
(2007) 05 AHC CK 0303
In the Allahabad High Court

The State of U.P.	Vs	APPELLANT
Bhagwan Singh and Others		RESPONDENT

Date of Decision : 25-05-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Evidence Act, 1872 — Section 106
Penal Code, 1860 (IPC) — Section 120B, 176, 201, 202, 302

Citation : (2007) 05 AHC CK 0303

Hon'ble Judges : Vijay Kumar Verma, J;R.C. Deepak, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Vijay Kumar Verma, J.—State of U.P. has preferred this appeal against the judgment and order dated 21.07.1990 passed by Sri Om Pal, the then 4th Additional Sessions Judge, Aligarh in S.T. No. 345 of 1986 and S.T. No. 03 of 1988, whereby the respondents-accused have been acquitted of the charges u/s 498A 302/34 and 201 IPC.

2. The accused-respondents Bhagwan Singh, Dwarika Prasad, Shiv Singh, Sukha, Omkar Singh, Ghasi Ram and Smt. Parwati were put on trial on the charge of causing harassment of Smt. Usha Rani W/o accused Bhagwan Singh due to demand of dowry and burning her dead body after committing murder on 23.06.1986.

3. During the course of this appeal, the accused respondent Ghasi Ram has died and the appeal has been abated against him vide order dated 13.09.2006.

4. The deceased Usha Rani, daughter of the complainant Mewa Ram, son of Muralidhar, r/o village Khandari Garhi Hathras, District Aligarh was married to Bhagwan Singh S/o Kundan Lal r/o village Ganj Navalpur (Moreni), P.S. Iglas, District Aligarh. An FIR was lodged by the complainant at P.S. Iglas on 29.06.1986. The case of the prosecution, in brief, is that the marriage of Usha

Rani was solemnized with Bhagwan Singh on 24.02.1985. The expenses of the marriage of both sides were borne by the complainant and dowry as per capacity was also given by him, but the in-laws of Usha Rani were causing her harassment and were also giving threatening to leave her. It is alleged that when Smt. Usha Rani was about to deliver child within two or four days, she was burnt to death on 23.06.1986 by her in-laws and without informing the complainant, funeral of the dead body was also performed. When on getting information on 28.06.1986, the complainant went to village Ganj Nawalpur, the in-laws of Usha Rani began to abuse him and they threatened to kill him and his family members, if any action is taken by him. It is further alleged in the FIR that the accused Bhagwan Singh, Kundan Lal, Dwarika Prasad and his wife and Sukha were causing harassment of Smt. Usha Rani and her murder was committed by these persons.

5. On the basis of the written report Ext. Ka-1, chik FIR Ext. Ka-6, was prepared by the then Head Moharrir Taj Mohammad, at P.S. Iglas and a case u/s 302 201 120B 498A IPC at Crime No. 127/86 against Bhagwan Singh, Kundan Lal, Dwarika Prasad and his wife, Shiv Singh, Sukha and other brothers of Bhagwan Singh was registered, entry of which was made in G.D. No. 30 at 17.15 hours on 29.06.1986 vide Ext. Ka-7.

6. After registration of the case, S.S.I. Mahabir Singh (P.W. 3) along with other police personal went to village Ganj Nawalpur and on the pointing out of the witness Satish Chandra, burnt bones of Smt. Usha Rani were taken into possession from the field of accused Bhagwan Singh and memo Ext. Ka-5 was got prepared by S.I. Mahesh Singh Chauhan.

7. Investigation of the case was conducted by Deputy S.P. Surendra Singh Yadav (P.W.5), who got the statements of the witnesses recorded at his dictation by S.I. Anil Kumar Yadav and site plans Ext. Ka-8 and Ka-9 were also got prepared. After making other formalities regarding investigation, charge sheet Ext. Ka 10 against six accused was submitted. Thereafter, rest investigation was carried out by Deputy S.P. Mohd. Iliyas who submitted charge-sheet Ext. Ka 11 against the accused Smt. Premawati.

8. On the case being committed to the court of session, ST. No. 345 of 1986 against Bhagwan Singh, Dwarika Prasad, Shiv Singh, Sukkha, Omkar Singh and Ghasi Ram and separate S.T. No. 3 of 1988 against the accused Smt. Premwati were registered, which were subsequently consolidated.

