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(1993) 04 MP CK 0005

Madhya Pradesh High Court (Indore Bench)

Case No: Criminal Appeal No"s. 254 and 256 of 1992

Ratanlal and Another etc.	APPELLANT
Vs	
State of M.P.	RESPONDENT

Date of Decision: April 20, 1993

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 161
- Dowry Prohibition Act, 1961 - Section 2, 3
- Evidence Act, 1872 - Section 113B, 133B
- Penal Code, 1860 (IPC) - Section 304B, 304B(2), 306

Citation: (1993) CriLJ 3723 : (1993) ILR (MP) 252

Hon'ble Judges: A.G. Qureshi, J

Bench: Single Bench

Advocate: Jaisingh, for the Appellant; Pawan Kumar, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

A.G. Qureshi, J.
This Judgment shall dispose of Criminal Appeal No. 254 of 1992 and Criminal Appeal No. 256 of 1992 filed by Ratanlal and Shantabai and Ravindra separately aggrieved by the Judgment, dated, 9-6-1992, passed by the Addl. Sessions Judge Ujjain in S.T. No. 106 of 1990. Whereby the appellants have been convicted for committing the offences under Sections 306 and 304B of the Indian Penal Code and sentencing each of them to 10 years R.I. for committing the offence u/s 304B and 7 years R.I. with a fine of Rs. 200/- each u/s 306, I.P.C. and failing to pay the fine, sentence of one month"s S.I. Both the sentences are directed to run concurrently.

2. The facts leading to this appeal in short are that the police Jiwajigang submitted a charge-sheet before the competent Magistrate against the present appellants u/s 304B

and 306, I.P.C. who committed the case to the court of session. In the sessions court charges u/s 304B and 306, I.P.C. were framed against the appellants, who abjured guilt. After the trial, the lower court convicted and sentenced the appellants as above. Hence this appeal.

3. According to the prosecution story, the accused Ravindra was married to the deceased Usha on 8-12-1982 according to Hindu rites. At the time of the marriage, a demand of dowry was made and a dowry of Rs. 30,000/- was settled and the marriage was performed. After the marriage for demanding more dowry, the deceased was being harassed and thereupon she on 5/9/1989 consumed poisonous substance due to which she expired. It has also been alleged that on the night of the incident itself the in-laws Ratanlal and Shantabai insulted the deceased and Ravindra due to which she committed suicide. The room was closed. It was opened with the help of the tenant. It was found that Usha was lying unconscious on the bed. She was rushed to the hospital where the doctor declared her dead. A report was sent by the compounder to the Police Station, Jiwajigang on telephone, where upon Murg No. 19 of 1989 was registered. During the investigation, the Police found that the accused-appellants are responsible for committing the offence under Sections 304B and 306, I.P.C. Therefore, they registered the offence and after completion of the investigation submitted the charge-sheet.The learned trial Court found that the circumstances and specially the letter written by the deceased points to this fact that the appellants committed the offence under Sections 304B and 306, I.P.C. Hence he found that the appellants are guilty of the offences with which they are charged.

4. It has not been disputed before me that Ravindra was wedded to Usha in 1982. It has also not been disputed before me that Usha died on 6-9-1989 at Ujjain because she consumed sulphas pills. The appellant Ratanlal is the father of the appellant Ravindra and the appellant Shantabai is the mother. However, Shri J.P. Gupta, learned counsel for the appellants assailed the findings of the lower court on the ground that the lower court has not properly appreciated the evidence but has drawn all the inference against the appellants, whereas the benefit should have been given to the appellants. It is a case wherein the benefit on all the issues in the case have been given in the prosecution and the defects in the prosecution story have been explained by the Judge himself, thus basing the finding only on conjectures and surmises.

5. The first argument of Shri Gupta is that according to the prosecution, the date of marriage of Ravindra was 8/12/1982. Whereas the defence story is that the marriage was performed in the summer season of 1982. Actually 8/12/1982 has been stated to bring the case in the purview of Section 113B of the Indian Evidence Act because if the marriage is held to be on 8/12/1982, then the death would be held to be committed within 7 years of the marriage but if it is held that the marriage was performed in the summer season, then it will not come within the purview of 7 years. Shri Gupta has taken me through the evidence and argues that the evidence is discrepant and unreliable and when a presumption has to be drawn against the accused the evidence should be cogent and reliable.

