

2025:PHHC:006654-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRA-D-475-DB-2005(O&M)

Date of Decision:-15.01.2025

Darshan Singh & Others

.....Appellants.

Vs.

State of Punjab

.....Respondent.

AND

CRR-1825-2005(O&M)

Sarabjit Singh

.....Petitioner.

Vs.

Darshan Singh & Others

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE GURVINDER SINGH GILL
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Vinod Ghai, Senior Advocate assisted by
Mr. Arnav Ghai, Advocate &
Ms. Kashish Sahni, Advocate for the Appellants
(in CRA-D-475-DB-2005).

Mr. Prabhdeep Singh Dhaliwal, Assistant Advocate General,
Punjab.

Ms. Ritu Punj, Advocate with
Mr. Sahaj Punj, Advocate for the Petitioner
(in CRR-1825-2005) &
for the complainant (in CRA-D-475-DB-2005).

JASJIT SINGH BEDI, J.

By this common order we shall dispose of both the aforementioned cases i.e. one appeal preferred by the accused/appellants and the second a criminal revision preferred by the complainant seeking enhancement of sentence as well as for awarding of compensation on account of the death of Manjinder Pal Kaur.

2. The aforementioned appeal has been filed against the judgment of conviction and order of sentence both dated 14/15.06.2005 passed by the Additional Sessions Judge, Moga.

3. As per record, the FIR came to be registered on 30.04.2004. The judgement of conviction was recorded on 14/15.06.2005. The appeal was filed in 2005. This case has come up for hearing today after more than 20 years of the registration of the FIR.

4. The prosecution version as extracted from the report under Section 173 Cr.P. C. is that on 30.4.2004 SI Gurdev Singh, SHO, police station Nihal Singh Wala was present at police station Nihal Singh Wala. Complainant-Sarabjit Singh son of Lal Singh resident of Meenia, police station, Badhni Kalan came to him and got recorded his statement that he was posted as a teacher Govt Takhtupura. He had four sisters and all were married. The youngest one was Manjinderpal Kaur (deceased) who was married on 7.2.2004 with Sukhwinder Singh son of Darshan Singh resident of Bilaspur as per Sikh rites and ceremonies. At the time of marriage, Sukhwinder Singh alongwith his father Darshan Singh and mother Manjit Kaur raised a demand that they would not take any item in dowry and instead cash should be paid. On settlement that Rs.2 Lacs would be paid and remaining all expenses would be borne by them, the engagement was

finalized. On the marriage he and his relatives spent Rs.1,50,000/-. Rs.2 Lacs were paid in cash because the accused were raising a kothi at Bilaspur. About one month prior to the occurrence, his sister Manjinder Pal Kaur and his brother-in-law (Jeeta) Sukhwinder Singh came to their village Meenian and Sukhwinder Singh started saying that they were in need of Rs.1,50,000/- more because doors of the Kothi were to be fitted and painted. He and his father Lal Singh said that they were poor persons and they were unable to pay more money. On saying this, Sukhwinder Singh felt annoyed and came back. He started picking up quarrels with Manjinderpal Kaur. It was about 2 a.m. on the night intervening 29/30.4.2004 Navkiran Singh came to his house and stated that Manjinder Pal Kaur had committed suicide by hanging. Navkiran Singh was posted as a teacher at Takhtupura with him. It was Navkiran Singh who had been the match maker between Manjinder Pal Kaur and Sukhwinder Singh. On receipt of such news, he, his father Lal Singh, Chhinder Pal Sarpanch of village and other respectables went to the spot and saw that the dead body of his sister Manjinder Pal Kaur was hanging against a window without wooden planks(Palleh). He left his maternal uncles (Mammas) Amarjit Singh and Kirpal Singh sons of Bachan Singh residents of Daudhar to keep a watch on the dead body and came to the police station to give information about the occurrence. Sukhwinder Singh, Darshan Singh and Manjit Kaur had either killed his sister on account of greed of dowry or his sister had committed suicide being tired of the accused.