9. Charges u/s 498A 306 and 201 I.P.C. were framed against the accused on 29.01.1987, but the said charges were amended and fresh charges charges under u/s 498A 302 read with Section 34 and 201 of Indian Penal Code were framed on 13.06.1988 against all the accused-respondents, to which they pleaded not guilty and claimed to be tried.

10. The prosecution in order to prove its case has examined five witnesses in all. P.W. 1 Mewa Ram is the complainant, who is the father of the deceased Smt.

Usha Rani. P.W. 2 Chandra Kanta, is the mother of deceased. P.W. 3 Mahabir Singh was posted as S.S.I. at P.S. Iglas on 29.06.1986. He had collected the burnt bones from the ash of deceased Usha Rani from the field of accused Bhagwan Singh and got the memo Ext. Ka 5 prepared by S.I. Mahesh Singh Chauhan. This memo has been proved by this witness. P.W. 4 Bhim Singh is the brother of complainant. P.W. 5 Surendra Singh Yadav was posted as Circle Officer Iglas, District Aligarh on 29.06.1986. He had conducted the investigation of this case and submit charge-sheet Ext. Ka-10. Site plans Ext. Ka-8 and Ext. Ka-9 as well as charge-sheet Ext. Ka 10 have been proved by him by recognising the handwriting of S.I. Anil Kumar Yadav, who had prepared these documents. Charge-sheet Ext. Ka-11 has also been proved by this witness by recognising the hand writing and signature of Deputy S.P. Mohd. Iliyas, who was the second Investigating Officer.

11. In their statements recorded u/s 313 Cr.P.C., the accused-respondents have denied all the allegations of the prosecution and it is stated by them that due to misunderstanding, they have been falsely implicated in this case. The accused Bhagwan Singh, who is the husband of deceased, has made the following further statement:

Usha Rani shahar ki rahane wali thi. Mere ghar bijali nahi thi. Mere se meri Sasural men rahakar naukari karani chahati thi. Usey Sasural men rahna pasand nahin tha. Usney Khudkasi Kar lee thee. Is ghatana ki suchana usi din Hardayal dwara Usha Rani ke ma bap par bhej thi. Uske ma bap aaye the. Unhone aakar Usha Rani ka dah sanskar kara diya tha. Usha Rani ke saman se ek patra prapt hua tha, jo meine adalat men dakhil kiya hai

12. The accused-respondents have examined Har Dayal Singh as D.W. 1 in their defence.

13. After hearing parties counsel and appraisal of the evidence, the learned Trial Court acquitted all the accused-respondents vide impugned judgment, which has been challenged in this appeal by State of U.P. after seeking leave of the Court.

14. We have heard Sri D.P. Upadhyay, learned A.G.A. for the Appellant -state and Sri Devendra Dhama learned Counsel for the accused-respondents. The impugned judgment as well as entire evidence on record have also been perused carefully.

15. It was vehemently contended by the learned A.G.A. that the deceased Smt. Usha Rani was burnt to death by the accused persons in their house and they also performed the funeral of dead body without informing the complainant and prior to that all the accused persons were causing harassment of the deceased for or in connection with the demand of dowry and since all these facts have been fully proved on the basis of the evidence on record, all the accused persons were liable to be convicted of the charges framed against them, but the learned Trial Judge on surmises and conjectures has acquitted them without sufficient reasons and hence the findings of acquittal recorded by the learned Trial Judge,

being perverse and against the evidence, are liable to be set aside. It was further submitted by learned A.G.A. that unnatural death of the deceased Smt. Usha Rani had occurred in the house of accused persons, hence they were legally bound to furnish explanation regarding death of the deceased, but the accused-respondents have not furnished plausible explanation regarding her unnatural death, hence they will be held liable for her death. For this submission, our attention was drawn towards Section 106 of Indian Evidence Act. In this regard, it was also submitted by learned AGA that the explanation regarding unnatural death of Smt. Usha Rani furnished by the accused Bhawan Singh in his statement recorded u/s 313 Cr. P. C. is not plausible and with a view to save himself and other accused from legal punishment, he has invented false story of committing suicide by the deceased. Next submission made by the learned AGA was that if Smt. Usha Rani had committed suicide, then it was obligatory for the accused-respondents to inform the police, but they neither informed the police nor any information was given to the complainant and dead body of the deceased Usha Rani was burnt by them in their field, which in itself is sufficient to convict the accused-respondents for committing her murder. The learned AGA further submitted that the testimony of the witnesses Mewa Ram and his wife Smt. Chandra Kanta is worth relying, but the learned Trial Judge has committed gross illegality in not placing reliance on the testimony of these witnesses and acquitting the accused persons on fanciful grounds.

