

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRA-D-1052-DB-2015 (O&M)

Reserved on:03.03.2022

Pronounced on : 08.03.2022

Vineet

..Appellant

Versus

State of Haryana

..Respondent

**CORAM:- HON'BLE MS. JUSTICE RITU BAHRI  
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Jagmohan Singh, Advocate  
for the appellant.

Mr. Ankur Mittal, Addl. A.G., Haryana with  
Mr. Saurabh Mago, A.A.G., Haryana  
for the respondent-State.

**ASHOK KUMAR VERMA, J.**

1. This is an appeal preferred by the appellant against the judgment of conviction dated 20.05.2015 and the order of sentence dated 21.05.2015 for commission of offence punishable under Sections 302 and 498-A of the Indian Penal Code, 1860 (for short 'the IPC') thereby awarding following sentence to the appellant:

Under Section 302 of the IPC	To undergo rigorous imprisonment for life and to pay a fine of Rs.25,000/-. In default of payment of fine, he shall further undergo simple imprisonment for a period of one year.
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Under Section 498-A of the IPC.	To undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/-. In default of payment of fine, he shall further undergo simple imprisonment for a period of one month.
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2. In brief, a sordid, terrible and tragic tale of murder of a wife in the present case is that Rachna Devi, mother of deceased-Preeti, made complaint/statement against the appellant/accused stating that she has four children. They had performed the marriage of their eldest daughter Preeti with the appellant/accused Vineet on 05.07.2006 as per Hindu rites and ceremonies and they had given dowry articles beyond their capacity but the appellant/accused was not happy with the said articles. Out of the wedlock, two children were born- one daughter and one son. The appellant/accused used to give beatings to her under the greed of dowry and pressurized her to bring money from her house and used to send her to their house for bringing money. They after giving money to their daughter sent her back to her matrimonial home. About 10 days prior to the incident, the appellant/accused gave beatings to her daughter-Preeti. On receiving information, she along with Chinki (her another daughter) and Sushil Kumar (father-in-law of her daughter-Chinki) came to Pehowa and after making understand the appellant/accused, returned back. Her daughter-Preeti told her to take her along with them or otherwise, the appellant/accused would kill her. On 10.06.2014, the appellant/accused informed her on mobile phone No.9896989293 that her daughter Preeti died and her dead body was lying in Government Hospital, Pehowa. On this information, she along with her husband Ramesh Kumar, her Samdhi-Sushil Kumar and

daughter Chinki reached Government Hospital, Pehowa, they saw dead body of her daughter-Preeti was lying on a stretcher and there were marks of injuries on her body. When they enquired, they came to know that the appellant/accused murdered their daughter after giving beatings and poison to her in greed of dowry. On the basis of said complaint Ex.P2, FIR was registered. The matter was investigated by SI Darshan Singh and SI Phool Singh. Site plan was prepared, statements of witnesses were recorded, post mortem of the dead body was got conducted, medical records were obtained, the appellant/accused was arrested and after completion of investigation, he was challaned in due course to face trial before the Court. On finding a prima-facie case, punishable under Sections 498-A and 302 of the IPC, the appellant/accused was charge-sheeted by the trial court to which he pleaded not guilty and claimed trial.

3. In order to prove its case, the prosecution examined as many as 15 prosecution witnesses and produced material documents and objects which were exhibited. In his defence evidence, appellant/accused examined DW-1 Pawan Kumar.

4. Having appreciated the evidence on record, the learned Additional Sessions Judge, (Exclusive Court for Heinous Crimes against Women), Kurukshetra vide judgment of conviction dated 20.05.2015 and order of sentence dated 21.05.2015 held appellant/accused-Vineet guilty under Sections 302 and 498-A of the IPC and sentenced him to undergo the aforesaid imprisonment.

5. Aggrieved against the above said judgment of conviction and order of sentence, the appellant has filed the present appeal.

6. Learned counsel for the appellant has vehemently submitted that the appellant has been falsely implicated in the present case. There is no eye witness in the present case. The case of the prosecution is merely based upon the circumstantial evidence. In the testimony of prosecution witnesses, there are so many material contradictions and discrepancies. The allegations with regard to demand of dowry as made in the complaint are bald, vague and general in nature. Learned counsel for the appellant further submits that the trial Court has failed to establish motive behind the murder by the appellant. Furthermore, no specific date, year and month of demand of dowry have been given and there is also no mention as to on which date, the complainant went to the house of the appellant to settle the matrimonial dispute and on which date the appellant has given beatings to his wife for bringing more dowry. As such offence under Section 498-A of the IPC is not made out and therefore, in the absence of any motive, offence under Section 302 of the IPC is also not made out. The impugned judgment of the Trial Court is based on surmises and conjectures. The Trial Court wrongly relied upon the statement of PW-4 Rachna Devi and PW-8 Chinki who are interested witness of the prosecution and close relatives of the deceased.

