

**(2016) 09 RAJ CK 0088**  
**In the Rajasthan High Court**  
**Case No : Criminal Appeal No.7 of 2009.**

**Gurvinder Singh S/o Jangir Singh, by caste Rai Sikh - Appellant @HASH**  
**The State of Rajasthan**

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**Date of Decision :** 27-09-2016

**Acts Referred:**

Evidence Act, 1872 — Section 32  
Penal Code, 1860 (IPC) — Section 304B, Section 498A

**Citation :** (2016) 4 CriLR 1841 : (2017) 1 RajCriC 257

**Hon'ble Judges :** Gopal Krishan Vyas and G.R. Moolchandani, JJ.

**Bench :** Division Bench

**Advocate :** Mr. M.K. Garg, Advocate, for the Appellants; Mr. C.S. Ojha, PP, for the State

**Final Decision :** Partly Allowed

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## Judgement

Mr. G.R. Moolchandani, J. - This appeal is directed against the conviction and sentence awarded by Additional District and Sessions Judge (Fast Track) Anoopgarh, Headquarter, Suratgarh in Sessions Case No.7/08 (39/04) dated 17/12/2008, whereby learned trial Court has convicted both the appellants Gurvinder Singh and Smt. Harbans Kaur as under :-

Under Section 498A IPC Three years rigorous imprisonment and a fine of Rs.500/- and in default further to undergo for six months simple imprisonment.

Under Section 304B IPC-Life imprisonment and has acquitted co-accused Jangir Singh.

2. As per the prosecution story, father of deceased Ravindar Kaur lodged a F.I.R. on 20/07/2004 with Suratgarh Police Station stating therein that his daughter Ravinder Kaur was married with Gurvinder Singh about two and half years back and ample dowry was bestowed, but her in-laws were unpleasant and started demanding dowry by saying that it was insufficient and were demanding gold Kada, fridge and colour T.V. and started harassing his daughter Ravinder Kaur, recitals of beating and organising of settlement Panchayats have also been made

in the FIR, then Gurvinder and his family assured nothing of that nature would be repeated, so they permitted and sent back Ravinder to her in-laws home. On 19/7/2004, they received a telephone call from Suratgarh thana asking to rush to Suratgarh and on arriving at S.G. Hospital, they could know that Ravinder Kaur was referred to Bikaner, where they could know that she was deliberately set ablaze by Gurvinder and his mother-in-law.

Record of the trial Court indicates that I.O. submitted charge-sheet against three accused persons, namely, Gurvinder S/o Jangir Singh, Smt. Harbans Kaur W/o Jangir Singh and Jangir Singh S/o Surjan Singh under Sections 498A and 304B of IPC. The prosecution produced twenty witnesses and exhibited twenty six documents in the evidence and further five articles were marked during the trial before the trial Court. The defence did not adduce any testimony and pleaded having been falsely implicated, while examined under Section 313 of Cr.P.C. The trial Court culminated the trial awarding sentence to Gurvinder Singh and Harbans Kaur under Sections 498A coupled with Section 304B of IPC and acquitted another co-accused Jangir Singh, as dwelt above.

3. While, advancing submissions, learned counsel for the appellants-accused has contended that there are vital contradictions in the prosecution evidence and the deceased has also given two dying declarations, the first one does not indulge the accused persons being non-incriminatory because the deceased victim has uttered that she got accidentally burnt, while preparing tea. PW.12 Jabarjung Singh and PW.14 Mandeep have also disclosed this aspect that deceased was not subjected to cruelty by her in-laws, rather she was inclined to stay and reside alone with her spouse, leaving apart, her other family members of in-laws. Relying upon the following precedents State of Rajasthan v. Shravan Ram and Anr., AIR 2013 Supreme Court 1890, Heeralal v. State of M.P. 2009 12 SCC 671, Ranjit Singh & Ors. v. State of Punjab, 2009 9 Supreme 331, Chinnamma v. State of Kerala, 2004 (4) Supreme 251, learned counsel has submitted that it is not safe to rely on the subsequent dying declaration and learned trial Court has committed error, while relying upon the subsequent dying declaration, so the appeal may be allowed and the impugned judgment be set aside.

Per contra, learned Public Prosecutor has contended that there is no error in the impugned judgment. The trial court has correctly passed the impugned judgment, the subsequent dying declaration has been made by the victim without any coercion with her free will, whereas the first dying declaration was made while the victim was under threat of her in-laws, which has rightly been narrated by the victim in her subsequent dying declaration and she was under constant demand of dowry by her in-laws and was subjected to cruelty, so in order to sort-out discontent, panchayats were held and this aspect has also been testified in the evidence. The individuals present during the panchayat have also corroborated that aspect and appellants-accused set deceased ablazed resultantly she died of burn injuries, all the witnesses comprises of the family members of the deceased have repeatedly said that she was being tortured and

harassed by her in-laws, so there is no error in the impugned judgment. The appeal does not have got any force, so it be dismissed.

4. The case of the prosecution hinges upon dual dying declarations of the victim. Ex.P.23 first dying declaration has been recorded on 19/07/2004 by Additional District Magistrate, Suratgarh, which comprises of two pages and it does not implicate any accused, but reveals that the incident was accidental, since the deceased has said that she got accidentally ignited, while sparking match-stick and it is clarified therein that none has caused her getting burnt, neither she committed suicidal attempt. Karan Singh PW.19 has said that on 19th July, 2004, he was posted as ADM, Suratgarh and on information of Police Station, Suratgarh, he went to Government Hospital, Suratgarh to record the statements of Smt. Reena wife of Gurvinder Singh and Smt. Reena wife of Gurvinder Singh was there in a burnt position, after ascertaining her fitness to make the statements from doctor Vijay Bhadu, he recorded her statement, which is Ex.P.23 bearing his signature from A to B and initial of doctor Vijay Bhadu as C to D, he has also said that he had asked the victim about her being voluntary and free in making statement, which was replied positive, then he had reduced the statements of Reena wife of Gurvinder Singh into writing and she apprised that she was preparing tea on stove, so while igniting gas, she brought match box and at the time of lighting matchstick, she caught fire on her cloths. She was wearing nylon suit, none was there around her, her mother-in-law was serving milk to baby. She has further said that when she cried after ablaze, her husband was bathing, dewar Rajendra, who was watching T.V., rushed to help and put bed-sheet upon her in order to try to get the fire extinguished. Afterwards her husband, dewar and mother-in-law took her to hospital, he has further said that after getting the statements into writing, the same were read over to her. "She signed on Ex.P.23 from E to F" and because of burning of thumb, impression of toe of left foot were got at "x" spot, in his cross examination, he has narrated that at the time of taking down the statements of victim, doctor was with him and except doctor none from her family was there and he has said on the basis of the statements, he found the incident accidental.

