

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

**Criminal Appeal D-137-DB of 2012
Date of Decision: August 2, 2016**

Surender Singh	Versus	Appellant
State of Haryana		 Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. J.S.Dahiya, Advocate
for the appellant.

Mr. Praveen Bhadu, Assistant Advocate General, Haryana.

T.P.S.MANN, J.

The present appeal has been filed by Surender Singh, son of Rajender Singh, against the judgment and order dated 13/17.1.2012 passed by the learned Additional Sessions Judge, Rohtak.

Vide impugned judgment and order, the trial Court convicted the appellant under Section 302 IPC and sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.20,000/- and in default of payment of fine, to undergo rigorous imprisonment for six months. He was also convicted under Section 498-A IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of

Rs.5,000/- and in default of payment of fine, to undergo rigorous imprisonment for three months. Both the sentences were ordered to run concurrently.

According to the prosecution, Attar Singh, resident of village Madina, Tehsil Meham, District Rohtak instituted a private criminal complainant dated 1.7.2006 Ex.PB under Section 156(3) Cr.P.C. seeking direction to the police to register a case against the appellant, his father Rajender, mother Angoori, sister Meena and sister's husband under Sections 498-A, 304-B, 302 read with Section 120-B IPC. In compliance of orders of the Ilqa Magistrate, Assistant Sub-Inspector Bhim Singh registered FIR No. 366 dated 7.7.2006 (Ex.PB/1) at Police Station City, Rohtak for the aforementioned offences. For the facility of reference, the contents of the criminal complaint are reproduced hereinbelow:-

“The complainant submits as below:-

1. That the complainant Attar Singh son of Sh. Khushiya is the resident of village Madina, Tehsil Meham, District Rohtak. He had two issues, one son and one daughter. He had married his daughter Neelam on 9.7.2000 according to Hindu rites and ceremonies with Surender son of Rajender, resident of village Makrauli Kalan, at present living at H.No. 243/1, Indira Colony, Rohtak. The complainant had given dowry in the marriage of his daughter beyond his means. But the accused did not feel happy with the dowry and harassed Neelam and taunted her as daughter of

hungry family for bringing less dowry. When she came to her parental home after visiting her matrimonial home told to the complainant and his wife that the father-in-law, mother-in-law, sister-in-law, husband of sister-in-law and her husband were not happy with the dowry, though he had given the golden ring to Naresh husband of Smt. Meena and a golden chain to Smt. Meena sister of Surender at the asking of Rajender, father-in-law of Neelam.

2. That after staying for 2 days at the house of the complainant, Neelam returned to her matrimonial home and continued to forebear the harassment with the hope that circumstances will change favourably once some issue was born to her. On 20.12.2001, Neelam came to the house of the complainant and told to him and his wife that her brother-in-law Naresh and sister-in-law Smt. Meena had come a week earlier at the matrimonial home of Neelam and they have instigated the husband, father-in-law and mother-in-law of Neelam for seeking more dowry and, thereafter, all in one were pressing hard to bring Rs. 1 lac from her parents on the pretext of starting a private school for Surender. Neelam while weeping told the complainant and his wife that the accused while making her life impossible if she returned without money.
3. That the complainant arranged Rs.50,000/- and as Neelam was carrying at that time told her that at the occasion of birth of the first child, they will try to please the accused by giving good gifts. Next day,

Surender husband of Neelam came to take her with him and the complainant handed over Rs.50,000/- to him and sent Neelam with him. Neelam gave birth to a male child on 14.3.2002. At the occasion of Piliya, the complainant gave golden chain to mother-in-law and sister-in-law of Neelam and to Neelam also alongwith customary silver ornaments of the child. The complainant gave costly clothes to Rajender father-in-law, Smt. Angoori mother-in-law, Surender husband and Naresh brother-in-law of Neelam alongwith Rs.50,000/- as cash, but these persons did not get satisfied. After sometime, they hatched a conspiracy to force Neelam to get 2 acres of agricultural land situated in village Madina transferred from her father in favour of Surender under the pretext of starting a school in village Madina with the representation that the school had prospects of good running in that village, Neelam refused to oblige them and resultantly, they started to harass her by humiliating, insulting and beating time and again for lame excuses. On 26.1.2004, Neelam came to the house of the complainant and told to him and his wife that she was being tortured by the accused and more particularly by her mother-in-law and husband, as they were demanding her to get 2 acres of land transferred from her father to Surender in village Madina for starting a school there.

4. That under the compulsion of daughter's welfare, the complainant had a talk with his brothers and on 29.3.2004 transferred 2 acres of agricultural land in

favour of Surrender. Surrender started a school there but that also did not run successfully. In the meantime, Surrender got insured Neelam and her son Montu.

