
(2009) 11 P&H CK 0191

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 931-SB and 1575 of 2006

Gurpreet Singh and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Nov. 19, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 304B

Citation: (2009) 32 CriminalCC 215

Hon'ble Judges: Harbans Lal, J

Bench: Single Bench

Advocate: Navkiran Singh, for the Appellant; Pawan Kumar with Mr. Saqib Ali Khan and Mr. T.S. Salana, DAG, Punjab, for the Respondent

Final Decision: Dismissed

Judgement

Harbans Lal, J.

This judgment shall dispose of Criminal Appeal No.931- SB of 2006 filed by the accused Gurpreet Singh, his sister Sarabjit Kaur and his mother Gurdev Kaur against the judgment/order of sentence dated 09.05.2006 passed by the Court of learned Sessions Judge, Sangrur whereby he convicted and sentenced all the three above-mentioned accused to undergo rigorous imprisonment for seven years u/s 304-B of IPC as also Criminal Revision No. 1575 of 2006 moved by Kuldeep Singh complainant seeking enhancement of the awarded sentence to life imprisonment.

2. Shortly put, the facts of the prosecution case are that the marriage of Baljit Kaur was solemnised with Gurpreet Singh about five years before the occurrence by spending an amount of Rs.5,50,000/-. A sum of Rs. 1,50,000/- was given in cash. The accused kept her properly for one year. Thereafter, they started demanding dowry. For performing the marriage of Sarabjit Kaur, a sum of Rupees Five Lacs was demanded. Gurpreet Singh brought Baljit Kaur to her parental house and dropped her there by asking her to come with money. She was taken back to her matrimonial

home at which an amount of Rupees Two Lacs was handed over to the accused. About ten days prior to her death, Baljit Kaur came to her parental house and narrated that Gurpreet Singh, Gurdev Kaur and Sarabjit Kaur have been harassing her for bringing Rs.5 lacs, which were required for sending Sarabjit Kaur abroad as she had been married, but divorce took place. About 4 to 5 days before her death, she rang up and told that all the three accused had been harassing her for fetching the aforesaid cash amount. On 05.11.2003, Gurpreet Singh made a telephonic call that Baljit Kaur being ill, has been got admitted in the hospital at Ludhiana. She was having two daughters and was again in the family way. Kuldeep Singh brother of Baljit Kaur along with his mother Shinder Kaur and his uncle Harnek Singh went to Daya Nand Medical College & Hospital, Ludhiana and found her dead body lying there. The doctor told that due to consumption of poisonous substance, she has died. On the basis of Kuldeep Singh's statement, the case was registered. In due course, the accused were arrested. After completion of investigation, the charge-sheet was laid in the Court for their trial.

3. The accused were charged under Sections 304-B/498-A of IPC to which they did not plead guilty and claimed trial. To bring home guilt against the accused, the prosecution examined Kuldeep Singh PW1, Rakesh Kumar PW2, Jaswant Singh PW3, Dr.Gurwinder Singh PW4, Harwinder Singh PW5, Krishan Kumar PW6, Mukhtiar Singh PW7, HC Sukhwinder Singh PW8, Girdhari Lal PW9, Buta Singh PW10, HC Bhupinder Singh PW11, Sub-Inspector Ravinder Singh PW12 and closed its evidence. When examined u/s 313 of Cr.P.C. all the three accused denied the incriminating circumstances appearing in the prosecution evidence against them and pleaded innocence. Gurpreet Singh accused came up with the following plea:-

I am innocent. I have been falsely implicated in this case. I never harassed Baljit Kaur in connection with dowry articles or otherwise. We were under huge debts. I Gurpreet Singh and Baljit Kaur were the karta of family. We have already two daughters and now Baljit Kaur was pregnant. Some Nurse told her that this time also, there was girl in her womb due to which Baljit Kaur used to remain under depression because we were already under debts due to which she consumed some poisonous substance lying in house. We tried our best to save her and took her to DMC & Hospital, Ludhiana. Doctors provided her best treatment, but she could not be saved. We gave information to parents of Baljit Kaur, in anger and due to exhortation of his relatives, got this false case registered against us. Police arrested me and my mother from hospital and my sister was brought from her village Alamwala where she is married. We have been implicated falsely.

