



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1739-SB-2004
Reserved on: 14.07.2025
Pronounced on:- 30.07.2025

Subhash ChandAppellant

Versus

State of HaryanaRespondent

CORAM:- HON’BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Deepender Singh, Advocate
for the appellant.

Ms. Aditi Girdhar, AAG, Haryana.

AMARJOT BHATTI, J.

1. Appellant/convict Subhash Chand s/o Desh Raj has filed instant appeal against judgment of conviction dated 05.08.2004 and order on question of sentence dated 06.08.2004 passed by learned Additional Sessions Judge-I, Faridabad, in Sessions Case bearing No. 18 dated 18.04.2003, titled as “State Vs. Subhash and others” in FIR No. 117 dated 14.02.2003 under Section 304-B, 302/34, 120-B of Indian Penal Code, 1860 (for short ‘IPC’) registered at Police Station City Palwal, vide which appellant is sentenced as under :-

Name of Convict	Offence	Punishment
Subhash Chand	Under Section 304-B of IPC	Rigorous imprisonment for ten years and also to pay fine of Rs. 25,000/- and in default of payment of fine, to undergo further rigorous imprisonment for two and a half years.



2. As per the facts of case, on 14.02.2003, complainant Tara Chand gave his written complaint to police of Police Station City Palwal. In his complaint, he alleged that marriage of his daughter i.e. deceased victim was solemnized with Subhash Chand on 21.07.1997. He had given sufficient dowry but even then husband and members of in-laws family were dissatisfied, as a result, they constantly ill-treated her in connection with their demand for more dowry. It is further alleged that on the date of said occurrence i.e. 14.02.2003, deceased victim had come to her parental house in the evening to fetch milk and thereafter, she went to her matrimonial home. Late in the evening at about 09:00 pm, he received a call regarding death of his daughter. He alongwith his family reached matrimonial home of his daughter. On reaching the matrimonial house, he saw that dead body of his daughter was lying in the bedroom and she was having injury on her abdomen and blood was oozing from her mouth. He suspected involvement of Subhash Chand and his family members/relatives in the alleged death of his daughter due to demand for more dowry and prayed for legal action against them.

2.1 During the course of investigation, on 15.02.2003, accused Subhash and Sunil were arrested and produced before the Court. During further investigation, accused Ramu alias Ram Kishore, Shakuntla and Puneet were also arrested. Later-on, Khairati Lal was also arrested. Site plan of place of occurrence was prepared. Statements of witnesses were recorded during investigation. After completion of necessary formalities, challan was presented in Court under Section 304-B, 302/34 and 120-B of IPC.

2.2 Accused were supplied complete set of copy of challan report. Since the offence under Section 304-B/302 of IPC was exclusively triable by



the Court of Sessions, therefore, learned Judicial Magistrate 1st Class, Palwal committed the case to the Court of learned Sessions Judge, Faridabad for trial vide commitment order dated 04.04.2003.

3. Finding a prima facie case against accused persons on 09.05.2023, accused Subhash, Kharaiti Lal, Shakuntla and Sunil were charge-sheeted under Section 498-A and 304-B of IPC, whereas, in alternative, accused Shakuntla, Punit and Ramu alias Ram Kishore were charge-sheeted under Section 302 read with Section 34 of IPC, to which they pleaded not guilty and claimed trial.

4. In order to prove the facts of case, prosecution examined Jai Singh as PW-1, Ct. Anoj Kumar, Draftsman as PW-2, Ct. Brijpal Singh as PW-3, complainant Tara Chand as PW-4, HC Himmat Singh as PW-5, Ct. Suresh Kumar as PW-6, Smt. Prem wife of complainant as PW-7, Ishwar Chand Manchanda as PW-8, Dev Raj as PW-9, Dr. Sheela Bhagat, M.O., ESI Hospital, NH.3, Faridabad as PW-10, ASI Girraj Singh as PW-11 and SI Krishan Kumar as PW-12. Thereafter, learned Public Prosecutor for State vide his separate statement closed prosecution evidence on dated 03.05.2004.