16. On the other hand, supporting the impugned judgment, it was submitted by learned Counsel for the accused-respondents that very sound and cogent reasons have been given by the learned Trial Judge, while recording the findings of acquittal in favour of the accused, hence this Court will not be Justified to reverse those findings, as those findings are neither perverse nor against the evidence. It was also submitted by learned Counsel for the respondents-accused that if two views are possible on the evidence led by the prosecution, one indicating to the guilt of the accused and the other to his innocence, the view favourable to the accused is to be accepted by the Appellate Court in the appeal against acquittal. Next submission made by the learned Counsel for the accused-respondents was that only interested witnesses have been examined by the prosecution in this case and since their testimony is not reliable, hence the learned Trial Judge has not committed any error in discarding their testimony. It was also submitted by learned Counsel for the accused-respondents that the learned Trial Judge has not committed any error of law or fact in passing the impugned judgment, hence this court will not be justified in making any Interference in the findings of acquittal recorded by the learned Trial Judge.

17. Having heard the learned Counsel for the parties and after going through the impugned judgment as well as oral and documentary evidence on record carefully, we entirely agree with the aforesaid submissions made by the learned Counsel for the accused respondents. Although we agree with the learned AGA that this Court is competent to re-appreciate the evidence notwithstanding that this is appeal against acquittal, but this principle of law is also not disputed that

in the appeal against acquittal, the appellate court can reverse the findings of Trial Judge only if the findings are either perverse or against the evidence. It will be useful to reproduce the following observations made by Hon''ble Apex Court in the case of Harijana Thirupala and Ors. v. Public Prosecutors. High Court of A.P., Hyderabad 2002 S.C.C. 1370 in para 11 of the judgment:

In our administration of criminal justice an accused is presumed to be innocent unless such a presumption is rebutted by the prosecution by producing the evidence to show him to be guilty of the offence with which he is charged. Further if two views are possible on the evidence produced in the case, one indicating to the guilt of the accused and the other to his innocence, the view favourable to the accused is to be accepted. In cases where the court entertains reasonable doubt regarding the guilt of the accused, the benefit of such doubt should go in favour of the accused. At the same time, the court must not reject the evidence of the prosecution taking it as false, untrustworthy or unreliable on fanciful grounds or on the basis of conjectures and surmises. The case of the prosecution must be judged as a whole having regard to the totality of the evidence. In appreciating the evidence the approach of the court must be integrated not truncated or isolated. In other words, the impact of the evidence in totality on the prosecution case or innocence of the accused has to be kept in mind in coming to the conclusion as to the guilt or otherwise of the accused. In reaching a conclusion about the guilt of the accused, the court has to appreciate, analyse and assess the evidence place before it by the yardstick of probabilities, its intrinsic value and the animus of witnesses. It must be added that ultimately and finally the decision in every case depends upon the facts of each case.

The following observations made by Hon''ble Apex Court in para 8 of the case of, Kalyan and Ors. v. state of U.P. 2002 SCC 78 are also relevant.

The settled position of law on the powers to be exercised by the High Court in an appeal against an order of acquittal is that though the High Court has full powers to review the evidence upon which an order of acquittal is passed, the principle of presumption of innocence of the accused persons is also equally well settled. Normally the views of the trial court, as to the credibility of the witnesses, must be given proper weight and consideration because the trial court is supposed to have watched the demeanour and conduct of the witnesses and is in a better position to appreciate their testimony. The High Court should be slow in disturbing a finding of fact arrived at by the trial court.

18. Keeping in view, the aforesaid observations made by Hon''ble Apex Court, let us now see whether there is any scope for making Interference in the impugned judgment.

