

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

**CRA-AD-73-2021 (O&M)
Reserved on:13.02.2024
Pronounced on:20.02.2024**

Sukhwinder Singh

... Appellant

Vs.

State of Punjab & others

... Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**

Present: Mr. Lavish Arora, Advocate for the appellant.

Mr. Satnam Preet S. Chauhan, DAG, Punjab.

...

SUKHVINDER KAUR, J.

1. Appellant/complainant – Sukhwinder Singh has preferred the present appeal against the judgment of acquittal dated 20.07.2021, pertaining to FIR No.199 dated 30.08.2018, under Sections 304-B/34 IPC, registered at Police Station Lambi passed by the Additional Sessions Judge, Sri Muktsar Sahib vide which respondent Nos.2 & 3, namely, Sohan Singh and Mohinder Kaur have been acquitted.

2. The factual scenario as per the prosecution is that FIR in the present case was registered on the statement of complainant – Sukhwinder Singh, who is father of deceased Gurpreet Kaur. He stated that he was having one daughter, namely, Gurpreet Kaur, aged about 25 years and now having one son, namely, Gurjit Singh, aged about 20 years. Marriage of his daughter Gurpreet Kaur was solemnized with accused – Sohan

Singh on 13.02.2018. Sufficient dowry articles were given by him at the time of the marriage of her daughter Gurpreet Kaur. But her daughter disclosed to him that Mahinder Kaur mother-in-law of Gurpreet Kaur and Sohan Singh husband of Gurpreet Kaur were not happy with the dowry articles and they used to taunt and maltreat Gurpreet Kaur for pressurizing her to bring more dowry. On 30.08.2018 at about 10:00 AM, he was informed by Karnail Singh – mediator that Gurpreet Kaur had consumed some poisonous substance and she had been admitted at Raj Hospital, Mandi Killianwali. Then he along with his wife – Malkit Kaur and other respectables reached at the said hospital, where he came to know that Sohan Singh accused and Mahinder Kaur had been maltreating Gurpreet Kaur for bringing more dowry and due to this, Gurpreet Kaur had consumed salphas tablets and had ended her life. On his aforesaid statement, FIR under Sections 304-B/34 IPC was registered against Sohan Singh and Mahinder Kaur. Post-mortem of dead body of Gurpreet Kaur was conducted. Both the accused persons were arrested. Then during the investigation, complainant – Sukhwinder Singh got recorded his supplementary statement giving details of the dowry articles given by him at the time of marriage of her deceased daughter Gurpreet Kaur and also stated that these articles were usurped by accused Sohan Singh and his mother Mahinder Kaur and also stated that after one month of the marriage, he had given Rs.50,000/- to the accused persons on their demand. But after about 2-3 months, they again started demanding Rs.1 lakh. The complainant along with respectables visited the house of the accused and requested them not to raise the demand of Rs.1 lakh and then

again in the month of June, he along with respectables went to the house of the accused and again pleaded them not to raise demand of Rs.1 lakh and not to harass his daughter. But accused remained adamant on their demand and kept on harassing his daughter, due to which she had committed suicide after consuming sulphas tablets on 30.08.2018. After completion of investigation, challan against the accused persons was presented before the learned Illaqa Magistrate. Thereafter, the case was committed by the learned Illaqa Magistrate to the Court of Sessions for trial of the accused persons vide order dated 20.11.2018.

3. On finding a prima facie case against the accused, they were charged sheeted for the offences punishable under Section 304-B read with Section 34 IPC to which they pleaded not guilty and claimed trial.

4. In order to prove its case, prosecution has examined PW1 Sukhwinder Singh father of deceased Gurpreet Kaur. He has deposed that he has one son Gurjeet Singh aged 20 years. He was having a daughter named Gurpreet Kaur (since deceased) who was aged about 25 years. She was married to Sohan Singh son of Jagta Singh alias Jagtar Singh on 13.02.2018. At the time of marriage of his daughter in the shape of dowry, he had given dowry articles including double bed, sofa, Almirah, Peti, Dressing table, LED, washing machine, utensils worth about Rs.50,000/- stitched and unstitched clothes valuing about Rs. one lac to his son-in-law Sohan Singh (accused). In addition to the same, one gold ring, one gold karah, one gold chain, one gold Karah to his son-in-law Sohan Singh and one gold karah to his father Jagta Singh alias Jagta were also given.

