

# State vs Pardeep Kumar on 19 December, 2024

IN THE COURT OF SH. PANKAJ ARORA:  
ADDL. SESSIONS JUDGE-04: NORTH-EAST:  
KARKARDOOMA: DELHI

SESSIONS CASE No. 54/18  
CNR No. DLNE01-000563-2018

FIR No. 886/2014  
P.S Karawal Nagar  
U/s : 498A/304B/406/34 of IPC

STATE

Versus

(1) Pardeep Kumar (expired on 02-06-2023)

s/o Sh. Umesh Kumar  
r/o H. No. A-429, Gali no. 22, Phase-10,  
Shiv Vihar, Karawal Nagar, Delhi

(2) Meera Devi  
w/o Sh. Umesh Kumar  
r/o H. No. A-429, Gali no. 22, Phase-10,  
Shiv Vihar, Karawal Nagar, Delhi

(3) Umesh Vajpai  
s/o Sh. Satya Parkash  
r/o H. No. A-429, Gali no. 22, Phase-10,  
Shiv Vihar, Karawal Nagar, Delhi

(4) Rahul Vajpai  
s/o Sh. Umesh Kumar  
r/o H. No. A-429, Gali no. 22, Phase-10,  
Shiv Vihar, Karawal Nagar, Delhi

(5) Ghanshyam  
s/o Sh. Partap Bhan  
r/o H. No. A-587, Gali no. 20, Phase-10,  
Shiv Vihar, Karawal Nagar, Delhi

Date of Institution : 16-02-2018  
Date of Argument : 17-12-2024  
Date of Judgment : 19-12-2024

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JUDGMENT

1. Brief facts of this case are that on 01-10-2014, an information was received at PS Karawal Nagar through Wireless Operator that a 19-years-old girl has committed suicide at H. No. 2310, Gali no. 22, Phase-10, Shiv Vihar, Karawal Nagar. The information was reduced into writing vide DD no. 18B

(Ex. PW3/A) and the same was marked to SI Sandeep (hereinafter referred to as first IO/ Investigating officer). Thereafter, IO / SI Sandeep along with Ct. Sanjay reached the spot where on the first floor of the house, one lady was found lying dead on the bed in the room, whose name was revealed upon inquiry as Kushboo w/o Pardeep, who was married about 1½ years ago. One coloured saree was found tied with the ceiling fan in the room. The SDM concerned was intimated. The Crime Team was called which inspected the spot and clicked photographs. The dead body was sent to mortuary of GTB hospital through Ct. Sanjay. The colourful saree, which was tied with the ceiling fan, was cut with the help of blade and same was seized vide seizure memo Ex. PW4/A. Thereafter, on the directions of SDM concerned, the relatives of the deceased were brought to the office of SDM at Nand Nagri. The SDM concerned recorded statement of Sh. Rajesh Kumar, father of deceased, who stated that apart from the deceased, he had four more children- two boys and two girls. The deceased was got married with accused Pardeep on 23-05- 2013 at his paternal village Fatehpur, Distt. Hardoi as per Hindu rights and ceremonies. During the marriage, the groom side had obtained one motorcycle and cash of Rs. 2 lakhs in the form of dowry. After the marriage, the relations of the deceased with her in-laws were not cordial. The mother-in-law, father-in-law, husband Pardeep, brother-in-law Rahul and uncle Ghanshyam used to make further dowry demand of Rs. 2 lakhs. He could not meet the said dowry demand. Apart from the dowry demands, the brother-in-law of deceased namely Rahul used to molest her. On 01-10-2014, his brother Ramu received a phone call from the brother-in-law of deceased Khushboo, who asked them to immediately come at the matrimonial house of Khushboo. When his brother reached the matrimonial house of deceased at about 9 am, his son-in-law Pardeep and mother-in-law were only found present, who met his brother outside the home. When his brother opened the latch of the room of deceased, his brother found the deceased lying dead on the bed. His brother called him and he reached there at about 9:30/ 10 am and noticed that crowd had gathered. Only mother-in-law of Khushboo and husband Pardeep were found there and remaining in-laws had already fled from there. On the basis of above-stated statement of father of deceased, present FIR came to be registered for the offence punishable u/s 498A/304B/406/34 of IPC and u/s 4 of DP Act. Further investigation was marked to Second IO Inspector Satender Pal, who inspected the spot and got prepared the site plan. The IO arrested accused Pardeep Kumar, accused Meera Devi from their house. On 02-10-2014, the SDM concerned got conducted postmortem on the dead body and after postmortem, the dead body was handed over to the father of deceased. On 04- 12-2014, the IO arrested co-accused Umesh Kumar Vajpai (father-in-law) and accused Ghanshyam. On 13-12-2014, co- accused Rahul (brother-in-law) was arrested. Thereafter, IO obtained postmortem report of the deceased wherein the cause of death was opined as asphyxia as a result of antemortem hanging.