19. In this case it is not disputed that the death of Smt. Usha Rani had occurred due to burning. According to the case of prosecution, she was burnt to death by the accused persons, whereas according to the statement of the accused Bhagwan Singh, recorded u/s 313 Cr.P.C., she had committed suicide, because

being accustomed to urban facilities, she was not adjusting herself in village. After scrutiny of the evidence led by the prosecution, the learned Trial Judge has accepted the defence version of committing suicide by Smt. Usha Rani. Having given our thoughtful consideration to this matter, in our view, the findings recorded by the learned Trial judge in this regard do not suffer from any illegality.

20. In FIR, it is mentioned that the complainant came to know about the murder of his daughter Usha Rani on 28.06.1986 on arrival to his house. In their statements also, the complainant Mewa Ram (P.W.1) and his wife Smt. Chandra Kanta (P.W.2) have stated that they came to know about the murder of Usha Rani on 28.06.1986, Smt. Chandra Kanta has stated in her statement that information regarding the murder of Usha Rani was given to her on 28.06.1986 by village person Devi Singh. According to the statement made by the complainant Mewa Ram, he was in his sasural in those days and when he came back from his sasural on 28.06.2006, his wife informed him about the incident. On careful scrutiny of the evidence led by the parties, this fact is borne out that the complainant and his wife have made false statements in the matter of getting information about the death of their daughter and their testimony on this point is falsified by P.W. 4 Bhim Singh, who is the real brother of complainant. According to the FIR and statements of the complainant and his wife Chandrakanta, their daughter Usha Rani was burnt to death on 23.06.1986 by the accused persons and information regarding her murder was received by Smt.Chandra Kanta on 28.06.1986, but this case of the prosecution has been falsified by P.W.4 Bhim Singh in his statement recorded in Trial Court on 22.02.1989. It is stated by this witness in his statement that he was residing in Delhi for about 9-10 years and when he came to Agra in connection with the marriage engagement of his maternal sister about two and half year ago and after engagement when he went to Sasni, he was informed by his cousin brother Vinod that his niece Usha Rani has been burnt to death by her-in-laws. It is further stated by Bhim Singh (P.W.4) that on getting this information, he came to the house of his brother Mewa Ram in village Kandhari Garhi, where his brother and Bhabhi told him about the incident. In cross-examination P.W. 4 Bhim Singh has made the following statement;

Usha Rani meri Bhatiji Thi. Mujhe Kandhari Garhi Jane Ke Tarikh Bhe Yad Nahin Hai, Jab Men Kandhari Garhi Pahuncha uske do din pahle Usha ki Maut ho chuki thi. Jab men Kandhari Garhi Pahuncha tab mere bhai ke yahan meri bhatiji ki maut par shok prakat karane 4-5 adami aaye then. Meri bhabhi Chanara Kanta ke pas bhi auraten as ja rahi thin.

21. From the aforesaid statement of P.W. 4 Bhim Singh it is observed that he had gone to the house of brother Mewa Ram two days after the death of Usha Rani, meaning thereby that he came to the house of Mewa Ram in village Kandhari Garhi on 25.06.1986, because Smt. Usha Rani had died on 23.06.1986. When the witness Bhim Singh reached village Kandhari Garhi, his brother Mewa Ram and Bhabhi Chandra Kanta were present in the house and they had told him