Accused Mahinder Kaur was given one gold bangle. His daughter,

Gurpreet Kaur was given two gold rings, one gold chain, the pair of gold tops, a pair of gold murkies, one gold nose pin, three tolas silver anklets. After about 15 days of the marriage, at the asking of Mahinder Kaur and Sohan Singh, he alongwith his brother Balwinder Singh went to the house of accused persons and paid them Rs.50,000/-. Again said, after about one month of the marriage, he alongwith Balwinder Singh had given said Rs.50,000/- to the accused persons. After about 15 days of the marriage, on the demand by Mahinder Kaur and Sohan Singh, he went to their house and handed over to them one gold Karah and one pair of gold tops. Despite giving so much dowry articles, the accused persons were not happy and used to give beatings to his daughter and tortured her. His daughter had told these facts to him number of times. In the month of May, 2018, he alongwith his brother Balwinder Singh, Darshan Singh, Ex-Panch and one Tejpal Singh son of Gurdev Singh went to the house of accused persons and tried to make them understand not to demand more dowry and amount of Rs.1,00,000/- from him. But, the accused persons remained adamant on their demand. In the month of June 2018, he alongwith his brother-in-Law, Darshan Singh, Jaspal Singh son of Hazoora Singh and other respectables went to the house of accused persons to make them understand not to demand Rs.1,00,000/- from him. But the accused persons did not agree, and they continued with their demand. On 30.08.2018, at about 10:00 A.M. Karnail Singh son of Mit Singh, resident of Ghumiara, who was the mediator in the marriage of his daughter, told him by making mobile phone call that his daughter Gurpreet Kaur had consumed some poisonous substance and was lying

admitted at Raj Hospital, Mandi Killianwali. He alongwith his wife Malkit Kaur and other respectables went to Raj Hospital, Mandi Killianwali. On reaching there, he came to know that accused Sohan Singh alongwith accused Mahinder Kaur had quarrelled with his daughter Gurpreet Kaur and they had given beatings to her on the pretext of bringing less dowry and made demand of more dowry and due to this reason, his daughter Gurpreet Kaur had consumed Sulphas tablets. During treatment, his daughter breathed her last. His daughter committed suicide due to the persistent demand of more dowry by her husband Sohan Singh and mother-in-law Mahinder Kaur. He identified both the accused present in the court. The matter was reported to the police. His statement Ex.PA was recorded and he signed the same in token of its correctness. It was also signed by Malkit Kaur. He was joined by the police during the inquest proceedings. His statement recorded by the police regarding the same is Ex.PB. After post-mortem dead body was handed over to him and proceedings in this regard are Ex.PC. After recording his statement, he was again joined by the police and then his supplementary statement was recorded by the police. On 11.10.2018, he handed over the bills regarding the aforesaid dowry articles to the police and the same were taken into possession vide memo Ex.PD which was attested by him. The said bills are Mark-A to Mark-F. The true photocopy of marriage card of his daughter is Mark-G.

5. PW2 Balwinder Singh, who is real brother of complainant Sukhwinder Singh has also deposed on the similar lines as per PW1 Sukhwinder Singh.

6. PW3 Darshan Singh and PW4 Jaspal Singh, who are co-villagers of PW1 Sukhwinder Singh have also duly corroborated his statement.

7. PW5 Dr. Sunil Kumar had conducted the post-mortem examination of Gurpreet Kaur vide PM/SK/2/2018. He has stated that there were no external body marks of injuries seen. Visceral organs were congested and sent for chemical examination to FSL, Kharar through Constable Mandeep Sharma. He has proved on record post mortem-report Ex.PW5/A and has also deposed that as per chemical report, aluminium phosphide was detected in exhibits II, III, IV and V. This poisoning was sufficient to cause death of a person in the ordinary course of nature. He has also proved the chemical report Ex.PW5/B and also tendered into evidence Ex.PW5/C.