4. His co-accused Sarabjit Kaur as well as Gurdev Kaur have adopted similar pleas. In their defence, they examined Dr.Hari Singh DW1, Sukhdev Singh Manager. Central Co-operative Bank, Sandhaur DW2, Karamjit Kaur DW3, Dr.Guljit, High Tech Scan Centre, near Kalyani Hospital, Rajkot Road, (Ludhiana) Jagraon DW4, Sukhwinder Singh Branch Manager, State Bank of Patiala, Lohatbadi DW5 and closed their

defence evidence.

5. After hearing the learned Public Prosecutor for the State, the learned defence counsel and examining the evidence on record, the learned trial Court convicted and sentenced all the three accused as noticed at the outset. Feeling aggrieved with their conviction/sentence, they have preferred Criminal Appeal No.931-SB of 2006. The complainant Kuldeep Singh being dissatisfied with the sentence inflicted by the learned trial Court upon the appellants has moved Criminal Revision No. 1575 of 2006 seeking enhancement of sentence to life imprisonment.

6. Mr.Navkiran Singh, Advocate appearing on behalf of the appellants canvassed at the bar that the prosecution case is mainly dependent on the statement of Kuldeep Singh PW1, brother of the deceased, who has solemnly affirmed that they had spent substantial amount on the marriage of his sister and after about one year of the marriage, the accused started demanding dowry and when the marriage of the accused Sarabjit Kaur was to be performed, a demand of Rs.5 lacs was made from the parents of the deceased and that the accused Gurpreet Singh had brought Baljit Kaur deceased to their house and dropped over there and asked her to come back with money. He has further deposed that they had taken her to the house of the accused and also gave them Rs.2 lacs in the presence of Sarpanch Saun Singh and Mukhtiar Singh mediator. He farther states that ten days before her death, she had come to their house and told them that she was being harassed by the accused for fetching Rs.5 lacs, which they required for sending the accused Sarabjit Kaur to a foreign country as a divorce had taken place between Sarabjit Kaur-accused and her husband. He has further alleged that 4-5 days before her death, this deceased made a phone call and informed that she was being harassed by the accused for not bringing the aforesaid cash amount. However, she died on 05.11.2003 and the family was informed by the accused. His version is not at all trustworthy as the commission agent from whom, the arranged for money to be paid to the accused has not been examined. So much so, even Saun Singh Sarpanch, who had allegedly accompanied Major Singh father of the deceased as well as Mukhtiar Singh PW7 at the time of payment of Rs.2 lacs to meet the demand of the accused has not been examined. Even if, the said demand is taken to be a gospel truth, the same is too remote and too stale to be considered to be a reason for the deceased to consume poisonous substance. The alleged payment of Rs.2 lacs though not specific as no date is mentioned, if calculated, relates at least to three and half years before the alleged consumption of poisonous substance by the deceased and so cannot be considered to be the cause of death. Since the alleged demand being met is too remote and stale, does not meet the ingredients of Section 304-B of IPC as the same is not "soon before her death" and so cannot be taken into consideration. To buttress this stance, he has sought to place abundant reliance upon the observations rendered by the Apex Court in re : Kamesh Panjiyar @ Kamlesh Panjiyar v. State of Bihar, 2005(1) Apex Court Judgments 448(S.C.) :2005(1) Criminal Court Cases 935 (S.C.) : 2005(1) RCR(Criminal) 861, wherein it has been held that "If

offence of cruelty has become stale enough not to disturb the mental equilibrium of woman concerned, it would not make an offence." So, the facts and circumstances do not fulfil the ingredients of the charged offence.

7. It has been further agitated at the bar on behalf of the appellants that it has been amply proved on the record by way of defence evidence that the deceased was subjected to ultra sound for her abdomen pain and it is also the case of the appellants that the deceased already having two female children, on having a hint from the nurse, felt depressed and since the family had already been under debt, so she committed suicide and her killing herself has no relation to the act and conduct of the appellants. Gurpreet Singh - appellant left his wife and cared for her and had even purchased insurance of Rs.1 lac in his name in which the deceased was shown to be the beneficiary. Had the relationship between the husband and wife not been cordial, Gurpreet Singh appellant would have opted his mother to be the beneficiary instead of his wife. Even in the bank account, he has shown his wife to be his nominee. It is also borne out from the defence evidence that the appellant Gurpreet Singh had opened the recurring deposit account in the name of his daughters, which also discloses his affection towards his children. Thus, the action of the deceased of committing suicide in no manner can be linked to the act and conduct of the appellants and sequently the conviction u/s 304-B of IPC was totally uncalled for.