5. The second dying declaration Ex.P.16 has been reduced into writing on 20/07/2004 at 3.45 p.m. by Additional Judicial Magistrate No.3 Bikaner and there is an application Ex.P.15 tendered by police before CJM, Bikaner, who has directed Additional Judicial Magistrate No.3, Suratgarh to do the needful and afterwards the matter has been taken up by Additional Judicial Magistrate No.3, so the proceedings have been conducted by the Judicial Magistrate, which are mentioned on the overleaf side of the application as under :-

"fnukad%& 20-07-2004

le;% 3 P.M.

Jh eksguyky S.I. us ;g izkFkZuk i= Jheku~ CJM lkgc ds i`"Bkadu vkns"k lfgr U;k;ky; esa is"k fd;kA voyksdu fd;k x;kA Jherh jhuk ds e`R;qdkfyd dFku ys[kc)

djus PBM vLirky chdkusj jokuk gqvka

sd

vfrfjDr U;kf;d eftLVs~V

la[;k&3] chdkusj

cuZ ;wfuV esa M~;wVh MkWDVj us Jherh jhuk ds c;ku nsus dh fLFkfr esa gksus  
dk izek.k i= fn;k Jherh jhuk ds leLr ifjtuksa dks okMZ ls ckgj fd;kA eSaus viuk  
ifjp; fn;kA fdlh Hkh Hk;] ncko ;fn dksbZ gks rks mlls eqDr gksdj Jherh jhuk dks  
dgg x;k fd c;ku nsosaA Jherh jhuk us crk;k fd og fdlh Hkh Hk; ncko esa ugha gS  
vr% C;ku ys[kc) "kq: fd;s x;sA

sd

vfrfjDr U;kf;d eftLVs~V

la[;k&3] chdkusj"

Jherh jhuk ds c;ku ys[kc) fd;s x;sA izkFkZuk i= ewy] iqfyl c;ku dh izfr] M~;wVh  
MkWDVj dh fQVusl izfr] e`R;qdkfyd dFku pkj i`"Bksa esa lEcU/kr U;k;ky; dks  
fHktok;s tk jgs gSA

?kVuk lwjrx<+ {ks= dh gksus ds dkj.k leLr dkxtr vfrfjDr eq[; U;kf;d eftLV~sV]  
lwjrx<+ dks cUn fyQkQs esa lhy eksdj djds fHktok;s tk jgs gSA

sd

vfrfjDr U;kf;d eftLVs~V

la[;k&3] chdkusj"

and Ex.P.16, the second dying declaration, which has been recorded, its recitals  
are as under :-

mifLFkr MkWDVj Jh cuokjhyky R.H.O.

us izek.k i= fn;k gS fd e`R;q dkfyd dFku djus okyh Jherh jhuk c;ku nsus dh  
fLFkfr esa gSA

fnukad%& 20-07-2004

le;%&3.45 P.M.

esjk uke jhuk ifr dk uke xqjfoUnzflag] firk dk uke egkohj flag vk;q 25 o"kZ tkfr  
jk;fl[k] O;olk; dqN ugha] ?kjsyw dk;Z fuoklh okMZ ua0 18 lwjrx<+ ftyk xaxkuxjA

1- ;g ?kVuk fdl fnu o fdl le; dh gS\\

mRrj%& ;g ?kVuk dy lqcg 7&8 cts dh gSA

2- ;g ?kVuk fdl LFkku ij gqbZA

mRrj%& ;g ?kVuk esjs llqjky ds ?kj ij gqbZA

3- ;g fLFkfr vkidh dSls gqbZA

mRrj%& gekjs ?kj esa vkB fnu ls yM+kbZ py jgha FkhA yM+kbZ ngst ds dkj.k gks jgh FkhA yM+kbZ esjh uun lksek] nsoj jktsUnz] lkl gjcal dkSj] llqj taxhj flag] ifr xqjfoUnz flag dj jgs Fks D;ksa fd ;s lc eq> ls ngst dh ekax dj jgs FksA esjh "kknh dks rhljk lky py jgk gS esjs ,d ikap efgus dh yM+dh gS ;s lc yksx "kknh ds ckn ls gh ngst dh ekax dj jgs FksA dy lqcg igys esjs lkFk yM+kbZ dh vkSj dgka rw vius ek;ds ls Qzht] jaxhu Vhoh] vkSj lksuk iguus ds fy;s ugha ysdj vkbZ rks vc ysdj vk ;g ckr bu lc yksxksa us esjs dks dghA bUgksaus dgk ge rsjs dks ekj MkysaxsA ?kj esa Mhty rsy isIih dh 2 yhVj okyh cksry esa j[kk gqok Fkk og esjh lkl us esjs mij dejs ds vUnj MkykA esjh uun lksek us ekfpl tyk dj diM+ksa esa vkx yxk nhA esjs NksVs nsoj jktsUnz us ckgj okyk xsV cUn dj fn;kA esjs ifr us eq>s idM+ fy;k fd dgh Hkkx u tkosaA esjk llqj ?kj ij gh Fkk og [kM+k [kM+k ns[k jgk FkkA esjs vkx yx xbZ fQj vkx esjs ifr us pknj Mky dj cq>kbZA fQj esjs mij nks ckYVh ikuh Mkyh] fdlus Mkyh irk ughaA esjs igus gqos diM+s tks vk/ks tys gqos Fks mudks esjh lkl us QkM+ fn;s o nwljs diM+s iguk fn;sA fQj eq>s lwjrxM+ esa izkbZosV vLirky ys x;s mUgksaus HkrhZ djus ls euk dj fn;k fQj ljdkjh vLirky ys x;sA vLirky esjs ifr] nsoj jktsUnzflag o uun lhek ysdj xbZA esjh lhek uun lksek ls cM+h gS tks lwjrx<+ esa gh jgrh gS tks lhek bl?kVuk ds ckn ?kj ij vkbZ FkhA lwjrx<+ okLrs vLirky esa iqfyl us esjs c;ku fy;s rc esjs llqjky okyksa us eq>s igys dg fn;k Fkk fd lgh ckr crkosxh rks rq>s tku ls ekj MkysxsaA og c;ku eq>s ncko esa vkdj nsus iM+sA eSa vc c;ku fn;s gS og lgh gS eSaus igys c;ku fn;s Fks fd eSa flysUMj ls tyh gwWaA

