

2024:PHHC:147031-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-570-DB-2015

Date of Decision: 12.11.2024

SARDARA SINGH

... Appellant

Versus

STATE OF PUNJAB & OTHERS

...Respondents

CRA-S-624-SB-2015

JAGDEEP SINGH

... Appellant

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. HPS Ishar, Advocate
for the appellant in CRA-D-570-DB-2015.

Mr. P.S. Ahluwalia, Advocate with
Mr. Deepinder Singh Virk, Advocate
for the appellant in CRA-S-624-SB-2015
and for respondent Nos.3 to 6 in CRA-D-570-DB-2015.

Mr. Kuljit Singh, Addl. A.G., Punjab.

JASJIT SINGH BEDI, J.

This order shall dispose of two appeals bearing No.CRA-D-570-DB-2015 titled as Sardara Singh Vs. State of Punjab & others and CRA-S-624-SB-2015 titled as Jagdeep Singh Vs. State of Punjab as the same are arising out of the same FIR. However, for the sake of convenience the facts have been taken from CRA-D-570-DB-2015.

2. The present appeals have been filed against the judgment dated 17.01.2015 passed by the Additional Sessions Judge, Patiala whereby Jagdeep Singh (appellant in CRA-S-624-SB-2015) has been convicted as his co-accused Shamsher Kaur, Bawa Singh, Harjit Singh and Sarabjit Kaur @ Jhai (respondent Nos.3 to 6 in CRA-D-570-DB-2015) have been acquitted.

3. The brief facts of the case of prosecution are that the present case was registered on the basis of statement of complainant-Sardara Singh, wherein he stated that he had two sons and one daughter namely Tehal Singh, Harjit Singh and Karamjit Kaur respectively. He had performed the marriage of his daughter Karamjit Kaur (deceased) with Jagdeep Singh son of Bawa Singh, resident of Punjab Enclave, Bhogla Road, Rajpura, as per Sikh rites in the year 2008. He had given dowry articles to his daughter, beyond his capacity. After some time of the marriage, his daughter was harassed by her in-laws i.e. mother-in-law Shamsher Kaur, father-in-law Bawa Singh, husband Jagdeep Singh, husband's brother Harjit Singh and they demanded more dowry and gave beatings to his daughter. The matter had already been resolved 2-3 times. His daughter had one daughter aged about 2 ½ years. His daughter and her husband were residing in the upper portion and the other members of her in-laws were residing on the ground floor portion of the house. On 26.07.2012, at 3 p.m., his daughter rang up on his mobile no.98156-50946 from her mobile no.99152-02937 that her in-laws including her Nanad were beating her and told him to bring her back from her matrimonial home. At about 5.30 p.m. Bawa Singh, father-in-law of his daughter, rang him up that his daughter had set herself on fire. Bawa Singh

had taken his daughter to Gian Sagar Hospital, Banur for treatment from where she was referred to Sector 32 Hospital at Chandigarh. Then he (complainant) along with his wife Gurmail Kaur and his brother-in-law Jeet Singh went to Sector 32 Hospital, Chandigarh, where his daughter told him that at 5.30 p.m. her father-in-law and mother-in-law caught hold of her arms and her sister-in-law (Nanad) had poured diesel on her body; her husband Jagdeep Singh set her upper portion on fire and her Jeth Harjit Singh instigated them. On account of burn injuries suffered by her, his daughter had expired at 6 a.m. After registration of the case against the accused, investigation started. Site plan of the place of occurrence was prepared. Statements of the witnesses were recorded under Section 161 Cr.P.C. On completion of investigation, initially challan against accused Jagdeep Singh and Shamsheer Kaur was submitted in the Court and the names of the remaining accused Harjit Singh, Bawa Singh and Sarabjit Kaur alias Jhai were kept in column no.2 of the report under Section 173 Cr.P.C. as an enquiry sought by them was still pending. On appearance of accused Jagdeep Singh and Shamsheer Kaur in Court, copies of documents were supplied to them, free of costs, as required under Section 207 Cr.P.C. As the offence under Section 304-B of IPC was exclusively triable by the Court of Sessions, the Magistrate committed the case to the Court of Sessions Judge, Patiala.