6. On perusing the evidence, I find that Ghanshyamdas (P.W. 1) has stated in para 1 that the marriage took place on 8/12/1982 but in para 8 of his statement he has admitted that the marriage cards were printed but still no documentary evidence regarding the date of marriage has been filed in the Court. Laxmibai (P.W. 2), mother of Usha and Shankarlal (P.W. 3), maternal uncle of Usha and Haridas (P.W. 12) have not stated that the marriage took place in the month of December. Ghanshyamdas does not remember the date of Tilak and other important dates. No independent witness has been examined to prove the date of marriage. In this background the statement of Jitendra (P.W. 5) who is not related to either of the parties but only a tenant and who had regular correspondence with the deceased becomes very material. He has stated in para 7 that Usha was married with Ravindra in the summer season. It means that the marriage might have been performed some where between March and June of the year 1982 and not in December. The learned lower Court has given two reasons for disbelieving the defence version on this ground. The first is that the suggestion of the defence in cross-examination to the witness was that the marriage was performed in the month of June, whereas in the statement u/s 313 the accused has said that it was performed in the month of April. I fail to understand the approach of the learned Judge in this respect. It is not the duty of the defence to prove its case. It is for the prosecution to prove its case specially in such circumstances that the prosecution wants the Court to bring the case in purview of Section 113B of the Evidence Act, and Section 304B, IPC. The provisions contained in aforesaid sections are a departure from the normal rule of evidence and a presumption has to be raised against the accused in those cases where the death has occurred unnaturaly within seven years of marriage. These special provisions have been inserted by the legislature in the Evidence Act and Indian Penal Code to place the responsibility on the husband or the in-laws in case of a death of a woman within 7 years of the marriage.

7. Section 133B of the Indian Evidence Act reads as under:--

"When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation-- For the purpose of this section "dowry death" shall have the same meaning as in Section 304B of Indian Penal Code (45 of 1860)."

As such Section 113B of the Evidence Act raises a presumption against the accused of committing the dowry death of a woman and, therefore, in view of the explanation to the section where it has been held that dowry death shall have the same meaning as in Section 304B of the Indian Penal Code. It is necessary for the prosecution to lead such cogent and reliable evidence which may prove conclusively that the death has been caused within 7 years of the marriage.

8. Section 304B of the Indian Penal Code defines a dowry death which says that where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death" and such husband or relative shall be deemed to have caused her death. In the explanation, it has been provided that for the purposes of this sub-section, "dowry" shall have the same meaning as in Section 2 of the Dowry prohibition Act, 1961. Sub-section (2) of Section 304B, IPC provides the minimum sentence of 7 years rigorous imprisonment for the dowry death and this imprisonment may extend to imprisonment for life.

As such, when the prosecution wants to bring the case within the purview of Section 304B, it is the duty of the prosecution to prove to the hilt that the death was caused within 7 years of the marriage. In the instant case, the evidence shown that except for Ghanshyamdas (P.W. 1) no one has said that the marriage took place on 8/12/1982. The other relatives are silent on this point and there is no reliable and cogent evidence to prove the date of marriage. Even the marriage card has not been produced to prove the exact date of the marriage. This date of the marriage has been challenged by the defence and if a suggestion by the counsel of the defence of a particular date may vary with the statement of the accused is respect of the exact death, it will not be sufficient to raise a presumption against the accused. Please see Sakariya Vs. State of M.P., wherein it has been held that suggestion thrown to a prosecution witness under cross-examination cannot be used as an implied admission.

9. Now before the Court there are two versions one is that of the defence and the other of the prosecution. In this respect the evidence of Jitendra (P.W. 5) is very important. Jitendra (P.W. 5) has stated that the marriage was performed in the summer. Jitendra (P.W. 5) is an independent witness, although the lower Court has condemned him as a hostile witness but the prosecution has not declared him hostile and he has not been cross-examined on this point. There is no discrepancy at all in the statement of Jitendra which may make his testimony doubtful. I fail to understand on what ground the Court has rejected the testimony of such an important witness, holding him as an interested witness. In my opinion, the Court has erred in rejecting the testimony of Jigendra. In any case the testimony of Jitendra along with the defence version and the absence of cogent evidence by the prosecution, it cannot be held proved that the marriage was performed on 8/12/1982. Therefore, it appears highly probable that the marriage was performed in the summer 1982. As such, this case clearly goes out of the purview of Section 113B of the Evidence Act and the presumption u/s 304B of the Indian Penal Code can also not be drawn. When the presumption has to be drawn against the accused departing from the settled principles of criminal jurisprudence that it is the prosecution which has to prove its case to the hilt, then the prosecution is duty bound to lead cogent and reliable evidence which may prove the circumstances which may be sufficient for raising such a

