



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Reserved on: 10.08.2026
Pronounced on: 18.08.2026
Uploaded on: 19.08.2026

*Whether only operative part of the judgment is
Pronounced or the full judgment is pronounced: operative part/full judgment*

1. CRA-S No.2515-SB of 2004

Bhanu Parkash

...Appellant

Versus

State of Haryana

...Respondent

2. CRR No.695 of 2005

Sakesh Mani Sharma

...Petitioner

Versus

Bhanu Parkash and another

...Respondents

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Argued by:- Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate,
Ms. Harpreet Kaur, Advocate and
Mr. Aditya Rampal, Advocate
for the appellant in CRA-S-2515-SB-2004
and for respondent No.1 in CRR-695-2005.

Mr. Rahul Vats, Advocate
for the petitioner in CRR-695-2005
and for the complainant in CRA-S-2515-SB-2004.

Mr. Sushil Bhardwaj, Addl. A.G., Haryana
for the respondent-State.



MANDEEP PANNU, J.

1. *CRA-S-2515-SB-2004* has been filed by the appellant-convict challenging the judgment of conviction and order of sentence dated 13.12.2004, passed by learned Additional Sessions Judge, Jagadhri in case FIR No. 110 dated 09.08.1998, registered under Section 304-B IPC at Police Station Farakhpur, whereby the appellant has been convicted and sentenced as under:-

Under Section	Imprisonment awarded	Fine	Imprisonment in default of payment of fine
Section 304-B IPC	R.I. for 07 years	--	--

2. *CRR-695-2005* has been filed by the petitioner-complainant against the afore said judgment of conviction and order of sentence dated 13.12.2004 seeking enhancement of the sentence awarded to the accused.

3. Both the above said appeal as well as the revision petition arise out of the same judgment of conviction and order of sentence and, therefore, are being decided by this common judgment.

4. As per the prosecution version, Geetika Sharma, since deceased, was married to Bhanu Prakash, accused, on 10.02.1993 at Muzaffar Nagar. After her marriage, she was residing with her husband at Jagadhri Workshop Colony, Yamuna Nagar, as her husband was employed in the Railways and was posted at Jagadhri Railway Workshop. On 04.08.1998, at about 12 noon, she suffered 90% burn injuries. She was initially taken to the Railway Hospital by her husband and the neighbours. Considering the seriousness of her condition, she was, thereafter, shifted to



PGI, Chandigarh, where her statement was recorded by learned Judicial Magistrate Ist Class, U.T. Chandigarh, on the same day at about 8:45 p.m. At that time, her parents had not reached the hospital. In her statement, she stated that she was painting the wall of the kitchen and, while she was soaking the paint brush in kerosene oil, the kerosene splashed over her clothes and the floor of the kitchen. The bottle containing kerosene oil also fell down. Since the gas stove was switched on, her clothes caught fire and she sustained burn injuries. On the following morning, her parents arrived at the hospital. However, on 09.08.1998, she succumbed to her burn injuries at about 1:15 p.m. On the same day, i.e 09.08.1998, at about 2:30 p.m., her father, Sakesh Mani Sharma, moved an application before the SHO, Police Station Farakpur, alleging that his daughter had been subjected to harassment and cruelty on account of demand of dowry. He stated that the marriage of his daughter Geetika Sharma with Bhanu Prakash Sharma, son of Shri Ram Singh Sharma, resident of Village Panch Hara, District Mathura, was solemnized on 10.02.1993 at his residence bearing House No.464/109 (Dakshini), Civil Lines, near Satedium, Muzaffar Nagar. According to him, at the time of marriage, he had given a draft of Rs.1,00,000/-, a refrigerator, Yamaha Motor-Cycle, double bed, steel almirah, golden jewellery weighing about 10 tolas, colour television and other household articles and clothes as dowry. He alleged that, despite the dowry articles having been given at the time of marriage, the husband of his daughter, who was working in the Railway Workshop on the post of Chargeman, started harassing her at the instance of his elder brother, Roop



Kishore Sharma, as the latter wanted to obtain more money and dowry articles from the complainant.

