

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.L.P. 74/2016**

Judgment reserved on : 10th January, 2017

Date of decision : 20th February, 2017

STATE

..... Petitioner

Through: Ms.Aashaa Tiwari, Additional Public
Prosecutor for State.

versus

B.RAJ SHARMA & ORS.

..... Respondents

Through: Mr.Jitender Sethi, Mr. Naveen Kumar
and Mr.A.Rohen Singh, Advocates for
R-1 and R-2.

CORAM:

HON'BLE MS. JUSTICE GITA MITTAL

HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. Notice of this petition Crl.L.P. No.74/2016 seeking leave to appeal and seeking condonation of delay in institution of the appeal was issued to the respondents in terms of order dated 9th February, 2016, pursuant to which the respondents have put in appearance. The delay of 21 days in institution of the Criminal Leave to Appeal petition was condoned vide order dated 22nd March, 2016 whereby Criminal Leave Petition was allowed. The trial court record having been requisitioned, has been received, perused and considered.

2. Through Criminal L.P. No.74/2016 which is treated to be one under Section 378(3) of the Cr.P.C, the State has sought leave to file an appeal against the impugned judgment dated 16th September, 2015 of the Additional Sessions Judge-II, Rohini Courts in State Case No.67/2012 in relation to FIR 95/12 registered at Police Station Mukherjee Nagar, whereby, respondents No. 1 and 2, Sh.B. Raj Sharma S/O Sh. B. Shahi Sharma, i.e., the husband of the deceased (Smt.Reena Goyal) and Ms. Chanchan D/o Sh. B. Shahi Sharma (Sister of respondent No.1 Sh. B. Raj Sharma and sister-in-law of the deceased Reena Goyal) were acquitted in relation to the alleged commission of offences punishable under Section 498A/304B of the IPC, 1860 and also for the alternative charge framed on 4th September, 2012 under Section 302/34 of the IPC, 1860.

3. Arguments were addressed on behalf of the State by the learned Additional Public Prosecutor Ms.Aashaa Tiwari and on behalf of respondent Nos. 1 and 2 by Mr.Jitender Sethi, the learned counsel for respondent Nos.1 and 2.

4. Through the charge-sheet, the State sought the prosecution of the two accused, i.e., respondent Nos.1 and 2 herein for the alleged commission of the offences punishable under Section 498A/304B/34 IPC. The alternative charge under Section 302 of the IPC, 1860 was framed in terms of order dated 4.9.2012 by the learned Trial Court in view of the verdict of the Supreme Court in SLP(Crl.) No.9507/2010 titled **Rajbir @ Raju & Anr. v. State of Haryana.**

PROSECUTION VERSION

5. As per the facts put forth through the charge-sheet instituted on 5th July, 2012 in the Court of the Second Metropolitan Magistrate, Rohini Courts, Delhi and taken up by the Court of Sessions of the Additional Sessions Judge (North-West) Rohini, on committal on 16th August, 2012, an enquiry entrusted to SI

Sanjay Tomar was initiated pursuant to DD No.35A lodged at Police Station Mukherjee Nagar, Delhi on 3rd April, 2012 (**EX.PW-1/A**) (**Page 43 of the TCR**) recorded by HC Ved Pal on receipt of information from Ct. Dhirender No.2212 of the PCR at 10:35 p.m. that the operator of the OMEGA-64 had vide intercom informed the PCR that a girl had fallen from her house No.364, Indira Vihar and had been injured. As per **EX.PW-1/A**, a telephonic information of the same was given to SI Sanjay Tomar to whom the enquiry was entrusted.

6. SI Sanjay Tomar, as per the charge-sheet, on reaching house No.364, Indira Vihar, Delhi learnt that the lady who had fallen from the building had been injured and shifted to the Trauma Centre Hospital and thus SI Sanjay Tomar deputed Ct. Phool Kumar No.1133 (NW) for preserving the scene of the incident and himself went to the Trauma Centre Hospital where he got the MLC No.147501 of Reena Goyal wife of B.Raj Sharma , aged 32 years, resident of House No. 364, Indira Vihar, IIIrd Floor, on which it had been mentioned by the doctor '*alleged history of fall from third floor*' and that the patient had been declared '*brought dead*'. The dead body was got preserved in the mortuary of the BJRM Hospital and thereafter SI Sanjay Tomar, the initial Investigating Officer, came back to the spot and lifted exhibits from the scene of the incident, that is, the earth control with blood and earth control without blood, which were both sealed with the seal of TS and seized vide seizure memo **Ex.PW-20/A**. A mobile phone of the deceased, a pair of slippers, a key of EON car and the EON Car No. DL-8C-88 1572 were also taken into police possession by SI Sanjay Tomar vide seizure memos **Ex.PW-20/C**. The Crime team of the North-West District was also called to the spot and the spot was inspected/investigated and the photographs of the place of the occurrence were got taken by the said crime team at the instance of SI Sanjay Tomar. The charge-sheet further indicates that the father of the deceased Reena Goyal Sh. Sita Ram Goyal S/O Late Fakir

Chand Goyal, R/o 36-37, Grand Hotel Building, 2 Under Hill Road, Civil Lines Delhi, reached the mortuary at the BJRM hospital where he identified the dead body of his daughter and also gave his statement to Mr. M.P.Kushwaha, the Executive Magistrate, Model Town.

A- AVERMENTS IN FIR

7. The statement made by Sh. Sita Ram Goyal, the father of the deceased Reena Goyal, to Mr. M.P. Kushwaha the Executive Magistrate, Model Town, Delhi is placed along with the charge-sheet on the record of the Trial Court as **Ex.PW-11/A** (Page 533). The said statement of the father of the deceased dated 4th April, 2012 was to the effect that his daughter Reena Goyal, an Advocate, was married to Mr.Raj B. Sharma (respondent No.1), a native of Manipur, who was living at Indira Vihar, Delhi. As per **Ex.PW-11/A**, Sh.Raj B. Sharma, i.e., the respondent No.1 and husband of the deceased had taken the deceased Reena Goyal on 7th March, 2012, a Wednesday, to his tenanted accommodation at Indira Vihar. On 8th March, 2012, respondent No.1 (the husband of the deceased) along with his mother and along with his sister Chanchan (respondent No.2) had left Reena Goyal (the deceased daughter of Sh. Sita Ram Goyal, the complainant) at his house. As per **Ex. PW-11/A**, the statement made by Sh. Sita Ram Goyal to the Executive Magistrate, Mr. M.P. Kushwaha, after leaving his daughter, the deceased, on **8th March, 2012**, at his house, the respondents, that is the husband and in-laws of the deceased never came to take her back and further that the respondent No.1 went away to Manipur with his mother.

8. As per **Ex.PW-11/A**, the first statement made by Sh. Sita Ram Goyal, the father of the deceased Reena Goyal, stated to the Executive Magistrate that on 3.3.2012 at about 9:30 p.m. his daughter had taken her car to the house of Chanchan, i.e., respondent No.2 to make enquiries in relation to respondent

No.1 and at about 10:30 p.m. Chanchan (i.e. respondent No.2) telephoned on the land line at the house of the complainant, i.e., the father of Reena Goyal (the deceased) had fallen down and that he should come soon, whereafter another call was received to the effect that Sita Ram Goyal should go to the Trauma Centre and then his family members reached the Trauma Centre. **Ex.PW-11/A** dated 4.4.2012, the first statement made by the father of the deceased (Reena Goyal) to the Executive Magistrate, further indicated that after the marriage of his daughter, the deceased, with the respondent No.1, he was compelled to give an EON Car. **PW-11**, Sh. Sita Ram Goyal, the father of the deceased further stated vide **Ex.PW-11/A** that he felt that his daughter could not commit suicide and that B. Raj Sharma and Chanchan, the respondents No.1 and 2, were responsible for the deceased having fallen down.

9. As per **Ex.PW2/B** the endorsement made by the Executive Magistrate, the SHO of Police Station Mukherjee Nagar was directed to take legal action as per law, whereafter pursuant to the direction of the SHO PS Mukherjee Nagar dated 4.4.2012, the FIR was registered under Section 498A/304B of the IPC at Police Station Mukherjee Nagar and the investigation was directed to be handed over to Inspector Subhash Chand. DD No.14A and 15A are thereafter indicated to have been registered at Police Station Mukherjee Nagar, dated 4.4.2012 in relation to registration of FIR 95/12.

B - INVESTIGATION CONDUCTED

10. As per the charge-sheet, vide his supplementary statement under Section 161 Cr.P.C. 1973, Sh. Sita Ram Goyal, the father of the deceased, stated that he had borne all the expenses of the marriage of his daughter Smt.Reena Goyal, the deceased, and had also given an EON car after the marriage, on the demands of his daughter's in-laws' and that thereafter also her in-laws demanded money many times. Sh. Sita Ram Goyal, through his supplementary statement, also

alleged that his daughter Smt.Reena Goyal had died as a result of atrocities inflicted upon her by her husband and Chanchan (respondents No.1 and 2) and her mother-in-law.

11. The charge-sheet further indicates that Ms.Chanchan/respondent No.2 was arrested on 5.4.2012 from her house in the presence of a lady constable and was thereafter produced before the Court. The accused/respondent No.1/ husband of the deceased, was arrested on 7.4.2012 from House No.364, Indira Vihar, Delhi where he came after learning of the demise of the deceased. The charge-sheet further indicates that a notice under Section 91 of the Cr.P.C. was served on the complainant for providing necessary documents/information. It is also stated that no eye witness could be traced out as the incident was in the odd hours of the night. The charge sheet indicates that evidence was collected during investigation and the exhibits were sent to the FSL Rohini, GNCT of Delhi for an expert opinion. The FSL result was filed vide a supplementary charge sheet filed on 23.3.2013 which was committed to the Court of Sessions on 25.3.2013 and the said FSL result is **Ex.PW-12/B** which indicated that on chemical and TLC examination of **Ex.1A**, the viscera of the deceased containing pieces of the small intestine and of the stomach kept in a jar and **Ex. 1B** pieces of the liver, spleen and kidney kept in a sealed jar and **Ex.1C** blood sample kept in a sealed vial, it was indicated that no metallic poison, ethyl and methyl alcohol, cynide phosphied, alkaloids, barbiturates, tranquilizers and pesticides could be detected in the same. The biological report **Ex.PW-18/A** and the serological report **Ex.PW-18/B** as per which blood was detected on **Exhibits.1a, 1b, 1c, 1d, 1e, 1f, 2, 3 and 4** indicate the presence of blood on the clothes of the deceased and on the blood stained earth soil

12. **Ex.PW24/B** placed on record is an application of Inspector Subhash Chand of the Crime Investigation Team addressed to the Chief Medical Officer,

Mortuary, BJRM Hospital, Jahangir Puri requesting that the cause of death be given; as in the post-mortem report dated 4.4.2012 No.277/12 conducted on 4.4.2012 at the mortuary at the BJRM Hospital, the doctor had stated that the cause of death could be given after examination of the viscera report **Ex.PW-12/C**. The opinion given by Dr.Bhim Singh MD (Forensic Medicine), Incharge Mortuary of the BJRM Hospital, Jahagir Puri, is to the effect that the viscera analysis report had negated any common poison and that the death was due to coma and shock consequent upon multiple injuries and could be caused by blunt/surface impact due to fall from height as alleged. As per the charge-sheet, no eye-witness could be traced as the incident had taken place at odd night hours.

CHARGES FRAMED

13. The charge of allegations framed against the two respondents vide order dated 4.9.2012 of the Additional Sessions Judge-II (NW), Rohini, was to the effect that between 2.11.2011 and 3.4.2012, the respondents No.1 and 2, i.e., the husband and the sister-in-law (nanad) of the deceased, in furtherance of their common intention had subjected the deceased Smt. Reena Goyal to cruelty by making illegal demands of dowry of a house and harassed her and given her beatings at house No.364, Indira Vihar, Delhi falling within the jurisdiction of Police Station Mukherjee Nagar and had committed an offence punishable under Section 498A/34 of the IPC, 1860. The two respondents were also charged with the alleged commission of the offence punishable under Section 304B/34 of the IPC, 1860 to the effect that both of them in furtherance of their common intention had caused the death of Smt. Reena Goyal otherwise than in normal circumstances within seven years of her marriage and that soon before her death, the deceased was subjected to cruelty and harassment by the respondent No.1, her husband, and respondent No.2, the sister-in-law for, or in

connection with the demand of dowry and an alternative charge was also framed against the two respondents to the effect that they in furtherance of their common intention committed the murder of Smt.Reena Goyal and had committed the offence punishable under Section 302 read with 34 of the IPC, 1860. The two respondents pleaded not guilty to the charge of allegations and claimed trial.

PROSECUTION EVIDENCE

14. In support of the prosecution version, the State examined twenty four witnesses. In terms of order dated 4.9.2012 of the learned trial court, the formal witnesses at serial Nos. 7 to 10 and 12 to 16, as detailed in the list of witnesses submitted by the prosecution with the charge-sheet, were directed to be examined by way of affidavits, in terms of Section 296 Cr.P.C., 1973. The affidavits of the following witnesses were submitted by the State on 19.10.2012:

Sr. No.	Name
1.	....
2.	....
3.	....
4.	....
5.	....
6.	.....
7.	DO/HC Vedpal
8.	DO/WHC Regina Tirki
9.	Ct.Parminder No. 1540/NW
10.	SI Sanjeev Verma
11.	Ct. Joginder No.727/NW
12.	Ct. Phool Kumar No.1133/NW
13.	HC Jagdish No.395/PCR
14.	L/Ct. Kuldeep No. 1093/NW
15.	MHC(M) CP HC Kailash No.1762/NW
16.	MHC(M) with case property PS Mukherjee Nagar Delhi.
17.	....
18.	.....
19.	.....
20.	.....

21.

FORMAL WITNESSES EXAMINED

15. **PW-1, HC Ved Pal No.984/NW** through his affidavit **Ex.PW1/1** tendered by him through his testimony on 19.11.2012 deposed to having recorded the call received from the Control Room, when he was working as Duty Officer at Police Station Mukherjee Nagar, regarding one girl having fallen from House No.364, Indira Vihar, Delhi and having been injured on 3.4.2012 and testified to the effect that he recorded the call vide DD No.35A and entrusted the same to SI Sanjay Tomar telephonically as he was already attending a call related to a quarrel. On being cross-examined, this witness, the Duty Officer at Police Station Mukherjee Nagar on the date of the incident 3.4.2012 stated that the SHO was present in the police station at that time, though he had not brought this intimation to the knowledge of the SHO. **PW1 HC Ved Pal**, however, denied that DD No.35 A had been ante timed.

16. **PW-2, W/HC Rejina Tirkey No.536/NW**, through her affidavit **Ex.PW2/1** tendered by her through her testimony dated 19.11.2012 on which she identified her signatures testified to having registered FIR No.95/12 under Section 498A/304B of the IPC at Police Station Mukherjee Nagar, Delhi on 4.4.2012 when she was posted as a Duty Officer at the said Police Station from 8 a.m. to 4 p.m., which FIR, she stated was registered on receipt of a complaint from Sh. Sita Ram Goyal s/o Late Fakir Chand Goyal, R/o 36-37, Grand Hotel Building, 2 Under Hill Road, Civil Lines, Delhi, along with an endorsement of Mr.M.P.Kushwah, SDM Model Town. She further stated through her affidavit **Ex.PW-2/1** that the original tehrir and copy of the FIR was given to Inspector Subhash Chand, the Investigating Officer of the Police Station Mukherjee Nagar. Through her cross-examination, this witness stated that the SHO had made his endorsement on the statement of Sh. Sita Ram Goyal , i.e., the

complainant which was brought to her by Ct. Joginder. This witness denied that the FIR was ante timed and also denied that the document was manipulated.

17. **PW-3, Ct. Parminder No.1540/NW** tendered his affidavit **Ex.PW-3/1** in examination-in-chief (examined by the State was) through his testimony dated 19.11.2012, on which he identified his signatures vide which he testified to having taken many photographs of the spot at house No.364, Indira Vihar, Delhi from different angles on the instructions of SI Sanjay Tomar who arrived at 1.20 a.m.. He testified to having submitted the photographs after their preparation. This witness also testified through his affidavit **Ex.PW-3/1** that he had reached the spot at the house No.364, Indira Vihar, Delhi along with SI Sanjeev Verma, Chief-Incharge Crime Team on receipt of call at 1:10 a.m. on 04.04.2012 where Ct. Phool Kumar No.1133/NW was already present securing the scene of the crime.

On being cross-examined on behalf of the respondents, the witness stated that he had not taken the photographs of the entire complex where the house No.364, Indira Vihar, Delhi on the third floor was situated and from the outside and he had taken a photograph only of the third floor portion leading to the entry at the said flat. He denied that the photographs did not indicate that the portion was of the third floor. He also denied having not visited the spot on the date and time testified by him and denied having taken the photographs after manipulation of the scene of the incident.

18. **PW4** examined was SI Sanjeev Verma, who tendered his affidavit **Ex.PW-4/1**. Through his examination-in-chief he testified to the said affidavit bearing his signatures thereon. Vide **Ex.PW-4/1**, the witness testified to having been posted in the Crime Team (North-West) and stated that on 4.4.2012 at 1.10 a.m. on receipt of the call, he along with Ct. Parminder No.1540/NW reached the spot at house No.364, Indira Vihar, Delhi where Ct. Phool Chand

No.1130/NW was already present securing the scene of the crime. He further testified that at 1:20 a.m. SI Sanjay Tomar arrived at the spot and on his instructions Ct. Parminder took many photographs from different angles and an inspection report **Ex.PW4/A** bearing the signatures of **PW-4 SI Sanjeev Verma** was handed over to the Investigating Officer.

