did not examine him.

Anju was admitted in the Hospital with burn injuries on the night of 18.11.1996, whatever material is available it shows that her brother-in-law (husband's brother) was present. The husband's presence is not shown in any record. Anju was firstly taken to the Civil Hospital, Phagwara. The Medical Officer on duty referred the case to DMC Ludhiana. The MLR though not exhibited is available on record, records the admission in DMC Ludhiana at 11.30 p.m. on 18.11.1996. The Medical Officer did not mention about the percentage of the burns it only refers to the fact that burn injuries were caused when the stove had burst while cooking, the patient was smelling of kerosene and the clothes were drenched in the kerosene and the patient was complaining of pain at the burn site. The age of the victim, the husband's name are also recorded therein. The patient was brought by Arunder (can be read so). At the back of the MLR there is a pictorial depiction, it says 80 to 85 % flame burns and is signed by the Medical Officer. Mohinder Singh SI from Police Station City Phagwara recorded the statement Ex. PK and completed the statement at 1.45 p.m. on 19.11.1996. It appears that the Right Foot Thumb impression was taken as under the impression 'RFT' is mentioned. On the same day SI Mohinder Singh also recorded the statement of Jagdish Mittar Ex. D1. A joint statement of Panchayat is recorded on

25.11.2000 which is signed by more than two dozen people where the same story is reiterated that the fire was accidental.

The Medical Officer had stated that ruqa Ex. PC was sent to police on 18.11.1996 though date indicated therein is 18.12.1996. The Medical Officer while appearing as PW3 stated that inadvertently the date under her signatures has been mentioned as 18.12.1996 though the correct date was 18.11.1996. The reference note is Ex. PD. DDR was entered. The postmortem was conducted. Nothing more was done. The Investigating Officer did not visit the spot. Later a complaint was sent to the High Court where allegations were levelled by Jagdish Mittar and it is thereafter that FIR is registered and the investigation is commenced. The previous Investigating Officer was not available to make a deposition and his signatures were sought to be proved by ASI Narain Dass. The investigation was handed over to ASI Kuldip Singh who died during the pendency of the case and the prosecution was deprived of his statement as well. With this background and other circumstances the evidence, it is to be ascertained whether the dying declaration could be accepted.

The trial Court rejected the dying declaration and made scathing remarks against Mohinder Singh which are noted in para 20 of the judgment.

“20. Before touching the matter, as to whether, Anju Bala died otherwise than under natural circumstances, or not, it becomes the bounden duty of the Court to record its concern, with regard to the slipshod manner, in which the investigation was conducted by Mohinder Singh, SI, who has since gone abroad and did not appear as a prosecution witness. It may be stated here, that Mohinder Singh, SI, the Investigating Officer, conducted the investigation with malafide and extraneous motive, just with a view to help the accused. He fabricated and forged the statements of Anju Bala, Jagdish Mittar,

Ramesh Kumar and Kanta Rani, with a design to ensure that the accused wriggled out of the criminal liability. The investigation had been conducted in a most dishonest, partial, unfair, biased and extremely condemnable manner, with the sole motive to save the accused. SI Mohinder Singh failed to protect and preserve the place of occurrence immediately after he came to know of the incident. He even did not bother to visit the place of occurrence to collect the evidence, in the shape of stove, tin of kerosene oil, and other burn objects, which were very material to clinch the matter in controversy. He did not prepare the site plan of the place of occurrence, immediately after the same took place. He did not obtain the opinion of the doctor, as to whether she was fit, before recording the statement of Anju Bala. He did not try to procure the service of a Judicial Magistrate, for recording the statement of Smt. Anju Bala. He did not seek the opinion of the doctor and recorded the statement of Anju Bala. He did not try to find out, as to whether, there was a kitchen, at the place, where the deceased caught fire. He also did not try to find out, as to whether there was a provision of liquefied gas in the said kitchen. His vision, perhaps, became blind, with extreme greed, controlling the same, and with dead conscious, he set on the journey, with a view to see that the accused somehow or the other, must escape the dragnet of law. When the protector of law, himself, becomes the destructor thereof, the perpetrators of crime would bask under the sun, making mockery of the provisions of law. The nefarious acts of Mohinder Singh, SI, during the course of investigation of this case, were also exposed, during the course of the enquiry, conducted by the Crime Branch. Copy of the aid report is Ex.PG, which is a piece of evidence, which ultimately, led to the registration of the case, against

the accused u/s 304-B IPC. In these circumstances, it is, in this back-ground, that the statements of the witnesses and Anju Bala, referred to above, recorded by Mohinder Singh, SI, during the course of investigation, are required to be scrutinized. It is, in this back-ground, that it is to be seen, as to whether, any reliance can be placed, on such statements, so as to come to the conclusion, if the death of Anju Bala took place otherwise than under natural circumstances or not. Mohinder Singh, SI, with impunity subverted the course of justice. In my considered opinion, such like statements, recorded by Mohinder Singh, SI, which are the result of fabrication and forgery, cannot be taken into consideration.....”

