

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

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312 (I) CRA-D-62-DBA-2003 (O&M)  
Date of Decision: 10.01.2023

STATE OF PUNJAB -Appellant

Versus

MANJIT KAUR -Respondent

(II) CRA-S-1326-SB-2002 (O&M)  
Date of Decision: 10.01.2023

RANJIT SINGH -Appellant

Versus

STATE OF PUNJAB -Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR  
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Argued by: Mrs. Baljit Mann, Sr. Advocate with  
Mr. Anmol Partap Singh Mann, Advocate  
for the respondent in CRA-D-62-DBA-2003 and  
for the appellant in CRA-S-1326-SB-2002.

Ms. Monika Jalota, Sr. DAG, Punjab.

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**KULDEEP TIWARI, J.**

1. The appeal bearing No. CRA-D-62-DBA-2003 has been directed by the State of Punjab challenging the verdict of acquittal made upon respondent Manjit Kaur (co-accused) qua the charges framed against her, by the Additional Sessions Judge, Barnala, on 02.08.2022. On the other hand, the appeal bearing No. CRA-S-1326-SB-2002 has been filed at the instance of appellant Ranjit Singh, against the verdict of

conviction dated 02.08.2002 and order of sentence dated 05.08.2002, recorded by the learned Additional Sessions Judge, Barnala, in case FIR No.25 of 11.05.2001, registered under Sections 304-B and 498-A of IPC, at Police Station Mehal Kalan, District Barnala, whereby he has been convicted for the offence punishable under Sections 304-B and 498-A of IPC, and, has been awarded sentence as under:-

| Offence under<br>Section | Period (R.I.)     | Fine       | In Default       |
|--------------------------|-------------------|------------|------------------|
| 304-B of IPC             | R.I. for 10 years | Rs.1,000/- | R.I. for 1 month |
| 498-A of IPC             | R.I. for 2 years  | Rs.500/-   | R.I. for 1 month |

Both these sentences were ordered to run concurrently.

2. Since both these appeals arise out of the same facts and a common impugned judgment, therefore, they are being taken together and decided accordingly.

**FACTUAL MATRIX**

3. The prosecution agency was set into motion on the complaint of Jagsir Singh (PW1), whereupon, SI/SHO Balbir Singh recorded his statement, Ex.PA. The relevant extract of his statement, Ex.PA, reads as under:-

“Stated that I am resident of aforementioned address and am an agriculturist. We are three siblings. My elder sister, Baljit Kaur, was married to Ranjit Singh son of Mohinder Singh, Jatt, resident of Mehal Kalan, about 1½ years back, as per customary rights. At the time of marriage of my sister Baljit Kaur, we had

given dowry as per our capability. However, after 2/3 months of her marriage, her husband Ranjit Singh and her mother-in-law Manjit Kaur started harassing her on the pretext that sufficient dowry has not been given in marriage as per their status because they have only one son. Ranjit Singh and his mother Manjit Kaur used to harass her for bringing more dowry. Even, a couple of times, I along with my uncle (Massar) Baldev Singh son of Nahar Singh Jatt, resident of Sanghera, my maternal uncle (Mama) Amarjit Singh son of Inder Singh Jatt, resident of Jahangir, P.S. Dhuri, had gone to Mehal Kalan and tried to persuade them that we are poor persons and we have already given adequate dowry and then we returned from there. After about 7/8 months of the marriage, they gave beatings to my sister Baljit Kaur and sent her to Karamgarh and also asked her to return to their house only if she brings more dowry, otherwise, she need not return. While staying with us at Village Karamgarh, my sister Baljit Kaur gave birth to a male child, however, they did not even come to see the child. Thereafter, we convened a Panchayat and requested them, whereupon, Baljit Kaur was sent to their house. After about 2 months, Baljit Kaur telephonically informed me that she is being harassed for not bringing customary gifts (Shushak) and she asked me to visit her in-laws house along with our uncle (Massar) and maternal uncle (Maternal uncle). Therefore, on the next day, I along with my uncle (Massar) and maternal uncle (Maternal uncle) went there and stayed there at night. After having dinner that night, we had a conversation and Ranjit Singh and

