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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 20th December, 2018

+ CRL.A. 501/2002

SHYAM KALI &ORS.

..... Appellants

Through: Mohd. Nasir Tabrez and Mr. J.
Alam, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP with
SI Ranjit Singh

+ CRL.A. 502/2002

SANJAY

..... Appellant

Through: Mohd. Nasir Tabrez and Mr. J.
Alam, Advocates

versus

STATE (N.C.T. OF DELHI)

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP with
SI Ranjit Singh

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. These appeals brought a challenge to the judgment of the court of Sessions and order passed in its wake whereby the appellants were

held guilty on charge of having subjected the victim to cruelty in matrimonial home, one of them being also convicted for the offence of dowry death and punishments awarded for the same.

2. Santosh Kumari, daughter of Ram Dulare (PW6), a retired employee of Delhi Electricity Supply Undertaking, then a resident of Trilokpuri area in Delhi was married to the appellant Sanjay (A1) son of Chet Ram (since deceased) on 02.12.1995. Chet Ram (A5) was living with his family that included his wife Shyam Kali (A3), his son appellant Sanjay (A1), other son appellant Sajender (A2) and an unmarried daughter appellant Madhu (A4) in a one room tenement described as House no.10, Old Birla Line, Shakti Nagar, within the jurisdiction of police station Roop Nagar. Chet Ram (A5) and Shyam Kali (A3) had one more child, she being appellant Kamlesh (A6), a married daughter. After marriage, Santosh Kumari shifted to the matrimonial home and in due course (on 15.10.1996) gave birth to a female child. On 09.03.1997, she suffered burn injuries in bathroom of the said house and was taken by officials of police control room (PCR) to Lok Nayak Jai Prakash Narain Hospital ("the hospital") where she was brought at 6.15 a.m on 09.03.1997, the medico legal certificate (MLC) having been prepared by the examining medical officer (vide Ex. PW1/A), it having been assessed at that stage that the burn injuries suffered by her were 100%, all over the body. In spite of medical aid and assistance, she did not survive, she having passed away at 11.50 a.m. on the same forenoon, the autopsy (vide report Ex. PW1/A) indicating the burn injuries to be 93%, the cause of death

being shock consequent to the said burn injuries, which undoubtedly were *ante mortem* in nature. It may be mentioned here itself that the investigation which was carried out in due course did not reveal it to be a case anything other than that of a suicidal death.

3. On initial inputs being received about this incident (vide DD no.39A) in police station Roop Nagar, SI Arjun Singh (PW-12) accompanied by constable Anil Kumar (PW-11) visited the house where the incident had occurred and also followed up to the hospital where the victim had been taken by PCR. The matter was also brought to the notice of Mr. K.S. Meena (PW-4), the Sub-Divisional Magistrate (SDM). The SDM recorded the statements of Ram Dulare (PW6) and Jai Prakash (PW-7), they being father and brother respectively of the victim. Under the directions of SDM, first information report (FIR) was registered vide (Ex. PW3/A) by Head Constable Chander Mohan (PW3), the then duty officer in the police station. The FIR, it may be noted, is founded on the statement (Ex. PW4/A) of Ram Dulare (PW6), the SDM having made the endorsement thereupon (vide Ex. PW4/B). It may be added that by the time the SDM conducted the said inquiry, the victim had already succumbed to the injuries, the FIR having been lodged at 4.15 p.m. on 09.03.1997 for investigation into offences that appeared to have been committed, from the circumstances and the statement of Ram Dulare (PW6), they being punishable under Sections 498A, 304 B read with Section 34 of Indian Penal Code, 1860 (IPC).

4. During the investigation, besides the inquest, and the autopsy, statements of witnesses were recorded including of Sunita (PW9), the younger sister of Santosh Kumari (deceased). It was revealed during investigation that the deceased was in the habit of writing a journal, described as “diary” in a bound diary of the year 1995 (Ex. P-2) which was seized statedly at the instance of the appellant Sajender (A-2) from an almirah in the matrimonial home (vide Ex. PW11/A). It was also stated that the deceased had handed over to her sister Sunita (PW9), a letter (Ex. P-1) at the time of visit of Sunita (PW9), accompanied by her brother Jai Prakash (PW7), to the matrimonial home of the deceased on 06.03.1997. The said letter (Ex. P-1) was formally taken over by seizure memo (vide Ex. PW7/A). The investigation also covered the inspection of the premises and seizure of certain articles primarily connected with the burning incident. It further covered seizure of certain material for confirmation of the hand-writing of the deceased with reference to the letter (Ex. P-1) and the entries in the journal (Ex. P-2), the said material including an exercise book (Ex. P-3) of the victim maintained at the time when she was a student of 11th standard and certain applications, etc. bearing her proven handwriting. The letter (Ex. P-1), and the journal (Ex. P-2), alongwith the specimen hand-writings of the deceased, were sent to Central Forensic Science Laboratory (CFSL) where they were examined by a government examiner of questioned documents (GEQD) namely Deepa Verma (PW15) who gave an opinion in the affirmative.