5. That on 13.6.2006, all the accused assembled at the house of Rajender in Indira Colony, Rohtak and hatched a conspiracy to do away with Neelam and Montu in such a manner that the same may look like an accident and in furtherance of the said conspiracy, Surrender enticed Neelam to have a religious bath at Haridwar. Mother-in-law and sister-in-law played an effected role in persuading Neelam to accompany Surrender to have a religious bath at Haridwar. Before leaving for Haridwar on 14.6.2006, Neelam had a telephonic talk with her mother where she told to her mother about going to Haridwar to have a religious bath with Surrender. She expressed surprise for the persuasion and encouragement to her by her mother-in-law and sister-in-law for going to Haridwar for a religious bath.
6. That Surrender left for Haridwar in a car taking along Neelam and her son Montu on 14.6.2006 afternoon and after staying at Haridwar on the intervening night of 14/15.6.2006, they left for Neelkanth on 15.6.2006 from Haridwar. In furtherance of the conspiracy hatched at Rohtak, Surrender got a five litres can full of petrol getting the tank of the car full of petrol and on his way to Neelkanth, he stopped the car at a deserted place and sprinkled the petrol from the can on the car and set the same on fire. Montu got burnt

in the car and died therein while Neelam got dangerously burnt but she was able to come out of the car and cried for help. On hearing her cries, passerby intervened, put off her fire and got her admitted in Hospital. Surrender informed his family members including his father, mother, brother-in-law and sister who rushed to Haridwar. They all together put up a false case before the police concocting the occurrence as an accident and took over the possession of dead body of Montu after post-mortem and got their statements recorded before the police accordingly. Thereafter, under the fear that Neelam may not come to her senses and may make the statement to the police got Neelam discharged from the hospital under the pretext that she be referred to P.G.I.M.S., Rohtak for better treatment. The accused did not arrange for any nurse, glucose or oxygen for the travel as they were expecting and intending Neelam to breath her last on the way to P.G.I.M.S., Rohtak. The accused did not inform the complainant or any member of his family about the whole occurrence.

7. That the complainant got information from a common relation and he immediately summoned his relative Ranbir Singh of village Dubheta, District Sonapat to P.G.I.M.S., Rohtak. Ranbir Singh reached at about 8.00 p.m. on 16.6.2006 at P.G.I.M.S., Rohtak where Surrender met him. In the meantime, doctor had summoned the police of Police Post, P.G.I.M.S., Rohtak who had arranged the Judicial Magistrate for

recording the statement of Neelam wherein she told to the Magistrate that Surender had put her and Montu her son on fire out of sheer greed to usurp the land transferred in his favour by her father and to get the insurance amount. Surender got frightened and demoralized at the recovery of Neelam and her statement made before the Magistrate. On seeing Ranbir Singh, Surender sought his rescue in him, admitted his guilt before him and prayed for getting him pardoned. Surender told to Ranbir that he had turned mad in greed and was misguided by his parents, brother-in-law and sister. Ranbir consoled Surender and thereafter, went to the bed of Neelam where he found the complainant and his wife. Ranbir told to the complainant about the confession of Surender and his request for pardon.

8. That as a consequence of burn injuries, Neelam died on 23.6.2006. But before her death, she told to her mother that her brother-in-law and sister-in-law were the kingpins of the conspiracy to murder them.
9. That all the five accused under a conspiracy hatched at Rohtak had murdered Neelam and her son Montu out of greed to usurp 2 acres of land and the insurance money.
10. That the accused have, thus, committed offences triable under Sections 302, 304-B IPC read with Section 120-B IPC and deserve to be tried and punished for the same.
11. That the S.S.P., Rohtak in league with the accused has refused to register the case against the accused

inspite of best efforts of the complainant under the pretext that jurisdiction for the case is made out at Haridwar.

12. That the complainant finding no way out files the present complaint before the Hon'ble Court and prays for direction under Section 156(3) Cr.P.C. to S.H.O., Police Station City, Rohtak to register a case against the accused under Sections 302, 304-B read with Section 120-B IPC and investigate.

It is, therefore, prayed that an order may be issued to S.H.O., P.S., City Rohtak under Sections 156(3) Cr.P.C. to register the case against the accused under Sections 498-A, 302 and 304-B read with Section 120-B IPC and investigate the same”.

During the investigation of the case, the statements of the witnesses were recorded and other formalities conducted. The appellant was arrested. However, no material was found against his father, mother, sister and sister's husband. Accordingly, final report under Section 173 Cr.P.C. was prepared and submitted against the appellant. After commitment of the case, the trial Court framed charges for commission of offences punishable under Sections 498-A, 304-B and 302 IPC, to which, he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined twenty witnesses.

PW1 Head Constable Devender deposed that he had

taken special report of the case and handed it over to the Ilaqa Magistrate and other police officers.