19. The said crime team inspection report was testified by **PW-4** is **Ex.PW-4/A**. This witness on being cross-examined on behalf of the accused stated that there was no public person found at the spot when they reached there and that only police officials were present. He also stated that SI Sanjay Tomar has not made any enquiry from the neighbourhood and remained at the spot for about 30 minutes and the photographs were taken by a digital camera of the Crime team. It was stated by him further that his statement was not recorded by the Investigating Officer at the spot and that the same was recorded subsequently. The witness further denied that he had not visited the scene of crime and denied that he had not joined the proceedings.

20. **PW5** examined was HC Jagdish, who tendered his affidavit **Ex.PW5/1** bearing his signatures in examination-in-chief dated 19.11.2012. Through his affidavit **Ex.PW-5/1**, it was stated by this witness that he was the I/c Commnder-8 in the PCR Van from 8 p.m. to 8 a.m on 3/4-4/2012 and at 10:40 p.m. Commnder-1 entrusted a call received from 9899744216, about a girl lying at House No.364, Indira Vihar, Delhi in an injured condition and he, i.e., **PW-5** along with the staff reached the spot in a government vehicle and from there the injured was taken to the Trauma Centre. As per **Ex.PW-5/1**, after reaching the Trauma Centre information about the call was given to the Commnder-1, - that Reena Goyal W/o B.Raj R/o 36/37, Grand Hotel Building, 2 Under Hill Road, Civil Lines, Delhi, aged 33 years had come to meet her sister-in-law (Bhabhi) Ms.Chanchan at H. No.364, Indira Vihar, and had fallen from the third floor

unknowingly. Through **Ex.PW-5/1**, the witness said that the injured had been admitted to the Trauma Centre in an unconscious state by Ct. Shishupal, No.1470/N and that the call was entrusted to SI Sanjay Tomar of Police Station Mukherjee Nagar.

21. On being cross-examined by the learned counsel for the accused, the witness stated that he had received a call from the PCR that Reena Goyal had gone to meet her sister-in-law Chanchan at H. No.364, Indira Vihar , Delhi and that when he reached the spot many public persons had already gathered there. The witness further stated that the accused Chanchan, i.e., respondent No.2 had accompanied them to the hospital. He further stated that he had reached the Trauma Centre at about 11.07 to 11.08 minutes and that the local police had not come to the Trauma Centre in his presence.

22. **PW-6** put forth in the witness box by the State is W/Ct. Sudesh No.8567/ NW, who through her testimony dated 19.1.2012 vouched to **Ex.PW-6/1** being her affidavit bearing her signatures. She testified through **Ex.PW-6/1** that on 5.4.2012 she was posted at Police Station Mukherjee Nagar Delhi and on the direction of Inspector Subhash Chand she had joined the investigation of the case and that the Investigating Officer had visited the residence of the father of the deceased Sh. Sita Ram Goyal and had recorded his statement under Section 161 of the Cr.P.C. whereafter she along with the Investigating Officer had reached the spot at House No.364, Indira Vihar, Delhi where the Investigating Officer arrested the accused Chanchan, i.e., respondent No.2 and she conducted her personal search in which nothing was found. She testified further to the preparation of the arrest memo **Ex.PW-6/A**, personal search memo **Ex.PW-6/B** and the disclosure statement of the accused Chanchan **Ex.PW-6/C** having been conducted and recorded by the Investigating Officer Inspector Subhash Chand.

23. She further stated that the accused Chanchan was got medically examined at the BJRM Hospital during her custody and that of Ct. Phool Kumar, and then the accused / respondent No.2 had been taken to the Rohini Courts and produced before the Court where she was remanded to judicial custody for the purpose of investigation.

24. On being cross-examined by the counsel for the accused, **PW-6** stated that they reached the house of Sh. Sita Ram Goyal at about 8:30 a.m. where there was a lady present in the house but she could not tell about her relation with Sh. Sita Ram Goyal nor could she recollect if the Investigating Officer had told Sh. Sita Ram Goyal to call the other members of the family so that they could be interrogated. She further admitted that there was a large number of persons gathered at the house of Sh. Sita Ram Goyal but she did not know whether they were related or not but the Investigating Officer recorded the statement of Sh. Sita Ram Goyal only, but the witness could not recollect as to how many statements of Sh. Sita Ram Goyal were recorded on 5.4.2012. She further stated that they remained at the house of Sh. Sita Ram Goyal and that she could not recollect the exact time and the Investigating Officer had sent the tehrir to the police station after recording the statement of Sh. Sita Ram Goyal through some police officer.

25. The witness further stated that when they reached the house of the accused / respondent No.2 Chanchan at about 9:30 a.m., the Investigating Officer did not join any neighbour or any public person in the proceedings when the accused Chanchan, i.e., respondent No.2 herein, was arrested and she further stated that apart from Chanchan, there was a gentleman present in the house at the time of the arrest but she (**PW-6**) did not know whether he was the father or someone else but the Investigating Officer had not obtained the signatures of that person on any of the documents present at the house of accused Chanchan.

This witness denied that she had not been joined in the proceedings at any time and denied that all the documents were prepared at the police station or that all proceedings were conducted at the police station itself. She also denied that the signatures of the accused Chanchan, i.e., respondent No.2 herein, were obtained on a blank paper to falsely involve her in a case.

26. **PW-7** examined was Ct. Kuldeep, No.1093/NW, who testified through his testimony dated 19.11.2012 to affidavit **Ex.PW-7/1** bearing his signatures vide which he deposed that on 29.5.2012 on the instructions of the Investigating Officer he had taken the exhibits of the case from the MHC(M) CP vide RC No.37/21/12 (**Ex.PW-7/A**) and 38/21/12 (**Ex.PW-7/B**) to be deposited at the FSL, Rohini where he had deposited the exhibits. He stated further that he handed over the copy of the RC and the acknowledgement FSL-2012/C 3857 & FSL-2012/B3836 dated 29.05.2012 to the Investigating Officer. The witness also stated that the exhibits were safe and sealed and intact till they remained in his custody.

27. During cross-examination on behalf of the accused, the witness denied that the case property had been tampered with the whilst **exhibits** were in his custody.

28. **PW-8** put forth in the witness box by the State is HC Kailash No.1762/NW who in his testimony on oath on 9.10.2012 tendered his examination-in-chief vide his affidavit **Ex.PW-8/1** on which he identified his signatures. This witness placed reliance on entries in Register No.XIX vide No. 2864/12 and 2865/12, i.e., **Ex.PW-8/A & Ex.PW-8/B** and vide which it was put forth that HC Kailash had made the entries in Register No.XIX on the receipt of the exhibits/case property from the Investigating Officer on 4.4.2012. This witness further testified to the effect that on 29.5.2012 on the instructions of the Investigating Officer Inspector Subhash Chand, the exhibits of the case were

handed over by him to HC Kuldeep No.1093/NW with the sample seal for depositing in the FSL Rohini vide RC No.37/21/12 (**Ex.PW-7/A**) and RC No.38/21/12 (**Ex.PW-7/B**) which were taken from the Maalkhana of Police Station Mukherjee Nagar, Delhi and copy of the RC and the case receipts were handed over to Ct. Kuldeep, the receipts being **Ex.PW-7/C** and **Ex.PW-7/D**. This witness further testified to the effect that the exhibits were safe, sealed and intact till the case property remained in his custody. On being cross-examined on behalf of the accused, the witness denied that the case property was tampered with whilst it was in his custody.

TESTIMONIES OF RELATIVES OF THE DECEASED

29. Apart from the formal witnesses **PW-1** to **PW-8** who formed part of the investigation and were examined during the trial of the case, the State put forth in the witness box **PW-13** Sh. Sita Ram Goyal (the father of the deceased Smt. Reena Goyal), **PW-14** Smt. Veena Goyal (the mother of the deceased), **PW-15** Smt. Mamta Goyal (step sister-in-law of the deceased), **PW-16** Tanjeev Kumar Goyal and **PW-17** Sh. Manjeev Goyal (both step brothers of the deceased) as relatives of the deceased to put forth the prosecution version of alleged maltreatment and harassment for dowry and alleged cruelty inflicted on the deceased soon before her marriage by the respondents.

C- TESTIMONY OF FATHER OF THE DECEASED

30. **PW-13** Sh. Sita Ram Goyal, the testimony of the father of the deceased brings forth that his daughter Smt.Reena Goyal (deceased) was a practicing Advocate at Delhi and had initiated practice with Ms. Kusumlata and Mr.Javed Akhtar, Advocates. The marriage of the deceased was stated to have been solemnized on 2.11.2011 at Civil Lines Delhi with B.Raj Sharma, the respondent No.1 herein and original resident of Manipur. **PW-13** deposed that Chanchan, the respondent No.2 herein, is the sister of B.Raj Sharma. As per the

testimony of **PW-13** the accused, i.e., respondents No.1 and 2 herein, were residing at 364, Indira Vihar, Delhi along with another sister of theirs named Sujata and after her marriage, the deceased was residing with the accused, i.e., respondent No.1 B. Raj Sharma at the said house with his two sisters, i.e., Chanchan (respondent No.2) and Sujata. The parents of the respondents were stated to be visitors to the said house.

31. The testimony of **PW-13** brings forth that on 7.3.2012, B. Raj Sharma, i.e., respondent No.1 came to the house of **PW-13** (Sh. Sita Ram Goyal) father of the deceased and took the deceased from the house of **PW-13** to the house of respondent No.1 at 364, Indira Vihar, Delhi (*as to where the deceased and B. Raj Sharma lived from the date of marriage 2.11.2011 till death 7.3.2012 is not explained on the record*). The testimony of **PW-13**, Sita Ram Goyal further states that on 8.3.2012, (*i.e., one day after the date 7.3.2012 when the respondent No.1 had taken the deceased from her father's house to his house*), in the morning hours, Chanchan (respondent No.2 herein) informed **PW-13** Sita Ram Goyal (father of the deceased) that the condition of Reena Goyal was not good and thereafter the accused, i.e., the respondent No.1 herein, and Chanchan, respondent No.2 and their mother brought Reena Goyal to the house of **PW-13** Sh. Sita Ram Goyal, and left her at his house. **PW-13** stated that his daughter Reena Goyal was not in a good condition at that time and she was not able to stand and was mentally and physically disturbed. The witness further stated in his testimony on oath that the accused, i.e., respondent No.1 and 2 herein, told him that they would take Reena Goyal only if they (*i.e., Sita Ram Goyal and his family members*) provided a house to the respondents at Sant Nagar, Burari. **PW-13** further stated that they (*i.e. Sh. Sita Ram Goyal and his family members*) took Reena Goyal to the doctor for medical treatment but she was not treated there and thereafter they took Reena Goyal to the Hindu Rao Hospital

where she was medically treated for 15-16 days and had stayed in the hospital for one or two days also for treatment. As per **PW-13**, the accused persons, i.e., respondents No.1 and 2 and their mother did not visit Reena Goyal in the hospital, despite Sh. Sita Ram Goyal and his family members having informed them about the condition of Reena Goyal. It was also stated by **PW-13** that thereafter the accused did not come to their house to take back his daughter and that on 12.3.2012, the respondent No.1 went to Manipur along with his mother. Through the testimony of **PW-13** in examination-in-chief it has been testified that on 3.4.2012 at around 9:30 p.m. Reena Goyal went to the house of the respondents No.1 and 2, i.e., house No.364, Indira Vihar, Delhi, as respondent No.1 was not responding to Reena Goyal by any means. He further stated that at about 10:30 p.m. the respondent No.2, Chanchan, informed **PW-13** on a landline phone that Reena Goyal had fallen down and called him to her house immediately. The witness **PW-13** further stated that after 3 to 5 minutes he again received a call of the respondent No.2 asking him to go to the Trauma Centre and thereafter he along with his family members reached the Trauma Centre and found that Reena Goyal was in dead condition at the Trauma Centre, Met Calf Road and stated that the police was also present at the hospital.

32. The witness further testified to the effect that on 4.4.2012, i.e., the next day, the Executive Magistrate Mr.Kushwaha met him at the hospital and made enquiries from him and recorded his statement **Ex.PW-11/A** bearing his signatures and that he, i.e., **PW-13**, *was in a state of shock at that time and he did not give a statement to the Magistrate and could not state all the facts about cruelties and demand of dowry by the accused persons to the Executive Magistrate.* *Inter alia* the witness stated that after the marriage on 5.11.2011, the accused, i.e., respondent No.1 demanded a car and thus on his demand, **PW-13**, purchased the EON Car for approximately for a sum of Rs.3,46,758/- and

handed over the same to respondent No.1 on 7.11.2011. *Inter alia*, **PW-13** testified to the effect that the accused persons were responsible for the death of his daughter.

33. **PW-13** further stated that on 9.10.2011, the engagement ceremony had taken place at his house and he gave cash of Rs.1.5 lacs to respondent No.1, and his son Bharat Goyal gave one gold ring, gold chain and wrist watch to B. Raj Sharma and that PW-13 had spent about Rs.15-20 lacs on the engagement and in the marriage ceremony.

34. This witness further testified to the effect that on 22.11.2011, the accused B. Raj Sharma, respondent No.1 went to Manipur and his daughter went to Manipur on 27.11.2011 and he along with his wife and son went to Manipur and the marriage also took place according to the customs of the accused, i.e., respondent No.1 at Manipur. **PW-13** further stated that he also handed over Rs.30,000/- to the accused B. Raj Sharma at Manipur and thereafter on 02.12.2011, he along with his wife and his son had returned back to Delhi. **PW-13** further stated that on 8-9.12.2011 his daughter Reena Goyal informed that the accused, B. Raj Sharma, respondent No.1 had beaten her at Manipur for more dowry and demanded three gold sets for his three sisters and the gold rings and gold chains for his parents and also demanded one gold chain for his brother-in-law (Jija). The witness has further stated that on 21.1.2012 the accused, i.e., respondent No.1 came to his house and demanded Rs.1,00,000/- in the absence of **PW-13** from his wife and his wife informed him about the same and thereafter, the wife of **PW-13** paid Rs.50,000/- to the respondent No. 1 on his persistent demand. This witness *inter alia* stated that after one or two days, the accused, i.e., respondent No.1 left his daughter Reena at his house.

35. The witness further stated that in the month of February, 2012 his daughter Reena Goyal became pregnant and on 12.2.2012 his daughter went to

her matrimonial home at H. No. 364, Indira Vihar, Delhi where the accused Chanchan, i.e., respondent No.2 caught hold of his daughter by her hairs and gave her beatings and she fell down on the ground. As per the testimony of **PW-13**, the accused B. Raj Sharma, i.e, respondent No.1 slapped Reena Goyal and gave leg blows on her stomach. As per PW-13, on 13.2.2012, the accused B. Raj Sharma, i.e., respondent No.1 left Reena Goyal at the house of **PW-13** and said that they would not take care of a pregnant lady. **PW-13** further testified to the effect that on 29.02.2012, the accused B. Raj Sharma came to his house and took Reena Goyal to the Hans Hospital for abortion of her pregnancy and she aborted there and after abortion the accused, i.e., respondent No.1, said *“aaj main bahaut khush ho aur mere sar se ek bhoj utar gaya”*. The witness further testified that on 25.3.2012 he asked his daughter Reena Goyal about her matrimonial life and about her health and asked the deceased to make complaints to the police against the accused and on his persistent asking she told him that she loved B. Raj Sharma a lot and wanted to live with him and wanted to make a good matrimonial life with B. Raj Sharma.

36. The witness further testified that on 9.4.2012, the police checked the EON car at the Police Station and seized the documents of the car with insurance papers vide seizure memo **Ex.PW-13/A**, bearing his signatures and testified to the documents in relation thereto being exhibits **Ex.PW-13/B**, **Ex.PW-13/C** and **Ex.PW-13/D**. *Inter alia* **PW-13** testified to having handed over the marriage invitation card, engagement and marriage photographs, list of dowry articles and expenses, RC of the car, photographs of the engagement and photographs of the marriage. *Inter alia*, the witness stated that on 3.3.2013, he found a note on a paper in the handwriting of Reena Goyal under the newspaper in an almirah of his house during the cleaning and dusting which is **Mark PW-13/N** and stated that it was in the handwriting of Reena Goyal bearing her

signatures (The learned trial court has observed during the recording of the testimony of PW13 that this document Mark PW-13/N was not the part of the charge sheet). Mark PW-13/N reads to the effect:-

“Agar mujhe kuch bhi hua to uska jymedar Raj aur Chanchon honge in dono ne meri zindagi hell bana di.”

Inter alia, **PW-13** testified to the effect that during the post-mortem and last rites of the deceased, no one from the family of the accused were present.

37. Through his cross-examination **PW-13** testified to the effect that he had married for the second time with Veena Goyal during the life time of his first wife Smt. Kamla Goyal . He further stated that the reason for his second marriage was that his first wife was not mentally matured at that time but that he had not got his wife Kamla Goyal treated for the said ailment. **PW-13** further stated that after some time of the second marriage, his second wife and his children from **her**, i.e., Manjeev, Tanjeev, Sanjeev and Rajeev started living separately in the separate portion in the house. **PW-13** further testified that he had two sons, namely, Bharat Goyal and Gaurav Goyal from his second wife Veena Goyal. He further stated that his sons namely Sanjeev and Manjeev had separate motor parts business at Malkaganj. He further stated that his son Bharat Goyal was in employment with some publisher. The witness further denied that there was a family dispute between his children from his first wife and himself and his children from his second wife with regard to the property and denied that there were many complaints in this regard that had been made at the Police Station Civil Lines. **The witness also denied that the deceased had lodged a complaint at the police station Civil Lines against him and his son Sanjeev Goyal after a quarrel between them and denied that she had expressed an apprehension to her life also from them in the complaint.**

38. **PW-13**, further stated that he was not aware of the relationship between the accused, i.e., respondent No.1 and his daughter prior to their marriage nor was he aware whether the deceased had met the respondent No.1 during the period of 13 years and also stated that he was not aware whether the respondent No.1 was known to his daughter, i.e., the deceased, prior to the marriage. *Inter alia* **PW-13** further stated that his daughter had not told him nor any family member that she had any love affair with the respondent No.1 and stated that since his daughter had developed a relationship with respondent No.1, he learnt of the respondent No.1 being a Manipuri, i.e., the culture, traditions and food had been different from us in August, 2011.