After completion of necessary formalities, charge-sheet was filed in the Court of Ld. Ilaqa MM.

## COMMITTAL

2. After taking cognizance and compliance of section 207 of IPC, the present case was committed to the court of Sessions vide order dated 24-01-2018 of Ld. CMM/NE/KKD. The then Ld. District and Sessions judge allocated the present case to Ld. Predecessor of this Court.

## CHARGE

3. After hearing arguments and on finding that prima facie case was made out against the accused persons for the offence punishable u/s 498A/304B/406/34 of IPC, charges were framed by the ld. Predecessor against accused persons, to which they pleaded not guilty and claimed trial. Thereafter, prosecution got examined as many as 19 witnesses.

## PROSECUTION EVIDENCE

4. (i) PW1 ASI Harbir Singh was the Duty Officer posted at PS Karawal Nagar at the relevant time. He has proved the endorsement made by him on the rukka prepared by the IO as Ex. PW1/B and copy of FIR as Ex. PW1/C. The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(ii) PW2 Sh. Rakesh Sharma, Asst. Director of Education, Directorate of Education, Govt. of NCT of Delhi deposed that on 01.10.2014 he was posted as SDM Karawal Nagar and in the morning at about 10 am he received a call from SHO Karawal of hanging. He directed the SHO to get the dead body preserved in the mortuary for postmortem examination and also directed him to get inspected the spot through crime team official including photographer. He further directed to produce the parents of deceased in his office to record their statement.

He further deposed that at 2.30 pm, father of deceased namely Rajesh Kumar was produced in his office by one police official of PS Karawal Nagar. He interrogated Rajesh Kumar and recorded his statement in Question Answer form. Whosoever, he told to him about the incident, same was recorded in his statement Ex.PW2/A. He had made endorsement that aforesaid statement was recorded by him. He also made endorsement under aforesaid statement addressing to SHO to take action as per law on the basis of aforesaid statement. Aforesaid statement is Ex. PW2/B. He handed over the aforesaid statement to police official who had produced the father of deceased before him.

PW2 added that on next day, he reached mortuary of GTB hospital, where father of deceased and relative of deceased namely Sanjay met him besides one police official who had assisted him in the aforesaid inquest proceedings. Some of the writing work was done by him under the directions of his dictation. Dead body of deceased Khusboo was identified by aforesaid persons namely Rajesh Kumar and Sanjay vide identification memo Ex. PW2/C. Thereafter, inquest form was filled up. Whosoever he noticed over the dead body same were mentioned in inquest form Ex. PW2/D. He had also prepared request for postmortem examination vide Ex.PW2/E. He had made endorsement under the aforesaid request to hand over the dead body to father of deceased after postmortem examination vide Ex.PW2/F. He had made request to autopsy surgeon in aforesaid request, application that viscera, blood and any other items may be preserved in addition clothes of deceased.

Aforesaid inquest papers alongwith photocopy of statement of father of deceased and rukka Ex.PW2/G-1 running upto four sheets, photocopy of site plan Ex.PW2/G-2, photocopy of DD No.18B Ex.PW2/G-3, photocopy of seizure memo of Sari prepared by police Ex.PW2/G-4, photocopy of application to get preserve the dead body recorded by police Ex. PW2/G-5 were sent to autopsy surgeon for purpose of examination and same were attested by him. He left the mortuary

leaving the police officials and others with directions to hand over the dead body after postmortem examination.

During his cross-examination by Ld. Defence counsel, he deposed that statement Ex. PW2/A was recorded on his directions and dictation by his PA Sh. Yashpal Khanna. He had not made such endorsement that the aforesaid statement was written by his PA. Date and month for demand of dowry had not been disclosed to him by father of deceased namely Rajesh Kumar in his statement. He had not asked date of demand of dowry from him at that time. He volunteered that he stated that he had put question to him and he replied the same and whatsoever he told to him same was recorded in his statement. He denied the suggestion that he deposed falsely.

