



CRA-S-139-SB-2001

-1-

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

CRA-S-139-SB-2001**Reserved on: 05.09.2025****Pronounced on:- 27.10.2025****Ved Parkash and others**

....Appellants

Versus

State of Haryana

....Respondent

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. R.S. Cheema, Senior Advocate assisted by
Ms. Sumanjit Kaur, Advocate,
Mr. Satish Sharma, Advocate and
Mr. Prince Bharol, Advocate
for the appellants No. 1 and 2.

Proceedings qua appellant No. 3 Sunil Kumar
stood abated.

Mr. Ayuwan Singh, AAG, Haryana.

AMARJOT BHATTI, J.

1. Appellants/convicts Ved Parkash, Jagdish and Sunil Kumar have filed aforesaid appeal against judgment of conviction and order on quantum of sentence dated 23.12.2000 passed by learned Sessions Judge, Bhiwani in Sessions Case bearing No. 42 dated 26.10.1998, titled as "State Vs. Ved Parkash and others" in FIR No. 312 dated 06.06.1998 under Section 498-A, 304-B of Indian Penal Code, 1860 (for short 'IPC') registered at Police Station City Bhiwani, District Bhiwani vide which appellants were sentenced as under :-



Name of Convict(s)	Offence U/s	Sentence
1. Ved Parkash 2. Jagdish 3. Sunil Kumar	304-B of IPC	To undergo Rigorous Imprisonment for a period of 10 years each
1. Ved Parkash 2. Jagdish 3. Sunil Kumar	498-A of IPC	To undergo Rigorous Imprisonment for a period of two years each, with a fine of Rs. 500/- each and in default of payment of fine, further undergo for a period of three months each

2. As per the facts of case, on 12.05.1998, a rukka alongwith MLR regarding admission of Suman wife of Sunil Kumar with history of burn injuries in General Hospital, Bhiwani was received from Police Post, City Bhiwani. On this, SI Mohan Lal the Investigating Officer moved application for recording statement of victim. Statement under Section 164 Cr.P.C. was recorded on 12.05.1998 by the then Judicial Magistrate, Bhiwani, after victim Suman was declared fit to make statement by doctor. In her statement, victim Suman stated that her husband returned home at about 11:30 pm on 11.05.1998. All other family members were sleeping. She was warming food for her husband on a stove. Kerosene oil leaked from said stove and it caught fire, as a result, she also suffered burn injuries. Her husband poured water on her body to extinguish fire. She did not level allegations against anyone. It was a case of accidental burns suffered by the victim. Accordingly, report was made in daily diary register, as no cognizable offence was made out from the statement of injured Suman.

Thereafter, injured Suman was referred to Medical College and Hospital, Rohtak for treatment. On 16.05.1998, on police request, the then



Judicial Magistrate, Rohtak again recorded statement of victim Suman under Section 164 Cr.P.C. In said statement, victim alleged that her husband and his brothers used to harass her for bringing more dowry. In spite of giving money by her brother by raising loan, they used to harass her for more money. On the day of occurrence, a quarrel took place with her husband and her husband gave beatings to her. During night time, at about 11:00-11:30 pm, her husband and his two brothers namely Jagdish and Ved Parkash brought her in the courtyard of the house. Her husband poured kerosene on her and both brothers-in-law caught hold of her from her arms. Thereafter, her husband set her on fire, due to which she became unconscious. When she regained consciousness, she found herself in the hospital. She further alleged that her husband came in hospital and threatened her that if she made any statement against him, then he would set her two children on fire. Accordingly, under threat she gave statement as told by her husband. Thereafter, her parents told her to tell the truth. Her children were also safe with her parents, and she got her statement recorded.

3. On the basis of aforesaid statement, formal FIR was registered against accused persons and case under Section 307, 498-A read with Section 34 of IPC was registered. During investigation, rough site plan of place of occurrence was prepared and statements of witnesses were recorded under Section 161 Cr.P.C. During further investigation, accused Sunil and Jagdish were arrested on 23.06.1998, whereas, accused Ved Parkash was arrested on 24.08.1998. On 07.07.1998, on receipt of rukka regarding death of injured Suman due to burn injuries, Section 307 of IPC was converted into offence under Section 302 of IPC, which was later on converted under Section 304-B



of IPC. Thereafter, dead body was sent for post-mortem examination. After completion of all necessary formalities, Final Report under Section 173 Cr.P.C. was prepared and submitted before the learned Illaqa Magistrate under Section 498-A and 304-B of IPC.