39. **PW-13** further stated that he himself was a vegetarian but was not aware that the respondent No.1 and his family members were non-vegetarian and stated that the respondent No.1 was the only son of his parents and both his parents were government servants at Manipur and his father had since retired. He further stated that his wife Smt. Veena Goyal, his grandson, namely, Harshit Goyal and his daughter, Reena Goyal, the deceased, had already accepted the marriage proposal of respondent No.1 in May, 2011 itself and this fact was not disclosed to him at that time by his family members for the reason that his daughter, i.e., the deceased was growing old and thus he learnt of the proposal only in August, 2011 when he met respondent No.1 for the first time at his house when he was taken by surprise. **PW-13** further stated that he was not in a position to oppose this alliance on account of the fact that the same was already accepted by the family and the preparation of the marriage was being made and that the deceased had become old, i.e., aged about 32 years at that time. **PW-13** further stated that he had gone to Imphal between 22nd – 25th August, 2011 but had not made any enquiries with regard to the family of respondent No.1. **PW-13** further stated that he was given an average treatment by the family

members of respondent No.1 and even after his return to Delhi he did not oppose this alliance and volunteered that everything had been settled by that time. **PW-13** further stated that he was not aware if his wife was happy with this alliance but she never opposed the alliance after return from Imphal. He further stated that he had never verified the financial status or educational qualifications of respondent No.1 and that he did not make enquiries from his wife Veena Goyal, grandson Harshit Goyal and his daughter Reena Goyal (the deceased) of their satisfaction of the financial status of the respondent No.1 as he had accepted the proposal already. **PW-13** stated that he, however, asked respondent No.1 about his earning and the respondent No.1 had informed him that he was in the finance business.

40. The witness **PW-13** further stated that the marriage of the deceased with the respondent No.1 took place as per Hindu Rites and Ceremonies and also as per Manipuri culture on 30th November, 2011 at Manipur, where five family members had gone and the parents of the accused, i.e., the respondent No.1 had made arrangements for their stay in Hotel at Manipur, the payment of which was made by the deceased. ***Inter alia*, the witness stated that he did not see the original bills regarding the payment made by the deceased at any time.** **PW-13** further stated that the deceased had gone to Manipur on 27.11.2011 and stayed there for about 19 to 20 days and the marriage at Manipur was as per Manipuri traditions and it was a simple marriage. **PW-13** further stated that he made no enquiries from persons gathered there about respondent No.1. He further stated that the accused, i.e., respondent No.1 was at Manipur for 19-20 days.

41. **PW-13 further stated that he came back to Delhi on 2.12.2011 and his granddaughter came back to Delhi on 5.12.2011.** He further stated that he had purchased an EON car in the name of his daughter, the deceased, which

vehicle used to be driven by his daughter and the respondent No.1. **PW-13 further stated that he had obtained this vehicle on superdari after the death of Reena Goyal and it was with him.** The witness **PW-13** further stated that he could not recollect whether he had informed the SDM when he made statement on 4.4.2012 that on 7.3.2012 the accused, i.e., the respondent No.1, came to his house and took his daughter Reena Goyal from the house of **PW-13** to the house of respondent No.1, i.e., at H. No.364, Indira Vihar, Delhi.

42. The witness further stated that he could not recollect whether he had informed the SDM that the condition of Reena Goyal was not proper and that the said fact was informed to him on telephone by the accused Chanchan, i.e., respondent No.2. **PW-13** further stated that he had informed the SDM that the accused persons, i.e., respondent No.1 and 2 had left Reena Goyal, the deceased, at his house and told that he had a copy of the statement with him which had been given to him by Sh. Javed, Advocate with whom Reena Goyal, the deceased was previously working. He further stated that apart from the statement made to the SDM, he had also made a statement to the police in writing on 2.5.2012 of which he had an acknowledgement but that statement was not made part of the charge-sheet. He further stated that he had also given an application to the Commissioner of Police, to the Special Commissioner and also to the Assistant Commissioner of Police for highlighting and investigating the aspects not investigated by the police. He further stated that he did not go again to the SDM for making any statement. The witness further in cross-examination stated that he did not go again to the SDM for making a statement as he was not aware that he could make the statement to the SDM to highlight the issues which had not been highlighted earlier and was also not informed about the same by Sh. Javed, Advocate.

43. The witness further stated that he had been repeatedly requesting the police officials to record his statement but they did not do so and that no statement was recorded by the police on 5.4.2012 which was the day on which the last rites/cremation of the deceased had taken place nor did the police record the statement of Smt. Veena Goyal and his sons. **PW-13** further stated that they (i.e. Smt. Veena Goyal and his sons) were not aware of the various facts and the SDM had not asked him to produce his wife or other relative for recording of the statement. **PW-13** further stated that the police recorded the statement of Smt. Veerna Goyal on 27.04.2012 and that too after he i.e. **PW-13** had compelled them to do so. The witness further stated that the police did not record his statement on 27.4.2012 despite his repeated requests. **It was further stated that the witness did not tell the SDM vide his statement Ex.PW-11/A that when the deceased had come to his house she was not in a good condition and that he was not able to stand or walk and was mentally and physically disturbed at that time. PW-13 stated that he was not aware that he was required to give all this history in the statement.**

44. *Inter alia*, **PW-13** denied that he had not told the SDM that the respondents No.1 and 2 had told him that they would take the deceased respondent only if he provided a house to them at Sant Nagar, Burari, Delhi. But he stated that he had informed the police in his written communication about this. *Inter alia* , the witness stated that he had not informed the SDM that they had taken the deceased to Dr. Mukesh Yadav for treatment and thereafter they took her to Hindu Rao Hospital wherein the deceased was medically treated for 15-16 days after her admission in the hospital for one or two days. The witness further stated that he had not informed the SDM that the accused persons and their mother did not visit the deceased at the hospital to see her condition, despite they having been

informed by him about the same nor did they come to take his daughter back from his house. The witness further stated that he had not told the SDM that his daughter Reena Goyal , the deceased, had gone to house of respondent No.2 as the respondent No.1 was not responding to her by any means and that he had not told the SDM or the police that he was in a state of shock at that time and that he had not given any detail to the Magistrate about the cruelties and demands of dowry from the deceased by the accused.

45. He further stated that he had not stated in the statement to the SDM or to the police on 7.11.2011 that he gave a car to the respondent No.1 on his demand of dowry or that the accused were responsible for the death of his daughter. He further stated that he did not state to the SDM that on 9.10.2011 the engagement ceremony took place at his house and he gave Rs.1.5 lacs cash to respondent No.1 and his son Bharat Goyal gave the accused, the respondent No.1, a gold ring, gold chain and wrist watch. The witness further stated that he did not state in the statement that he spent Rs.15 to 16 lacs in the engagement ceremony and marriage ceremony and also stated that he did not tell to the police that after the marriage on 5.11.2011 the accused, B. Raj Sharma, i.e., respondent No.1 demanded a car on dowry and he purchased an EON car and handed over the same to the accused on 7.11.2011. *Inter alia* PW-13 stated that he did not state in his statement that on 22.11.2011, the respondent No.1 went to Manipur and his daughter Reena Goyal went to Manipur on 27.11.2011 where his daughter handed over Rs.30,000/- to accused B. Raj Sharma. The witness further stated that he did not state in his statement that on 08/09-12-2011 his daughter had informed them that the accused B. Raj Sharma, i.e., respondent No.1 gave beating to her at Manipur for dowry and demanded

three gold chains for his three sisters and gold rings and gold chains for his parents and also demanded one gold chain for his brother-in-law (jija). The witness further stated that he did not state in the statement that on 21.01.2012 the respondent No.1 came to his house and demanded Rs.1 lac from his wife in his absence and his wife paid Rs.50,000/- to the accused on his persisting demands. PW-13 further stated that he did not state in his statement that in the month of February, 2012, the deceased became pregnant and also did not state in the statement that on 12.02.2012 his daughter went to her matrimonial house at House No.364, Indira Vihar, Delhi where the accused Chanchan, i.e., respondent No.2 caught hold of his daughter by her hairs and gave beatings to her and she fell down on the ground and accused B. Raj Sharma slapped his daughter and also gave leg blows on her stomach. The witness further stated that he did not state in his statement that on 13.2.2011, the respondent No.1 had left his daughter, the deceased, at his house and told them that they would not take care of a pregnant lady. He further stated that he did not state in his statement that the accused, i.e., respondent No.1 came to his house and took the deceased to the Hans Hospital for abortion of her pregnancy and she aborted there and after abortion the accused again left his daughter at his house and told that he was very happy and he was now free and relieved from a problem.*(aaj main bahout khush ho aur mere sar se ek bhoj utar gaya)*. The witness further stated that he had not stated in his statement that on 25.3.2012 he asked his daughter Reena Goyal, the deceased, about her matrimonial life and about her health and asked her why she was not making the complaints to police against respondent No.1, she hesitated and on his persistent asking told him that she loved the accused, i.e., respondent No.1 a lot and wanted to live with him and would make her good

matrimonial life with the accused, respondent No.1. He further stated that he was not aware that he was required to give these details to SDM and even the SDM did not inquire him about the details or else he would have told about the same.

46. The witness further stated that the SDM inquire him about the cause of suicide of his daughter. He further stated that it was the SHO Inspector R. S. Meena who was present along with the SDM in the same room along with one doctor when he i.e. PW-13 told that his daughter could not commit suicide. He further stated that Inspector R.S. Meena advised him not to take that stand for it would be difficult to prove in evidence that there was some kind of physical cruelty and force used on his daughter on which he got perplexed as he was already in grief on account of his daughter's death and he told the SDM whatever he was advised by Inspector R. S. Meena. The witness denied that Inspector Meena was not present in the room when his statement was recorded by the SDM. He further denied that he was not advised by Inspector Meena and on legal advice he was stating this. *Inter alia* PW-13 stated that he did not hand over Mark PW-13/N to the police and before the SDM but denied that the document was a false and fabricated. PW-13 further stated that on 12.2.2012 his daughter had gone to meet her husband at her matrimonial home in the evening but could not tell the exact time and whether the accused B. Raj Sharma, i.e., respondent No.1 was in Delhi or in Manipur on 12.2.2012. PW-13 denied that the pregnancy of his daughter was aborted on account of her weak physical condition as his daughter was under weight around 36 kg and voluntarily stated that she was around 42-44 kg at the time of her marriage and it was because of the harassment that she had lost weight. The witness denied that the deceased had made any complaint to the police or any authority regarding the harassment

meted out to her. It is further stated by the witness that he had been residing in a joint family and they wanted to sort out this issue amicably as they did not want that the matrimonial life of his daughter be spoiled beyond reconciliation. **The witness further stated that he had not filed any medical document regarding the treatment of his daughter in Hindu Rao Hospital nor to the Court and the Investigating Officer.** The witness further denied that his daughter was suffering from mental stress/depression on account of her dispute between him and his other sons. **PW-13** further denied that no harassment was meted out by her and there no demand of cash, gold, car or house as alleged by him. He further denied that the car was given as a voluntary gift to his daughter on account of love and affection for her personal use. The witness further denied that being aggrieved by the death of his daughter, he i.e. **PW-13** had falsely implicated the accused persons in the case.

47. **PW-14** is the mother of the deceased Reena Goyal and the wife of Sh. Sita Ram Goyal i.e. **PW-13**. This witness stated that her daughter was married to the respondent No. at Civil Lines, Delhi according to Hindu rites and customs and that they had spent Rs.15 lacs in the marriage and after the marriage her daughter Reena Goyal resided at H.No.364, Indira Vihar, Delhi with her husband, Chanchan i.e., the accused Nos. 1 and 2 and Sujata and that the parents of the respondents No.1 and 2 also used to visit Delhi and that the respondent No.1 was an original resident of Manipur.

48. **PW-14** further stated that the deceased was not welcomed in her matrimonial house in a good manner and was also taunted “ *tere ma baap itne kangle hai ki shadi mein ek gari bhi nahi di*”. The witness further stated that these facts were informed by the deceased to her on 5.11.2011 and that the deceased was weeping and told her that the respondent had demanded a car and thereafter her husband had purchased the EON car on 7.11.2011 and the same

was handed over to the accused, i.e., respondent No.1, who took the deceased to her matrimonial home. The witness further stated that the respondent No.1 also performed the marriage ceremony according to Manipur customs in which she also participated. **PW-14** further stated that on 8/9.11.2011, the deceased had informed her telephonically that respondent No.1 had given her beatings for dowry and had demanded gold sets for his three sisters, gold ring and chains for his parents and also the gold chain for his brother-in-law (jija). The witness further stated that the accused persons, i.e., respondents No.1 and 2 had demanded a house in the area of Sant Nagar, Burari, Delhi by saying that the parents of the deceased had a roaring business of motor parts and her parents had a house at Civil Lines. The witness further stated that they had tried to persuade the respondents No. 1 and 2 to understand but the respondents No.1 and 2 insisted on their demand. **PW-14** further stated that on 21.1.2012 the respondent No.1 came to their house and demanded Rs.1 lac from her and that her relatives Neeraj @ Bobby and Neeraj Manocha were present at her house and on the persistent demand of respondent No.1 she had given Rs.50,000/- to the accused by taking the same from her daughter-in-law Mamta. **PW-14** further testified to the effect that after one or two days the respondent No.1 left her daughter Reena Goyal at her house. She further stated that in the last days of December, 2011 she learnt that her daughter Reena was pregnant and that on 12.02.2012 her daughter Reena Goyal had gone to her matrimonial house but on the next morning, i.e., on 13.2.2012 Reena Goyal was left at their house by respondent No.1 and that the deceased had informed **PW-14** that on 12.2.2012, the respondent had given beatings to her and that respondent No.2 had caught hold of her by her hair and gave beatings to Reena Goyal and she fell down on the ground. The witness further stated that the deceased had informed her that the accused B. Raj Sharma, i.e., respondent No.1 gave leg blows on her stomach

while she was pregnant. The witness further stated that on 29.2.2012, the accused, i.e., respondent No.1 took the deceased to the hospital for medical treatment but her pregnancy was aborted and that the respondent No. 1 left the deceased at her house saying that he was very happy that he i.e. the accused No.1 had solved his major problem. The witness further stated that on 7.3.2012, the respondent No.1 came to their house and took his daughter to their house and on the next date, i.e., 8.3.2012, the respondent No.1 and 2 and their mother came to their house and left the deceased at her house in a semi-unconscious condition and they found the deceased in a very disturbed state and she was not in a position to stand and the accused told her that they would take the deceased to her matrimonial house if they would purchase a house for them and never came back to take the deceased with him and even did not respond to their phones.

49. **PW-14** further stated that on 3.4.2012, at about 8.30 p.m. her daughter, the deceased, informed her that she was called by her sister-in-law Chanchan, i.e., the respondent No.2, at Indira Vihar, Delhi and at about 9.30 p.m. the deceased went to her matrimonial home by her EON car and at about 10:30 p.m. they received a call from the respondent No.2 that Reena Goyal had fallen down and they were going there but she again received a call from respondent No.2 that they should go to the Trauma Centre and thereafter she along with her family members reached there and found their daughter in dead condition at the Trauma Centre. The witness stated that she did not make any complaint earlier against the respondent because their daughter had stated that she was in love with her husband and wanted to live a good matrimonial life but the accused, i.e., the respondent No.1 (her husband) used to continuously harass her for dowry. Furthermore, **PW-14** identified the respondents present in the court.

50. On being cross-examined on behalf of the respondents, the witness stated that she has good relations with the children of the first wife of her husband Sita Ram Goyal and that they had been got married by her and that she has two sons and a daughter from her wedlock of whom her daughter had expired. *Inter alia* **PW-14** stated that respondent No.1 was in the same school as her daughter and she had heard his name from her daughter. **PW-14** further stated that there was no love affair between her daughter Reena Goyal and the accused No.1 and the sister of accused, i.e, Chanchan, respondent No.2, was a teacher in a school in which her grandson was studying and she mediated the marriage between her daughter Reena Goyal , the deceased, and the accused B. Raj Sharma and accused Chanchan, respondent No.2, introduced the deceased to the accused B. Raj Sharma, i.e., respondent No.1 as a prospective alliance. The witness further stated that she was aware that the accused B. Raj Sharma belonged to Manipur and she had explained to her daughter that there was a difference of culture between them as the accused B. Raj Sharma, i.e., respondent No.1 belonged to Manipur. The witness further stated that it was the accused B. Raj Sharma, i.e., respondent No.1, who had stated that he would be adjusting and would ensure that there would be no problem because of difference of culture.

51. **PW-14** further stated that her husband Sita Ram Goyal had also objected to that alliance on account of difference of culture but she made her husband understand that in case Reena Goyal (i.e. the deceased) was agreeable there was no point in objecting. The witness further stated that she had gone along with her husband i.e., **PW-13** to Manipur to verify the credential and status of the family of the respondent No.1 and further stated that even the first wife of her husband and her children had objected to the alliance on account of difference of culture but she, i.e., **PW-14** had made them understand that in case

if the deceased Reena Goyal was agreeable, there was no point in objecting and that the decision of the deceased ought to be respected.