On basis of the statement the FIR under Section 304-B IPC was registered. SI Gurdev Singh, SHO police station Nihal Singh Wala alongwith other police officials on official Gypsy bearing No: PB-08C-2290 driven by C. Satpal Singh by taking Sarabjit Singh, Lal Singh and Chhinder Pal Sarpanch alongwith him went to the place of occurrence at village

Bilaspur. Incharge of Police Post, Bilaspur was already found present there along with his staff. The SI inspected the place of occurrence. In the right hand side window of the house, wooden planks were not existing. Against such window with a 'parna' (Napkin) Manjinder Pal Kaur had ended her life by committing suicide by hanging. The dead body was brought down. Slippers which had fallen down were taken into possession. Inquest report on the dead body was prepared. It was entrusted to HC Manjinder Singh and HC Kaur Singh and it was sent to Civil Hospital, Moga. Postmortem examination of the dead body was got conducted in Civil Hospital Moga. As per the doctors the death in the case was due to asphyxia as a result of hanging which was ante- mortem in nature. Statements of witnesses under Sections 161 Cr.P.C. were recorded. Accused Darshan Singh and Sukhwinder Singh were arrested on 30.4.2004. Accused Manjit Kaur was arrested on 7.5.2004. On completion of investigation offence punishable under Section 304-B IPC was found to be made out against accused. Therefore they were sent up for trial for the offence by presenting the challan under Section 173 Cr.PC. against all the three accused.

5. Charges for the offence under Section 304-B IPC were framed against all the three accused on 10.8.2004 to which they pleaded not guilty and claimed trial.

6. In prosecution evidence statements of PW-1 Sarabjit Singh complainant brother of deceased Manjinder Pal Kaur, PW-2 Darshan Singh a Jeweller, PW-3 Rajesh Pahuja, Branch Manager, State Bank of Patiala branch Badhni Kalan, PW-4 Sewak Singh Photographer, PW-5 Jeet Singh who had advanced Rs.1,60,000/- on interest to complainant, PW-6 Dr. Sadhu Ram Mittal who was a member of Medical Board who had conducted post mortem examination of dead body of Manjinder Pal Kaur, PW-7 Lal

Singh father of deceased Manjinder Pal Kaur, PW-8 Harnek Singh Secretary Meenia, CASS Meenia, PM-9 SI Gurdev Singh the Investigating Officer, PW-10 ASI Bahadur Singh, PW-11 Jagdev Singh Draughtsman who had prepared scaly site plan Ex. P-12. HC Manjinder Singh, were recorded. PW Navkiran Singh was given up being won over and Pws Chhinder Pal, Baljit Singh. Mukhtiar Singh, Dr. Dazzy Sood, and Dr. Rajesh Attri being unnecessary.

Documents led in prosecution evidence were Ex. P-1 to Ex. P-15 photographs. Ex. P-1/A to Ex. P-15/A negatives, Ex. P-16 copy of FIR, Ex. P-17 passbook of account in the name of Sarabjit Singh complainant in State Bank of Patiala branch Badhni Kalan. Ex.P-17/A statement of account in the name of Sarabjit Singh, Mark P-18 photostat copy of Co-operative Famer Credit Card and pass-book Mark-19 Photostat copy of pass-book in the name of Lal Singh, Mark P-20 photostat copy of pronote and receipt executed by Sarabjit Singh in favour of Jeet Singh. Ex. P-21 a receipt of Deepak Jewellers Ex. P-22 recovery memo vide which negatives and photographs were taken into possession, Mark P-22 photostat copy of invitation card of marriage of Manjinder Pal Kaur, Ex. P-23 a copy of post mortem report of dead body of Manjinder Pal Kaur, Ex.P-23/A pictorial diagrams therein, Ex. P-24 application dated 30.4.2004 moved by SI Gurdev Singh addressed to Medical Officer, Civil Hospital, Moga for conducting postmortem examination on dead body of Manjinder Pal Kaur with endorsement of Dr. S. P. Bansal, Ex. P-25 inquest report regarding dead body of Manjinder Pal Kaur, Ex. P-26 statement of account in the name of Lal Singh in the Meenian Co-operative Agricultural Services Society Limited Meenian, Ex. P-27 statement of account in the name of Sarabjit Singh in the Meenia Co-operative Agricultural Services Society Limited

