

REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO(S). 342 OF 2015

VIRENDER PAL @ VIPIN ...APPELLANT(S)

VERSUS

STATE OF HARYANA ...RESPONDENT(S)

J U D G M E N T

Mehta, J.

- 1.** Heard.
- 2.** The appellant¹, through this appeal by special leave, seeks to assail the judgment dated 15th May,

¹ Hereinafter, being referred to as “accused-appellant”.

2014, passed by the High Court of Punjab and Haryana at Chandigarh², whereby it dismissed Criminal Appeal No. S-2212-SB of 2011³ preferred by the appellant. The appellant, in the said appeal, had assailed the judgment and order of sentence dated 26th May, 2011 and 28th May, 2011, rendered by the Sessions Judge, Panipat⁴, convicting the accused-appellant for the offence punishable under Section 304-B of the Indian Penal Code, 1860⁵ and sentencing him to undergo rigorous imprisonment for 10 years.

3. Brief facts relevant and essential for disposal of the present appeal are noted hereinbelow.

4. Shri Balraj Singh (PW1-Complainant)⁶ lodged a complaint on 1st June, 2009, at the Police Station Chandni Bagh, Panipat, alleging *inter alia* that the accused-appellant and his daughter, Punita *alias* Gayatri⁷, got married on 28th February, 2008 as per Hindu rites and ceremonies. At the time of their marriage, the complainant had given dowry to the

² Hereinafter, being referred to as “High Court”.

³ Hereinafter, being referred to as “criminal appeal”.

⁴ Hereinafter, being referred to as “trial Court”.

⁵ Hereinafter, being referred to as “IPC”.

⁶ Hereinafter, referred to as “complainant”.

⁷ Hereinafter, being referred to as “deceased-Punita”.

accused-appellant and his family beyond his capacity. However, the accused-appellant, along with his mother, father, brother, and uncle, remained dissatisfied with the dowry and started subjecting deceased-Punita to harassment, taunts, and physical abuse soon after the marriage. The complainant further alleged that during her visits to the parental home, his daughter informed him, his wife Rajwati Devi, and his son Pramod Kumar (PW-2) about the ill-treatment meted out by her in-laws, who repeatedly taunted her for bringing insufficient dowry and coming from a poor family. Consequently, the complainant, along with his brother-in-law, Puran Singh and his nephew Jitender Pal (PW-10), visited the matrimonial home of the deceased during which the accused-appellant, his father and his uncle, Sukhbir allegedly demanded Rs.5 lakhs to secure a job for the accused-appellant. The complainant assured them of making arrangements and later sent his daughter back to her matrimonial home after giving her a sum of Rs.50,000/-. Despite this, the accused-appellant and his family members did not relent from subjecting deceased-Punita to cruelty. On 1st June, 2009, at approximately 07:45 am, the

deceased-Punita telephonically informed her brother Satender Kumar (PW-3) that on the previous night, her husband, father-in-law, mother-in-law, brother-in-law, and uncle-in-law had assaulted her, and she requested him to come down to her matrimonial home immediately, apprehending impending danger to her life. At about 08:00 am, the complainant received a call from the accused-appellant informing him that his daughter had died. Upon reaching Panipat, the maternal family members of deceased-Punita learnt that she had jumped down from the roof of the house and ended her life due to persistent harassment and demands of dowry meted out to her by the matrimonial family.

5. Based on this complaint, an FIR, bearing No. 335 of 2009, came to be registered at the Police Station Chandni Bagh, Panipat, against the accused-appellant and his family members⁸ for the offences punishable under Section 304-B read with Section 34 of the IPC and subsequently, the investigation commenced. On completion of the investigation, a

⁸ Harinder Kumar @ Billu (Brother of the appellant), Rajeshwar Dayal (Father of the appellant), Brajesh Rani (Mother of the appellant) and Sukhbir Singh (Uncle of the appellant).

charge sheet was filed against the accused-appellant, his father and mother for the offences punishable under Section 304-B read with Section 34 of the IPC. However, the police did not find any cogent evidence against the appellant's brother i.e., Harinder Kumar@Billu and uncle i.e., Sukhbir Singh. Thus, the charges against the said accused persons were dropped by the Investigating Officer. The case was committed to the Sessions Court, and charges under Section 304-B read with Section 34 of the IPC were framed against the accused-appellant and his father and mother who denied the charges and claimed trial.