52. *Inter alia*, **PW-14** stated that the first wife of her husband and her children had not gone with them to Manipur and stated that at Manipur they met the parents of the respondent No.1. **PW-14** further stated that the deceased was 32 years of age when she got married and denied that the respondent No.2 had not initiated for talks of marriage between the respondent No.1 and her daughter and denied that they initiated the talks themselves.

53. The witness further stated that the first time that the deceased told her about the harassment was when the deceased came for Pagphera after the marriage and when the deceased had taken her aside along with her son and told them that the respondent No.1 was taunting her for not bringing a car. The witness had further stated that they had tried to search for a suitable match for the deceased in their community but somehow it did not materialize.

54. The witness **PW-14** further stated that the SDM never called her for the recording of her statement nor did she go to the SDM for the same. The witness further stated that she was not aware if the SDM had recorded the statement of any members or recorded the statement of her husband on 4.4.2012. She further stated that she remained sick and even on that date she was unwell and even on the date of her testimony recorded on 4.2.2014 she was unwell and had come with assistance. **The witness further stated that her children told her that their statements had been recorded but she was not aware of the details.**

55. **PW-14** further stated that the car was purchased in the name of the deceased who used to drive a car. She further stated that the said car was now with her husband i.e. **PW-13**. She further stated that it was not in the knowledge of her husband that the accused / the respondent No. 1 B. Raj Sharma had come to her house on 21.01.2012 and only after the death of her daughter she i.e. **PW-**

14 informed her husband i.e. **PW-13** about her having given Rs.50,000/- to the accused B. Raj Sharma. The witness further stated that she did not inform her sons Bharat Goyal and Gaurav Goyal about handing over of Rs.50,000/- to the accused B. Raj Sharma, the respondent No.1 and admitted that this amount was not arranged by her through her sons nor by her husband and she did not ask any family member for this amount since she feared that if they learnt of the same, it would affect the matrimonial life of her daughter, the deceased. The witness further submitted that she also did not disclose this fact to Reena that the accused B. Raj Sharma had taken a sum of Rs.50,000/- nor the accused, i.e., respondent No.1 disclosed this fact to the deceased. The witness further submitted that she did not inquire from the accused, i.e., respondent No.1 as to why he required that money, but that after 21.1.2012 after two three days she had told the deceased that the accused, i.e., respondent No.1 had taken that sum. **PW-14** further submitted that the deceased did not ask the accused, i.e., respondent No.1, as to why he had taken that amount of Rs.50,000/- in her presence. The witness further submitted that she had not returned this amount of Rs.50,000/- to her daughter-in-law Mamta and stated that Mamta had told her that she would take this amount back whenever she required it and that it was a family affair. The witness further submitted that when she took this amount from Mamta, Manjiv, the husband of Mamta, was not at home. She further stated that she was not aware if Mamta had disclosed to Manjeev about giving this amount of Rs.50,000/- to her and that Manjeev did not ask her at any point of time what she had done with Rs.50,000/-. The witness further submitted that Manjeev had not talked to her husband about giving of Rs.50,000/- to her. The witness further denied that she had not paid any sum of Rs.50,000/- to the accused B. Raj Sharma, i.e., respondent No.1 on 21.01.2012 and denied that she had concocted a story against the accused persons to falsely involve them.

56. The witness further submitted that on 12.2.2012, the deceased had gone to Indira Vihar at about 7:00 p.m. but the accused, i.e., respondent No.1 was not in Delhi on 12.2.2012 and the deceased had gone at her house at Indira Vihar after having a telephonic talk with accused B. Raj Sharma. The witness further stated that she did not mention to the police that on 12.2.2012 the accused persons, i.e., respondents No.1 and 2 had given beatings to her daughter. The witness further stated that on 13.3.2012, the accused, i.e., respondent No.1 left her daughter at her house and stated that she did not inform the police about this and stated that she had told the police that the respondent No.2 had caught hold of the deceased by her hair and gave beatings to her daughter on which the deceased fell down and accused B. Raj Sharma, i.e., respondent No.1 also gave a leg blow on her stomach when the deceased was pregnant. **The witness was confronted with the statement Ex.PW-23/E, where the said aspects were not recorded.**

57. The witness further stated that she had told the police when the police recorded her statement on 29.2.2012 that the accused B. Raj Sharma, i.e., respondent No.1 took her daughter Reena Goyal to the hospital for medical treatment of her daughter but her pregnancy was aborted by him and the accused, i.e., respondent No.1 left her daughter at her house saying that he was very happy and that he resolved his major problem. **The witness was confronted with her statement EX.PW-23/E and Ex.PW-14/DX-1 where the said aspect was not recorded. The witness was also duly confronted with her statement EX.PW-23/E and Ex.PW-14/DX-1 qua the aspects of the testimony made in examination-in-chief in relation to the demands of dowry, jewellery, assaults on the deceased having not been detailed by her to the police though testified in Court. Likewise, the witness was**

confronted with the statement EX.PW-14/DX-1 in relation to the following aspects:

- That on 8.9.2011 the deceased Reena Goyal had informed her on phone that her husband B. Raj Sharma had given beating to her for the dowry and demanded gold sets for his three sisters, gold ring and chains for his parents and also the gold chain for his brother-in-law (jija);
- She PW-14 had told the police in her statement that they tried to make the accused B. Raj Sharma and his sister Chanchan, i.e., respondents No.1 and 2 understand but they insisted on their demands;
- That she had told the police in her statement that after one or two days, the accused, i.e., respondent No.1 left her daughter Reena Goyal to their house;
- She had told the police in her statement that they did not make a complaint earlier against the respondent because her daughter said that she was in love with her husband and wanted to live with him and she wanted a good matrimonial life but the accused persons continuously harassed her for the dowry;
- That even after the marriage Reena Goyal used to meet her son Bharat Goyal and that he was aware of the demand of the car though not of other demands and harassment and that she had told this to the police. (the witness, however, further stated that her son Bharat only knew about the incident of the demand of the car but not of other demands and harassment and she was not aware if he had been questioned by the SDM or by the police)

58. *Inter alia*, the witness **PW-14** stated that Manjiv and Mamta, her son and daughter-in-law had shifted to Hardev Nagar, Burari in the month of September, 2012 and previously they used to reside in a property belonging to **PW-13**, i.e., her husband Sita Ram Goyal. She further stated that now Manjiv and Mamta had shifted after taking their share in the property after the death of their daughter Reena Goyal and that they did not ask her to return Rs.50,000/- when they shifted and separated and that was personal between her, i.e., **PW-14** and them.

59. *Inter alia*, the witness stated that the deceased, Reena Goyal, was doing law from Poona but she completed the same from Agra as she stated that she did not like to stay at Poona. The witness denied that her daughter became addicted to drugs at Poona on account of which she completed her second year at Poona and completed her law from Agra. **PW-14 further stated that the accused B. Raj Sharma was the only son of his parents whose parents were residing at Manipur.** She stated that she was not aware if Mamta and Manjeev were aware of the business of the accused B. Raj Sharma and she further stated that when they were themselves not aware of the same how Manjeev and Mamta would be aware of the same. The witness denied that there was any property dispute within the family or that there was a dispute between Tajiv, Manjiv , Rajiv on one hand and her husband and Reena Goyal on the other hand. She further denied that there were complaints to the police with regard to the property. However, she volunteered that there was a landlord/tenant dispute in the property but as far as the family members are concerned there were no internal disputes. She could not recollect the name of the landlord and stated that the only dispute was between the landlord and other residents on account of some 'tor-phor'.

60. The witness further admitted during cross-examination that even after the marriage of her daughter and respondent No.1, they i.e. **PW-14** and her family had gone to Manipur and stayed there in a hotel but that she was not aware who made the payment for the stay in the hotel. They had given Rs.25,000/- to the deceased and over and above they had also spent Rs.40,000/- in the performance of various customs. The witness further stated that she did not remember whether the police had recorded her two statements on 27.1.2012 but stated that she had signed her statement on 27.01.2012. She denied that her son Bharat had not been cited as a witness as he was not aware of any allegations of harassment or demand raised by the accused as alleged by her nor her daughter had ever informed him about any such harassment or demand. She denied further that the accused persons had not demanded any car on 5.11.2012. She further denied that the incidents of 12.2.2012, 13.2.2012 and 29.2.2012 of causing beating to her daughter by the accused persons had not happened. She denied further that the deceased was depressed on account of property disputes between her step sons and between her daughter and her husband. She denied that her daughter Reena Goyal could not adjust herself to the different culture, habits and environment at the Manipur and denied that since accused B. Raj Sharma was residing mostly in Manipur with his parents as such on these accounts her daughter was feeling depressed and had committed suicide.

61. **PW-15** put forth by the prosecution was Mamta who testified that the deceased was her sister-in-law (Nanad) and was married to respondent No.1 on 2.11.2011. She further stated that **PW-15** was earlier residing with her in-laws at 36-37/2, Underhill Roads, Civil Lines, Delhi and since August, 2012 she had been residing at A-14, Hardev Nagar, Jaroda Majra, Burari Road, Delhi. This witness testified to the effect that on 21.1.2012 the accused B. Raj Sharma, i.e., respondent No.1 came to her matrimonial house Civil Lines and demanded

Rs.one lac from her mother-in-law and thereafter on asking of her mother-in-law she i.e. **PW-15** gave Rs.50,000/- to **PW-14**, her mother-in-law, who gave the same to the accused B. Raj Sharma in her presence. She also stated at that time Neeraj @ Bobby and another Neeraj were also present at their house. She further stated that her mother-in-law used to give money to the accused B. Raj Sharma on his demand regularly. She further stated that the accused B. Raj Sharma used to demand money regularly and gold sets and a car. She further testified to the effect that being a family member she knew that the respondent was continuously harassing the deceased for gold sets, money and a car and had also demanded that a house be purchased in Delhi.

62. On being cross-examined on behalf of the accused persons i.e., respondents no.1 and 2, the witness testified to the effect that respondent No.1 and the deceased had studied together in the school and had been in a friendship since long even prior to marriage. She stated that the deceased was well aware of the fact that the accused B. Raj Sharma belonged to Manipur and his parents were also residing permanently at Manipur and they were government servants at Manipur and all these facts were known to them as well as to the deceased and that they were also aware that the accused, i.e., respondent No.1 was the only son of his parents. She further stated that **PW-15** and her family including the deceased were vegetarian but she could not say whether the accused and his family were non-vegetarian. She stated that she knew that the culture, language and traditions of the accused were different than theirs. She further stated that she was not aware whether the respondent No.1 had a business of electric goods in Manipur itself, but stated that the accused had a good finance business and was earning handsomely from the said business. She stated that the accused B. Raj Sharma, i.e., respondent No.1 used to go to Manipur occasionally for his business purposes as well as for other purposes also.

63. *Inter alia*, the witness stated that the deceased weighed about 45 kg before her marriage and she had not suffered any memory loss for which she was to be admitted at the Hindu Rao Hospital. The witness admitted that the deceased was her step sister-in-law and Bharat was the son of Sita Ram Goyal and was residing with his father and was the son of Sita Ram Goyal and Veena Goyal. She further stated that she could not state why Sita Ram Goyal had gone in for the second marriage during the life time of his first wife. She further stated that her mother-in-law had come alone in her house to ask her for money and stated that her relatives were there at that time at her house. She further stated that the said money had not been returned to her till date by her mother-in-law. She also stated that neither she nor her husband asked for the money to be returned by her mother-in-law. She stated that after 5-6 days her father-in-law inquired from her whether she had paid Rs.50,000/- to her mother-in-law but that she was not aware whether this fact had come to the knowledge of the deceased. **PW-15 also stated that she was not aware for what purpose the money had been asked for.**

64. On being confronted with the statement **Ex.PW-15/DA** allegedly made to the police, **PW-15** categorically stated that the police had not interrogated her in this case, but stated that in her statement to the police she had stated that Neeraj @ Bobby and another Neeraj were present at their house and that she had also stated to the police that her mother-in-law used to give money to accused B. Raj Sharma on his demand regularly. She also stated that in her statement that she had stated to the police that the accused used to regularly demand money and gold sets and also a car and she knew that the accused B. Raj Sharma continuously harassed the deceased for gold sets, money and car and also a house to be purchased at Delhi for them. **The witness was then confronted with her statement EXPW-15/DA where the said aspects were not**

recorded. The witness also testified to the effect that she had made a complaint at the Police Station Civil Lines regarding a quarrel with Sanjeev and Sita Ram Goyal and with regard to a threat from them and such complaints were being regularly made at the Police Station Civil Lines on account of their property dispute. She further denied that she had not made any payment for a sum of Rs.50,000/- to her mother-in-law to be paid to the accused, i.e., respondent No.1.

65. **PW-16** put forth in the witness box was Tanjeev Kumar Goyal, step brother of the deceased, who stated that the deceased was married to the accused, i.e., respondent No.1 on 2.11.2011 and that the accused persons, i.e., respondents No.1 and 2 demanded the car immediately after the marriage and thereafter his father, i.e., **PW-13** purchased the same and handed over the same to respondent No.1. He further stated that the respondent No.1 also demanded from the deceased, gold sets and a house to be purchased at Delhi and that the accused / respondent No.1 also demanded Rs. One lac and his mother handed over Rs.50,000/- to the accused after taking the same from his bhabhi Mamta. He further stated that the respondent No.1 used to continuously demand money from them.

66. *Inter alia*, the witness testified to having identified the dead body of his sister Reena Goyal at the BJRM Hospital and his statement was recorded by the police

67. On being cross-examined on behalf of the respondents, the witness i.e. **PW-16** stated that he was not aware if the deceased had a love affair with the accused B. Raj Sharma, i.e., respondent No.1 before her marriage and was also not aware how the marriage proposal of the deceased with the respondent No.1 came to them and was not aware of the same even on the date of his testimony. He also stated that he was aware that accused B. Raj Sharma belonged to

Manipur and he did not enquire either from his sister Reena Goyal or from his parents as to how the marriage proposal has come and through whom. He stated that his sister Reena Goyal was residing in H. No. 36/37, Grand Hotel, Under Hill road, Civil Lines, Delhi and that he was living separately from his parents. He testified also that there were total seven rooms in H. No. 36/37, Grand Hotel Under Hill Road, Civil Lines, Delhi. On being questioned why he was living separately from his parents and sister despite there being sufficient accommodation in H. No.36/37, Grand Hotel Under Hill Road, Civil Lines, Delhi, he stated that he could not give any reason for the same. He further stated that **PW-14** Veena Goyal was his step mother and he had a separate business of motor parts separate from his father at Kashmiri Gate. He admitted that the deceased was quite weak and her weight was about 36 kg. He further stated that his mother Kamla Goyal (**on the date of his testimony**) was alive and was living with him since the beginning. He stated that his mother had objected to his father marrying on second time to Veena Goyal. However, he denied that for that reason he and his mother used to have quarrel with his father and step mother and their children. He stated that he did not attend the marriage of his step sister Reena Goyal at Manipur with the accused B. Raj Sharma. He stated that he came to know that the accused, i.e., respondent No.1 was working as a financier but later on it was not confirmed. He stated that he was not aware if the accused, i.e., respondent No.1 was doing the business of electronic goods at Manipur. He stated that he was not aware if the accused, i.e., respondent No.1 used to purchase electronic goods from Delhi.

68. *Inter alia*, the witness testified to the effect that the police had not recorded his statement and he had not sated to the police at any point of time that the accused and his sister, i.e., respondents No.1 and 2 demanded the car immediately after the marriage and thereafter his father purchased the same and

handed over the same to the accused. He further stated that he had not stated to the police that the accused B. Raj Sharma, i.e., respondent No.1 had demanded Rs.1 lac and his mother handed over Rs.50,000/- to him after taking the same from his Bhabhi Mamta nor had he stated to the police that the accused continuously demanded money from them. He further stated that on 4.4.2012 he had identified the dead body of his sister but his statement was not recorded by the SDM on that day and also stated that the statement of his father was recorded by the SDM in his presence.

69. **PW-17** put forth in the witness box was Sh. Manjeev Goyal, the other step brother of the deceased, whose testimony was also to the effect that the respondents No.1 and 2 demanded a car immediately after the marriage of the deceased with the accused, i.e., respondent No.2 and that his father purchased the same and handed over the same to accused B. Raj Sharma. This witness also stated that earlier they used to reside with their parents at Civil Lines and since August 2012 he along with his wife and children had been residing at Jaroda Majara. He testified that the accused, i.e., respondent No.1 also demanded Rs. 1 lac from his mother who handed over Rs. 50,000/- to the accused, i.e., respondent No.1 after taking the same from his wife Mamta and that the accused B. Raj Sharma had been continuously demanding money from them.