his mother Manjit Kaur told us that, in case, we want to settle my sister in the matrimonial house, we have to give customary gifts (Shushak) and more dowry or in lieu thereof, to give them Rs.30,000/- cash. Upon this, my sister told them that her father is no more in the world and she requested them not to harass her brother. However, they used bad language with Baljit Kaur in our presence. We conciliated them not to harass my sister and returned from there by assuring them that their demands will be fulfilled after harvestation of Haari crop. Today, at about 8 a.m., I received a phone call of my uncle (Massar) Mohinder Singh, from Mehal Kalan, who told that something has happened to Baljit Kaur and he asked us to come immediately as she is to be taken to hospital. Upon this, I telephonically informed my uncle (Massar) Baldev Singh about it and then, both of us went to Mehal Kalan and we took Baljit Kaur to Barnala for treatment, however, she died on the way. After placing dead body of Baljit Kaur at the house of my uncle (Massar) Baldev Singh, at Sanghera, we deployed Jagjit Singh son of Hazara Singh, resident of Sanghera, to guard the dead body and we were going to Police Station to report the matter and SI/SHO, Mehal Kalan, met us at Bus Stand Sehjra. My sister Baljit Kaur has been murdered by my brother-in-law Ranjit Singh and her mother-in-law Manjit Kaur, by administering her some poisonous medicine or by inflicting internal injuries to her. I have got recorded my statement and heard it, which is correct. Action be taken.”

4. On the basis of above statement, an FIR bearing No.25 dated

11.05.2001, under Sections 304-B and 498-A of the Indian Penal Code (hereinafter referred to as 'IPC'), was registered at Police Station Mehal Kalan, against appellant Ranjit Singh (Husband) and Manjit Kaur (Mother-in-law).

**POLICE INVESTIGATION**

5. After registration of the FIR, SI/SHO Balbir Singh along with Baldev Singh, Jagsir Singh (complainant) and other police officials visited Village Sanghera, where the dead body of Baljit Kaur was lying in the courtyard of the house of Baldev Singh. Thereafter, the proceedings under Section 174 Cr.P.C. were carried out. The dead body was handed over to HC, Harjinder Singh, for getting its post-mortem conducted. The post-mortem was conducted by a team of Medical Board. Upon his return to the Police Station, HC, Harjinder Singh produced a parcel containing the clothes of deceased Baljit Kaur, a parcel containing viscera and one sealed envelope, before SI/SHO Balbir Singh. The aforesaid parcels were taken into possession vide recovery memo, Ex.PJ. Thereafter, the spot of occurrence was inspected and a site plan, Ex.PR, was prepared. On 14.05.2001, SI/SHO Balbir Singh arrested the accused Ranjit Singh (appellant/accused) and Manjit Kaur (respondent/co-accused). Thereafter, the dowry articles, which were given by the family members of deceased Baljit Kaur in her marriage, were seized vide recovery memo, Ex.PV. The statements of the witnesses, under Section 161 Cr.P.C., were recorded by the Investigation Officer. The viscera was sent to the Chemical Examiner to Government of Punjab, Chandigarh. After completion of investigation,

the Final Report under Section 173 Cr.P.C. was presented before the concerned Illaqa Magistrate. Finding the case exclusively triable by the court of Sessions, the learned Illaqa Magistrate, committed the case to the court of Sessions vide committal order dated 12.06.2001.