Meenian Ex. P-28 rough site plan of place of occurrence, Ex. P-29 recovery memo vide which napkin and a pair of slippers were taken into possession, Ex. P-30 arrest memo of accused Sukhwinder Singh and Darshan Singh, Ex. P-31 scaly site plan of place of occurrence, Ex.P-32 affidavit of HC Manjinder Singh. Ex. P-33 a voter list MO-1 napkin, MO-2 and MO-3 a pair of black slippers were also led in prosecution evidence.

7. On closure of the prosecution evidence the whole prosecution case as well as evidence against the accused was put to them and their respective statements under Section 313 Cr.P.C. were recorded. They denied all the allegations. Accused Darshan Singh alleged that PWs were close relatives of the deceased and interested in the prosecution. He alleged that due to this reason they were deposing falsely and the whole story was a concocted and fabricated one. He alleged that he was innocent. His son Sukhwinder Singh, Sarabjit Singh and Navkiran Singh were common friends. That is why the marriage of his son was solemnized with deceased but she did not relish the marriage. It was simple marriage. He and his family and his son Sukhwinder Singh did not obtain any amount or cash in dowry or dowry articles at the time of marriage or thereafter. There was no harassment to the deceased by him or by his family members. His son Sukhwinder Singh and his wife Manjinder Pal Kaur (deceased) used to reside separately in a new house and he alongwith his wife was living in the old house. Manjinder Pal Kaur had applied for a Canadian Visa before her marriage which was rejected by the Canadian Embassy on the ground that she was more than 18 years old at that time. Due to rejection of visa to her, she used to remain under utter frustration and depression. She wanted to perform marriage with someone abroad and to go abroad. On account of her failure she committed suicide on this score without any fault on his part or

that of members of his family. He stated that the complainant party had concocted a false story for blackmailing him and his family members for obtaining money and had filed a suit for recovery of Rs.3,50,000/- as damages. He alleged that his son had informed the panchayat as well as police regarding the incident. Accused Sukhwinder Singh and accused Manjit Kaur took the same stand. All accused desired to lead defence evidence.

8. In defence evidence, statements of DW-1 Gurdev Singh who had been Sarpanch of village Bilaspur & DW-2 Subh Kumar Goyal Branch Manager, Life Insurance Corporation of India branch Moga were recorded. Ex. D-2 a statement of commission earned by Sukhwinder Singh being LIC agent was also led in defence evidence.

9. Based on the evidence led as described above, the accused/appellants were convicted and sentenced by the court of Additional Sessions Judge, Moga vide judgment dated 14/15.06.2005 as under:-

Name of Appellant	Offence	Imprisonment	Fine
Sukhwinder Singh	Section 304-B IPC	RI for Life	-
Darshan Singh	Section 304-B IPC	RI for 10 Years	-
Manjit Kaur	Section 304-B IPC	RI for 10 Years	-

10. It is the aforementioned judgment which is under challenge in this appeal.

11. The learned Senior Counsel representing the appellants contends that the statements of the prosecution witnesses were not sufficient to establish the guilt of the accused. Admittedly, it is a case of no injury and the deceased had committed suicide on account of her Canadian Visa being rejected. The prosecution witnesses had made various improvements in

their statements before the Court. There were significant contradictions in their statements recorded during investigation and when they deposed in the Court. Be that as it may, the allegations, if taken to be correct would inculcate the husband Sukhwinder Singh alone. He lastly contends that in case their conviction was to be upheld the sentence of the appellants could be reduced. Reliance is placed on judgment of Hon'ble Supreme Court in ***Hem Chand Vs. State of Haryana 1994(3)RCR (Criminal) 625.***

12. The Counsel for the State and the Counsel for the complainant who has preferred CRR-1825-2005 seeking enhancement of sentence and awarding of compensation contends that the offence stands established beyond reasonable doubt. It stands proved that all the appellants harassed the deceased on account of demand of dowry because of which she was compelled to commit suicide within a short period after the marriage. Therefore, the appeal was liable to be dismissed. The question of reduction of their sentence also did not arise.