70. *Inter alia*, the witness testified to having identified the dead body of his sister Reena Goyal at the BJRM Hospital and testified that the police had recorded his statement **EX.PW-11/C**. On being cross-examined on behalf of the accused, the witness stated that he was aware that the respondent No.1 belonged to Manipur and culturally and traditionally their family was much different from the family of accused B. Raj Sharma. He further stated that the said alliance was through accused Chanchan, i.e., respondent No.2, teacher in the Apex

School. He testified that he had gone to the Apex School for getting his daughter admitted and when he met Chanchan and during the course of conversation she told him that her brother was not married and that the talk of the proposal had arisen. He stated that he was not aware if the deceased knew the respondent No.1 before marriage and also deposed that they had not objected to the said proposal on the ground that there were vast cultural, linguistic and food habit differences between both the two families. He stated that there were marriage proposals coming for the deceased from their own community and there was no special reason for marrying his sister to B. Raj Sharma. **He further admitted that after the marriage it was agreed that the deceased had to stay at Manipur as the parents of the accused, i.e., respondent No. 1, who was the only son of his parents and had a permanent residence at Manipur. He further stated that his parents had made all their satisfaction regarding the family and financial status of the accused, i.e., respondent No.1 and even they had visited to Manipur for making all the enquiries and after satisfying themselves the marriage was solemnized.** He stated that he had not gone to Manipur to attend the marriage of his sister. He further stated that after about 10 to 12 years of the deceased leaving the Apex School, the said marriage had taken place. He further stated that he was not aware as to how long the deceased had stayed at Manipur. He further stated that he was not aware if the accused B. Raj Sharma, i.e., respondent No.1 had a business of sale and purchase of electronic goods at Manipur. He further stated that the accused, i.e., respondent No.1 was the only son of his parents. The witness admitted that **PW-13** Veena Goyal was his step mother who had three children, namely, Reena Goyal , Bharat Goyal and Gaurav Goyal . The witness further admitted that both Bharat Goyal and Gaurav Goyal are his step brothers and are married and living with his father Sita Ram Goyal . He further stated

that his statement was never recorded by the police in the case and that he had not stated to the police at any point of time that the accused persons, i.e., respondents No.1 and 2 demanded the car immediately after the marriage and his father had purchased the same and handed over the same to the accused B. Raj Sharma. He further stated that he had not stated to the police at any point of time that the accused B. Raj Sharma had also demanded gold sets and the house to be purchased at Delhi from the deceased and that the accused demanded Rs.1 lac from his mother who handed over Rs.50,000/- to the accused after taking the same from his wife Mamta nor had he stated to the police that the accused had continuously demanded money from them. The witness further stated that the SDM was sitting in a room when he had gone for identification of the dead body of his sister. He stated that he had not met the SDM on that day and that the statement of his father was recorded on 4.4.2012 by the SDM but the same was not recorded in his presence. He stated that the police had never met him nor was his statement recorded by the police at any point of time. He denied that he was deposing falsely.

FORENSIC EVIDENCE

71. **PW-18** put forth in the witness box was Dr. Rajender Kumar, Deputy Director, FSL Rohini who testified to his report **Ex.PW-18/A** (running into two pages) and serological report **ExPW-18/B** having been prepared by him and bearing his signatures.

72. **PW-19** put forth by the prosecution was Sh. Santosh Tripathy, SSO(Chemistry), FSL, Rohini, Delhi who testified to his report **Ex.PW-12/B** having been prepared by him bearing his signatures whereby he opined that the pieces of small intestine with contents in a sealed jar (**Ex 1A**), pieces of liver spleen and kidney in a sealed jar (**EX 1B**) and the blood sample in a sealed vial (**Ex.1C**) were given to him for examination in a sealed condition and the seal

was found to be intact and tallied with the sample seal and the same were found to contain no common poison.

WITNESSES TO INVESTIGATION CONDUCTED

73. **PW-20** put forth in the witness box was Ct.Jogender, No. 727/NW who testified to the effect that on 3.4.2012 while he was posted at the Police Station Mukherjee Nagar on emergency duty from 8 p.m. to 8 a.m. at about 11 p.m. after receiving the DD No.35 A, he along with SI Sanjay Tomar reached at the house No.364, Indira Vihar, Delhi and learnt that the PCR had already taken the injured lady to the Trauma Centre. The witness testified that Ct. Phool Kumar also reached there and thereafter he along with SI Sanjay Tomar had left Ct. Phool Kumar at the spot for preservation of the place of the incident. This witness *inter alia* testified to the collection of the MLC of the deceased by SI Sanjay Tomar at the Trauma Centre and sending the dead body to the BJRM Hospital through him for post-mortem. He stated that he went to the mortuary of the BJRM Hospital and deposited the dead body of the deceased and returned back at the spot, i.e., house No.364, Indira Vihar, Delhi. He stated that SI Sanjay Tomar also lifted blood earth control vide the seizure memo **Ex.PW-20/A** from the spot and a pair of ladies leather chappals and a mobile phone No. 9312234952 in a working condition and the key of the EON car, with a black remote belonging to the deceased from the balcony of House No.364, III Floor, Indira Vihar vide seizure memo **Ex.PW-/20/C** and seized the EON car bearing No.1572 vide seizure Memo **Ex.PW-20/B**. The witness also testified to the handing over of the viscera and two pullandas in a sealed condition with the seal of the hospital with the sample seal to SI Sanjay Tomar who seized the same vide seizure memo **Ex.PW20/D**.

74. On being cross-examined on behalf of the accused/respondents No.1 and 2, the witness stated that the statement of Sita Ram Goyal , i.e., the father of the

deceased, was recorded at the BJRM hospital and he had not seen the mother and brothers of the deceased in the hospital that day. He stated that he remained in the hospital for about one and one and a half hours but did not know if SI Sanjay Tomar made enquiries from the mother and brothers of the deceased in the night of 3/4.4.2012 regarding the death of the deceased. He further stated that he returned back at the spot at about 1:30 a.m. from the BJRM Hospital mortuary and at that time he had not seen the mother, father and brothers of the deceased.

75. *Inter alia* PW-20 denied that he had not joined the proceedings of the case. He further stated that the mobile phone was lying on the ground floor at the spot and was in an intact condition and the Chappal and the keys of the car were also lying on the ground floor and from there they were seized.

76. **PW-21** put forth in the witness box was Ct. Phool Kumar No.7298/PCR who testified to the effect that on 3.4.2012, he was posted at PS Mukherjee Nagar and was on beat duty in that area and at about 10:40 p.m. he received a telephone call from the Duty Officer that one girl had fallen from the house No.364, Indira Vihar and he reached the spot where he met SI Sanjay Tomar and came to know that the injured girl had already been removed to the hospital by the PCR. He further stated that SI Sanjay Tomar left for the Trauma Centre and left him at the spot. Meanwhile, the SHO Inspector Meena reached at the spot and left the spot. He further stated that SI Sanjay Tomar again reached at the spot and at about 1:15 a.m. and that the crime team officers also reached the spot and they conducted their proceedings and took photographs. He stated that SI Sanjay Tomar lifted the blood stained earth from the spot and kept the same in a plastic container and sealed the same with the seal of TS. He stated that SI Sanjay Tomar also lifted the earth control from the spot and kept the same in a plastic container and seized the same vide memo **Ex.PW-20/A**. The witness

further testified that SI Sanjay Tomar also seized one mobile phone and one pair of slippers and one key of car from the balcony of the house vide seizure memo **EX.PW-20/C** and he also seized one EON Hyundai Car bearing No.DL-8C AA 1572 from the gali near the house at Indira Vihar vide seizure memo **Ex.PW-20/B**.

77. *Inter alia* the witness testified to the effect that he had again joined the investigation with Inspector Subhash Chand on 7.4.2012 and reached the house No.364, Indira Vihar, Delhi at about 8 p.m. and searched the accused B. Raj Sharma who met them there and was interrogated by the IO and thereafter the IO arrested the accused B. Raj Sharma vide arrest memo **Ex.PW-21/A** and took his personal search vide personal search memo **Ex.PW21/B** and also recorded his disclosure statement vide **Ex.PW-21/C**.

78. On being cross-examined on behalf of the accused, the respondent No.1, the witness sated that though the public witnesses were present there but they did not make any inquiries from the public witnesses at the spot. The witness further stated that when he again visited the spot along with Inspector Subhash Chand, no public witness was joined and no interrogation was done from anybody. The witness denied that he had not joined the investigation.

79. **PW-22** examined was Inspector R.S. Meena who testified to the effect that on 11.6.2012, he was posted as the SHO at the Police Station Mukherjee Nagar and he perused the case file and after completion of investigation submitted the charge-sheet before the Court against the accused persons, i.e., respondents No.1 and 2. He further stated that he had collected the chemical examination report **Ex,PW-12/B**, biological report **Ex.PW-18/A** and serological report **Ex.PW-18/B**. He further stated that, on his directions, Inspector Subhash obtained the subsequent opinion of the autopsy surgeon **Ex.PW12/C** and

thereafter submitted the supplementary charge-sheet against the accused persons, i.e., B. Raj Sharma and Chanchan.

80. **PW-23** SI Sanjay Tomar examined in the witness box was the initial Investigating Officer of the case. SI Sanjay Tomar who put forth the prosecution version as detailed in the charge-sheet through his examination-in-chief stated further that *inter alia* he came to know that the deceased had expired within seven years of her marriage and he had immediately informed the SHO about this fact. He further testified to the effect that he had sent the dead body of the deceased to the mortuary at the BJRM hospital through Ct. Joginder in a private van with an application to preserve the dead body and had informed the Executive Magistrate from the hospital vide **Ex.PW-23/B**. He further stated that he returned back at the spot at about 1.15 a.m. when the Crime team officer SI Sanjeev Verma came there with his staff and they inspected the scene of crime and took photographs. He further stated that he found one mobile phone of Samsung of white colour, one pair of ladies slippers and a key of a car from the balcony of the house No.364, Indira Vihar, Delhi which had been seized by him. Apart from that he lifted the blood stained earth from the place where the injured girl had fallen, with the help of cheni and hammer. He stated that he kept the blood stained earth in a plastic container and sealed the same with the seal of TS. The witness also testified to the seizure of the EON Car vide seizure memo **ExPW-20/B**.

81. *Inter alia*, this witness testified to the effect that on 4.4.2012 at about 10:00 a.m. he reached the mortuary at BJRM Hospital where Sh. M.P. Kushwaha, Executive Magistrate, SHO and relatives of the deceased were present. He further stated that Sh.M.P.Kushwaha, Executive Magistrate conducted the inquest proceedings and on his directions, he filled the inquest form and prepared the identification documents of the dead body according to

the statements, prepared the brief facts and filled the request form for post-mortem on direction of Sh. M.P.Kushwah, Executive Magistrate. He further stated that on the directions of Sh. M.P.Kushwah the post-mortem was conducted. He further stated that he handed over the dead body of the deceased to the relatives of the deceased. *Inter alia*, the witness testified to the preparation of the site plan **Ex.PW-23/D** by Inspector Subhash at his instance.

82. On being cross-examined on behalf of the accused, i.e., respondents No.1 and 2, the witness stated that he reached the Trauma Centre and had made inquiries from Veena Goyal regarding the marriage of the deceased with the accused but did not record her statement. He further stated that he met the other relatives along with Veena Goyal but they had left the hospital. He stated further that he did not record their statement and could not tell the details of the other relatives whom he had met in the hospital and only informed the SHO from the hospital. *Inter alia*, the witness stated that no relative of Reena Goyal accompanied him to the spot and no public witness was joined at the time of lifting of articles from the spot and their seizure. The witness further stated that he did not record the statement of any relative of the deceased on 4.4.2012. The witness further stated that since he is not the IO of the case, he could not tell if Veena Goyal had come to the Police station between 3.4.2012 till 27.4.2012 and stated that on the directions of the IO he had gone to the house of Veena Goyal to record her supplementary statement on 27.4.2012. The witness further denied that he did not participate in the investigation.

83. **PW-24** Inspector Subhash Chand in the witness box is the subsequent Investigating Officer to whom the investigation was entrusted after registration of the FIR on the statement of Sita Ram Goyal with the endorsement of Executive Magistrate and also the endorsement made by the SHO Inspector Meena. He further stated that he along with Ct. Joginder reached the spot of the

incident and had called SI Sanjay Tomar. He further stated that he inspected the scene of crime and at the instance of SI Sanjay Tomar prepared the site plan **Ex.PW-23/D**. He further stated that he returned back to the Police station and collected the DD No.35A,i.e., **Ex.PW-1/A** and recorded the statement of the witnesses including PCR officials and crime team officials.

84. *Inter alia*, the witness testified to the arrest of the accused Chanchan vide **Ex.PW-6/A** , her personal search vide **Ex.PW-6/B** and recorded the disclosure statement of the accused Chanchan **Ex.PW-6/C**. He further testified that he arrested the accused B. Raj Sharma i.e the respondent No. 1 on 7.4.2012 vide **Ex.PW-21/A** and his personal search was conducted vide memo **Ex.PW-21/B** and further also recorded his disclosure statement **Ex.PW-21/C**. He further testified that he collected the post-mortem report and inquest proceedings and gave a notice under Section 91 Cr.P.C. to Sita Ram Goyal vide **Ex.PW-13/E** and received a reply from Sita Ram Goyal , i.e., **Ex.PW-13/F** who also handed over the marriage card, list of guests **Ex.-13/H**, receipt of stridhan items **Ex.Pw-13/11** to **Ex.PW-13/18**. The witness further testified that the documents i.e., **Ex.PW-13/J** and **Ex.PW-13/K** were also verified from the transport authority. *Inter alia*, the witness testified to having obtained the subsequent opinion of the doctor about the cause of death of the deceased vide **Ex.PW-24/B** and stated that the autopsy surgeon gave his opinion **Ex.PW12/C** and that he handed over the same to the SHO Inspector R.S.Meena.

85. On being cross-examined on behalf of the accused, i.e., the respondents No.1 and 2, the witness stated that he did not record the statement of any other family member except Sita Ram Goyal and also made no enquiries from any other family members except Sita Ram Goyal. The witness further submitted that he made enquiries from the land lord of the house of the accused Sardar Surender Singh where the accused, i.e., respondent No.1 was residing. He

further stated that he had not made any enquiry from the neighbour. He further stated that he was aware that the accused B. Raj Sharma belonged to Manipur but he did not go to Manipur at any point of time though he admitted that the accused had claimed that he was at Manipur at the time of the incident and had returned back on 4.4.2012. The witness further admitted that the respondent No.1 had handed over a boarding pass in this regard and he had confirmed the same from the authority. The witness further submitted that the boarding pass had been given to him in the court and subsequent to that, he had conducted the inquiries. He further stated that he learnt during the investigation that the accused B. Raj Sharma and the deceased were having an affair before the marriage and this alliance was finalized thereafter and both the parties were agreeable to the said alliance.

86. The witness further admitted that during investigation he learnt that the father of the deceased had married twice and stated that the said fact came to his knowledge at the last stage. He further admitted that the deceased was the daughter born out of the second marriage of PW-15, but he made no inquiries with regard to the first wife of Sita Ram Goyal and he also made no inquiries qua the aspect if there could have been some civil dispute with regard to the property in which Sita Ram Goyal was residing. He stated that he did not make any inquiry with regard to the first marriage of Sita Ram Goyal and the children out of the said marriage and relationship between the family of the first wife and the second wife of Sita Ram Goyal. The witness denied that he had deliberately not inquired into and investigated this aspect despite being known to him as he had learnt that the deceased was in depression on account of the family problems of her father and the property dispute. The witness further denied that he

deliberately did not visit Manipur and concealed the evidence with regard to the business of the accused/respondent No.1 B. Raj Sharma.

87. *Inter alia*, the witness stated that the father of the deceased had not handed over to him any complaint in his handwriting during the time, the investigation remained with him. He further stated that the accused did not inform him at any point of time that the deceased was mentally disturbed and was also under going treatment for the same. He further denied that he had not carried out investigations in a free and independent manner and also denied that the investigations were led by the family of the deceased. He further denied that he deliberately did not collect the relevant document of the treatment as the same would have confirmed the treatment which the deceased was receiving for her mental ailment. He further denied that he deliberately did not make any inquiry regarding the business details of the accused as it would falsify the case of the complainant regarding the demand of dowry. The witness stated that he made no inquiries as to how many times after marriage, the accused had gone to Manipur and also on how many occasions the deceased had accompanied him further nor of the place where they had stayed. The witness further denied that he deliberately withheld this material from the Court because it would have proved that the deceased was happily residing with the accused and visiting various places including his relatives. He further denied that he obtained the signatures of the accused on blank documents after pressurizing him and converted the same into various memos to connect him with the present case. He further denied that the accused had made no disclosure statement or that he was deposing falsely.

STATEMENTS OF THE ACCUSED / RESPONDENTS NO. 1 & 2 UNDER
SECTION 313 OF THE CR.P.C. 1973

88. The accused, i.e., the respondent No.1 categorically stated that he was not aware of the deceased having fallen down from a height from the House No.364, Indira Vihar, Delhi and having expired thereby, and stated that he was not in Delhi and was in Imphal. He also categorically stated to the effect that he himself surrendered in the police station. He further stated that he made no disclosure statement at the place and while admitting the factum of marriage with the deceased on 2.11.2011 at Civil Lines according to Hindu rites and ceremonies as per the deceased customs, he stated that the marriage ceremony was also conducted at Imphal according to his customs. The accused further categorically denied that he was residing at H. No.364, Indira Vihar, Delhi and stated that he was residing at H. No. 309, Indira Vihar, Delhi on rent. He further stated that after marriage, the deceased had stopped practicing as an Advocate and stated that his father never visited them after his marriage in Delhi whereas his mother visited them only once at the house of his sister at H. No.364, Indira Vihar, Delhi. The accused, i.e., respondent No.1 further stated that the deceased had been taking treatment for depression. The accused, i.e., respondent No.1 also denied that he had not declined to take the deceased to his house when she was unwell stating that he would take her only if the father of the deceased gave a house to him and to the accused, i.e., respondent No.2 at Sant Nagar, Burari, Delhi. The accused, i.e., respondent No.1 also denied that he and his sister and his mother did not visit the deceased when she was hospitalised for 15-16 days. *Inter alia*, the accused/respondent No.1 denied that he had ever made any demands of money or of a car and stated that the car had been given in the name of the deceased which she had obtained as gift from her parents and she was using the said car at Delhi for her own purposes. The

accused also denied that he had made any demand of three gold sets for his three sisters, gold rings and gold chains for his parents and also demanded one gold chain for his brother-in-law (jija). The accused also denied that he had demanded Rs. 1 lac from the mother of the deceased in relation to which she had given Rs.50,000/- to him on his persistent demand. The accused/respondent No.1 also denied that he had beaten and assaulted the deceased on 12.2.2012 at Indira Vihar when the co-accused Chanchan had caught hold of the deceased by her hair'. He denied giving beatings to her and she fell down on the ground, and he slapped the deceased and also gave leg blows on her stomach. The accused/respondent No.1 in reply to query to **Question No.33** which is to the effect that:

Q. 33: It is in evidence against you that according to PW13 Sh. Sita Ram Goyal that on 13.02.2012 you accused B Raj Sharma left his daughter Reena Goyal at his house and told that they will not take care of a pregnant lady and on 29.02.2012 you accused B Raj Sharma came at his house and took Reena to Hans hospital for abortion for her pregnancy and she was aborted there and thereafter you accused B. Raj Sharma again left his daughter Reena at his house and told him that you accused B Raj Sharma was very happy and you were now free and relieved from a problem (“ aaj main bahaut khush ho aur mere sar se ek bhoj utar gaya). What you have to say about it.