(iii) PW3 ASI Jivanand was also the Duty Officer posted at PS Karawal Nagar at the relevant time. He has proved the DD no. 18B as Ex. PW3/A regarding information received through Wireless Operator that one girl, aged 19 years, committed suicide at H. No. 2310, Gali no. 22, Shiv Vihar, Ph-6, Karawal Nagar, Delhi.

During cross-examination by Ld. Defence counsel, he denied that DD entry is ante-dated and ante-time.

(iv) PW4 SI Sandeep Kumar was the first IO of the present case. He deposed that on 01.10.2014, he was posted at PS Karawal Nagar, Delhi. On that day at about 9.55 am copy of DD No.18B Ex.PW3/A was assigned to him which was in connection of committed suicide by one girl aged about 19 years at H.No. 2310 Gali No.22, Shiv Vihar, Ph-6 Karawal Nagar. He along with Ct. Sanjay reached a room at first floor of H.No. A-429, Gali No.22, Ph-10, Shiv Vihar, Karawal Nagar, Delhi. He found one female dead body lying on bed in a room. Main gate of the room was lying opened. Mohalla people were present outside the room. On inquiry, it came into his notice that dead body of Khushboo was lying on bed. It also came into his notice that marriage of aforesaid Khushboo had taken place 1½ year ago. He passed on information to SDM as well as senior police officials. Inspector Satender Pal came at spot. He also inspected the scene of crime. He noticed that one saari was hanging with ceiling fan in that room. He cut the aforesaid saari with the help of blade. He took into possession two pieces of saari vide seizure memo Ex.PW4/A after converting in a parcel and sealing with the seal of SK. He called crime team official at spot. SI Suman Kumar alongwith Ct. Sanjay Kumar came at spot at about 10:30 am. Ct. Sanjay Kumar had taken 13 photographs of dead body as well as scene of crime.

PW4 correctly identified the 13 photographs available on judicial file.

PW4 further deposed that SI Suman Kumar inspected the dead body and scene of crime, who prepared SOC report Mark PW4/14 and handed over the same to him. He alongwith Ct. Sanjay left the spot at about 11 am. He had advised him to get conducted the postmortem examination to ascertain the cause of death.

PW4 further claimed that he sent the dead body to mortuary of GTB in custody of Ct. Sanjay with written request Ex.PW2/G-5 to get it preserved there as he was telephonically directed by SDM.

Father of deceased along with some other relatives came at spot. He took him to the office of SDM where his statement Ex.PW2/A was recorded by SDM Sh. Rajesh Sharma. He also made endorsement addressing to SHO to take action as per law under the aforesaid statement. SDM had handed over aforesaid statement to him and he presented the same before SHO and as per directions he made endorsement Ex.PW12/A to get registered FIR for offence u/s 498A/406/304B/34 IPC and 4 of D.P. Act. He presented the rukka before Duty Officer at about 4.30 pm upon which FIR of present case Ex. PW1/C was registered by HC Harbir Singh and investigation was assigned to Insp. Satyendra Pal Singh.

PW4 further deposed that he had visited spot again alongwith IO. Site plan Mark PW4/15 of place of incident was prepared by the IO on his pointing out in presence of Ct. Sanjay. He handed over SOC report and sealed parcel containing two pieces of Saari to IO. He alongwith IO had made search of husband and other in laws of deceased whose name are mentioned in the statement of father of deceased here and there in the area but no clue come forward on that day as all were absconding.

PW4 identified the case property i.e. two pieces of saari Ex. P-1 (colly) as the same which were seized by him on the spot.

The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(v) PW5 HC Sanjay Kumar was the photographer of Crime Team and he has proved the photographs taken from all angles on the directions of IO as Ex. PW5/A1 to Ex. PW5/A13 and negatives thereof as Ex. PW5/B-1 to Ex. PW5/B-13.

The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(vi) PW6 Ct. Manoj Kumar is the investigating police official. He has proved the arrest proceedings of accused Ghan Shyam held on 04-12-2014 vide arrest memo Ex. PW6/A1 and personal search memo as Ex. PW6/A2.