4- ckn esa ?kVuk LFky ij dkSu&dkSu vk;s\\

mRrj%& esjs tyrs le; o tyus ds ckn ckgj ls dksbZ ugha vk;kA eSa cgqr fpYykbZ Fkh ijUrq ckgj ls xsV cUn Fkka

5- vkidks bl lECU/k esa vkSj dqN dguk gS\\

bu lc us esjs lkFk igys Hkh yM+kbZ dh FkhA esjs ifr] lkl] nks uun lhek o lksek us esjs lkFk yM+kbZ dh FkhA ;s yM+kbZ ngst ds dkj.k dh Fkh fd vius ihgj ls vkSj ngst ysdj vkoksA esjs ifr us eq>s ekjk] esjh uun lksek us esjh Vxaxs idM+ yh lhek us flj idM+k o gkFk idM+sA lkl us ckgj dk xsV cUn fd;kA rc Hkh eq>s cgqr ekjk Fkk esjs ukd ls [kwu vkus yxk Fkk esjs diM+s [kwu esa gks x;s Fks tks bu yksxksa us ckn esa rqjar lkQ dj fn;sA esjs lkFk ckj&ckj ekjihV djrs jgrs gSA esjs ihgj okys cgqr xjhc gS ;s eq>s ngst ugha ns ldrs gS ;s yksx eq>ls ngst ykus ds fy, ekjihV djrs jgrs gS ngst u ykus ds dkj.k eq>s tyk;k x;k gSA

mDr dFku esjh mifLFkfr esa esjs Lo;a ds }kjk esjs lqurs gq;s xokg ds cksys vuqlkj fy[kk x;k rFkk dFku djus okyh dks i<+dj lqukuk x;k rks mlus lgh o lR; gksxk Lohdkj fd;k vkSj mlds }kjk fd;s x;s dFku dk iwjk o lgh o`rkar blesa gSA

sd

vfrfjDr U;kf;d eftLVs~V

la[;k&3] chdkusj

uksV%& Jherh jhuk ds nksuksa gkFkksa ij tyus ds dkj.k iV~Vh ca/kh gksus ls ck;sa iSj ds vaxwBs dk fu"kk uyxok;k x;kA

sd

vfrfjDr U;kf;d eftLVs~V

la[;k&3] chdkusj

6. So, the second dying declaration evidently discloses that victim-deceased Smt. Reena has narrated that she was set ablaze by her "Saas", "Nanand" "Soma", Dewar "Rajendra" and by her husband. Sasur (father-in-law) has been alleged to be standing silently and witnessing the event, Ex.P.16 does has got a certificate of Doctor Banwari Lal that patient was fit for statements. Two versions have already been emerged one being accidental and another alleging to be homicidal on the basis of the evidence adduced by the prosecution because the family members of deceased have specifically said that a persistent demand of dowry was there from the side of the in laws family of the victim and "Panchayats" were also held, in order to sort-out the discontent, but PW.14 Mandeep has narrated the incident as accidental and he has said that,

eSa gkftj vnkyr eqyfteku dks tkurk gwWaA esjs ls iqfyl us c;ku fy, FksA djhc vkt ls Ms<+ lky igys dh ckr gS eSa v"kk sd dqekj VsDIh dk M~kbZoj gwaA vkSj eqyfte xqjfoUnz] fouksn Hkh VSDIh M~kbZoj gSA fouksn dqekj esjh xkM+h ekax dj ys x;kA mlus dgk fd eSa ?kj tk dj vkrk gwaA "kke rd vk tkmaxkA eSa "kke rd mudk bUrtkj djrk jgk fQj Hkh og ugha vk;kA eSa xqjfoUnz flag ds ikl x;k vkSj mldks dgk fd rsjs okyh dkj ns ns esjs dks jaxegy tkuk gSA eSa xkM+h ysdj jaxegy pyk x;kA nwljs fnu lqcg N% lk<+s N% cts xkM+h nsus ds fy, xqjfoUnz flag ds ?kj x;kA vkSj dgk fd ;g rsjh xkM+h laHkky eSa esjh xkM+h fouksn dqekj ls ysus tk jgk gwaA oks cksyk fd esjs dks Hkh fouksn dqekj ds ikl tkuk gS pk; ihdj pyrs gS cIa pk; dk dgdj og esjs ikl gh cSB x;kA ge dejs esa cSBs FksA xqjfoUnz flag us viuh iRuh ls dgk fd gekjs fy, nks di pk; cuk ykvksA og nks rhu feuV esjs ikl cSBk jgkA brus esa xqjfoUnz flag dh iRuh ckgj vk xbZ vkSj cpkvks cpkvks dgus yx xbZA mlds diM+ksa esa vx xh gqbZ FkhA ge nksuksa Hkkxdj ckgj fudysA rks ns[kk fd xqjfoUnz flag dh ekWa mldh cPph dks dksbZ pht f[kyk jgh Fkh oks Hkh ns[kdj Hkkxs o eSa o xqjfoUnz flag Hkh ckgj vk x,A pknj oxSjg Mkydj vkx dks cq>k fn;k vkSj fQj eSaus ml ij ikuh Mkydj vkx dks cq>k fn;kA xqjfoUnz flag dh ekWa us dgk fd bldks gkWLihVy ys pyrs gSA xqjfoUnz dh cM+h cgu vk xbZ vkSj mlus dgk fd bldks gksLihVy ys pyrs gSA xqjfoUnz us dgk fd esjs ikik ljdkj ds ?kj ls xkM+h ysus x, gS tks VsDIh LVs.M ij yxk,axsA rks eSaus mudks tkdj dgk fd vkidks vkids yM+ds xqjfoUnz us ?kj cqyk;k gSA mudks cksy dj eSa rks LVs.M ij gh :d x;k vkSj xqjfoUnz flag ds firk ?kj pys x,A mlds ckn xqjfoUnz flag dh iRuh dks vLirky ys x, vkSj nksjks bZykt mldh ekSr gksus dk esjs dks irk yxkA

ftjg }kjk vf/k0 eqyfteku Jh bZlj flag

esjk xqjfoUnz flag ds ?kj vkuk tkuk Fkk vkSj ge LVs.M ij rks feyrs gh FksA

xqjfoUnz flag dh iRuh vkSj og nksuksa Bhd jgrs FksA ml fnu Hkh mldh iRuh jkth[kq"kh pk; cukus ds fy, x;h FkhA tc geus xqjfoUnz flag dh iRuh dh vkx cq>kr rks mlus dgk fd vpkud vkx yx xbZA mlds ckn eSa rks xqjfoUnz ds dgus ls mlds firk dks cqykus pyk x;kA"