4. On appearance, accused were supplied complete sets of copies of challan report as provided under Section 207 of Cr.P.C. Since the offence under Section 304-B of IPC was exclusively triable by the Court of Sessions, therefore, learned Chief Judicial Magistrate, Bhiwani committed the case to the Court of learned Sessions Judge, Bhiwani for trial vide commitment order dated 28.09.1998.

5. Learned Sessions Judge, Bhiwani after hearing arguments, on 11.11.1998 framed charge-sheet against accused persons under Section 304-B and 498-A of IPC, which was read over and explained to them in simple language to which they pleaded not guilty and claimed trial.

6. In order to prove the facts of case, prosecution examined Subhash Chander as PW-1, Atam Parkash as PW-2, Constable Virshakti Singh as PW-3, Dr. R.K. Jain as PW-4, Dr. Jagtar Singh as PW-5, Mrs. Shalini Singh, the then Judicial Magistrate, Rohtak as PW-6, Sh. Devender Singh, the then Judicial Magistrate, Bhiwani as PW-7, HC Balbir Singh as PW-8, Dr. Amit Aggarwal as PW-9, Dr. Rajesh Godara as PW-10, Constable Suresh Kumar as PW-11 and SI Mohan Lal as PW-12. Thereafter, learned Public Prosecutor closed prosecution evidence on 05.11.1999.

7. Statements of accused persons were recorded under Section 313 Cr.P.C. by the trial Court. Ved Parkash one of the accused took the stand that he was living separately from his brother Sunil Kumar and Jagdish. On the



day of occurrence, he was not in Bhiwani. He alongwith other co-accused never raised any demand for dowry from victim or her family members. They were having cordial relations and were living happily. Victim suffered accidental burn injuries on the said day while preparing meals on a stove with kerosene oil. On hearing her cries, they tried to extinguish the fire. In this process, Sunil Kumar-husband of victim also suffered burn injuries. Victim has also confirmed this fact when her statement was recorded by learned Magistrate in hospital. She was provided medical treatment and had spent more than Rs. 50,000/-. Later on, victim gave false and concocted version under police pressure. Other co-accused namely Jagdish and Sunil Kumar (now deceased) had also taken similar stand.

In defence, accused persons examined Ved Parkash as DW-1 and Rajesh as DW-2 and closed their defence evidence.

8. After hearing arguments advanced by learned Public Prosecutor for the State and learned counsel representing accused persons, accused persons namely Ved Parkash, Jagdish and Sunil Kumar were held guilty and convicted under Sections 304-B and 498-A of IPC vide judgment of conviction and order on quantum of sentence dated 23.12.2000, as referred above passed by learned Sessions Judge, Bhiwani.

Feeling aggrieved of this judgment of conviction and order on quantum of sentence, appellants/convicts Ved Parkash, Jagdish and Sunil Kumar filed present appeal.

9. However, as per order dated 30.03.2016, during the pendency of present appeal, learned counsel representing State of Haryana verified the factum of death of Sunil Kumar-appellant No. 3 and proceedings against him



stood abated.

10. Learned Senior counsel for appellants argued that trial Court has failed to appreciate the evidence on record as well as law applicable to the dying declaration. Entire case of prosecution was based on dying declaration. In the case in hand, there are two dying declarations. First dying declaration was recorded on 12.05.1998 (Ex.PM/2) recorded by the then Judicial Magistrate, Bhiwani in conformity with legal and judicial norms after obtaining opinion of doctor regarding medical fitness of deceased Suman. In said dying declaration she did not level allegation against any of the family member. She categorically stated that she caught fire accidentally while warming food for her husband since there was leakage of kerosene from stove. Her husband tried to save her and poured water on her. She became unconscious and was admitted in hospital by her family members. There is specific opinion of doctor that injured victim Suman remained fit and conscious during recording of her statement by concerned Magistrate. Therefore, there was no reason to doubt the said dying declaration of victim. Trial Court has unnecessarily created doubt in the said dying declaration and relied upon the second dying declaration where allegations were levelled against all accused attributing specific role to them. Second dying declaration dated 16.05.1998 proved on record is Ex.PL. Before recording of second dying declaration, deceased victim had come across many other persons/relatives, therefore, there was every chance that she was influenced by her relatives, as a result, she gave misleading information which is relied by the trial Court. It is a case of conflicting dying declarations recorded by Magistrates at different interval of time. Learned trial Court has failed to