The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(vii) PW7 SI Suman Kumar was the In-charge of Crime Team who inspected the spot. He has proved the scene of crime report as Ex. PW7/A. The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(viii) PW8 W/Ct. Reeta was the investigating police official. She has proved the arrest proceedings of accused Meera held on 01-10-2014 as Ex. PW8/A and personal search memo as Ex. PW8/B. The witness was cross-examined by ld. Defence counsel but nothing material came out therein.

(ix) PW9 Sh. Rajesh Kumar was the father of deceased. He deposed that he resides at Shastri Park along with his family and at the time of incident, he was conductor in RTV Bus. Deceased Khushboo was his elder daughter. Besides Khushboo, he has two sons and two daughters. On 23.05.2013, the marriage of his daughter Khushboo was solemnized with accused Pardeep in accordance with Hindu

and Rites. He had given one motorcycle and cash of Rs. 50,000-60000 and articles (household) to accused persons in the marriage. Thereafter, his daughter Khushboo started living with her in-laws happily. On 01.10.2014, he received a call from his brother Ramu that his daughter Khushboo had expired and thereafter, immediately he reached at the house of Khushboo at house no. A-429, Gali no. 22, Phase 10, Shiv Vihar where he saw Khushboo was lying dead on bed in a room at first floor. He did not know how his daughter Khushboo died at in-laws' house.

PW9 further deposed that on 02.10.2014, he went to mortuary of GTB Hospital where he identified the dead body of his daughter and dead body identification statement was recorded vide Ex. PW2/C. After postmortem, the dead body of his daughter was handed over to him vide handing over memo Ex.PW9/A. He did not want to say anything. He identified all the accused persons in the court. His statement was recorded.

The witness was cross-examined by Ld. Addl. PP for State as he was resiling from his earlier statement.

During cross-examination by Ld. Addl. PP for State, he affirmed that SDM had recorded his statement vide Ex.PW2/A. He denied the suggestion that he had stated to SDM that he had given Rs. 2 lacs and other articles in marriage of his daughter. He denied the suggestion that he had stated to SDM that after marriage of his daughter, the relations between his daughter and her in-laws were not cordial and her mother-in-law, father-in- law, Pardeep, Rahul and Ghanshyam used to tell to bring Rs. 2 lacs cash from her matrimonial house but he could not give as he was not able or that accused Rahul used to misbehave with her. Part A to A1 of Ex, PW2/A was read over to witness who denied the same having made to SDM. He denied the suggestion that he had stated to SDM in his statement dt. 01.10.2014 that he has full faith that his daughter has been killed by mother-in-law, father- in-law, Pardeep, Rahul and Ghanshyam and legal action may be taken against them. Part B to B1 of Ex. PW2/A was read over to witness who denied the same having made to SDM.

He affirmed that on 01.10.2014, his brother Ramu received a call from Rahul (dever of Khushboo) that ' aap hamare ghar par aaye, aap se kuch baat karni hai'. He affirmed that when his brother reached at their house, Pardeep and Meera were present, they meet to his brother. He affirmed that when his brother opened the kundi of room, his daughter was lying dead on bed and thereafter, he called him. He affirmed that he reached there public persons were gathered and Pardeep and Meera were present and other ie. dever. sasur and Ghanshyam had fled away. He denied the suggestion that he had stated to police in his statement dt. 1.10.2014 that after marriage of his daughter, his daughter told that her father-in-law Umesh, mother-in-law Meera, husband Pardeep and dever Rahul and uncle of Pardeep Ghanshyam used to taunt for bringing less dowry and pressurized her to bring Rs. 2 lacs cash. He denied the suggestion that he had stated to police in his statement dt. 1.10.2014 that all accused persons used to abuse and beat his daughter and due to this, his daughter Khushboo remained unhappy (pareshan rehti thi). He denied the suggestion that he had stated to police in his statement dt. 1.10.2014 that dever Rahul used to misbehave with his daughter under the influence of liquor. He denied the suggestion that he had stated to police in his statement dt. 1.10.2014 that 'lekin parivar ke badnami wa maan samaan ke kaaran humne Khushboo ko samjha kar rakha, wa khud ja kar, Khushboo ke sasur, saas wa pati se baat ki wa Rahul dever ko bhi

Samjhaya'. He denied the suggestion that he had stated to police in his statement dt. 01.10.2014 that due to poverty, he could not fulfill the demand of in-laws of Khushboo. He denied the suggestion that he had stated to police in his statement dt. 01.10.2014 that his daughter told him that her in-laws talked to kill her. He denied the suggestion that he had stated to police in his statement dt. 01.10.2014 that he could not take the statement of his daughter seriously. He denied the suggestion that he had stated to police in his statement dt. 1.10.2014 that he has full faith that his daughter was killed by accused persons for not fulfilling the demands of Rs. 2 lacs. Part A to A1 of Mark PW9/1 was handed over to witness who denied the same having made to police. He denied the suggestion that he was deliberately not telling the true facts or not supporting the prosecution case as he has settled the matter with the accused persons. He denied the suggestion that he was deliberately deposing falsely in order to save accused persons or that he has been won over by accused that is why he deposed falsely.