7. PW.6 Mahaveer Singh, father of deceased Reena has said that his daughter Ravindar Kaur @ Reena was married with Gurvinder Singh, resident of Ward No.18, Suratgarh, three and half years back and he had gifted and rendered enough in dowry and because of dowry demand and alleging the same being deficient, her in-laws including Gurvinder Singh, her Saas, Sasur, Nanand used to harass and torture her, he has also said that Gurvinder Singh, Jangir Singh, Harbans Kaur, Bittu and Soma were involved in torturing her, afterwards his brother Anokh Singh brought his daughter to his village. He has further said that a "Panchayat" was held by Jabarjung Singh at Tutawali Village, where Jangir Singh, Harbans Kaur and his son-in-law Gurvinder Singh came, he has also said that Sarpanch Satnaam Singh, Kushal Singh neighbour Bakhtawar Singh and from his side, he, his wife and his elder brother Anokh Singh, his sister Gurumaighkaur gathered. He has further said that in-laws of his daughter tendered apology there and said that they will no more demand dowry or colour T.V., gold Kada, and golden ring and assured that they will not tease or torture their daughter. He has also said that Panchayat was organised at Amrik Singh's resident, who is his brother-in-law, in relation. He has further said after some days, they again started harassing his daughter and scuffle went on for eight to ten days and his daughter was burnt to die. He has said that after going there, he found his daughter in a burnt position, she apprised them that she was set ablaze by her-in-laws jointly and during course of treatment, his daughter died after seven days and has said that he got its report lodged with police and the written application is Ex.P.9, FIR is Ex. P10, Panchnama is Ex.P 6, status of corpus is Ex.P. 5, which contains his signatures. Fard Supurdagi Corpus is Ex.P.11, receipt is Ex.P.8. Application tendered to DSP Suratgarh is Ex.P.12. Affidavit is Ex.P.13 and has said that her daughter's statements were recorded twice, elaborate cross-objection has been done with this witness, but nothing abnormal has emerged.

PW.8 Smt. Indra Kaur mother of the deceased has said that Ravindra Kaur @ Reena was her daughter, who was married with Gurvinder Singh of Suratgarh. She has also said that when her daughter came there, then she informed that her in-laws were complaining of deficient dowry by saying that colour T.V., fridge, gold ring and finger rings were not gifted and because of this her in-laws were struggling with her, she has further said that

"ngst esa jaxhu Vh0oh0] fQzt] lksus dk dM+k o vaxwfB;ka ugha nh xbZ gSA bl ckcr mlds llqjky okys mlds lkFk yM+kbZ >xM+k o ekjihV djrs FksA mlds ckn geus viuh yM+dh dks le>kdj mlds llqjky Hkst fn;k fd og vius vki Bhd gks tk,xkA mlds ckn esjh yM+dh us gekjs ikl Qksu fd;k fd esjs lkFk blh ckr ds fy, cgqr yM+kbZ&>xM+k djrs gSA mlds ckn mldk rk;k mldks ysus ds fy, lwjrx<+ vk;kA

mlds rk;s ds lkeus mUgksaus esjh yM+dh ds lkFk ekjihV dh ftuesa xqjfoUnz flag] lksek] gjcaldkSj] jkftUnz us ekjihV dhA mlds ckn esjh yM+dh rhu efgus rd esjs ikl jghA mlds ckn iapk;r xkao rwrkokyh eSa gqbZ FkhA tks esjk HkbbZ vejhdflag gS rwrkokyh esa mlds ?kj ij iapk;r gqbZ FkhA iapk;r esa mUgksaus ekQh ekax yh o dgk fd ge ngst ugha ekaxsxA rc gekus viuh yM+dh dks ogha ls mlds llqjky okyxa ds lkFk Hkst fn;kA mlds ckn mls ml ij rsy Mkydj tyk fn;kA rsy gjcaldkSj us Mkyk Fkk o lksek us vxk yxkbZ FkhA xqjfoUnzflag us esjh yM+dh dks idM+k Fkka jkftUnzflag us njoktk can dj fy;kA rkfd ckgj u Hkkx tk,A txhjflag us dgk fd ;s jkst dk jksyk eqd tkosA gesa tyus dk ckn esa irk pyk D;ksafd iqfyl okyxa us gekjs ?kj ij Qksu fd;k Fkka tks fnu ds 10 cts Qksu gekjs ikl fd;k Fkka ogka ls ge lwjrx<+ vk, FksA lwjrx<+ esa ogka ls eSa] esjk ifr] esjh tsBkuh cpudkSj] vejflag nsoj] vkSj esjk pkpk llqj I;kjk flag lwjrx<+ esa vk, FksA igys Fkkus x, FksA Fkkus ls irk pyk fd gekjh yM+dh dks chdkusj Hkst fn;k x;k gSA ogka gesa tkus ds fy, dgkA ge Fkkus ls lh/ks chdkusj vLirky ds fy, x,A ge chdkusj "kke ds lkr cts iggap x, FksA ogka tkdj geus gekjh yM+dh ls iwNk mlus ges crk;k fd esjs dks esjs llqjky okyxa us rsy Mkydj tyk fn;k gSA fd gedks ngst de fn;k gSA gekjh yM+dh us ges ;g Hkh crk;k fd tc eq>s vxk yxh gqbZ Fkh rc nks ckYVh ikuh Mkydj vxk cq>kbZA ikuh fdlus Mkyk Fkk og ckr ugha crkbZA o lkr fnu HkrhZ jgh FkhA mlds ckn mldh e`R;q gks xbZA gesa ogka ls fy[kk&i<+h gksus ds ckn yk"k feyh ftls ge vius xkWao esa ys vk, o mldk nkg&laLdkj dj fn;kA"

and she has denied an interrogatory suggesting that her daughter was died of accidental burn.

PW.9 Satnam Singh has averred that "Panchayat" had taken place in the house of Amrik Singh about one and half years ago and he too had participated in that and in that "Panchayat", Bakhtawar Singh, Kushal Singh, Sunder Singh, Amrik Singh also participated and parents of the "girl" had also attended that "Panchayat" and Jabarjung Singh "Mama of the boy" had also attended that Panchayat and it was discussed there that the girl was being harassed for dowry. He has also said that parents of the boy accepted their mistake and assured not to demand dowry onwards, so, the girl was permitted to go along with them, in his cross-examination, he has further said that the "Panchayat" was summoned by Master Amrik Singh and has denied that there arose anything like the girl was inclined to live separate from her in-laws.