**PROCEEDINGS OF TRIAL COURT**

6. Finding a prima facie case, the accused were charge-sheeted for commission of offence punishable under Sections 304-B and 498-A of IPC, to which they pleaded not guilty and claimed trial. The prosecution, in order to substantiate its case, examined 8 witnesses in total. During the course of trial, PWs Chhota Singh, Gurdeep Singh, Harbhajan Singh and Surjit Singh were given up by the ld. Public Prosecutor being won over by accused, and, PWs Amarjit Singh, C. Malkit Singh, C. Balwinder Singh, ASI Baldev Singh, ASI Najar Singh and Dr. Neera Seth, were given up, being unnecessary. The appellant/accused, in their statements recorded under Section 313 Cr.P.C., though, opted to lead evidence in their defence, however, no witness was examined on their part.

7. The learned trial Court, after completion of trial, recorded the impugned verdict of conviction and order of sentence qua the appellant/accused Ranjit Singh, whereby, he has been convicted for offence punishable under Section 304-B and 498-A of IPC, and, acquitted Manjit Kaur from the charges framed against her.

**SUBMISSIONS BY COUNSELS FOR THE PARTIES**

8. The learned senior counsel defending Ranjit Singh

(appellant) and Manjit Kaur (respondent) in both these appeals, vehemently argued that the essential ingredients to constitute an offence under Section 304-B of IPC have not been proved by the prosecution beyond reasonable doubt, therefore, the statutory presumptions, as envisaged under Section 113-B of the Evidence Act, could not have been invoked against the appellant Ranjit Singh. She further argued that the learned Trial Court has not appreciated the evidence in its right perspective, therefore, the verdict of conviction is not sustainable. Further, by citing discrepancies in the statements of MHC Pargat Singh (PW6), C. Balwinder Singh (PW7) and the Investigation Officer SI/SHO Balbir Singh (PW8), she argued that the prosecution has not been able to prove that the cause of death of deceased Baljit Kaur was surrounded by unnatural circumstances. Furthermore, while referring to the statement of complainant Jagsir Singh (PW1), she argued that it does not disclose any allegation to the extent that deceased Baljit Kaur was subjected to cruelty or harassment for or in connection with demand of dowry 'soon before her death'. She next contended that the prosecution has even failed to establish any link between the death of deceased Baljit Kaur and demand of dowry from her, therefore, the impugned verdict of conviction is liable to be set aside.

On the other hand, while defending respondent Manjit Kaur (Mother-in-law) against the challenge posed to her acquittal, the learned senior counsel argued that there is absolute dearth of evidence to connect her with the commission of the alleged crime, therefore, she has been

rightly acquitted by the learned Trial Court. By placing reliance upon the judgment rendered by Supreme Court in **Harijana Thirupala vs. Public Prosecutor, High Court of A.P., (2002) 6 SCC 470**, she submitted that upon passing of an order of acquittal, presumption of innocence in favour of the respondent/accused gets reinforced and strengthened, therefore, the order of acquittal shall not be interfered with lightly.

9. Per contra, the learned counsel for the State placed heavy reliance upon the statements of complainant PW1 Jagsir Singh (Brother of deceased) and PW2 Baldev Singh (Uncle of deceased) and averred that both these witnesses have categorically proved that cruelty and torture were meted out to the deceased Baljit Kaur for not bringing dowry and as a consequence of such atrocities, she died an unnatural death. The learned State counsel further argued that the evidence led by the prosecution is cogent and credible and all the essential ingredients requisite to bring home the guilt of accused, under Sections 304-B and 498-A, have been proved on record beyond reasonable doubt, therefore, the statutory presumption under Section 113-B of the Evidence Act was rightly invoked by the learned trial Court and the accused have remained unsuccessful to rebut the statutory presumption.

### **REASONS**

10. With the able assistance of learned counsels for the parties, we have examined the entire record of the trial Court including the statements of witnesses, as examined by the prosecution. Before we proceed to discuss the evidence led by the prosecution, it is apt to first

deal with the legal propositions.