5. Upon conclusion of the investigation, report (“charge-sheet”) under Section 173 of the Code of Criminal Procedure, 1973 (Cr. PC) was submitted in the court of the Metropolitan Magistrate seeking trial of the above mentioned persons namely appellant Sanjay (A1), his brother Sajender (A2), his mother Shyam Kali (A3), his sister Madhu (A4), his father Chet Ram (A5) and his other sister Kamlesh (A6) for offences under Sections 304-B, 498-A read with Section 34 IPC. Cognizance was taken on the said charge-sheet and the said persons were summoned as accused.

6. Eventually, the case was committed and came before the court of Sessions (in Sessions case no.281/97), charges having been framed for the aforementioned offences against all six accused persons on 11.09.1998. Thereafter, the prosecution led evidence. The accused persons contested the case.

7. Chet Ram (A5), the father in law of the victim, however, died during trial on 06.01.2002 and, thus, the proceedings against him abated.

8. The trial against the rest continued, their statements under Section 313 Cr. PC having been recorded in which the allegations of they being responsible for the death of Santosh Kumari particularly about their complicity in her harassment for dowry or demands of precious gifts were denied. No evidence in defence was led.

9. The Additional Sessions Judge, presiding over the trial, by her judgment dated 30.05.2002, held, *inter alia*, that the charge for the

offence under Section 304-B IPC had not been brought home against Sajender (A2), Shyam Kali (A3), Madhu (A4) and Kamlesh (A6). They were thus acquitted of the said charge. At the same time, it was held that the charge for offence under Section 304-B IPC had been proved against the appellant Sanjay (A1), he being convicted accordingly. The trial court also found that charge for the offence under Section 498A IPC read with Section 34 IPC had been proved against all five accused who had stood the trial till its conclusion. They were accordingly convicted. By subsequent order dated 31.05.2002, the trial judge awarded rigorous imprisonment for ten years to the appellant Sanjay (A1) for the offence under Section 304-B IPC. She also awarded rigorous imprisonment for three years with fine against all the five convicts for offences under Section 498A read with Section 34 IPC, in the case of the appellant Sanjay (A1), the sentences on both counts to run concurrently, the benefit of set off under Section 428A Cr. PC for the period of incarceration already undergone having been accorded.

10. These appeals were filed challenging the above mentioned judgment and order on conviction by the five convicts. The appellant Sanjay has filed Crl. A. 502/2002 while the others filed a joint appeal, it being Crl. A. 501/2002. Since both the appeals have arisen out of the same case, they have been heard together.

11. During the pendency of these appeals, the appellant Shyam Kali (A3) died on 18.10.2004. This fact having been verified, the

proceedings against her have been found to have abated and, thus, the appeals have survived for consideration of the case qua appellant Sanjay (A1), appellant Sajender (A2), appellant Madhu (A4) and appellant Kamlesh (A6).

12. Having heard both sides at length and having subjected the trial court record to acute scrutiny, this court finds no reasons to dissociate from the conclusion reached by the investigating agency, as indeed the trial court, that Santosh Kumari had suffered death due to burn injuries which had been sustained in a suicidal attempt made by her on her own. There has actually been no theory at any stage of it being a case of accident or homicide. The fact that the victim had been married on 02.12.1995 and died due to burn injuries on 09.03.1997, one of the other crucial ingredients for the offence under Section 304-B IPC with which the appellants were charged, also stands established.

13. But then, for bringing home the case on the charge for the offence of dowry death, it is obligatory on the part of the prosecution to also prove that “*soon before her death*”, the victim had been subjected to such cruelty or harassment as was relatable to the demands for dowry. The proof, if adduced, to this effect would give rise to presumption under Section 113-B of Indian Evidence Act, 1872 which, if not rebutted, would lead to conviction for the offence of dowry death under Section 304-B IPC.