consider the facts and circumstances of case before relying upon second dying declaration. First dying declaration was given by victim instantly and there was no occasion to tutor her or to influence her to give any specific statement.

10.1 The other important aspect of present case is that prosecution examined Atam Parkash father of deceased victim as PW-2. He did not support prosecution case. He did not level any allegation against Sunil Kumar husband of deceased victim or other co-accused regarding maltreatment on account of their demand for dowry. Apart from this, appellants/accused examined Ved Parkash-maternal uncle of deceased victim as DW-1 and Rajesh as DW-2 who is brother of deceased victim and both witnesses categorically stated that there was no maltreatment to deceased victim. These witnesses being close relatives of deceased victim were well aware of facts and circumstances which led to her unfortunate death. In fact, there is no corroboration to facts narrated by deceased victim in second dying declaration proved on record as Ex.PL. Their testimonies could not be brushed aside by trial Court. Totality of evidence on record and surrounding facts and circumstances of case lead to innocence of accused persons who have been wrongly convicted and sentenced by the trial Court.

10.2 Apart from this, it is pointed out that during the pendency of appeal Sunil Kumar-husband of deceased victim expired. As per his Death Certificate, he died on 14.10.2005, whereas present appellants are brothers of late Sunil Kumar. There was no reason for them to interfere in the marriage of late Sunil Kumar and deceased victim.

Therefore, judgment of conviction and order on quantum of sentence dated 23.12.2000 may kindly be set aside by accepting present



appeal and both appellants/convicts Ved Parkash and Jagdish deserve acquittal.

11. On the other hand, learned counsel representing State of Haryana argued that prosecution led convincing evidence on record to prove the guilt of appellants under the provisions of Section 304-B, 498-A of IPC. Even though, Atam Parkash father of deceased victim PW-2 did not support prosecution case but at the same time, prosecution has led convincing evidence on record to prove latest dying declaration of deceased victim proved on file by examining Mrs. Shalini Singh PW-6, the then Judicial Magistrate, who recorded dying declaration on 16.05.1998 (Ex.PL) after following proper procedure. Deceased victim was fit to make statement before the Magistrate. Opinion of doctor is proved on record by examining Dr. Rajesh Godara examined as PW-10. First dying declaration was also proved on record by examining the then Judicial Magistrate, Bhiwani Sh. Devender Singh examined as PW-7 as well as Dr. Jagtar Singh examined as PW-5. Deceased victim duly explained under what circumstances she had given her first dying declaration recorded on 12.05.1998 (Ex.PM/2). Deceased victim died of burn injuries. Dr. R.K. Jain, PW-4 has proved Postmortem Report as Ex.PE. Entire medical record is proved on file by examining concerned doctors. It was a case of unnatural death. She was maltreated by her husband and his brothers for their demand for money. The manner in which occurrence took place is duly established from the dying declaration dated 16.05.1998 proved on file as Ex.PL. Prosecution examined SI Mohan Lal PW-12 Investigating Officer, who has proved on file entire investigation carried by him from time to time. Therefore, facts of case and



evidence on record were rightly appreciated by the trial Court and all appellants/convicts were rightly convicted and sentenced by the trial Court. Appeal preferred by appellants Ved Parkash and Jagdish is without merits and same deserves dismissal.

