

(2025) 02 SC CK 0792
In the Supreme Court Of India
Case No : Criminal Appeal No.112 Of 2014

State Of Uttarakhand

APPELLANT

Vs

Sanjay Ram Tamta @ Sanju@Prem Prakash

RESPONDENT

Date of Decision : 11-02-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 161Indian Penal Code, 1860 — Section 304BEvidence Act, 1872 — Section 113B

Citation : (2025) 02 SC CK 0792

Hon'ble Judges : B.R. Gavai, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : Saakshi Singh Rawat, Sudarshan Singh Rawat, Ajay Bahuguna, E. R. Sumathy, Nishant Bhardwaj, Betsara Myllemngap

Final Decision : Dismissed

Judgement

K. Vinod Chandran, J.

1. Death, the causation of which is a demand for dowry is akin to murder, even if it is not homicidal, as is evident from Section 304B of the Indian Penal Code, 1860 "the I.P.C." read with Section 113B of the Indian Evidence Act, 1872 "the Evidence Act". However, the Courts are warranted to be more cautious and circumspect with respect to the allegations under Section 304B of the I.P.C since allegations coming forth often could be motivated by the despair of an abrupt death of a daughter or sibling, at the matrimonial home; especially when there is a history of a marital discord which otherwise would not escalate to this magnitude. In the present case, a young bride, hardly into six months of marriage, was found hanging on the fateful day, by her father and brother who reached the matrimonial home, wherein she resides with her husband.

2. A First Information Report "F.I.R." was lodged and the husband, the respondent-herein was arrested. Later, the husband's relatives i.e., his parents, grandfather and brother were also implicated and joined as accused. The family

stood trial in which the prosecution examined nine witnesses. The Trial Court acquitted everyone except the husband, finding that the prosecution could not prove their presence in the separate household in which the couple resided and there was no proof of a proximate allegation of harassment on account of demand of dowry which could be co-related with the death of the deceased. The accused/respondent was convicted primarily on the ground that the scratches on the body of the deceased cannot be explained by reason only of the hanging, since the body was at a distance from the walls of the room. The Court presumed that the scratches were the result of torture perpetrated by the husband. The said fact proved cruelty alleged on the unrequited demand for dowry and together, it brought in the presumption under Section 113B of the Evidence Act, and it was the reasoning which led to the accused being found guilty of the offence under Section 304B of the I.P.C. The respondent was sentenced under Section 304B of the I.P.C. for seven years Rigorous Imprisonment (R.I.)

3. The High Court after examining the evidence of the witnesses, specifically that of the brother and father found that the financial and social status of the parties; made improbable a demand of ₹ 4,00,000/- and a plot for construction of a house and hence, the demand for dowry having led to the death of the deceased was not proved by the prosecution.

4. We have heard Ms. Sakshi Rawat, learned counsel appearing for the appellant-State and Ms. E.R. Sumathy, learned counsel appearing for the respondent.

5. Trite is the principle that the Appellate Courts would be slow in reversing an order of acquittal, especially since the presumption of innocence that is always available to the accused; as a basic principle of criminal jurisprudence, stands reinforced and reaffirmed by the acquittal and unless there are very substantive and compelling reasons to do so, there cannot be a reversal of an order of acquittal. Unless it is found that the findings are perverse and the only conclusion possible from the compelling evidence is of guilt; Appellate Courts will be slow to reverse an order of acquittal. Recently, in *Constable 907 Surender Singh Vs. State of Uttarakhand* 2025 INSC 114, one of us (B.R. Gavai, J.) referring to various binding precedents of this Court succinctly laid down the principle in the following manner in paragraph 12:

"12. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

6. Bearing this principle in mind, we have looked at the evidence led in trial. PWs 1 to 3 are the brother, father and sister of the deceased, PW4- a neighbour, PW 5- the landlord of the house in which the couple were residing wherein the death

occurred and PW 6 to 9-the official witnesses; the last of whom was the Investigating Officer (I.O.). The F.I.R., which was registered by PW 8 on the information of the father, PW 2, spoke of the informant having come to the matrimonial home of the daughter, along with her sibling; PW 1. The room was closed, but not locked and when they forced open the door and entered, they saw the lady hanging from the neck on the fan. They took down the body and later detected the husband, the respondent-herein, running away, who was apprehended and taken to the Police Station. The inquest was by PW 6-Tehsildar and the medical examination by PW 7-Doctor.

7. That the death was suicidal was established by the expert opinion of PW 7 who proved the wound certificate issued by him. PW 7 referred to two sets of injuries as indicated in the wound certificate; injury No.1; a slanting ligature mark on both sides of the neck between the vocal chords and chin and above the thyroid cartilage; 22 cm long 1.8 cm wide, which was the cause of death, opined to be 'suffocation due to hanging, prior to death'. Injury No.2 was a mark of scratch which was 2x1 cm with redness, which injury had led the Trial Court to presume that there was physical violence perpetrated on the deceased. Immediately we have to state that by the nature of the injury and the failure of the prosecution to elicit any such opinion from the Doctor, the expert witness, we find that difficult to believe.