14. On the subject of harassment or cruelty in connection with or in connection with demands for dowry, the prosecution relied on the testimony of Ram Dulare (PW6), Jai Prakash (PW7) and Sunita

(PW9), the father, brother and sister respectively of the deceased. The said three witnesses in their respective testimonies have spoken of Santosh Kumari being harassed and subjected to cruelty in the matrimonial home by the husband (A1) and members of his family, particularly his father Chet Ram (since deceased) on account of their illicit expectations for valuable properties to be given as gifts. The prosecution also relied heavily on the letter (Ex. P1) and the entries in the personal journal (P2) for corroboration.

15. The trial judge, it may be noted, was not convinced with the above said evidence as to the complicity of the accused persons who stood trial other than the appellant Sanjay (A1) and consequently, acquitted the rest on the charge for offence under Section 304-B IPC. The concluding part of the impugned judgment, which was referred to by the counsel for the appellants, would need to be quoted in this context in extenso. It reads thus :-

“...From the evidence led on record by the prosecution, it only stands proved that demand for dowry was being made by accused Sanjay. It was he who demanded one plot / house from Ram Dulare as they were in shortage of accommodation and on his failure to meet this demand, he constantly used to harass his wife. Though Ram Dulare deposed that demand for one plot was being made by all the accused but this fact does not stand proved. It was only an exaggeration made by him. The statement of Ram Dulare is otherwise fully reliable. Though all the accused were expected Rs.50,000/- in Tika Ceremoney, but prosecution has failed to prove that any specific demand for this amount was made either by Sanjay or his relative. In view of the evidence led by the

prosecution, I hold that dowry demand i.e. demand for one house or plot was made by Sanjay from Ram Dulare. It was a dowry demand and once it stands proved with the help of Section 113-A of Indian Evidence Act, a presumption is raised against accused Sanjay that he caused the dowry death. Hence, I hold the accused Sanjay guilty for commission of offence punishable U/s. 304-B IPC and accused Sajender, Shyam Kali, Madhu and Kamlesh are acquitted of the charge U/s.304-B IPC as the prosecution has failed to prove any specific dowry demand made by them...”

16. It is the argument of the appellants that having reached the above conclusion qua the charge against Sajender (A2), the appellants Madhu (A4) and Kamlesh (A6) finding no material to raise presumption as to their complicity and resultantly acquitting them of the offence under Section 304-B IPC, it was not correct on the part of the trial court to convict these persons on the charge for offence under Section 498A IPC. To put it simply, it is the argument of the appellants that if the evidence as to the involvement of these persons in the unlawful demands for valuable property made was not found to be reliable in connection with the charge of dowry death, there was no justification for the same evidence to be accepted to hold them guilty on the charge for offences under Section 498A IPC, the conclusions reached by the trial judge, in their submission, being inherently contradictory.

17. The counsel for the appellants further argued that the entries in the personal journal (Ex.P2) maintained by the deceased during her lifetime, if read in context, would show that the grievances felt by her,

which possibly would have led to she committing suicide, related to the trauma which she was facing in life during the frequent quarrels and taunts to which she had been subjected by her parents-in-law, she at the same time also being unhappy over the conduct of the husband (A1) who was not being supportive of her, she being made even to “*beg*” money for her routine personal needs. The counsel for the appellants conceded that though there are references made in the personal journal (Ex. P2), and in the letter (Ex. P1), showing the deceased felt that though her family had spent more than due on her settlement in the matrimony which may be beyond their means but her matrimonial family was still not satisfied. It is his argument that this perception of the deceased does not necessarily mean that there were demands for dowry or that the harassment or cruelty statedly meted out to the deceased in the form of abuses, taunts or even physical assault by the husband and others were designed to coerce the members of her parental family to accede to such illicit desire.

18. It has been the argument of the appellants that the letter (Ex. P1) is of suspect origin, there being no confirmation in respect of its contents, and that the deceased possibly may have been suffering from paranoia that she may come to some harm in the matrimonial home on account of overall unhappy disposition of each member of the said family towards her, the entries in the journal (Ex. P2) showing she being in a reflective mood, comparing her childhood and early loss of her mother who she would deeply miss.