PW.10. Khushal Singh has also narrated similar kind of facts that two years back "Panchayat" was held at the house of Master Amrik Singh on the basis of dowry demand by his niece's in-laws. Satnam Singh Sarpanch, Bakhtawar Singh Member, Mama and Mami of girl participated in that "Panchayat" and groom of the bride (girl), her Sasur and Saasu and the middleman were also there. He has also said that Panchayat had requested Amrik Singh that staying of bride in her inlaws house is graceful, so asked him to leave the bride to her in-laws home and after elapse of eight to nine months, the fateful mishap occurred.

PW.11 Amrik Singh has also said that his niece was married in Village Mazhiwali and she was subjected and tortured there by her in-laws by demanding dowry,

so a "Panchayat" was held and he has also narrated almost same kind of utterance. He has further said that he had been to see his niece on getting information of her setting ablaze by her in-laws. She was admitted in burn ward. He met her, she informed him that her husband, Saas, Sasur set her ablaze after pouring oil in order to kill her and said that now she is in danger and fewer were the survival chances. He has also said that he rendered some money to his brother-in-law and sister for her treatment. He has further reiterated that he was informed by his "niece" that she was got burnt by pouring oil. Trifling additions other than Ex.D.5's narration have appeared, but the totality of the evidence does not weaken the veracity as stated.

8. PW.3 Amar Singh, who is paternal uncle of deceased, has also narrated almost same kind of allegations and has said that she was being harassed for dowry and was set ablaze by her in-laws, in his cross-examination, he has said that the demand of dowry was raised one month after the marriage. He has also said that deceased apprised him, while he visited in the hospital. PW.4 Gurbachan Singh and PW.5 Balkaran Singh have confirmed their signatures on Ex.P.8 and Ex.P.6, the recovery seizures.

9. PW.7 Smt. Bachan Kaur has also narrated almost same kind of episode and ill-treatment meted out to his devar's daughter, Ravindra Kaur. He has also said that her in-laws used to torture and tease her and burnt her to kill.

10. P.W.12 Jabarjung Singh has accepted himself to be a middleman and "intermediary", in getting marriage of Gurbinder Singh with Reena @ Ravindra Kaur done, but this witness has said that the bone of contention was that during Panchayat this was emerged that Reena was of the wish that her husband Gurbinder Singh be resided separate from his mother and she was ready to stay on this condition, but Gurbinder Singh had told that after marriage of his younger sister, he will be residing separately and yield to this, so, she agreeably went together, he has further said that after one year of holding of Panchayat, it was heard that Reena died of burning, in his cross examination, he has said that

"eSaus vejhd flag us iapk;r cqykus dh ckr dh FkhA ge nksuksa us iapk;r cqykus dk lkspk FkkA gekjh vkil esa fj"rsnkjh gS blfy, budk vkil esa le>kSrk djok nsA iapk;r esa esjk HkkbZ xqjlsod flag] yEcjnkj y[kk flag Hkh ekStwn FksA"

PW.14 Mandeep is a witness, who has twisted prosecution version by saying that accused was acquainted with him, he as well as Vinod and Gurbinder Singh were drivers. Vinod had lent his vehicle for going to Sanghar. He waited for him till evening, but he did not return, so he went to Gurbinder Singh to take his car for going upto Rangmahal and had gone to consign the same to Gurbinder at about 6 to 6.30 a.m, next day and asked him to take his vehicle, who said that he too was inclined to go to Vinod Kumar and so asked him to stay, so as he may go along, after that he sat there with him. He has further said that they were sitting in a room, Gurbinder Singh asked his wife to prepare two cups of tea, he was sitting with him. Meanwhile, Gurbinder Singh's wife came crying and asking, to

save her, her cloths had caught fire, they both rushed outside and after putting bed-sheet, extinguished the fire and has said that he poured water upon her to putout fire. He has further said that she was taken to hospital where she died during treatment, in his cross-examination, he has said that he was a visitor to Gurvinder's home and used to meet with him at stand, Gurvinder Singh and his wife were living calmly, he has further said that when they extinguished fire, then Gurvinder Singh's wife informed that she got ablazed suddenly.

11. PW.13 Bihari Lal is ASI and has said that CI Narendra Kumar had consigned him three sealed packets of plastic bottle, Salvar Kamiz and half burnt cloths of Reena, which were recorded in Malkhana register by him and later delivered these all packets on 18/10/2004 for depositing the same with FSL to constable Mool Singh, who brought its receipt on 21/10/2004. Malkhana Register is Ex.P.14 and its replica is Ex.P.14A and same contains his signature as well as signature of constable.

P.W.16 Mool Singh, constable, who delivered the samples for getting them deposited with FSL and he has said that on 18/10/2004, he was posted at Police Station Suratgarh. Malkhana Incharge Bihari Lal had given him three sealed packets for depositing in FSL, which he after getting a forwarding letter issued from SP office, deposited with FSL on 19/10/2004 and obtained its receipt, which was deposited with police station on 21/10/2004 with Malkhana Incharge, copy of the letter issued from SP office is Ex.P.17 and FSL deposit receipt is Ex.P. 18, he has also said that during the course of his possession, the samples remained intact and in sealed position.

PW.15 Ramavtar Soni is an Additional Judicial Magistrate, recording second dying declaration, has narrated and corroborated Ex.P.16, the subsequent dying declaration recorded on 20/07/2004, which has been dealt above and by virtue of this dying declaration, the patient (deceased) has categorically narrated that she was deliberately set ablazed by her in-laws and has alleged involvement of her husband, Sasur, Nanand and Dewar and Sasur as being a mute spectator, the textual aspect of which is being quoted as under :-