5. Statement of accused persons were recorded under Section 313 Cr.P.C. by the trial Court to which they pleaded innocence and false implication. Accused persons opted to lead evidence in defence.

5.1 In defence, accused examined Ram Chand as DW-1, Vijay Kumar Aggarwal, Speech Therapist, AIIMS, New Delhi as DW-2, M.S. Chauhan, HOD (Claims), LIC, Palwal as DW-3 and Mohd. Kasim, Clerk, Food and Supplies Department, Palwal as DW-4. Thereafter, accused persons closed defence evidence on dated 02.08.2004.



6. After hearing arguments advanced by learned Public Prosecutor for the State of Haryana and learned counsel representing accused persons, accused Kharaiti Lal, Shakuntla, Ramu @ Ram Kishore, Sunil and Punit were acquitted of the charges framed against them, whereas, accused Subhash Chand was held guilty and convicted under Section 304-B of IPC vide judgment of conviction dated 05.08.2004 and order on question of sentence dated 06.08.2004 was passed by learned Additional Sessions Judge-I, Faridabad, as referred above. Feeling aggrieved of this judgment of conviction and order on question of sentence, appellant Subhash Chand has filed present appeal.

7. Learned counsel representing appellant/convict argued that learned trial Court has committed grave error by holding appellant Subhash Chand guilty under Section 304-B of IPC and has been convicted thereunder. Other co-accused namely Khairati Lal, Shakuntla, Sunil, Ramu alias Ram Kishore and Punit were acquitted by the trial Court and on the same set of evidence, present appellant has been held guilty. All private witnesses are interested witnesses being members of the family. They have tried to give improved version. Discrepancies in their testimonies have been totally ignored.

7.1 Learned counsel for appellant/convict pointed out that there are no specific allegations against appellant/convict, who is husband of deceased victim. There is no specific demand of dowry for which deceased victim was allegedly maltreated. Ingredients of offence under Section 304-B of IPC are not established from the evidence led by prosecution. There is no instance that deceased victim was maltreated on account of demand of dowry soon before



her death. Allegations against husband are vague and without any basis.

7.2 Learned counsel for appellant/convict pointed out that defence raised in this case has been totally ignored. Infact, husband and wife were having cordial relations. In defence, learned counsel representing accused had examined M.S. Chauhan, LIC Agen, Palwal as DW-3, who has proved on record insurance policy taken in the name of deceased wife Anju on 28.07.2001, which is Ex.DW3/A, which was to mature in the year 2007. Said insurance policy lapsed in October 2001. Copy of status report of policy is Ex.DW3/B. Appellant/convict alongwith his wife was residing separately on the first floor of house.

Prosecution has failed to lead convincing evidence on record to establish the guilt of appellant/convict under Section 304-B of IPC. Therefore, judgment of conviction dated 05.08.2004 and order on question of sentence dated 06.08.2004 passed by learned trial Court may kindly be set aside by accepting present appeal.

8. Learned counsel representing State of Haryana argued that facts of the case are duly proved on record by complainant Tara Chand-father examined as PW-4 and Smt. Prem-mother examined as PW-7. Their statements remained consistent on all material points. Deceased victim died unnatural death, which is duly proved on record by examining Dr. Sheela Bhagat as PW-10. Complainant and his wife categorically stated that their daughter was ill-treated in matrimonial home on account of their demands. She was married with appellant on 21.07.1997 and died unnatural death on the night of 14.02.2003. Appellant/convict has failed to take any specific stand as to how victim died in bedroom of her house situated on the first



floor. The conduct of appellant/convict was abnormal as he never lodged any report with police nor he tried to take his wife to hospital. Infact, he vanished from the scene of crime. Prosecution had examined all relevant witnesses. All the facts of case and evidence on record were rightly appreciated by the trial Court. Therefore, judgment of conviction dated 05.08.2004 and order on question of sentence dated 06.08.2004 passed by the trial Court do not require any interference and appeal preferred by appellant/convict deserves dismissal.