“ Respondent: the abortion had taken place because she was feeble body weight i.e. only 36 kg and the doctors said that she could not conceive baby as it could be dangerous for her health if the abortion is not done.

89. The accused/respondent No.1 further stated that he and his wife, the deceased were very much in love and were residing happily and thus there was no question of any complaint by Reena Goyal (the deceased) and also claimed

that it was a simple marriage ceremony and after his marriage he was residing with the deceased at House No. 309, Indira Vihar and his sister Chanchan used to reside at H. No.364, Indira Vihar. *Inter alia*, the accused /respondent NO.1 stated that a false complaint was filed by the parent of the deceased, being aggrieved by her unnatural death. He further stated that he was innocent and has been falsely implicated. He stated that he had known the deceased since 1993 and as a friend, and in the year 2003 they fell in love with each other and decided to get married with the blessings and permission of their parents. He stated further that the marriage was a simple ceremony which first took place at Delhi according to customs and rituals of Reena Goyal and after 28 days of the same, the marriage ceremony again took place at Imphal according to their customs and traditions and all the expenses at Imphal were borne by him. He further stated that after the marriage, he and Reena were living happily and no demand of dowry was made either at the time of marriage or thereafter from their side.

90. He further stated that there was a property dispute going on between **PW-13 Sh. Sita Ram Goyal** and they were on the verge of eviction from the said property where they were residing. He further stated that Reena was ill treated by her step mother and step brothers. The accused further stated that at the time of the marriage, he had communicated to the deceased that he was the only son of his old aged parents since his father had already retired and thus he needed to settle down at Imphal itself. He further stated that he was doing the business of electronic goods at Manipur and for that purpose he used to come to Delhi to take the goods and sold the same at Manipur for which the deceased and her family members also agreed. He further submitted that after the marriage, the deceased remained at Imphal for 15 days. She could not adjust to their customs, rituals, traditions or the atmosphere at Manipur. Because she had lived her life

at a Metropolitan city, as such she could not adjust to the atmosphere to at Manipur. He further stated that he had given all his love and affection to his wife Reena Goyal besides and so had his sister and parents.

91. **In her statement under Section 313 Cr.P.C. the accused Chanchan, i.e., respondent No.2 the sister of the accused No.1 and sister-in-law of the deceased (Nanad) stated that she had been arrested on false allegations and that she did not make any disclosure statement to the police and stated that after the marriage the deceased used to live with the respondent No.1 at their house at 309, Indira Vihar whereas, she, the respondent No.2 used to reside at house NO.364, Indira Vihar.**

92. *Inter alia*, the accused/respondent No.1 categorically denied that she had called Reena Goyal to come to her place on 3.4.2012 but stated that she did make a call to the mother of the deceased to come to the hospital after the incident. *Inter alia*, the accused no.2 denied that there were any demands of dowry. *Inter alia*, the accused/respondent No.2 claimed innocence and stated that she had been falsely implicated and her brother, i.e., accused B Raj Sharma and the deceased were married happily and used to reside at 309, Indira Vihar, Delhi in a peaceful manner and that the deceased never resided with her, i.e., the respondent No.2 and that thus there is no question of any physical or mental torture upon the accused on her part.

DEFENCE EVIDENCE LED

93. Both the accused persons, i.e., respondents No.1 and 2 sought to lead evidence in defence and the accused No.1/respondent No.1 B. Raj Sharma, the husband of the deceased put himself forth in the witness box and was thus examined on oath under Section 315 of the Cr.P.C. 1973.

94. Through his testimony under Section 315 of the Cr.P.C., 1973 on oath, the accused/respondent No.1 stated that he was married to Reena Goyal on

2.11.2011 and after his marriage they had gone to Imphal, where they got married again according to the local customs and the parents of Reena and her brother Bharat had also gone to Imphal and stayed there and attended the ceremonies. He further stated that he made the payment for their stay and accommodation. He further submitted that during the ceremonies, traditional dress and jewelleris had been given to Reena and he made payment for the same. The accused played reliance on the bills regarding the payment of accommodation and stay of family of Reena and also regarding the purchase of various gifts, the bills of jewellery and furniture **Ex.DW-1/A** (collectively 04 in number), the bills of traditional dress, i.e., Fanek **Ex.DW-1/B** (collectively 6 in number) and the bills of hotel accommodation and stay of family of Reena **Ex.DW1/C** (collectively 15 in number) were also put forth for evidence by the accused in support of his plea of innocence.

95. Through the cross-examination conducted on behalf of the State, it was stated by this witness that he had not handed over these bills to the Investigating Officer but stated that he had obtained them after his arrest, but denied that these bills had been fabricated only to create the defence. The witness further denied that the parents of Reena were the ones who had made the payment in cash to the tune of Rs.25,000/- and Rs.40,000/- which they gave to him with regard to their stay in Imphal and also for the other miscellaneous expenses connected with the customary dress and jewellery. The witness further denied that he deliberately did not hand over the said bills to the IO as it would have exposed the fact of fabrication on their verification and denied that he was deposing falsely.

CONCLUSIONS OF THE TRIAL COURT

96. Vide the impugned judgment the learned trial court concluded to the effect : -

- that the accused no. 1 / respondent no. 1 got married to Reena Goyal on 2.11.2011;
- that the accused no. 1 / respondent no. 1 belongs to Manipur and was the only son of his parents and had two sisters;
- that the parents of the accused no. 1 / respondent no. 1 were Government Servants, living in Manipur;
- that the death of the deceased took place on 3.4.2012 i.e. within seven years from the date of her marriage;
- that the deceased was an advocate by profession;
- that the deceased knew the accused no. 1 and accused no. 2 / respondent no. 1 and respondent no. 2 since school days;
- that the deceased had a love affair with the accused no. 1 / respondent no. 1 and the deceased was fully aware about the different customs and cultures;
- that the parents and brothers of the deceased knew about the love affair between the deceased and the accused no. 1 / respondent no. 1 much before their marriage and had accepted the said alliance;
- that **PW-13 & PW-14**, parents of the deceased had visited Manipur in August, 2011 before the marriage;
- that the accused no. 1 / respondent no. 1 had a good finance business and was earning handsome amount from that business;
- that the parents of the deceased had satisfied themselves regarding the family background and financial status of the accused no. 1 / respondent no. 1 before the marriage;
- that it could be held that the accused no. 1 / respondent no. 1 was a qualified person and was earning an handsome amount and once

the parents of the deceased were satisfied with the background and the financial status of the accused, they gave the final nod;

- that the demand of Rs.1.5 lacs and gold items as dowry from the parents and brothers of the deceased at the time of the engagement was not proved by the prosecution;
- that the prosecution had also failed to prove that **PW-13** i.e. father of the deceased had incurred Rs.15 to Rs.16 lacs on the marriage as expenses;
- that though the EON car was given by the father of the deceased, it was purchased in the name of the deceased and remained in the possession of the deceased to use and even after the death of the deceased, the car was released on superdari to **PW-13** i.e. father of the deceased, which established that the car, which was registered in the name of the deceased had not been used by the accused no. 1 / respondent no. 1 and the claim of the prosecution that the accused no. 1 / respondent no. 1 had raised a demand of a car as dowry from the deceased or her parents, does not inspire the confidence;
- that the claim of **PW-13** i.e. father of the deceased that he gave Rs.30,000/- to the accused no. 1 / respondent no. 1 and claim of **PW-14** i.e. mother of the deceased that she gave Rs.25,000/- to the deceased in addition to what they had spent i.e. Rs.40,000/- on the ceremony had not been proved;
- that the marriage of the accused no. 1 / respondent no. 1 had been performed at Manipur according to Manipur customs, but it had not been established that Rs.30,000/- was paid to the accused no. 1 / respondent no. 1 as a dowry demand and furthermore, **PW-13** i.e. father of the deceased had admitted that the arrangement of the stay

in the hotel was made by the parents of the accused no. 1 / respondent no. 1 and that the father of the deceased had stated that he had not seen the original bills regarding the payment made by the deceased at any time nor was he aware what amounts were paid by the deceased in relation to the customary rights at Manipur.

97. The learned trial court thus held that the prosecution had failed to prove that **PW-13** had paid any amount to the accused no. 1 / respondent no. 1 during his visit in Manipur as dowry and observed that it was rather the parents of the accused no. 1 / respondent no. 1, who had made all arrangements of the stay and also borne the expenses for the same.

98. The learned trial court concluded that the deceased left for Manipur on 27.11.2011 and stayed there for 19-20 days when **PW-13** i.e. father of the deceased came back with his family at Delhi on 02.12.2011 and the deceased stayed at Manipur for 10-11 days more after 09.12.2011 and it was observed thus that according to **PW-13** i.e. father of the deceased, on 08/09.12.2011, the deceased informed them that the accused no. 1 / respondent no. 1 had given beatings to her to bring more dowry and demanded gold items for his family members and in relation to this, **PW-14** i.e. mother of the deceased had deposed that the deceased had informed her about the said demands on telephone and it was thus observed by the learned trial court that there was a contradiction, as to whom, the deceased had informed about the said demand.

99. The further conclusions drawn by the learned trial court were to the effect that the deceased was an advocate by profession and thus it was highly improbable that the deceased being an advocate and having sufficient money with her, stayed with the accused no. 1 / respondent no. 1 at Manipur even thereafter, without any protest against his alleged cruel acts; that it was not claimed by the prosecution that even after the deceased came to Delhi, either

she visited her parents or her parents visited her to console her for the said incident and that they had even not talked to the accused no. 1 / respondent no. 1 to that effect. The learned trial court further held to the effect that it was not the prosecution version that the parents of the deceased had talked to the accused no. 1 / respondent no. 1 in relation to the maltreatment made to the deceased at Manipur and that the allegations levelled by the prosecution against the accused no. 1 / respondent no. 1, thus did not inspire any confidence. In relation to the alleged claimed by **PW-13** i.e. father of the deceased that a sum of Rs.50,000/- had been paid to the accused no. 1 / respondent no. 1 on his demand on 21.1.2012 when he demanded a sum of Rs.1 lakh from **PW-14**, mother of the deceased **PW-13** i.e. father of deceased had claimed that **PW-14** i.e. mother of the deceased had informed him about this demand though **PW-14** i.e. mother of the deceased had deposed that **PW-13** i.e. father of the deceased did not know that the accused no. 1 / respondent no. 1 had come to their house on 21.01.2012 and that she had told the factum of payment of Rs.50,000/- to the accused no. 1 / respondent no. 1 after the death of the deceased. It was concluded by the learned trial court that the giving of the amount of Rs.50,000/- by **PW-14** i.e. mother of the deceased was wholly circumspect in view of the evidence led.

100. As regards the claim of the prosecution that on 12.02.2012, the accused no. 1 / respondent no. 1 had slapped the deceased and gave leg blows on her stomach and the accused no. 2 / respondent no. 2 had caught hold of her by hair and also gave beatings to her, it was observed by the learned trial court that there was a contradiction in the testimony of **PW-13** and **PW-14**, in as much as, **PW-14** had deposed that on 13.02.2012 the accused no. 1 / respondent no. 1 had left the deceased at her parental home, and at that time the deceased had informed her about beatings and that **PW-13** while claiming that the said assault

was given on 12.02.2012, had not disclosed as to when and how he came to know of the said facts. It was also observed by the learned trial court that in her cross-examination, **PW-14** had deposed that the accused no. 1 / respondent no. 1 was not in Delhi on 12.02.2012 and it was thus concluded by the learned trial court that there were contradictions in the statements of **PW-13** and **PW-14** and the prosecution version and the prosecution had failed to prove that the accused no. 1 / respondent no. 1 and the accused no. 2 / respondent no. 2 had given beatings to the deceased on 12.02.2012.

101. As regards the claim of the prosecution that on 29.02.2012, the accused no. 1 / respondent no. 1 had got the deceased taken to the Hans Hospital for her abortion and got her aborted, the learned trial court observed to the effect that **PW-13** in his cross-examination had deposed that in February, 2012, the deceased got pregnant and on 13.02.2012, the accused no. 1 / respondent no. 1 had left the deceased at her parental home and had stated that he would not take care of a pregnant lady and resultantly on 29.02.2012, he got her aborted, whereas **PW-14** remained silent about any such talk by the accused no. 1 / respondent no. 1 on 13.02.2012. The learned trial court further observed to the effect that **PW-14** had deposed that the accused no. 1 / respondent no. 1 had taken the deceased to the hospital for treatment on 29.02.2012 and had got her aborted but also stated that in December, 2011, she came to know about the pregnancy of the deceased and thus it was observed by the learned trial court that it was implicit that the accused no. 1 / respondent no. 1 was also aware of the pregnancy from December, 2011 till 13.02.2012 and that he had not made any grievance in relation to the pregnancy of the deceased.

102. It was also observed by the learned trial court that there were contradictions in the version of **PW-13** and **PW-14** in relation to the aspect as to for what purpose the accused no. 1 / respondent no. 1 herein had taken the

deceased to the Hans Hospital, for whereas **PW-13** had stated that she had been taken for an abortion, **PW-14** had stated that it was for treatment. It was further observed by the learned trial court to the effect that if the version of **PW-13** was believed to be correct, it implied that **PW-13** had learned on 13.02.2012 that the accused no. 1 / respondent no. 1 was not happy with the pregnancy of the deceased and thus on 29.02.2012, he was sure that the accused no. 1 / respondent no. 1 had taken the deceased for an abortion, then it was not explained by **PW-13** why he remained silent and had not protested and how he had allowed the deceased to go to the hospital with the accused no. 1 / respondent no. 1. The learned trial court also observed to the effect that the prosecution had not led any evidence of any doctor from the Hans Hospital to prove that the abortion had taken place that day too due to the malafide intention of the accused no. 1 / respondent no. 1 and observed that it was the specific case of the accused no. 1 / respondent no. 1 that the deceased had got aborted because of her weak condition.

103. **PW-16** in her cross-examination had admittedly stated that the deceased was physically weak and her weight was 36 kg. only and **PW-12** also deposed that at the time of death, the weight of the deceased was 36 kg. It was thus observed by the learned trial court that in the given circumstances, the prosecution had failed to prove that the accused was responsible for the abortion of the deceased.

104. As regards the alleged demand of a house made by the accused no. 1 / respondent no. 1 from the parents of the deceased, it was observed by the learned trial court that whereas **PW-13** had deposed on 08.03.2012 that the accused no. 1 / respondent no. 1 alongwith his mother left the deceased at his place because her condition was not good and she was mentally and physically disturbed, the accused no. 1 / respondent no. 1 had told him that they would take

her back only when they would provide him a house at Sant Nagar, Burari and **PW-13** had taken the deceased to Dr. Mukesh Yadav but no treatment was given there and thereafter, she was taken to the Hindu Rao Hospital where she was got admitted for one or two days and was treated for 15-16 days. The learned trial court further observed to the effect that **PW-14** i.e. mother of the deceased had also deposed to the effect that according to **PW-13** and **PW-14**, the accused no. 1 / respondent no. 1 for the first time had raised the demand of a house on 08.03.2012. It was also observed by learned trial court that there was a contradiction in the statements of **PW-13** and **PW-14** in as much as **PW-14** in her statement **Ex.PW23/E** had stated that after one month of the marriage, the accused no. 1 / respondent no. 1 had started harassing the deceased and had demanded a new house at Sant Nagar, Burari and it can thus be held that on 08.03.2012, the demand of the house was not raised by the accused no. 1 / respondent no. 1 for the first time but had been raised just after a month of the marriage. The learned trial court also concluded that the prosecution had not led any evidence to establish that on 08.03.2012, the condition of the deceased was not good and she was mentally and physically disturbed due to the acts of the accused no. 1 / respondent no. 1. It was observed by the learned trial court in the testimony of **PW-13** that on 12.03.2012, the accused no. 1 / respondent no. 1 along with his mother had left for Manipur and that it was not the prosecution version that after 08.03.2012 till 03.04.2012, the deceased ever visited her matrimonial house or the accused no. 1 / respondent no. 1 came to her parental home to take her back.