presumption and the prosecution having utterly failed to do so, in the present case, the lower Court has clearly erred in basing its findings on the discrepancy in the version of the accused and the suggestion in the cross-examination for holding that the prosecution has proved the date of marriage.

10. The learned counsel has next argued that the case of the prosecution regarding harassment and demand of dowry based on oral evidence should be scrutinised minutely specially when the testimony comes from the relatives of the deceased who are naturally hostile to the accused and interested witnesses. In this respect in the case of Sharad Birdhichand Sarda Vs. State of Maharashtra, the Supreme Court has observed as under (para 48):

"Before discussing the evidence of the witnesses we might mention a few preliminary remarks against the background of which the oral statements are to be considered. All persons to whom the oral statements are said to have been made by Manju when she visited Beed for the last time, are close relatives and friends of the deceased. In view of the close relationship and affection any person in the position of the witness would naturally have a tendency to exaggerate or add facts which may not have been stated to them at all. Not that this is done consciously but even unconsciously the love and affection for the deceased would create a psychological hatred against the supposed murderer and therefore the Court has to examine such evidence with very great care and caution. Even if the witnesses were speaking a part of the truth or perhaps the whole of it, they would be guided by a spirit of revenge or nemesis against the accused person and in this process certain facts which may not or could not have been stated may be imagined to have been stated unconsciously by the witnesses in order to see that the offender is punished. This is human psychology and no one can help it.

It has also been argued that u/s 3 of the Dowry Prohibition Act, 1961, the act of dowry is also an offence and so. P.W. 1, P.W. 2, P.W. 3 and P.W. 12 are also offenders and, therefore, they are accomplice as held by the Supreme Court in Panalal Damodar Rathi Vs. State of Maharashtra, and, therefore, without corrobora-tion of their testimony by the independent witness, there can be no conviction.

11. In view of the aforesaid principles let us look the testimony of witnesses. In the instant case Ghanshyamdas (P.W. 1) has stated that the marriage was performed after paying a dowry of Rs. 30,000/- in cash and goods and he had also given a scooter to his son-in-law. He further states that the demand continued after the marriage and his daughter was not being treated with respect. Some times she was driven away from the house. Four years back a girl was born to her. When she was pregnant he accompanied by Shri Savliaji Rathore had gone to the house of Ratanlal. At that time Ratanlal has abused him and tried to beat him. Then he went to the house of Ratanlal with the other persons of the community i.e. Laxminarayan Rathore electrician. Mangilal and Ramgopal. At the behest of these persons, Ratanlal has sent the girl with him. After the delivery Usha had gone back to her in-laws with her husband Ravindra. Thereafter also the

in-laws used to taunt the girl that she had not brought anything and if she did not bring any money, they would drive her away or kill her. After the death of Usha they came to know that the in-laws had beaten his daughter due to which she committed suicide. He also proves Ex. P-2, a letter written by her daughter. In cross-examination, he states that instead of going to the house of the accused persons, he had gone to the house of Mangilal because he has intimate relations with him. He denies the suggestion that the younger son of Mangilal used to go to the house of the accused persons and the accused did not object of Usha''s going to the house of Mangilal. He also denies the suggestion that in-laws used to object going of Usha to the house of Mangilal. He also denies that the in-laws had complained to him that Usha goes to the house of Mangilal despite their objection to it. As regards the letter Ex. P-1 he says that he did not bring the letter with him but the Police had asked for that letter which he produced before the police after one or two months of this incident. In para 8, he says that the cards of marriage of Usha were printed but he has not brought any feard with him. The person, who was the mediator in marriage was Kedarsingh Tomar, who was the tenant of the accused persons. It was only after two or three years of the marriage that Usha told them that she had been driven out of the home. He also admits that four persons who had gone to the house of the accused with him for conciliation are all alive. In para 14 he denies that letter (Ex. P-1) was with him when he gave the statement to the Police. He denies the statement (Ex. D-1) portion A to A u/s 161, Criminal Procedure Code. He also does not remember the date of the purchase of the scooter and the date of Tilak. He also does not remember the dates of giving the money to Usha on different occasions. He says that he did not give any notice about the mal treatment to Usha by the accused persons. He does not have any paper written by Usha except Ex. P-1. In para. 17 he states that he never wrote a letter to any of the accused complaining about the mal-treat-ment. On seeking letter Ex. D-2 in para. 18 he states that despite the mal-treatment of the deceased at the hands of the accused persons he had offered to marry his second daughter with the son of Ratanlal named Pappu. He admits that letter Ex. D-3 bears the signature of his daughter Kalpana but he cannot say whether Kalpana has written the letter (Ex. D-3). He admits that although the signatures on Ex. P-1 is of Usha but she never made similar signatures. On Ex. P-1 the signatures are in English and in short.

