



CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-861-SB-2004 (O&M)
Reserved on: 05.11.2024
Date of Pronouncement:- 04.02.2025

RAKESH KUMAR AND OTHERS

.....APPELLANTS

Vs.

STATE OF PUNJAB

....RESPONDENT

CRR-1260-2004 (O&M)

RAM MURTI

.....PETITIONER

Vs.

RAKESH KUMAR AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

(As on the reserved date)

Present: Mr. Vipin Mahajan, Advocate,
for appellant No. 1 and 3 (in CRA-S-861-SB-2004) and
for respondents No. 1 and 3 (in CRR-1260-2004).
(appellants/respondents No. 2 and 4 have died).

Mr. Davinder Bir Singh, Sr. D.A.G., Punjab.

Mr. Inderjit Sharma, Advocate,
for petitioner (in CRR-1260-2004) and
for the complainant (in CRA-S-861-SB-2004).

HARPREET KAUR JEEWAN, J.

1. CRA-D-861-SB-2004 has been filed by the appellants-accused

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

assailing the judgment of conviction and order of sentence dated 07.04.2004 passed by the learned Additional Sessions Judge (Adhoc), Fast Track, Court, Gurdaspur (for short '*the trial Court*'), whereby all the appellants-accused were held guilty and convicted under Section 498-A of the Indian Penal Code (for short '*the IPC*') and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of ₹2,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of six months, in case FIR No. 156, dated 16.10.2001, under Sections 304-B and 406 IPC read with Section 34 thereof, registered at Police Station Division No. II, District Pathankot.

2. **CRR-1260-2004** has been filed by the complainant-Ram Murti (brother of the deceased) assailing the acquittal of the respondents-accused under Section 304-B IPC while challenging the findings recorded by the trial Court holding the accused guilty merely for a lesser offence and passing sentence order of only 02 years rigorous imprisonment and to pay a fine of ₹2,000/- each.

3. Since common questions of law and facts are involved in **CRA-S-861-SB-2004** and **CRR-1260-2004**, therefore, both cases are taken up together and being disposed of by a common judgment.

FACTS

4. The case of the prosecution in brief is that the marriage of Radhika Dogra @ Saroj Rani (deceased) (hereinafter referred to as '*the victim*') was solemnized with Rakesh Kumar-appellant No. 1 in the year 1998 and out of the said wedlock a son was born. Narinder Pal-appellant No. 4 is the father-in-law, Chander Kanta-appellant No. 3 is the mother-in-

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

law of the victim whereas Rajesh Kumar @ Gopu-appellant No. 2 is brother of appellant No. 1. The parents of the victim had given sufficient dowry at the time of marriage but all the appellants used to maltreat the victim for bringing less dowry. It is the case of the prosecution that after 4-5 days of the marriage, during her first visit to her parental home, the victim told her brother-Ram Murti (the first informant) that the appellants were not happy with the dowry given by them. They expected car in the dowry and were demanding money. Even the clothes worn by the victim at that time suggested that she was not being treated well.

4.1 In the month of July 2000, the appellant-accused demanded a sum of ₹1,50,000/- from the victim for the purpose of vacation of a portion of the hotel Crystal which was owned by them but was on rent. The said amount was paid by the parents of the victim. Thereafter, in the month of March 2001, the appellants again demanded more money for fixing air-conditioner in the hotel Crystal and a demand of car was also made. The complainant asked the victim to wait for some time, as at that time he was not in a position to bear such expenditure.

4.2 On 16.10.2001, the victim and the appellants were invited for engagement ceremony of the cousin of the victim at Gurdaspur. At about 10:00 a.m., the victim told her parents that she was not being permitted to come to her parental home to attend the said ceremony. The complainant accompanied with one Sunil Dutt reached the matrimonial house of the victim at about 02:30 p.m. to bring her to attend the said ceremony. On reaching there, they came to know that the victim had been taken to the Civil Hospital, Pathankot, as she was not feeling well. The complainant

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

along with his cousin Sunil Dutt went to the Civil Hospital, Pathankot, where they learnt that the victim had died by consuming some poisonous substance.