5. It was further stated by Sakesh Mani Sharma that, due to such harassment, his daughter had come to him at Muzaffar Nagar several times and had lived with him. However, after he made them understand and persuaded them, her husband would take her back to Yamuna Nagar on the pretext of joining his service. It was stated that, for about 2½ years prior to the occurrence, his daughter had been living with him at Muzaffar Nagar. Thereafter, on 08.03.1998, her husband Bhanu Prakash Sharma, her father-in-law Shri Ram Singh Sharma and her brother-in-law (Jeth), Shri Roop Kishore Sharma, came to Muzaffar Nagar and took her daughter with them to Yamuna Nagar after assuring him that they would keep her properly. According to the complainant, thereafter also Bhanu Prakash did not keep his daughter properly. The complainant further alleged that his daughter had informed them several times over the telephone about her adverse condition and had also sent a letter expressing apprehension regarding danger to her life. He stated that, on 04.08.1998, her husband had set his daughter on fire after sprinkling kerosene oil upon her at his residence in the Railway Colony. He further stated that his daughter had been admitted at PGI, Chandigarh with 90% burn injuries and there was no chance of her surviving. According to him, the entire episode was a conspiracy in which her husband Bhanu Prakash Sharma, his elder brother Roop Kishore Sharma and their father Shri Ram Singh Sharma were involved and that all three had acted in connivance with each other.



6. It was further alleged by the complainant that, after burning his daughter, her husband did not make any attempt to save her. According to him, if a person tried to save his wife from fire, he would normally receive burn injuries himself, whereas Bhanu Prakash had no burn injuries on his hands or body. On this basis, the complainant alleged that his daughter had been intentionally burnt and that the accused persons wanted to remove her from the way and thereafter, wanted Bhanu Prakash to remarry for the purpose of obtaining more money. The complainant also referred to the matrimonial proceedings initiated by Bhanu Prakash. He stated that, during the period when his daughter had been living with him at Muzaffar Nagar for about 2½ years, his son-in-law had filed a petition for restitution of conjugal rights before the Court at Jagadhri. According to the complainant, the principal assertion in that petition was that the place of marriage was Yamuna Nagar. He stated that, after a compromise, the girl had been sent to her matrimonial home on 08.03.1998, but this fact had not been brought to the notice of the Court. He alleged that this conduct showed the selfishness of his son-in-law and that he had been twisting the facts and telling lies in the proceedings as well.

7. The complainant further alleged that there was a background of giving mental and physical torture to the brides in the family. He referred to the wife of the elder brother of Bhanu Prakash and alleged that she had also become mentally disturbed on account of the torture allegedly given to her by her husband, Roop Kishore Sharma, and that such treatment was still continuing. It was further stated in the application that, when his



daughter gave her statement before the Magistrate at the hospital, no person from her family, including her father, was present there to assist her. The complainant consequently alleged that the statement had been made under pressure of Bhanu Prakash, her husband, and his family members regarding the setting of fire being accidental, and that the said version was not true. He requested the police to take immediate action on the basis of his information, register the FIR without any delay, and arrest his daughter's husband Bhanu Prakash Sharma, his Jeth Roop Kishore Sharma and his father-in-law Shri Ram Singh Sharma, so that justice could be done to him and his daughter, who was then stated to be in a critical condition and subsequently expired on 09.03.1998.

8. On the basis of the application moved by the father of the deceased, FIR was registered. Thereafter, post-mortem examination of the deceased was conducted and, in the opinion of the doctor, the cause of death was septicemia due to 90% infected burns, which were sufficient to cause death in the ordinary course of nature.

9. Thereafter, on 19.08.1998, ASI Narendra Kumar, PW-10, inspected the place of occurrence. On 21.08.1998, the father of the deceased produced six documents before the police, i.e letters dated 13.02.1995, Ex.P-1, 15.02.1995, Ex.P-2, 04.04.1995, Ex.P-3, 18.04.1995, Ex.P-4, 24.02.1995, Ex.P-X, and a note dated 03.05.1998, Ex.P-V, allegedly written by the deceased. Out of these documents, five letters of the year 1995 were allegedly written by the deceased to her parents from Yamuna Nagar and were received by them through post. The document



dated 03.05.1998, Ex.P-V, was a note and not a letter. In the said note, the deceased had levelled allegations of harassment and torture on account of demand of dowry against her husband, Jeth (brother-in-law) and father-in-law. She had further stated that, in case of her death, the aforesaid persons would be responsible for the same. All the aforesaid documents were taken into possession by the police vide recovery memo. The note dated 03.05.1998, Ex.P-V, was thereafter sent by the police to FSL, Madhuban, for comparison with the letter dated 24th February, 1995, Ex.P-X. FSL, Madhuban, vide report dated 18.11.1998, Ex.P-H, came to the conclusion that both the documents had been written by one and the same person. The other letters were not sent for comparison.