9. I have considered the arguments advanced by learned counsel representing appellant and learned counsel representing State of Haryana and have gone through the evidence led before the trial Court with their able assistance.

9.1 In the case in hand, FIR No. 117 dated 14.02.2003 (Ex.PB/2) has been registered under Section 304-B/302/120-B/34 of IPC at Police Station City Palwal on the written complaint of Tara Chand (Ex.PB). Father of deceased victim stated that his daughter Anju was married with Subhash Chand on 21.07.1997. He had given sufficient dowry but even then husband and members of in-laws family were dissatisfied, as a result, they constantly ill-treated her in connection with their demand for more dowry. On the date of said occurrence i.e. 14.02.2003, deceased victim had came to her parental house in evening to fetch milk and thereafter, she went to her matrimonial home. Late in the evening at about 09:00 pm, he received a call regarding death of his daughter. He alongwith his family reached matrimonial home of his daughter and saw her dead body lying in her room. There were marks of injury on her abdomen and blood was oozing from her mouth. Complainant categorically stated that his daughter was killed. On the basis of this written



complaint, inquiry was conducted. Appellant/convict Subhash Chand alongwith other co-accused were challaned in this case. Accused Subhash, Kharaiti Lal, Shakuntla and Sunil were charge-sheeted under Section 498-A and 304-B of IPC, whereas, in alternative, accused Shakuntla, Punit and Ramu alias Ram Kishore were charge-sheeted under Section 302 read with Section 34 of IPC. Finally, other co-accused Kharaiti Lal, Shakuntla, Sunil, Ramu alias Ram Kishore and Punit were acquitted of the charge framed against them and only present appellant Subhash Chand-husband has been convicted under the provisions of Section 304-B of IPC. In the light of aforesaid factual position, this Court is to see the evidence led by prosecution pertaining to offence under Section 304-B of IPC qua present appellant/convict.

9.2 On this point, gainful reference can be made to the judgment of **Supreme Court of India** cited in **2013(2) RCR(Criminal) 75**, case titled **“Kashmir Kaur and another Versus State of Punjab”**, where in order to constitute the offence under Section 304-B of IPC, following principles were culled out, which are as under :-

“16. From the above decisions the following principles can be culled out :

- a) To attract the provisions of Section 304B Indian Penal Code the main ingredient of the offence to be established is that soon before the death of the deceased she was subjected to cruelty and harassment in connection with the demand of dowry.
- b) The death of the deceased woman was caused by any burn or bodily injury or some other circumstance which was not normal.
- c) Such death occurs within seven years from the date of her marriage.
- d) That the victim was subjected to cruelty or harassment by her husband or any relative of her husband.
- e) Such cruelty or harassment should be for or in connection with



demand of dowry.

f) It should be established that such cruelty and harassment was made soon before her death.

g) The expression (soon before) is a relative term and it would depend upon circumstances of each case and no straightjacket formula can be laid down as to what would constitute a period of soon before the occurrence.

h) 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.

i) Therefore, 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 or life link between the effect of cruelty based on dowry demand and the concerned death. In other words, it should not be remote in point of time and thereby make it a stale one.

j) However, the expression "soon before" should not be given a narrow meaning which would otherwise defeat the very purpose of the provisions of the Act and should not lead to absurd results.

k) Section 304B is an exception to the cardinal principles of criminal jurisprudence that a suspect in the Indian Law is entitled to the protection of Article 20 of the Constitution, as well as, a presumption of innocence in his favour. The concept of deeming fiction is hardly applicable to criminal jurisprudence but in contradistinction to this aspect of criminal law, the legislature applied the concept of deeming fiction to the provisions of Section 304B.

l) Such deeming fiction resulting in a presumption is, however, a rebuttable presumption and the husband and his relatives, can, by leading their defence prove that the ingredients of Section 304B were not satisfied.

m) The specific significance to be attached is to the time of the alleged cruelty and harassment to which the victim was subjected to, the time of her death and whether the alleged demand of dowry was in connection with the marriage. Once the said ingredients were satisfied it will be called dowry death and by deemed fiction of law the



husband or the relatives will be deemed to have committed that offence.”