13. We have heard the counsels for the parties and gone through the record.

14. In order to seek conviction under Section 304-B IPC against a person for the offence of dowry death the prosecution is to prove that:-

- (a) the death of a woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances,
- (b) such death should have occurred within 7 years of her marriage,
- (c) the deceased was subjected to cruelty or harassment by her husband or by any relative of her husband:
- (d) such cruelty or harassment should be for or in connection with the demand of dowry, and

- (e) to such cruelty or harassment the deceased should have been subjected soon before her death.

If it is proved that a woman was subjected to cruelty or harassment before her death by a person in connection with any demand of dowry the court shall presume that such person had caused the dowry death.

Section 113-B of Evidence Act reads as under:-

"S. 113-B. Presumption as to dowry death 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."

15. Coming back to the facts of the present case, the testimony of the complainant PW-1 Sarabjit Singh is a detailed one. As per the FIR all the accused stated that they wanted cash and not any dowry item at the time of marriage. The matter was settled at Rs.2 lac which was paid. One week prior to the occurrence, the husband demanded Rs.1,50,000/- for fitment of doors and their painting at their matrimonial home. On non payment, the deceased was harassed. These allegations would clearly established cruelty and harassment soon before the unnatural death.

As PW-1 Sarabjit complainant levelled similar allegations but described them in great detail. He also explained the source of funds to pay the accused at the time of the marriage.

16. Though some improvements were made in the statement in Court, the same do not falsify the entire case. In fact, the FIR itself is quite clear and free from embellishments. Minor contradictions on non material issues cannot be given undue weightage particularly when the witnesses

depose in court after considerable period of time has elapsed. These minor contradictions actually point to the truthfulness of the deposition of the prosecution witnesses.

17. The testimony of PW-7 Lal Singh father of the deceased also duly supports the prosecution case regarding harassment of the deceased soon before her unnatural death by suicide. This witness has also explained in detail the source of his funds. PW-1 Sarabjit Singh, PW-5 Jeet Singh and PW-8 Harnek Singh have also been examined in that regard and therefore, their testimonies cannot be doubted.

18. The defence set up by the accused that the deceased's case for Canadian Visa got rejected leading to her being depressed and committed suicide cannot be believed in the face of clear and cogent evidence of PW-1 and PW-7. In fact it is quite improbable that the deceased would commit suicide on such a trivial issue.

19. From the evidence on record it stands established beyond doubt that the accused persons who were driven by greed from the very outset of the relationship raised a demand of Rs.2 lac, which was satisfied. Then they further raised a demand of Rs.1,50,000/- towards completion of the construction of their house and started compelling the deceased to bring such amount. As she was unable to do so on account of the financial condition of her parents, they all harassed her to such an extent that she was compelled to commit suicide.

20. The marriage took place on 7.2.2004 she committed suicide on 29/30.04.2004. Only a few days thereto prior to the occurrence, a demand of Rs.1,50,000/- was raised. Therefore, quite apparently, there was consistent harassment of the deceased from the date of marriage uptill soon before her unnatural death by suicide.

21. In view of the above discussion, all the ingredients of the offence under Section 304-B IPC stand established beyond reasonable doubt. Therefore, we find no merit in the present appeal and the same stands dismissed.