4.3 The FIR was registered on the basis of the statement of the complainant who is the brother of the victim.

4.4 After completion of the investigation, the final report under Section 173 Cr.P.C. was submitted before the Area Magistrate.

4.5 On appearance of the accused, copies of documents as required under Section 207 of the Criminal Procedure Code, 1973 (for short '*the Code*') were supplied to them free of costs by the area Magistrate. Finding allegations against the appellants under Sections 304-B/406/34 IPC, the case was committed to the Court of Sessions.

4.6 The trial Court, finding a *prima facie* case against the appellants-accused framed charge against them only under Section 304-B IPC, to which they pleaded not guilty and claimed trial.

4.7 The prosecution in order to substantiate its case, examined as many as 10 prosecution witnesses, i.e. PW-1 Raghu Nath Sharma, PW-2 Ram Murti, PW-3 Head Constable Gurmail Singh, PW-4 Constable Surjit Singh, PW-5 MHC Gurinderpal Singh, PW-6 Constable Baljinder Singh, PW-7 J.S. Dhanjal draftsman, PW-8 SI Ravinder Singh, PW-9 Dr. Vijay Nijawan and PW-10 SP Shamsheer Jang Bahadur.

4.8 On completion of evidence of the prosecution, statements of all the accused as required under the provisions of Sections 313 Cr.P.C. were recorded, wherein they denied all the allegations against them and

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

pleaded their false implication.

4.9 In their defence, accused examined only one witness Bachan Singh Randhawa as DW-1.

4.10. Learned trial Court found the evidence produced by the prosecution 'as reliable' while convicting the appellants under Section 498-A IPC and sentencing all the accused as noticed above. The appellants were not convicted under Section 304-B IPC.

5. The appellants have challenged the judgment of conviction and order of sentence by filing the present appeal bearing No. **CRA-S-861-SB-2004**, whereas the complainant had challenged the aforesaid findings by filing the **Criminal Revision No.1260 of 2004** aggrieved against the acquittal of the appellants under Section 304-B IPC.

6. During the pendency of the appeal, appellant No. 2-Rajesh Kumar @ Gopu had died on 22.04.2012 whereas appellant No. 4-Narinder Pal had died on 02.02.2009 and this fact has been confirmed by the status report dated 13.10.2024 filed on behalf of the State.

7. While acquitting the appellants under Section 304-B IPC, the trial Court observed that the allegations of demand of dowry had not been satisfactorily proved against the accused. However, while convicting the appellants under Section 498-A IPC, the trial Court observed that the deceased died unnatural death which took place within a period 2/3 years of her marriage, she was even blessed with a son and under these circumstances the accused were required to explain the circumstances which led the victim to commit suicide. The trial Court further observed that the accused have admitted that there was some ceremony in the

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

parental home of the victim on 16.10.2001. She was invited along with her husband to attend the said function. The trial Court observed that the deceased was not allowed to attend the function for the reasons best known to the accused, as such, leading to the only inference that she was being treated with cruelty. It was observed that there is no satisfactory explanation as to why she was not permitted to visit her brother's house, as such, the trial Court held that this amounts to an indirect way of being cruel to a person (victim). On the basis of the aforesaid observations, the trial Court concluded that statement of Ram Murti (PW-2) is sufficient to prove that the victim was being treated with cruelty as such, leading to her unnatural death.

ARGUMENTS ON BEHALF OF LEARNED COUNSEL FOR THE APPELLANTS

8. At the outset, learned counsel for the appellants submits that the learned trial Court while appreciating the evidence on record has rightly acquitted all the accused under Section 304-B IPC since the ingredients of this offence have not been established.