9.3 Firstly, in the case in hand, there is prompt registration of FIR. Complainant Tara Chand father of deceased victim filed written complaint Ex.PB on 14.02.2003. On the same day, FIR Ex.PB/2 was registered and as per endorsement, special report was also received by Illaqa Magistrate at 02:00 am (night time) on 15.02.2003.

9.4 Facts of the case further indicate that there are certain undisputed facts. Marriage of Subhash Chand took place with deceased victim Anju on 21.07.1997. Parental home of deceased victim was situated in same area with distance of about 1 Km. Out of this wedlock, no child was born. It is further not disputed that deceased victim alongwith her husband Subhash Chand was residing on the first floor of the house and other members of family were residing on the ground floor. It is further not disputed that dead body of Anju was found lying in bedroom situated on first floor in injured condition. It is further not disputed that unnatural death of deceased victim took place in matrimonial home within five and a half years of marriage. Both parents of deceased victim have levelled specific allegations of continuous maltreatment of their daughter in matrimonial home as there was demand for a scooter and cash amount.

9.5 In order to prove the charge-sheet, prosecution has examined Tara Chand-father PW-4 and Smt. Prem-mother PW-7. In the said statements, both witnesses consistently stated that after marriage of their daughter on 21.07.1997 with Subhash Chand, she was harassed for bringing insufficient dowry. He categorically stated that on 2-3 occasions, they had given cash amount to accused Subhash Chand and lastly they had given Rs. 10,000/- to



Subhash Chand on 19.11.2001 and further told him that in future they will not give him money. He kept silent for about 5-6 months, but again started harassing his daughter to bring a scooter and cash amount. Smt. Prem PW-7 mother of deceased victim has also confirmed aforesaid factual position. Therefore, victim was maltreated in the matrimonial home on account of persistent demand of money and scooter. Learned counsel representing appellant raised the issue that both these witnesses have given improved version as these facts were not mentioned in complaint filed by Tara Chand Ex.PB. I have considered the aforesaid factual position. Complainant Tara Chand PW-4 lost her daughter and immediately thereafter, he filed application for taking action on account of death of his daughter. Said application is brief information given to police about the occurrence. Victim was married to appellant/convict about five and a half years ago and it was not possible for parents to narrate each and every incident that had happened in matrimonial home. Facts which are narrated by both witnesses are relating to the occurrence and in my opinion, it cannot be said that parents while stepping into witness box have given altogether improved version to falsely implicate appellant/convict. The statements of witnesses are consistent and cannot be brushed aside. There is presumption regarding dowry death.

Section 113-B of Indian Evidence Act, 1972 which runs as under:-

“113B. Presumption as to dowry death - When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.



Explanation.- For the purposes of this section, “dowry death” shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860).”

On this point, gainful reference can be made to the judgment of **Supreme Court of India**, case titled “**Surinder Singh Versus State of Haryana**” [*Law Finder Doc Id # 498981*] 2014(1) RCR(Criminal) 535, where in para No. 13 it was held as under :-

“13. Section 113B of the Indian Evidence Act, 1872 states that when the question is whether a person has committed the dowry death of a woman, and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death. Section 304B of the IPC states that 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. Thus, the words ‘soon before’ appear in Section 113B of the Indian Evidence Act, 1872 and also in Section 304B of the IPC. For the presumptions contemplated under these Sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words ‘soon before’ is, therefore, important. The question is how ‘soon before’? This would obviously depend on facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive.



Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, 'soon before' is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death."

Once it is established that deceased victim was harassed and ill-treated in matrimonial home on account of their demand for cash amount and scooter, then there is a presumption which can be drawn that a person has committed dowry death.

9.6 Unnatural death of victim is proved from postmortem report duly proved on record by examining Dr. Sheela Bhagat PW-10. She categorically stated that postmortem examination was conducted on 15.02.2003 by Board of Doctors consisting of herself, Dr. JD Singh and Dr. BS Sharma. Dead body was of adult female, age about 31/32 years and following injuries were noticed on her person:-

- "1) Face suffused (bluish)
- 2) Dribbling of saliva from angle of mouth
- 3) Teeth clinched
- 4) Reddish abraded transversely placed ligature mark at the level of thyroid artilage of the size 15 inches x 1.25 inches around the neck
- 5) Nails cyanosed
- 6) Incised clear cut wounds ten in number, around the umbilicus on different sizes, spindal shape, detailed below:-
 - i. size 2.5 x 1 x 10 cm
 - ii. 2 x 1x 6 cm deep



- iii. 3 x 1 x 1 cm. deep
- iv. 3 x 1 x 6 cm.
- v. 3 x 1 x 6 cm.
- vi. 2 x 1 x 5 cm.
- vii. 3.5 x 1 x 5 cm.
- viii. 3 x 1 x 4 cm.
- ix. 2.5 x 1 x 5 cm.
- x. 3 x 1 x 6 cm. deep

- 7) Eyes were reddish and congested.
- 8) Small intestines were cut or severed and semi-digested food material was seen.
- 9) Large intestine cut or severed.
- 10) Non-pregnant uterus seen.”

As per the opinion of Board of Doctors, cause of death was asphyxia, as a result of strangulation and multiple injuries which were ante-mortem in nature and sufficient to cause death in ordinary course. The duration between injury and death was few minutes and between death and postmortem examination was 6 to 12 hours. Correct copy of postmortem report is Ex.PG. Aforesaid factual position further indicates that it was not a case of death by suicide. Infact, it was a case of strangulation and multiple injuries caused on the person of deceased victim.

9.7 Appellant/convict in his statement recorded under Section 313 Cr.P.C. stated that his wife was murdered when she was alone in her room. Said stand taken by appellant/convict does not hold any ground. Deceased victim was not residing in the house alone. She was residing in a joint family and her room was situated on the first floor of house. Conduct of appellant/convict cannot be ignored. He did not make any effort to report the matter to police nor there was any effort on his part to shift his wife to hospital in case it was a murder by some unknown person. Therefore, stand taken by appellant/convict does not hold any ground. Infact, appellant/convict



after the occurrence vanished from the scene of crime and he was arrested on 15.02.2003. Taking of LIC policy in the name of wife in the year 2001 does not help the case of appellant/convict nor photographs Ex.DA and Ex.DB can establish that he was having great love and affection for his wife.

In the light of aforesaid factual position, learned Additional Sessions Judge-I, Faridabad has rightly come to the conclusion holding appellant/convict Subhash Chand guilty for the offence under Section 304-B of IPC and was rightly sentenced thereunder. Consequently, judgment of conviction dated 05.08.2004 and order on question of sentence dated 06.08.2004 passed by learned Additional Sessions Judge-I, Faridabad is, accordingly, upheld. Present appeal preferred by appellant Subhash Chand s/o Desh Raj is, accordingly, dismissed.

10. Sentence of appellant Subhash Chand was suspended by the Coordinate Bench of this Court, now he is directed to surrender before learned Chief Judicial Magistrate, Faridabad, within one month from today, failing which learned Chief Judicial Magistrate, Faridabad would issue warrants of arrest to secure his presence and send him to jail to undergo the remaining sentence. Necessary intimation be sent to the concerned Court for information and compliance.

11. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

(AMARJOT BHATTI)
JUDGE

30.07.2025

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No