12. I have considered the arguments advanced before me by learned Senior Counsel representing appellants/convicts and learned Counsel representing State of Haryana and have carefully gone through the record of trial Court with their able assistance. As per the facts of case, FIR No. 312 dated 06.06.1998 (Ex.PT) was registered under Section 498-A, 307, 34 of IPC at Police Station City Bhiwani, District Bhiwani, on the basis of statement of Suman dated 16.05.1998 recorded by Magistrate under Section 164 Cr.P.C. On the basis of said statement, investigation was carried out. On the death of Suman on 07.07.1998, offence under Section 307 IPC was deleted by adding offence under Section 302 IPC. On completion of investigation, challan was presented under Section 304-B and 498-A IPC against accused Ved Parkash, Jagdish, Sunil Kumar and accordingly they were charge-sheeted under the said provisions. Sunil Kumar (now deceased) was husband of victim Suman, whereas, Ved Parkash and Jagdish were elder brothers-in-law of deceased victim. All accused were convicted by trial Court on the basis of dying declaration of victim recorded on 16.05.1998 (Ex.PL). Feeling aggrieved of judgment of conviction and order on quantum of sentence dated 23.12.2000, present appeal has been preferred. It is matter of record that during the pendency of present appeal, appellant No. 3 Sunil Kumar-husband of deceased victim Suman expired and proceedings qua him stood abated, whereas, present appeal is pertaining to appellants/convicts Ved Parkash and



Jagdish who were brothers-in-law of deceased victim.

13. There are certain facts which are not disputed. Admittedly, victim Suman got married with Sunil Kumar on 12.10.1992. Out of this wedlock, they were having two children. Deceased victim was living in matrimonial home. As per scaled site plan Ex. PC proved on file by Ct. Virshakti Singh PW-3, Sunil Kumar, Jagdish, Gurdayal and Ramesh were residing in their separate rooms in same premises, whereas, house of Ved Parkash is shown towards the western side adjoining to matrimonial home of deceased victim. It is further not disputed that occurrence took place in open courtyard which is shown at point-A in site plan Ex.PC. Deceased victim suffered burn injuries on the intervening night of 11/12.05.1998 and thereafter, she was shifted to hospital.

Prosecution has examined Dr. Jagtar Singh, Medical Officer, General Hospital, Bhiwani as PW-5, who has proved MLR (Ex.PG) of Smt. Suman wife of Sunil Kumar, age 28 years, a housewife, resident of House No. 2/65, Sarogian Dhani, Bhiwani. She was brought by Jagdish son of Ram Lal i.e. brother-in-law of patient at about 12:35 am on 12.05.1998. The doctor observed as under :-

“Patient was conscious, oriented for place, person and time. Pulse rate was 110 per minute. B.P. was 80 mm of Hg. Superficial to deep burns present on both lower limbs, both upper limbs, back of abdomen, face. Singeing of hair was present. Smell of kerosene was coming. Approximate burns were 60%. Surgeon opinion was advised.”

Doctor had sent rukka to Incharge, Police Post, General Hospital, Bhiwani at 02:53 am on 12.05.1998 (Ex.PH). After receiving this rukka, Investigating Agency came into action. Therefore, from the aforesaid MLR



(Ex.PG), it is duly established that victim Suman suffered burn injuries on the intervening night of 11/12.05.1998 and was brought to the hospital in midnight.

14. In the case in hand, there are two dying declarations proved on record. Immediately after receiving information regarding admission of Suman with burn injuries, investigation was started by SI Mohan Lal, examined as PW-12. He presented application Ex.PJ for taking opinion of doctor regarding fitness of patient for recording her statement. Doctor vide opinion Ex.PJ/1 declared patient fit to make statement at 04:25 am on 12.05.1998. Investigating Officer moved application Ex.PM before Duty Magistrate, Bhiwani for recording statement of victim Suman. Sh. D.S. Yadav (PW-7), the then Judicial Magistrate, Bhiwani made his endorsement Ex.PM/1 and came to General Hospital, Bhiwani for recording statement of victim. Victim was declared fit to make statement at 05:00 am with endorsement of Dr. Jagtar Singh (PW-5) Ex.PK and thereafter, statement of victim was recorded by Sh. Devender Singh, the then Judicial Magistrate, Bhiwani, which is Ex.PM/2. As per this statement, victim stated as under:-

“Her husband returned home at about 11:30 pm on 11.05.1998. All other family members were sleeping. She was warming food for her husband on a stove. Kerosene oil leaked from said stove and it caught fire, as a result, she also suffered burn injuries. Her husband poured water on her body to extinguish fire. She became unconscious. She was admitted in hospital. She further explained that her father-in-law and mother-in-law had already expired. She lived in joint family but in separate portion of house. She did not level any allegation against any of the family member. She stated that everybody loved her and she had no complaint against anyone.”