12. Laxmibai (P.W. 2) makes the similar statement about the marriage of Usha and payment of dowry and the casual demands by the in-laws of Usha. Contrary to the statement of Ghanshyam, she says that she had given goods worth about Rs. 10,000/- to 12,000/- after the delivery of the girl to Usha. In para. 2 of the cross-examination, she admits that the accused used to complain about the character of Usha. Her daughter had told her that fact also that her in-laws object her going to the house of Mangilal still she goes there. She further says that Usha had told her that the in-laws object to the visit of the son of Mangilal to her. She also admits that accused Ravindra used to treat her and her husband as his own mother and father prior to one year of the statement. Usha also used to say that she will stay with her in-laws and she will stay with the in-laws in whatever way they keep her. She never visited the house of the accused persons.

Shankarlal Rayakwar (P.W. 3) gives the statement about the marriage of Usha and he states that he had given Rs. 6,000/- to Usha which she wanted for the marriage of her sister-in-law. The statement of this witness has been recorded two months after the incident by the police. In cross-examination he states about the maltreatment of Usha that she never made any complaint to the in-laws or to anyone. This witness is the maternal uncle of the deceased.

13. Jitendra (P.W. 5) states that Usha was a girl of hot temperament and always used to fight. She never used to listen to her in-laws. He never heard about any quarrel between her and her inlaws. He had written a letter to Usha because Usha asked him about the date of marriage of sister-in-law. Ex. P-4 is a letter which he has written to Usha. He used to call Ravi as "Dada" and when Usha did not listen to him, he used to say that he will not call Usha and perform a second marriage. In cross-examination this witness states that he was in correspondence with Usha and he. knows her writing. He says that the writing (Ex. P-1) is not written by Usha and writing in Ex. P-2 is also not of Usha. The Court questioned him the basis of his statement, whereupon he says that on the basis of his memory he makes the statement. Then he says that he had received many letters from Usha, therefore, he knows her handwriting. He further states that when the door was forced open, he along with his father, Ravi and Ratanlal had entered the house and found Usha lying. They immediately lifted her and put her in a rickshaw and went to the hospital. He was also one of those who had lifted Usha. At the time of the incident, there was no bleeding from the mouth of Usha and there was no haematoma (Gumad) on her head. There was no injury on her body. Ravi and Shantabai had gone to the hospital and Ratanlal had gone on scooter (Hero Honda), they had left the house open. There was nothing in the house when they lifted Usha from the matresses and there was no paper around it. When the house was left open Mangilal had gone to the house and he was coming and going from the house. Usha used to visit the house of Mangilal despite the objection from her in-laws. Mangilal''s son used to come to the house of Usha. Usha never complained about the maltreatment by the in-laws.

14. Kaluran (P.W. 6) is the Panch witness. In his statement he states that when the Panchnama of the dead body was made, there were no injuries on the body of Usha and Usha used to go to the house of Mangilal all alone. Rameshwar (P.W. 7) is the Panch witness for the seizure of Ex. P. According to this witness, Ex. P-1 was seized at the police station at midnight. The Police told him that the paper was found in the house of the deceased. Dilip (P.W. 8) also said that the seizure memo was made at the Police Station Ex. P-7 spot map was also prepared at the Police Station. Mangilal (P.W. 9) states that Usha used to complain about her in-laws but he never paid any attention. He never asked as to why she was complaining. She never complained about her in-law, directly but she used to complain about her problem in her husband''s house. Then he says that she used to complain some trouble in the susral. He also came forward with the letter that one boy had given a letter to him. He states that he never disclosed this fact to anyone that Usha used to complain.