PW2 Constable Sumit Kumar deposed that he had prepared scaled site plan Ex.PA of the place of occurrence.

PW3 complainant Attar Singh stated that he had two children, daughter Neelam and son Sandeep. His daughter Neelam was married with Surender accused on 9.7.2000. At the time of marriage, sufficient dowry was given, but the accused and his parents were not satisfied with the dowry given by him. When his daughter came to them after two days of her marriage, she apprised his wife that her parents-in-law, sister-in-law Meena and her husband Naresh were not satisfied. They made their daughter to understand that the matter will be settled with lapse of time.

On 20.12.2001, when his daughter came to his house, she told his wife that her parents-in-law, sister-in-law and her husband Naresh were taunting her for bringing inadequate dowry and they had raised a demand of Rs.1,00,000/- for running a school for Surender. Accused Surender came to their house after 5/7 days of arrival of Neelam. A sum of Rs.50,000/- was arranged by him and given to Surender and Neelam was sent with him. His daughter was pregnant at that time. On 4.3.2002, Neelam was blessed with son Montu. In Piliya ceremony, gold chains for Neelam, sister-in-law Meena and mother-in-law Angoori and other

customary gifts for newly born baby were given. Wearing clothes for Surrender, his father Rajender and brother-in-law Naresh were also given at that time alongwith Rs.50,000/-.

In the year 2004, his daughter Neelam came to their house and told his wife that her husband intended to start a school and for that purpose two acres of land was required by him. Two acres of agricultural land was transferred by him and his brothers in favour of Surrender. No school building was constructed over that land. Accused Surrender sold the agricultural land which was transferred in his name by them. Neelam and her son Montu were insured for a huge amount. When Neelam raised objection regarding sale of agricultural land transferred to him (Surrender), he told to Neelam that if she would raise the issue of selling two acres of land, she will be taken to some unknown place and will be killed.

On 13.6.2006, accused Surrender alongwith mother Angoori, father Rajender, sister Meena and Naresh, his brother-in-law made a plan to get Neelam have a holy dip at Haridwar. On 14.6.2006, Neelam made a telephonic call to her mother that Surrender had brought her and Montu to Haridwar for holy dip as per the plan made by his parents, sister and Naresh. They (Neelam, Surrender and Montu) stayed at Haridwar on 14.6.2006. On 15.6.2006, they started their journey from Haridwar

to Neelkanth. On the way, Surrender purchased petrol in a plastic can. When they were further on their way to Neelkanth, Surrender stopped the car at a lonely place. He sprinkled petrol on the car and put it on fire. As a result, Montu was charred in the car and died. Neelam cried for her child. The passerby extinguished the fire and removed Neelam to the hospital at Haridwar. From there, Neelam was got referred to P.G.I.M.S., Rohtak. But the accused did not inform them about the occurrence. They came to know through their other relatives. During the transit from Haridwar to Rohtak, no life saving measures were given to her as the accused wanted her to die on the way. Neelam was brought to Rohtak from Haridwar by accused Surrender, his parents, sister Meena and her husband Naresh. They also reached P.G.I.M.S., Rohtak. Neelam told that the occurrence has not taken place by chance but it was a result of pre-plan made by her husband, her parents-in-law, sister-in-law and her brother-in-law. The police was informed by the doctor. Police reached there and they conducted their proceedings. Statement of Neelam was got recorded by the Magistrate. On 16.6.2006, his brother-in-law Ranbir came to Medical College, Rohtak and met Surrender. He (Surrender) told him (Ranbir) that he had committed the blunder at the instance of his parents, sister and her husband, anyhow, the matter be settled and he may be saved. Ranbir came to him and

told that Surender had told him about the way in which he had committed the crime. They wanted to lodge a report with the police, but the police did not take any action. However, the matter was got lodged through the Court later on. His complaint Ex.PB bore his signatures. His daughter Neelam died on 23.6.2006 in P.G.I.M.S, Rohtak due to burn injuries which she had received in the occurrence. Accused had committed this crime in order to grab the property and claim the insured amount in respect of Neelam and her son Montu.

PW4 Dr. R.S.Chauhan deposed that on 16.6.2006, when he was working at District H.M.G. Hospital Haridwar, he performed post-mortem on the dead body of Hitender @ Mintu, four years' old male son of the appellant. The body was totally black charred and burnt. The burns were hundred percent. Externally, no part of body could be seen normal. All parts and skin were black from head to toe. In his opinion, death was caused by septicemic shock as a result of severe burn injuries. All the injuries were ante-mortem in nature.

