

**CRR-1552-2007 (O&M)****1****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****236****CRR-1552-2007(O&M)
Decided on : 15.05.2025****BALBIR SINGH**

... Petitioner(s)

Versus

JASPAL SINGH AND ORS.

... Respondent(s)

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH**PRESENT:** Mr. Maninder Arora, Advocate and
Mr. Harshit Singh, Advocate
for the petitioner.

KIRTI SINGH, J. (Oral)**CRM-81914-2007**

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 29 days in filing of present appeal.

In view of the averments made in the application, delay of 29 days in filing the present appeal, is here by condoned.

Application stands disposed of.

CRR-1552-2007

The present revision petition has been preferred against the judgment dated 05.03.2007 passed by the learned Additional District Judge, Jalandhar, whereby respondents No.1 to 4 were acquitted of offences punishable under Sections 304-B and 120-B of IPC.

2. The brief facts in the case in hand are that an FIR was registered on the statement of the father of the deceased that the marriage of his daughter and respondent No.2 was solemnized in July 1999, it being the second



marriage of respondent No.2, and one child was born out of the wedlock. After a year of marriage, the accused/respondents, who are the brother-in-law, husband and parents-in-law of the deceased started taunting and harassing her on account of dowry. On 10.06.2002, his daughter along with her husband visited his home and informed him that her in-laws had evicted them both, and had asked her husband to either leave her or vacate the house and shop where respondent No.2 used to run a pharmacy. However after pacifying the couple, complainant sent them back to their house. It was on 15.06.2002 that the complainant was informed over a phone call that his daughter had consumed some poisonous substance because of which she was admitted in a private hospital in a serious condition, where she died on the same day at about 8 P.M. A prima facie case against the husband and his family was registered. During trial, on 26.09.2004 proceedings against respondent No.4 stood abated due to her death. However, since the prosecution had failed to establish guilt of the accused persons (respondents herein) beyond the shadow of reasonable doubt, they were acquitted by the trial Court vide the impugned judgement. Against the said order of acquittal, the present revision petition has been preferred.

3. Learned counsel for petitioner/complainant submits that the learned trial Court did not duly appreciate the evidence on record and acquitted the accused/respondents, despite there being specific allegations against them of harassing and beating the deceased. In fact on 10.06.2002 the daughter and son-in-law had visited the house of the complainant, informing him that they had been turned out of the house, and that he was asked to look for a house and a shop for them both. It is also submitted that the petitioner was not informed by the respondents regarding the incident and that the deceased was taken to a private



hospital instead of a Government hospital. Thus, the impugned acquittal order is liable to be set aside.

4. Heard.

5. Before proceeding further, a gainful reference can be made to the judgment of the Hon'ble Supreme Court passed in '***Shoor Singh and Anr. Vs. State of Uttarakhand***', ***Criminal Appeal No.249/2013*** decided on 20.09.2024, whereby the provision of Section 304-B IPC was discussed. Relevant paras of the same read thus:

12. To constitute a 'dowry death', punishable under Section 304- B IPC, following ingredients must be satisfied:

- i. death of a woman must have been caused by any burns or bodily injury or it must have occurred otherwise than under normal circumstances;*
- ii. such death must have occurred within seven years of her marriage;*
- iii. soon before such death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and*
- iv. such cruelty or harassment must be in connection with any demand for dowry.*

The phrase 'otherwise than under normal circumstances' is wide enough to encompass a suicidal death.

13. When all the above ingredients of 'dowry death' are proved, the presumption under Section 113-B8 of the Evidence Act is to be raised against the accused that he has committed the offence of 'dowry death'. What is important is that the presumption under Section 113-B is not in respect of commission of an act of cruelty, or harassment, in connection with any demand for dowry, which is one of the essential ingredients of the offence of 'dowry death'. The presumption, however, is in respect of commission of the offence of 'dowry death' by the accused when all the essential ingredients of 'dowry death' are proved beyond reasonable doubt by ordinary rule of evidence, which means that to prove the essential ingredients of an offence of 'dowry death' the burden is on the prosecution.