about the incident of committing murder of Usha Rani by the accused persons. It means that complainant and his wife had received information about the death of their daughter Usha Rani prior to 25.06.1986, because when the witness Bhim Singh came to their house on 25.06.1986, people were coming for condolence. In his examination-in-chief P.W. 1 Mewa Ram has stated that he had gone to his Sasural in those days and when he came back to his house on 28.06.1986, he was told by his wife that Usha Rani has been burnt to death on 23.06.1986 by her in-laws. This statement of the complainant Mewa Ram is absolutely false, as on the basis of the statement of his brother Bhim Singh, it is proved beyond doubt that information regarding the death of Usha Rani had been received by her parents prior to 25.06.1986. P.W.2 Chandra Kanta also has stated in her examination-in-chief that village Pradhan Devi Singh had given information to her on 28.06.1986 regarding the murder of her daughter Usha Rani by her in-laws. In view of the aforesaid statement of Bhim Singh (P.W.4), this statement of Smt. Chandra Kanta is also false. In this situation, the statement of D.W. 1 Hardayal Singh becomes relevant. The witness Hardayal Singh, who has been accused by accused in their defence, has stated in his statement that on 23.06.1986 at about 5.30 p.m. he came to know that the wife of Bhagwan Singh has died and on the instruction of Bhagwan Singh he went to Kandhari Garhi to the house of in-laws of Bhagwan Singh and gave information to his mother inlaw about the death of Usha Rani. It is also stated by witness Hardayal Singh that the mother-in-law of Bhagwan Singh had accompanied him to village Ganj Nawalpur and Mewa Ram also had reached after about half an hour and thereafter with their consent and in their presence, last ceremony of the dead body of Usha Rani was performed. Lengthy cross-examination has been made from this witness on behalf of prosecution, but nothing material could be elicited from him. There is no reason to disbelieve the testimony of the witness Hardayal Singh. Although Hardayal Singh is a cousin brother of Bhagwan Singh, but on this ground, his testimony cannot be discarded. On the basis of testimony of this witness, it is fully proved beyond reasonable doubt that information regarding the death of Usha Rani was given by him to her mother Smt. Chandra Kanta on 23.06.1986 who accompanied him to village Ganj Nawalpur and on arrival of Mewa Ram (complainant), funeral of the dead body was performed in their presence.

22. There is no direct evidence to show that the accused persons had committed the murder of Smt. Usha Rani. From the evidence on record, it is revealed that Smt. Usha Rani and her husband Bhagwan Singh were living separately from other accused. The prosecution has failed to lead any reliable evidence to show THAT the deceased Usha Rani was being harassed by the accused persons for, or in connection with, demand of dowry. No particular item of dowry has been mentioned in the FIR. The accused are poor persons. The accused Bhagwan Singh along with his wife Usha Rani was residing in a Kuchcha dilapidated house. The complainant Mewa Ram has stated in his cross-examination that Bhagwan Singh was making demand of electric fan, sewing machine, almirah and money. It is not safe to place reliance on this statement of complainant Mewa Ram, because

no such allegation has been made in the FIR and the items of dowry which were being demanded by the accused persons have not been specified in the FIR. As mentioned above, the complainant Mewa Ram and his wife Smt. Chandra Kanta have given false evidence on the point of receiving information regarding death of Usha Rani. The FIR of this case was lodged with great delay on 29.06.1986. On the basis of the testimony of D.W. 1 Hardayal Singh, it is fully proved that the information regarding death of Usha Rani was given to the wife of complainant on the same day viz 23.06.1986 and she had come to village Ganj Nawalpur with Hardayal Singh and after about half an hour, the complainant Mewa Ram also had reached there and thereafter, with their consent and in their presence funeral of the dead body was performed. No explanation for causing delay in lodging the FIR has been furnished by the prosecution. In our view, the delay in lodging the FIR is fatal in this case. Had Smt. Usha Rani been burnt to death by the accused persons as alleged by the complainant and his wife Smt. Chandra Kanta, they would have informed the police immediately after seeing the dead body of their daughter, but they did not make any attempt to inform the police about the murder of their daughter. This fact indicates that the complainant and his wife Smt. Chandra Kanta were satisfied that their daughter Smt. Usha Rani was not burnt to death by the accused persons and it was for this reason that they did not take any step to lodge any FIR immediately against the accused persons for committing murder of their daughter. All these facts indicate that neither the deceased Usha Rani was being subject to cruelty for or in connection with demand of dowry by the accused persons, nor she was burnt to death by them.