8. HC Lovejeet Singh PW6 is the formal witness, who tendered into the evidence his affidavit PW6/A.

9. PW7 ASI Gurmej Singh, who is Investigating Officer of the case had sent the police proceedings Ex.PW7/A to the police station on the basis of which FIR Ex.PW7/B was registered. He has deposed in detail regarding the investigation conducted by him in the present case. He has also stated that he had got recorded statement of Sukhwinder Singh Ex.PA and had signed the same in the token of its correctness and said statement was also signed by Malkit Kaur w/o Sukhwinder Singh.

10. He moved an application before the Illaqa Magistrate to record statement of Gurpreet Kaur. But when Illaqa Magistrate reached at hospital, then Gurpreet Kaur became unfit to give the statement and after sometime she

had died. On 09.01.2018, supplementary statement of complainant was recorded.

11. PW8 ASI Sukhjeet Singh has also deposed regarding recording of statements of the witnesses during the investigation and regarding taking into possession the bills pertaining to utensils, washing machine, LED and furniture etc. produced before him.

12. PW9 Dr. Mukesh Goyal has deposed that on 30.08.2018, patient Gurpreet Kaur w/o Sohan Singh, aged about 25 years, R/o Village Ghumiara was admitted in the hospital. Patient was giving history of ingestion of one tablets of sulphas. Patient was conscious and oriented at the time of admission. Condition was explained to her attendants. After treatment was started, intimation was given to the police telephonically and *ruqa* was also sent at about 9:35 A.M. and the police arrived at 10:30 A.M. On police request Ex.PW7/N, he made his endorsement Ex.PW9/B and the patient was declared fit to make her statement. Patient was conscious at around 10:30 A.M. During treatment, patient became unconscious with the breathing difficulty at around 12:30 P.M. Patient had cardio-respiratory arrest and could not be revived and at 12:55 PM, she was declared dead.

13. PW10 Kala Kamra has deposed that on 04.12.2018, Gurlal Singh along with Sukhwinder Singh came to his furniture shop and purchased one bed, one sofa set, one pair of mattresses, one almirah, one iron peti, one dressing table and one center table from him. Regarding this purchase, he had issued bills No.81 and 82 dated 04.02.2018 for a total consideration of Rs.18,290/- and Rs.15,095/- and proved copies of the aforesaid bills Ex.PW10/A and Ex.PW10/B.

14. PW11 Constable Mandeep Sharma has deposed regarding the investigation conducted by ASI Gurmej Singh. He had also accompanied him during the investigation proceedings of the present case.

15. PW12 Subash Chander has deposed that vide bill No.827 dated 03.02.2018 Ex.PW12/A, utensils worth Rs.5,350/- were sold to Sukhwinder Singh.

16. PW13 Rinku Garg has also deposed that vide bill Ex.PW3/A, utensils were purchased from his shop by Sukhwinder Singh on 01.12.2018 for a sum of Rs.14,000/-.

17. PW14 Narinderpal @ Pappi had stated that on 01.02.2018, one LED of Samsung company and one washing machine of LG company were purchased by Sukhwinder Singh from his shop and regarding this purchase, bill Nos.73 and 74 Ex.PW14/A and Ex.PW14/B were issued by him and he had received Rs.19,200/- and Rs.10,800/- respectively for the same.