8. To tide over these submissions, Mr.T.S.Salana, learned State Counsel being assisted by Mr.Pawan Kumar, Senior Advocate countered these arguments by urging with a good deal of force that the testimony of Mukhtiar Singh PW7 speaks volumes of the fact that to keep alive the happiness of the deceased, her parents Pave cash amount of Rs.2 lacs to the appellants in his presence as well as in the presence of Saun Singh. As a matter of fact, earlier this amount was required for the marriage of Sarabjit Kaur- appellant and when the divorce took place between her and her husband, the appellants started pressurising the deceased to fetch an amount of Rs.5 lacs from her parents for sending the appellant-Sarabjit Kaur abroad. Furthermore, as transpires from Kuldeep Singh's statement, about 4 to 5 days prior to her death, the deceased had informed her parents that the appellants were exerting pressure upon her to bring such a huge amount and when this demand could not be met. the situation came to a boiling point, which forced the deceased to commit suicide. Thus, the charged offence against all the appellants stands well established. They further put that the sentenced inflicted by the learned trial Court does not commensurate with the gravity of offence and that being so, the same may be enhanced to life imprisonment.

I have well considered the rival contentions.

9. In re:- Appasaheb & Anr. v. State of Maharashtra, 2007(1) Apex Court Judgments 290 (S.C.) : 2007(1) Criminal Court Cases 555 (S.C.) : 2007(1) RCR(Criminal) 747, it has been observed as under: -

Two essential ingredients of Section 304-B of IPC, apart from others, are (i) death of woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and (ii) woman is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for "dowry". The explanation appended to sub-section (1) of Section 304-B IPC says that "dowry" shall have the same meaning as in Section 2 of Dowry Prohibition Act, 1961.

Section 2 of Dowry Prohibition Act read as under:-

2. Definition of "dowry" - In this Act "dowry" means any property or valuable security given or agreed to be given either directly or indirectly.

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parent of either party to a marriage or by an other person, to either party to the marriage or to any other person, at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (shariat) applies.

In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of Statutes that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (See [Union of India and others Vs. Garware Nylons Ltd. etc.](#), and [Chemical and Fibres of India Ltd. Vs. Union of India and others](#),). A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry " as defined in Section 2 "of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz., demand for dowry is not established, the conviction of the appellants cannot be sustained.

10. In re : Kishangiri Mangalgiri Goswami v. State of Gujarat, 2009(3) Apex Court Judgments 084 (S.C.) : 2009(3) Criminal Court Cases 707 (S.C.) : 2009(1) RCR(Criminal) 947, the allegation against the accused (husband) was that he had sent letters to in-laws demanding Rs.40,000/- for purchase of house besides there being the

allegation of torture and harassment to wife demanding dowry. The defence evidence showed that the accused had purchased valuable silver ornaments for the deceased and in his insurance policy, the deceased was shown to be his nominee. The accused himself had taken the deceased to the hospital. The accused was acquitted of the charge u/s 306 of IPC but convicted u/s 498-A of IPC and Section 3 of Dowry Prohibition Act.

11. Adverting to the facts of the instant case. Major Singh father of the deceased had allegedly paid an amount of Rs.2 lacs to the appellants. He has not been produced at the trial, though admittedly, he is alive. It is in the cross-examination of Kuldeep Singh (sic.) that "The amount of Rs.2 lacs was taken from Ajaib Singh commission agent resident of Village Hathoor, but I do not remember the date or month thereof." This Commission Agent has been kept off the witness box. The Commission Agency being run by Ajaib Singh might have been maintaining the accounts with regards to the advancement of loans or other transactions. For non-production of Ajaib Singh, an adverse inference has to be drawn u/s 114 Illustration (g) of the Evidence Act that this amount was not borrowed from this agency for being paid to the appellants. I go a step further. For a little while, if it is assumed that this amount was paid over to the appellants, nonetheless, the demand of this amount is too remote and too stale to hold that the appellants had put the deceased to harassment for fetching this amount from her parents. Of course, Mukhtiar Singh PW7, who had acted as a go between in the marriage of Baljit Kaur deceased with Gurpreet Singh accused, has testified that we had paid the amount of Rs.2 lacs to them (referring to the appellants), but to my mind. Major Singh, who had allegedly handed over this amount to the appellants was the best person to depose about it. Mukhtiar Singh (sic.) has solemnly affirmed that Major Singh is son of my maternal uncle. In the face of this relationship, it was not difficult for the complainant party to procure the services of this witness Mukhtiar Singh to depose with regards to the payment of the said amount. As testified by Mukhtiar Singh (sic), Saun Singh Sarpanch of Village Kalyani was also with them when they gave the said amount to the appellants. To the utter consternation of the prosecution. Saun Singh Sarpanch has also been held back for the reasons best known to the prosecution. Thus, we are left with the bald statement of Mukhtiar Singh, who being closely related to the complainant party was bound to depose in favour of the latter.