6. The prosecution examined 12 witnesses and exhibited 17 documents. The details of the witnesses are as follows:

Prosecution Witness (PW)	Role/Position
PW-1 Balraj Singh	Complainant/father of deceased
PW-2 Parmod Kumar	Brother of deceased
PW-3 Satender Kumar	Brother of deceased
PW-4 Jagbir Singh	Draftsman officer, Superintendent of Police, Panipat
PW-5 Gurvinder Singh	Constable
PW-6 Radhey Shyam	Constable
PW-7 Dharampal	Assistant Sub Inspector
PW-8 Mahender Singh	Constable

PW-9 Dr. Rahul Diwan	Medical Officer, General Hospital, Panipat
PW-10 Jitender Pal	Nephew of PW1
PW-11 Saifudeen	SHO of P.S. Chandni Bagh, Panipat
PW-12 Ashok Kumar	Assistant Sub-Inspector

7. The accused persons were examined under Section 313 of the Code of Criminal Procedure, 1973⁹, and, upon being confronted with the circumstances appearing against them in the prosecution case, they denied the same and claimed innocence, asserting that they had been falsely implicated. The accused-appellant contended that no dowry demands were ever made, and the deceased was never subjected to any maltreatment in the matrimonial home. It was further stated by the accused-appellant that deceased-Punita was receiving medical treatment for knee pain, and, on the day of the incident, he had gone to attend a job interview.

8. In support of their defence, the accused persons examined eight witnesses:

⁹ Hereinafter, being referred to as 'CrPC'.

Defence Witness (DW)	Role/Position
DW-1 – Mohan Lal	Neighbor of the appellant.
DW-2 – Savdeep Kaur	Previous landlord of the Appellant
DW-3 – Hans Raj	Resident, Power House Colony, Panipat
DW-4 – Ram Phal	Driver, Resident, Khindora Village, Ghaziabad
DW-5 – Raghubir Singh	Orthopedic Surgeon, Raghudeep Hospital, Panipat
DW-6 – Dr. V.K.Gupta	Orthopaedic Surgeon, Asian Institute of Medical Sciences, Faridabad
DW-7– Dr. Sandeep Grover	M.D. Medicines, D.M. Clinical Immunology, Meerut (UP)
DW-8 - Meghnath	Resident, Khindora Village

9. At the conclusion of the trial, the trial Court observed that the demands for money and valuable articles are directly related to the dowry in the marriage, as the same were made to the father of deceased-Punita by the accused-appellant and his relatives. The trial Court noted that the prosecution had successfully established the charges against the accused-appellant, primarily relying on the evidence of dowry demands, ill-treatment and circumstantial evidence as stated by the close parental relatives of deceased-Punita including her father, *i.e.*, the complainant Shri Balraj Singh (PW-1). Additionally,

the Court noted that the accused-appellant's father and mother were not specifically found to have made the demands of dowry, further confirming that only the accused-appellant was involved in the demand for dowry from deceased-Punita soon before her death. The trial Court held that deceased-Punita died an unnatural death at her matrimonial home within one year and three months of her marriage and that there was ample evidence on record for the Court to raise the presumption under Section 113-B of Indian Evidence Act, 1872¹⁰ against the accused-appellant as no satisfactory explanation was provided by him regarding the unnatural death of his wife in the matrimonial home. The trial Court, after appreciating the evidence, acquitted the parents of the accused-appellant of the charges as framed against them but convicted the accused-appellant for the offence punishable under section 304-B of the IPC and sentenced him to undergo rigorous imprisonment for 10 years, *vide* judgment and order dated 26th May, 2011 and 28th May, 2011, respectively.

¹⁰ Hereinafter, being referred to as 'Evidence Act'.