The witness was not cross-examined by ld. Counsel for accused persons despite having given the opportunity.

(x) PW10 Smt. Sunita was the mother of deceased. She deposed that she was having five children including Khushbu (since deceased). Her daughter Khushbu was eldest child. She was married on 23.05.2013 with accused Pradeep Kumar according to Hindu customs and rites. In the marriage, they had given one motorcycle without any demand of accused persons. They had not given any cash in the marriage. However, they had given household articles according to their wish. No dowry demand was made by accused persons in the marriage. After marriage, her daughter was kept well in her matrimonial house. Her daughter never made any complaint against her in-laws regarding the dowry demands.

She further deposed that she did not remember the date, month and year of the death of her daughter. She also did not remember that how many days after her marriage, her daughter died. After receiving information, she along with her husband and some other relatives reached the matrimonial house of her daughter where she found her daughter lying on a bed in a room of the first floor of the house. Police never met her regarding the investigation of the present case. Police had also not recorded her statement in the present case. She identified all the accused persons in the court correctly.

The witness was cross-examined by Ld. Addl. PP for State she was was resiling from her previous statement given the police.

During cross-examination by Ld. Addl. PP for State, she denied the suggestion that police recorded her statement on 01.10.2014 and same is marked as Mark PW10/A. She denied the suggestion that she had stated to the police in her statement mark PW10A and it so happened that they had given Rs.2 lacs in cash at the time of marriage. She denied the suggestion that she had stated to the police in her statement mark PW10/A and it so happened that accused persons (Sasural wale) were not happy with the dowry articles given to them or that they were demanding further Rs. 2 lacs in cash, apart from the above said Rs.2 lacs or that Khushbu was being pressurized by her father in law Umesh, mother in law Meera, husband Pradeep, Devar Rahul and uncle of accused Pradeep namely

Ghanshyam, for bringing more money or that accused persons also used to beat and abuse her daughter. She denied the suggestion that she had stated to the police in her statement mark PW10/A and it so happened that accused persons were not providing proper food to Khushbu or that her devar accused Rahul used to molest her under the influence of liquor or that the aforesaid facts were told to her by her daughter Khushbu. She denied the suggestion that she had stated to the police in her statement mark PW10/A and it so happened that one month prior to her death, her daughter Khushbu came to their house at Shastri Park or that at that time she informed them that accused persons (Sasural wale) were talking to kill her or that they had not taken the same seriously.

She recollects that her daughter died on 01.10.2014. She denied the suggestion that she had stated to the police in her statement mark PW10/A and it so happened that accused persons Umesh, Meera, Pradeep, Rahul and Ghanshyam had killed her daughter Khushbu on the pretext of less dowry or not bringing dowry or that her statement was recorded on 01.10.14 and was read over to her. She denied the suggestion that she has intentionally and deliberately concocted the fact that they had given motorcycle on their wishes without the demand of accused persons or that accused persons never demanded any dowry or that her daughter was kept well in her matrimonial house as she has been won over by the accused persons and want to save them. She denied the suggestion that she has intentionally and deliberately suppressing the true and incriminating facts of her statement mark PW10/A. She denied the suggestion that she has compromised the matter with accused persons or that due to this reason, she was suppressing the true facts to save the accused persons. She denied the suggestion that she deposed falsely.

The witness was not cross-examined by Ld. Defence counsel despite having given the opportunity.

(xi) PW11 Sh. Ramu Misra deposed that the deceased Khushboo D/o Rajesh Kumar was his niece. He did not remember date and month of the marriage of Khushboo, but her marriage was solemnized with accused Pradeep Kumar, however her marriage had taken place in the year 2014. He identified accused Pradeep Kumar in the Court.