12. Coming to the alleged demand of Rs.5 lacs, needless to say, this amount was demanded for sending Sarabjit Kaur abroad as she was divorced by her husband. Doubtless that the death of Baljit Kaur has occurred within seven years of her marriage, but there is no evidence to the with the demand of dowry. In re : Appasaheb & Anr. (supra), for about six months, Bhimabai was treated well, but thereafter the accused had started asking her to bring Rs. 1,000-1,200/- from her parents to meet the household expenses and also for purchasing manure. Bhimabai had committed suicide by consuming "Thimet" which is extensively used by the

farmers for preservation of crops and is kept stored in their houses. Hon"ble the Supreme Court after having discussed the scope of the provisions of Sections 304-B, 306 and 498-A of IPC had set aside the judgment and order dated 23.02.2005 of the High Court as well as the order dated 04.01.1993 of the learned Sessions Judge vide which the appellants were convicted u/s 304-B of IPC. In the instant case, as per the evidence tendered by effect that she was subjected to cruelty or harassment for or in connection Sukhdev Singh DW2 Manager, Central Co-operative Bank, Sandhaur, on the basis of official record, the accused Gurpreet Singh has an account No.1282 in their bank and in the insurance for Rs.1 lac, he has nominated his wife Baljit Kaur (deceased) as his wife and that the photocopy of account opening form is Ex.DA. On the basis of official record, Sukhwinder Singh DW5 Branch Manager, State Bank of Patiala, Lohatbadi has deposed that Gurpreet Singh son of Dogar Singh of Village Kalyan (referring to the appellant) is having a similar account in their bank and that he had filled account opening/admission form, copy of which is Ex.DC, In re : Kishangiri Manealgiri Goswami (supra), the accused had demanded Rs.40,000/- for the purchase of house and the defence evidence had revealed that the accused in his insurance policy has shown the deceased, i.e., his wife to be his nominee. He himself had removed the deceased to the hospital. In the present one, Dr.Gurwinder Singh PW4 has stated that "I have perused the report of Chemical Examiner Ex.P9 on which basis, cause of death in this case is due to choloroconipound group of insecticide poison which was sufficient to cause death in ordinary course of nature." It is in the cross-examination of Kuldeep Singh (sic.) that "The telephonic call 4 to 5 days before the death of Baljit Kaur was received at my house by my mother. We did not go to the village of the accused during those 4 or 5 days. I do not know if Baljit Kaur was taken to the hospital by Gurpreet Singh. We did not deposit an charges in DMC Hospital. I did not come to know if Baljit Kaur was taken to the hospital by Gurpreet Singh. I did not try to find it out. We have received the message about her admission in hospital at about 9:00 or 9:30 A.M. We reached the hospital, after about 1 or 2 hours of receipt of telephonic call." It is inferable from this evidence that in fact, the deceased was got admitted in DMC Hospital, Ludhiana by the accused party. Thus, taking into consideration the afore-referred facts and circumstances of the case, it transpires that the facts of the instant case are somewhat identical with Kishangiri Mangulgiri Goswami's case (supra) as well as Appasaheb's case (supra). Thus, if the matter is viewed in the background of these authorities as well as the law referred to hereinbefore, the demand of Rs.2 Lacs though it is stale or of Rs.5 lacs does not fall within the definition of dowry as described in Section 2 of the Dowry Prohibition Act, 1961. On viewing the facts of the present one, in the light of the afore-quoted case law, it turns out that no offence u/s 30-B (304-B) of IPC is established.

Section 306 of IPC reads as under: -

306. Abetment of suicide. - If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either

description for a term which may extend to ten years, and shall also be liable to fine.

Classification of Offence. - The offence under this section is cognizable, non-bailable, non-compoundable and triable by Court of Session.