7. *Per contra*, learned State counsel has submitted that the appellant has been rightly convicted and sentenced by the trial court. There is cogent evidence on record to show that the appellant was

involved in the commission of the offence. The prosecution has examined as many as 15 witnesses to prove its case. After appreciation of the evidence on record, the Trial Court has rightly convicted and sentenced the appellant.

8. We have given our thoughtful consideration to the submissions made by learned counsel for the appellant and learned State Counsel and have gone through the lower court record.

9. We find no substance in the submissions of the learned counsel for the appellant.

10. Merely because there is no eye witness in the present case, is not enough to come to the conclusion that the appellant is not guilty of the offence.

11. In the present case, the prosecution has examined complainant Rachna Rani (mother of the deceased) as PW-4 who in her deposition before the trial court stated that she has four children, 03 daughters and 01 son. Her eldest daughter Preeti (since deceased) got married on 05.07.2006 with accused Vineet resident of Pehowa. At the time of marriage, they gave sufficient dowry articles to the accused and his family members but later on the accused and his family members were not happy with the dowry articles received at the time of marriage. Her daughter Preeti was blessed with two children, one daughter and one son. Accused Vineet always quarreled with her daughter, gave beatings to her and pressurized her to bring money from her parental house. One day accused Vineet gave beatings to her daughter and sent her to their house to bring money. On this, they gave money to their

daughter and sent her to her matrimonial home with a hope that everything will be settled one day. Thereafter, the accused kept her daughter happy for few days and again after some days, he started giving beatings to her daughter. The accused gave beatings to her daughter 10 days prior to the date of incident. On this, she alongwith her another daughter Chinki and Sushil Kumar (father-in-law of her daughter-Chinki) had gone to the matrimonial house of her daughter Preeti at Pehowa for advising them to settle their life peacefully. At that time, her daughter Preeti told her to take her alongwith them otherwise the accused would kill her. On which they advised the accused Vineet not to quarrel with her daughter and live happily. On 10.06.2014 the accused informed her on her mobile No.9896989293 that Preeti had expired and her dead body was laying in Civil Hospital, Pehowa. On which she along with her husband-Ramesh Kumar, her daughter-Chinki and Sushil Kumar (father-in-law of her daughter-Chinki) reached Civil Hospital, Pehowa and found that the dead body of Preeti was lying in Hospital and her body having bluish coloured spots. Later on she found that in the greed of more dowry, the accused-Vineet killed her daughter by giving her beatings and poison. Thereafter, she had given written application Ex.P2 to the police regarding the same. She had also given supplementary statement to the police that her daughter Preeti was working in Baba Man Singh Hospital, Pehowa and when she came back from her duty, her husband had quarreled with her and asked her to bring money from her parents. When she denied, thereupon, accused-Vineet gave beatings to her daughter and gave poison with a motive to

kill her. The accused is habitual of consuming liquor and other drugs and he is not working. For these reasons, her daughter was very much disturbed. In her cross-examination PW-4 Rachna Rani also stated that the information regarding the death of her daughter was conveyed by the accused at 9:30 a.m. When they reached Civil Hospital, Pehowa neither the accused nor any person from matrimonial home of her daughter was present there. Nobody from the matrimonial home of her daughter came in Civil Hospital, Pehowa on that date.

12. The deposition of PW-4 Rachna Rani is further strengthened by the deposition of PW-8 Chinki (sister of the deceased). In her cross-examination she stated that after one year of marriage of her sister, quarrel had started between her sister and accused Vineet. Whenever her sister visited parental home, she told about atrocities meted out to her at the hands of the accused. In sum and substance, she deposed on the same lines as deposed by PW4, mother of the deceased.

13. The aforesaid depositions of PW-4 and PW-8 are further corroborated by the deposition of PW-14 Dr. Narinder Pruthi, Medical Officer, LNJP Hospital who stated that the dead body had injuries on right upper arm, right side of chest and just above the *lateral malleolous*. He also proved the post mortem report Ex.P20 and submitted that as per FSL report Ex.P-21, aluminium phosphide was detected in stomach, parts of small and large intestines, part of lungs, liver, spleen, kidney and blood and in his opinion, the cause of death in this case was aluminium phosphide available in tablet form. In the

inquest proceedings Ex.P-12, injuries on the dead body of Preeti are mentioned.