PW5 Dr. Satish Kumar Ahuja testified that on 23.6.2006 at about 2.45 p.m., while he was posted as Medical Officer, General Hospital, Rohtak, he conducted postmortem on the dead body of Neelam, wife of the appellant, aged twenty five years. There were present superficial to deep burns on face,

mammary region sparing inter mammary region, anterior lower chest, whole abdomen, back of thorax and abdomen, external genitalia, both upper limbs, both lower except anterior half of both feet. Burns were approximately 90%. There was red line of demarcation present. Singeing of hair was present. Pus was present at places. All other organs were healthy and congested. Organs of generation uterus was healthy and non-pregnant. In his opinion, the cause of death was due to extensive burns and their complications. The burns were ante-mortem in nature and were sufficient to cause death in normal course of nature.

PW6 Sandeep, son of complainant Attar Singh testified that his sister Neelam was married to Surender accused on 9.7.2000 as per Hindu rites and ceremonies. The accused is resident of Indira Colony, Rohtak. The father-in-law Rajender of his sister Neelam, her mother-in-law Angoori, sister-in-law Meena and brother-in-law Naresh were not satisfied with the dowry articles and they were taunting to Neelam being from a 'Bhukha Nanga Ghar'. On the instigation of above persons, Surender forced Neelam to bring cash amount from her parents. When she refused, he used to beat her. When his sister Neelam conceived, she came to their house and told him that her in-laws were pressing to bring rupees one lac for a school from their house and if she would not bring the money she apprehend threat to her life.

Surender came to fetch Neelam. His father gave Rs.50,000/- to him and told Surender that remaining amount will be given at the time of Piliya. She gave birth to a son Montu. His father in Piliya ceremony gave Rs.50,000/- cash and ornaments, gold and silver, and valuable clothes to Surender. After some time, Neelam came to their house and she demanded two killas of land for running a school at the asking and pressure of Surender. His father gave two killas of land for running a school to Surender. Surender had taken insurance policy in the name of Neelam and Montu. On 14.6.2006, he went to the house of Neelam on asking of his mother. They had a programme to go to Haridwar for a holiday trip. Her mother-in-law Angoori, father-in-law Rajender, sister-in-law Meena and brother-in-law Naresh told Surender that he should arrange for a good bath to Neelam and Montu. Surender replied not to worry as he would arrange for a bath that Madina wale Yaad Rakhege. After that Surender alongwith Neelam and Montu left for Haridwar. On 16.6.2006, they came to know that Neelam was admitted in P.G.I.M.S., Rohtak after receiving burn injury through a relative. He alongwith his family members went to P.G.I.M.S., Rohtak. He came to know that Surender after sprinkling petrol on Neelam and Montu put a fire on them. Surender had done this to usurp two killas of land and the insurance money and had burnt them mercilessly. Neelam

breathed her last in P.G.I.M.S., Rohtak. Montu already died at the spot. Accused Surender had burnt Neelam and Montu in Haridwar.

PW7 EHC Surender Singh deposed that he had taken seven photographs of burnt Maruti Car Ex.P1 to Ex.P7 and their negatives Ex.P8 to Ex.P14 on the road from Rishikesh to Neelkanth.

PW8 Head Constable Jai Bhagwan deposed that on 30.10.2006, the appellant was interrogated by Sub-Inspector Samunder Singh and made disclosure statement Ex.PJ without any pressure or coercion to the effect that he could get recovered plastic can used in the crime.

PW9 Assistant Sub-Inspector Ram Kumar M.M.H.C. stated that on 12.9.2006, Assistant Sub-Inspector Raj Singh handed over to him a car in a burnt condition.

PW10 Dr. Richa Raturi deposed that on 15.6.2006, when she was on duty as Medical Officer in the S.P.S. Government Hospital, Rishikesh, patient Neelam was brought in critical condition by C.P. Ravinder Kumar Police Station Luxman Jhula, Rishikesh at 5.15 p.m. She examined patient, who was having approximately hundred percent superficial to deep burns. She was conscious. After being administered first aid, she was referred to surgeon on call and police was informed. She further

deposed that on the same day, she also examined the appellant at 5.15 p.m. He was having burns 18% on his left arm, left side of face and left side of neck.

PW11 Ranbir Singh stated that Neelam deceased was daughter of Attar Singh, his brother-in-law (wife's brother). On 16.6.2007, his brother-in-law Attar Singh told him on telephone that his daughter was admitted in P.G.I.M.S., Rohtak in burnt condition and on receiving that information, he reached there. When he reached in Ward No. 6, he found accused Surender sitting on the bed, Neelam was found lying admitted in the bed. Surender took him aside and started weeping. He disclosed to him that at the instigation of his parents etc., he poured oil on the car and set the same on fire by match box and due to said act Montu died at the spot and Neelam was in burnt condition at P.G.I.M.S. Rohtak. He regretted for the same before him and requested him to hand him over to the police.

