(2025) 01 SHI CK 0035

High Court Of Himachal Pradesh

Case No: Criminal Appeal No. 177 Of 2014

Jai Devi		APPELLANT
	Vs	
State Of H.P. And Others		RESPONDENT

Date of Decision: Jan. 4, 2025

Acts Referred:

- Code of Criminal Procedure Act, 1973 - Section 174, 313, 437A
- Indian Penal Code, 1860 - Section 34, 107, 306, 323, 498A, 506(2)
- Evidence Act, 1872 - Section 32, 113A, 113B
- Criminal Justice Act, 1967 - Section 8

Hon'ble Judges: Tarlok Singh Chauhan, J; Rakesh Kainthla, J

Bench: Division Bench

Advocate: Ramesh Sharma, Sharmila Patial, Raj Negi, Surya Chauhan

Final Decision: Dismissed

Judgement

Rakesh Kainthla, J

1. The present appeal is directed against the judgment dated 28.2.2014, passed by learned Additional Sessions Judge-I, Una, H.P., (learned Trial

Court) vide which the respondents no. 2 to 4 (accused before the learned Trial Court) were acquitted of the commission of offences punishable under

Sections 498-A and 306 read with Section 34 of the Indian Penal Code (IPC). (Parties shall hereinafter be referred to in the same manner as they

were arrayed before the learned Trial Court for convenience).

2. Briefly stated, the facts giving rise to the present appeal are that the appellant/informant Jaidei (PW1) is the mother of Sandesh Kumari (since

deceased). Sandesh Kumari was married to accused Ravinder Kumar five years before the incident. Dowry was provided to Ravinder Kumar and his

family members as per the informantâ€™s capacity, and she had spent about ₹5.00 lacs for solemnising the marriage. The accused kept Sandesh

Kumari properly for about three years after the marriage. They started harassing her after three years. The husband, mother-in-law and brother-in-

law of the deceased used to demand money from her. The informant would counsel the deceased and provide her with something or the other.

₹40,000/- was provided to the accused on the occasion of marriage of Ravinderâ€™s sister as per his demand; however, the accused continued to

harass the deceased. They compelled the deceased to get her younger sister married to accused, Shashi Pal; however, he was physically challenged,

and the younger sister of the deceased did not agree to this proposal. The deceased told the informant three days before the incident that the accused

were harassing her. The accused, Ravinder, threatened to commit suicide and falsely implicate the deceased and her family members in case the

marriage between his brother and sister of deceased was not solemnised. The informant told the deceased that the matter would be discussed after 1-

2 days. Saroj told the informant on 22.6.2011 at about 2.00 AM that Sandesh had consumed poison. The informant, her husband Joginder Lal, her

brother-in-law and her sister-in-law reached Una Hospital. The Medical Officer on duty referred Sandesh Kumari to the Post Graduate Institute

(PGI), Chandigarh. The deceased revealed on the way that her husband compelled her to get the marriage of her sister solemnised with his brother;

otherwise, he would commit suicide. She disconnected the phone, but he called his mother. Accused Kamla Devi and Shashi Pal harassed the

deceased. They asked Sandesh Kumari that if she wanted to die; she could die, but she should not kill Kamlaâ€™s son. Sandesh committed suicide

due to the harassment of her husband, mother-in-law and brother-in-law. They were also not present during the last rites of the deceased. A complaint

(Ex.PW1/A) was made to the police. FIR (Ex.PW22/A) was registered. Dr. D.K. Sharma (PW11) conducted a medical examination of Sandesh at

the time of her admission to the hospital. He issued the MLC (Ex.PW11/B). He also preserved the gastric lavage of the deceased. Darshan Lal and

Mohinder Singh (PW8) visited the Police Station and disclosed that one suicide note was recovered from the room of the deceased, which was kept in

the house. ASI Bhagat Ram (PW19) went to the house of Gurmail Singh. A suicide note (Ex. P7) and an empty pouch of Celphos were handed over

to ASI Bhagat Ram, who seized them vide memo (Ex.PW8/A). The pouch was wrapped in a piece of cloth, and the parcel was sealed with three

impressions of seal â€˜Aâ€™. Specimen impression of seal (Ex.PW19/A) was taken on a separate piece of cloth. Sandesh died at PGI, Chandigarh.

ASI Bhagat Ram (PW19) went to PGI, Chandigarh and prepared an inquest report (Ex.PW19/B). He obtained the postmortem report (Ex.PW19/C).

He handed over the dead body of the deceased to her father-in-law in the presence of her father vide memo (Ex.PW2/A). He also took photographs

of the dead body (Ex. P12 to Ex. P14). ASI Bhagat Ram prepared the site plan (Ex.PW19/D) and recorded the statements of witnesses as per their

version. Gurmail Singh handed over one slip pad (Ex. P11), which was seized vide memo (Ex.PW10/A). Jagroop Singh (PW3) handed over six pieces

of plyboard (Ex. P1 to Ex. P6) on which papers in Gurmukhi script in the hands of the deceased were pasted. These were seized vide memo

(Ex.PW3/A). ASI Bhagat Ram obtained the admitted signatures of the deceased from the records of Government Senior Secondary School Khanpur

Khun. The extract of Page No. 138 of the register (Ex.PW6/B) was seized vide memo (Ex.PW6/A). The signatures were sent to RFSL,

Dharamshala, for obtaining expert opinion. The result of the analysis (Ex.CC) was issued in which it was shown that the disputed and admitted

handwritings were written by the same person. Vijay Sharma (PW20) conducted further investigation. He searched the room of the deceased and

seized three ballpoint pens (Ex. P8 to Ex. P10) from the drawer of bed and table. He seized four leaves of the application addressed by Ravinder to

his superior vide seizure memo (Ex.PW9/A). The ballpoint pens and the papers were wrapped in a piece of cloth, and the parcel was sealed with seal

â€˜Hâ€™. Specimen seal â€˜Hâ€™ (Ex.PW20/A) was taken on a separate piece of cloth. He filed an application (Ex.PW11/D) to obtain the opinion

of the Medical Officer and the inpatient record. Dr. D.K. Sharma (PW11) issued the impatient record (Ex.PW11/C). The call detail record and

Customer Application Form of the mobile phones were taken into possession. The reports of analysis (Ex.CA and Ex.CB) were issued by RFSL in

which it was mentioned that the Phosphine Gas was detected in the viscera and Gastric lavage. Aluminium phosphide was detected in the packet of

Celphos. Statements of remaining witnesses were recorded as per their version, and after the completion of the investigation, a challan was prepared

and presented before learned Judicial Magistrate First Class, Una, who committed it to learned Sessions Judge, Una, for trial. Learned Sessions Judge,

Una assigned the trial to learned Additional Sessions Judge, Una (learned Trial Court).

3. Learned Additional Sessions Judge Una charged the accused with the commission of offences punishable under Sections 498-A and 306 read with

Section 34 of IPC, to which they pleaded not guilty and claimed to be tried.

4. The prosecution examined 22 witnesses to prove its case. Jaidei is the informant and mother, Joginder Lal (PW2) is the father, and Jagroop (PW3)

is the brother of the deceased. Dalip Chand (PW4) was running a shop, to whom the deceased disclosed about the pressure being exerted upon her to

marry her younger sister to accused Shashi Pal. Neelam (PW5) is the elder sister of the deceased, to whom the deceased confided about the pressure

being exerted upon her. Baljeet Kaur (PW6) handed over the extract of the register and detail marks card register to the police. Sanjiv Kumar (PW7)

carried the deceased on a motorcycle towards the hospital. Mohinder Singh (PW8) is the witness to the recovery. Dharamjeet (PW9) did not support

the prosecution case. Gurdas Ram (PW10) is a witness to recovery. Dr. D.K. Sharma (PW11) conducted the medical examination of Sandesh when

she was brought to the hospital. He also prepared the record regarding her treatment. ASI Rajinder Kumar (PW12) went to the hospital after hearing

about the admission of the deceased. Raj Kumar (PW13) proved that there was a dispute between the parties regarding the marriage of the younger

sister of the deceased with accused Shashi Pal. Arpna Gupta (PW14) proved that the mobile phone did not belong to her. HHC Shiv Kumar (PW15)

proved the copy of the application received from the accused. HC Ajaib Singh (PW16) was posted as MHC, with whom the case property was

deposited. SI Rupinder Kumar (PW17) seized a copy of the marriage certificate, family register, and the extract of the marriage register. ASI Pratap

Singh (PW18) recorded the statement of Aparna Gupta (PW14). ASI Bhagat Ram (PW19) and Vijay Sharma (PW20) conducted the investigation.

Sushil Kumari (PW21) went to verify the facts regarding the entry in the daily diary and recorded the statement of the deceased. R.R. Thakur

(PW22) went to the hospital with Sushil Kumari.

5. The accused, in their statements recorded under Section 313 of Cr.P.C., admitted their relationship with the deceased. They admitted that the

deceased had consumed poison, and she was taken to Regional Hospital, Una, from where she was referred to PGI, Chandigarh. Accused Kamla

stated that she was innocent. Witnesses deposed against her because they were related to the deceased. The last rites of the deceased were

performed by the accused. Accused Ravinder stated that he was on duty at the time of the incident. He had left the village after availing annual

holidays in the month of January. The witnesses deposed against him because they were related to the deceased. Accused Shashi stated that he was

innocent and all the witnesses were related to the deceased.

6. Learned Trial Court held that the deceased had made a statement before Sushila Kumari (PW21) that she had consumed poison voluntarily and no

one was responsible for her suicide. This statement was endorsed by her father. Subsequently, a complaint was made by the informant after three

days. There was no explanation for the delay. The delay made the prosecution case suspect. The prosecution evidence was not sufficient to show that

the deceased was left with no other option but to commit suicide. Hence, the learned Trial Court acquitted the accused.

7. Being aggrieved from the judgment passed by the learned Trial Court, the informant filed the present appeal asserting that the learned Trial Court

erred in acquitting the accused. The deceased committed suicide within four years of her marriage, which raised a presumption that the suicide was

committed due to cruelty and maltreatment. This presumption was not considered by the learned Trial Court. The parents of the deceased were in

great shock and could not report the matter earlier. When they realised that the suicide was due to the torture and maltreatment, they made a

complaint. This aspect was ignored by the learned Trial Court. A demand of ₹50,000/- was raised by the accused. It was duly proved on record that

accused Ravinder threatened the deceased to commit suicide if she would not get her younger sister married to his younger brother. The deceased

was compelled to commit suicide due to such a threat. The documents were read from the wrong perspective. The Medical Officer stated that the

deceased was unconscious and not responding to the commands. The statement was got signed by the police without telling the deceased its nature.

Such a statement could not have been used for acquitting the accused. The deceased complained to her parents, her relatives and other persons about

the pressure being exerted upon her; therefore, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court

be set aside.

8. We have heard Mr Ramesh Sharma, learned counsel for the appellant/informant, Ms Sharmila Patial, learned Additional Advocate General with Mr

Raj Negi, learned Deputy Advocate General for the respondent No.1-State and Mr Surya Chauan, learned counsel for respondents No.2 to 4-

accused.

9. Mr Ramesh Sharma, learned Counsel for the appellant/informant, submitted that the learned Trial Court erred in acquitting the accused. It was duly

proved by the statements of the parents and brother of the deceased that the accused were harassing the accused. She had also told her sister and the

shopkeeper about the pressure being exerted upon her to marry her younger sister with accused Shashi Pal. The accused had created such

circumstances that the deceased was left with no option but to commit suicide. Therefore, he prayed that the present appeal be allowed and the

judgment passed by the learned Trial Court be set aside.

10. Ms Sharmila Patial, learned Additional Advocate General for respondent No.1/State, supported the submissions of Mr Ramesh Sharma, learned

counsel for the appellant-informant.

11. Mr Surya Chauhan, learned counsel for respondents No.2 to 4-accused, supported the judgment passed by the learned Trial Court. He submitted

that the deceased had left the suicide note, absolving any other person of any liability. She made a statement before the Police that she had taken the

poison in a fit of anger. This statement was endorsed by her father. A false complaint was made by the informant after three days of the incident. The

statements of the prosecution witnesses are vague and do not contain the time and detail of the demands being made by the accused. The learned

Trial Court had taken a reasonable view, which could have been taken based on the evidence led before the learned Trial Court. Therefore, he prayed

that the present appeal be dismissed.

12. We have given considerable thought to the submissions made at the bar and have gone through the records carefully.

13. The present appeal has been filed against a judgment of acquittal. It was laid down by the Honâ€™ble Supreme Court inM allappa v. State of

Karnataka, (2024) 3 SCC 544: 2024 SCC OnLine SC 13 0that while deciding an appeal against acquittal, the High Court should see whether the

evidence was properly appreciated on record or not; second whether the finding of the Court is illegal or affected by the error of law or fact and

thirdly; whether the view taken by the Trial Court was a possible view, which could have been taken based on the material on record. The Court will

not lightly interfere with the judgment of acquittal. It was observed:

â€œ25. We may first discuss the position of law regarding the scope of intervention in a criminal appeal. For that is the foundation of this challenge. It is the cardinal

principle of criminal jurisprudence that there is a presumption of innocence in favour of the accused unless proven guilty. The presumption continues at all stages of

the trial and finally culminates into a fact when the case ends in acquittal. The presumption of innocence gets concretised when the case ends in acquittal. It is so

because once the trial court, on appreciation of the evidence on record, finds that the accused was not guilty, the presumption gets strengthened, and a higher

threshold is expected to rebut the same in appeal.

26. No doubt, an order of acquittal is open to appeal, and there is no quarrel about that. It is also beyond doubt that in the exercise of appellate powers, there is no

inhibition on the High Court to reappreciate or re-visit the evidence on record. However, the power of the High Court to reappreciate the evidence is a qualified

power, especially when the order under challenge is of acquittal. The first and foremost question to be asked is whether the trial court thoroughly appreciated the

evidence on record and gave due consideration to all material pieces of evidence. The second point for consideration is whether the finding of the trial court is illegal

or affected by an error of law or fact. If not, the third consideration is whether the view taken by the trial court is a fairly possible view. A decision of acquittal is not

meant to be reversed on a mere difference of opinion. What is required is an illegality or perversity.

27. It may be noted that the possibility of two views in a criminal case is not an extraordinary phenomenon. The â€œtwo-views theoryâ€ has been judicially

recognised by the courts, and it comes into play when the appreciation of evidence results in two equally plausible views. However, the controversy is to be resolved

in favour of the accused. For, the very existence of an equally plausible view in favour of the innocence of the accused is in itself a reasonable doubt in the case of

the prosecution. Moreover, it reinforces the presumption of innocence. Therefore, when two views are possible, following the one in favour of the innocence of the

accused is the safest course of action. Furthermore, it is also settled that if the view of the trial court, in a case of acquittal, is a plausible view, it is not open for the

High Court to convict the accused by reappreciating the evidence. If such a course is permissible, it would make it practically impossible to settle the rights and

liabilities in the eye of the law.

28. In Selvaraj v. State of Karnataka [Selvaraj v. State of Karnataka, (2015) 10 SCC 230: (2016) 1 SCC (Cri) 19]: (SCC pp. 236-37, para 13)

â€œ13. Considering the reasons given by the trial court and on an appraisal of the evidence, in our considered view, the view taken by the trial court was a possible

one. Thus, the High Court should not have interfered with the judgment of acquittal. This Court in Jagan M. Seshadri v. State of T.N. [Jagan M. Seshadri v. State of

T.N., (2002) 9 SCC 639: 2003 SCC (L&S) 1494] has laid down that as the appreciation of evidence made by the trial court while recording the acquittal is a

reasonable view, it is not permissible to interfere in appeal. The duty of the High Court while reversing the acquittal has been dealt with by this Court, thus: (SCC p.

643, para 9)

â€˜9. â€¦ We are constrained to observe that the High Court was dealing with an appeal against acquittal. It was required to deal with various grounds on which

acquittal had been based and to dispel those grounds. It has not done so. Salutary principles while dealing with appeals against acquittal have been overlooked by

the High Court. If the appreciation of evidence by the trial court did not suffer from any flaw, as indeed none has been pointed out in the impugned judgment, the

order of acquittal could not have been set aside. The view taken by the learned trial court was a reasonable view, and even if by any stretch of the imagination, it

could be said that another view was possible, that was not a ground sound enough to set aside an order of acquittal.â€™â€

29. In Sanjeev v. State of H.P. [Sanjeev v. State of H.P., (2022) 6 SCC 294: (2022) 2 SCC (Cri) 522], the Hon'ble Supreme Court analysed the relevant decisions and

summarised the approach of the appellate court while deciding an appeal from the order of acquittal. It observed thus: (SCC p. 297, para 7)

â€œ7. It is well settled that:

7.1. While dealing with an appeal against acquittal, the reasons which had weighed with the trial court in acquitting the accused must be dealt with in case the

appellate court is of the view that the acquittal rendered by the trial court deserves to be upturned (see Vijay Mohan Singh v. State of Karnataka [Vijay Mohan

Singh v. State of Karnataka, (2019) 5 SCC 436 : (2019)Â 2Â SCCÂ (Cri)Â 586] and AnwarÂ Ali v. StateÂ of H.P. [Anwar Ali v. State of H.P., (2020) 10 SCC

166 : (2021) 1 SCC (Cri) 395]).

7.2. With an order of acquittal by the trial court, the normal presumption of innocence in a criminal matter gets reinforced (see Atley v. State of U.P. [Atley v. State of

U.P., 1955 SCC OnLine SC 51: AIR 1955 SC 807]).

7.3. If two views are possible from the evidence on record, the appellate court must be extremely slow in interfering with the appeal against acquittal (see Sambasivan

v. State of Kerala [Sambasivan v. State of Kerala, (1998) 5 SCC 412: 1998 SCC (Cri) 1320]).â€

14. This position was reiterated in Ramesh v. State of Karnataka, (2024) 9 SCC 169: 2024 SCC OnLine SC 258, 1wherein it was observed at

page 175:

â€œ20. At this stage, it would be relevant to refer to the general principles culled out by this Court in Chandrappa v. State of Karnataka [Chandrappa v. State of

Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325], regarding the power of the appellate court while dealing with an appeal against a judgment of acquittal.

The principles read thus: (SCC p. 432, para 42)

â€œ42. â€¦ (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on the exercise of such power and an appellate court on the evidence before it

may reach its own conclusion, both on questions of fact and law.

(3) Various expressions, such as â€œsubstantial and compelling reasonsâ€, â€œgood and sufficient groundsâ€, â€œvery strong circumstancesâ€, â€œdistorted

conclusionsâ€, â€œglaring mistakesâ€, etc., are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are

more in the nature of â€œflourishes of languageâ€ to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to

review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is a double presumption in favour of the accused. Firstly, the presumption of

innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty

by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened

by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the

trial court.â€

21. In Rajendra Prasad v. State of Bihar [Rajendra Prasad v. State of Bihar, (1977) 2 SCC 205: 1977 SCC (Cri) 308], a three-judge Bench of this Court pointed

out that it would be essential for the High Court, in an appeal against acquittal, to clearly indicate firm and weighty grounds from the record for discarding the

reasons of the trial court in order to be able to reach a contrary conclusion of guilt of the accused. It was further observed that, in an appeal against acquittal, it would

not be legally sufficient for the High Court to take a contrary view about the credibility of witnesses, and it is absolutely imperative that the High Court convincingly

finds it well-nigh impossible for the trial court to reject their testimony. This was identified as the quintessence of the jurisprudential aspect of criminal justice.â€

15. The present appeal has to be decided as per the parameters laid down by the Honâ€™ble Supreme Court.

16. It is an admitted version that the accused had written the suicide note (Ex. P7), which was seized by ASI Bhagat Ram. It is in Punjabi and was

got translated with the help of an official Translator. Its free translation is as under: -

â€œI am responsible for my death. No one is responsible for it. I am committing suicide due to mental agitation.â€

17. When she was brought to the hospital, Sushil Kumari (PW21) recorded her statement (Ex. DA), which is freely translated as under: -

â€œStated that I have been married for four years. One son, aged three years, was born to me. My husband is serving in the Army. He called me at about 10 PM.

He switched off the phone suddenly. I became angry with him and consumed the poison. I had not quarrelled with any person.â€

18. This statement was signed by her. It was endorsed by her father, Joginder Lal (PW2).

19. It was submitted that the deceased was critical when she was brought to the hospital, and the police had obtained her signatures without explaining

the nature of the statement being recorded by them. This is not acceptable. Nothing was suggested to Susheela Kumari (PW21) or Inspector R.R.

Thakur (PW22) that the statement was recorded by the police on their own, and no such statement was made by Sandesh Kumari. Susheela Kumari

(PW21), on the other hand, stated in her cross-examination that every word of the statement (Ex. DA) was stated by Sandesh Kumari, and nothing

was added to the statement.

20. Jagroop Singh (PW3) admitted in his cross-examination that the deceased had made a statement to the police about the consumption of poison in a

fit of anger. He admitted that Sandesh Kumari signed the statement, and her father was also present. Joginder Lal (PW2) also admitted that the lady

Sub Inspector recorded the statement of the deceased in the hospital, and he had signed the same. He admitted that his statement (Ex. DB) was

recorded in the hospital by Rajinder Kumar. He volunteered to say that he was in a state of shock, and police had obtained his signatures on 2-3

pages. He admitted that he had not lodged any written complaint against any police official regarding taking his signatures on (Ex. DA) and (Ex. DB)

without informing him of their contents. These statements prove that the deceased had made the statement (Ex. DA) voluntarily.

21. The statements (Ex. P7 and Ex. DA) were made by the deceased regarding the circumstances related to her death and are admissible under

Section 32 of the Indian Evidence Act. The deceased had specifically stated that she had consumed poison by herself and no one was responsible for

it. Hence, the statement made by the deceased did not establish the prosecution case that the deceased was compelled to commit suicide due to the

circumstances created by the accused.

22. The police also recorded the statement of Joginder Lal (Ex. DB) in which he specifically stated that Sandesh Kumari had not complained about

any person to him. His (Joginderâ€™s) wife had made inquiries from Sandesh in his (Joiginderâ€™s) presence; however, Sandesh Kumari said that

she had mistakenly consumed the poison. She had not complained about any person. She made a statement regarding this fact to the police in his

presence. He did not have any suspicion regarding the death of the deceased. Joginder Singh tried to explain that his signatures were obtained on

some documents without informing him, which is not acceptable in view of his subsequent conduct of not making any complaint to any person

regarding the recording of wrong statement. Hence, the statement (Ex.DB) made by the father of the accused cannot be discarded.

23. The statement (Ex. DB) also corroborates the contents of the dying declaration that the deceased had consumed poison by herself without being

pressurised by any person. It was held in Mallappa (supra) that when two versions appear on the record, the version in favour of the accused should

be preferred. If the version of the deceased and the initial version of her father are accepted, the prosecution case that the deceased was compelled

to commit suicide by the deceased has to be discarded.

24. It was stated in the complaint (Ex.PW1/A) that the deceased told about the harassment to her parents on her way to Chandigarh. This was not

plausible. Dr. D.K. Sharma (PW11) had attended to the deceased when she was brought to the hospital. He stated in his cross-examination that he

had told ASI Bhagat Ram (PW19) that the deceased was not fit to make a statement. Therefore, the deceased could not have made any statement

while going to PGI, Chandigarh, keeping in view her condition and the prosecutionâ€™s version that the parents of the deceased came to know about

the harassment on the way to PGI, Chandigarh is not acceptable.

25. Jaidei (PW1) stated that the relationship of her daughter with Ravinder Kumar remained cordial for about three years. Thereafter, the in-laws of

Sandesh Kumari started maltreating her on the pretext of money. She (Sandesh) used to tell her that her husband and her in-laws were maltreating

her. They were not providing any money to the deceased for her personal use, so she (the informant) started giving her money frequently. The in-laws

of Sandesh Kumari demanded ₹50,000/-for the marriage of Ravinderâ€™s sister. ₹40,000/- were given to them. The relationship between Sandesh

Kumari and Ravinder Kumar remained cordial for one and half years, and thereafter, Ravinder started pressuring her to solemnise the marriage of her

younger sister with accused Shashi Pal; however, the informant and her family members did not agree to this proposal, as the younger sister of

Sandesh had refused to marry accused Shashi Pal. The accused started maltreating the deceased. Accused Ravinder used to threaten the deceased

Sandesh Kumari and pressurise her to solemnise the marriage of his younger brother with the younger sister of the deceased. He also used to tell the

deceased that he would commit suicide and implicate her family members. The deceased disclosed all these facts to her. She asked the deceased to

remain calm and told her (the deceased) that she (the informant) would settle the matter within 2-3 days.

26. The statement of the informant is highly vague. She did not mention any particulars of date and time and the name of the person, who had made

the demand. It was laid down by the Honâ€™ble Supreme Court in Neelu Chopra v. Bharti, (2009) 10 SCC 184: (2010) 1 SCC (Cri) 286: 2009

SCC OnLine SC 1693 that the Court has to see that particulars of the offences committed by every accused and the role played by the accused in

committing the offence are given in the complaint made to the police. It was observed: -

â€œ9. To lodge a proper complaint, the mere mention of the sections and the language of those sections is not the be-all and end-all of the matter. What is

required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every

accused in committing that offence.

10. When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played

by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely, but he is

no more and has already expired. Under such circumstances, it would be an abuse of the process of law to allow the prosecution to continue against the aged

parents of Rajesh, the present appellants herein, on the basis of a vague and general complaint which is silent about the precise acts of the appellants.â€

(Emphasis supplied)

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27. Similarly, it was held in Abhishek v. State of M.P., 2023 SCC OnLine SC 1083: 2023 INSC 77 9that the tendency of false implication by way

of general omnibus allegations, if left unchecked, would result in the misuse of the process of law. It was observed:

â€œ13. Instances of a husband's family members filing a petition to quash criminal proceedings launched against them by his wife in the midst of matrimonial

disputes are neither a rarity nor of recent origin. Precedents aplenty abound on this score. We may now take note of some decisions of particular relevance.

Recently, in Kahkashan Kausar alias Sonam v. State of Bihar [(2022) 6 SCC 599], this Court had occasion to deal with a similar situation where the High Court

had refused to quash a FIR registered for various offences, including Section 498A IPC. Noting that the foremost issue that required determination was whether

allegations made against the in-laws were general omnibus allegations which would be liable to be quashed, this Court referred to earlier decisions wherein

concern was expressed over the misuse of Section 498A IPC and the increased tendency to implicate relatives of the husband in matrimonial disputes. This Court

observed that false implications by way of general omnibus allegations made in the course of matrimonial disputes, if left unchecked, would result in misuse of the

process of law. On the facts of that case, it was found that no specific allegations were made against the in-laws by the wife, and it was held that allowing their

prosecution in the absence of clear allegations against the in-laws would result in an abuse of the process of law. It was also noted that a criminal trial, leading

to an eventual acquittal, would inflict severe scars upon the accused, and such an exercise ought to be discouraged.