18. After closing of the prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded in which they pleaded their innocence and false implication in this case. They also pleaded that no dowry was demanded and given at the time of marriage and complainant Sukhwinder Singh had concocted totally wrong story of giving dowry articles. Even after the marriage neither any articles nor any cash amount was given by parental family of Gurpreet Kaur to accused or other family members and such kind of demand was never raised. Statements of PW3 Darshan Singh and PW4 Jaspal Singh, who are co-villagers of the complainant, under Section 161 Cr.P.C. were recorded on 11.10.2018 i.e. after 41 days from the registration of the FIR. Though, Balwinder Singh and

Darshan Singh were present with the complainant even on 30.08.2018 when his statement was recorded, on the basis of which the FIR had been registered. They denied that Gurpreet Kaur was subjected to harassment on account of demand of dowry by the accused and anyone else. In fact she was suffering from acute depression before marriage and this fact was neither disclosed to accused or other family members nor it was disclosed to mediator – Karnail Singh by the complainant – Sukhwinder Singh. After few days of marriage, abnormality in her behaviour had been noticed. They had suspicion that Gurpreet Kaur was not mentally fit. Information was given to mediator – Karnail Singh and parents of Gurpreet Kaur, who took Gurpreet Kaur along with them and after getting her treated, they again left her in their house. On 30.08.2018 at about 7:30 A.M. accused Sohan Singh had started from his house on motorcycle to Killianwali to bring Malkit Kaur to their house. In the absence of Sohan Singh, Gurpreet Kaur due to acute depression, herself consumed some poisonous substance. Jagta Singh and accused Mahinder Kaur took her to the hospital, where unfortunately she died.

19. In the defence evidence, the accused persons have examined DW1 Karnail Singh, who has stated that his wife is cousin sister of wife of Sukhwinder Singh, complainant of the present case. He is mediator between the marriage of accused Sohan Singh and Gurpreet Kaur. He has deposed on similar lines as the pleas taken by the accused persons in their statements recorded under Section 313 Cr.P.C. DW2 Rang Singh cousin of deceased Gurpreet Kaur, DW3 Jaspal Singh and DW4 Manjit Singh have also corroborated DW1 Karnail Singh.

20. Learned counsel for the appellant/complainant has contended that that the trial Court has committed a serious error while acquitting the accused persons. The ingredients of presumption under Section 113-B of the Indian Evidence Act, 1872 (for short 'the 1872 Act') were present as the marriage had been solemnized just six months before Gurpreet Kaur's unnatural death and there had been demand of dowry.

21. PW1 Sukhwinder Singh had clearly stated before the Court that Gurpreet Kaur had been subjected to cruelty by the accused in connection with demand of dowry and he has been duly corroborated by PW2 Balwinder Singh, PW3 Darshan Singh and PW4 Jaspal Singh. But the trial Court has totally ignored the statements of these prosecution witnesses which has resulted into grave miscarriage and failure of justice. He has further contended that the FIR need not to be an encyclopedia of all the facts and circumstances on which the prosecution case is based and primary object of FIR is to set the criminal law into motion and it may not be possible to record every minute detail in the FIR. He has argued that from the prosecution evidence, it stands proved that Gurpreet Kaur had died an unnatural death and the medical evidence regarding the same is also on the record. As per Section 113-B of the Indian Evidence Act, the trial Court was required to presume that such suicide had been abetted by husband of Gurpreet Kaur and mother-in-law of Gurpreet Kaur. In the present case, the aforesaid presumption has not been rebutted by the accused by adducing the reliable evidence. If she was not being maltreated or taunted by accused persons, it is axiomatic why did she end her life within a period of 6 months of her marriage. There is nothing on record to prove that deceased was

suffering from depression, rather it is evident that at the time of the alleged occurrence deceased was residing with her husband, where she had consumed the poisonous substance to end her life, within a short span of six months from the date of her marriage. He has urged that it is a matter of common experience that a married daughter would only apprise her parents and near relatives about the tale of woes suffered by her at the hands of her in-laws. Since she did not want to make the things public, so neither her parents nor the deceased herself had lodged any complaint regarding maltreatment meted out to her at the hands of her husband and mother-in-law for bringing insufficient dowry. So non-lodging of the report with the police cannot be taken as an adverse circumstance. He has submitted that on the strength of the evidence adduced by the prosecution, the prosecution has been successful in proving the guilt against the accused persons under Sections 304-B/34 IPC beyond the shadow of the reasonable doubt and the accused persons may be convicted accordingly.