"fnukad 20-07-2004 dks eSa vfrfjDr U;kf;d eft0 la[k 3 chdkusj ds in ij dk;Zjr FkkA ml fnu esjs ikl 3-00 ih0,e0 ij Jheku lh0ts0,e0 lkgc ds i`"Bkadu vkns"k lfrg izkFkZuk i= iqfyl }kjk izLrqr fd;k x;kA fd e`R;qdkfyd dFku ys[kc) djus gsrq is"k fd;kA ftl ij eSa e`R;qdkfyd ys[k Jherh jhuk ds ys[kc) djus gsrq ih0ch0,e0 gLirky chdkusj jokuk gqvka M~;wVh MkWDVj ls Jherh jhuk ds c;ku nsus dh fLFkfr esa gksus dk izek.k i= fy;kA o Jherh jhuk ds c;ku nsus dh fLFkfr esa gksus ij mlds dFku mlds cksys vuqlkj ys[kc) fd,A izkFkZuki= tks Jheku~ lh0ts0,e0 lkgc dks is"k fd;k x;k og izn"kZ ih0 15 gS ftdh iq`r ij rhu txg ,0 ls ch0 esjs gLrk{kj gSA Jherh jhuk ds c;ku esjs dyeh izn"kZ ih0 16 gSaA ftl ij , ls ch esjs gLrk{kj gSaA izn"kZ ih0 16 ij , ls ch ikap txg esjs gLrk{kj gSaA ftu ij pkj txg ,DI LFkku ij ck,a iSj ds vaxwBk fu`kku gSaA nksuksa vaxwBksa ij tyus ds dkj.k iFV~V;ka ca/kh Fkh blfy, eSaus c;kuksa ij ck,a iSj ds vaxwBs dk fu`kku fy;kA bldk i`"Bkadu lh ls Mh esjs } kjk fd;k x;k gSA esjs dks jhuk us tSlS c;ku fn, oSlS gh fy[kS Fks dksbZ ckr ?

kVkbZ c<+kbZ ugha FkhA"

"ftjg odhy eqyfte Jh xksihjke xksnkjk

eSaus et:ck jhuk ds c;ku ysus ls iwoZ mlls iwNk Fkk fd og fdruh i<+h fy[kh gSA jhuk us viuh tkfr jk;fl[k gksuk crk;k FkkA esjs dks ;g irk ugha fd jk;fl[k fdl tkfr esa gksrs gSaA Jherh jhuk fgUnh esa cksy jgh Fkh blfy, eSaus mlls ;g ugha iwNk fd og fgUnh le>rh gS ;k ughaA c;ku yrsrs oDr dsl Mk;jh esjs ikl ugha FkhA eSaus jhuk ls loky fd, vkSj mlus tks mRrj fn, og eSaus uksV dj fy,A ;g dguk xyr gS fd og Jherh jhuk iatkch gh cksyrh gks vkSj fgUnh ugha le>rh gksA MkWDVj us izn"KZ ih0 16 ij uksV yxk;k Fkk vyx ls dksbZ izek.ki= esjs dks ugha fn;kA MkWDVj us vius M~;wVh ij gksus ckcr dksbZ izek.ki= ;k dksbZ gLrk{kfjr lhy vkfn vyxkdj ugha nhA"

PW.17 Dr. Tara Chand Soni is a medical jurist, who has conducted the postmortem of deceased and he has said that on 26/7/2004, he was medical jurist in PBM Hospital, Bikaner, where he conducted autopsy on the body of Ravinder Kaur and has said that

"cuZl dk fooj.k bl izdkj gS %& cuZl lqij fQfl;y o fMi] psgjs ij] nksuksa vij fyEl ij Nkrh o isV ds vkxs dh rjQ nkfguh tka?k] Vkax ds uhpys fgLls ij ckbZ tka?k ij o ? kqVus ij ekStwn FkhA Nkrh ds ihNs ds fgLls ij o isV ds ihNs ds fgLls esa] flj ij] nkfguh Vkax ij o tsfuVy ij cuZ ugha FkkA txg&txg ij il ekStwn FkhA dbZ txg LdSc ekStwn FksaA dbZ txg Ropk dkyh iM+h gqbZ FkhA IHkh cuZl ,UVheksjVe izd`fr dh FkhA dqy ,sfj;k dqy 70 izfr"kr ds djhc FkkA fMlsD"ku djus ij czsu o eSEjsu dutLVSM FkhA o nksuksa QsQMs+ dutLVSM o gSYnh FksA isV esa djhc 150 ,e0,y0 v/kZ ipk gqvk Hkkstu FkkA e;qdks"kk eSejsu gSYnh FkhA yhoj] fdMuh fLifyu dutLVSM o gSYnh FksA tsukbVy vkSjxu gSYnh Fks ;wVjsUl dSoVh [kkyh FkhA e`R;q dk dkj.k culZ ds dkj.k ISifVd "kksd FkkA cuZl ,UVheksjVe uspj dh Fkh tks fd lkekU; izd`fr esa e`R;q ds fy, i;kZIr FkhA iksLVekVZe fjiksVZ izn"KZ ih&19 gS ftl ij nks txg , ls ch esjs gLrk{kj gSA lh ls Mh nks txg Mk0 ,e0 ljhe ds gLrk{kj gS ftlds gLrk{kj eSa igpkurk gwWaA D;ksafd muds lkFk eSaus dke fd;k gSA bZ ls ,Q esjh jk; gSA"

12. Ex.P.19 Postmortem Report indicates that "the cause of death was septic shock due to burns ante-mortem in nature, is sufficient to cause death in ordinary course of nature".

13. PW.18 Ratan Lal the circle officer, Suratgarh has narrated about the process of investigation undertaken by him that he had recorded the statements of prosecution witnesses and further arrested Gurvinder Singh vide Ex.P.20 and per Ex.P.21 and Ex.P.22 Jangir Singh and Harbans Kaur were arrested, he has corroborated Ex.P.12 and Ex.P.13 and has further said that after investigation, he had found Soma Kaur, Seema Kaur and Rajendra as innocents.

PW.20 Narendra Kumar, SHO Suratgarh has narrated that receipt of information of Reena's burning and recording the same in Roznamcha was made vide Ex.P.25 and its copy is Ex.P.8A, which bears his signatures and has further said

that during the treatment injured Reena was inquired upon, who informed and said that she was married three years back and her statements were made to be recorded per ADM Saheb and has ratified Ex.P.4 spot map. He has also narrated an important fact regarding recoveries that:-