4. On the basis of enquiry report, supplementary challan under Section 173(8) Cr.P.C. was presented against Harjit Singh, Bawa Singh and Sarabjit Kaur alias Jhai in the Court of Illaqa Magistrate, Rajpura, who vide order dated 30.11.2012, committed the same to the Court of Sessions Judge, Patiala, as the main challan pertaining to the FIR had already been committed

to the Court of Sessions Judge, Patiala. As the main challan in State Vs. Jagdeep Singh and another was pending trial, so the supplementary challan was also entrusted to the Sessions Court. On the basis of that report U/s 173(8) Cr.P.C., the said three accused were exonerated by the Sessions Court vide order dated 11.12.2012.

5. Charges were framed under Sections 302, 304-B and 498-A IPC against Jagdeep Singh and Shamsher Kaur.

6. During the pendency of the trial, after the examination of PW1 Sardara Singh (complainant), on an application under Section 319 Cr.P.C. filed by the prosecution, Bawa Singh (father-in-law), Harjit Singh (Jeth) and Sarabjit Kaur alias Jhai (Nanad) were ordered to be summoned as additional accused to face trial, vide order dated 09.09.2013. Thereafter, fresh charges against all the accused were framed for offences under Sections 302, 304-B and 498-A of IPC.

7. In order to bring home the guilt of the accused, the prosecution examined Dr. Dhiraj Badial as PW1; Sardara Singh as PW2; Jeet Singh as PW3; Paramjit Singh Gurm as PW4; ASI Prem Singh as PW5; Satpal Singh as PW6; SI Veer Inder Singh as PW7; Dr.Vineet Tanwar as PW8 and thereafter, the Addl. P.P. for the State closed the prosecution evidence.

8. Statements of the accused were recorded under Section 313 Cr.P.C. and the incriminating evidence appearing against them was put to them. All the accused denied the prosecution allegations and pleaded false implication. In their defence, the accused examined Rajinder Kaur as DW1; Kuldeep Singh as DW2; Harmesh Singh as DW3; Sh. Bhupinder Singh

Khatra, SSP, Mansa, as DW4; Surjit Singh as DW6 and closed the defence evidence.

9. PW1-Dr. Dhiraj Badial conducted the post mortem of deceased Karamjit Kaur on 27.07.2012 and proved the post mortem report Ex.P1. As per his opinion, the cause of death in this case was shock consequent upon burn injuries, which were ante mortem in nature.

Sardara Singh the complainant as well as father of deceased Karamjit Kaur, who while stepping into the witness box as PW2, reiterated the prosecution version and proved his statement Ex.P2 made to the police in hospital, on the basis of which the FIR was registered against the accused.

PW3-Jeet Singh the maternal uncle of deceased Karamjit Kaur supported the prosecution version on all material aspects.

PW4-Paramjit Singh Gurm is the approved Draftsman, who prepared the scaled site plan Ex.P8, while visiting the spot.

PW5 ASI Prem Singh, PW6 Inspector Satpal Singh and PW7 SI Veer Inder Singh conducted the investigation of this case. Each of them narrated the investigative part with regard to the investigation conducted by them in this case and proved various documents prepared by each of them during the course of investigation.

PW8 Dr. Vineet Tanwar was posted as Junior Resident, General Surgery at GMCH, Sector 32, Chandigarh. On 26.07.2012, he had examined patient Karamjit Kaur and shifted her to the burn ward. This doctor further testified that on 27.07.2012 at 06.30 a.m. the patient suffered cardio respiratory arrest and was declared dead at 7.00 a.m. Ex.P16 was the medico legal case summary of the deceased, which was in the hand of this witness.