He further deposed that he had attended the marriage of Khushboo. There was no len-dein(transaction) taken place between the family of bride and groom. After the marriage, Khushboo was kept well by her in-laws. His house was situated at some distance from the matrimonial home of Khushboo and she used to come to his house after her marriage and she did not make any complaint to him or his family about any ill treatment by the accused persons and they were keeping her well. She used to say that the accused persons are good and they used to look after her. That was all he has to depose. None of his statement recorded by the police.

The witness was cross-examined by Ld. Addl. PP for State as the witness was resiling from his earlier statement.

During his cross-examination by Ld. Addl. PP for State, he affirmed that besides accused Pradeep Kumar, devar of Khushboo Umesh namely Rahul Wajpayee, parents in law of deceased namely Umesh Wajpayee and Smt. Meera and Ghanshyam relative of the accused persons were present in court today.

He further stated that he used to do work in a spare parts shop at Kashmere Gate. In the year 2014, he was using keypad mobile phone. He could not admit or deny the suggestion that in the year 2014, he was using mobile phone no. 9891301629. He denied the suggestion that his statement was record by the IO in the present case on 01.10.2014. He affirmed that marriage of Khushboo and Pradeep Kumar had taken place on 25.05.2013 in their native village Fatehpur, Dist. Hardoi, UP.

In response to a question that in the marriage of Khushboo, his brother gave dowry articles ie. one motorcycle, cash Rs.2 lacs and many other articles, he replied that they did not demand dowry and whatever articles normally given in the marriage, they were given. He did not know if his brother gave motorcycle and cash of Rs. 2 lacs besides the other articles as dowry to the accused persons, statement is Ex.PW11/PX. He denied the suggestion that the deceased whenever used to come to their house, she used to tell him that her husband Pradeep, mother in law Meera, father in law Umesh, Devar Rahul and Ghanshyam uncle of Pradeep used to pressurize her to bring dowry and used to taunt her on bringing less dowry and used to abuse her and they even did not provide her proper food and Pradeep used to misbehave with her after drinking alcohol. He denied the suggestion that he had stated these to the IO in his statement. He denied the suggestion that he being uncle of Khushboo many times made understood her husband and father in law. He denied the suggestion that he had told the above fact in his statement to IO. He denied the suggestion that about one month before the death of Khushboo when he went to the house of his brother Rajesh, he met Khushboo there and she told that her in-laws talked to kill her. He denied the suggestion that he had told the above fact in his statement to IO. He denied the suggestion that on 01.10.2014, he received phone call from Rahul wherein he told him to come to his house immediately as he wanted to talk to him and at about 9.00 am when he reached the Sasural of Khushboo, outside the house Pradeep and Meera met him and then he opened the house, he found Khushboo that on the bed. He denied the suggestion that he had told the above fact in his statement to IO. He denied the suggestion that he immediately informed his brother Rajesh through phone and he reached there at about 10.00 am. He denied the suggestion that he had told the above fact in his statement to IO. He denied the suggestion that he had told the IO that he believe that accused Pradeep, Rahul, Umesh, Ghanshyam and Meera Mother in law of Khusboo had committed murder of Khushboo. He did not remember, therefore, he could not deny the suggestion that on 01.10.2014, he through his mobile no. 9891301629, had informed the police at 100 no. He denied the suggestion that he deliberately not deposing the true facts or that not supporting the prosecution case as he alongwith family of deceased have settled the matter with the accused persons and therefore, have been won over by them. He denied the suggestion that he has intentionally attempting to misled the court by stating that none of his statement recorded by police and no fact of cruelty or harassment by the accused persons over Khushboo was told by her to him. He denied the suggestion that his statement that he did not make understand the accused family is also incorrect and he had made false statement in order to save the accused persons.

He was not cross-examined by Ld. defence counsel despite having given opportunity.

(xii) HC Sangram Singh was also examined as PW11. He was the investigating police official who had joined the second IO Inspector Satender Pal after registration of FIR. He deposed on the same lines on which Inspector Satender Pal (PW19) has deposed, whose testimony shall be dealt with

later on.

The witness was cross-examined by Ld. Defence counsel but nothing material came out therein.

(xiii) PW12 HC Sanjay Singh was the investigating police official who had accompanied the first IO SI Sandeep at the spot. He deposed on the same lines on which SI Sandeep (PW4) has deposed.

The witness was cross-examined by Ld. Defence counsel but nothing material came out therein.