10. During the course of trial, the accused produced two letters, Ex.D-1 and Ex.D-2, which were admittedly written by the deceased to him. Since the note dated 03.05.1998, Ex.P-V, was a material document, the same was sent for comparison with letters Ex.D-1 and Ex.D-2 to FSL, Madhuban, vide order dated 22.07.2004. FSL report dated 27.08.2004, Ex.C-1, was thereafter received, as per which letter Ex.D-1 and note Ex.P-V had been written by one and the same person. However, no opinion could be given regarding letter Ex.D-2, as the same was written in English, whereas letter Ex.D-1 and note Ex.P-V were written in Hindi script.

11. Thereafter, investigation was concluded and the challan was presented against the husband under Section 304-B IPC. The remaining accused, namely, Roop Kishore and Ram Singh, the Jeth and father-in-law of the deceased, respectively, were found innocent during investigation and



were not sent up for trial. Thereafter, charge was framed against the accused-husband under Section 304-B IPC and, in the alternative, under Section 302 IPC, as well as under Section 498-A IPC. The accused pleaded not guilty to the charges and claimed trial.

12. In order to prove its case, the prosecution examined as many as 12 witnesses. Thereafter, the statement of the accused was recorded under Section 313 Cr.P.C. In his statement, the accused denied the allegations levelled against him and pleaded false implication. He stated that the deceased was a well-educated woman and was pursuing her studies, and that he had been bearing her educational and other expenses. He denied having ever demanded dowry or subjected the deceased to any cruelty or harassment. He stated that they were leading a happy married life and that the deceased had accidentally caught fire while she was painting the wall of the kitchen and was using kerosene oil near the gas stove. He, accordingly, pleaded his innocence and claimed that the occurrence was accidental.

13. In his defence, the accused examined five witnesses, namely, DW-1 to DW-5.

14. Learned Additional Sessions Judge, after hearing learned counsel for the parties, held that the prosecution had proved the charge against the accused under Section 304-B IPC and accordingly, convicted him for the said offence. However, the accused was acquitted of the alternative charge framed under Section 302 IPC. Learned Court further observed that there was no necessity to record a separate conviction under



Section 498-A IPC, as the accused had already been convicted under Section 304-B IPC. Learned Additional Sessions Judge, while appreciating the evidence, disbelieved the dying declaration of the deceased, holding that the version given therein regarding accidental fire was not probable. The oral evidence of the complainant and his wife regarding harassment and demand of dowry was accepted, and the note dated 3rd May, 1998, Ex.P-V, was also relied upon as corroborative evidence of the deceased having been subjected to harassment and maltreatment on account of demand of dowry.

15. Feeling aggrieved by the aforesaid judgment of conviction and order of sentence, the appellant-convict has preferred the present appeal, i.e *CRA-S-2515-SB-2004*, seeking his acquittal. Another revision petition, bearing *CRR-695-2005*, has been filed by the complainant, Sakesh Mani, seeking enhancement of the sentence awarded to the appellant.

16. Learned counsel for the appellant has assailed the judgment of conviction primarily on the ground that learned trial Court failed to properly appreciate the most material piece of evidence, i.e the dying declaration of the deceased recorded by learned Judicial Magistrate, wherein she categorically stated that she had sustained burn injuries accidentally while painting the kitchen wall. It is submitted that the said dying declaration was recorded on 04.08.1998, shortly after the occurrence, after learned Magistrate had satisfied himself regarding her fitness to make the statement and in the presence of the attending doctor. The deceased had specifically stated that while soaking the paint brush in kerosene oil, the



kerosene had splashed over her clothes and the floor, the bottle had fallen down and, as the gas stove was on, she caught fire. It is argued that this version was further corroborated by the statement of the doctor who first attended upon the deceased and by the evidence of the neighbour, who reached the spot immediately after hearing her cries. It is thus submitted that there was no justification for learned trial Court to discard the dying declaration merely on the basis of conjectures regarding the manner in which the accident had taken place.

17. It is further contended that the conduct of the appellant is wholly inconsistent with the allegation that he had intentionally set the deceased on fire. The appellant was not present at the house at the time of occurrence and had gone to bring his son from the school bus stop. Immediately thereafter, on being informed about the occurrence, he returned and took the deceased to the hospital. It is submitted that his conduct in taking his wife to the hospital, instead of fleeing from the spot, is a circumstance which strongly supports the defence version of accidental fire. The evidence of the neighbour also establishes that the relations between the appellant and the deceased were cordial and that she had never complained to her about any demand of dowry or ill-treatment. Learned counsel further submits that the prosecution case suffers from an unexplained delay of five days in lodging the FIR. The deceased remained alive from 04.08.1998 till 09.08.1998, while her parents were admittedly present with her at PGI, Chandigarh during this entire period. Despite being aware of the dying declaration recorded by learned Magistrate, they



neither approached the police nor made any complaint alleging that the deceased had been subjected to cruelty or harassment for dowry. It is only after the deceased succumbed to her injuries on 09.08.1998 that her father moved the application resulting in registration of the FIR. According to learned counsel, such unexplained delay assumes significance, particularly when the subsequent allegations are inconsistent with the dying declaration and appear to have been introduced after the death of the deceased.