23. Unnatural death of Smt. Usha Rani had occurred in the house of her husband accused Bhagwan Singh. Hence in view of Section 106 of Indian Evidence Act, it was obligatory for the accused Bhagwan Singh to furnish explanation regarding unnatural death of his wife. We have extracted above a portion of the statement of Bhagwan Singh recorded u/s 313 Cr.P.C. It is revealed from the afore-cited statement of accused Bhagwan Singh that his wife Smt. Usha Rani did not like to live in her Sasural, because she was resident of city and since the facility of electricity was not available in his house she was pressurising him to live in Hathras and to seek some service there. It is further stated by the accused Bhagwan Singh in his statement that Smt. Usha Rani had committed suicide. From the aforesaid statement of the accused Bhagwan Singh; this fact is borne out that the deceased Usha Rani being accustomed of living in city did not like to live in her Sasural in village, because the facilities of urban life were not available in the house of her husband and it was for this reasons that she committed suicide. It is also stated by the accused Bhagwan Singh in his statement u/s 313 Cr.P.C. that a letter was found in the articles of Usha Rani, which has been filed by him in the Court. Ext. Kha 1 is that letter, which has been filed by the accused in defence. The contents of this letter are very material which are as under:

Hathras Sriman Patidev Pair Chhuna Savinay yah hai ki main yahan raji khushi se hun. Main aasha karati hun ki aap bhi mai pariwar ke kushal purwak honge.

Aage samachar yah hai ki maine tumse Hathras men naukari karane ko kaha tha. Sua mere papa ji ne tumhare liya ek naukari dhundh lee hai. Aur pas me ek makan bhi dekh liya hai. Isliya tum patra ko dekhate hee yahan chale aao. Meri mammi ne meri sadi tumhare sath isliya ke thi ki tum sadi ke bad hamare ghar par he rahoge. Aur sahar men naukari karoge yadi tum nahin aaoge to mein tumhare gaon kabhi nahin jaungi Kyonki wahan par na to bijali hai aur tumahara ghar kuchcha tuta hua hai. Mujhpe wahan nahin raha jata tumhare bhai bhabhi nahin achche lagate yadi tum mujhe sath rakhana chahte ho to tumhe Hatras mea he rahana parega. MERI tumse prarthana hai ki tum mari bat man lo aur patra ko dekhate he chale aao mere papa ji yahi chahate hai.

Aapki Usharani.

24. The aforesaid letter has been written by the deceased Usha Rani to her husband. This letter was shown to Smt. Chandra Kanta (P.W.2), at the time of her cross-examination. She has admitted the signature of Usha Rani on this letter in para 8 of her statement, but it is stated by her that this letter is not in the hand writing of her daughter Usha Rani. This letter was shown to P.W.1 Mewa Ram also and after reading it, he stated that this letter is not written in the hand writing of Usha Rani, but the statements of these witnesses do not appear to be true, because on bare perusal of the letter Ext. Kha-1, it is observed that this letter has been scribed by the person who has signed it and as admitted by Smt. Chandra Kanta, this letter bears the signature of her daughter Usha Rani. On the basis of the averments made in this letter, this fact is borne out that the deceased Usha Rani did not like to live in the house of her husband and she was pressuring him to live in his Sasural Hathras and to seek some service there. It is specifically stated by Smt. Usha Rani in this letter that if her husband will not seek service in the city, she would not come to live with him in village, because facility of electricity is not there and the house of her husband is also Kuchcha and dilapidated. It is also stated by the deceased in letter Ext. Kha-1 that she is unable to live in the house of her husband and she does not like his brother and Bhabhi. Letter Ext. Kha 1 reveals the mental contention of the deceased. This letter fully corroborates the defence version of committing suicide by Smt. Usha Rani. It is not disputed that the deceased Usha Rani was borne and brought up in Hatras City and till her marriage with accused Bhagwan Singh, she was enjoying the facilities of urban life, but when after her marriage she came to her Sasural, she did not find those facilities in the house of her husband. Hence, being fed up with hard village life and finding herself unable to live in the kuchcha and dilapidated house of her husband, Smt Usha Rani, who was having fully matured pregnancy, in the state of frustration, eliminated her life by committing suicide and left this world for her heavenly abode with unborn child in her womb. Therefore, in our considered view, neither the accused Bhagwan Singh, nor other accused-respondents can be held liable for unnatural death of Smt. Usha Rani.