It is not in dispute that Anju was married to Yashpal on 09.02.1996 and she died under unnatural circumstances on 24.11.1996 with burn injuries. Death had taken place within a year of marriage. The cause of death indicated in the postmortem report is septicaemia due to extensive infected burns. It is necessary to now notice the relevant provisions contained in Section 304-B and Section 113-B of the Indian Evidence Act:-

Section 304-B of the Indian Penal Code 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."

A legal fiction has been created in the said provision to the effect that in the event it is established that soon before the death, the deceased was subjected to cruelty or harassment by her husband or any of his relative; for or in connection with any demand of dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. The Parliament has also inserted Section 113 B of the Indian Evidence Act by Act No.43 of 1986 with effect from 1.5.1986 which reads as under :-

"113.B- Presumption as to dowry death.- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation.- For the purposes of this section, "dowry death", shall have the same meaning as in section 304-B of the Indian Penal Code (45 of 1860)."

From a conjoint reading of Section 304-B of the Indian Penal Code and Section 113-B of the Indian Evidence Act, it will be apparent that a presumption arising thereunder will operate if the prosecution is able to establish the circumstances as set out in Section 304-B of the Indian Penal Code.

The ingredients of the aforementioned provisions are :

(1) That the death of the woman caused by any burns or bodily injury or in some circumstances which is not normal; (2) Such death occurs within 7 years from the date of her marriage (3) That the victim was subjected or cruelty or harassment by her husband or any relative of her husband; (4) Such cruelty or harassment should be for or in connection with demand of dowry; and (5) is established that such cruelty and harassment was made soon before her death.

In the case of unnatural death of a married woman as in a case of this nature, the husband could be prosecuted under Section 302, Section 304-B and Section 306 of the Indian Penal Code. The distinction as regards commission of an offence under one or the other provisions as mentioned hereinbefore came up for consideration before a Division Bench in *Satvir Singh & Ors. v. State of Punjab and another*, [(2001) 8 SCC 633], wherein it was held :

“Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is "at any time" after the marriage. The third occasion may appear to be an unending period. But the crucial words are "in connection with the marriage of the said parties". This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not enveloped within the ambit of "dowry". Hence the dowry mentioned in Section 304-B should be any property or valuable security given or agreed to be given in

connection with the marriage.

It is not enough that harassment or cruelty was caused to the woman with a demand for dowry at some time, if Section 304-B is to be invoked. But it should have happened "soon before her death." The said phrase, no doubt, is an elastic expression and can refer to a period either immediately before her death or within a few days or even a few weeks before it. But the proximity to her death is the pivot indicated by that expression. The legislative object in providing such a radius of time by employing the words "soon before her death" is to emphasise the idea that her death should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a perceptible nexus between her death and the dowry-related harassment or cruelty inflicted on her. If the interval elapsed between the infliction of such harassment or cruelty and her death is vide the court would be in a position to gauge that in all probabilities the harassment or cruelty would not have been the immediate cause of her death. It is hence for the court to decide, on the facts and circumstances of each case, whether the said interval in that particular case was sufficient to snuff its cord from the concept "soon before her death".

The prosecution case was unfolded by Jagdish Mittar and his wife Kanta and brother Ramesh Kumar PW-3. The defence raised by accused was that Anju had died on account of burn injuries which she had suffered while preparing meals. The submission was that the death could not be said to be otherwise than under natural circumstances and had placed reliance upon dying declaration recorded by SI Mohinder Singh. It was vehemently urged that the last statement

should be held to be truthful and even the family had endorsed the statement and the Investigating Officer had recorded not only the statement of the father and his brother but also of the Panchayat to which the complainant was a signatory and the dying declaration ought not to be rejected since there was no certification by the Doctor. It was also sought to be urged that the dying declaration should not be discarded since it was recorded by the Investigating Officer.

The police did not register FIR though the death was under unnatural circumstances. The family had approached the senior officers but were not heard. They sent a complaint to the High Court which was forwarded to the DGP (Crime Branch) and it was then that the police sat up and registered the FIR. The Investigating Officer thereafter left the country and his statement could not be recorded. He had made himself elusive so as to benefit the accused. It is not clear whether the Authorities concerned had taken any action ? Whether the police official had taken leave or had illegally extended his stay? Did he return ? At the end of the trial it was simply stated that he had gone abroad and was given up and the prosecution case was closed.