19. The sum and substance of the arguments of the appellants is that the case of dowry death has not been proved and, therefore, the conviction of A1 on the said charge is improper and deserves to be set aside. It is also the argument of the appellants that the evidence as to the complicity of A2, A4 and A6 is deficient there being many a gap, the improvements made by the members of the family of the deceased who entered the witness box at the trial rendering their word not wholly reliable.

20. The evidence of Ram Dulare (PW-6), father of the deceased requires to be tested against his first version (Ex. PW4/A). He did depose at the trial that the matrimonial family of his daughter Santosh Kumari was not happy and they all would express that insufficient dowry had been given, their demands having included a house, a refrigerator and Rs.50,000/-. His son Jai Prakash (PW-7) also spoke on the same lines testifying that the grievances about the deficiency in the gifts given in the marriage functions had begun from the time of 'tika' ceremony and particularly, after marriage Chet Ram (since deceased) and his other family members would often tell the deceased that they were getting Rs.50,000/- from another proposal. He would include particularly Shyam Kali (since deceased) and Sanjay (A1) in this regard. He also spoke about the demand of a plot of land and Rs.50,000/- to be given attributing this to all the accused persons.

21. Sunita (PW9) was also examined to corroborate the word of PW6 and PW7. But then, from the manner in which she deposed, it appears she was not privy directly to the demands, she only having

heard about it. From this perspective, the evidence of PW9 will have to be kept aside, with regard to the case of the prosecution for dowry demand being at the root of the matter, it being hearsay in so far as she is concerned.

22. It was, however, brought out during the cross-examination of PW6 and PW7 that the allegations concerning the expectation of an immovable property to be given were initially made only against Sanjay (A1) and no other. The fact that PW6 and PW7 have tried to improve upon the case by making an endeavour to rope in all members of the matrimonial family particularly the daughters raises anxieties as to the extent of truthfulness in their respective version about the demands for dowry.

23. It is against the above backdrop that the entries in the personal journal (Ex. P2), and the letter (Ex. P1), both proved to have been written by the deceased, come handy. The journal (Ex. P2) was written by the deceased, though in a diary of the year 1995, it having begun sometime in January 1996, the printed dates in the said diary thus not reflective of the dates on which the entries would have been recorded. Instead, the author (deceased) took care to mention the dates at several places, the entries seemingly having begun in January, 1996, the last entry appearing to be of 15.10.1996. It must be added here that several pages of this diary are found to be missing. It is not clear who had torn off said pages. If the appellants were to be blamed for this, there is no reason why they would retain the diary at all. They had the opportunity to destroy it totally. The fact that the said

diary was found in the matrimonial home, hidden in the personal almirah of the deceased, it has to be assumed, in absence of any probe throwing up material to the contrary as to the complicity of the accused persons, that the deceased herself may have removed the missing pages.

24. It does appear from the entries in the personal journal (Ex. P2) that the deceased had many a grievance about the conduct of her husband and particularly about her parents-in-law, more focus being on the mother-in-law. There are references made to her parental family having spent more money than was justified or reasonable, they having gone beyond their means, to her dislike. There are also references made to the matrimonial family members being of greedy nature. But then, crucially, as is the argument raised by the appellants, there is not a whisper of any allegation of any specific demand by specific individual. Same is the case of Ex. P1, the letter, which the deceased has statedly handed over to her sister (PW-9) at the time of her visit to the matrimonial home on 06.03.1997. The explanation of the sister (PW9) and brother (PW7) is that they had not paid any heed to this letter at that stage. They understood the import and effect of this communication by the deceased on 06.03.1997 only after Santosh Kumari had suffered burn injuries and had been taken to the hospital in critical stage on 09.03.1997 with a gap of just three days thereafter. The letter (Ex. P1), in the opinion of this court, comes out virtually as a dying declaration of the deceased.

25. Going by the drift of her entries in the journal (Ex. P2), and culminating in the communication (Ex. P1) which surfaced on 06.03.1997, it is clear that the mental disposition of the deceased was going from bad to worse. She was feeling harassed. She was feeling alone. She was feeling ill-treated in the matrimonial home. The cause of all this being the general ill-treatment to which she had been subjected. The letter (Ex. P1) in fact begin with her suspicion that the matrimonial family was planning to put her to death, they making an attempt to remove all proof of her marriage. It is in this context that she spoke about her jewellery having been taken. Noticeably, she would mention doubts about the intention of her husband (A1), referring to presence of another woman in his life, a woman who would visit the house about whose significance she was not aware, she suspecting the husband to be involved in a love affair with her and planning to get married to her. Noticeably, however, her parental family members would come up with no such theories.