11. Section 304-B of IPC defines “dowry death” and also prescribes punishment for commission of “dowry death”. Section 304-B of IPC is reproduced as under:-

[“**304-B. Dowry death.**-- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.- For the purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

Perusal of the above clearly depicts that in order to attract the provisions of Section 304-B of IPC, the following essential ingredients are required to be proved by the prosecution:-

- (i) *Death must be caused by burns or bodily injury or it must occur otherwise than in normal circumstances;*
- (ii) *Death must occur within seven years of marriage; and*
- (iii) *It must be shown that soon before her death, the woman was subjected to cruelty or harassment by her husband or any relative of her husband.*

*(iv) Such cruelty or harassment must be for or in connection with any demand for dowry.”*

Once all the aforesaid ingredients are proved on record by the prosecution, it becomes obligatory on the Court to raise a presumption, under Section 113-B of the Indian Evidence Act, that the accused caused the dowry death, although, the presumption which arises against the accused is a rebuttal presumption. Reliance in this regard can be placed upon the judgment passed by the Supreme Court in **Kunhiabdulla & Anr. Vs. State of Kerala, 2004(2) R.C.R. (Criminal) 197.**

12. “Presumption” is a rule of law that Court may or shall draw inference from a certain proved fact unless the truth of such inference is rebutted. Once the prosecution establishes on record all the basic ingredients to constitute an offence under Section 304-B IPC, it is an obligation upon the Court to presume that the accused caused the 'dowry death'. The onus to prove innocence shifts on the accused, once the statutory presumption is invoked against him, which is to be discharged by leading cogent evidence.

13. In view of the above settled legal propositions, let us examine the evidence led by the prosecution. The first question which arises for consideration is *“Whether the death of deceased Baljit Kaur was caused by burns or bodily injury or otherwise than under a normal circumstance, and, within seven years of her marriage?”*

14. In order to prove this, the prosecution has examined Dr.Subhash Singla (PW3) from Civil Hospital, Barnala, who stated that

on 11.05.2001, a Medical Board, consisting of him and Dr. Neera Seth, was constituted to conduct post-mortem of the dead body of Baljit Kaur. Upon conducting the post-mortem examination, they found the following injuries:-

“The body was moderately built, moderately nourished, with long black scalp hair, black axillary and pubic hair. The eyes were closed. The mouth was partially opened. White froth was present in both the nostrils and mouth. Cyanosis was present on lips and nails of fingers and toes. Perinal region was soiled with stool. Rigor mortis was present partially in the upper limbs. Post-mortem staining was present at the back. Length of the body was 5'-3". There was no ligature mark on the neck.”

He further stated that after receipt of the report of Chemical Examiner, the cause of death of Baljit Kaur was declared as “Asphyxia” due to consumption of “Aluminum Phosphide” (Pesticide poisoning), which was sufficient to cause death in ordinary course of nature. He proved on record his opinion as Ex.PG and carbon copy of the post-mortem report as Ex.PC.

15. The complainant Jagsir Singh and Baldev Singh stepped into the witness box as PW1 and PW2 respectively and deposed that the marriage between Baljit Kaur (since deceased) and the appellant Ranjit Singh (present appellant) was solemnized on 17.01.2000. They further

categorically stated regarding receipt of a telephonic call from Mohinder Singh on 11.05.2001, who informed them that something has happened to Baljit Kaur and he asked them to reach their house. Upon this, both these witnesses reached the matrimonial home of deceased Baljit Kaur, where she was found in an unconscious condition and consequently, both of them took her to Barnala for providing her treatment, however, she died on the way to Hospital, near Sanghera.

16. From a conjoint reading of the statements of Jagsir Singh (PW1), Baldev Singh (PW2) and Dr. Subhash Singla (PW3) as well as the evidence available on record, inasmuch as, pertaining to date of death of Baljit Kaur i.e. 11.05.2001, it clearly transpires that deceased Baljit Kaur has died, under circumstances other than normal, in her matrimonial home and that too within seven years of her marriage.