10. In order to prove their defence, the accused examined Rajinder Kaur (wife of Harjit Singh) as DW1, who deposed that she had moved application Ex.DW1/A regarding innocence of accused persons, on the basis of which an Special Investigation Team (SIT) was constituted, which was headed by Sh. Bhupinder Singh Khatra, the then SP, Rajpura and Sh.Manjit Singh Brar, DSP(D), Patiala. Inspector Bindu Bala, Incharge Women Cell Counselling, Patiala and the SHO of P.S. Kheri Gandian were the members of the said team. During the course of investigation, her statement was recorded by the SIT, which is Ex.DW1/B. DW1 further stated that Jagdeep Singh was the brother of Harjit Singh. He was residing separately along with his wife and children on the upper portion of their house and the remaining family members were residing on the ground floor of the said house. She further stated that they were separate in mess and cultivation from Jagdeep Singh and Karamjit Kaur. This witness further stated that Karamjit Kaur was alone in the kitchen at the time of the incident. She further stated that Karamjit Kaur used to remain mentally disturbed as her husband had met with an accident and received severe head injuries as a result of which she used to pick up quarrels on petty issues. The witness further stated that none of their family members had any role to play in the incident and the whole of their family was falsely involved in this case by the parents of Karamjit Kaur and their relatives.

11. DW2 Kuldeep Singh, while stepping into the witness box stated that he is having agricultural land in village Nararu. On 26.7.2012, his agriculture servant namely Rulda Singh got severed pain in his abdomen and he took him to Government Hospital Sector 32, Chandigarh and got him

admitted in Emergency Ward. One lady, who received burn injuries, came in the Emergency Ward at about 2 p.m. and her bed was also by the side of Rulda Singh. This witness stated that he saw that the said lady was accompanied by two persons and after that he came to know that Bawa Singh, whose land is in Bir Kauli Farm, was one of them, who told him that his daughter-in-law had set herself on fire, had while she was alone in the upper portion of their house and he had brought her in an injured condition along with his wife Shamsheer Kaur and neighbour Nasib Singh for treatment. This witness further stated that Karamjit Kaur was unable to speak and was demanding water in a low voice. Thereafter, at about 9.30 p.m., the parents and relatives of the said injured lady came there and they reprimanded Karamjit Kaur for her act and also said that why she had done so. They did not say anything against the family of the in-laws of that lady and the said lady never told anything to her father about the incident, as he was present throughout the time when they remaining present in the hospital. The statement of this witness was also recorded by the SIT, which is Ex.DW2/A. He identified his signatures on the said statement at Point-A. The witness also attested the statement of his servant Rulda Singh Ex.DW2/B, which was recorded by the SIT in his presence. The medical record pertaining to Rulda Singh was also taken into possession by the SIT, which is Ex.DW2/C.

12. DW3 Harmesh Singh is the brother of Gian Singh husband of accused Sarabjit Kaur @ Jhai (Nanad), who deposed that Sarabjit Kaur was married to his brother in the year 2002 and since then she was residing at their house in village Khallaur and both her children were studying in Shivalik Convent School, Banur. On 26.7.2012, at about 6.30 p.m., Sarabjit

Kaur received a phone call from her parents regarding the present incident. He was in his fields at that time. Sarabjit Kaur asked him on phone to come to the house and he immediately rushed to his house and took Sarabjit Kaur to Sector 32 Hospital, Chandigarh. Rajinder Singh Lamberdar and Chuhan Singh Panch of his village also accompanied him. The SIT had recorded the joint statement of this witness, Paramjit Kaur Sarpanch, Baljinder Singh, Amar Singh and others, which is Ex.DW3/A. The statement of Sarabjit Kaur was also recorded by the SIT, which is Ex.DW3/B.

13. DW4 Sh.Bhupinder Singh Khatra was the head of the SIT constituted in this case under the orders of the then SSP, Patiala, on the application moved by Rajinder Kaur, Sardara Singh and many other organizations. He proved the statements of various persons recorded by the SIT during investigation and proved his inquiry report as Ex.DA. During investigation, accused Bawa Singh, Harjit Singh, Sarabjit Kaur @ Jhai, Shamsher Kaur, Jagdeep Singh were found innocent by the SIT.

14. DW5 HC Hari Pal Singh, Incharge Computer Section, SSP office, Patiala proved the call detail report, tower location report of the mobile phones and he proved the detailed call detail reports as Exs.DA/1 to DA/7. The statement of this witness was also recorded by the Special Investigation Team, which is Ex.DW5/C. Ex.DW5/B is the Certificate under Section 65-B of the Indian Evidence Act proved by this witness.

15. DW6 Surjit Singh was examined to prove that on 10.4.2010, a gathering of respectables was convened at the house of Bawa Singh regarding separation of Jagdeep Singh and Hardeep Singh sons of Bawa Singh, in which it was decided that Bawa Singh will distribute his land and

other agricultural implements amongst both of his sons. The agricultural implements, land and the house were partitioned in the presence of this witness. He proved the writing in this respect as Ex.DW6/A.