22. As regards the imposition of sentence the Hon'ble Supreme Court in ***Hem Chand's case (supra)*** held as under:-

“ 7. Now coming to the question of sentence, it can be seen that Section 304B Indian Penal Code lays down that "Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life." The point for consideration is whether the extreme punishment of imprisonment for life is warranted in the instant case. A reading of Section 304B Indian Penal Code would show that when a question arises whether a person has committed the offence of dowry death of a woman what all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death. It can therefore be seen that irrespective of the fact whether such person is directly responsible for the death of the deceased or not by virtue of the presumption, he is deemed to have committed the dowry death if there were such cruelty or harassment and that if the unnatural death has occurred within seven years from the date of marriage. Likewise there is presumption under Section 113B of the Evidence Act as to the dowry death. It lays down that the court shall presume that the person who has subjected the deceased wife to cruelty before her death shall presume to have caused the dowry death if it is shown that before her death, such woman had been subjected, by the accused, to cruelty or harassment in connection with any demand for dowry. Practically this is the presumption that has been incorporated in Section 304B Indian Penal Code also. It can therefore be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned above are satisfied. In the instant case no doubt the prosecution has proved that the deceased died an unnatural death namely due to strangulation, but there is no direct evidence connecting the accused. It is also important to note in this context that there is no charge under

Section 302 Indian Penal Code The trial court also noted that there were two sets of medical evidence on the file in respect of the death of the deceased. Dr. Usha Rani, P.W. 6 and Dr. Indu Lalit, P.W. 7 gave one opinion. According to them no injury was found on the dead body and that the same was highly decomposed. On the other hand, Dr. Dalbir Singh, P.W. 13 who also examined the dead body and gave his opinion, deposed that he noticed some injuries at the time of re-post mortem examination. Therefore at the most it can be said that prosecution proved that it was an unnatural death in which case also Section 304B Indian Penal Code would be attracted. But this aspect has certainly to be taken into consideration in balancing the sentence to be awarded to the accused. As a matter of fact, the trial court only found that the death was unnatural and the aspect of cruelty has been established and therefore the offence punishable under sections 304B and 201 Indian Penal Code have been established. The High Court in a very short judgment concluded that it was fully proved that the death of the deceased in her matrimonial home was a dowry death otherwise than in normal circumstances as a result of cruelty meted out to her and therefore an offence under Section 304B Indian Penal Code was made out. Coming to the sentence the High Court pointed out that the accused- appellant was a police employee and instead of checking the crime he himself indulged therein and precipitated in it and that bride killing cases are on the increase and therefore a serious view has to be taken. **As mentioned above Section 304B Indian Penal Code only raises presumption and lays down that minimum sentence should be seven years but it may extend to imprisonment for life. Therefore awarding extreme punishment of imprisonment for life should be in rare cases and not in every case.**

8. **Hence, we are of the view that a sentence of 10 years' R.I. would meet the ends of justice. We, accordingly while confirming the conviction of the appellant under Section 304B Indian Penal Code, reduce the sentence of imprisonment for life to 10 years' R.I. The other conviction and sentence passed against the appellant are, however, confirmed. In the result, the appeal is dismissed subject to the above modification of sentence."**

23. In the instant case, it is a case of suicide and not murder. The minimum sentence under Section 304-B IPC is 07 years which could extend to life imprisonment. The FIR was registered on 30.04.2004. The conviction was recorded on 14/15.06.2005. The appeal came to be admitted

on 15.07.2005 and the matter has come up for hearing after 20 years of the registration of the FIR. Therefore, while dismissing the instant appeal, we deem it appropriate to modify and reduce the sentence as under:-

Name of Appellant	Offence	Imprisonment (Reduced to)	Fine
Sukhwinder Singh	Section 304-B IPC	RI for 10 Years	-
Darshan Singh	Section 304-B IPC	RI for 07 Years	-
Manjit Kaur	Section 304-B IPC	RI for 07 Years	-

24. Keeping in the view the above, CRR-1825-2005 seeking maximum punishment for the accused/appellants Darshan Singh and Manjit Kaur as well as compensation stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

15.01.2025

Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>