8.1 The learned counsel for the appellants submits that the appellants have been wrongly convicted under Section 498-A IPC. Referring to the testimony of PW-1-Raghunath Sharma and PW-2-Ram Murti, it is contended that the prosecution has failed to prove that there was any demand or harassment to the victim prior to the commission of the suicide by her. It is submitted that the air conditioner was already installed in the hotel and there was no occasion for the appellants to demand money for air-conditioner. It is further submitted that it is highly improbable that a

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

person, who is owner of a hotel would raise demand of a car or air conditioner. Referring to the testimony of Ram Murti-PW-2 (brother of the victim), it was submitted that he has admitted that the victim was a sentimental girl. Referring the statement of the appellant-Rakesh Kumar under Section 313 Cr.P.C., it is further submitted that the appellant-Rakesh (husband of the victim) was present in the hotel and he suggested his wife that she should go to attend the ceremony and he would later join them, however, the victim insisted that he should accompany her. Due to sensitivity of her nature, the victim committed suicide by consuming a poisonous substance. There was no instigation on the part of the appellants. Though the unfortunate occurrence took place, however, the appellants have never instigated to commit suicide and they are liable to be acquitted.

ARGUMENTS OF LEARNED STATE COUNSEL AND COUNSEL FOR THE COMPLAINANT

9. Learned counsel for the complainant (petitioner in CRR-1260-2024) submitted that the trial Court has erred while convicting the appellants under Section 498-A IPC. It is submitted that the victim died in her matrimonial home within a period of 2-3 years of her marriage. PW-2-Ram Murti, (brother of the victim) had fully supported the prosecution case and proved four instances of specific demands raised by the appellants. It is further submitted that even PW-1-Raghunath Sharma, though declared hostile, had admitted the case of the prosecution which was put to him by the Public Prosecutor.

10. The learned counsel for the complainant further submitted that all the ingredients of the offence punishable under Section 304-B IPC are fully proved since the demand of dowry “soon before the death” has been

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

fully proved. It is contended that the victim was harassed by all the appellants on account of the said demand as such, she committed suicide. All the appellants are liable to be convicted under Section 304-B IPC.

10.1 Reliance has been placed upon the judgments of Hon'ble the Supreme Court in Satbir Singh and another vs. State of Haryana 2021 (3) RCR (Criminal) 167, Gurmeet Singh vs. State of Punjab 2021 (3) RCR (Criminal) 176 and Kailash vs. State of M.P. 2006 (4) RCR (Criminal) 634.

11. Learned State counsel raised the similar submissions as raised by the counsel for the complainant.

12. I have considered the arguments raised on behalf of learned counsel for the parties and perused the paper-book.

13. The undisputed facts on record are:

1. That the victim (deceased) got married to Rakesh Kumar-appellant No. 1 on 02.08.1998;
2. On 08.06.1999, the victim was blessed with a son out of the wedlock;
3. On 16.10.2001, the victim died an unnatural death. As per the report of the Chemical Examiner, aluminium phosphide, a poisonous pesticide was detected. However, no injury marks were found on the body of the deceased during post-mortem examination, as per the testimony of PW-9 Dr. Vijay Nijawan.

14. As per the legal provisions, Section 304-B IPC where death of a woman occurs by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of marriage, but in order to attract the application of Section 304-B IPC, the essential ingredients are as

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

follows:-

- “(i) The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstance.*
- (ii) Such a death should have occurred within seven years of her marriage.*
- (iii) She must have been subjected to cruelty or harassment by her husband or any 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”*

15. In view of the aforesaid legal position, in order to establish the offence under Section 304-B IPC, the prosecution is required to prove the following essential ingredients:-

- “i) 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) Soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband;
- iv) Such cruelty or harassment must be for, or in connection with, demand for dowry.”

16. If the prosecution is able to prove the aforesaid ingredients then the presumption under Section 113-B of the Indian Evidence Act would operate, which is rebuttable presumption and the onus to rebut shifts on the accused. Section 113-B of the Indian Evidence Act, 1872 speaks about presumption as to dowry death which reads as under:-

“113-B Presumption as to dowry death-When the question is whether a person has committed the dowry death of a woman

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand to dowry, the court shall presume that such person had caused the dowry death.