(xiv) PW13 HC Jaswant Singh is the investigating Police officer who had deposited the exhibit at FSL Rohini on 10.11.2014. He deposed correctly about the role performed by him.

The witness was cross-examined by Ld. Defence counsel but nothing material came out therein.

(xv) PW14 HC Ravi Kumar was the Investigating police officer who had witnessed the arrest proceedings of accused Rahul Vapai held on 13-12-2014 vide arrest memo Ex. PW14/A and personal search memo Ex. PW14/B. The witness was not cross-examined by Ld. Defence counsel despite having given the opportunity.

(xvi) PW15 Dr. Priyal Jain was the Autopsy Surgeon, got examined through VC. He has proved the Postmortem report Ex. PW15/A wherein he had opined the cause of death of deceased as asphyxia as a result of antemortem hanging.

The witness was not cross-examined by Ld. Defence counsel despite having given the opportunity.

HC Jaswant Singh (PW13) was again examined as PW16, he was already examined as PW13.

The witness was cross-examined by Ld. Defence counsel but nothing material came out therein.

(xvii) PW17 Sh. M.L Meena, Sr. Scientific Officer (Chemistry) was the FSL Expert who had examined the viscera of the deceased. He proved his report prepared by him Ex. PW17/A. As per the report, no harmful chemical was detected in viscera.

The witness was not cross-examined by Ld. Defence counsel despite having given the opportunity.

(xviii) PW18 Dr. Bharti Bhardwaj, Sr. Scientific Officer (Physics) FSL expert who had examined the physical strength of ligature material i.e one coloured saree. She proved her report Ex. PW18/A wherein she had given her opinion that the above- stated ligature material was strong enough to hold weight of normal built person.

The witness was not cross-examined by Ld. Defence counsel despite having given the opportunity.

(xix) PW19 Inspector Satender Pal Singh is the second IO of the present case. He deposed that on 01-10-2014, he was posted as Inspector at PS Karawal Nagar. On that day, the investigation of the present case was marked to him after the registration of the FIR. He along with SI Sandeep, Ct. Sangram and W/ct. Reeta went to H. No. 2310, Gali No. 22, Phase-10, Shiv Vihar, Karawal Nagar

where they met with accused Pradeep Kumar (husband of deceased) and accused Smt. Meera Devi (mother in law of deceased). Thereafter, at the instance of SI Sandeep, he prepared a site plan without scale Ex. PW19/A. Thereafter, he made inquiries from accused Pradeep and accused Meera. He arrested both the accused persons vide arrest memos Ex. PW11/A and Ex. PW8/A. He prepared the personal search memos of both the accused persons vide Ex.PW11/B and Ex.PW8/B. Thereafter, they made search of the other accused persons however, they were not found. Thereafter, they returned to the PS along with staffs and accused persons. The medical examination of the accused persons were got conducted. Thereafter, accused persons were put in the lock up. He recorded the statement of the police staffs. On that day, the father and mother of the deceased namely Rajesh and Sunita came at the PS. He made inquiries from them and recorded their statements. He also recorded the statements of witnesses i.e. Ramu Mishra. On next day, he along with SI Sandeep Kumar went to mortuary GTB where the dead body of the deceased was got identified by her relatives. They prepared the inquest papers for the PM of the deceased at the instance of the SDM. The PM of the deceased was got conducted. Thereafter, the dead body of the deceased was handed over to her relatives vide receipt Ex. PW9/A. Thereafter, he recorded the statement of Ct. Sanjay who was already present in the GTB hospital mortuary. Thereafter, both the accused persons were produced before the court whereby both were sent to JC. Thereafter, he went to the office of crime team where he met with the I/C SI Suman and Ct.Sanjay Kumar (Photographer) and recorded their statements.

PW19 claimed that on 04.10.2014, Ct. Sanjay collected the exhibits from the GTB hospital mortuary and handed over the same to him which he seized vide seizure memo Ex. PW12/A. He deposited the said exhibits in the malkhana. On 01.11.2014, he collected the PM report of the deceased Khusboo. On 10.11.2014, the exhibits were sent to FSL through Ct. Jaswant. On his return, he recorded his statement. On 23.11.2014, accused Umesh Vajapi surrendered in PS and accordingly, he arrested accused Umesh vide arrest memo Ex.PW11/C. He prepared the personal search memo of accused Umesh vide Ex. PW11/D. He recorded the disclosure statement of accused Umesh vide Ex. PW11/E. He recorded the statement of Ct. Sangram who was involved in the investigation on that day with him. The accused Umesh was produced before the court whereby he was sent to JC.