22. We have heard learned counsel for the parties at length and have perused the records thoroughly.

23. The trial Court culled out the following point for determination:

“Whether on 30.08.2018 in the area of police station Lambi, accused Sohan Singh being husband and Mahinder Kaur being mother-in-law of deceased Gurpreet Kaur in furtherance of common intention committed dowry death by causing death of Gurpreet Kaur?”

24. It is well settled law that while hearing appeals against acquittal, the judgments of acquittal should not be interfered with lightly and Courts have to be extremely careful while hearing such appeals. In the case of **Sadhu Saran Singh Vs. State of U.P. and others, 2016 (2) RCR**

(Criminal) 319, the Hon'ble Apex Court reiterated that generally an appeal against acquittal has always been altogether on a different pedestal from that of an appeal against the conviction. It was held that in an appeal against acquittal, where the presumption of innocence in favour of the accused is re-enforced, the Appellate Court would interfere with the order of acquittal only when there was perversity of fact and law. A word of "caution" was also added by the Hon'ble Apex Court that the paramount consideration of the Court was to do substantial justice and avoid miscarriage of justice, which could arise by acquitting the accused, who is guilty of an offence.

25. In the instant case, the accused have been charge sheeted under Sections 304-B/34 IPC. So it was incumbent upon the prosecution to prove the essential ingredients for constituting the above-said offences i.e. i) That the death of a woman must have been caused by burns or bodily injury or otherwise than under normal circumstances; ii) Such death must have occurred within seven years of her marriage; iii) that the victim was subjected to cruelty or harassment by the husband or by relative of her husband; iv) Such cruelty or harassment should be for or in connection with demand of dowry; v) such cruelty or harassment is shown to have been meted out to the woman soon before her death.

26. So to bring the offence within ambit of Section 304-B, it is essential that death must be unnatural and should have taken place within seven years of the marriage and the cruelty or harassment meted out should be in connection with demand of dowry.

27. Now advertent to the facts of the present case, it is not disputed that deceased Gurpreet Kaur was married to Sohan Singh on 13.02.2018 and

she had expired on 30.08.2018 i.e. within 7 years of her marriage. But it is to be seen that whether she had died natural death or whether she had died under unnatural circumstances. To clinch this issue, the medical evidence is of utmost importance.

28. As per statement of PW9 Dr. Mukesh Goyal on 30.08.2018 Gurpreet Kaur had been admitted in the hospital with history of ingestion of one tablets of sulphas. During treatment, she became unconscious with breathing difficulty and had cardio-respiratory arrest and died at 12:55 P.M. PW5 Dr. Sunil Kumar, who had conducted post-mortem of Gurpreet Kaur has stated that there were no external body marks of injuries seen and as per the chemical report aluminium phosphide were detected in exhibit II, III, IV and V and this poisoning was sufficient to cause death of a person in the ordinary course of nature. So it leaves nothing to doubt that Gurpreet Kaur had died due to poisoning having consumed sulphas tablets.

29. From the conjunctive reading of Section 304-B IPC and Section 113-B of the Indian Evidence Act, it transpires that a presumption under Section 113-B of the Act would be raised only if the prosecution establishes the circumstances as set out in Section 304-B IPC and if this circumstance is also proved that the victim was subjected to cruelty and harassment soon before her death in connection with demand of dowry. The initial burden to prove that Gurpreet Kaur was subjected to cruelty was on the prosecution and only after discharge of such burden then the presumption under Section 113-B of the Act is to be raised against the accused persons and then the onus would shift upon the accused persons.

30. Now it is to be seen whether Gurpreet Kaur was treated with

cruelty in connection with the demand of dowry by the accused persons. In order to prove the factum of cruelty, the prosecution has examined PW1 Sukhwinder Singh, father of deceased Gurpreet Kaur, who has stated that deceased Gurpreet Kaur was treated with cruelty for demand of dowry by the accused persons and soon before her death, she was subjected to such cruelty and harassment.