On 9.9.2006, one Maruti 800 in burnt condition from Rishikesh-Haridwar road was taken into possession by Investigating Officer, Assistant Sub-Inspector Raj Singh in his presence. Recovery memo was prepared in his presence and he signed the same alongwith Attar Singh PW3. Recovery memo is Ex.PM, which bears his signature.

PW12 Sh. Fakhrudin stated that on 16.6.2006, he was

posted as Judicial Magistrate 1st Class, Rohtak. On that day, police moved an application Ex.PW12/A for recording statement of one Neelam wife of Surender. Whereupon, he reached at P.G.I.M.S., Rohtak and got recorded the fitness of patient from the concerned doctor. After declaring the patient fit for statement, he proceeded to get the statement of injured recorded. The statement got recorded of the injured is Ex.PW12/B. The injured after taking the statement as her own and true, thumb marked the statement. Thereafter, again he got recorded the fitness of injured during the period in which the statement was recorded. On recording the opinion by concerned doctor, he appended his certificate over the statement relating to the voluntary nature. Certificate is Ex.Pw12/C. A carbon copy of statement on demand was supplied to Investigating Officer.

PW13 Sub-Inspector Bhim Singh deposed that on 7.7.2006, when he was posted at Police Station City, Rohtak, he recorded FIR Ex.PB/1. He then sent the special report through Constable Devender for delivering it to the Ilqa Magistrate and the senior police officers.

PW14 Assistant Sub-Inspector Jai Narain deposed that on 23.6.2006, he had conducted inquest proceedings Ex.PH on the dead body of Neelam. He had also moved application Ex.PG for post-mortem. Statements of the witnesses were also

recorded by him. On 29.10.2006, the appellant was arrested by Sub-Inspector Samunder Singh in his presence and on 30.10.2006, the appellant was interrogated, who suffered disclosure statement Ex.PJ. On 1.11.2006, the appellant demarcated the place of occurrence and also the place where can had fallen.

PW15 Sub-Inspector Raj Singh stated that on 9.9.2006, he was posted at Police Station City, Rohtak. On that day, he alongwith Assistant Sub-Inspector Jai Narain, Head Constable Sumit Kumar, Head Constable Surender, Ranbir and Attar Singh went to Police Station Luxman Jhula. They also joined the police of Police Station Luxman Jhula and with the help of police of that police station, he went to place of occurrence near village Kharikhar. He prepared rough site plan Ex.PW15/A and took into possession the burnt vehicle vide recovery memo Ex.PM, which was signed by PWs Attar Singh and Ranbir. He also recorded the statements of Attar Singh and Ranbir Singh under Section 161 Cr.P.C. and got prepared scaled site plan Ex.PA. He recorded statement of Sumit Kumar, Draftsman under Section 161 Cr.P.C. He obtained the documents of postmortem examination of child Hitender @ Montu from Police Station Luxman Jhula vide memo Ex.PW15/B. He also recorded statement of Assistant Sub-Inspector Chandan Singh and

Sub-Inspector Vidhya Bhushan under Section 161 Cr.P.C. On 11.9.2006, he obtained the documents regarding admission of Surender and Neelam from Civil Hospital, Rishikesh. On 13.9.2006, Attar Singh produced the copies of sale deeds of agricultural land at village Madina which were taken into possession vide memo Ex.PW15/C. Copies of sale deed are Ex.PW15/D and Ex.PW15/E.

PW16 Dr. Pardeep Tinna deposed that on 16.6.2006 on police application Ex.PW16/A, he declared Neelam fit to make statement. In this regard, his certificate is Ex.PW16/B. Thereafter, at 4.30 p.m., he also declared Neelam fit for making statement. In this regard, his certificate is Ex.PW16/C. On the same day, he gave fitness certificate Ex.PW16/D at 5.08 p.m.

PW17 Assistant Sub-Inspector Ram Niwas deposed that on 22.12.2006, when he was posted as motor mechanic, Police Lines, Rohtak, he mechanically inspected the car and prepared report Ex.PW17/A in this regard.

PW18 Samunder Singh stated that on 29.10.2006, he was posted as Incharge, Police Post, Gau Karan, Rohtak. On that day, accused Surender was produced before him by Dhanpat Singh and he arrested said Surender, in this case. On 30.10.2006, accused Surender suffered disclosure statement Ex.PJ before him and Assistant Sub-Inspector Jai Narain and

Head Constable Jai Bhagwan. Disclosure statement was signed by Assistant Sub-Inspector Jai Narain and Head Constable Jai Bhagwan and accused signed the same. He also recorded statements of Assistant Sub-Inspector Jai Narain and Head Constable Jai Bhagwan under Section 161 Cr.P.C. Accused Surender was produced before Ilaqa Magistrate at Rohtak and he obtained his three days' remand from the Court.