INCIDENT OF 03.04.2012

105. In relation to the fateful night of the incident dated 03.04.2012, **PW-14** had testified on oath that the deceased informed her that she had been called by the accused no. 2 / respondent no. 2 herein at the house and had

left for her place in her car about 9.30 p.m. and PW-13 had also deposed that the deceased had gone at about 9.30 p.m. to the house of the accused no. 1 / respondent no. 1 to make inquiries about him and at 10.30 p.m. the accused no. 2 / respondent no. 2 had informed them about the deceased falling down. It was also observed by the learned trial court that admittedly, the accused no. 1 / respondent no. 1 was not in Delhi on that day. The learned trial court also observed to the effect that according to PW-14, the deceased had not only informed her at 8.30 pm, that she had been called by the accused no. 2 / respondent no. 2 but she waited up to 9.30 p.m. i.e. for an hour, to leave for that place and what was the exact conversation between the deceased and PW-14 from 8.30 p.m. to 9.30 p.m. was within the specific knowledge of PW-14 but the same had not been disclosed by the prosecution. It was thus observed by the learned trial court that in the given circumstances, it could not be believed that the deceased simply told her mother i.e. PW-14 that she was going to inquire about the accused no. 1 / respondent no. 1 as deposed by PW-13.

106. The learned trial court further observed to the effect that it was evident from the record that at 9.30 p.m. the deceased had left her parental home alone and this fact was within the knowledge of PW-13 and PW14 i.e. her parents and after that the deceased had left her parental home after a gap of one hour, and there would have been some discussion between her parents and deceased regarding going to that place and they would have allowed her to go alone at 9.30 p.m. only once they were satisfied. It was observed by the learned trial court that if there was any threat whatsoever from the side of the accused or else the parents of the deceased would not have allowed her to go alone or the deceased would have gone alone. The learned trial court also observed to the effect that if there was a threat then

the prosecution had failed to explain as to why PW-13 and PW-14 had allowed the deceased to go alone, and that the prosecution had failed to explain that once the deceased and her parents were aggrieved by the cruelties of the accused no. 1 / respondent no. 1 on the deceased then why they allowed her to go alone on that day and that too in the night and in her own vehicle. The learned trial court also observed to the effect that there was a time gap of one hour when the deceased left the home and when the accused no. 2 informed about her falling down and that it was nowhere the case of the prosecution that during the said period, PW-13 and PW-14 even tried once to contact the deceased about her well being nor that the deceased talked to her parents during the said period. It was also observed by the learned trial court that this kind of conduct of the deceased and PW-13 and PW-14 i.e. parents of the deceased, whose daughter had already been treated cruelty by the accused, as claimed by the prosecution, was unnatural. It was thus observed by the learned trial court that it can be held that parents of the deceased were not apprehensive of the well being of the deceased at the hands of the accused no. 1 / respondent no. 1. Rather, accused no. 2 / respondent no. 2 had not only informed them about the incident, but had also informed that the deceased had been taken to the Trauma Centre and had asked them to come immediately and it was observed by the learned trial court that if the accused no. 2 / respondent no. 2 was at fault then she would not have done so.

LACK OF COMPLAINTS MADE TO THE POLICE

107. The prosecution through witnesses, PW-13, PW-14, PW-15, PW-16 and PW-17 i.e. father, mother, step brothers and step sister of the deceased, brought forward the allegation of demand of dowry and it was observed by the learned trial court that though these witnesses had deposed about the alleged cruelties

meted out by the accused and allegedly noticed by them from time to time, they made no complaint to the police against the accused till 04.04.2012. The learned trial court also observed that **PW-13** i.e. father of the deceased in his testimony had stated that on 25.03.2012, he had asked the deceased as to why the deceased was not making a police complaint and she had replied that she loved the accused no. 1 / respondent no. 1 a lot and for betterment of her matrimonial life, she had hesitated to make any complaint to the police. The learned trial court also observed to the effect that vide the statement **Ex.PW11/A** recorded on 04.04.2012, PW-13 had stated that the allegation made against the accused no. 1 / respondent no. 1 was that after the marriage, he had made a demand of a car and in his statement **Ex.PW11/A**, PW-13 had raised the suspicion only against the sister of the accused no. 1 / respondent no. 1 i.e. the accused no. 2 / respondent no. 2 herein and not the accused no. 1 / respondent no. 1 herein.

108. **It was also observed that PW-13 had only stated in his testimony on oath that he i.e. PW-13 could not give the complete details of the cruelties to the SDM as he was in a state of shock but despite the same the statement Ex.PW11/A remained conspicuously silent as to why the name of the accused no. 1 / respondent no. 1 was not mentioned as suspect at that time. The learned trial court further observed that even if it is presumed for the sake of arguments that PW-13 was in the state of shock at that time but it is highly improbable that he was in a shock to such an extent that he had forgotten to mention the name of the accused no. 1 / respondent no. 1 as suspect.**

**VARIATIONS IN THE STATEMENTS OF THE WITNESSES AT
DIFFERENT STAGES**

109. The learned trial court has also observed that in the supplementary statement dated 05.04.2012 of **PW-13** recorded under Section 161 Cr.P.C., he

had stated that the in-laws of the deceased had demanded a car, which he fulfilled and thereafter the in-laws of the deceased kept on raising their demands which he kept on fulfilling to make the deceased happy and that on 08.03.2012, the mother of the accused no. 1 / respondent no. 1 and the accused no. 2 / respondent no. 2 had left the deceased at her parental home after harassing her and the deceased allegedly died because of the harassment and demand of dowry made by her in-laws. The learned trial court observed to the effect that the statement dated 05.04.2012 i.e. supplementary statement of **PW-13** recorded under Section 161 Cr.P.C. when compared to the statement dated 04.04.2013 reveals that **PW-13** made material improvements in his statement dated 05.04.2012 and had also included the in-laws of the deceased in the making of dowry demands and alleged cruelties. It was also observed by the learned trial court that the statement made by **PW-13** in court also had material improvement and apart from making improvements, **PW-13** had gone to the extent of bringing note **Mark PW13/N** and deposed that it was in the hand writing of the deceased and if the said note was so vital and came to his notice at an early stage then he had failed to give any explanation for his silence in relation thereto till his deposition and thus it was observed that **PW-13** had made material improvements in his statements from time to time and that further there was a failure of the investigating agency to record the statements of the family members on 04.04.2012.

110. The learned trial court also observed to the effect that apart from the statement of **PW-13** recorded on 04.04.2012, the statement of no other person was recorded by the investigating agency on that day and specifically the statements of **PW-14, PW-15, PW-16 and PW-17** were not recorded despite their availability. The statements of **PW-14** and **PW-15** indicate that their statements were recorded on 27-04-2012 and it was thus observed by the

learned trial court that even between 04.04.2012 and 27.04.2012, the investigating agency did not attempt to record the statements of the family members nor had they given their willingness to give their statements. The learned trial court also observed that the statements of **PW-14** and **PW-15** recorded on 27.04.2012, were not their voluntary statements but it had been made at the instance of **PW-13** and it was observed by the learned trial court also that the investigating agency had recorded the statements of **PW-14** and **PW-15** which were undated with the sole objective of the prosecution to fill up the lacunae in the prosecution case.

111. **The learned trial court also concluded to the effect that the testimony of PW-13 and PW-14 brought forward the existence of a wedlock between the father of the deceased and Kamla Goyal through which four sons were born out and that two sons namely Bharat Goyal and Gaurav Goyal and one daughter i.e. the deceased were born of the second wedlock and that a property dispute was going on between PW-13 on the one hand and his children on the other hand and the deceased was disturbed and used to remain under depression and had filed the complaint qua which aspect investigation was not conducted by the investigating agency and thus it was held that the deceased had committed suicide, in which the accused had no role to play.**

112. The learned trial court also concluded to the effect that the prosecution had miserably failed to establish that the accused ever treated the deceased with cruelty in terms of Section 498A of the IPC. The learned trial court further observed to the effect that since the prosecution had failed to prove that the accused had treated the deceased with cruelties within the meaning of Section 498A IPC, the presumption under Section 113B of Indian Evidence Act of dowry death cannot be raised against the accused and thus it was observed that

the prosecution had failed to prove that the accused had committed an offence under Section 304B of IPC.

113. The learned trial court also observed to the effect that the death of the deceased was homicidal in nature in which the accused had no role to play and thus the prosecution had failed to prove that the accused had committed the offence punishable under Section 302 of IPC.

CONTENTIONS OF THE STATE

114. Through Criminal Leave Petition No. 74/2016, the State is aggrieved by the impugned judgment dated 16.09.2015 of the learned trial court and has submitted : -

- (a) that the impugned judgment is based on conjectures and surmises and is against the facts and law;
- (b) that the learned trial court had not dealt with the presumption of dowry death under Section 113B of the Indian Evidence Act, 1872 in relation to the death of the victim having taken place under unnatural circumstances within seven years of her marriage and that the presumption had been successfully rebutted;
- (c) that the two material witnesses i.e. **PW-13** Sh. Sita Ram Goyal and **PW-14** Smt. Veena Goyal, parents of the deceased had consistently stated about the dowry demand and the death of the victim having taken place within five months from her marriage with the accused no. 1 / respondent no. 1 and thus the presumption of dowry death was attracted, which had been rebutted by the accused;
- (d) that the learned trial court had failed to appreciate that there were only minor contradictions in the statements of **PW-13** Sh. Sita Ram Goyal (the father of the deceased Smt. Reena Goyal), **PW-14** Smt. Veena Goyal (the mother of the deceased), **PW-15** Smt. Mamta Goyal (step

sister-in-law of the deceased) and **PW-16** Tanjeev Kumar Goyal and that they were not of a nature as to be fatal to the case of the prosecution;

(e) that the learned trial court had failed to appreciate the post-mortem report which had clearly stated that the death was caused due to coma and shock consequent upon multiple injuries that could be caused by blunt / surface impact due to fall from a height;

(f) that the learned trial court had erred in observing that the deceased had suicidal tendency and the same is based on conjectures and surmises and that there was no evidence on record to show the same ;

(g) that the learned trial court had failed to appreciate that there was no occasion for the victim to commit suicide at the house of the accused no. 1 / respondent no. 1;

(h) that the learned trial court had erroneously disbelieved the statement of **PW-13** on the ground that there were improvements in the statement made by **PW-13** before the SDM and that **PW-13** had duly explained the improvements made at the time of giving his first statement before the SDM submitting that he was in a state of shock and that the same was a plausible explanation and ought not to have been described by the learned trial court;

(i) that the learned trial court had failed to appreciate that **PW-13** had deposed that he had handed over Rs.30,000/- to the accused no. 1 / respondent no. 1 at Manipur and that he had further deposed that on 8/9.11.2011, the deceased had informed him that the accused no. 1 / respondent no. 1 had given beatings to her at Manipur for more dowry and had demanded three gold sets for his three sisters, gold rings and gold chain for his parents and had also demanded on gold chain for his brother-in-law ;

(j) that the learned trial court had failed to appreciate the deposition of **PW-13** that on 21.01.2012, the accused no. 1 / respondent no. 1 had come to his house and had demand Rs.1 lakh from **PW-14** in relation to which a sum of Rs.50,000/- was paid to the accused no. 1 / respondent no. 1 on his persistent demand;

(k) that the learned trial court had failed to appreciate that **PW-13** had deposed that on 12.02.2012 the deceased had gone to her matrimonial house at Indira Vihar where the accused no. 2 / respondent no. 2 had caught hold of the deceased by her hairs and had given beatings to her and she had fallen down on the ground and that **PW-13** had also deposed that the accused no. 1 / respondent no. 1 had slapped the deceased and had also given leg blows on her stomach;

(l) *Inter alia*, it is submitted on behalf of the State that the learned trial court had erred in disbelieving the testimony of the witnesses, in as much as all the witnesses were persistent in relation to material particulars in relation to the accused no. 1 / respondent no. 1 having demanded a car and dowry and of that the accused no. 1 / respondent no. 1 having made a demand for gold sets and a sum of Rs.50,000/- and a house and also in relation to the assault and maltreatment with the deceased and also in relation to the abortion of the deceased having been got done of the deceased child by the accused no. 1 / respondent no. 1 and of his having been happy about the same. It was further contended on behalf of the State that merely because the complainant had not made any complaint prior to 03.04.2012 by the deceased or any other family members about the alleged demand of dowry and cruelty cannot be a ground for discrediting the witnesses in view of the fabric of Indian society where the foremost concern of the family is to ensure that the matrimonial

alliance is continued and generally police complaints are made. The State thus had sought the conviction of the respondents under Sections 498A/304B/34 of IPC.

CONTENTIONS OF THE RESPONDENTS

115. On behalf of the respondents is contended that there was no infirmity in the impugned judgment of the learned trial court and that the testimony of the prosecution witnesses were wholly variant in relation to material particulars. It was submitted on behalf of the respondents that the record established that the deceased had not been able to adjust herself to the difference in culture, traditions, linguistic aspects besides food habits at her matrimonial home at Imphal, Manipur, which is a small and different town in comparison to Delhi where the deceased was an advocate by profession. It was also submitted on behalf of the respondents that merely because the deceased had committed suicide, did not bring the respondents under the ambit of Sections 304B and 498A of IPC, as the allegations of demand of dowry and consequently cruelty and harassment for the same had not been proved on record and thus there was no presumption that can be raised under Section 113(a) of the Indian Evidence Act, 1872.

116. It was also submitted on behalf of the respondents that as per the requirement of Section 304B of IPC, firstly there has to be a demand of dowry and secondly, it had to be shown that the same had to be raised soon before the death and thirdly, the deceased had been subjected to cruelty and harassment by her husband or his relations and it was thus submitted on behalf of the respondents that qua the statement of **PW-13** and **PW-14** i.e. the parents of the deceased, to the effect that the car was demanded on 05.11.2011 and was given on 07.11.2011.

117. It was further submitted on behalf of respondents that no averment had been made in relation to any harassment or cruelty caused to the deceased for that demand and that admittedly the Hyundai Eon car was in the name of the deceased, who was driving the car throughout and even after her death the said car was taken away by the father of the deceased i.e. PW-13. It was also submitted on behalf of the respondents that the allegations of beating given to the deceased on 12.02.2012 and of the pregnancy of the deceased having been got aborted on 29.02.2012 were not made by **PW-13** to the SDM in his statement nor were they so stated by **PW-13** to the police nor were they so stated by **PW-14**. It is further submitted on behalf of the respondents that the evidence on record establishes that the deceased was physically and mentally weak and was having 36 kg. weight and that no medical evidence had been placed on record by the prosecution of any forced abortion.

VERDICTS RELIED UPON BY THE RESPONDENTS

118. Reliance was placed on behalf of the respondents on the verdict of the Supreme Court titled as *Satvir Singh and others vs. State of Punjab and another*, **AIR 2001 Supreme Court 2828** to contend that the commission of the offence punishable under Section 304B IPC was not even attracted in the facts and circumstances of the instant case, in as much as, there was nothing on record to indicate that there was any cruelty inflicted on the deceased soon after her death which could establish that there was no perceptible nexus between her death and the dowry related harassment or cruelty inflicted upon her.

119. Reliance was also placed on behalf of the respondents on the verdict of the Supreme Court in the case *Hans Raj vs. State of Haryana*, **AIR 2004 SC 2790** to contend that the mere fact that a woman committed suicide within a period of seven years from the date of her marriage and that she had been subjected to cruelty by her husband does not automatically give rise to the

presumption and that the court is required to look into all the other circumstances of the case and that one of the circumstances which has to be considered by the Court was whether the alleged cruelty was likely to drive the woman to commit suicide or to cause grave injury or danger to the life, limb or health of the woman. It was thus contended on behalf of the respondents that there were no circumstances brought forward on record in the instant case to show that there was any cruelty at any stage inflicted on the deceased which was likely to drive her to commit suicide or to cause grave injury or danger to her life limb or health.

120. Reliance was also placed on behalf of the respondents on the verdicts of the Hon'ble Apex Court tiled as "***Mangat Ram vs. State of Haryana, 2014 (3) JCC 1730***" to contend that under Section 113A of the Indian Evidence Act, 1872, a statutory presumption does not arise by operation of law merely on the proof of circumstances enumerated in Section 113-A of the Indian Evidence Act, 1872 and merely because a married woman committed suicide within a period of seven years from the date of her marriage, the presumption under Section 113-A of the Indian Evidence Act, 1872 would not automatically apply.

ANALYSIS

121. It is essential to observe that through the present Criminal Leave Petition No. 74/2016, the State seeks leave to appeal against the impugned judgment of the learned trial court whereby the accused no. 1 / respondent no. 1 and the accused no. 2 / respondent no. 2 have been acquitted in relation to the alleged commission of the offences punishable under Section 498A/304B/34 IPC and also of the alternative charge under Section 302/34 IPC and thus it has essentially to be borne under consideration that though an Appellate Court has full powers to review and reappraise and reconsider the evidence upon which an order of acquittal is founded and the Code of Criminal Procedure, 1973 puts

no limitation, restriction or condition on the exercise of such powers and an Appellate Court on the evidence before it, may reach its own conclusion both on question of conviction and law as laid down in ***Chandrappa vs. State of Karnataka & Ors.* 2007(4) SCC 415** and ***Prandas vs. The State* AIR 1954 SC 36**, however, it cannot be overlooked that the verdict of the Supreme Court in ***Chandrappa vs. State of Karnataka & Ors.* 2007(4) SCC 415** also lays down categorically that:

“(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) if two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

120. In the case of ***Ghurey Lal Vs. State of U.P.* 2008(10) SCC 450** the Supreme Court has laid down the following guiding principle, to be adhered to before leave to appeal against an order of acquittal may be granted:

“. The appellate court may only overrule or otherwise disturb the trial court’s acquittal if it has ‘very substantial and compelling reasons’ for doing so.