"?kVukLFky ds fujh{k.k ds nkSjku xqjfoUnz flag ds edku ds vUnj jlksbZ ds ikl cus dejs esa ,d [kkyh cksry isIlh ftlesa ls Mhty dh nqxZU/k vk jgh Fkh dks dCts esa ysdj lhy eksqj fd;k QnZ tCrh izn"kZ ih&1 gS bl ij bZ ls ,Q esjs gLrk{kj gSa QnZ ds gkf"k, ij uewuk lhy vafdr gS edku xqjfoUnz flag ds cjkenes esa xqykch jax dh pn~nj fti ij Qhds gjs jax ds /kCcs yxs gSA ,d rjQ ls ekewyh tyh gbZ gS ftlesa ls Mhty dh cw vk jgh gS ftls tkap dj dCtk iqfyl fd;k x;kA QnZ tCrh izn"kZ ih&2 gS bl ij bZ0 ls ,Q0 esjs gLrk{kj gS blds gkf"k, ij rhu txg ,DI LFkku ij uewuk lhy vafdr gSA fujh{k.k ds nkSjku gh edku dh Nr ij jhuk ds v/ktys diM+s lyokj deht ,oa czk feys ftlesa ls Mhyt dh cw vk jgh Fkh bu ij dkys /kCcs ,oa Mhty dh cw vk jgh gS] dks Hkh dCtk iqfyl esa fy;k tkdj lhy eksqj fd;k x;kA QnZ izn"kZ ih&3 gS bl ij bZ ls ,Q esjs gLrk{kj ,oa ,DI LFkku ij rhu txg uewuk lhy vafdr gSA esjs }kjk fnukad 22-07-2004 dks tkap ds nkSjku fy, x, izn"kZ 1 rk 4 ,oa 4&, dks "kkfey i=koyh fd;k x;kA ftu ij vfHk;ksx esa "kkfey djus dk bUnzkt th ls ,p gSA vkbZ ls ts esjs gLrk{kj gSaA eSa fnukad 20-07-2004 dks lqcg 5 ,0,e0 ij okLrs "kgknr chdkusj jokuk gqvks ,oa bldh tkap vkuUn dqekj ,l0vkbZ0 dks djus gsrq nhA izdj.k dh ,Q0,l0,y0 fjiksVZ izn"kZ ih0 26 gS izFke lwpuks fjiksVZ ij lh ls ZMh ,l vkbZ vkUun }kjk ntZ dh xbZ FkhA"

14. He too has said that Seema Kaur, Soma Kaur and Rejendra were found guiltless, so charge sheet was not filed against them. PW.1 and PW.3 are witnesses of recovery who have accepted their signatures on Ex.P.1 to Ex.P.4 and Ex.P.1 plastic bottle has been found with stench of diesel and vide Ex.P.3 burnt cloths of deceased have been found with odour of diesel.

15. Ex.P.26 FSL Report is a vital document, which opines that residual fractions and remnant fractions of "diesel" have been detected from empty bottle as well as "bedsheet" and burnt "bra" and partial burnt "salvar" of the deceased, which are indicative enough that the evidence relating to pouring of diesel oil from the bottle upon the deceased and her setting ablaze and further her cloths having been found with remnant and residual fractions of "diesel" fortifies the homicidal story of the prosecution.

As such, the subsequent dying declaration appears to be more trustworthy, this second dying declaration has got an explanation, wherefore the victim was forced to state converse and other sort of story, besides the first dying declaration was recorded in "presence of a medical expert" and is shrouded with cloud as how signatures of Reena were obtained, when her toe impressions were taken because of body having been burnt. So She was incapacitated to sign.

16. All the family members of the deceased have repeatedly said that after marriage Ravindra Kaur @ Reena was constantly being tortured and harassed and her in-laws demanded few articles like gold Kadda, colour T.V., fridge and

gold ring. Some "panchayats" were also held in order to sort-out the problem, where the groom side tendered pardon and assured that the kind of demand will never be agitated again. An attempt to escape has also been made with testimony of PW.12 and PW.14 alleging incident to be accidental but the subsequent dying declaration of the deceased weigh credence because remnant of "diesel" have been found in the bottle as well as on the burnt cloths and bra of the deceased and the subsequent dying declaration has been recorded by a Judicial Magistrate, who has himself corroborated and ratified the version of reducing the same into writing in Ex.P.15

17. First dying declaration Ex.P.23 has not been recorded in privacy but Executive Magistrate PW.19 Karan Singh has said that doctor was present, when the statements were taken and it has got signatures of victim Reena despite the factual say that her foot toe impressions were taken since she was burnt and these kind of mysterious circumstances beleaguer the truthfulness of this documents, because presence of an expert was there and how the victim signed despite being burnt and despite taking her toe impressions, makes it a colorful documents incapable to be reliable and creditworthy.

18. Provisions of Section 304B and its related presumption under Section 113-B of Evidence Act postulates:-

Section 304B in The Indian Penal Code 304 B. Dowry death.?

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven 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.

Explanation.?For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) 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.]

Section 113B in The Indian Evidence Act, 1872

113B. 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.

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

19. Though by elucidating explanation under statements of 313 of Cr.P.C, an

attempt has been made to discharge the onus and to establish innocence but unimpeached evidence of the prosecution narrates and establishes otherwise, the testimony relating to deposit of samples which have been dealt above has also remained unbroken and the chain of the link is well clubbed.

20. The second dying declaration has been recorded by a Judicial Magistrate and the patient has been told to be perfectly fit to make the statements, there was a persistent demand of dowry, as all the family members of the deceased have repeatedly narrated the same in their evidence that their daughter was under constant demand of dowry, their in-laws were unpleasant and they were demanding several precious items. Victim Ravindra Kaur has consciously made her subsequent dying declaration before Judicial Magistrate after declaration to be fit to make the same by an attending hospital physician where victim was being treated, that too on an explicit request of investigating officer, who would have apprised of the actual veracity by the victim, the revelation of homicidal version could not be treated to be inconsistent. Weighing previous dying declaration because matrimonial history corroborates the second version, all the family members are conspicuously aloud by saying that persistent dowry demands were there and even few "Panchayats" were held, in which several "Panch" (social arbitrators, relatives) gathered, participated, heard and resolved the on-going dispute, it has also emerged that bride's in-laws extended their apology and vouchsafed not to reagitate demand for valuable dowry articles and soon after bride felt victim to the dowry lust and its vocal version has evidently been made by victim herself before a Judicial Magistrate, which has properly been explained and testified by Judicial Magistrate Shri Ramavatar Soni, before the trial Court as prosecution witness, so the precedents cited and taken support of, may not be of support to the defence because of the distinct aspect and factual veracity of the matter under hand as deliberated above. The FSL has also corroborated the story and the defence has failed to discharge its burden as prescribed under Section 113 B of Cr.P.C.

21. provisions of Section 304 B of IPC enunciates quantum of sentence being punishment with imprisonment for a term, which shall not be less than seven years but which may extend to imprisonment for life.