31. But perusal of his cross-examination reveals that he has made major improvements in his statement while deposing in the Court. On various material points, when he was confronted with his statement made before the police, then these improvements came to the fore. He is the star witness of the prosecution, but there are major improvements in his statement regarding the facts which have not been stated by him in his statements Ex.PA, Ex.PB and Ex.D1 made to the police i.e. regarding demand of Rs.50,000/- by Mahinder Kaur and Sohan Singh after 15 days of marriage; regarding the fact that despite giving much dowry articles the accused being not happy and their giving of beatings to Gurpreet Kaur and torturing her; about disclosing of these facts by his daughter Gurpreet Kaur number of times to him; that in the month of May, 2018 he along with Balwinder Singh, Darshan Singh and Ex-Panch and one Tejpal Singh went to accused persons and tried to make them understand not to demand more dowry and amount of Rs.1 lakh, but despite that they continued demanding more dowry; that in the month of June, 2018, he along with Darshan Singh, Jaspal Singh and other respectables went to the house of the accused to again make them understand not to make demand of Rs.1 lakh, but the accused persons remained adamant regarding their said demand. It clearly gives the

indication that all these improvements made by this witness appear to be afterthought. Omission of Sukhwinder Singh PW1 regarding stating the fact of giving beatings by accused Sohan Singh along with Mahinder Kaur to Gurpreet Kaur on the pretext of bringing less dowry having not been mentioned in Ex.PA and further not stating these facts in the supplementary statement Ex.PB and Ex.D1 goes a long way to prove that prosecution has not been able to establish that Gurpreet Kaur was subjected to cruelty soon before her death on the pretext of dowry. It has been admitted by PW1 Sukhwinder Singh – complainant that except the oral assertion regarding demand of dowry and maltreatment of his daughter at the hands of the accused for demand of dowry, there was no other evidence to prove the said fact. Even in his statement Ex.D1 recorded under Section 161 Cr.P.C. on 01.09.2018, admittedly he had not got recorded that despite giving dowry, accused used to give beatings to his daughter and he had not got recorded specifically that in the year 2018 he had gone to the house of the accused in the months of May and June, and on reaching Raj Hospital, he came to know that Sohan Singh and Mahinder Kaur had given beatings to his daughter on the pretext of bringing less dowry.

32. In **State Represented by Inspector of Police, Tamil Nadu Vs. Sait @ Krishnakumar, (2008) 15 SCC 440**, the Apex Court has held that *“In case, the complainant in the FIR or the witness in his statement under Section 161 Criminal Procedure Code, has not disclosed certain facts but meets the prosecution case first time before the court, such version lacks credence and is liable to be discarded.”*

33. While forming an opinion about credibility of the witness in a

case, it is to be seen that whether the omission amount to a contradiction, creating a serious doubt about the truthfulness of the witness and other witnesses also make material improvements before the Court in order to make the evidence acceptable, then such an evidence cannot be safe to rely upon. Reliance in this respect can also be placed upon **State Represented by Inspector of Police Vs. Saravanan & another, AIR 2009 SC 152**, wherein it was held that “While appreciating *the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The Trial Court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate Court in normal course would not be justified in reviewing the same against without justifiable reasons.*”

34. In the instant case also as observed above, there are glaring improvements in the statements of PW1 Sukhwinder Singh and other prosecution witnesses, PW2, PW3 and PW4. Rather Sukhwinder Singh had not disclosed certain very material facts in the FIR, but met the prosecution case first time before the Court, so his version lacks credence.

35. The trial Court has thus rightly reached at the conclusion that the aforesaid evidence of PW1 when read in totality, cumulatively shows that there is no proximate and live link between the effect of cruelty based on dowry demand and death concerned and evidence of prosecution is not sufficient to prove the fact that the deceased had been subjected to cruelty

soon before her death for demand of dowry.

36. The testimony of other witnesses PW2 Balwinder Singh, PW3 Darshan Singh and PW4 Jaspal Singh also does not inspire confidence. PW2 Balwinder Singh in his examination-in-chief has deposed on the similar lines of PW1 Sukhwinder Singh regarding handing over of Rs.50,000/- to accused and demand of Rs.1 lakh more by the accused persons. However, in his cross-examination, he was confronted with his statement Ex.D2, where these facts were found missing, which also leads to the inference that he has also made improvements in his deposition.