17. Now, the next question which arises for consideration is *“Whether the deceased was subjected to cruelty or harassment by her husband or any relative of her husband, in connection with demand of dowry?”*

18. In order to fulfill the requisite conditions of proving the above, the testimony of complainant Jagsir Singh (PW1) and Baldev Singh (PW2) are available on record. Jagsir Singh (PW1) categorically supported the version of the FIR and stated that only two months after the marriage, appellant/accused Ranjit Singh and Manjit Kaur started harassing her sister for bringing less dowry on the pretext that the appellant Ranjit Singh is the only son of his parents and therefore, they

deserve much more dowry than what has been given and they raised demand of Rs.30,000/- cash. Such being the behavior of the appellant/accused, a Panchayat was convened between both the families and even there they raised demand of dowry. He further stated that after 8/9 months, Ranjit Singh (appellant/accused) and Mohinder Singh gave beatings to her sister and ousted her from her matrimonial home and resultantly, she came to reside at her parental house, where she gave birth to a male child. The appellant/accused never came to their house to inquire about the wellbeing of the new born child or his sister Baljit Kaur. Thereafter, he along with Amarjit Singh, Baldev Singh and some respectables went to the house of Ranjit Singh (appellant/accused) with a request to re-settle his sister in the matrimonial home and as an outcome of their persuasion, Ranjit Singh (appellant/accused) agreed and took his sister and the new born child to his house. However, about 2/3 months thereafter, he received a call from his sister, who informed that appellant/accused are harassing her for not bringing sufficient customary gifts, which are to be given after birth of child. Upon this, he along with Amarjit Singh and Baldev Singh again visited the house of appellant/accused to persuade them but the same demands were put before him too. After some time, on 11.05.2001, he received a telephone call from Mohinder Singh informing that something has happened to Baljit Kaur. The complainant Jagsir Singh (PW1) was put to pointed and lengthy cross-examination by the defence, however, apart from minor discrepancies, the defence could not impeach the credibility of this

witness and nothing material could be elicited therefrom.

19. The version of Jagsir Singh (PW1) was further corroborated by Baldev Singh (PW2), who remained associated with him to re-settle Baljit Kaur (since deceased) in her matrimonial home. He categorically proved on record the date of marriage of Baljit Kaur with appellant/accused Ranjit Singh and also stated about the atrocities meted out to Baljit Kaur at the hands of appellant/accused Ranjit Singh and Manjit Kaur for bringing insufficient dowry. He deposed on the same lines of Jagsir Singh (PW1) regarding ousting of Baljit Kaur from her matrimonial home by the appellant/accused and regarding convening of Panchayat to re-settle her in her matrimonial home, where the appellant/accused again raised demand of dowry and Rs.30,000/- cash. He was put to incisive cross-examination by the defence and a suggestion was put to him to the extent that the financial condition of the family of Ranjit Singh is much better than the financial condition of Jagsir Singh, therefore, no question arises for demand of dowry. However, apart from some minor discrepancies, the defence could not impeach the veracity of this witness or cause any dent to the prosecution version. Therefore, we can easily conclude that the prosecution has proved beyond reasonable doubt that the deceased was subject to cruelty by her husband in connection with demand of dowry.

20. Now, the next issue for consideration before us is “*Whether such cruelty or harassment has been meted out to the deceased soon before her death?*”

21. The learned senior counsel, while referring to the statement of Jagsir Singh (PW1) and Baldev Singh (PW2), argued that the allegations leveled by them are vague and ambiguous. There is no evidence that soon before her death, the deceased was subjected to cruelty, which could disturb her mental equilibrium. She further argued that the incidents of harassment, as suggested by the prosecution, do not depict that the deceased was subjected to cruelty soon before her death. All the incidents of cruelty as alleged by the prosecution, even if presumed to be gospel truth, have become stale enough not to disturb the mental equilibrium of the woman concerned. Therefore, the appellant Ranjit Singh deserves to be acquitted from the charges leveled against him.