18. It is also argued that the oral evidence of the parents of the deceased cannot safely be relied upon to sustain the conviction, as their statements contain material improvements over the allegations contained in the FIR. The FIR itself does not disclose any specific instance of demand of dowry or harassment immediately preceding the occurrence. General and omnibus allegations made by the parents after the death of their daughter, without any specific and proximate instance of cruelty or harassment in connection with demand of dowry, are insufficient to establish the essential ingredients of Section 304-B IPC. Learned trial Court, according to the appellant, erred in observing that an FIR is not required to contain every detail, as in the present case the absence of any specific allegation becomes material in the light of the five-day delay and the clear exculpatory dying declaration of the deceased.

19. Learned counsel has further challenged the reliance placed by the learned trial Court upon the note dated 03.05.1998, Ex.P-V. It is submitted that the very origin and recovery of the said document are doubtful. According to the complainant, the note was recovered from the



house of the accused two or three days after the death of the deceased, whereas the Investigating Officer categorically stated that no such letter or note was recovered from the house of the accused and that the same was subsequently produced by the father of the deceased. It is further submitted that there are two conflicting expert opinions regarding the authorship of Ex.P-V. While the FSL report relied upon by the prosecution opined that the note was written by the deceased, the handwriting expert examined by the defence opined that the handwriting on Ex.P-V did not tally with the admitted handwriting of the deceased. In these circumstances, the disputed document could not have been treated as conclusive evidence against the appellant.

20. It is lastly submitted that even the contents of Ex.P-V, assuming the same to be admissible and genuine, do not establish the necessary proximity between the alleged harassment and the death so as to attract Section 304-B IPC. The deceased had continued her education after marriage, was pursuing higher studies and was also teaching, and the defence evidence establishes that the appellant was supporting her educational pursuits. Learned trial Court did not properly consider this defence evidence and instead relied substantially upon the disputed note and the statements of the parents. It is, therefore, argued that the prosecution has failed to establish beyond reasonable doubt that soon before her death the deceased was subjected to cruelty or harassment by the appellant in connection with any demand for dowry, and the appellant is consequently entitled to acquittal.



21. Learned State counsel, assisted by learned counsel for the complainant in the appeal, has opposed the appeal and submitted that there is no illegality or perversity in the judgment of conviction passed by learned trial Court. It is contended that learned trial Court has examined the entire evidence in its proper perspective and has rightly concluded that the deceased had been subjected to cruelty and harassment by the appellant in connection with the demand of dowry. The conviction under Section 304-B IPC is based not merely on the oral testimony of the relatives of the deceased, but also upon the documentary evidence, particularly the letters written by the deceased, which contain specific allegations regarding the conduct of the appellant and the harassment meted out to her. It is argued that these letters constitute an important circumstance showing the state of mind of the deceased and the nature of her matrimonial life and corroborate the prosecution version regarding the persistent harassment and demands made by the appellant. Learned State counsel has, therefore, submitted that the findings recorded by learned trial Court are based upon proper appreciation of the evidence and do not call for any interference in the present appeal.

22. It is further contended that the mere fact that the appellant was not present in the house at the precise time when the deceased caught fire does not exonerate him from the offence. The evidence on record, according to the State, establishes that the appellant returned to the house shortly after the occurrence and the prosecution version that he was away from the house for a short period cannot, by itself, rule out his involvement.



It is argued that the defence story of accidental burning was rightly rejected by learned trial Court in view of the surrounding circumstances, the evidence led by the prosecution and the material contained in the letters written by the deceased. Learned State counsel has further submitted that the dying declaration relied upon by the appellant was not found reliable by learned trial Court for valid and cogent reasons and that the Court was justified in assessing it in the light of the other evidence available on record. Minor discrepancies or inconsistencies in the prosecution evidence, it is argued, do not go to the root of the case and cannot be made the basis for discarding an otherwise consistent and cogent prosecution case.