16. Based on the evidence led, while accused Shamsher Kaur, Bawa Singh, Harjit Singh and Sarabjit Kaur @ Jhai (respondent Nos.3 to 6 in CRA-D-570-DB-2015) came to be acquitted of the charges framed against them, the husband/Jagdeep Singh (appellant in CRA-S-624-SB-2015) came to be convicted and sentenced vide judgment dated 17.01.2015.

17. The complainant/Sardara Singh filed an appeal i.e. CRA-D-570-DB-2015 challenging the acquittal of the accused.

18. The convict-Jagdeep Singh filed an appeal i.e. CRA-S-624-SB-2015 challenging his conviction.

19. It is the aforementioned judgment which is under challenge in the present appeals.

20. The learned counsel for appellant-Jagdeep Singh (convicted accused) contends that not only have the acquitted accused rightly been acquitted, the conviction qua Jagdeep Singh also could not have been recorded. He contends that during the course of investigation, it had been found that the allegations of all the accused burning the deceased were incorrect as only two persons were present at home on the date of the occurrence, one of whom was Shamsher Kaur (mother-in-law) and the other was Rajinder Kaur wife of Harjit Singh. Admittedly, Jagdeep Singh and his deceased wife Karamjit Kaur were residing separately on the first floor, while the rest of the family members were residing on the ground floor. The Nanad (sister-in-law) Sarabjit Kaur alias Jhai had been married a number of years

ago and was residing separately in another village. In 4 years of marriage, no prior complaint of demand of dowry/harassment had been made either by the deceased or her family members. The FIR and the deposition of the complainant was silent as to what dowry articles were demanded by the accused. No date of demand was also mentioned other than that purportedly raised on the date of the occurrence. As there was no evidence of demand of dowry 'soon before' the death of the deceased, conviction could not be recorded under Section 304-B IPC. No conviction could be recorded under Section 306 IPC as well as there was no evidence of Jagdeep Singh abetting the suicide of his wife. Merely because the wife had died an unnatural death, would not lead to the presumption that Jagdeep Singh or his family members had abetted the said suicide in the absence of any evidence whatsoever. He, thus, contends that the convicted accused Jagdeep Singh be acquitted of the charges framed against him.

21. As regards the acquitted accused (respondent Nos.3 to 6 in CRA-D-570-DB-2015) the contentions are similar. However, in addition, he contends that in the enquiry report (Ex.DA), it had been found that other than mother-in-law Shamsher Kaur, all the other accused were not at home at the time of the occurrence. The question of setting the deceased on fire did not arise since the accused would have also suffered burn injuries in case they had committed the offence. The oral dying declaration purportedly made did not inspire any confidence as other than the bald statement of the complainant, there was no other corroborative evidence of the same. In fact, there was no medical evidence to show that the deceased was capable of making any statement having suffered 90% burns. Even as per the

prosecution case, father-in-law Bawa Singh, mother-in-law Shamsher Kaur and a neighbour took the deceased first to Gian Sagar Hospital, Banaur and then to the Sector 32 Hospital, Chandigarh. This could not be ordinarily the conduct of persons who had committed an offence. Even otherwise, once the Investigating Agency and the Trial Court had exonerated/acquitted the accused, interference of this Court would be in rare circumstances. He, therefore contends that the appeal against acquittal is liable to be dismissed and that no case for enhancement of the conviction of accused-Jagdeep Singh is made out and rather as submitted above, the said convicted accused is liable to be acquitted.

22. The learned counsel for the State along with the counsel for complainant, on the other hand, contends that the offence stood established beyond reasonable doubt not only against Jagdeep Singh, the convict, but also against the other accused, who were acquitted. The evidence of the witnesses was consistent in material particulars. It was established beyond doubt that the deceased had been harassed on account of demand of dowry soon before her death and that all the accused committed the offence in question. An oral dying declaration was also made which had been wrongly disbelieved. They, therefore contend that Appeal No.CRA-S-624-SB-2015 be dismissed and the appeal No.CRA-D-570-DB-2015 be allowed and the acquittal of the accused therein be set aside and accused No.2-Jagdeep Singh be convicted under Section 302 IPC.