Said statement was recorded at 05:10 am. Dr. Jagtar Singh again made his endorsement Ex.PK regarding fitness of victim Suman when her statement was recorded by the Magistrate. Certificate given by Sh. Devender Singh, the then Judicial Magistrate examined as PW-7 is Ex.PM/3, according to which victim was not under any pressure, threat or coercion of any kind when her statement was recorded by him. Aforesaid statement of deceased victim recorded on 12.05.1998 and opinion of doctor given from time to time are duly proved on record by examining Sh. Devender Singh, the then Judicial Magistrate, Bhiwani as PW-7 and Dr. Jagtar Singh as PW-5.

15. The second dying declaration was recorded on 16.05.1998 by Mrs. Shalini Singh, the then Judicial Magistrate, Rohtak examined as PW-6. She deposed that on 16.05.1998, on the application moved by police, she being Duty Magistrate went to Ward No. 4, PGIMS, Rohtak for recording statement of victim Suman. Endorsement in this regard is Ex.PL/2. Said statement was recorded after taking opinion of doctor regarding her fitness to give statement. Endorsement of Magistrate on reaching hospital is Ex.PL/3 and opinion of doctor regarding fitness is Ex.PL/1. Thereafter, it was ensured that patient was giving statement freely and voluntarily without any fear or pressure and endorsement of the Magistrate is Ex.PL/4. Statement given by victim Suman is Ex.PL. In said statement, victim alleged as under:-

“After 2-3 years of marriage, she was ill-treated on account of demand of dowry. Her brother took money on loan and gave it to her husband, but even then she was ill-treated on account of demand for more money. On the day of occurrence, during day time, her husband had quarreled with her and gave her beatings. At about 11:00-11:30 pm, her husband and his brothers Ved Parkash and Jagdish brought



her to the courtyard. Her husband poured kerosene oil on her body, whereas, his brothers were holding her from her arms. Her husband set her ablaze. Thereafter, she did not know as to what happened and she regained her senses in Civil Hospital, Bhiwani. Her husband came there and warned her that in case she gave statement against him, he would set ablaze both her children. She was told to give a particular statement that she caught fire while warming food for her husband as there was leakage of kerosene oil in stove. That statement was given in Bhiwani. She did not know who recorded her statement. One person was in uniform and two persons were in civil clothes. She further explained that her parents were informed and they advised her to tell the truth. Therefore, she gave the statement. Earlier statement was given wrongly due to fear for the safety of her children. Children were still with husband but her parents would take care of them.”

Said statement was recorded after taking opinion of Dr. Rajesh Godara. Dr. Rajesh Godara as PW-10 has proved his opinion Ex.PL/1, declaring the patient fully conscious and fit for making statement at 08:00 pm on 16.05.1998. After recording of complete statement of Smt. Suman, he gave his opinion Ex.PL/6 that patient Suman remained fully conscious throughout when her statement was recorded till 08:18 pm. Opinion of doctor and certificates given by concerned Magistrate are duly proved on record as Ex.PL/1 to Ex.PL/6.

16. In the case in hand, there are two different statements given by deceased victim, one recorded on 12.05.1998 (Ex.PM/2) and other statement recorded on 16.05.1998 (Ex.PL). As per Postmortem Report, victim expired at about 02:00 pm on 07.07.1998. Dr. R.K. Jain, Medical Officer, General Hospital, Rohtak PW-4 has proved the Postmortem Report as Ex.PE, giving



detail of burn injuries suffered by the victim. The doctor gave his opinion that, the cause of death of the deceased was burns and complications and septicaemia which was ante-mortem in nature and was sufficient to cause death in natural course of nature. The Postmortem Report Ex.PE was signed by him and Dr. Deepa Sandhu.