Explanation: For the purpose of this section, 'dowry death' shall have the same meaning as in section 304-B of Indian Penal Code (45 of 1860)."

17. The provisions of Section 498-A IPC are also relevant and while considering the case under the said provisions, cruelty has to be proved during the close proximity of time of death. The provisions of Section 498-A IPC reads as under:-

"498-A Husband or relative of husband of a woman subjecting her to cruelty. Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty means"—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

18. It is also noticed that the expression 'soon before the death' has not been defined in the statutes. Therefore, facts and circumstances leading to the death of the victim have to be analyzed to decide any proximate connection between the demand of dowry and the act of cruelty

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

or harassment and the death.

19. In the light of the aforesaid legal provisions, the evidence of the material witnesses has been scanned. The following two questions need to be determined in the present case:-

I. As to whether the appellants have subjected the victim to cruelty as defined under Section 498-A of the IPC?

II. If the first point is proved, as to whether such cruelty or harassment was in connection with demand for dowry?

20. The star witness PW-2 Ram Murti, who is the brother of the victim has stated in his examination-in-chief that the victim was being harassed by the appellants and they were making demand for money from time to time. As per his testimony, 4-5 days after the marriage, his sister (victim) informed him that the accused were not happy with the dowry and they are demanding money. After the marriage, the first payment of ₹1,50,000/- is stated to have been made in July 2000 for vacation of the lower portion of an hotel which is stated to be owned by the accused but was earlier on rent. As per his testimony, the accused were not happy even after receiving the said payment.

21. The second demand of money was allegedly raised by the appellants 2-3 months prior to the death of the victim for the purpose of fixing air conditioner in their hotel.

22. As per the testimony of the said witness PW-2, the triggering factor was that the appellants were not permitting the victim to join the ring ceremony of her cousin, which was scheduled on the day of occurrence, i.e. 16.10.2001 unless the hotel of the appellants is got air conditioned and a

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

car is given to them.

23. The first demand and the first payment in July 2000 for a sum of ₹1,50,000/- having been allegedly made by the parents of the victim to her husband and other family members cannot be termed as an instigation to commit suicide by the victim as there was a gap of time of 01 year and 3 months between the said payment and the commission of suicide by the victim. It has also been noticed that the victim was having visiting terms with her parents prior to the commission of suicide. Ram Murti (PW-2) has admitted that his sister (victim) and her husband (appellant Rakesh Kumar) used to visit their home after every six months. However, after every 15-20 days, even he used to bring his sister (victim) to his house and would leave her back to in-laws place. The parents of the victim had also been on visiting terms to the matrimonial home of the victim. As per the cross-examination of Ram Murti (PW-2), they had opened an academy at Behrampur and appellant-Rakesh Kumar (husband of the victim) was a trustee of the said academy.

24. It has also been noticed that no prior complaints were ever made either by the victim or by her parents to any of the authorities regarding the alleged demands.

25. The trial Court has even found that the payment of ₹1,50,000/- alleged to have been made to the appellants in July 2000 was not supported with any documentary evidence. The said observations have been correctly made on the basis of evidence on record. Ram Murti (PW-2) had admitted that they are income tax assesses but he could not produce any documentary evidence to show a bank transaction for a payment of

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

₹1,50,000/- to the appellants. Even no bank withdrawal has been proved to show the availability of funds to make the said payment. The explanation given by the witness that the said amount was borrowed from other persons does not inspire confidence as in his cross-examination the witness has stated that he has borrowed a sum of ₹65,000/- from one Ved Parkash and a sum of ₹60,000/- from Kulwinder Singh but neither he has returned the said amount to the said persons nor he is paying any interest on the said amount to the said persons. He has neither maintained any books or accounts nor any receipt was prepared when he borrowed the said amount from the aforesaid persons.