14. Furthermore, PW-15 Dr. Manpreet Singh has tendered affidavit Ex.P22 in evidence and deposed that on 10.06.2014 at 09:45 a.m. he sent ruqa Ex.P-23 to Police Station Pehowa regarding admission of Preeti, with history of suspected poison and FSL report Ex.P21 shows that from gastic lavage (vomitus contents) aluminium phosphide has been detected.

15. PW-10 SI Darshan Singh, Investigating Officer of the case, proved the various police proceedings and deposed that on 10.06.2014 he was posted at Police Post Saraswati Vihar Pehowa. On that day, Rachna Rani got recorded her statement Ex.P-2 with regard to the murder of her daughter-Preeti, who was married with accused-Vineet. He conducted police proceedings Ex.P-11. He inspected the dead body, conducted inquest proceedings, photographs of dead body Ex.P15 and Ex.P16 were taken and statements of Rakesh Kumar and Sushil Kumar under Section 175 Cr.P.C. were recorded. Ruqa Ex.P13 regarding suspecting poison to Preeti and MLR Ex.P-14 was taken from CHC Pehowa. Umed Singh, the then SHO of Police Station Pehowa also verified the facts from witnesses. Thereafter, the dead body was taken to LNJP Hospital, Kurukshetra for *post mortem*. When he reached police station, HC Dalel Singh had given him one sealed parcel of vomiting of Preeti and one sealed envelope which were taken into possession vide recovery memo Ex.P1 in the presence of ASI Amrit Lal and HC Dalel Singh. On 11.06.2014 *post mortem* was conducted and investigation of



the case was conducted by SI Phool Singh, Incharge, Police Post Saraswati Vihar, Pehowa. After *post mortem*, sealed parcels were given by the doctor and possession was taken vide recovery memo Ex.P-4. The accused present in the Court suffered a disclosure statement Ex.P-5 to the effect that he could demarcate the place of occurrence where he poured poison in the mouth of Preeti. Accused led the police party to the disclosed place where he threw the vial and demarcated the place. In this regard, a memo Ex.P-6 was prepared. Thereafter, accused led the police party to the house of the accused, where he had given poison to his wife. Memo Ex.P-7 was prepared and signed by him. The deposition of PW-10 SI Darshan Singh is also corroborated by the deposition of PW-11 SI Phool Singh.

16. From the sequence of events and depositions of the above prosecution witnesses, the argument of learned counsel for the appellant that no case under Section 498-A of the IPC is made out against the appellant is demolished. It is well proved that the appellant/accused under the greed of dowry mentally and physically harassed the deceased and ultimately murdered her by giving poison which fact is corroborated by the medical evidence. The appellant has totally failed to falsify the depositions of PW4 and PW-8. The appellant has produced DW-1 Pawan Kumar, who is brother of the appellant. He has deposed before the trial court, but his deposition cannot be relied upon as being real brother of the appellant/accused he is likely to depose in favour of the accused, moreover such type of defence witnesses can be easily procured.

17. Overall analysis of above said events, unimpeachable evidence and the circumstances prove beyond doubt that the appellant/accused has committed murder of his wife. The appellant/accused has failed to prove his innocence. The prosecution has led cogent evidence to prove its case beyond reasonable doubt. In fact, the complete chain of link evidence stands established from the testimonies of various witnesses produced by the prosecution. The defence has not been able to elicit anything beneficial out of the cross-examination of the prosecution witnesses. The evidence produced by the prosecution proves the guilt of the appellant beyond reasonable doubt.

18. Be that as it may that there is no eye-witness in the present case, but the fact remains that murder has taken place in the house of the appellant. The question then is who is the author of the murder? The contention of learned counsel for the appellant that the appellant had no motive and the evidence led before the trial court is not sufficient to establish motive. As noticed above, it is well established that there was motive of demand of dowry behind the murder of the deceased at the hands of the appellant. Even for the sake of arguments, it is assumed that there is no motive made out, but the fact remains that the case is based on circumstantial evidence. Undoubtedly in cases of circumstantial evidences motive bears important significance. Motive always locks up in the mind of the accused and some time it is difficult to unlock. People do not act wholly without motive. The failure to discover the motive of an offence does not signify its non-existence. The failure to prove motive is not fatal as a matter of law. Proof of

motive is never an indispensable for conviction. Absence of proof of motive does not break the link in the chain of circumstances connecting the accused with the crime, nor militates against the prosecution case. As noticed above, in the present case, facts are clear and even motive is clear that there was persistent demand of dowry. Therefore, on analysis of the entire prosecution evidence, we are of the considered view that the appellant committed the offence of murder of his wife and thus the trial court has rightly convicted and sentenced him.