8. That the death was suicidal is very clear from the expert evidence, which however would not absolve the accused under Section 304B of the I.P.C. This Court in *Surender Kumar Singh Vs. State of U.P.* (2009) 17 SCC 243 considered the effect of Section 113B of the Evidence Act on Section 304B of the I.P.C. It was held that Section 304B of the I.P.C. presupposes several factors for its applicability, which are; (i) the death of a woman caused by burns or bodily injury or otherwise than under normal circumstances; (ii) such death having occurred within seven years from the date of the marriage; (iii) soon before her death, the woman having been subjected to cruelty or harassment by her husband or any relative of her husband and (iv) such cruelty or harassment being in connection with the demand of dowry. It was, categorically held that if one of the ingredients is absent, the presumption under Section 113B of the Evidence Act would not be available to the prosecution and the onus of proof would not shift to the defense.

9. In the present case, though the 1 st informant-the father spoke of the demand of dowry of ₹ 4,00,000/- and a house-plot, as seen from the F.I.R., in the Section 161 Cr.P.C. statement recorded from him no such demand was spoken of. This omission was confronted to him, when he was examined as PW 2 and affirmed by the I.O in his deposition. PW 1, who was the brother of the deceased also did not make such a statement before the police and the said omission was marked in evidence which is confirmed by the I.O; PW 9. In addition to this, both the said witnesses spoke of a head injury by reason of the torture inflicted by the husband and the relatives, on the deceased, which also was not spoken of before

the police. Both the witnesses admitted that the parental home of the respondent-husband and the separate home where the couple resided had a number of houses within the vicinity. None were questioned and examined to bring out the alleged bickerings and the physical torture asserted. PW 4, a neighbour of the deceased, who was witness to the inquest report, was not asked about any such quarrel on dowry having existed between the couple or about the husband or his relatives having perpetrated physical violence on the deceased when she was alive.

10. In fact, PW's 1 and 2 omitted also to state under Section 161 Cr.P.C. that the nephew of PW 2 on the earlier part of the fateful day reached the house of the deceased, wherein he saw that the parents, sibling and father of the accused taunting the deceased with demands of dowry and inflicting physical violence on her. The said nephew was never questioned by the police or offered as a witness. There was also no oral evidence to prove the violence perpetrated on the young bride, by the family of the accused, at their house when she had been residing there. PW 3, the sister of the accused though, deposed about the earlier incidents of demand of dowry from both the accused and his parents; omitted to state the same before the police as evident from the suggestions made during cross-examination; which omission is confirmed in the deposition of the I.O.

11. More important is the fact that PW 5-the landlord of the house in which the couple resided, turned hostile and denied any incident of the relatives coming to that residence, making demands of dowry from the deceased or even the knowledge of the husband having demanded such dowry. The witness was declared hostile and cross-examined by the prosecution to no avail. On the contrary, in the cross-examination of the accused, PW 5 spoke of the adamant attitude of the deceased who made unreasonable demands of the accused and also refused to co-operate with the family of the accused. He specifically spoke of a quarrel on the evening of the fateful day, when the wife created a ruckus, threw articles out of the house and locked the husband out. PW 5 also spoke of having seen the husband returning after some time and knocking on the door, which was not opened by the wife. Later, the father of the wife came to the house pushed the door open and walked in to see his daughter hanging.

12. On a reading of the evidence recorded at trial, we are of the considered opinion that the demand of dowry was not proved by the prosecution. The omissions in the statements under Section 161 Cr.P.C.; which are deemed to be material contradictions put to peril the prosecution story of demand of dowry. A three judge bench of this Court on such omissions held so in *Darshan Singh vs. State of Punjab* (2024) 3 SCC 164, in paragraph 31:

"31. If the PWs had failed to mention in their statements under Section 161CrPC about the involvement of an accused, their subsequent statement before court during trial regarding involvement of that particular accused cannot be relied upon. Prosecution cannot seek to prove a fact during trial through a witness which such witness had not stated to police during investigation. The evidence of

that witness regarding the said improved fact is of no significance. [See : (i) Rohtash v. State of Haryana [Rohtash v. State of Haryana, (2012) 6 SCC 589, (ii) Sunil Kumar Sambhudayal Gupta v. State of Maharashtra [Sunil Kumar Sambhudayal Gupta v. State of Maharashtra, (2010) 13 SCC 657, (iii) Rudrappa Ramappa Jainpur v. State of Karnataka [Rudrappa Ramappa Jainpur v. State of Karnataka, (2004) 7 SCC 422 and (iv) Vimal Suresh Kamble v. Chaluverapinake Apal S.P. [Vimal Suresh Kamble v. Chaluverapinake Apal S.P., (2003) 3 SCC 175]"

13. Both PWs 1 and 2 admitted in their deposition that they had not personally witnessed any physical violence on the wife and PW 2-the father also deposed that the son-in-law was quite aware of his financial condition; which would not have enabled him to raise ₹ 4,00,000/- or purchase a plot for construction of a house. It was his specific statement that the son-in-law and his family was apprised of this fact at the time of marriage and they had agreed to accept his daughter, as such. The essential ingredient of a demand of dowry being absent under Section 304B of the I.P.C., we cannot find the suicidal death; though, categorized as an unnatural one, as one akin to murder inviting a punishment under Section 304B of the I.P.C.

14. We, hence, reject the appeal, confirming the order of acquittal of the High Court; but for the different reasons, stated herein above. Parties to bear their own costs.

15. Pending application(s), if any, shall stand disposed of.