The expression “soon before” is very relevant in order to raise a presumption under Section 113-B of the Evidence Act. It is upon the prosecution to prove that soon before the occurrence, there was cruelty or harassment in connection with demand of dowry and only in that case, statutory presumption arises against the accused. While examining the issue (supra), the Supreme Court has held that no period can be fixed to indicate 'soon before'. It would depend upon circumstances of each individual case. The prosecution has to establish existence of proximity and link between the effect of cruelty based on demand of dowry and the death. In **Kamesh Panjiyar @ Kamlesh Panjiyar Vs. State of Bihar, 2005(1) R.C.R. (Criminal) 861**, while dealing with the issue “soon before death”, the Supreme Court has held as

under:-

*“11. A conjoint reading of [Section 113B](#) of the Evidence Act and [Section 304-B Indian Penal Code](#) shows that there must be material to show that soon before her death, the victim was subjected to cruelty or harassment. 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](#) Indian Penal Code are pressed into service. 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 by prosecution. 'Soon before' is a relative term and it would depend upon circumstances of each case and no straitjacket 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 her death' used in the substantive [Section 304B](#) Indian Penal Code 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 expression 'soon before' used to [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 has 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 concerned cruelty or harassment and the death in question. There must be existence of a proximate and live-link between the effects of cruelty based on dowry demand and the concerned death. If alleged incident of cruelty is remote in time and has become stale enough not to disturb mental equilibrium of the woman concerned, it would be of no consequence.*

*12. Consequences of cruelty which are likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical of the woman is required to be established in order to bring home the application of [Section 498A](#) Indian Penal Code. Cruelty has been defined in the Explanation for the purpose of [Section 498A](#). Substantive [Section 498A](#) Indian Penal Code and presumptive [Section 113A](#) of the Evidence Act have been inserted in the respective statutes by [Criminal Law \(Second Amendment\) Act, 1983](#). It is to be noted that [Sections 304B](#) and [498A](#), [Indian Penal Code](#) cannot be held to be mutually inclusive. These provisions deal with two distinct offences. It is true that cruelty is a common essential to both the Sections*

*and that has to be proved. The Explanation to Section 498A gives the meaning of 'cruelty'. In Section 304B there is no such explanation about the meaning of 'cruelty'. But having regard to common background to these offences it has to be taken that the meaning of 'cruelty' or 'harassment' is the same as prescribed in the Explanation to Section 498A under which 'cruelty' by itself amounts to an offence. Under Section 304B it is 'dowry death' that is punishable and such death should have occurred within seven years of marriage. No such period is mentioned in Section 498A. If the case is established, there can be a conviction under both the sections. (See Akula Ravinder and others v. The State of Andhra Pradesh, 1991(3) RCR (Criminal) 97 (SC)). Period of operation of Section 113B of the Evidence Act is seven years, presumption arises when a woman committed suicide within a period of seven years from the date of marriage.”*

22. The evidence led by the prosecution has been tested on the touchstone of aforesaid principle of law, as laid down by the Supreme Court. Jagsir Singh (PW1), in his cross-examination, has stated that after birth of the child, a Panchayat was convened at the house of appellant/accused Ranjit Singh and under the pressure of Panchayat, appellant/accused Ranjit Singh took back Baljit Kaur and her child to the matrimonial home. About 20-25 days thereafter, Baljit Kaur visited her parental house along with appellant/accused Ranjit Singh for the purpose of getting some medicine for her child and they went back on the same day and she never came back to her parental house thereafter. After about 3-4 days, Baljit Kaur rang up her brother Jagsir Singh (PW1) and

informed him that the appellant/accused are again harassing her and demanding customary gifts. Upon getting such telephonic call from his sister, Jagsir Singh (PW1) went to the matrimonial house of his sister and persuaded the appellant/accused that payment would be made after harvesting of Rabbi crop and he returned after lending assurance to the appellant/ accused. However, on the very next day, he received telephonic call from Mohinder Singh regarding mishap with Baljit Kaur. The relevant extract of cross-examination of Jagsir Singh (PW1) reads as under:-

“Thereafter, my sister did not come to our house at Karamgarh. About 3/4 days thereafter, Baljit Kaur, my sister, rang us up. At that time, she told that the accused were demanding customary gifts (Shushak). On the third day of the receipt of telephone message of my sister, we went to Mehal Kalan. All the members of family of Mohinder Singh were sitting there when the talk was made. On the next day, we received a telephone call from Mohinder Singh that something had happened to Baljit Kaur. Then the family members of Mohinder Singh and we told them that after Rabi crop, we will pay the amount, he agreed.”