On 1.11.2006, accused Surender demarcated the place where an empty can was thrown and demarcation memo is Ex.PW14/A. Accused also demarcated place of occurrence vide memo Ex.PW14/B. Both memos were signed by Assistant Sub-Inspector Jai Narain and EHC Har Gian. He also recorded statements of Assistant Sub-Inspector Jai Narain and EHC Har Gian under Section 161 Cr.P.C. On 8.11.2006, he also recorded the statement of EHC Surender under Section 161 Cr.P.C. On 22.12.2006, he also recorded statement of Ram Niwas, Motor Mechanic under Section 161 Cr.P.C. On 27.12.2006, he also recorded statement of PW Luxman under Section 161 Cr.P.C.

PW19 Har Narain stated that on 16.6.2006, when he was posted as Assistant Sub-Inspector/Incharge, Police Post Gau Karan, Rohtak, he received VT message Ex.PW19/B from Police Post P.G.I.M.S., Rohtak regarding admission of Neelam in burnt condition. Then, he alongwith Head Constable Rajender Singh

visited there and obtained ruqa Ex.PW19/A, MLR of Neelam and moved an application Ex.PW16/A for obtaining fitness certificate of Neelam from Duty Doctor, who declared her fit to make statement vide his report Ex.PW16/B. However, on seeing condition of Neelam, he decided to get her statement recorded by Judicial Magistrate. Pursuant to his application Ex.P12/A, Duty Magistrate, Rohtak, accompanied him to P.G.I.M.S., Rohtak, where he recorded statement Ex.PW12/B of Neelam. After obtaining copy of statement Ex.PW19/C of Neelam from Duty Magistrate, he had written police proceedings Ex.PW19/A and sent the same to the Police Station Luxman Jhula, Rishikesh through Head Constable Rajender Singh for registration of FIR.

After completion of investigation, final report under Section 173 Cr.P.C. was prepared by Shri Dev, Inspector/Station House Officer, Police Station City, Rohtak on 22.11.2006.

PW20 Constable Parmod Kumar proved copy of DDR No. 16 dated 16.6.2006 Ex.PW20/A.

When examined under Section 313 Cr.P.C., the appellant stated that he had been falsely implicated in the case by complainant Attar Singh, his father-in-law, in order to grab the property purchased by him after the marriage and got registered in the name of deceased Neelam when she lay admitted in P.G.I.M.S., Rohtak. The complainant got prepared a Will in his

name illegally and when he came to know of it, he filed a civil suit. According to him, he alongwith his son and wife Neelam (deceased) had gone to Haridwar for a holy dip. From there, they proceeded to Neelkanth and on the way, the car caught fire accidentally due to short circuit in which they all three received burn injuries. His son died at the spot. A report was made by a person present there in Police Station Luxman Jhula. His wife Neelam received burn injuries and to save her, he was advised to take her to P.G.I.M.S., Rohtak. He arranged an ambulance and informed Ranbir Singh at Panipat and told him that they are coming. He asked Ranbir Singh to inform Attar Singh. Both Ranbir Singh and Attar Singh met them at Panipat and they accompanied them to P.G.I.M.S., Rohtak. He was medically examined at Rishikesh as well as Rohtak hospital. There was no harassment to Neelam for demand of dowry or otherwise for any purpose. He was running a school at Rohtak and had an insurance policy in which Neelam was nominee. Later on, Ranbir Singh PW, brother-in-law of Attar Singh and Attar Singh connived together and made an application at Rohtak after about three months of the occurrence. The allegations of dowry demand and involvement of his father and mother etc. were found false and the police did not challan them as they were found innocent. Even the application of the prosecution under Section 319 Cr.P.C. was dismissed by the trial

Court. All the allegations against him were totally false and infact, he, Neelam and his son received accidental burn injuries at Neelkanth and in order to create the jurisdiction at Rohtak, a false story had been concocted. He was innocent.

In his defence, the appellant examined two witnesses.

DWI Sanjeev Kumar Kaushik stated that he had brought copy of original insurance policy bearing No.173273177 dated 28.9.2002 Ex.D1 for Rs.5,00,000/- of Surender Singh son of Sh. Rajender Singh, C/o Ram Niwas son of Sh. Umed, V.P.O. Rohad Pana Maharajan, Tehsil Bahadurgarh. The nominee of this policy was Mrs. Neelam wife of Surender.

He had also brought copies of policies No.174139776 dated 25.11.2004 and 174352502 dated 28.12.2004 Ex.D2 and Ex.D3 for Rs.1,25,000/- each of Surender. At present, nominee of these policies is Smt. Angoori Devi, but the insured changed nomination on 20th September 2006. Earlier nominee of these policies was Smt. Neelam wife of Surender.