23. We have heard the learned counsel for the parties and have also gone through the records.

24. Before proceeding further in the matter, it would be apposite to refer to the provisions of Sections 304-B, 306 IPC and Section 113-A of Evidence Act and the same are reproduced herein below:-

Section 304-B IPC

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

Explanation. For the purposes 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.]

Section 306 IPC

306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 113-A Evidence Act

113-A. Presumption as to abetment of suicide by a married woman.- When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation. - For the purposes of this section, "cruelty" shall have the same meaning as in section 498-A of the Indian Penal Code (45 of 1860).]

25. A perusal of the FIR got registered by complainant/Sardara Singh, who was examined as PW-2, would reveal that there is absolutely no mention as to when the demand of any dowry articles was made or harassment meted out, other than on the date of occurrence. Further, there is absolutely nothing to suggest as to what dowry articles were demanded. In fact, there is no evidence of any prior complaint to any authority of any demand of dowry. As per the case of the prosecution, the deceased and her husband Jagdeep Singh, were separate in mess, residence and cultivation. The complainant admits separate residence, but has attempted to change his story, while deposing in Court as PW2. PW5-ASI Prem Singh, has admitted separate mess, residence and cultivation.

26. The contents of the enquiry report Ex.DA, which is based on technical evidence, clearly established that only Shamsheer Kaur (mother-in-law) and Rajinder Kaur (Jethani-non-accused), were present on the ground floor of the house at the time of the occurrence. The other accused were not present at the residence. In fact, it was Rajinder Kaur (Jethani), who called her father-in-law Bawa Singh and other relatives after the occurrence had already taken place. Even otherwise, the allegations of all accused burning the deceased are unbelievable, as they would have themselves suffered some burn injuries.

27. The oral dying declaration cannot be believed in the absence of any corroborative evidence. There is nothing to suggest that the deceased who had suffered 90% burns could have made the dying declaration to her

father Sardara Singh, the complainant. Further, the conduct of accused Bawa Singh (father-in-law) and Shamsheer Kaur (mother-in-law) in taking the deceased from one hospital to another, which fact is admitted, creates a further doubt in the dying declaration as no man of ordinary prudence would commit the offence and then make strenuous efforts to save the deceased. Even otherwise, as per the prosecution case, only Shamsheer Kaur along with her other daughter-in-law, namely, Rajinder Kaur, was present at the time of occurrence. Thus, the dying declaration that all the accused had committed the offence as alleged, does not appeal to the common prudence.

28. In the instant case, once the complainant has been disbelieved with respect to the allegations levelled against the acquitted accused as also the oral dying declaration, his deposition against Jagdeep Singh cannot be accepted as a gospel truth without corroboration as he is a partially reliable witness. In the instant case, no such corroboration is forthcoming.

29. With respect to appreciating the evidence of a witness, the Hon'ble Supreme Court in the case of **Rajesh Yadav & another etc. Vs. State of U.P., Criminal Appeal Nos.339-340 of 2014, decided on 04.02.2022** held as under:-

“20. We have already indicated different classification of evidence. While appreciating the evidence as aforesaid along with the matters attached to it, evidence can be divided into three categories broadly namely, (i) wholly reliable, (ii) wholly unreliable and (iii) neither wholly reliable nor wholly unreliable. If evidence, along with matters surrounding it, makes the court believe it is wholly reliable qua an issue, it can decide its existence on a degree of probability. Similar is the case where evidence is not believable. When evidence produced is neither wholly reliable nor wholly unreliable, it might require corroboration, and in such a case, court can also take note of the contradictions available in other matters. The aforesaid principle of law

has been enunciated in the celebrated decision of this Court in Vadivelu Thevar v. State of Madras, 1957 SCR 981:

"In view of these considerations, we have no hesitation in holding that the contention that in a murder case, the court should insist upon plurality of witnesses, is much too broadly stated. section 134 of the Indian Evidence Act has categorically laid it down that "no particular number of witnesses shall in any case, be required for the proof of any fact". The legislature determined, as long ago as 1872, presumably after due consideration of the pros and cons, that it shall not be necessary for proof or disproof of a fact to call any particular number of witnesses. In England, both before and after the passing of the Indian Evidence Act, 1872, there have been a number of statutes as set out in Sarkar's Law of Evidence - 9th Edn., at pp. 1100 and 1101, forbidding convictions on the testimony of a single witness. The Indian Legislature has not insisted on laying down any such exceptions to the general rule recognized in s.134 quoted above. The section enshrines the well-recognized maxim that "Evidence has to be weighed and not counted". Our Legislature has given statutory recognition to the fact that administration of justice may be hampered if a particular number of witnesses were to be insisted upon. It is not seldom that a crime has been committed in the presence of only one witness, leaving aside those cases which are not of uncommon occurrence, where determination of guilt depends entirely on circumstantial evidence. If the Legislature were to insist upon plurality of witnesses, cases where the testimony of a single witness only could be available in proof of the crime, would go unpunished. It is here that the discretion of the presiding judge comes into play. The matter thus must depend upon the circumstances of each case and the quality of the evidence of the single witness whose testimony has to be either accepted or rejected. If such a testimony is found by the court to be entirely reliable, there is no legal impediment to the conviction of the accused person on such proof. Even as the guilt of an accused person may be proved by the testimony of a single witness, the innocence of an accused person may be established on the testimony of a single witness, even though a considerable number of witnesses may be forthcoming to testify to the truth of the case for the prosecution. Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact.

Generally speaking, oral testimony in this context may be classified into three categories, namely:

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.

In the first category of proof, the court should have no difficulty in coming to its conclusion either way - it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court, equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial. There is another danger in insisting on plurality of witnesses. Irrespective of the quality of the oral evidence of a single witness, if courts were to insist on plurality of witnesses in proof of any fact, they will be indirectly encouraging subornation of witnesses. Situations may arise and do arise where only a single person is available to give evidence in support of a disputed fact. The court naturally has to weigh carefully such a testimony and if it is satisfied that the evidence is reliable and free from all taints which tend to render oral testimony open to suspicion, it becomes its duty to act upon such testimony. The law reports contain many precedents where the court had to depend and act upon the testimony of a single witness in support of the prosecution. There are exceptions to this rule, for example, in cases of sexual offences or of the testimony of an approver; both these are cases in which the oral testimony is, by its very nature, suspect, being that of a participator in crime. But, where there are no such exceptional reasons operating, it becomes the duty of the court to convict, if it is satisfied that the testimony of a single witness is entirely reliable. We have, therefore, no reasons to refuse to act upon the testimony of the first witness, which is the only reliable evidence in support of the prosecution."

(emphasis supplied)

As regards the offence under Section 306 IPC, even though, the death in the present case is an unnatural one, in the absence of any evidence of cruelty as defined under Section 113-A of the Evidence Act, no offence under Section 306 IPC can be made out qua the husband Jagdeep Singh.

30. As to how an appeal against a judgment of acquittal is to be dealt with, the Hon'ble Supreme Court in **Kallu @ Masih & Ors. Vs. State of Madhya Pradesh 2006(1) RCR (Criminal) 427** has held as under:-

“ 8. While deciding an appeal against acquittal, the power of the Appellate Court is no less than the power exercised while hearing appeals against conviction. In both types of appeals, the power exists to review the entire evidence. However, one significant difference is that an order of acquittal will not be interfered with, by an appellate court, where the judgment of the trial court is based on evidence and the view taken is reasonable and plausible. It will not reverse the decision of the trial court merely because a different view is possible. The appellate court will also bear in mind that there is a presumption of innocence in favour of the accused and the accused is entitled to get the benefit of any doubt. Further if it decides to interfere, it should assign reasons for differing with the decision of the trial court.”

31. In view of the aforementioned discussion, CRA-S-624-SB-2015 is allowed and appellant-Jagdeep Singh is acquitted of the charges framed against him.

32. Keeping in view above-said discussion and the law laid down in **Kallu @ Masih & Ors.** Case (supra), we find no reason to interfere with the impugned judgment acquitting respondent Nos.3 to 6 in CRA-D-570-2015 passed by the Court of Additional Sessions Judge, Patiala and therefore, the appeal stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

12.11.2024

JITESH

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