26. The version of the witness Ram Murti (PW-2) that on the day of occurrence, he was informed by his sister telephonically that the accused were not permitting her to join the ring ceremony unless the hotel is got air conditioned and a car is given to them is an improved version of the witness. The FIR was registered on the basis of the statement of Ram Murti (PW-2) (Ex. PB) which was recorded on 16.10.2001 by the investigating officer. The improved version that unless the hotel is got air conditioned and a car is given to the accused is not mentioned in the first statement given by the witness (Ex. PB). The witness has been confronted with the aforesaid statement in the cross-examination and there is observation by the trial Court that only this fact is mentioned in the previous statement that they (appellants) did not allow her to come in ring ceremony.

27. Raghu Nath Sharma (PW-1) is the second material witness examined by the prosecution. As per his version in the examination-in-chief, on receiving a telephonic message from Ram Murti (PW-2), he

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

reached the hospital where mother-in-law of the victim informed him about the death of the victim. He further stated that appellant-Rakesh was also present and he told that he does not know the cause of death. As per the version of this witness, a day prior to the death, he received a telephonic call from the victim but the victim hanged the phone. He inquired from the victim later on who told him that the child was weeping, as such, she hanged the phone. On the next day, when he went to the house of the victim, he found that the accused were quarreling with the victim but he did not know the reason behind the quarrel and he was told that it was a dispute regarding some domestic work. The witness was declared hostile and the Public Prosecutor was allowed to cross-examine the witness. While answering the leading questions asked by the Public Prosecutor, he admitted the questions put to him regarding the demand of the car and money by the accused and gave the explanation that he forgot to make the said statement in the examination-in-chief as he was nervous. In the cross-examination conducted on behalf of the defence, he again took a 'U' turn and stated that on 16.10.2001, his statement was not recorded by the police and he even admitted that the telephone of the victim was attended by his wife and he himself did not directly talk to the victim a day prior to her death.

28. Keeping in view the totality of the statement of PW-1, it is not safe to rely upon his statement. He is not found to be a trustworthy witness. The statement cannot be made basis to hold the appellants guilty. As such, we are left with only the testimony of Ram Murti (PW-2).

29. The testimony of Ram Murti (PW-2) who is brother of the

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

victim is believable to the extent that the victim was unhappy in the matrimonial home. She was not permitted to attend the ring ceremony of her cousin. However, it is not disputed that the victim used to visit her parents' house and even the parents used to visit her matrimonial home. However, the part of the testimony of Ram Murti (PW-2) that there was a demand of dowry or that any payment was demanded by the appellants and the said payment was not given by the parents of the victim after marriage is not supported with any documentary evidence. Even there is no oral corroboration to the testimony of Ram Murti (PW-2) to this effect.

30. It has also been observed that there is no dying declaration and no suicide note left by the victim corroborating the testimony of the witness about demand of dowry .

31. The death is by consuming of aluminium phosphide, a poisonous pesticide, as per the report of the Chemical Examiner. The victim was young and the matrimonial discord *inter se* the husband and the relatives of her husband led the victim to take a hasty step of committing suicide. It is highly doubtful that there was a persistent dowry demand as there is no previous complaint to any of the authorities, no independent corroboration, no Panchayats were convened and even there is no suicide note.

32. On the other hand, the fact that the victim was recently married; she was blessed with a son and in such a young age, committing suicide gives a strong indication that she was unhappy. There is no plausible explanation to the said state of affairs in the statement of the appellants recorded under Section 313 Cr.P.C. She was living with the

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

appellants, as such, leading to the presumption that there was cruelty, however, no such presumption can be raised that the cruelty was on account of demand of dowry.

33. In view of the evidence on record, I am of the considered opinion that the prosecution has failed to prove one of the essential ingredients of Section 304-B IPC, i.e. “such cruelty or harassment should be for or in connection with demand of dowry”. However, the prosecution has successfully proved the ingredient of the offence defined under Section 498-A IPC and the facts of the case fall within the explanation of (a) of Section 498-A IPC, i.e. “(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman;”

34. The decision relied upon by learned counsel for the revisionist in **Satbir Singh’s, Gurmeet’s Singh** and **Kailash’s** cases (*supra*) are distinguishable on facts.