15. This is the total material evidence on record except the medical evidence. Now from the aforesaid evidence, two plausible reasons are on record for the suicide of Usha one that she was ill treated by her in-laws and the other that she was visiting the house of Mangilal at Ujjain and one of his sons used to visit her, which was objected by in-laws but she continued to meet the son of Mangilal and go to his house. Although the father of the girl Ghanshyam has denied the suggestion of the defence but Laxmibai mother of the deceased has admitted in para. 2 that Usha had told her that the accused persons objected to the going to Mangilal"s house and the visit of his son to her house. As regards the demand of Dahej from the statement of Ghanshyam and Laxmibai, it is manifest that they never made any complaint of this fact before the death of Usha to any one. He did not write a letter about this fact to any of the inlaws of Usha. Even though they have not been able to produce one letter of Usha but they said about the maltreatment to her. The most significant fact which makes the version of these witnesses highly unreliable is that the father of Usha had to admit in cross-examination when confronted with the letter written by him (Ex. D-2) that he had offered to get his second daughter married to the second son of Ratanlal. If actually the treatment of the inlaws of Usha would have been bad, then knowing fully well that the accused persons are greedy persons and torturing his daughter for Dehej, he would not have offered his second daughter in marriage to the younger brother of the accused Ravindra. This offer is very significant and makes the testimony of Ghanshyam and Laxmibai highly doubtful. In the light of the aforesaid evidence of the testimony of Ghanshyam and Laxmibai, if we see the evidence of Ravindra, we find that there were cordial relations in the family and no dispute took place because of the dowry. The only dispute was about the visit of Usha to the house of Mangilal and Mangilal"s son coming to Usha. Jitendra (P.W. 5) is an independent witness. The lower Court has rejected the testimony of Jitendra mainly on the ground that all the facts narrated by Jitendra were not narrated by him in his Police statement u/s 161, Criminal Procedure Code. This approach of the learned lower Court is erroneous and against the law. The Court cannot look into the statement recorded by the Police during investigation of any witness for appreciating his evidence before the Court. If the statement during investigation recorded u/s 161 have to be looked into, they have to be first confronted with any material statement or material omission and then that has to be proved by the officer who recorded the statement; then only such statement can be made use of by the Court. As such, the learned lower Court has erred in disbelieving the testimony of Jitendra on this ground. Jitendra is an independent witness and in his statement nothing has been brought out to show that he is telling a lie. On the other hand, the mother and father of the deceased are definitely interested witness. Jitendra (P.W. 5) is a person, who was on the spot, who was living in the same house and had regular correspondence with the deceased and he was naturally the person who could depose about the relationship of the deceased and the accused persons. Jitendra has not been declared hostile by the prosecution and not cross-examined to show that he has made such statement, which was against his statement u/s 161, Criminal Procedure Code. The testimony of Haridas (P.W. 12) about the talk with Usha in 1984 is also of no consequence. Such a statement not made in the proximity of the incident is not of any

use to the prosecution.