37. PW3 Darshan Singh has also corroborated PW1 Sukhwinder Singh. But his evidence is hearsay in nature and he has deposed as per the facts disclosed to him by Sukhwinder Singh. Both PW3 Darshan Singh and PW4 Jaspal Singh were present when police recorded statement of Sukhwinder Singh initially, but when statements of these witnesses had not been recorded at that time, then their statements have lost the credibility.

38. It is also pertinent to note that no complaint was ever moved by Sukhwinder Singh or his daughter Gurpreet Kaur against the accused persons on any earlier occasion. PW7 Gurmej Singh Investigating Officer has also admitted, that during the investigation no fact came on record that on earlier occasion Gurpreet Kaur or her parental family had moved any complaint against her in-laws family for demand of dowry or maltreatment for demand of dowry. The bills that have been produced by

PW10 Kala Kamra, PW13 Rinku Garg and PW14 Narinderpal @ Pappi

regarding purchase of articles from their respective shops at the time of marriage of Gurpreet Kaur and Sohan Singh, were not produced earlier at the time of investigation and no reason has been assigned for the same. Some of these bills are ambiguous as details of name of purchaser etc. have not been mentioned.

39. The plea taken by defence is that Gurpreet Kaur did not appear to be in fit mental state and was behaving in strange manner. When the accused persons informed regarding the same to the mediator Karnail Singh and Sukhwinder Singh father of the deceased, then parents of Gurpreet Kaur took her along with them and after getting her treated, again sent her to her in-laws house. PW1 Sukhwinder Singh has stated in his cross-examination that they used to take treatment from a doctor at Bathinda in case of any necessity of treatment in his family. But there was no particular family doctor of his family. The accused persons were not bearing any expenses on the treatment of his daughter and he used to pay for treatment of his daughter. In case of any treatment of his daughter after the marriage, they used to visit doctor at Jaitu or Bathinda. From his this admission, it is proved that deceased Gurpreet Kaur was getting treatment for some ailment prior to her marriage and continued with the said treatment even after marriage and this ailment seems to have been intentionally concealed by the family of the deceased Gurpreet Kaur. To strengthen the stand of defence that it was not dowry death rather the deceased allegedly committed suicide being not in fit mental state, the accused have examined DW1 Karnail Singh and DW2 Rang Singh. Both DW1 Karnail Singh and DW2 Rang Singh have specifically deposed

regarding the abnormal behaviour of Gurpreet Kaur and she being not appearing in fit mental state. But they have not been cross-examined in this respect. Moreover, it is also to be taken note of that DW1 Karnail Singh is the relative of wife of complainant – Sukhwinder Singh/father of the deceased and DW2 Rang Singh is also relative of the complainant and no reason has been brought to the fore during the cross-examination of these witnesses as to why they would depose against the complainant and in favour of the accused.

40. This fact has also been admitted by PW1 Sukhwinder Singh to be correct that before death of her daughter, she along with her husband came to his house on the occasion of *Rakhi* and stayed there for a night and they had given good respect to Sohan Singh on his visit. This also demolishes the case of the prosecution that soon before her death Gurpreet Kaur was being harassed for demand of dowry. If it was so, then there was no occasion for her to visit her parental home along with her husband and to stay there for a night and there was also no occasion for the complainant Sukhwinder Singh to entertain Sohan Singh nicely, had he been harassing her daughter on the pretext of dowry. So in the facts of the present case, the presumption under Section 113-B of the Indian Evidence Act is not raised as the prosecution has failed to establish that deceased was subjected to cruelty by the accused persons soon before her death in connection with the demand of dowry.

41. The trial Court has thus, rightly reached at the conclusion that the prosecution could not prove its case beyond the shadow of reasonable doubt against the accused and the accused have been rightly acquitted by

the trial Court.

42. In view of the above, the appeal being bereft of any merits stands dismissed.

43. Pending application(s), if any, shall also stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

20.02.2024
harjeet

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|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |