

## State of Haryana Vs Suresh Kumar and Others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** April 7, 1992

**Acts Referred:** Criminal Procedure Code, 1973 (CrPC) â€” Section 313

Evidence Act, 1872 â€” Section 113A

Penal Code, 1860 (IPC) â€” Section 306, 498A

**Citation:** (1993) CriLJ 1400

**Hon'ble Judges:** V.K. Bali, J; Amrit Lal Bahri, J

**Bench:** Division Bench

**Advocate:** Sunil Gaur, for the Appellant; T.S. Sangha, for the Respondent

**Final Decision:** Dismissed

### Judgement

V.K. Bali, J.

Is it because of the wilful conduct of such magnitude as was likely to drive Nirmala also known as Mohni a young married

lady to commit suicide by burning herself or is it the non-compatibility and non-adjustment in the family of her husband and in-laws that provoked

her to put an end to her life is the question that has been posed to us for determination by the State of Haryana in appeal against the order of

acquittal recorded by Additional Sessions Judge, Ambala. Before, however, the question posed by the State is answered, it shall be useful to

extract, in brief, the prosecution version that led to a trial of Suresh Kumar, the husband, Krishna Wati, the mother-in-law and Rajni, sister-in-law.

Nirmala was married to accused Suresh Kumar who had earlier also married which marriage was dissolved on consent of the parties, on June 24,

1983, Nirmala had not even seen the four seasons in a year of her married life when admittedly she put an end to her life by sprinkling kerosene oil

on her clothes and lighting the same with a match stick on March 25, 1984 Gobind Ram, father of the hapless married lady lodged First Information

Report on the same very day, as admittedly he was informed by the father of Suresh Kumar accused on telephone. In the First Information Report

that was recorded by Ved Raj Inspector, it was made out that Gobind Ram had given sufficient gift items like furniture, Radio, fan and jewellery in

dowry and had spent more than his capacity. The husband of Nirmala, her mother-in-law and sister-in-law were yet not satisfied and they kept on

taunting Nirmala for having brought insufficient dowry. It is also made out in the First Information Report that Suresh Kumar used to beat Nirmala.

The cruelty to which Nirmala was subjected came to be known by Gobind Ram whenever his daughter visited his house. Besides general things,

Gobind Ram was specifically told that she was being asked to get an amount of Rs. 30,000/- from him so that Suresh Kumar could buy a vehicle.

Not only that Gobind Ram was so told by Nirmala but he also came to know about the treatment meted out to her, from his another daughter

namely Saroj Rani who is stated to have visited him only three or four days before the date of occurrence. Saroj Rani is stated to have received

letter from Nirmala wherein woeful story of deceased with regard to harassment was mentioned. Gobind Ram has further stated in the First

Information Report that on the date of occurrence, he was present at the shop of one Lala Hari Parshad with whom he was working as a Muneem

when he received a telephone call from Yamuna Nagar informing him that Nirmala had died due to burn injuries. Obviously, on receipt of

information, he rushed to Yamuna Nagar where to his complete dismay and disappointment he found the dead body of his daughter lying in the

room of the house belonging to the accused. In the meantime, the police had also reached there where he made his statement. It is further made out

in the First Information Report that his daughter had been burnt after being killed by her in laws namely her husband Suresh Kumar, sister-in-law

Rajni and mother-in-law Krishna Wati due to bringing less dowry and for not bringing an amount of Rs. 30,000/-. Immediately after stating in the

First Information Report that his daughter had been burnt after being killed, he also stated that she had committed suicide by burning herself after

being harassed by the accused.

2. The police, on the information aforesaid, investigated the matter but far from collecting any evidence with regard to the first allegation of Gobind

Ram with regard to murder of Nirmala, not even a clue in that direction could be found and, therefore, in ultimate analysis the challan against the

accused was put up u/s 306 of the Indian Penal Code. Admittedly the accused were tried on a charge framed against them u/s 306 of the Indian

Penal Code.

3. The prosecution endeavoured to bring home the offence against the accused on the strength of evidence of Dr. Kamal Krishan P.W.1, Gobind

Ram P.W. 2, Saroj Rani P.W. 3, Ram Pal P.W. 4, Chuni Lal P.W. 5, Sushil Kumar Draftsman P.W. 6, Sushil Kumar Photographer P.W. 7,

A.S.I. Amar Singh P.W. 8, Inspector Ved Raj P.W. 9 and H. C. Laxmi Narain P.W. 10. Whereas the evidence of Dr. Kamal Krishan P.W. 1

proves that the death of Nirmala was on account of burn injuries which fact, otherwise, is not disputed by the defence, the other relevant witnesses

in the case are Gobind Ram P.W. 2, Saroj Rani P.W. 3, Ram Pal P.W. 4 and Chuni Lal P.W. 5 besides the Investigating Officers.

4. The prosecution has also relied upon an undated letter which had admittedly been received by the sister of the deceased a few days before her

death and which had been proved on the record as Ex.PF.

5. The accused in their statements u/s 313 of the Criminal Procedure Code denied the allegations of prosecution and pleaded innocence. They also

led defence by way of examining Rajni accused as her own witness with the permission of the Court and one Pran Nath as D.W. 2. After trial, the

Additional Sessions Judge Ambala returned a verdict of acquittal vide his judgment dated October 27, 1984 and it is against this judgment of

acquittal that the State of Haryana has filed the present appeal.

6. Before the matter is dealt with any further and the contentions raised by the State counsel are noticed, it requires to be mentioned that as per

provisions of Section 113A of the Indian Evidence Act presumption as to abetment has to be raised. Admittedly Nirmala has committed suicide

within one year of her marriage and Section 113A was inserted by Act 46 of 1983 i.e. prior to the date of occurrence. Admittedly cruelty shall

take its colour and meaning as defined in Section 498A of the Indian Penal Code. It shall, thus, have to be seen as to whether the allegations made

by the prosecution amount to wilful conduct of such a nature as was likely to drive Nirmala to commit suicide or that she was harassed or

coerced to meet unlawful demands for any property or valuable security. With a view to find out what has been mentioned above, it shall be useful

to see the contents of letter which was received by the sister of the deceased a few days before her death. The said letter is perhaps the best

evidence available with the prosecution. Translated into English, the aforesaid letter runs thus:--

Respected Jijaji and sister,

Namaste.

Many days ago I had written to you. Sister, you please visit Raj because his father has expired. I cannot tell my tale of woe, Neither I can die nor

live now because Lalji did not think about my future. All the day my mother in law and Rajni pick up quarrel with me and my husband does not

give respect to me at all. I am frightened when I write a letter. I cannot write letter to anyone sister today nobody is present at home that is why I

am telling you my tale of woe. Please don't write anything at Ladwa about my sufferings. My husband comes at 11/12 p.m. under influence of

liquor and on coming starts scolding me. I work all the day and even at night. I don't get love of anyone. Today I am very much perturbed but

cannot express my agony to anyone. I think that Almighty should give me death if he cannot provide any pleasure to me. In the morning if I resist

my husband for taking much liquor, my mother-in-law starts quarrelling with me. Now, all the day she has been quarrelling with me on the issue of

Poonam. Sister, I don't know whether I will write you in future or not. Please don't write anything at Ladwa. Regards for Jijaji and you. Love to

my younger brothers Kali and Sonu. Please don't send any reply.

Yours perturbed sister

Meena Rani.

7. The prosecution, as referred to above, has also relied upon the evidence of P.W. Gobind Ram father of the deceased. There is no need to

discuss his evidence as the same is in tune with the First Information Report lodged by him narration of which has already been given. P.W. 3

Saroj Rani stated that a couple of days after marriage when Nirmala along with accused Suresh Kumar had come to Ladwa and when she was still

there, Nirmala had told her that after marriage when she had gone to her in-laws, she was asked by her mother-in-law as also her sister-in-law that

she had not brought any dowry and that she was not good looking. The witness i.e. Saroj Rani, in turn, had told the deceased that these were

minor matters and would settle down in due course of time. The aforesaid witness also proved letter Ex.PF and that said letter was traced, after

some search, of course, after the death of Nirmala and was handed over to the police. P.W. 4 Ram Pal is the husband of P.W. Saroj Rani. His

evidence is no different than that of his wife. Chuni Lal P.W. 5 was examined only with a view to prove that his daughter Suresh Kumari was

earlier married to Suresh Kumar accused and only after 3/4 months of the marriage, his daughter had complained that Suresh Kumar was raising

demands and inasmuch as there was a dispute between his daughter and Suresh Kumar accused, the marriage was dissolved through the

panchayat and writing Ex. PO did come into being vide which the marriage between his daughter and Suresh Kumar was dissolved.

8. P.W. 8 A.S.I. Amar Singh of Police Station City Yamuna Nagar has proved his visit to the place of occurrence after receiving a telephonic call

in the police station that a lady in house No. 32 has died on account of burn injuries. On his visit: to the said place, he found both the lady accused

present. He also found that Gobind Ram, father of the deceased, his wife alongwith his daughter and son had already reached there. The father of

accused Gaya Ram was also present. He also proves having recorded the statement of Gobind Ram. P.W. 9 Inspector Ved Raj thereafter

conducted further investigation in the matter.

9. On the strength of evidence, narration of which has been given above, the learned State counsel contends that letter Ex.PF which has been

proved to have been written by the deceased just six days prior to her death points towards the involvement of the accused in this gruesome crime

and when the contents of letter Ex.PF were fully corroborated by father, sister and brother-in-law of the deceased and when provisions contained

in Section 113A of the Evidence Act required presumption to be drawn against the accused for their having abetted commission on suicide, the

learned Additional Sessions Judge was not at all justified in recording a finding of acquittal.

10. We have given our anxious thought to the contentions raised by the learned State counsel which, on the first impression, looked to be very

plausible but after going through the complete record particularly the statements of the witnesses referred to above and on considering the matter

again and again, we have reached to the conclusion that even though it may be a case bordering on the culpability of the accused, the same,

however, falls short of the penal provisions thus resulting into giving benefit of doubt to the accused It shall be seen from the contents of letter

Ex.PF that there is not a word that might even remotely suggest harassment meted out to her on account of any unlawful demand. The cruelty of

which presumption has to be drawn u/s 113A of the Evidence Act and which cruelty has been defined in Section 498A, I.P.C., in so far as at least

Clause (b) of the said Section is concerned, it would not be there at all.

11. Now coming to Clause (a) of the explanation attached to Section 498A, IPC, it shall be seen that the wilful conduct has to be of such a nature

as is likely to drive the woman to commit suicide or to cause grave injury or danger to life. The contents of letter, in our considered view, even if

believed, will not be enough to derive Nirmala to commit suicide. Further the contents of letter ex.PF do not point towards the demand of any of

the accused. The evidence of P.W. 2 Gobind Ram and P.W. 3 Saroj Rani on the said count is contradictory and that being so, the same cannot be

relied upon. P.W. 3 Saroj Rani stated that it was only one or two days after the marriage that Nirmala deceased had come to Ladwa alongwith her

husband where she had told her that her mother-in-law and sister-in-law had been telling her that she had not brought any dowry and that she was

not good looking. Gobind Ram, P.W. 2, on the other hand, has nowhere stated that Nirmala visited Ladwa just after one or two days of the

marriage. On the other hand, he stated that it was only after three weeks to the marriage when Nirmala had come to Ladwa she had told him that

she was being harassed by the accused on the count that she had not brought sufficient dowry and that she was not good looking as also that

Suresh Kumar had demanded an amount of Rs. 30,000/- from her for purchasing a truck. It is further made out from his statement in his cross-

examination that Nirmala had visited Ladwa only once after the marriage when she had stayed with him for a period of about 15/20 days and

thereafter visited him only twice, once at the time of ""Karwa Chouth"" and second time in the month of January. Further Saroj Rani P.W. admitted

in her cross-examination that when she herself had visited the deceased at her house about a month or 11/2 month after the marriage, she found

her relations with accused Suresh Kumar to be cordial. As referred to above, the statement of husband of Saroj Rani is no different either in

examination-in-chief or in cross-examination. In so far as harassment meted out to Nirmala on account of her being not good looking is concerned

again, the evidence that has been led on the point does not inspire confidence. Saroj Rani P.W. herself is a fair complexion woman as also she has

normal features. During the cross-examination, she admitted that her deceased sister had also the same complexion as she herself has. If, as a

matter of fact, it has been proved on the records that the deceased was a lady of fair complexion and had normal features then it will be unsafe to

believe that she was taunted or harassed on the ground that she was not good looking. The harassment, as referred to above, has been sought to

be proved on account of insufficient dowry, deceased being not good looking as also that she was given beatings very frequently by Suresh Kumar

accused. The evidence of harassment on the score of beating is also not worthy of credence. Gobind Ram who is the main witness to that effect

has admitted that he visited Yamuna Nagar on 2/3 occasions after the marriage of Nirmala and he had been telephoning the father-in-law of his

daughter almost once every month. In none of those visits or telephonic calls, he ever complained about the harassment meted out to his, daughter

on account of beatings given by Suresh Kumar accused. If Nirmala was subjected to brutal treatment by her husband, it appears to us to be

natural that the father of the deceased ought to have talked over it, if to none else, then to at least father of accused Suresh Kumar whom he had

met 2/3 times after the marriage and was contacting him on telephone from Ladwa every month.

12. Coming now to the contents of the letter, the impression that we have gathered is that the allegations made against the accused individually or

collectively were not of that magnitude that might have coerced the deceased to put an end to her life. It is true that every lady in her thinking and

imagination dreams of better and enjoyable life after marriage and that the behaviour of the accused was wholly unbecoming and that a lady who

had gone to another house after having lived in her parents house for first 21/22 years of her life should have been treated in an affectionate

manner. Far from getting any love and affect on, she was meted with quite a rough treatment but as stated in the earlier part of the judgment, the

allegations made in the letter, even if found to be true, in our view, would border on involvement of the accused for abetting the commission of

suicide but would fall short of the dimensions which are enough for a normal human being to commit suicide. The domestic work that a young

married woman was asked to do, the late coming of the husband of the woman at night time drunk and his not giving much love and affection to his

wife as also the scolding of her mother-in-law when the lady had made a complaint about her husband in the morning, condemnable though, were

not such acts of cruelty that would necessarily persuade the lady to commit suicide. The words in the letter that she was unhappy ""Dukhi"" and was

neither alive nor dead as also that she may not be in a position to write another letter are suggestive of the turmoil in the mind of lady but the same

itself are not suggestive of any cruelty or harassment meted out to her. The late coming of the husband who happens to be a truck driver in a

drunken condition and getting angry with her and her not getting any love after the whole day's work are suggestive that the atmosphere in the

house of the accused was not conducive to the happy living of the young lady. In the circumstances that have been detailed above, whereas we feel

pained to know the way Nirmala had put an end to her life, we have no choice in the matter but for to endorse the findings of acquittal recorded by

Additional Sessions Judge, Ambala. The benefit of doubt has to be given to the accused.

13. After appraisal of entire evidence, the Additional Sessions Judge came to a correct conclusion and thus, finding no scope for interference, we

dismiss this appeal.