16. As regards the letter (Ex. P-2) which is alleged to have been written by Usha and found in her room. One of the panch witnesses Rameshwar to the Panchnama (Ex. P-6) has been examined, who says that Panchnama was prepared at the police station at midnight. The other witness Lekhraj has not been examined. Rameshwar in para. 2 of his statement has stated that the Police had told him that the paper has been found in the room of Usha. Rameshchandra Dube (P.W. 14) admits that when he went to the house there was no one in the house. The doors were open and he seized the letter from there. Jitendra (P.W. 5) states that when Usha was rushed to the hospital, there was no letter in the room but Mangilal had come to the house. As such, the recovery of Ex. P-2 is highly doubtful. Now the handwriting expert says that the writing on Exs. P-2 and P-1 are of the same person. To prove the handwriting of Usha, Exs. P-1, P-10 and P-11 have been produced as standard writing. P.W. 15 Deva-datta Tripathi admitted that he cannot say definitely that Ex. P-11 is of Usha. As regards Ex. P-10, Tripathi (P.W. 15) states that someone handed Ex. P-10 to him but he does not know the name of that person. This is also very strange circumstance, wherein the Police takes a letter as standard handwriting from someone whom the Police does not know. Now Ex. P-1 is seized by the Police according to the prosecution on 8-9-1989. Ghanshyam-das has stated that he produced Ex. P-1 after one or two months of the incident. He disowned his police statement (Ex. D-1) A to A in this behalf. As -such, the seizure of Ex. P-1 also becomes doubtful and further more Ghanshyam is not in a position to recognise the handwriting of Kalpana, whereas he states that Ex. P-1 is in the handwriting of Usha. These discrepancies have been explained by the lower Court by saying that there could be no doubt that Ex. P-1 having been sent but this does not prove that the letter was written in the handwriting of Usha and the seizure of Exs. P-1, P-2, P-10 and P-11 being highly suspicious, no reliance can be placed on the seizure of these letters by the police and as such there is no reliable evidence to show that the letter (Ex. P-2) was written by Usha. On the other hand, Jitendra (P.W. 5) who was in regular correspondence with Usha, states that Exs. P-1 and P-2 are not in the handwriting of Usha. The contents of Ex. P-2 also makes the letter highly doubtful where it has been written that she was beaten and blood was oozing from her nose. Dr. R. K. Dhavan (P.W. 4) in paras. 2 and 4 of his statement has admitted that there were no injuries on her body. Even in post mortem report there are no external injuries on the body of Usha. Kaluram (P.W. 6) makes a similar statement, who is the Panch witness of the dead body. Deodatta Tripathi (P.W. 15) also does not any that he found any injury on the body of Usha. Jitendra (P.W. 5) also says that there were no injuries on the body of Usha. The lower Court has relied on the Panchnama itself treating it as substantive piece of evidence, whereas it is the statement of the witness which is the substantive piece of evidence and not the Panchnama, unless the contents of the Panchnama are proved in the Court. As such, the contents of Ex. P-2 makes the letter very doubtful. Further more, the recovery itself is very strange. When the house was open, the police should have sealed the house and recovered the letter and other articles in the presence of the Panchas but the police entered the open house without its

occupant, without giving their search, without seeking permission of the owner of the house and made the seizure memo, which is not supported by the independent panchas or the independent evidence.

17. To conclude, from the aforesaid discussion, it is manifest that the prosecution has not been able to prove by means of cogent and reliable evidence that the death of Usha was caused within 7 years of her marriage and as such no presumption can be drawn against the accused on that ground. The allegation against the accused about harassment to Usha and demand of dowry are also not conclusively proved in view of the aforesaid discussion. The letter Ex. P-2 has been seized in the suspicious circumstances and the evidence on record is not sufficient to prove that it was written by Usha herself. There is no evidence on record to show that the accused persons either abetted or incited Usha for committing suicide. In the instant case, it may also be pointed that no independent witness except Jitendra of the locality has been produced by the prosecution to prove cruel treatment to Usha as alleged by the parents of the deceased by the inlaws on the deceased. Even those witnesses, who have been named by Ghanshyam have not been examined to prove the allegations of beating and torture.

18. In Mahaveersingh v. State of M. P.1987 MPLJ 403, it was held that though the parents have been examined to bring out the allegations of cruel treatment to deceased on non-fulfilment of demands made by the accused, it failed to examine any witness of the locality in the matter of alleged beating and torture. There were no ante mortem injuries found in the autopesy. The report of death was immediately lodged by the accused. In the aforesaid circumstances, the accused could not be held responsible for abetting or inciting the suicide or the suicide being caused due to cruelty and maltreatment or demand of dowry. In the instant case also the accused persons when found Usha unconscious, they immediately rushed her to the hospital. No injuries were found on her body by the doctor and the Panchas and no independent witnesses have been examined to prove the cruel treatment. Had there been a guilty mind the accused persons could not have rushed Usha to the hospital leaving the house open, not caring for anything but rushing her to the hospital.

19. In the result, the appeals of the appellants are allowed. Their conviction and sentence passed by the lower Court for committing offences under Sections 304B and 306 of the Indian Penal Code are set aside. The appellants are in jail. They be released forthwith if not required in any other offence.