23 Learned State counsel has also submitted that the ingredients of Section 304-B IPC stand duly established. The deceased had died an unnatural death within the matrimonial home and the evidence on record establishes that, soon before her death, she had been subjected to cruelty and harassment in connection with dowry demands. It is submitted that learned trial Court, after considering the entire material, rightly convicted the appellant under Section 304-B IPC while acquitting him of the charge under Section 302 IPC. Thus, the judgment under appeal represents a well-considered appreciation of the evidence and there is no ground made out for interference with the conviction. The appeal, therefore, deserves to be dismissed.

24. Learned counsel for the complainant/revisionist, on the other hand, has submitted that the sentence imposed upon the appellant is wholly inadequate considering the gravity and circumstances of the offence. It is



contended that the present case is not a mere case of dowry death attracting the minimum punishment under Section 304-B IPC, but is, in substance, a clear-cut case of murder of a young married woman by her husband. According to learned counsel, the circumstances proved on record establish that the deceased did not catch fire accidentally and that the appellant had deliberately caused her death by setting her on fire and thereafter attempted to create a false defence of accidental burning. Learned counsel for the revisionist has further relied upon the evidence of the prosecution witnesses to contend that the conduct of the appellant immediately before and after the occurrence is highly incriminating. It is submitted that the appellant was admittedly not present in the house at the exact moment when the deceased caught fire only because he had returned after a short interval of about 8-10 minutes. According to the revisionist, such circumstance does not establish his absence from the house at the time of the occurrence and, rather, the possibility cannot be ruled out that he had caused the deceased to catch fire and thereafter, left the house and returned after a short interval in order to create a false plea of his absence. It is argued that the defence version of accidental fire was rightly rejected by the learned trial Court.

25. Learned counsel has also referred to the evidence concerning the dying declaration and submitted that the same was rightly not relied upon by the learned trial Court. According to him, the circumstances surrounding the alleged dying declaration and the other evidence on record render the same doubtful and insufficient to displace the prosecution case. It is submitted that learned trial Court, after examining the entire evidence,



rightly concluded that the deceased had been subjected to harassment and maltreatment by the appellant in connection with dowry demands. The letters written by the deceased, according to the revisionist, contain specific allegations regarding the harassment and provide strong corroboration to the testimony of the prosecution witnesses. Learned trial Court was, therefore, justified in relying upon the said letters while arriving at the finding of guilt.

26. Learned counsel for the revisionist has lastly contended that the offence committed by the appellant was particularly heinous, having resulted in the death of his own wife in the matrimonial home. It is argued that the act was committed in a planned and premeditated manner and that the appellant, after causing the death of the deceased, attempted to conceal his involvement by projecting the occurrence as an accident. The gravity of the offence, the manner in which the deceased was done to death and the circumstances established by the prosecution, according to learned counsel, warranted imposition of a sentence substantially higher than the sentence of seven years' rigorous imprisonment awarded by learned trial Court. The revisionist has, therefore, prayed that the sentence imposed upon the appellant be suitably enhanced, commensurate with the gravity of the offence.

27. Having heard learned counsel for the parties and having gone through the entire evidence led by the prosecution as well as the defence, this Court is of the considered view that the conviction of the appellant under Section 304-B IPC cannot be sustained. Learned trial Court has



undoubtedly considered the evidence on record, but, in the considered opinion of this Court, the material circumstances which go to the root of the prosecution case have not been appreciated in their proper perspective. The prosecution was required to establish, beyond reasonable doubt, the essential ingredients of Section 304-B IPC, including that the deceased had been subjected to cruelty or harassment by the appellant for, or in connection with, demand of dowry soon before her death. Only after these foundational facts are established does the statutory presumption under Section 113-B of the Indian Evidence Act arise. The expression “soon before” incorporates a requirement of proximity and there must be a proximate and live link between the alleged dowry-related cruelty and the death. The prosecution is also required to rule out the possibility of an accidental death before the statutory presumption can be invoked.

28. In the present case, the evidence relating to the manner in which the deceased sustained the burn injuries assumes considerable importance. It is not disputed that the deceased had suffered extensive burn injuries. However, the mere fact that the death occurred due to burns, and that such death was otherwise than under normal circumstances, does not by itself establish the offence under Section 304-B IPC. The Hon’ble Supreme Court has clarified that Section 304-B does not proceed on the basis of whether the death was homicidal, suicidal or accidental, what is necessary is proof of the statutory ingredients, particularly the existence of cruelty or harassment for or in connection with dowry soon before the death. Thus, the nature of the occurrence and the deceased’s own account



of how she sustained the burns become highly relevant while determining whether the prosecution has established the foundational facts.