25. Much emphasis was laid by the learned AGA on the letter Ext. Ka-4, which is said to have been sent by Smt. Usha Rani to her mother through her brother

Bablu one day prior to the incident. The letter Ext. Ka 4 read thus:

Mammijee Ganj Nawalpur Sadar Namaste Mujhe ye log bahut pareshan karate hai. Mujhe sab log marne ke sochte hai em kin mujhe Prema aur usaki ladki ne mara tha aur khurpi lekar mere upar daurh padi thi ye kahate hain ki ye kahin akeli milegi usi din ise jan se khatam kar denge aur mujh se kahate hain. Aapne saman ke sat hisse kar aur mere bade bakse ka ek kunda bhi todhan diya hai. Phawara markar Shiv Singh ne aur Shiv Sigh mere upar Fhawar lekar marane ke liya ara pada tha. Jeth Dwarika Prasad aur Chaudhari Bhudev Sookha ke hathon main Ithi danda lage the mujhe buri buri gali de rahe the ab mammi main bach nahi sakati boon. Ye log mujhe jan se mar denge.

Aapki Usha Rani.

26. The learned Trial Judge giving sound reasons in the impugned judgment has disbelieved this letter. We too are not inclined to place reliance on this letter. When the statement of witness Chandra Kanta was recorded by the Investigating Officer, she did not told him that her daughter Usha Rani had sent a letter to her through her brother one day prior to the incident. Letter Ext. Ka 4 was not shown to the Investigating Officer during investigation. In the First Information Report also, it is not mentioned that Smt. Usha Rani had sent a letter. one day prior to the incident to her mother through her brother Bablu. Therefore, for all these reasons, the learned Trial Judge has not committed any illegality in not placing reliance on the letter Ext. Ka-4. In our view, on the basis of letter Ext. Ka-4, it cannot be inferred that Smt. Usha Rani was burnt to death either by her husband Bhagwan Singh or her in-laws. It is also not mentioned in this letter that the accused-respondents were subjecting Smt. Usha Rani to cruelty for or in connection with demand of dowry. As such, the letter Ext. Ka 4 also is not helpful to the prosecution in bringing home the guilt to the accused-respondents.

27. The learned A.G.A. further submitted that the accused-respondents did not inform the police regarding commission of suicide by the deceased Usha Rani and on this ground it will be presumed that the deceased did not commit suicide, but her murder was committed by the respondents-accused. The contention of learned A.G.A. was that if suicide was committed by Usha Rani in the house of her husband, then in was obligatory for him to inform the police and since he did not furnish any information to the police, hence he shall be held liable for the murder of the deceased. We are not impressed with this contention of learned A.G.A. There is no provision in Cr. P. C. or any other law for the time being in force, under which a husband is legally bound to give information to the police regarding commission of suicide by his wife. Commission of suicide is no offence, although attempt to commit suicide is punishable u/s 309 I.P.C. If any person, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished u/s 202 I.P.C. In the like manner, omission to furnish information on any subject to any public servant by the person, who is legally bound to furnish such information, is punishable u/s 176

IPC, but the learned AGA could not point out any provision in the code of Criminal Procedure or any other enactment, under which a person is legally bound to furnish information to a public servant regarding commission of suicide by his wife or any other family member. Therefore, in our view, no adverse inference can be drawn against the accused-respondents due to omission to furnish information to the police regarding commission of suicide by Smt. Usha Rani, because neither the accused Bhagwan Singh nor any other accused was legally bound to furnish such information to the police or any other authority. At the cost of repetition, we would like to repeat that information regarding commission of suicide by Smt. Usha Rani was given to her parents by the accused Bhagwan Singh through D.W.1 Har Dayal Singh, and on arrival of the parents of deceased, funeral of her dead body was performed in their presence and with their consent. Therefore, in our considered view, the accused-respondent cannot be held liable for unnatural death of Smt. Usha Rani, merely because they did not inform the police regarding commission of suicide by her.

28. While recording the findings of acquittal, the learned Trial Judge has given cogent and sound reasons in the impugned judgment. The findings of acquittal recorded in favour of the accused-respondents are neither perverse nor against the evidence. The learned Trial Judge has properly appreciated the evidence and right conclusion has been drawn by him. Hence interference by this Court in the impugned judgment is not warranted.

29. Consequently, this government appeal is hereby, dismissed. The personal bonds of the accused-respondents and surety bonds of the sureties are cancelled and the sureties are hereby discharged.

The Office is directed to return Trial Court record along with a copy of this Judgment expeditiously.