He had also brought copy of policy No.174353391 dated 28.12.2004 Ex.D4 for Rs.1,25,000/- of Surender. First nominee was Neelam wife of Surender and now nominee of this policy was Smt. Angoori Devi which was changed on 20th September 2006.

He had also brought copy of policy No.174352503

dated 28.12.2004 Ex.D5 for Rs.5,00,000/- of Surrender. First nominee was Neelam wife of Surrender and now nominee of this policy is Smt. Angoori Devi, which was changed on 20th September 2006. Copy of insurance policy is Ex.D5.

DW2 Pankaj Arora stated that he was working as Branch Manager, Metlife India Insurance Company, Rohtak. He had brought photocopy of insurance policy No.1200400061804 Ex.D6 which was in the name of Surrender Singh. The nominees in these policies were Neelam and Master Hitain.

Besides, the defence placed reliance upon documents Ex.D7, Ex.D8, Ex.DA, Ex.DB, Ex.DC, Ex.DA/1, Ex.DX, Ex.DY and Ex.DZ.

After hearing learned counsel for the parties and on going through the evidence on record, learned trial Court came to the conclusion that it was not a dowry death as in her dying declaration Ex.P12/B, Neelam did not state that soon before, she was subjected to cruelty by the appellant. On the other hand, only allegation against him was that he was compelling her to sell the land or to bring Rs.10,00,000/- for running a school. The trial Court also disbelieved the extra judicial confession, said to have been made by the appellant before PW11 Ranbir Singh as he did not disclose about the same to the police till 7.9.2006. However, it was held that it was the appellant, who was responsible for

committing murder of Neelam and had also been subjecting his wife Neelam to cruelty. Accordingly, he was convicted and sentenced for the offences under Sections 302 and 498-A IPC, as mentioned above.

This Court has heard Mr. J.S.Dahiya, Advocate for the appellant and Mr. Praveen Bhadu, Assistant Advocate General, Haryana and with their able assistance scanned the entire evidence on the record.

The occurrence in question had taken place on 15.6.2006 on the road leading from Haridwar to Neelkanth. In the occurrence Montu, the four years old son of the appellant had suffered hundred percent burns and succumbed to them at the spot. However, Neelam (since deceased) had suffered ninety percent superficial to deep burns. She was first taken to Rishikesh hospital by the police and, thereafter, brought to P.G.I.M.S., Rohtak. On 16.6.2006 PW19 Assistant Sub-Inspector Har Narain had moved an application Ex.PW16/A before the doctor to find out as to whether Neelam was fit to make statement. The doctor declared her fit to make statement. When asked, Neelam stated that she wanted to get her statement recorded by a Magistrate and, accordingly, application Ex.P12/A was moved before the Duty Magistrate. Pursuant to the same, PW12 Sh. Fakhruddin, Judicial Magistrate 1st Class, Rohtak,

recorded her statement Ex.PW12/B. Accordingly, PW19 Har Narain forwarded the statement Ex.PW12/B to Police Station Luxman Jhulla, Rishikesh through Head Constable Rajender Singh for registration of the case. Fact remains that no FIR came to be registered on the basis of aforementioned statement Ex.PW12/B of Neelam recorded by PW12 Sh. Fakhrudin, Judicial Magistrate 1st Class, Rohtak. On 23.6.2006, Neelam succumbed to the burns. Her dead body was, thereafter, subjected to post-mortem by PW5 Dr. Satish Kumar Ahuja, who noticed ninety percent superficial to deep burns on the dead body and opined that cause of death was due to extensive burns. Realizing that the police had not registered any criminal case against the appellant, complainant Attar Singh instituted criminal complaint Ex.PB before the Ilqa Magistrate and when the matter was referred to the police, FIR Ex.PB/1 came to be registered at Police Station City Rohtak on 7.7.2006 at 6.15 a.m. for the offences under Sections 498-A, 304-B and 302/120-B IPC. It is, thus, made out that though the matter was brought to the notice of the police initially but no FIR came to be recorded by the local police. Thus, whatever delay occurred in the registration of the FIR stood duly explained.

According to the learned counsel for the appellant, the dying declaration Ex.PW12/A recorded by PW12

Sh. Fakhrudin, Judicial Magistrate 1st Class was result of tutoring by PW3 Attar Singh and PW11 Ranbir Singh, father and maternal uncle, respectively, of Neelam.

Sh. Fakhrudin, Judicial Magistrate 1st Class had testified that on 16.6.2006 on police request Ex.PW12/A, he reached P.G.I.M.S., Rohtak and after obtaining certificate regarding fitness of Neelam to make statement, recorded her statement Ex.PW12/B. He further deposed that the injured after admitting the statement to be correct, affixed her thumb impression on the same. Thereafter, he again obtained certificate to the effect that she remained fit during the period her statement was being recorded. Accordingly, he appended his certificate Ex.PW12/C that the statement made by Neelam was voluntary. Further, on the basis of inquiry and questions put by him to the injured, he observed that the statement was voluntary in nature.