29. The first and most important circumstance is the history given by the deceased immediately after she was taken to the hospital. As noticed from the evidence of the doctor, when the deceased was brought to the hospital, she stated that the burn injuries had been sustained accidentally and did not attribute the occurrence to the appellant or any other member of her matrimonial family. This was the earliest version emanating from the deceased herself. There is no material on record to suggest that at that point of time she had been tutored by anyone or that the doctor had any reason to record a false history. On the contrary, this statement was made at the earliest available opportunity, when the deceased had just been brought for medical treatment. The evidentiary significance of such a contemporaneous statement cannot be ignored merely because subsequently a different version was sought to be projected through other evidence.

30. The importance of this circumstance becomes greater when the subsequent statement of the deceased before the Judicial Magistrate is considered. The evidence shows that the Judicial Magistrate was called for recording the statement of the deceased. Before recording the statement, the Magistrate sought the opinion of the doctor regarding the fitness of the deceased to make a statement. After obtaining the requisite medical opinion, the statement of the deceased was recorded. The Magistrate has deposed regarding the circumstances in which the statement was recorded and there is no material brought on record to demonstrate that the



Magistrate had any reason to falsely record the statement of the deceased or that the deceased was incapable of understanding the questions put to her and giving rational answers.

31. The law relating to dying declarations is well settled. A dying declaration is an exception to the general rule against hearsay and is admissible when it relates to the cause of the person's death or the circumstances resulting in the death. There is no requirement in law that a dying declaration must invariably be recorded by a Magistrate or that it must necessarily bear a medical certificate of fitness in every case. The Constitution Bench in *Laxman v. State of Maharashtra, (2002) 6 SCC 710*, has held that what is essential is the satisfaction of the Court regarding the mental fitness of the declarant and the voluntariness and truthfulness of the declaration; a medical certification is a rule of prudence and not an absolute requirement. The statement recorded by a Magistrate, particularly after obtaining the opinion of the doctor regarding the fitness of the declarant, carries considerable evidentiary weight.

32. In the present case, the position is somewhat different and, in fact, significant for the appellant. The dying declaration recorded by the Judicial Magistrate does not implicate the appellant. Rather, the deceased stated that she had sustained the burn injuries accidentally. The Magistrate had specifically satisfied himself regarding her fitness to make the statement, after obtaining the doctor's opinion. There is no convincing reason emerging from the evidence to discard the testimony of the Judicial Magistrate. The Magistrate was an independent public officer having no



apparent interest in the matter. The statement was not shown to have been recorded under any influence of the appellant or his family. There is also no allegation that the Magistrate had acted in collusion with anyone. In these circumstances, there is no justification for brushing aside the statement merely because it is inconsistent with the subsequent prosecution version.

33. In the present case, there is, therefore, a positive and reliable circumstance in favour of the appellant. The deceased herself, at the earliest opportunity as well as before the Judicial Magistrate, gave an account consistent with accidental burning and did not state that her husband or in-laws had set her on fire.

34. The subsequent conduct of the parents of the deceased also assumes significance. The deceased did not die immediately after the occurrence. Despite suffering extensive burn injuries, she remained alive for several days, from 04.08.1998 till 09.08.1998. During this period, her parents reached P.G.I., Chandigarh. The evidence, particularly with regard to the presence of the mother of the deceased, shows that she was present with the deceased. This circumstance cannot be viewed in isolation. If the deceased had actually been subjected to dowry-related cruelty and if, as is now alleged, the appellant had deliberately set her on fire, there was sufficient opportunity for the deceased to disclose the same to her mother or other family members and for the parents to approach the police while the deceased was still alive. No such complaint was made.

35. It is also significant that the parents had knowledge of the dying declaration recorded by the Magistrate, yet there is no contemporaneous



complaint alleging that the deceased had been forced, tutored or pressurised into giving a false statement of accidental burning. Had the deceased's statement before the Magistrate been contrary to what she had told her parents, or had the parents genuinely believed that the statement had been incorrectly recorded, one would reasonably expect some immediate objection or complaint. Nothing of that kind has been shown.

36. The FIR was ultimately registered only after the death of the deceased. The delay, by itself, would not be sufficient to reject a prosecution case. It is settled that delay in lodging an FIR is not invariably fatal and each case has to be examined on its own facts. But here the delay assumes significance because it is not an isolated circumstance. It has to be considered along with the fact that the deceased remained alive for about five days, her mother and other family members had access to her, her earliest medical history was of accidental burning, her statement before the Judicial Magistrate also did not implicate the appellant, and no complaint was lodged during her lifetime. In this factual background, the subsequent FIR cannot, by itself, be treated as sufficient to displace the deceased's own contemporaneous account.

37. The prosecution has also relied heavily upon Ex.PV, stated to be a letter/note written by the deceased. This document has been projected as containing allegations of harassment and demand of dowry and has been relied upon to establish the nature of the matrimonial relationship. The document, however, does not inspire the confidence necessary to make it the basis of conviction. First, the very circumstances of its recovery are



doubtful. According to the complainant, the document was recovered from the house of the accused when he visited the house after the death along with the police. However, the investigating material does not establish that the said document was recovered from the house of the accused in the manner alleged. Rather, the document was produced by the father of the deceased subsequently. This discrepancy assumes importance because the prosecution seeks to derive substantial evidentiary value from the document.

38. There is yet another serious infirmity regarding Ex.PV. The handwriting attributed to the deceased in this document was the subject matter of expert examination and there are two opinions on the question of its authorship. The first opinion relied upon by the prosecution supported the prosecution version. However, the defence subsequently moved an application for further comparison and, pursuant to the order of the Court, Ex.PV was again examined with reference to the admitted writings. The admitted writings/letters, including Ex.D1 and Ex.D2, were writings of the deceased during her lifetime, and the mother of the deceased herself admitted that these letters had been written by the deceased. Thus, there was material available before the Court which could legitimately be used as standard writing for comparison.

39. The significance of the subsequent opinion cannot be brushed aside merely because it was obtained at the instance of the defence. The comparison was not privately arranged by the accused; it was undertaken pursuant to an order of the Court. The result of such examination did not support the prosecution case that Ex.PV was written by the deceased.



Therefore, there are two competing expert opinions regarding the authorship of Ex.PV. Once the recovery of the document itself is doubtful and its authorship is also not established beyond reasonable doubt, it would be highly unsafe to treat the same as conclusive evidence of dowry-related harassment.

40. The other letters admittedly written by the deceased also require consideration. Those letters do not present the picture which the prosecution seeks to derive from Ex.PV. The correspondence reflects that the deceased was in communication with her husband and members of his family and, in the letters written from her parental home, she had made general enquiries regarding the welfare of her husband and other relatives. These letters may not establish that everything was harmonious between the parties, but they certainly do not provide the necessary corroboration to the prosecution allegation of persistent and proximate dowry-related cruelty immediately preceding the occurrence.

41. The oral evidence of the parents and other prosecution witnesses has also been considered. It is true that the complainant and his wife have deposed about harassment and demand of dowry and have given instances which, according to them, were communicated to them by the deceased. Their evidence cannot be discarded merely because they are close relatives. At the same time, being related witnesses, their evidence requires careful scrutiny, particularly when it is sought to be used to contradict the deceased's own contemporaneous statements made before an independent doctor and a Judicial Magistrate. The Court has to determine



whether their testimony, taken as a whole, establishes the essential ingredient of cruelty or harassment “soon before” death and whether there is a proximate and live link between such alleged harassment and the death.

42. On this aspect also, the prosecution evidence falls short of the required standard. The allegations of harassment are largely general in nature and the specific documentary evidence relied upon to lend corroboration to them, namely Ex.PV, is itself surrounded by serious doubt. More importantly, there is no contemporaneous complaint during the period when the deceased was alive in the hospital. The prosecution seeks to explain this circumstance by suggesting that the parents were hoping for her recovery. Such an explanation may be possible, but the Court cannot proceed merely on the basis of what might have happened. The question is whether the evidence on record excludes every reasonable doubt regarding the prosecution version. In the present case, the conduct of the parents, considered along with the deceased’s own statements, creates a circumstance which cannot be ignored.

43. The evidence regarding the appellant’s presence at the time of the occurrence also does not furnish the necessary link. The prosecution itself accepts that the appellant was not present in the house at the precise moment when the deceased caught fire and that he returned shortly thereafter. The mere circumstance that he returned after a short interval cannot establish that he was responsible for setting the deceased on fire. The suggestion that he might have left the house after causing the fire and deliberately returned after 8-10 minutes to create a false defence is only a



possibility suggested by the prosecution. A conviction cannot rest upon a possibility or conjecture, particularly when the deceased herself had given a version of accidental burning.

44. The prosecution has sought to contend that the defence version of accidental burning was rightly rejected by learned trial Court. However, the burden never shifts to the accused to prove his innocence unless the prosecution first establishes the foundational facts of the offence. In the present case, the prosecution's own evidence contains material which supports the possibility of accidental burning, namely the immediate history given by the deceased to the doctor and her subsequent statement before the Judicial Magistrate. The prosecution was required to bring reliable evidence which would render these statements unworthy of belief. No such material has been established.