From perusal of the aforesaid statement of Jagsir Singh (PW1), it is crystal clear that Baljit Kaur was subjected to harassment on the pretext of dowry soon after her marriage and the harassment continued to be meted out to her till her death. Baldev Singh (PW2) has also stated on the same lines as narrated by Jagsir Singh (PW1).

Therefore, this ingredient also gets proved by the prosecution beyond any reasonable doubt. We can safely conclude that Baljit Kaur was subjected to cruelty and harassment for the demand of dowry since the inception of her marriage, which continued upto her death. The deceased died within 1½ years of her marriage.

23. This Court has also noticed that there was no effort made by appellant/accused to save the life of the deceased Baljit Kaur. As already elaborated above from the statements of Jagsir Singh (PW1) and Baldev Singh (PW2), Mohinder Singh made a telephonic call to them informing regarding Baljit Kaur's ill condition, whereupon, they both proceeded towards deceased's matrimonial home, where she was found lying unconscious and while being shifted to Barnala for providing her medical treatment, she died on the way. All the above goes on to show that there was no effort put by appellant/accused Ranjit Singh or his family members to save the deceased Baljit Kaur by showing any promptness to shift her to any medical institution for treatment. This also categorically proves that the sole motive of appellant/accused Ranjit Singh to marry Baljit Kaur was to extract dowry.

24. Therefore, in view of the afore-discussed issues, we do not find any infirmity or perversity in the verdict of conviction, as recorded by the learned Trial Court, convicting the appellant/accused Ranjit Singh for the offence punishable under Sections 304-B and 498-A of IPC.

25. Now, let us examine the role of Manjit Kaur, who has been acquitted of the charged framed against her by the learned Trial Court.

26. The learned State counsel has vehemently argued that despite similar allegations being leveled against respondent Manjit Kaur, which formed the basis of conviction of appellant/accused Ranjit Singh, the learned Trial Court has acquitted her of the charges. She argued that Manjit Kaur had also harassed the deceased and demanded dowry from her. She further argued that it was Manjit Kaur, who demanded Rs.30,000/- when Panchayat was convened. While referring to the statements of Jagsir Singh (PW1) and Baldev Singh (PW2), she argued that the impugned judgment, inasmuch as it pertains to acquittal of Manjit Kaur, needs to be interfered with and she deserves to be convicted along with co-accused Ranjit Singh.

27. We have examined the entire evidence, however, we are unable to accept the submissions advanced by learned State counsel. From the evidence led by the prosecution, it is crystal clear that no role is attributed to Manjit Kaur in ousting the deceased Baljit Kaur from her matrimonial home on the pretext of demand of dowry. In fact, as per version of Jagsir Singh (PW1), it was Ranjit Singh and Mohinder Singh, who ousted the deceased Baljit Kaur from her matrimonial home after giving beatings. There is no allegation leveled by the prosecution qua demand of dowry by Manjit Kaur soon before death of Baljit Kaur. Even a glance at the cross-examination of Jagsir Singh (PW1) depicts that Rs.40,000/- were given to Ranjit Singh (appellant/accused) and no allegation is leveled against Manjit Kaur. The relevant extract of his cross-examination is reproduced as under:-