10. Being aggrieved, the accused-appellant preferred an appeal before the High Court assailing the judgement and order of sentence and conviction passed by the trial Court. The High Court, while adjudicating the said appeal, referred to the testimonies of the complainant and the prosecution witnesses who deposed about the continuous demands for dowry associated with mental and physical abuse meted out to deceased-Punita and found them to be consistent, thereby establishing the charge against the accused-appellant beyond all manner of doubt. The Court noted that once the prosecution discharged the initial burden of proving the factum of harassment meted out to the deceased-Punita relating to demand of dowry and that such harassment continued till soon before her death, then by virtue of Section 113-B of the Evidence Act, the burden shifted on to the accused-appellant to disprove that his wife's death was not related to any dowry demands and not an unnatural one. However, the accused has failed to discharge the said burden. Accordingly, the High Court, *vide* its judgment dated 15th May, 2014, dismissed the appeal and upheld the accused-appellant's conviction and sentence as

recorded by the trial Court. The said impugned order is assailed by the accused-appellant before this Court *via* special leave.

Submissions on behalf of the appellant: -

11. Learned counsel, appearing on behalf of the accused-appellant, vehemently and fervently argued that deceased-Punita suffered from a knee problem because of which she was under depression, leading her to commit suicide. Further, there was no demand of dowry by the accused-appellant as the demand of cash for securing job for the accused-appellant cannot be treated equivalent to a demand of dowry. He urged that there is no material on record which can establish beyond reasonable doubt that dowry was demanded by the accused-appellant soon before the death of his wife or that she was harassed on account of such demand. The statements of Shri Balraj Singh (PW-1), Pramod Kumar (PW-2), Satendra Kumar (PW-3) and Jitendra Pal (PW-10) are not consistent but contradictory in nature with respect to the alleged cruelty meted out by the accused-appellant and his family members to deceased-Punita with respect to dowry demand. For

a presumption to be raised under Section 113-B of the Evidence Act, the following conditions have to be fulfilled:

- i. That the woman met with unnatural death within a period of seven years of her marriage;
- ii. The woman was subjected to cruelty or harassment by her husband or his relatives;
- iii. Such cruelty or harassment was for, or in connection with, any demand for dowry; and
- iv. Such cruelty or harassment was soon before her death.

12. Furthermore, it was urged that the prosecution was under obligation to prove that soon before the occurrence, cruelty or harassment was meted out to deceased-Punita, which compelled her to take the extreme step of ending her own life, however, the prosecution miserably failed to discharge this onus cast upon it by law. Learned counsel, thus, urged that the High Court committed a grave error while reappraising the evidence and rejecting the appeal of

the accused-appellant. His fervent plea was that no clear evidence was led by the prosecution to show whether the deceased-Punita committed suicide by jumping from the terrace or was it a simple case of accidental fall.

On these grounds, learned counsel appearing on behalf of the accused-appellant implored this Court to accept the appeal, reverse the judgment of the Courts below and acquit the accused-appellant of the charges.

Submissions on behalf of the respondent-State: -

13. On the other hand, learned counsel, appearing on behalf of the respondent-State, vehemently and fervently opposed the submissions advanced on behalf of learned counsel for the accused-appellant. He urged that the High Court has rightly held that there is ample evidence of unimpeachable nature against the accused-appellant establishing his guilt for the charges levelled. As per the evidence on record, dowry articles have been recovered from the matrimonial house of the deceased-Punita. Further, the evidence of the material prosecution witnesses is consistent with regard to demand of dowry and

harassment meted out by the accused-appellant to deceased-Punita soon before her death. Since the prosecution has proved the essential ingredients of dowry death, the Court has to infer the guilt of the accused-appellant, unless he is able to discharge the burden cast upon him by virtue of Section 113-B of the Evidence Act. In the present case, the prosecution has led reliable evidence showing that the deceased-Punita, met with an unnatural death within seven years of marriage, and that she was continuously harassed and mal-treated for dowry demands by her husband or his family members soon before her death. As the prosecution has fulfilled the necessary conditions for invoking the presumption under Section 113-B of the Evidence Act, the burden shifted on to the accused-appellant by virtue of the said provision, however, the accused-appellant hopelessly failed to rebut the presumption.

On these grounds, learned counsel, appearing on behalf of respondent, thus urged that the judgments of the Courts below are unassailable and implored the Court to dismiss the appeal.

Discussion and Analysis: -

14. We have heard the submissions advanced at bar and have gone through the impugned judgment and material placed on record.