45. Learned trial Court also placed considerable reliance upon the fact that the deceased had allegedly complained in the letters about harassment and maltreatment over demand of dowry. However, even if it is assumed that some discord existed between the parties, the same is not sufficient to attract Section 304-B IPC. The prosecution was required to establish that the deceased was subjected to cruelty or harassment for or in connection with demand of dowry and that such cruelty or harassment occurred soon before her death. The Hon'ble Supreme Court in *Shoor Singh and anr. vs. State of Uttarakhand, 2024 INSC 713* has held that where the prosecution fails to prove cruelty or harassment in connection with dowry demand soon before the death, conviction for dowry death



cannot be sustained and accused is entitled to benefit of doubt. In the present case, such a proximate and reliable link has not been established to the standard required in a criminal trial.

46. The statutory presumption under Section 113-B of the Evidence Act, therefore, cannot be invoked mechanically. The presumption is undoubtedly a strong statutory presumption, but it arises only after the prosecution establishes the necessary ingredients of Section 304-B IPC. The Hon'ble Supreme Court in *Shoor Singh (supra)* has held that presumption under Section 113B arises only when the prosecution proves all essential ingredients of dowry death beyond reasonable doubt. Mere admissibility of evidence does not ensure its reliability and court must evaluate evidence against the weight of surrounding circumstances before accepting it.

47. In the present case, the prosecution has failed to establish beyond reasonable doubt the foundational fact that soon before her death the deceased was subjected to dowry-related cruelty or harassment by the appellant.

48. The Court is conscious that cases concerning dowry deaths require a sensitive approach and that direct evidence of what happens within the matrimonial home is ordinarily difficult to obtain. This, however, cannot dispense with the fundamental requirement that the prosecution must prove its case beyond reasonable doubt. The statutory presumption under Section 113-B was enacted to address the evidentiary difficulties in such cases, but it cannot be invoked in the absence of proof of its foundational requirements.



The Court must therefore balance the social object of the legislation with the equally fundamental principle that an accused cannot be convicted merely on suspicion, however strong it may be.

49. In the present case, the deceased's earliest statement to the doctor, her subsequent statement recorded by the Judicial Magistrate after obtaining the doctor's opinion regarding her fitness, her failure to implicate the appellant in those statements, the fact that she remained alive for several days thereafter, the presence of her mother and other family members during that period, the absence of any complaint during her lifetime, the subsequent registration of the FIR only after her death, the doubtful recovery of Ex.PV, the conflicting handwriting opinions regarding Ex.PV, and the absence of sufficiently reliable evidence establishing proximate dowry-related cruelty, constitute a chain of circumstances which creates a reasonable doubt regarding the prosecution case.

50. Thus, even if the evidence led by the prosecution is considered in its entirety and without discarding the testimony of the relatives merely on account of their relationship, the evidence does not cross the threshold of proof beyond reasonable doubt. The possibility that the deceased sustained the burns accidentally, which is supported by her own earliest account and the statement before the Magistrate, has not been conclusively excluded. The prosecution has also failed to establish the requisite proximate and live link between any alleged dowry-related harassment and the death. Consequently, the foundational requirements of Section 304-B IPC having not been established beyond reasonable doubt, the presumption under Section 113-B



of the Evidence Act cannot be raised against the appellant.

51. In these circumstances, this Court is unable to sustain the finding of guilt recorded by learned trial Court under Section 304-B IPC. The evidence on record, when viewed cumulatively and in the light of the settled principles governing dying declarations, dowry death and the burden resting upon the prosecution, gives rise to a reasonable doubt which must necessarily enure to the benefit of the appellant. The appellant is, therefore, entitled to acquittal of the charge under Section 304-B IPC.

52. Consequently, the appeal deserves to be allowed and the judgment of conviction and order of sentence passed by learned trial Court are liable to be set aside. Since the appellant is being acquitted of the substantive charge under Section 304-B IPC, the revision petition filed by the complainant seeking enhancement of sentence also cannot survive and the same is hereby dismissed.

53. The appellant in *CRA-S No.2515-SB of 2004* shall be entitled to all consequential benefits in accordance with law. The bail bonds, if any, furnished by him shall stand discharged. The case property, if any, shall be dealt with by learned trial Court in accordance with law.

54. Pending applications, if any, also stand disposed of.

18.08.2026
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(MANDEEP PANNU)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No