A number of instances arise in which the appellate court would have ‘very substantial and compelling reasons’ to discard the trial court’s decision. ‘Very substantial and compelling reasons’ exist when:

i) *The trial court's conclusion with regard to the facts is palpably wrong;*

ii) *The trial court's decision was based on an erroneous view of law;*

iii) *The trial court's judgment is likely to result in "grave miscarriage of justice";*

iv) *The entire approach of the trial court in dealing with the evidence was patently illegal;*

v) *The trial court's judgment was manifestly unjust and unreasonable;*

vi) *The trial court has ignored the evidence or misread the material evidence or has ignored material documents like dying declarations/report of the Ballistic expert, etc.*

vii) *This list is intended to be illustrative, not exhaustive.*

2. *The Appellate Court must always give proper weight and consideration to the findings of the trial court.*

3. *If two reasonable views can be reached-one that leads to acquittal, the other to conviction-the High Courts/appellate courts must rule in favour of the accused."*

121. To similar effect is the verdict of the Supreme Court in ***State of Madhya Pradesh Vs. Dal Singh & Ors. JT 2013(8) SC 625.***

122. Gauged on the above parameters laid down by the Supreme Court of India in the afore-mentioned cases, it is apparent that there is nothing on the record to indicate that the learned trial court's decision was based on an erroneous view of law or that the learned trial court had ignored the evidence or misread the material evidence or had ignored the material documents. Rather, the analysis of evidence put forth by the learned trial court is based on a

reasonable conclusion possible on the evidence on record and there are no substantial and compelling reasons to discard the findings of the learned trial court.

123. The factum that the presumption of innocence is available to an accused in criminal jurisprudence where each person is presumed to be innocent unless he is proved guilty by a competent court of law, and the aspect of the presumption of his innocence being further reinforced and reaffirmed by his acquittal by the trial Court strengthens the conclusion drawn on the evidence on the record by the learned trial court and thus there is now in the present case the double presumption in favour of the innocence of the accused / respondents.

124. The evidence before the learned trial court establishes that the deceased and the accused no. 1 / respondent no. 1 had married pursuant to a love affair between them and that they were attached to each other even till the demise of the deceased. This aspect reinforces the testimonies of the parents of the deceased, who have categorically stated that the deceased had stated that she loved the accused no. 1 / respondent no. 1 and that she wanted a good matrimonial life. The accused no. 1 / respondent no. 1 in his statement under Section 313 Cr.P.C., 1973 has also stated that the deceased and he were very much in love and that there was no problem between them. The factum that the accused no. 1 / respondent no. 1 of his own came back to Delhi on 04.04.2012 from Manipur immediately on learning of the demise of the deceased, who expired on 03.04.2012 speaks volumes in favour of his innocence, in as much as the accused no. 1 / respondent no. 1 made no attempt to abscond though he was not even in Delhi at the time of the demise of the deceased.

125. The evidence on record also proves the weak physique of the deceased which corroborates the plea of defence put forth by the accused no. 1 / respondent no. 1 that the abortion took place as it was advised medically in view

of the frail health of the deceased. As rightly observed by the learned trial court, there is no evidence that has been led on the record to show that there was coerced abortion.

126. The factum that there was no complaint made prior to the demise of the deceased in relation to any demands for dowry, coupled with the factum that even **Mark PW-13/N** the alleged hand writing of the deceased in which she stated allegedly that her life had been made hell by the respondents was not produced during investigation of the father of the deceased and he chose to produce it only in the witness box when he was being examined, coupled with the factum that the said hand writing of the deceased was not sent for any forensic hand writing examination nor compared with any admitted hand writing of the deceased in any manner lend credence to the observation of the learned trial court that there were categorical improvements in the testimonies of the prosecution witnesses from the version put forth by them during the investigation. *Furthermore, the factum that the Mark PW-13/N is written in English script with Hindi words makes it all the more circumspect.*

127. The available record also establishes that the deceased was unable to adjust to the life style at Manipur having lived in the Metropolitan City of Delhi and was unable to adjust to the cultural differences between herself and her upbringing and that of the accused no. 1 / respondent no. 1 and his parents were residing at Manipur.

128. The available record further brings forth that the prosecution has been unable to establish its claim that the accused no. 1 / respondent no. 1 had demanded an EON Car as dowry from the deceased and her parents which purchased by the PW-13 i.e. the father of the deceased on 7.11.2011 for a sum of Rs.3,46,758/- and was purchased in the name of his daughter i.e. the deceased who continued to be in possession of the deceased and was driven by

the deceased who even drove to the house No.364, Indira Vihar on the fateful day i.e. 03.04.2012 to the house of the accused no. 2 / respondent no. 2 and thereafter the vehicle was handed over on superdari to the father of the deceased.

129. The further contention of the State that there was a demand of a sum of Rs.1 Lakh made to the mother of the deceased by the accused no. 1 / respondent no. 1 is also not substantiated in view of the testimonies of **PW-13**, **PW-15** who allegedly gave Rs.50,000/- to her step mother-in-law i.e. **PW-14** to hand over the same to the accused, in as much as **PW-14** stated that she gave Rs.50,000/- to the accused no. 1 / respondent no. 1 when he demanded Rs.1 Lakh which she took from PW-15, she did not even inform her sons namely Bharat Goyal and Gaurav Goyal about the same and she did not arrange the same through **PW-13** nor through her sons nor did she ask her own daughters-in-law and asked for the amount from her step daughter-in-law and she did not even disclose the same to her daughter (since deceased), are all aspects which cast a doubt on the veracity of the prosecution version in relation to the alleged demand of Rs.1 Lakh, especially as even **PW-17** Sh. Manjeev Goyal and **PW-15** Smt. Mamta Goyal (his wife) did not ask for the money amounting to Rs.50,000/- when they shifted and separated from **PW-13** and **PW-14**.

130. The allegations against the accused no. 1 / respondent no. 1 of having made demands of three gold sets for his three sisters and the gold rings and gold chains for his parents and also of his having demanded one gold chain for his brother-in-law (Jija), was also not conclusively established through the prosecution evidence led. As regards the allegations levelled against the respondents to the effect that on 12.02.2012, the accused no. 1 / respondent no. 1 / husband of the deceased had slapped her and had given her leg blows and the accused no. 2 / respondent no. 2 had caught hold of the deceased by her hairs

and had given beatings, have also not been substantiated through the evidence on record as it has not been brought forward on record as to when and how **PW-13** had learnt of the said fact. Furthermore, **PW-14** had deposed that on 13.02.2012, the accused no. 1 / respondent no. 1 had left the deceased at her parental home and at that time he had informed about the said beatings and in his cross-examination, **PW-14** had deposed that the accused no. 1 / respondent no. 1 was not in Delhi on 12.02.2012. The accused no. 1 / respondent no. 1 in his statement under Section 313 Cr.P.C., 1973 had also categorically stated that he reached at Delhi on 12.02.2012 at about 9.30 p.m. by an Air India flight which the prosecution has been unable to refute thus casting a grave doubt on the veracity of the prosecution version in relation to the allegations that have been levelled against the accused / respondents of harassment and maltreatment of the deceased for dowry demands.

131. As per the record, the accused no. 1 / respondent no. 1 had left the deceased on 08.03.2012 at her parental home and did not come to take her back at any stage. The prosecution has sought to contend that the accused no. 1 / respondent no. 1 told PW-13 that they would take back Smt. Reena Goyal (since deceased) only when the family members of the deceased would provide him a house in Sant Nagar, Burari. As per **Ex.PW11/A**, the statement of **PW-13** recorded by the Executive Magistrate though it has been stated by Sh. Sita Ram Goyal (father of the deceased) that the marriage between the deceased and the accused no. 1 / respondent no. 1 took place on 02.11.2011, he further stated that his daughter was an advocate and that on 07.03.2012, a Wednesday, the accused no. 1 / respondent no. 1 had taken his daughter (since deceased) to his rented accommodation at Indira Vihar (*the house number has not been mentioned*) and on 08.03.2012, the accused no. 1 / respondent no. 1, his mother and the sister of the accused no. 1 / respondent no. 1 i.e. Ms. Chanchan / the accused no.

2 / respondent no. 2 herein, left his daughter (since deceased) at his house i.e. PW-13 and never came back to take her back thereafter and the accused no. 1 / respondent no. 1 went away with his mother to Manipur, there is not a whisper of an averment in **Ex.PW11/A** in relation to any demand of dowry for any harassment meted out to the deceased. That such facts were not stated by the father of the deceased i.e. PW-13, to the SDM in the first statement made to the Executive Magistrate renders circumspect the prosecution version in relation to the alleged harassment, demand of dowry and maltreatment of the deceased by the respondents and also in relation to the alleged demand of a house at Sant Nagar, Burari.

132. The testimony of **PW-13** also does not bring forth that between 02.11.2011 and 07.03.2012, the deceased had ever stayed at her matrimonial home. The testimony of **PW-13** also states that when the accused no. 1 / respondent no. 1 had taken his daughter on 07.03.2012 to his house at Indira Vihar, the next day i.e. on 08.03.2012, the accused no. 2 / respondent no. 2 had informed **PW-13** i.e. Sita Ram Goyal that the condition of Smt. Reena Goyal (since deceased) was not good and thereafter, the accused no. 1 / respondent no. 1, the accused no. 2 / respondent no. 2 and their mother had brought Smt. Reena Goyal (since deceased) to the house of her father and had left her at her house at which time she i.e. Smt. Reena Goyal was not in a good condition and was not able to stand and was mentally and physically disturbed. The testimony of the **PW-13** also states that at that time, the accused no. 2 / respondent no. 2 stated that they would bring back the deceased only when her family members had provided her a house at Sant Nagar, Burari. **PW-13** further stated that he and his family members had taken the deceased to Dr. Mukesh Yadav for medical treatment but she was not treated there and thereafter they took her to Hindu Rao Hospital wherein the deceased was medically treated for 15-16 days after

her admission in the hospital for one or two days. He further stated that the accused persons and their mother did not visit the hospital to see the condition of Smt. Reena Goyal despite having been informed about the condition of Smt. Reena Goyal and that thereafter the accused did not come to the house to take his daughter and on 12.03.2012, the accused no. 1 / respondent no. 1 went to Manipur along with his mother.

133. As to what medical treatment was given to Smt. Reena Goyal d/o **PW-13** i.e. Sh. Sita Ram Goyal at the Hindu Rao Hospital and for what she was medically treated for upto 20 days, has not been explained anywhere on the record. From the date 08.03.2012 till the date of her demise, admittedly there was no contact between the accused no. 1 / respondent no. 1 and the accused no. 2 / respondent no. 2 and the deceased.

134. The testimonies of **PW-13** Sh. Sita Ram Goyal (the father of the deceased Smt. Reena Goyal), **PW-14** Smt. Veena Goyal (the mother of the deceased), **PW-15** Smt. Mamta Goyal (step sister-in-law of the deceased), **PW-16** Tanjeev Kumar Goyal and **PW-17** Sh. Manjeev Goyal (both step brothers of the deceased), the family members of the deceased, bring forth that there were property disputes between **PW-13** i.e. father of the deceased and her children, in as much as the first wife of **PW-13** i.e. father of the deceased and her children were living separately and the children of **PW-13** (i.e. father of the deceased) born of the wedlock with **PW-14** were living separately and that complaints were regularly made at the Police Station Civil Lines on account of property disputes are aspects which bring forth the probability of the deceased being under depression on account of the disputes between **PW-13** i.e. father of the deceased and his other sons namely Bharat Goyal and Gaurav Goyal.

135. Furthermore, the Investigating Officer Inspector Subhash Chand i.e. **PW-24** also admittedly made no inquiries in relation to the aspect of property dispute

between the family members of Sh. Sita Ram Goyal in view of his two marriages, he having stated that he learnt of the two marriages only at this last stage and neither did he make any inquiries in relation to the aspect of the first wife, nor in relation to the aspect whether there was some civil disputes in relation to the property of Sh. Sita Ram Goyal.

136. Significantly, the Investigating Officer has also categorically stated that he had not visited to Manipur and made no inquiries in relation to the business of the accused no. 1 / respondent no. 1 or his *alibi*.

CONCLUSION

137. The testimonies of the prosecution witnesses i.e. **PW-13** Sh. Sita Ram Goyal (the father of the deceased Smt. Reena Goyal), **PW-14** Smt. Veena Goyal (the mother of the deceased), **PW-15** Smt. Mamta Goyal (step sister-in-law of the deceased), **PW-16** Tanjeev Kumar Goyal and **PW-17** Sh. Manjeev Goyal (both step brothers of the deceased) bring forth that the accused no. 1 / respondent no. 1 had a good finance business at Manipur. that the parents of the accused no. 1 / respondent no. 1 were Government servants and father of the accused no. 1 / respondent no. 1 had already retired. The evidence on the record thus, as rightly held by the learned trial court does not establish any cruelty meted out to the deceased by the accused no. 1 / respondent no. 1 and the accused no. 2 / respondent no. 2 for dowry in terms of Sections 498A of IPC, 1860 as held by the Hon'ble Apex Court in the judgment titled as "**Kanwar Pal vs. Shakuntala and Ors.**" reported in 2015 IV AD (Delhi) 450 that : -

“to establish the offence under section 304B IPC of dowry death, the presumption under section 113B of Evidence Act cannot be raised against an accused until independently the offence under Section 498A IPC is proved by leading evidence qua the specific allegation with regard to time and date of such demand and cruelty and furthermore establishing the proximate live link

between the effect of cruelty based on dowry demand (offence under Section 498A IPC) and the death of the victim”

138. It is evident thus that the prosecution has failed to prove that the accused nos. 1 and 2 / respondent nos. 1 and 2 had treated the deceased with cruelty within the meaning of Section 498A IPC, 1860 and thus the presumption under Section 113B of the Indian Evidence Act, 1872 of a dowry death cannot be raised against the accused nos. 1 and 2 / respondent nos. 1 and 2, as there is nothing on record to establish any credible evidence led by the prosecution to prove any specific allegation with regard to the time and date of any demands or cruelty meted out to the deceased having not established any proximate live link between the effect of cruelty based on dowry demands and the death of the victim i.e. deceased.

139. It is essential to observe that to bring the accused nos. 1 and 2 / respondent nos. 1 and 2 within the ambit of culpability under Sections 304B of IPC, 1860, the prosecution has to established the following essential ingredients of Section 304B of IPC, 1860: -

- (i) *that soon before her death, the woman must have been subjected to cruelty or harassment by her husband / or in-laws, which cruelty must be for or in connection with demand for dowry; and*
- (ii) *such cruelty or harassment is shown to have been meted out to the woman soon before her death.*

140. The verdict of the Hon'ble Apex Court in ***Raman Kumar v. State of Punjab, 2009(3) JCC 1840 : (2009) 16 SCC 35*** categorically lays down that the presumption under Section 113B of the Evidence Act is a presumption of law which can be raised only on proof of the following ingredients : -

- (i) ***The death of a woman should be caused burns or bodily injury or otherwise than under a normal circumstance;***

- (ii) *Such a death should have occurred within seven years of her marriage;*
- (iii) *She must have been subjected to cruelty or harassment by her husband or any relative of her husband;*
- (iv) *Such cruelty or harassment should be for or in connection with demand of dowry;*
- (v) *Such cruelty or harassment is shown to have been meted out to the woman soon before her death;*

141. It was further laid down by the Supreme Court in the said verdict in para 16 to the effect : -

“16. A conjoint reading of Section 113B of the Evidence Act and Section 304B IPC shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. The prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the “death occurring otherwise than in normal circumstances”. The expression “soon before” is very relevant where Section 113B of the Evidence Act and Section 304B IPC are pressed into service. The prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led in by the prosecution. “Soon before” is a relative term and it would depend upon the circumstances of each case and no strait jacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113B of the Evidence Act. The expression “soon before for death” used in the substantive Section 304B IPC and Section 113B of the Evidence Act is present, with the idea of proximity test. No definite period has been indicated and the expression “soon before” is not defined. A reference to the expression “soon before” used in Section 114 Illustration (a) of the Evidence Act is relevant. It lays down that a court may presume that a man who is in the possession of goods soon after the theft, is either the thief who had received the goods knowing them to be stolen, unless he can account for his possession. The determination of the period which can come

within the term “soon before” is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression “soon before” would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be no consequence.”

142. Tested on the anvil on the above parameters, the prosecution evidence led, does not bring forth that there was any harassment or cruelty meted out to the deceased soon before her death to compel her to commit suicide.

143. In view thereof, the submissions made on behalf of the State through the Criminal Leave Petition No. 74/2016 seeking leave to appeal to contend that the learned Additional Sessions Judge had not appreciated the evidence cannot be accepted in as much as there is nothing on record to indicate that the learned trial court has ignored any material evidence, nor to indicate that there has been any misappreciation of evidence.

144. In view thereof, the Criminal Leave Petition No. 74/2016 whereby the State seeks the setting aside of the impugned judgment dated 16.09.2015 of the learned Additional Sessions Judge-II (North West), Rohini Courts, Delhi in Session Case no. 67/12 in relation to FIR no. 95/12 registered at police station Mukherjee Nagar, under Section 498A/304B/34 IPC whereby the accused no. 1 / respondent no. 1 namely B. Raj Sharma and the accused no. 2 / respondent no. 2 namely Chanchan were acquitted in relation to the alleged commission of offence punishable under Section 498A/304B/34 IPC, 1860 and also for the alternative charge framed under Section 302/34 IPC, 1860 is thus, - dismissed.

The record of the trial court be returned forthwith.

ANU MALHOTRA, J

GITA MITTAL, J

FEBRUARY 20, 2017/sv/mk