15. For appreciating the submissions advanced at bar, it will be apposite to discuss the statements of the material prosecution witnesses, which provide the substratum of allegations set out against the accused-appellant in the case at hand.

16. In support of its case, the prosecution examined Shri Balraj Singh (PW-1), the complainant and father of the deceased-Punita, who testified that his daughter was married to the accused-appellant on 28th February, 2008 and a substantial dowry was given as per his capacity, but the accused persons were dissatisfied and subjected his daughter to cruelty for demand of additional dowry. A panchayat was called, in which, he along with Jitender Pal (PW-10) and Puran Singh went to his daughter's matrimonial house at village Khindora and requested the matrimonial relatives with folded hands not to maltreat his daughter. Sukhbir took him out of the house and demanded Rs. 5 lakhs for securing a job

for accused-appellant. Being left with no other option but to accede to this illegal demand, he assured all the accused persons that he would give Rs. 5 lakhs but needed some time to arrange for the same. When Sukhbir and the accused-appellant came to take deceased-Punita from her parental house, the complainant gave them Rs. 50,000/-. However, after a few months, the accused persons again started harassing his daughter for demand of dowry.

17. Pramod Kumar (PW-2), brother of deceased-Punita, testified that his sister was harassed and maltreated by her husband (accused-appellant) and her in-laws for bringing less dowry. Similarly, Satender Kumar (PW-3), brother of deceased-Punita, deposed that after his sister's marriage, her in-laws harassed her over insufficient dowry. Jitender Pal (PW-10), who was the nephew of Shri Balraj Singh (PW-1), deposed that he accompanied the complainant and others to a Panchayat meeting, convened at the house of the accused-appellant, where the accused-appellant and his uncle, Sukhbir demanded Rs. 5 lakhs to secure employment for the former.

18. Rahul Diwan (PW-9), the Medical Officer, who conducted post-mortem upon the body of deceased-Punita, stated that she had sustained multiple injuries, including massive subdural hematoma in the brain, contusions on the scalp and chin, and abrasions on the left hypochondrium and thigh. He further opined that the cause of death of Punita was because of shock and hemorrhage due to an ante-mortem injury to the vital organ, *i.e.*, the brain.

19. In defence, Mohan Lal (DW-1), a neighbor of the accused-appellant having a shop adjacent to the house of the accused-appellant, deposed that he had never heard of any dispute amongst the family members of the accused-appellant. Dr. Raghbir Singh (DW-5), Dr. V.K. Gupta (DW-6), and Dr. Sandeep Grover (DW-7) were examined to prove the accused-appellant's defence theory regarding the medical condition being faced by deceased-Punita relating to her knee.

20. In the present case, the accused-appellant contends that the case of prosecution relies solely on general allegations of dowry demands, unsupported by any concrete evidence, thereby, entitling him to

the benefit of doubt. The accused-appellant also emphasizes that the essential ingredients under Section 304-B of the IPC, that the death of the woman otherwise than for natural causes should have taken place within seven years of marriage and the existence of credible evidence establishing cruelty or harassment by the husband or his relatives in connection with dowry demands etc., have not been proved beyond reasonable doubt. It is contended that the mere fact of an unnatural death without a clear nexus between the alleged harassment and the death is insufficient for conviction.

21. It is well established from the evidence available on record that that Punita died under circumstances other than natural, as stated by Dr. Rahul Diwan, Medical Officer (PW-9). The Medical Officer deposed on oath that he carried out the post-mortem examination on the dead body of deceased-Punita and issued the post-mortem report.¹¹

22. We are constrained to note here that there is an apparent flaw in the approach of the trial Court inasmuch as, neither the number and nature of

¹¹ Exhibit PK-3.

injuries were elaborated by the medical officer in his testimony, nor did he give any specific opinion regarding the cause of death. We are of the firm view that if the Public Prosecutor was negligent in performing his duties, the presiding officer of the trial Court should have remained vigilant and the Court questions should have been put to the medical officer regarding the number and nature of injuries caused to the deceased and to seek a clear opinion regarding the cause of death.