35. In view of the aforesaid circumstance, question No. 1 for determination is answered against the appellants whereas question No. 2 is answered in favour of the appellants.

36. In view of the reasons recorded hereinabove, the findings arrived at by the trial Court holding the appellants guilty under Section 498-A IPC are based on fact and evidence on record. The acquittal of the appellants under Section 304-B IPC is in resonance with the evidence on record. The decision relied upon by learned counsel for the petitioner (in CRR-1260-2004) and for the complainant (in CRA-S-861-SB-2004) in **Satbir Singh’s, Gurmeet’s Singh** and **Kailash’s** cases (*supra*) are

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

distinguishable on facts, as such, no interference is required in the judgment of conviction recorded by the trial Court.

37. Consequently, the Revision Petition filed by the complainant (Ram Murti), bearing No. CRR-1260-2024 is liable to be dismissed and is accordingly, dismissed.

38. Learned counsel for the appellants has also made submissions for reducing the period of sentence to the period already undergone by the appellants. It is contended that Rakesh Kumar (appellant No. 1) has undergone 01 year and 11 months of his actual sentence and Chander Kanta (appellant No. 3) has undergone 01 year and 23 days of her actual sentence; and they are not previously convicts.

39. I have also considered the aforesaid submissions.

40. Keeping in view the gravity of allegations and the fact that a young woman died within a small period after her marriage, no lenient view is possible qua appellant Rakesh Kumar (husband of the deceased). After solemnizing the marriage, the victim was residing with her husband in her matrimonial home. The couple was even blessed with a son. As per the custom, the victim-wife of the appellant had left her parental home and started living with her husband in the matrimonial home. It is the moral duty of a husband to assist his wife for smooth transition from her parental home to her matrimonial home. As noticed in the testimony of the brother of the victim (PW-2), the victim though used to visit her parental home but she was not permitted for a night stay with her parents. Even as per the allegations, she was not permitted to go and attend the ring ceremony of her cousin in her parental home. The conduct of the husband of the victim

**CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)**

indicates that he was not sensitive towards his wife and did not assist the victim in her smooth transition from her parental home to her matrimonial home. As such, the sentence awarded to appellant Rakesh Kumar by the trial Court is in resonance with the facts and circumstances on record.

41. However, keeping in view the age of appellant No. 3 Chander Kanta, which referred as 58 years in the trial Court's judgment dated 07.04.2004 and as such by now she is more than 80 years of age; she had already undergone a period of 01 year and 23 days of her actual custody; she is a senior citizen, as such sending her to jail in this age would not bring any reformatory changes rather it would cause a great hardship to a senior citizen at this age.

42. In view of the above, no interference is called for in the findings arrived at by the trial Court while convicting appellant-Rakesh Kumar and in the findings qua his order of sentence. However, in view of such circumstance, the sentence awarded to appellant No. 3-Chander Kanta is reduced to the period which she has already undergone, however her conviction is upheld.

43. Consequently, the appeal filed on behalf of Rakesh Kumar (appellant No. 1) stands dismissed. The appeal filed on behalf of Chander Kanta (appellant No. 3) is partly allowed to the aforesaid extent, i.e. by reducing her sentence to the period already undergone by her. The proceedings against Rajesh Kumar @ Gopu and Narinder Pal (appellants No. 2 and 4) stand abetted. Appellant No. 1-Rakesh Kumar shall be taken into custody to undergo his remaining period of sentence.



CRA-S-861-SB-2004 (O&M) & CRR-1260-2004 (O&M)

- 44. A copy of this order be sent to the learned Chief Judicial Magistrate concerned for information and necessary action.
- 45. Pending miscellaneous applications, if any, also stand disposed of.

(HARPREET KAUR JEEWAN)
JUDGE

February 04, 2025
nitin

Whether Speaking	Yes
Whether Reportable	Yes