26. What is important to note here is that in all the journal entries spread over almost nine months' period upto the last communication (Ex. P1) addressed directly to the parental family though the sister (PW9), the deceased did not utter even a whisper about the illicit desire of the matrimonial family for a house or plot of land or any other valuable gift to be given.

27. The parental family, as has been conceded by PW-6 and PW-7, owned three properties in the area of Trilokpuri, PW-6 referring to them as house no.14/487, 14/488 and 14/489. In contrast, the

matrimonial family was living in one room tenement, they being constrained to use the verandah in front as a kitchen. The family of the husband (A1) undoubtedly was large, the space being too small. This is what is reflected to be one of the reasons by PW-6, PW-7 and PW-9 as to why they could not have free talk with the deceased whenever they would visit her matrimonial home. There was no space and there was no privacy. As is pointed out by appellants, A1 in the course of his statement to the SDM (Ex. PW4/D) recorded on 09.03.1997, himself sought to explain that his wife was unhappy because there was not enough room in his house, she pressurizing him to move out elsewhere to which he was not agreeable, given the limited resources.

28. The learned counsel for the appellants referred to the part of the material on record to argue that A1 was caught between the expectations of his parents on one side and the desire of his wife (the victim) on the other which led to frequent quarrels between the two, this, as the material would also show, having led to the victim even returning to the parental family and spending several months, there in protest.

29. It may be that the deceased had some reason to be unhappy over the limited space in the matrimonial house. But then, in the entire journal (Ex. P2) – the entries wherein were contemporaneous and recorded not with a particular design and so will have to be respected – do not reflect in any manner this to be the cause of her grouses. At the same time, this court must accept that the journal entries do not

also show that there was any reason for unhappiness because her husband had an eye on one of the house owned by her father. This part of the case for prosecution being conspicuously absent from the said journal entries, the allegations to this effect, coming after the death, do not deserve to be believed on their face value, particularly in view of the endeavour made to improve upon the original case set up against the husband (A1) alone, possibly with the idea to ensnare other members of the matrimonial family as well.

30. The charge for the offence under Section 498-A IPC in the present case was framed as under :-

“That you accused Sanjay was married with Santosh D/o Ram Dulare, on 02.12.1995 and after marriage, Santosh started living at 10, Old Birla Line, Shakti Nagar, Delhi and during the subsistence of marriage, you accused Sanjay being the husband, Sajender being brother-in-law, Shyam Kali being mother-in-law, Chet Ram being father-in-law, Madhu being sister-in-law, Kamlesh being sister-in-law of the deceased Santosh, in furtherance of your common intention of you all, harassed her with a view to coercing her and her relations to meet unlawful demands for dowry and harassment was also on account of failure by her and her relation to meet such demand and our willful conduct was of such a nature as was likely to drive Santosh to commit suicide and you all the accused persons thereby committed an offence punishable U/s. 498-A / 34 IPC and within the cognizance of this court”

31. It is clear that the charge for the aforementioned offence was founded on explanation (b) appended to Section 498-A IPC, there

being no element of explanation (a) included there. As the discussion that is to follow would show there is material available on record of the nature covered by explanation (a) but on account of the aforesaid restricted gravamen in the charge framed under Section 498A IPC, it is too late in the day to act upon such material to affirm the conviction under Section 498A IPC.

32. For the foregoing reasons, the evidence of PW-6, PW-7 and PW-9 about the demands of dowry being the cause for harassment or cruelty is found to be not inspiring confidence. In the result, the conviction of the appellants, Sanjay (A1), Sajender (A2), Madhu (A4) and Kamlesh (A6) on the charge for the offence under Section 498-A with reference to explanation (b) appended thereto read with Section 34 IPC will have to be set aside.

33. It is natural corollary to the above that the charge under Section 304-B IPC against the appellant Sanjay (A1) can also not stick, the crucial element of cruelty or harassment for or in connection with any demand for dowry being missing, making it impermissible for the presumption under Section 113-B of Indian Evidence Act, 1872 to be drawn.