According to the prosecution, at the time of marriage, the parents of the deceased had given two acres of land to the appellant and despite the same, the appellant had been demanding an amount of Rs.10,00,000/-. On the other hand, the appellant relied upon sale deed Ex.DZ dated 29.3.2004 showing purchase of two acres of land by him from complainant Attar Singh and his brother for consideration. Further, vide sale deed dated 17.6.2005 Ex. DY, the appellant sold the aforementioned

two acres of land for almost same amount of consideration. The plea is devoid of any merit. As per the sale deed Ex.DZ, the appellant had purchased the land from his father-in-law and his brother for Rs.4,87,500/-. A year later, he sold the said land vide sale deed Ex.DY for Rs.4,88,000/-. None of these sale deeds indicate as to whether the consideration amount was paid in the presence of the Sub-Registrar. Even otherwise, the appellant could not bring on record any material to prove his source of income for the purposes of buying two acres of land from his father-in-law and his brother. The amount seems to have been mentioned in order to enable the appellant to raise some loan.

In the dying declaration Ex.PW12/B made before Shri Fakhrudin, Judicial Magistrate 1st Class, Neelam did not implicate any other person from the family of her in-laws other than the appellant, who was her husband. Their marriage was solemnized about six years before the occurrence. They were blessed with a son, who was four years old and had received hundred percent burns and succumbed to the same. According to Neelam, her husband was running a school. Her father had given two acres of land to him at the time of marriage and when the appellant expressed his intention to sell the same, she did not approve of it. Accordingly, there used to remain a quarrel between the spouses. She had also mentioned in her dying declaration that the

appellant took her and her son to Haridwar and from there they left for Neelkanth. On the way, the appellant stopped the car and poured petrol on the same, which he had earlier taken from Haridwar. The appellant, then ignited a match stick and put the car on fire. He had taken the car to some distance and, thereafter, struck it against the mountain. While he himself came out of the car, he did not make any attempt to bring out his wife and son. Rather she was removed by the passengers travelling in a jeep and taken to local hospital from where she was brought to P.G.I.M.S., Rohtak. Her statement was recorded on 16.6.2006 at 5.05 p.m. Even PW16 Dr. Pardeep Tinna had recorded certificate thereon that on 16.6.2006 at 5.05 p.m., she remained fit during the recording of her statement. Merely because, she had suffered ninety percent burns is not sufficient to hold that she was not in a position to give such a lengthy statement.

According to the learned counsel for the appellant, when the statement of Neelam was recorded by Sh. Fakhrudin, Judicial Magistrate 1st Class, her relatives were also present there. However, on going through the testimony of PW12 Sh. Fakhrudin, it stands established that no relative of Neelam was present when her statement was being recorded.

Much emphasis has been led by the learned counsel for the appellant to convince the Court that the car, in which, the

appellant, his wife Neelam and their son Montu were travelling, had developed a short circuit and as a result, the car caught fire, which thereafter, led to the accident. In this regard, he referred to the testimony of PW10 Dr. Richa Raturi that both the injured, namely, Neelam and her husband Surender had told about receiving injuries in the accident in question when they were travelling in the car. However, that by itself is not sufficient to rule out the possibility of the appellant sprinkling petrol on the car and then setting it on fire. The appellant did not examine any police official from Rishikesh about his reporting the matter pertaining to his car meeting with an accident. The appellant had suffered only eighteen percent burn injuries. That did not indicate that he had tried to save his wife and son. In the process of setting the car ablaze, he would have suffered the burns, which were noticed by PW10 Dr. Richa Raturi.

The defence had brought copies of various insurance policies on record as Ex.D1 to Ex.D6 but all those policies were in the name of the appellant. Initially, nominees in these policies was Neelam, though subsequently, the appellant changed the nomination by incorporating the name of his mother Smt. Angoori Devi. Therefore, merely because the appellant had got himself insured is not indicative of the fact that he would have not taken the lives of his wife Neelam and son Montu @ Hitain.

From the above, it stands established that it was the appellant, who had killed his wife Neelam and son Montu by setting the car ablaze, though in the process, he also suffered some burns. It also stands established that the appellant had treated his wife Neelam with cruelty by compelling her to agree for selling the land or otherwise bring an amount of Rs.10,00,000/- for running the school.

Resultantly, no case is made out for any interference in the impugned judgment of conviction and sentence passed by the trial Court. The appeal is without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

August 2, 2016
amit rana

**(GURMIT RAM)
JUDGE**

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