17. In order to appreciate both dying declarations referred above, facts and circumstances of case have to be scrutinized carefully. It is rightly pointed out by learned Senior counsel for appellants/convicts that both dying declarations are recorded by respective Magistrates by following proper procedure i.e. after obtaining opinion of concerned doctors regarding fitness of victim before giving said statements as well as her fitness till the recording of statements were completed by the Magistrates. Learned Senior counsel for appellants/convicts did not point out any infirmity in second dying declaration dated 16.05.1998 (Ex.PL). Section 32 of Indian Evidence Act, 1872 deals with statements by persons who cannot be called as witnesses. Relevant provision of Section 32(1) of the Act runs as under:-

“32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.—Statements, written or verbal, or relevant facts, made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured, without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:-

(1) when it relates to cause of death. - When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the



proceeding in which the cause of his death comes into question.

xxx

xxx

xxx”

Therefore, dying declaration can be the sole basis for conviction, however, it has to be proved as wholly reliable, voluntary and truthful. The maker of dying declaration must be in fit medical condition to give his/her statement. Gainful reference can be made to the judgment of **Supreme Court of India** in **Criminal Appeal No. 1473 of 2011, decided on 18.10.2023**, case titled “**Abhishek Sharma Versus State (Govt. of NCT of Delhi)**”, cited in **2023 CriLR (SC) 1296 : Law Finder Doc Id #2350902**, where broad principles were laid down for a Court to consider while dealing with multiple dying declarations. Relevant para No. 9 runs as under :-

“9. Having considered various pronouncements of this court, the following principles emerge, for a Court to consider when dealing with a case involving multiple dying declarations:

9.1 The primary requirement for all dying declarations is that they should be voluntary and reliable and that such statements should be in a fit state of mind;

9.2 All dying declarations should be consistent. In other words, inconsistencies between such statements should be ‘material’ for its credibility to be shaken;

9.3 When inconsistencies are found between various dying declarations, other evidence available on record may be considered for the purposes of corroboration of the contents of dying declarations.

9.4 The statement treated as a dying declaration must be interpreted in light of surrounding facts and circumstances.

9.5 Each declaration must be scrutinized on its own merits. The court has to examine upon which of the statements reliance can be placed in order for the case to proceed further.

9.6 When there are inconsistencies, the statement that has been recorded by a Magistrate or like higher officer can be relied on, subject to the indispensable qualities of truthfulness and being free of suspicion.

9.7 In the presence of inconsistencies, the medical fitness of the person making such declaration, at the relevant time, assumes importance along with other factors such as the possibility of tutoring by relatives, etc.”



Sanctity is attached to a dying declaration based on the presumption that a person while at the brink of death will not lie. The dying declaration should be of such a nature to inspire full confidence of the Court about its correctness. In another judgment of **Supreme Court of India** in **Criminal Appeal No. 292 of 2011, decided on 02.07.2014**, case titled **“Pradeep Kumar Versus State of Haryana”**, cited in **2014(3) RCR(Criminal) 591 : Law Finder Doc Id #571857**, where in that case *“victim had made two statements at the same time before the Chief Judicial Magistrate, Rohtak. Both statements were made by her in sequence and were recorded at the same time one after the other. It was observed that second part of dying declaration inspired confidence so as to consider it to be a dying declaration of deceased victim, whereas, the first part of dying declaration was tutored by accused-husband as apparent from the said part of the dying declaration.”*

18. Facts of the present case as detailed in second dying declaration dated 16.05.1998 (Ex.PL) clearly shows that victim was subjected to cruelty on account of demand of money, which resulted into this unfortunate occurrence. Section 304B(1) of IPC dealing with dowry death runs as under:-

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



Explanation.- For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

xxx

xxx

xxx”