23. Be that as it may, Dr. Rahul Diwan (PW-9), Medical Officer, proved his affidavit¹² wherein, the following injuries were noted on the dead body of the deceased: -

“3. Injuries:

- (i) Contusion present on bilateral parietal region of scalp. On dissection all the layers of scalp show echymosis. On opening of skull, there is massive subdural haematoma involving both parieto temporal region of brain with underlying brain parenchyma haemorrhagic(*sic*).
- (ii) A red contusion of size 5 x 1 cm on chin in midline with infiltration(*sic*) in surrounding tissues.
- (iii) Two red coloured contused abrasion of size 2 x 1 cm and 1 x 1 cm on left hypochondrium. On dissection there is underlying echymosis.
- (iv) A red coloured abrasion of size 8 x 1 cm on left(*sic*) thigh on posteriolateral aspect.”

¹² Exhibit PK.

24. In this affidavit, the cause of death has been opined as shock and haemorrhage due to injury on the vital organ, *i.e.*, brain, which was ante-mortem in nature.

25. We feel that the approach of the trial Court in accepting the testimony of Dr. Rahul Diwan (PW-9), the Medical Officer on affidavit, is contrary to the mandate of Section 296 of the CrPC (corresponding Section 332 of Bharatiya Nagarik Suraksha Sanhita, 2023) which provides that only evidence of formal character may be received on an affidavit.

26. However, the fact remains that the defence has cross-examined Dr. Rahul Diwan (PW-9), the Medical Officer, with reference to the affidavit and the post-mortem report. It is also clear that the defence did not take any objection to the mode of recording evidence adopted by the presiding officer. Thus, we feel that this omission on the part of the presiding officer tantamounts to a curable irregularity because no prejudice was caused to the accused-appellant by following such course of action.

27. Upon going through the post-mortem report¹³, it is clear that the death of Punita was caused by ante-mortem injuries caused by mechanical violence and hence, her death was definitely otherwise than under natural circumstances within the meaning of Section 304-B IPC.

28. The accused has taken alternative defences for explaining the death of Punita. The two defences which are totally divergent are (a) that the deceased accidentally fell down from the terrace and received the injuries, or (b) that the deceased-Punita committed suicide by jumping from the terrace as she was perturbed because of the knee issue which was plaguing her. We feel that this diametrically opposite defence taken by the accused-appellant does not have any legs to stand and we have strong reasons to observe so.

29. Satender Kumar (PW-3), the brother of deceased-Punita, categorically stated that when he reached the matrimonial home of his sister after receiving the news of her death, he saw the dead body of his sister lying on a cot at the second floor of the

¹³ Exhibit PK-3.

building and blood was oozing from her nose and ear. No cross-examination whatsoever was conducted from Satender Kumar (PW-3) on this important aspect of his testimony. Thus, the explanation offered by the defence that deceased-Punita fell down from the terrace and received injuries or that she committed suicide by jumping off from the terrace is totally a figment of imagination unsubstantiated by the evidence on record.

30. The deceased was married to the accused-appellant on 28th February, 2008. She received injuries associated with violence and died on 1st June, 2009, while she was at her matrimonial home. Thus, the period between the marriage and her death by severe traumatic injuries is just a year and four months. There are consistent evidence from the testimonies of the material prosecution witnesses, *i.e.*, Balraj Singh (PW-1) father of the deceased, Parmod Kumar (PW-2) brother of the deceased, and Satender Kumar (PW-3) another brother of the deceased, that deceased-Punita was continuously being harassed by the accused-appellant and his relatives on account of the demand of dowry. At one point of time, a sum of Rs. 50,000/- was also given

to the accused-appellant and Sukhbir Singh, who had come to the house of the complainant, Balraj Singh (PW-1) and demanded a sum of Rs. 5 lakhs for taking deceased-Punita back to the matrimonial home. This amount was being demanded so that the accused-appellant could secure employment. The accused-appellant brought deceased-Punita to the matrimonial home after receiving an amount of Rs.50,000/- but little time thereafter the maltreatment of deceased-Punita resumed for the remaining amount. No significant cross-examination was conducted from Balraj Singh (PW-1) on this important aspect of his testimony.