13. It has been manifested in plain words in the language of this Section by the legislature that the abetment is most important ingredient of the offence and the abetment is not defined separately in this Section. Therefore, Section 107 of IPC which defines abetment is referable at this stage in which the ingredients of the abetment are explained. Section 107 ibid reads as under:-

107. Abetment of a thing. - A person abets the doing of a thing, who -

First. - Instigates any person to do that thing; or

Secondly. - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly. - Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1. - A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2. - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.

14. It is apparent that the three ingredients are basic requirement for determining the case of abetment. Firstly, the concerning person, who committed suicide should be instigated by the accused for the same and by secondly, there should be an involvement of the accused in conspiracy, whereby the deceased committed said act and thirdly, there should be intentional criminal aids to the deceased at the instance of the accused either act or by omission for doing such act. On examining the facts of the case, even a single ingredient of the offence is not made out on the given evidence. Thus to say the least of it, the offence u/s 306 of IPC is also not proved.

15. The thrust of the argument raised on behalf of the appellants that the deceased had already got two daughters and she was pregnant for the third time. She was told by some nurse that she will give birth to a female baby again and her husband Gurpreet Singh being under debt, the deceased was upset as to how they will marry off the three daughters being under debt over heads and ears and for this reason, she committed suicide.

16. I have given a deep and thoughtful consideration to this submission. As already noticed, the prosecution evidence has fallen short of establishing the offence u/s

304-B or 306 of IPC.

17. In [Pawan Kumar and Others Vs. State of Haryana](#), it has been observed by the Supreme Court as under:-

.....cruelty or harassment need not be physical. Even mental torture in a given case would be a case of cruelty and harassment within the meaning of Sections 304-B and 498-A, IPC. Explanation (a) to Section 498-A itself refers to both mental and physical cruelty.....Again wilful conduct means, conduct wilfully done; this may be inferred by direct or indirect evidence which could be construed to be such. A girl dreams of great days ahead with hope and aspiration when entering into a marriage, and if from the very next day the husband starts taunting her for not bringing dowry and calling her ugly, there cannot be greater mental torture, harassment or cruelty for bride.

18. In [Gananath Pattnaik Vs. State of Orissa](#), it has been held by the Supreme Court as under:-

The concept of cruelty and its effect varies from individual to individual, also depending upon the social and economic status to which such person belongs. "Cruelty" for the purposes of constituting the offence under the aforesaid section need not be physical. Even mental torture or abnormal behaviour may amount to cruelty and harassment in a given case.

19. In [Mohd. Hoshan and Another Vs. State of A.P.](#), it has been laid down by the Supreme Court as under:-

The impact of complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or endurance to withstand such mental cruelty

20. In *Ramesh Kumar v. State of Chhattisgarh* 2001 SCC 618, it has been ruled by the Supreme Court as under:-

Sections 498-A and 306, IPC are independent and constitute different offences. Though depending on the facts and circumstances of an individual case, subjecting a woman to cruelty may amount to an offence u/s 498-A and also, if a course of conduct amounting to cruelty is established leaving no other option for the woman except to commit suicide, amounts to abetment to commit suicide.....

21. In [Hans Raj Vs. State of Haryana](#), it has been observed by the Supreme Court as under:-

.....Under Section 113-A of the Indian Evidence Act, the prosecution has first to establish that the woman concerned committed suicide within a period of seven years from the date of her marriage and that her husband (in this case) had

subjected her to cruelty. Even if these facts are established, the court is not bound to presume that the suicide had been abetted by her husband. Section 113-A gives discretion to the court to raise such a presumption having regard to all the other circumstances of the case, which means that where the allegations is of cruelty it must consider the nature of cruelty to which the woman was subjected, having regard to the meaning of the word "cruelty" in Section 498-A, IPC. The mere fact that a woman committed suicide within seven years of her marriage and that she had been subjected to cruelty by her husband, does not automatically give rise to the presumption that the suicide had been abetted by her husband. The court is required to look into all the other circumstances of the case. One of the circumstances which has to be considered by the court is whether the alleged cruelty was of such nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman.....

22. Harking back to the instant one, it does not stand to the logic that the deceased would have resorted to commit suicide merely because she has already got two female babies. The appellants in their respective statutory statements have come up with a specific plea that some nurse had told the deceased that this time also, there was girl in her womb, but as is borne out from the record, there is no cogent, convincing and clear evidence to the effect that the deceased was bound to give birth to the female baby again. Dr.Hari Singh DW1 has deposed that as per Serial No.10 dated 31.10.2003 Baljit Kaur wife of Gurpreet Singh came to my hospital with pregnancy and complained of pain in abdomen and he referred her for scanning and he gave her treatment and, thereafter, she did not visit him. Under the stress of cross-examination, he has admitted that he did not conduct any test for pregnancy. Further, Dr.Guljit Singh DW4 has deposed that he conducted ultra-sound of Baljit Kaur wife of Gurpreet Singh resident of Village Kalyan on 31.10.2003 for foetus well being and prepared the report which was handed over to the patient and he made entry in his register regarding the diagnosis. The appellants have not examined any other doctor in their defence to prove that the sex of the baby inside the womb of the deceased was got determined and an opinion was given that the same was a female baby. The appellants have not examined the nurse, who had told the deceased that she will deliver a female baby third time. Thus, in the absence of such evidence, how it can be presumed that the deceased had taken the decision to commit suicide as she was told that she will give birth to a female baby again.

23. As regards debt story, it is in the evidence of Mukhtiar Singh PW7 that "Gurpreet Singh is the only son of his parents and they had 11 or 12 kilas of land. His father has since died. He has a pacca house the village." In view of this evidence, it does not lie in the mouth of the appellants to contend that they were impecunious. The record is quite barren to show that they were under heavy debts. If it be so, they could have examined their creditors. In the absence of such evidence, it is very difficult to sustain their plea of being under heavy debts. Section 498-A of IPC reads as under:-

498-A. Husband or relative of husband of a woman subjecting her to cruelty. - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. - For the purpose of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

24. The object of introducing Chapter XX-A containing this Section was to prevent the torture to a woman by her husband or by relatives of her husband. This Section was added with a view to punishing a husband and his relatives, who harass or torture the wife to coerce her or her relatives to satisfy, unlawful demands of dowry. In any event, the wilful act or conduct ought to be the proximate cause in order to bring home the charge under this Section. To have an event some time back cannot be termed to be a factum taken note of in the matter of a charge under this Section. [State of West Bengal Vs. Orilal Jaiswal and another](#), it has been held that an offence u/s 498-A of IPC is made out, if the woman is subjected to physical assault, humiliation, harassment and mental torture. [Satpal Vs. State of Haryana](#), the Supreme Court held that even though the prosecution evidence was not sufficient to establish charge under Sections 304-B or 306 IPC, conviction u/s 498-A IPC can be upheld because the deceased was treated with cruelty by the appellant.

25. Adverting to the case in hand, the deceased lost her life by committing suicide. On appraisal of the evidence trickled from the respective mouths of Kuldeep Singh PW1 as well as Mukhtiar Singh PW7, it stands demonstrated that harassment to which the deceased was subjected had direct bearing on suicide committed by the deceased. Thus, I am convinced that the prosecution has succeeded in proving that the appellants had subjected the deceased to cruelty within the meaning of Clause (a) of the Explanation appearing below Section 498-A of IPC and the mere fact that the statements of the said witnesses have not been found to be convincing for sustaining the conviction of the appellants u/s 304-B of IPC on the premise that all the ingredients of Section 304-B of IPC have not been established is not sufficient to discard the prosecution case as a whole.

26. As a sequel of the above discussion, the appellants are hereby acquitted of the charge u/s 304-B of IPC, but their conviction u/s 498-A of IPC is maintained. "The learned trial Court has mentioned that since all the accused have been convicted u/s 304-B of IPC, there is no need to record separate conviction u/s 498-A of IPC." The

maximum sentence provided u/s 498-A of IPC is three years as apart from fine. As per the custody certificates taken on record. Gurpreet Singh, Gurdev Kaur and Sarabjit Kaur-appellants have undergone 3 years 8 months and 7 days, 00 years 09 months and 12 days, and 00 years 05 months and 16 days respectively of the actual sentence. The appellants have been facing the agony of trial since 2003. Thus, this incidence is a little bit more than six years old. To my mind, the ends of justice shall be adequately met, if the sentence is reduced to the already undergone. In the ultimate analysis, the appeal is partly accepted. It is axiomatic that Gurpreet Singh appellant has undergone more than the maximum substantive sentence prescribed u/s 498-A of IPC. The sentence qua Gurdev Kaur as well as Sarabjit Kaur is reduced to the extent indicated above.

As a sequel of the above discussion, Criminal Revision No. 1575 of 2006 preferred by Kuldeep Singh complainant stands dismissed.