14. In Preeti Gupta v. State of Jharkhand [(2010) 7 SCC 667], this Court noted that the tendency to implicate the husband and all his immediate relations is also

not uncommon in complaints filed under Section 498A IPC. It was observed that the Courts have to be extremely careful and cautious in dealing with these

complaints and must take pragmatic realities into consideration while dealing with matrimonial cases, such as allegations of harassment by the husband's close

relations, who were living in different cities and never visited or rarely visited the place where the complainant resided, would add an entirely different

complexion and such allegations would have to be scrutinised with great care and circumspection.

15. Earlier, in Neelu Chopra v. Bharti [(2009) 10 SCC 184], this Court observed that the mere mention of statutory provisions and the language thereof for

lodging a complaint is not the â€˜be all and end allâ€™ of the matter, as what is required to be brought to the notice of the Court is the particulars of the offence

committed by each and every accused and the role played by each and every accused in the commission of that offence. These observations were made in the

context of a matrimonial dispute involving Section 498A IPC.â€ (Emphasis supplied)

28. It was held in Achin Gupta v. State of Haryana, 2024 SCC OnLine SC 759:2024 INSC 36 t9hat asking a person to face criminal allegations

without any specific instance of criminal misconduct amounts to an abuse of the process of the Court. It was observed:

â€œ18. The plain reading of the FIR and the chargesheet papers indicate that the allegations levelled by the First Informant are quite vague, general and

sweeping, specifying no instances of criminal conduct. It is also pertinent to note that in the FIR, no specific date or time of the alleged offence/offences has been

disclosed. Even the police thought fit to drop the proceedings against the other members of the Appellant's family. Thus, we are of the view that the FIR lodged by

Respondent No. 2 was nothing but a counterblast to the divorce petition & also the domestic violence case.

25. If a person is made to face a criminal trial on some general and sweeping allegations without bringing on record any specific instances of criminal conduct, it

is nothing but abuse of the process of the court. The court owes a duty to subject the allegations levelled in the complaint to thorough scrutiny to find out, prima

facie, whether there is any grain of truth in the allegations or whether they are made only with the sole object of involving certain individuals in a criminal

charge, more particularly when a prosecution arises from a matrimonial dispute.â€ (Emphasis supplied)

29. It was further held that in matrimonial disputes, the parents, including the close relatives, make a mountain out of a molehill, and every matrimonial

conduct amounting to nuisance does not constitute cruelty. It was observed: -

â€œ32. Many times, the parents, including the close relatives of the wife, make a mountain out of a mole. Instead of salvaging the situation and making all possible

endeavours to save the marriage, their action, either due to ignorance or on account of sheer hatred towards the husband and his family members, brings about the

complete destruction of marriage on trivial issues. The first thing that comes to mind of the wife, her parents and her relatives is the Police as if the Police is the

panacea of all evil. No sooner the matter reaches up to the Police, then even if there are fair chances of reconciliation between the spouses, they would get destroyed.

The foundation of a sound marriage is tolerance, adjustment and respecting one another. Tolerance of each other's fault, to a certain bearable extent, has to be

inherent in every marriage. Petty quibbles and trifling differences are mundane matters and should not be exaggerated and blown out of proportion to destroy what is

said to have been made in heaven. The Court must appreciate that all quarrels must be weighed from that point of view in determining what constitutes cruelty in

each particular case, always keeping in view the physical and mental conditions of the parties, their character and social status. A very technical and hyper-sensitive

approach would prove to be disastrous for the very institution of the marriage. In matrimonial disputes, the main sufferers are the children. The spouses fight with

such venom in their hearts that they do not think even for a second that if the marriage would come to an end, then what will be the effect on their children?

plays a very dubious role so far as the upbringing of the children is concerned. The only reason why we are saying so is that instead of handling the whole issue

delicately, the initiation of criminal proceedings would bring about nothing but hatred for each other. There may be cases of genuine ill-treatment and harassment by

the husband and his family members towards the wife. The degree of such ill-treatment or harassment may vary. However, the Police machinery should be resorted to

as a measure of last resort and that too in a very genuine case of cruelty and harassment. The Police machinery cannot be utilised for the purpose of holding the

husband at ransom so that he could be squeezed by the wife at the instigation of her parents, relatives or friends. In all cases where the wife complains of harassment

or ill-treatment, Section 498A of the IPC cannot be applied mechanically. No FIR is complete without Sections 506(2) and 323 of the IPC. Every matrimonial conduct,

which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, and quarrels between spouses, which happen in day-to-day married life,

may also not amount to crueltyâ€

30. Similarly, it was held in Mamidi Anil Kumar Reddy v. State of A.P., 2024 SCC OnLine SC 127: 2024 (2) SCR 25 t2hat the phenomena of

false implication by general omnibus allegation in the case of matrimonial dispute are not unknown to the Court. When the allegations are general and

omnibus, the prosecution should not be continued. It was observed: -

â€œ14. In the considered opinion of this Court, there is significant merit in the submissions of the Learned Counsel for the Appellants. A bare perusal of the

complaint, statement of witnesses and the charge sheet shows that the allegations against the Appellants are wholly general and omnibus in nature; even if they are

taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither discloses any particulars of the offences alleged

nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court. In Kahkashan

Kausar alias Sonam v. State of Bihar (2022) 6 SCC 599, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-

laws u/s. 498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and

noted that such a situation, if left unchecked, would result in the abuse of the process of law.

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17. Considering the dicta in Mahmood Ali (supra), we find that the High Court, in this case, has failed to exercise due care and has mechanically permitted the criminal

proceedings to continue despite specifically finding that the allegations are general and omnibus in nature. The Appellants herein approached the High Court on

inter alia grounds that the proceedings were re-initiated on vexatious grounds and even highlighted the commencement of divorce proceedings by Respondent No.

2. In these peculiar circumstances, the High Court had a duty to consider the allegations with great care and circumspection so as to protect against the danger of

unjust prosecution.â€

31. It was laid down by the Honâ€™ble Supreme Court in Kailashben Mahendrabhai Patel v. State of Maharashtra, 2024 SCC OnLine SC

2621 that general and vague allegations of cruelty made against the husband and his relatives are not sufficient to constitute cruelty. It was observed:

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â€œ10.1 The tendency to make general, vague, and omnibus allegations is noticed by this Court in many decisions. In Usha Chakraborty v. State of W.B. 2023 SCC

OnLine SC 90, this court observed that:

â€œ16â€¦ the respondent alleged commission of offences under S tions 323, 384, 406, 423, 467, 468, 420 and 120B, IPC against the appellants. A bare perusal of the said

allegation and the ingredients to attract them, as adverted to hereinbefore, would reveal that the allegations are vague and they did not carry the essential ingredients

to constitute the alleged offencesâ€¦. The ingredients to attract the alleged offence referred to hereinbefore and the nature of the allegations contained in the

application filed by the respondent would undoubtedly make it clear that the respondent had failed to make specific allegations against the appellants herein in

respect of the aforesaid offences. The factual position thus would reveal that the genesis as also the purpose of criminal proceedings are nothing but the aforesaid

incident and further that the dispute involved is essentially of civil nature. The appellants and the respondents have given a cloak of a criminal offence in the

issueâ€¦â€

10.2 Similarly, dealing with allegations lacking in particulars and details, in Neelu Chopra v. Bharti (2009) 10 SCC 184, this court observed that:

â€œ7. â€¦what strikes us is that there are no particulars given as to the date on which the ornaments were handed over, as to the exact number of ornaments or their

description and as to the date when the ornaments were asked back and were refused. Even the weight of the ornaments is not mentioned in the complaint, and it is a

general and vague complaint that the ornaments were sometimes given in the custody of the appellants and they were not returned. What strikes us more is that even

in Para 10 of the complaint, where the complainant says that she asked for her clothes and ornaments, which were given to the accused, and they refused to give

these back, the date is significantly absent.â€

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12. The complaint also refers to a small incident where the complainant's brother accompanied her to the matrimonial house when appellants no. 1 and 3 are alleged to

have refused to take her back, but on persuasion by her brother, she was allowed to stay. There is also a vague allegation that, when the complainant gave birth to a

second child, appellants 1 and 2 came and â€œquarrelledâ€ with the complainant, her brother, and her parents and threatened them. This Court had occasion to

examine the phenomenon of general and omnibus allegations in the cases of matrimonial disputes. In Mamidi Anil Kumar Reddy v. State of A.P. 2024 SCC OnLine SC

127, this Court observed that:

â€œ14. â€¦A bare perusal of the complaint, statement of witnesses and the charge sheet show that the allegations against the Appellants are wholly general and

omnibus in nature; even if they are taken in their entirety, they do not prima facie make out a case against the Appellants. The material on record neither discloses

any particulars of the offences alleged nor discloses the specific role/allegations assigned to any of the Appellants in the commission of the offences.

15. The phenomenon of false implication by way of general omnibus allegations in the course of matrimonial disputes is not unknown to this Court.

In Kahkashan Kausar alias Sonam v. State of Bihar, this Court dealt with a similar case wherein the allegations made by the complainant-wife against her in-laws u/s.

498A and others were vague and general, lacking any specific role and particulars. The court proceeded to quash the FIR against the accused persons and noted that

such a situation if left unchecked, would result in the abuse of the process of law.â€

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13.1 In Kahkashan Kausar v. State of Bihar (2022) 6 SCC 599, this Court noticed the injustice that may be caused when parties are forced to go through

tribulations of a trial based on general and omnibus allegations. The relevant portion of the observation is as under:

â€œ11. â€¦in recent times, matrimonial litigation in the country has also increased significantly, and there is greater disaffection and friction surrounding the institution

of marriage now more than ever. This has resulted in an increased tendency to employ provisions such as Section 498-A IPC as instruments to settle personal scores

against the husband and his relatives.

18. â€¦ upon a perusal of the contents of the FIR dated 1-4-2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that

â€œall accused harassed her mentally and threatened her of terminating her pregnancyâ€. Furthermore, no specific and distinct allegations have been made against

either of the appellants herein, i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This

simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are, therefore, general and

omnibus and can, at best, be said to have been made out on account of small skirmishesâ€¦ However, as far as the appellants are concerned, the allegations made

against them, being general and omnibus, do not warrant prosecution.

21. â€¦it would be unjust if the appellants are forced to go through the tribulations of a trial, i.e. general and omnibus allegations cannot manifest in a situation where

the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this Court in varied instances that a criminal trial leading to an

eventual acquittal also inflicts severe scars upon the accused, and such an exercise must, therefore, be discouraged.â€

32. ThisÂ positionÂ wasÂ reiteratedÂ inÂ D araÂ Lakshmi Narayana v. State of Telangana, 2024 SCC OnLine SC 368,2 wherein it was

observed:

18. A bare perusal of the FIR shows that the allegations made by respondent No. 2 are vague and omnibus. Other than claiming that appellant No. 1 harassed her and

that appellant Nos. 2 to 6 instigated him to do so, respondent No. 2 has not provided any specific details or described any particular instance of harassment. She has

also not mentioned the time, date, place, or manner in which the alleged harassment occurred. Therefore, the FIR lacks concrete and precise allegations.

33. In the present case, the informant, her husband and her son have made general and vague statements without any particulars, and the statements

are not sufficient to constitute cruelty.

34. Dalip Chand (PW4) stated that the deceased disclosed to him that her in-laws were pressurising her to settle the marriage of her younger sister

with accused Shashi Pal, and she was depressed due to this fact. Neelam (PW5) stated that the deceased had talked about the pressure being exerted

by her in-laws to settle the marriage of her younger sister, Manjeet, with accused, Shashi Pal. These statements only prove that the marriage of

accused, Shashi Pal and the younger sister of the deceased was being settled. Joginder Lal (PW2), the informant Jai Dei, and Jagroop Singh (PW3)

admitted that Shashi Pal was married, whereas Manjeet, the younger sister of the deceased, was unmarried. This shows that accused Shashi had no

difficulty in getting married, and this fact would not have led the accused to compel the deceased to commit suicide if she was unable to get her sister

engaged to accused Shashi Pal.

35. It was laid down by Honâ€™ble Supreme Court in Naresh Kumar versus the State of Haryana (2024) 3 SCC 573t hat the prosecution is

required to prove that the accused had created such circumstances that the deceased was left with no other option but to commit suicide. The Court

cannot conclude that a woman was being harassed because she had committed suicide. It was observed:

â€œ17. This Court in Geo Varghese v. State of Rajasthan [Geo Varghese v. State of Rajasthan, (2021) 19 SCC 144], considering the provisions of Section 306IPC

along with the definition of abetment under Section 107IPC observed as under: (SCC pp. 149-50, paras 14-16)

â€œ14. Section 306IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. â€¦

15. The ordinary dictionary meaning of the word â€œinstigateâ€ is to bring about or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of

Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618: 2002 SCC (Cri) 1088], has defined the word â€œinstigateâ€ as under : (SCC p. 629, para

20)

â€˜20. Instigation is to goad, urge forward, provoke, incite or encourage to do â€œan actâ€.â€™

16. The scope and ambit of Section 107 IPC and its co-relation with Section 306 IPC have been discussed repeatedly by this Court. In S.S. Chheena v. Vijay Kumar

Mahajan [S.S. Chheena v. Vijay Kumar Mahajan, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465], it was observed as under : (SCC p. 197, para 25)

â€˜25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. Without a positive act on the part of the accused

to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is

clear that in order to convict a person under Section 306IPC, there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which

led the deceased to commit suicide seeing no option, and that act must have been intended to push the deceased into such a position that he committed

suicide.â€™â€

18. This Court in M. Arjunan v. State [M. Arjunan v. State, (2019) 3 SCC 315: (2019) 2 SCC (Cri) 219], while explaining the necessary ingredients of Section 306

IPC in detail, observed as under : (SCC p. 317, para 7)

â€œ7. The essential ingredients of the offence under Section 306IPC are (i) the abetment and (ii) the intention of the accused to aid or instigate or abet the deceased

to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There

should be evidence capable of suggesting that the accused intended by such an act to instigate the deceased to commit suicide. Unless the ingredients of

instigation/abetment to commit suicide are satisfied, the accused cannot be convicted under Section 306IPC.â€

19. ThisÂ CourtÂ in UdeÂ Singh v. StateÂ ofÂ Haryana [Ude Singh v. State of Haryana, (2019) 17 SCC 301: (2020) 3 SCC (Cri) 306], held that to convict an

accused under Section 306IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. It was observed as under:

(SCC pp. 321-22, para 16)

â€œ16. In cases of alleged abetment of suicide, there must be proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed

that the question of the cause of suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one involving multifaceted and complex

attributes of human behaviour and responses/reactions. In the case of an accusation of abetment of suicide, the court would be looking for cogent and convincing

proof of the act(s) of incitement to the commission of suicide. In the case of suicide, a mere allegation of harassment of the deceased by another person would not

suffice unless there be such action on the part of the accused which compels the person to commit suicide, and such an offending action ought to be proximate to the

time of occurrence. Whether a person has abetted in the commission of suicide by another or not could only be gathered from the facts and circumstances of each

case.

16.1. For the purpose of finding out if a person has abetted the commission of suicide by another, the consideration would be if the accused is guilty of the act of

instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or

encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a

similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused, by his

acts and by his continuous course of conduct, creates a situation which leads the deceased to perceive no other option except to commit suicide, the case may fall

within the four corners of Section 306IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the

victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be

examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than

harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the

deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate

analysis of human behaviour, each case is required to be examined on its own facts while taking note of all the surrounding factors having bearing on the actions and

psyche of the accused and the deceased.â€

20. ThisÂ CourtÂ in MarianoÂ AntoÂ Bruno v. State [Mariano Anto Bruno v. State, (2023) 15 SCC 560: 2022 SCC OnLine SC 1387], after referring to the

above-referred decisions rendered in the context of culpability under Section 306IPC observed as under: (SCC para 45)

â€œ45. â€¦ It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of

suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or

compelled the person to commit suicide, a conviction in terms of Section 306IPC is not sustainable.â€

21. This Court in Gurcharan Singh v. State of Punjab [Gurcharan Singh v. State of Punjab, (2020) 10 SCC 200: (2021) 1 SCC (Cri) 417], observed that whenever

a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted in doing that thing. To prove the

offence of abetment, as specified under Section 107IPC, the state of mind to commit a particular crime must be visible to determine the culpability.

22. This Court in Kashibai v. State of Karnataka [Kashibai v. State of Karnataka, (2023) 15 SCC 751: 2023 SCC OnLine SC 575], observed that to bring the case

within the purview of â€œabetmentâ€ under Section 107IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional aid on the part of the

accused and for the purpose proving the charge under Section 306IPC, also there has to be an evidence with regard to the positive act on the part of the accused to

instigate or aid to drive a person to commit suicide.

23. Had there been any clinching evidence of incessant harassment on account of which the wife was left with no other option but to put an end to her life, it could

have been said that the accused intended the consequences of his act, namely, suicide. A person intends a consequence when he (1) foresees that it will happen if

the given series of acts or omissions continue and (2) desires it to happen. The most serious level of culpability, justifying the most serious levels of punishment, is

achieved when both these components are actually present in the accused's mind (a â€œsubjectiveâ€ test).

24. For intention in English law, Section 8 of the Criminal Justice Act, 1967, provides the frame in which the mens rea is assessed. It states:

â€œA court or jury, in determining whether a person has committed an offence,

(a) shall not be bound in law to infer that he intended or foresaw a result of his actions by reasons only of its being a natural and probable consequence of those

actions but

(b) shall decide whether he did intend or foresee that result by reference to all the evidence, drawing such inferences from the evidence as appear proper in the

circumstances.â€

Under Section 8(b), therefore, the jury is allowed wide latitude in applying a hybrid test to impute intent or foresight on the basis of all the evidence.

25. It is now well settled that in order to convict a person under Section 306IPC, there has to be a clear mens rea to commit the offence. Mere harassment is not

sufficient to hold an accused guilty of abetting the commission of suicide. It also requires an active act or direct act which led the deceased to commit suicide. The

ingredient of mens rea cannot be assumed to be ostensibly present but has to be visible and conspicuous.

36. It was submitted that the deceased had committed suicide within seven years of her marriage, and presumption under Section 113A of the Indian

Evidence Act applies to the present case. This submission is not acceptable. It was laid down by the Honâ€™ble Supreme Court inN aresh (supra)

that the presumption under Section 113 A of the Indian Evidence Act will only apply when there is proof of the cruelty. It was observed:-

â€œ29. Section 113-A of the Evidence Act requires proof : (1) that her husband or relatives subjected her to cruelty and (2) that the married woman committed suicide

within a period of seven years from the date of her marriage.

30. Although it is not necessary for us to refer to Section 113-B of the Evidence Act, which raises a presumption as to dowry death yet, with a view to indicate the

fine distinction between the two presumptions, we are referring to Section 113-B. In Section 113-A, the legislature has used the word â€œmayâ€, whereas in Section

113-B, the word used is â€œshallâ€.

31. In this appeal, we are concerned with Section 113-A of the Evidence Act. The mere fact that the deceased committed suicide within a period of seven years of her

marriage, the presumption under Section 113-A of the Evidence Act, would not automatically apply. The legislative mandate is that where a woman commits suicide

within seven years of her marriage, and it is shown that her husband or any relative of her husband had subjected her to cruelty, the presumption under Section 113-

A of the Evidence Act may be raised, having regard to all other circumstances of the case, that such suicide had been abetted by her husband or by such relative of

her husband.

32. What is important to note is that the term â€œthe court may presume having regard to all other circumstances of the case that such suicide had been abetted by

her husbandâ€ would indicate that the presumption is discretionary, unlike the presumption under Section 113-B of the Evidence Act, which is mandatory. Therefore,

before the presumption under Section 113-A is raised, the prosecution must show evidence of cruelty or incessant harassment in that regard.

33. The court should be extremely careful in assessing evidence under Section 113-A for finding out if cruelty was meted out. If it transpires that a victim committing

suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such

petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court

would not be satisfied for holding that the accused charged of abetting the offence of suicide was guilty.

34. Section 113-A has been interpreted by this Court in Lakhjit Singh v. State of Punjab [Lakhjit Singh v. State of Punjab, 1994 Supp (1) SCC 173: 1994 SCC (Cri)

235], Pawan Kumar v. StateÂ Â ofÂ Haryana [PawanÂ Â Kumar v. State of Haryana,Â (1998) 3 SCCÂ 309:Â 1998Â SCC (Cri) 740] and Shanti v. State of

Haryana [Shanti v. State of Haryana, (1991) 1 SCC 371: 1991 SCC (Cri) 191].

35. This Court has held that from the mere fact of suicide within seven years of marriage, one should not jump to the conclusion of abetment unless cruelty was

proved. The court has the discretion to raise or not to raise the presumption because of the words â€œmay presumeâ€. It must take into account all the circumstances

of the case, which is an additional safeguard.

36. In the absence of any cogent evidence of harassment or cruelty, an accused cannot be held guilty of the offence under Section 306IPC by raising a presumption

under Section 113-A.â€

37. Sanjiv Kumar (PW7) stated that on the intervening night of 22nd and 23rd June 2011, Kamla Devi came to his home and disclosed that Sandesh

Kumar was serious and had to be shifted to Una. He and Dharam Pal went towards the hospital with Sandesh Kumari on a motorcycle. An

Ambulance met them on the way, and Sandesh Kumari was shifted to the Ambulance. She was taken in the Ambulance to Regional Hospital, Una.

This shows that Kamla Devi had approached her neighbour to take the deceased to the hospital. The conduct of the accused is inconsistent with their

guilt. It was laid down by the Honâ€™ble Supreme Court in State of Rajasthan v. Prithvi Raj, 1995 Supp (3) SCC 410: 1995 SCC (Cri) 93 4that

where the accused took the deceased to the hospital, it is quite consistent with their innocence. It was observed at page 412:

â€œ5. It is true, as contended by the learned counsel, that the manner of appreciation of the evidence in respect of the dying declaration is not altogether sound. But

the High Court has rightly held that the immediate conduct of the accused and his parents in rushing the deceased to the hospital immediately by arranging a

jeep is quite consistent with their being innocent. However, we find that the overall reasoning of the High Court in giving the benefit of the doubt to the accused

cannot be said to be wholly unsound and does not stand judicial scrutinyâ€¦â€

38. The complaint (Ex. PW-1/A) was made after three days of the incident. Initially, no suspicion was expressed. It was wrongly stated in the

complaint that the deceased had told her parents about the harassment on the way to PGI Chandigarh. It was laid down in Mehraj Singh v. State of

U.P. (1994) 5 SCC 188 that the delay in lodging FIR leads to embellishments, concoction and fabrication and, therefore, the Court should see the

prosecution case with utmost care and caution in case of delay. It was observed:

FIR in a criminal case and particularly in a murder case is a vital and valuable piece of evidence for the purpose of appreciating the evidence led at the trial. The

object of insisting upon prompt lodging of the FIR is to obtain the earliest information regarding the circumstance in which the crime was committed, including the

names of the actual culprits and the parts played by them, the weapons, if any, used, as also the names of the eyewitnesses, if any. Delay in lodging the FIR often

results in embellishment, which is a creature of an afterthought. On account of the delay, the FIR not only gets bereft of the advantage of spontaneity, but danger

also creeps in the introduction of a coloured version or exaggerated story. With a view to determine whether the FIR was lodged at the time it is alleged to have been

recorded, the courts generally look for certain external checks. One of the checks is the receipt of the copy of the FIR, called a special report in a murder case, by the

local Magistrate. If this report is received by the Magistrate late, it can give rise to an inference that the FIR was not lodged at the time it is alleged to have been

recorded unless, of course, the prosecution can offer a satisfactory explanation for the delay in dispatching or receipt of the copy of the FIR by the local Magistrate.

The prosecution has led no evidence at all in this behalf. The second external check equally important is the sending of a copy of the FIR along with the dead body

and its reference in the inquest report. Even though the inquest, prepared under Section 174 CrPC, is aimed at serving a statutory function, to lend credence to the

prosecution case, the details of the FIR and the gist of statements recorded during inquest proceedings get reflected in the report. The absence of those details is

indicative of the fact that the prosecution story was still in an embryo state and had not been given any shape and that the FIR came to be recorded later on after due

deliberations and consultations and was then ante-timed to give it the colour of a promptly lodged FIR. In our opinion, on account of the infirmities as noticed above,

the FIR has lost its value and authenticity, and it appears to us that the same has been ante-timed and had not been recorded till the inquest proceedings were over at

the spot by PW 8.

39. This position was reiterated in P Rajagopal vs State of Tamil Nadu 2019 (5) SCC 40, wherein it was observed: -

â€œ12. Normally, the Court may reject the case of the prosecution in case of inordinate delay in lodging the first information report because of the possibility of a

concoction of evidence by the prosecution. However, if the delay is satisfactorily explained, the Court will decide the matter on merits without giving much

importance to such delay. The Court is duty-bound to determine whether the explanation afforded is plausible enough given the facts and circumstances of the case.

The delay may be condoned if the complainant appears to be reliable and without any motive for implicating the accused falsely. [See Apren Joseph v. State of

Kerala, (1973) 3 SCC 114; Mukesh v. State (NCT of Delhi), (2017) 6 SCC 1].â€

40. Thus, learned Trial Court was justified in doubting the prosecution case due to the delay in reporting the matter to the police.

41. No other point was urged.

42. In view of the above, the learned Trial Court had taken a reasonable view, which could have been taken based on the general/vague statements

made by the prosecution witnesses, the dying declaration made by the deceased and the statement of Joginder Lal (PW2). No interference is required

with the view of the learned Trial Court while deciding the appeal against the acquittal. Accordingly, the present appeal fails, and the same is

dismissed.

43. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha Sanhita, 2023), the

respondents/accused are directed to furnish bail bonds in the sum of ₹25,000/-each with one surety each in the like amount to the satisfaction of the

learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed

against this judgment, or on grant of the leave, the respondents/accused on receipt of notice thereof, shall appear before the Honâ€™ble Supreme

Court.

44. A copy of this judgment along with the record of the learned Trial Court be sent back forthwith. Pending applications, if any, also stand disposed

of.