22. In catena of judgments Hon"ble Supreme Court has discussed the provisions of dowry death and presumption thereto and in Durgaprasad v. State of Madhya Pradesh 2010 (7) SRJ 306, the Hon"ble Supreme Court has held that in order to hold an accused guilty of an offence under Section 304-B, it has to be shown that apart from the fact that the woman died on account of burn or bodily injury, otherwise than under normal circumstances, within seven years of her marriage, it has also to be 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 in Ashok Kumar v. State of Haryana 2010 (10) SRJ 68. It has been observed that harassment for non-payment of dowry- there was specific demand of Rs.5000/- twenty days prior to death-

Dowry is not restricted to agreement or demand for payment of dowry before and at the time of marriage but even include subsequent demands- Argument that there was inordinate and unexplained delay in registering the FIR is without any substance- Incident occurred at 4 P.M. on 16.05.1988 where after the family of the deceased was informed-It is a normal conduct of a normal person that the entire concentration would be upon looking after and saving the deceased rather than to run up to the police or other persons instantaneously and in another case, while discussing dowry death in *Rajbir @ Raju and Anr. v. State of Haryana* 2011 (2) SRJ 505 Hon"ble Apex Court has observed serious view in the matters of crimes against women should be taken and harsh punishment should be awarded and in *Sanjay Kumar Jain v. State of Delhi* 2011 (3) SRJ 143, the Apex Court has held pertaining to circumstantial evidence- strangulation- death within 1? years of marriage- Evidence of parents that appellant's continuous harassing and beating the deceased in connection with demand of dowry- Victim was subjected to cruelty or harassment by her husband or his relatives- Ten ante mortem bodily injuries, which were found on her body at the time of her death- If death is unnatural, either homicidal or suicidal, it would be death, which can be said to have taken place in unnatural circumstances and the provisions of Section 304-B would be applicable, so conviction under Section 302 set aside and was confirmed under Section 304-B.

23. Interpreting concept of "soon before her death", Hon"ble Supreme Court has observed in *Udai Chakraborty & Ors. v. State of West Bengal* 2010 Criminal LJ 3862 that Expression "soon before her death"- Legislature has not specified any time which would be the period prior to death- Concept of reasonable time would be applicable and in one another precedent Apex Court, while deciding *Amar Singh v. State of Rajasthan with State of Rajasthan v. Jagdish & Anr.* AIR 2010 SC 3391 has observed that statements by mother and brother of deceased that deceased was taunted by husband and in-laws for not bringing dowry- Made month prior to incident- Relates to cause of her death- Is admissible in evidence- Harassment for dowry soon before incident thus stands proved- Presumption of dowry death therefore arises- No evidence led to rebut presumption- Accused husband liable to be convicted and Hon"ble Supreme Court AIR 2000 SC 2324 *Kans Raj v. State of Punjab & Ors.*, wherein in head note "D" definition of "soon before death" has been interpreted and it has been held- continuous harassment connected with demand of dowry shown to be in existence till date when deceased reported to have met parents two days before her death- No intervening circumstance showing settlement regarding demand of dowry brought on record- Existence of harassment would be deemed to be "soon before her death"- Accused liable to be convicted and in head note "F" definition of "otherwise than under normal circumstances"- Would mean the death not in usual course but apparently under suspicious circumstances, if not caused by burn or bodily injury- Death of wife by suicide occurring within seven years of marriage-cannot be stated to have occurred in normal circumstance and In *Baljinder Kaur v. State of Punjab*, 2014 Cr.L.R. (SC) 1204, the Hon"ble Supreme

Court has held that for conviction under Section 304-B of IPC, the prosecution is required to establish that the woman was subjected to cruelty or harassment for or in connection with the demand of dowry and has upheld the conviction accordingly.

24. Cumulative assessment of the entire evidence unerringly connects both the appellants-accused with the crime, so we feel that the conviction order as passed by learned trial Court is not bad in the eye of law, since the prosecution has succeeded in establishing and proving its case beyond confines of reasonable doubt.

25. The second dying declarations elucidates that "Soma" was alleged to be involved in igniting the match-stick and "Rajendra" allegedly in shutting the door, but these two accused have not been found involved during the investigation and PW.18 and PW.20 have said that he did not find "Seema Kaur", "Soma Kaur" and "Rajendra" as guilty, so far as the father-in-law (Sasur) of the deceased, namely, "Jangir Singh" is concerned, he has also been acquitted by the trial Court. Accused Harbans Kaur wife of Jangir Singh, mother in-law of the deceased is shown to be of 50 years on 4/9/2004 on the day of arrest vide arrest memo and more than 12 years have since elapsed, as such, she would have attained senile age of approximate 62 years of a "senior-citizenship" by now and the accused Gurvinder Singh would have also been of around 45 years. There are two versions of dying declaration, so also such an evidence has emerged that the deceased was reluctant to reside with other family members of her husband and was wishing to reside alone with her husband, so we find all these factors to be of "mitigating" in nature to reduce the sentence of life imprisonment.

26. Taking all the facts and circumstances of the case and elapement of time of "twelve years", as well as carefully pondering upon the minimum sentence prescribed under Section 304B of IPC, we are of the considered view that the ends of justice will meet, if the sentence under Section 304B of IPC is reduced and modified to the extent of seven years in lieu of life imprisonment, hence the sentence of life imprisonment awarded under Section 304B of IPC is reduced to seven years, retaining rest of the sentence unaltered.

27. Therefore, the appeal is partly allowed.

The judgment passed by the learned trial Court is set aside to the extent as modified above. The accused-appellant Gurvinder Singh has already remained in custody from 27.7.2004 to 24.12.2004, subsequently from 17.12.2008 till today, so he has already served the sentence passed, but appellant-accused Smt. Harbans Kaur has remained in custody from 4.9.2004 to 8.12.2004, subsequently from 17.12.2008 to 5.12.2013, as such, she is to serve rest of the sentence out of seven years, so she is directed to surrender forthwith to serve rest of the sentence remained, accordingly, accused-appellant Gurvinder Singh be released forthwith, unless his custody is required in any other case. The learned trial court is directed to ensure compliance of this judgment.

28. Considering the provisions of Section 437-A Cr.P.C., the accused-appellant Gurvinder Singh is directed to furnish personal bond in the sum of Rs. 25,000 and a surety bond in the like amount before the learned trial Court, which shall remain effective for a period of six months to the fact that in the event of filing of Special Leave Petition against the judgment for grant of leave, the appellant Gurvinder Singh, on the receipt of notice thereof, shall appear before Hon"ble the Supreme Court.