31. Furthermore, Satender Kumar (PW-3), made a categorical statement that on the date of the incident, deceased-Punita called him over telephone, and she was in despair and was crying. She conveyed that the accused-appellant had beaten her earlier night and she is apprehending that she might be killed. She made a fervent plea to be saved from the clutches of the accused persons. This version of Satender Kumar (PW-3) could not be shaken in cross-examination. Hence, there is sufficient evidence on the record to show that deceased-Punita was

continuously harassed even before her death in her matrimonial home on account of demand of dowry and money.

32. The fact regarding holding of a Panchayat is corroborated by the defence witnesses as well. Of course, the version of the defence witnesses is that the Panchayat was held to discuss the medical issues being faced by the deceased-Punita. The only medical issue which deceased-Punita was facing as per the defence was some knee problem. We feel that deceased-Punita being a young woman of less than 30 years could not have been so perturbed by the knee issue that the resolution would require a Panchayat meeting. Thus, this flimsy defence taken by the accused-appellant is not tenable and the version of the prosecution witnesses that the panchayat was held to discuss the issues of demand of dowry and the maltreatment being meted out to the deceased is the only acceptable theory.

33. Furthermore, whatever the gravity of the knee issues may have been, that by itself could not have instigated deceased-Punita to end her life because admittedly she was being provided treatment, and

her pain had subsidised as per the evidence of the defence witness, Dr. Sandeep Grover (DW-7).

34. Dr. V.K. Gupta (DW-6) and Dr. Sandeep Grover (DW-7) also corroborated the same and stated that the patient was being given symptomatic treatment. Hence, the plea taken by the defence that deceased-Punita was so perturbed by her knee issues that she ended her life by jumping from the terrace is absolutely flimsy and unbelievable. Rather we find that this is nothing, but a fictional story created by the accused-appellant as an afterthought to escape conviction. This conclusion is further fortified by the evidence of Shri Balraj Singh (PW-1), Pramod Kumar(PW-2) and Satender Kumar(PW-3) being the maternal family members of deceased-Punita who stated that prior to her marriage, deceased-Punita was not suffering from any ailment of knees.

35. As has been noted above, the dead body of deceased-Punita was found lying on a cot at the second floor of the house of the accused-appellant. On the contrary, the defence witness, Mohan Lal (DW-1), stated that he saw the accused-appellant shifting the deceased to the hospital in his own car. However, no such theory has been propounded in the

statement of the accused-appellant recorded under Section 313 of the CrPC.

36. Furthermore, if at all, the body of deceased-Punita had been brought down and had been taken to the hospital by the accused-appellant in his car, then there was no reason as to why the body was seen by the witnesses lying on the second floor of the house. Apparently thus, the accused-appellant must have shifted the dead body to mislead the investigation.

37. The trial Court as well as the High Court have distinguished the case of the acquitted accused persons from that of the accused-appellant by assigning cogent reasons. The accused-appellant, being the husband of deceased-Punita, was under a greater obligation, both moral as well as legal, to ensure the well-being of his wife, but he failed to do so. He was primarily responsible for the demands of money being made from the deceased and her maternal family members.

38. At the cost of repetition, it may be noted that the demand of money was being made so that the accused-appellant could secure a job. The deceased called her brother Satender Kumar (PW-3) on the

date of incident at 07:45 am and complained that she was being maltreated/beaten by her matrimonial family members including the accused-appellant and expressed a grave danger to her life. Hence, there is ample evidence on record establishing that deceased-Punita was being treated with cruelty in her matrimonial home owing to the demand of dowry soon before her death.

39. Consequently, all the ingredients required to prove the offence punishable under Section 304-B of the IPC against the accused-appellant are made out from the evidence available on record.

40. As a result, we are not inclined to interfere with the conviction of the accused-appellant as recorded by the trial Court and later affirmed by the High Court. The impugned judgments and orders i.e., judgment and order of sentence dated 26th May, 2011 and 28th May, 2011, passed by the Sessions Judge, Panipat and judgment dated 15th May, 2014, passed by the High Court of Punjab and Haryana, do not suffer from any infirmity warranting interference by this Court.

41. The appeal, thus, fails and is hereby dismissed.

42. The accused-appellant is on bail. He shall surrender within a period of four weeks from today and serve the remaining sentence awarded to him by the trial Court.

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

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANJAY KAROL)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
MAY 15, 2025.