34. But, it is not a case where the appellant Sanjay (A1) can get away scot free. His responsibility for the circumstances faced by Santosh Kumari (the victim) is writ large on the record. The dying declaration in the form of letter (Ex. P1), and the personal journal entries (Ex.P2), are by themselves sufficient to prove his guilt as to the cruelty with which he treated his wife. The evidence unmistakably

shows that he was habitual of subjecting her to physical assaults. He would deprive her of even basic needs. She was made to feel like a beggar in her own house. His parents were subjecting his wife to taunts and abuses. Yet, he would be a mute spectator. He would not intervene, this making the victim feel isolated and deprived of the love and care that she expected at the hands of the husband. Given the socio-economic background from which the deceased had come, conduct towards her in the matrimonial home, particularly by the husband, of such nature was likely to cause grave injury to her mental or physical health within the meaning of the expression “*cruelty*”. The fact that it actually drove the victim to commit suicide only adds to the reasons that give rise to the presumption of abetment of suicide under Section 113-A of the Indian Evidence Act, 1872, the death due to unnatural circumstances (suicide) having occurred within a period of seven years from the date of marriage.

35. But, the crucial question which would arise in these circumstances is as to whether the appellant (A1) can be held guilty on the charge of abetment of suicide, punishable under Section 306 IPC, for which there was no separate charge framed by the trial court. The answer is found in the provision contained in Section 222 (1) and (2) Cr. PC which reads thus :

“222. When offence proved included in offence charged :

(1) When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor

offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

(2) When a person is charged with an offence and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence, although he is not charged with it.”

36. As noted earlier, the charge was framed under Section 304-B IPC. For purposes of the accusations of the said offence, the following ingredients are crucial :-

- (i). it must be a case of death of a married woman in other than normal circumstances;
- (ii). the death must have occurred within seven years of the marriage; and
- (iii). the deceased must have been subjected to cruelty or harassment by the husband or any relative of her husband for, or in connection with, any demand for dowry, soon before her death.

37. In the present case, the charge of dowry death was founded on the basis of suicidal death which was a death otherwise than under normal circumstances. The death occurred within seven years of the marriage of the victim to the appellant Sanjay (A1). The complicity of the appellant Sanjay (husband) in the acts constituting cruelty towards the victim has been established, the only missing link being that such cruelty is not proved to be on account of demands for dowry. In these

circumstances, the combination of the facts which have been brought home, constitutes the offence of abetment of suicide which, relatively speaking, is a complete minor offence.

38. Thus, on the strength of Section 222 Cr. PC, it is permissible to hold the appellant Sanjay (A1) guilty of the offence under Section 306 (abetment of suicide) instead of offence of dowry death which is punishable under Section 304 B IPC with which he was charged.

39. On the foregoing facts, and in the circumstances, the appeals are partly allowed. The appellants Sajender (A2), Madhu (A4) and Kamlesh (A6) are hereby acquitted, their conviction for the offence under Section 498-A read with Section 34 IPC and the sentences awarded for the said offence being set aside.

40. The conviction of the appellant Sanjay (A1) on the charge for offence under Section 304-B and 498-A read with Section 34 IPC is also set aside. He is instead held guilty and convicted for the offence under Section 306 IPC.

41. As noted earlier, the trial court had awarded rigorous imprisonment for ten years to appellant Sanjay (A1) for the offence under Section 304-B IPC. That, in fact, is the maximum punishment with which he can be punished for the offence under Section 306 IPC. The incident occurred in March 1997, twenty one years ago. The trial was concluded by May 2002, the appeal having been preferred in July 2002. The appeal has remained pending for sixteen years. Undoubtedly, a lot of time has passed by. But, eventually the law

must catch up. The crime of such nature cannot go unpunished or meted with punishment, which is insignificant. Given the overall conspectus of the facts and circumstances of the case, in the view of this court, rigorous imprisonment for seven years with fine of Rs.25,000/- should meet the ends of justice. Ordered accordingly. Needless to add, the appellant Sanjay (A1) will be entitled to set off for the period of incarceration already undergone in terms of Section 428 Cr. PC. In case of default in payment of fine, he shall further undergo simple imprisonment for six months.

42. The appellant, Sanjay (A1) is directed to surrender to jail forthwith to serve the remaining sentence. The trial court will take necessary measures, including by issuing requisite processes to enforce and execute the sentence as ordered above. The Station House Officer of police station Roop Nagar shall render all assistance to the trial court. The bail bonds of other appellants are cancelled.

43. The appeals are disposed of in above terms.

R.K.GAUBA, J.

DECEMBER 20, 2018

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