6. Reverting to the case at hand, the prosecution had failed to establish that soon before her death, the deceased was subjected to cruelty or harassment for the demand of dowry. It was admitted by the complainant-father of the deceased in his evidence as PW-4 that he had given only household articles to the accused at the time of marriage. Further, no specifics qua the alleged demand for dowry were mentioned, other than the incident dated 10.06.2002 narrated by the complainant whereby he stated that his daughter and son-in-law had come to his



CRR-1552-2007 (O&M)

4

house after being turned out from their own house, requesting him to arrange for a house and shop. Qua this submission, learned trial Court placed reliance on the judgment of the Hon'ble Supreme Court passed in Appasaheb and another Vs. State of Maharashtra 2007(1) RCR(Criminal) 747 whereby it was held that demand for money on account for financial stringency or for meeting domestic expenses cannot be termed as a demand for dowry as the said word is normally understood. Further, a dying declaration of the daughter of the complainant was also recorded by the investigating agency after she had been declared as fit to make the statement by the doctor. It was categorically stated therein by the deceased that she took the poisonous substance by mistake and that nobody was responsible for the same. PW-2 Doctor Sandeep Juneja also made an endorsement on this dying declaration to the effect that the statement had been given in his presence, and that the deceased was fit at the time she made the statement. All these observations were duly recorded in the impugned acquittal order, by holding that the prosecution had failed to prove the essential ingredients necessary for a conviction under Section 304-B IPC.

7. Following the observations made in ***Akalu Ahir v. Ramdeo Ram, (1973) 2 SCC 583***, the Hon'ble Supreme Court in ***Thankappan Nadar & Ors. v. Gopala Krishnan & Anr. 2002(9) SCC 393***, laid down the aforesaid principles :

"6. In a revision application filed by the de facto complainant against the acquittal order, the Court's jurisdiction under Section 397 read with Section 401 Cr. P.C., 1973 is limited. The law on the subject is well settled. Instead of referring to various judgments, we would only refer to a few decisions rendered by this Court. In ***Akalu Ahir v. Ramdeo Ram, (1973) 2 SCC 583***, this Court has (in SCC pp. 587-88, para 8) observed thus:

"This Court, however, by way of illustration, indicating the following categories of cases which would justify the High Court in interfering with a finding of acquittal in revision :

- (i) Where the trial court has no jurisdiction to try the case, but has still acquitted the accused;
- (ii) Where the trial court has wrongly shut out evidence which the prosecution wished to produce;

(iii) Where the appellate court has wrongly held the evidence which was admitted by the trial court to be inadmissible;

(iv) Where the material evidence has been overlooked only (either) by the trial court or by the appellate court ; and

(v) Where the acquittal is based on the compounding of the offence which is invalid under the law.

These categories were, however, merely illustrative and it was clarified that other cases of similar nature can also be properly held to be of exceptional nature where the High Court can justifiably interfere with the order of acquittal ."

The Court further observed: (SCC p. 588, para 10)

"10. No doubt, the appraisal of evidence by the trial Judge in the case in hand is not perfect or free from flaw and a court of appeal may well have felt justified in disagreeing with its conclusion, but from this it does not follow that on revision by a private complainant, the High Court is entitled to reappraise the evidence for itself as if it is acting as a court of appeal and then order a retrial. It is unfortunate that a serious offence inspired by rivalry and jealousy in the matter of election to the office of village mukhia, should go unpunished. But that can scarcely be a valid ground for ignoring or for not strictly following the law as enunciated by this Court ."

(emphasis added)''

8. Further the Hon’ble Apex Court in **“Johar Vs. Mangal Prasad”** held that the revisional jurisdiction of the High Court in terms of Section 397 read with Section 401 of the Code of Criminal Procedure is severally restricted, particularly when it arises from a judgment of *acquittal* .

9. Having perused the facts of the case as also the findings recorded by trial Court, this Court is of the considered opinion that in the case in hand, there is no infirmity or irregularity in the impugned order dated 05.03.2007, whereby trial Court has acquitted the respondents. The same being speaking, well reasoned and based upon correct appreciation of facts, applicable law & judicial precedents, needs no interference. As a corollary, present revision petition is dismissed.

Pending miscellaneous application(s), if any, also stands disposed of.

15.05.2025

Kavita

(KIRTI SINGH)

JUDGE

(i)	Whether speaking/reasoned	Yes/No
(ii)	Whether reportable	Yes/No