The record shows that ruqa was sent by the Medical Officer at Phagwara. The injured had been shifted to DMC Ludhiana the same night. The Investigating Officer reached the hospital after about 12 hours though the distance between Phagwara and Ludhiana is just an hour away. There was plenty of time for him to call a Magistrate and get the certificate of fitness from the Medical Officer but he chose not to do so. He did not bother to visit the place of occurrence to find out whether actually it was a case of stove burst. The Investigating Officer did not ascertain and preserve the place of occurrence. He on his own made a noting that he had obtained the opinion of the Medical Officer. The defence failed to examine any medical officer who could vouch that his opinion was taken before the

statement was recorded. With the extent of burn injuries noted at the back of the MLR, it is difficult to accept that the condition was satisfactory or that the injured was conscious or could respond to verbal commands. Some treatment must have been given at the time of admission in the hospital in the night of 18.11.1996. There would be some extent of drowsiness.

The defence raised by accused was that the husband had also suffered injuries while saving the wife but there is no medical to show that any injuries were sustained by him or he had got himself medically examined. The complainant has explained that signatures were taken by SI Mohinder Singh and it was signed by them as the body was to be taken from the hospital and they had not made any such statement. Why did SI Mohinder Singh record the statement of the Panchayat? Where was the need for the Panchayat to be called on 25.11.1996. If the father had already made a statement in favour of the accused. The statement given by them was "they agreed that the death was due to bursting of the stove". There was no need for the Panchayat to endorse it. None of the panchayat members were examined in defence. It appears that it had been done to weaken the case of the complainant. The prosecution was deprived of the information which the Investigating Officer had collected. Mohinder Singh SI failed to visit the place of occurrence to find out whether the medium for cooking was liquefied gas or kerosene. The Investigating Officer for extraneous reasons made himself unavailable and left the country. The complainant as well as the witnesses have spoken about the harassment and demand of dowry. The complainant had stated that his signatures were taken on the paper as the dead body was to be brought to the Phagwara. A perusal of the statement shows that a small line has been drawn to indicate whether the complainant had to put his signatures. It could be the writing had been made subsequently. The anxiety and helplessness of the parents can be

understood. A young daughter had been done to death in the matrimonial home

within 9 months of the marriage. The girl was expecting. The MLR of DMC Hospital shows extensive burns on the front and back.

The dying declaration set up by the defence has to be rejected as it is suspicious and can not be acted upon. It was recorded by the Investigating Officer without any medical certification. The Investigating Officer failed to take the mental fitness declaration from the Medical officer. He failed to summon the Magistrate. He did not appear to prove the statement. There is no explanation why there was any need for him to call the Panchayat and record their statement. No doubt a police officer during investigation can record the dying declaration. It is admissible under Section 32 of the Indian Evidence Act but in view of the exception provided in sub-section 2 of Section 162 Cr.P.C., it is better to leave such dying declaration out of consideration until and unless the prosecution satisfies the Court, as to why it was not recorded by the Magistrate or by a Doctor. It has been settled long ago and is now a established practice that the Investigating Agency must get a declaration from a Medical Officer regarding the mental fitness. He could record if there is an urgency and there was no time to call a Magistrate. The established practice because of development of law through the pronouncement of the judgments is that such declaration would be recorded by Magistrate or by a Doctor to eliminate the chances of any doubt or false implication. The facts of the case when examined only point to the fact that the Investigating officer had been managed from the very beginning. He spoilt the case of the prosecution, the investigation was flawed. The dying declaration has to be rejected.

The complainant and the other prosecution witnesses have spoken about the demand and the harassment the girl was facing. The witnesses have spoken about the demands which could not be fulfilled. The death in this case is within 9 months of the marriage. The girl had been speaking to her parents and had

been conveying as to what she was undergoing. The girl was subjected to cruelty in connection with dowry and there is proximate link between the cruelty, demand of dowry and her death. There is sufficient evidence to sustain the conviction of the appellant. As a result the conviction is maintained.

The appeal is dismissed. The appellant is on bail. He would surrender within three weeks to undergo the remaining part of the sentence.

Copy of the order be sent to Chief Judicial Magistrate, Kapurthala. In case the appellant fails to surrender the CJM would take necessary steps.

July 21, 2016
reena

(ANITA CHAUDHRY)
JUDGE