Therefore, in order to constitute offence under Section 304-B of IPC, the main ingredient is that soon before the death of victim, she was subjected to cruelty or harassment in connection with demand of dowry. Secondly, death of the victim was caused by any burn or bodily injury or some other circumstances which were not normal. Thirdly, such death occurs within seven years from the date of her marriage. Fourthly, the victim was subjected to cruelty or harassment by her husband or any relative of her husband. Fifthly, such cruelty or harassment should be for or in connection with demand of dowry and lastly it should be established that such cruelty or harassment was made soon before her death. Section 304B of IPC read with Section 113B of Indian Evidence Act is based on rule of presumption. In the present case, on 11.05.1998 during the day time, Sunil Kumar-husband had a quarrel with his wife Suman and thereafter, when he returned home at about 11:00-11:30 pm, he alongwith his brothers i.e. appellants/convicts brought the victim in courtyard and she was set ablaze as detailed by victim in her dying declaration dated 16.05.1998. Victim got married with Sunil Kumar on 12.10.1992. She was mother of two children. She faced tragic death within 05 years and 07 months of marriage. In this occurrence, she had suffered 60% of burn injuries. She remained alive for 01 month and 25 days and was continuously under medical treatment and finally succumbed to injuries on 07.07.1998.



19. In the case in hand, victim was brought to General Hospital, Bhiwani by her brother-in-law Jagdish. The appellants/convicts took the stand of accidental incident and strongly relied upon dying declaration dated 12.05.1998 (Ex.PM/2). In case it was accidental occurrence then in all probability, her husband would have admitted her in the hospital. Place of occurrence is middle of courtyard where it cannot be expected that she was warming food for her husband at 11:00-11:30 pm. Moreover, during investigation, no stove was taken into police possession. There is nothing on record to show that Sunil Kumar or the appellants tried to save her. Nobody suffered any kind of burn injury nor any such medical record is proved on file. Therefore, version narrated in dying declaration dated 12.05.1998 (Ex.PM/2) cannot be safely relied upon.

Deceased victim remained alive for a period of about 01 month and 25 days and was continuously hospitalized. Her second dying declaration was recorded on 16.05.1998, where she categorically explained the reason why she had given wrong statement on 12.05.1998. She explained that she was threatened by her husband to give a particular statement, otherwise her both children will also meet the same fate. With the passage of time, when her family members also reached hospital, she gained courage and gave her statement before the Magistrate on 16.05.1998, on the basis of which present FIR was registered and investigation had started. Second dying declaration is self-explanatory and I do not find any valid reason to doubt the veracity of said statement of victim recorded before the Magistrate on 16.05.1998 (Ex.PL).



20. It is matter of record that father of deceased victim namely Atam Parkash examined PW-2 did not support prosecution case. He did not level any allegation against husband or brothers-in-law of deceased victim. Accused further examined Ved Parkash, uncle as DW-1 and Rajesh, brother of deceased victim as DW-2, who further supported version of accused persons. Testimonies of aforesaid witnesses cannot be given much weightage. Firstly, they were not present on the spot when said unfortunate occurrence took place. Therefore, these witnesses cannot say regarding the manner in which occurrence took place. Occurrence took place in matrimonial home of deceased victim, therefore, onus was heavily on appellants/convicts to explain under what circumstances the incident took place, which they have miserably failed. Appellants/accused could not examine any witness to support the stand taken by them in defence.

21. In the light of aforesaid factual position, I do not find any valid reason to interfere in judgment of conviction and order on quantum of sentence dated 23.12.2000 passed by learned Sessions Judge, Bhiwani. The trial Court has duly considered the evidence and surrounding circumstances in which occurrence took place. Consequently, judgment of conviction qua appellants No. 1 and 2 namely Ved Parkash and Jagdish does not require any interference and same is, accordingly, upheld. Considering the manner in which offence has been committed, quantum of sentence imposed by the trial Court also does not require any interference and same is also upheld.

22. Consequently, **present appeal preferred by appellants Ved Parkash and Jagdish is, accordingly, dismissed.** Since sentence of both appellants referred above was suspended vide order dated 14.03.2001, they



are directed to surrender before learned Chief Judicial Magistrate, Bhiwani, within one month from today, failing which learned Chief Judicial Magistrate, Bhiwani would issue warrants of arrest to secure their presence and send them to jail to undergo remaining sentence. Necessary intimation be sent to the concerned Court for information and compliance.

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

(AMARJOT BHATTI)
JUDGE

27.10.2025
lalit

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