“The police took into possession the articles, vide memo Ex.PB, with my consent and with the consent of Mohinder Singh. We were in agreement that the articles taken into possession, vide memo Ex.PB, were the one which were given to Baljit Kaur at the time of marriage. Besides the articles aforesaid, we also gave Rs.40,000/- in cash at the time of her marriage. Nothing else was given upto the death of my sister. I did not raise any protest at the time of taking the articles in possession, vide memo Ex.PB, that Rs.40,000/- which was also given by us, be also got returned. The amount of Rs.40,000/- was given to Ranjit Singh. Ranjit Singh came to our village along with Baljit Kaur for getting medicine for the child on his own scooter. At the time of marriage, Bljit Singh was also having a scooter. I do not know as to whether Mohinder Singh is owner of 25 Killas of land. We did not tell the Sarpanch or Members Panchayat of Mehal Kalan that the accused were demanding Rs.30,000/- from us. We did not tell the Panchayat of Karamgarh that the accused were demanding Rs.30,000/- from us.”

A reading of the above extracted statement clearly depicts that money was paid to appellant/accused Ranjit Singh. Manjit Kaur was not to benefited on account of demand of dowry or customary gifts or Rs.30,000/- in lieu of such gifts. Rather, it was Ranjit Singh, who was to be actually benefited. It appears that after the death of Baljit Kaur, the relations between the two families became strained and in such an atmosphere, there was an attempt to implicate as many family members of accused as possible. This can also be observed from the statement of

Jagsir Singh (PW1), who also tried to implicate Mohinder Singh as one of the accused by making material improvements in his examination-in-chief, whereas, in his initial statement (Ex.PA), he did not level any allegation against Mohinder Singh.

Learned senior counsel for the respondent Manjit Kaur has drawn attention of this Court towards the examination-in-chief of Baldev Singh (PW2), wherein he stated that during Panchayat, when Baljit Kaur (since deceased) tried to explain the appellant/accused about the inability of her family to give any more dowry since she has only one brother, the appellant/accused Ranjit Singh and Manjit Kaur grappled with her, whereas, no such event of grappling has been narrated by the complainant Jagsir Singh (PW1) either in his initial statement, on the basis of which the FIR stands registered, or in his examination-in-chief. Not only this, during cross-examination, Baldev Singh (PW2) was confronted with his statement, Ex.DA, recorded by police, wherein no such incident of grappling finds any mention. Citing aforesaid material improvements in the statements of the star witnesses of the prosecution as well as lack of any cogent evidence against respondent Manjit Kaur, the learned senior counsel prayed for dismissing the appeal filed by the State.

28. We have considered the aforesaid aspect and we are of the opinion that there are material contradictions and improvements in the statements of Jagsir Singh (PW1) and Baldev Singh (PW2), which appears to have occurred solely with intention to aggravate the role of Manjit Kaur in the entire episode and to falsely implicate her in the

present matter. Therefore, we do not find any cogent and credible evidence to substantiate the charges against Manjit Kaur. There is no dispute that this Court can re-appreciate the entire evidence while dealing with an order of acquittal. The High Court has full power to appreciate the entire evidence to reach its own independent conclusion and it is also open for the High Court to re-determine the question of facts and law. In case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence 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.

29. Therefore, in view of the settled principles of law as well as the aforementioned facts and circumstances, we do not find any ground to interfere with the impugned verdict of acquittal of Manjit Kaur.

### **CONCLUSION**

30. In view of the aforesaid discussion, this Court does not find any merit in the instant appeals and accordingly, the same are hereby **dismissed**.

31. The verdict of conviction dated 02.08.2002, and, order of sentence dated 05.08.2002, rendered by the learned Additional Sessions Judge, Barnala, qua conviction of appellant/accused Ranjit Singh, and, qua acquittal of respondent Manjit Kaur is affirmed and maintained.

32. The appellant/accused Ranjit Singh, if not in custody, shall forthwith be taken into custody to honour rest of the sentence imposed.

33. The case property, if any, be dealt with in accordance with law after expiry of the period of limitation for filing an appeal. The record be forthwith sent down.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(KULDEEP TIWARI)**  
**JUDGE**

10.01.2023  
devinder

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