19. Moreover, it is settled proposition of law that circumstantial evidence is in no way inferior to direct evidence and circumstantial evidence can be the sole basis of conviction. In the present case, there is sufficient evidence to establish the guilt of the appellant/accused.

20. It is well settled that circumstances howsoever strong cannot take place of proof and that the guilt of the accused have to be proved by the prosecution beyond reasonable doubt. At this juncture, it will be apposite to refer to the golden principles laid down by the Hon'ble Supreme Court in *Sharad Birdhichand Sarda Vs. State of Maharashtra : 1984 (4) SCC 116* which are reproduced as under :-

**“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:**

**(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.**

**It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in Shivaji Sahabrao Bobade**

v. State of Maharashtra [(1973) 2 SCC 793 : 1973 SCC (Cri) 1033 : 1973 Cr1 LJ 1783] where the observations were made.

Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions.

- (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- (3) the circumstances should be of a conclusive nature and tendency,
- (4) they should exclude every possible hypothesis except the one to be proved, and
- (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

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158. It may be necessary here to notice a very forceful argument submitted by the Additional Solicitor General relying on a decision of this Court in *Deonandan Mishra v. State of Bihar* [AIR 1955 SC 801 : (1955) 2 SCR 570, 582 : 1955 Cri LJ 1647] to supplement his argument that if the defence case is false it would constitute an additional link so as to fortify the prosecution case. With due respect to the learned Additional Solicitor-General we are unable to agree with the interpretation given by him of the aforesaid case, the relevant portion of which may be extracted thus:

“But in a case like this where the various links as stated above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation, . . . such absence of explanation or false explanation would itself be an additional link which completes the chain.”

159. It will be seen that this Court while taking into account the absence of explanation or a false explanation did hold that it will amount to be an additional link to complete the chain but these

observations must be read in the light of what this Court said earlier viz. before a false explanation can be used as additional link, the following essential conditions must be satisfied:

- (1) various links in the chain of evidence led by the prosecution have been satisfactorily proved,
- (2) the said circumstance points to the guilt of the accused with reasonable definiteness, and
- (3) the circumstance is in proximity to the time and situation.”

21. Again in *Majendran Langeswaran Vs. State (NCT of Delhi) & Another : (2013) 7 SCC 192*, Hon’ble Supreme Court having found the material relied upon by the prosecution inconsistent and the infirmities in the case of the prosecution, considered number of earlier decisions, and held that the conviction can be based solely on circumstantial evidence but it should be tested on the touchstone of law relating to the circumstantial evidence that all circumstances must lead to the conclusion that the accused is the only one who has committed the crime and none else.

22. Apart from this, the presumption, as contemplated under Section 106 of the Indian Evidence Act, 1872 goes against the accused. This provision of law stipulates that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. While aptly explaining the scope of Section 106 of the Evidence Act in criminal trial, Hon’ble Supreme Court in *Shambu Nath Mehra Vs. State of Ajmer : AIR (1956) SC 404* observed as under:-

“9. This lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the

**prosecution to establish facts which are “especially” within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word “especially” stresses that. It means facts that are pre-eminently or exceptionally within his knowledge. If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that that cannot be the intention and the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried.”**

23. Applying this principle to the facts and circumstances of the present case, it was the bounden duty of the appellant/accused to explain how the death of his wife Preeti occurred, as she was residing with him in her matrimonial home. The post mortem report Ex.P20 and FSL report Ex.P21 shows that aluminium phosphide was detected in stomach, parts of small and large intestines, part of lungs, liver, spleen, kidney and blood and it is also testified by PW-14 Dr. Narender Pruthi that the cause of death of Preeti is because of consumption of aluminium phosphide. In the inquest proceedings Ex.P-12 there was mention of injuries on the dead body of Preeti. No reasonable explanation has been given by the appellant/accused that under which circumstances, his wife Preeti had consumed poison or why he should not be responsible for her murder in peculiar facts of the case.

24. In view of the above discussions, we are of the considered view that there is no illegality in the judgment of conviction and order of sentence passed by the Trial Court. Accordingly, the present appeal stands dismissed and the judgment of conviction and order of sentence

passed by the trial court are upheld. Pending applications in this case, if any, shall stand disposed of accordingly. Registry to return back the Lower Court Record.

(ASHOK KUMAR VERMA)  
JUDGE

(RITU BAHRI)  
JUDGE

08.03.2022  
*MFK/Kothiwal*

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>