On 04.12.2014, accused Ghyanshyam surrendered in PS and accordingly, he arrested him vide arrest memo Ex.PW6/A1. He prepared the personal search memo vide Ex. PW6/A-2. He recorded the statement of Ct. Manoj who was involved in the investigation on that day with him. The accused was produced before the court whereby he was sent to JC.

On 13.12.2014, accused Rahul Vajpai surrendered in PS and accordingly he arrested him vide arrest memo Ex.PW14/A and his personal search was conducted vide Ex. PW14/B. He recorded the statement of Ct. Ravi Kumar who was involved in the investigation on that day with him. The accused was produced before the court whereby he was sent to JC. During investigation, he collected the photographs and the crime team visit report. During investigation, all the accused persons were granted bail. Thereafter, he got transferred and he handed over the case file to the MHC (R). He identified all four accused persons in the court.

The witness was cross-examined by Ld. Defence counsel but nothing material came out therein.

## STATEMENT OF ACCUSED

5. After completion of prosecution evidence, the statement of accused persons was recorded under Section 313 Cr.P.C. wherein incriminating facts were put to the accused, which were denied by them. Accused persons stated that they are innocent and falsely implicated in this case. The accused persons did not opt to lead defence evidence.

## FINAL ARGUMENTS

6. This court has heard the arguments from Ld. Addl. PP for State and Sh. D. K. Tyagi, Ld. Defence counsel and have perused the record.

Ld. Addl. PP for the State submitted that testimony of all the prosecution witnesses is sufficient to bring home the guilt of accused persons beyond reasonable doubts. PW2 Rakesh Sharma has proved the statement of parents of the deceased recorded by him as Ex. PW2/A and Ex. PW2/B. Thus, presumption u/s 113B of the Indian Evidence can be conveniently drawn which has not been rebutted by the accused persons as no defence evidence has been led by them.

On the other hand, it is submitted by Ld. Defense counsel on behalf of accused persons that the accused persons were falsely implicated in the present case. The relatives of the deceased namely PW9 Rajesh Kumar, PW10 Sunita and PW11 Ramu Mishra have not supported the case of the prosecution. There is no allegation that deceased was subjected to cruelty by the in-laws for or in connection with demand of dowry at any point of time during her marriage with the accused Pardeep Kumar.

## FINDINGS OF THE COURT

7. Before analyzing the evidence led by the Prosecution in the present case, this court deems it proper to refer to some provisions of law and citations of Superior courts, which are found to be applicable to the facts of the present case.

Sections 304B, 498A, 406 and 113B Indian Evidence Act read as under:-

"304B. Dowry death--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.

498A. Husband or relative of husband of a woman subjecting her to cruelty--Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation--For the purpose of this section, "cruelty" means--

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

406. Punishment for criminal breach of trust.--Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

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 has been subjected by such person to cruelty or harassment for, on in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. Explanation--For the purpose of this section, "dowry death" shall have the same meaning as in Section 304B of the Indian Penal Code (45 of 1860)."

8. It is pertinent to note that the principles governing the cases u/s 304B of IPC have been culled by the Hon'ble High Court of Delhi in a landmark case titled Sudhakar Singh Vs. State on 18-07-2014 in Crl. Appeal No. 240/1998 as follows:

17.1. To attract the provisions of Section 304-B IPC the main ingredient of the offence to be established is that soon before the death of the deceased she was subjected to cruelty and harassment in connection with the demand of dowry. 17.2. The death of the deceased woman was caused by any burn or bodily injury or some other circumstance which was not normal.

17.3. Such death occurs within seven years from the date of her marriage.

17.4. That the victim was subjected to cruelty or harassment by her husband or any relative of her husband.

17.5. Such cruelty or harassment should be for or in connection with demand of dowry.

17.6. It should be established that such cruelty and harassment was made soon before her death.

17.7. The expression "soon before" is a relative term and it would depend upon circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. 17.8. It would be hazardous to indicate any fixed period and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113-B of the Evidence Act.

17.9. Therefore, the expression "soon before" would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. There must be existence of a proximate or live link between the effect of cruelty based on dowry demand and the death concerned. In other words, it should not be remote in point of time and thereby make it a stale one.

17.10. However, the expression "soon before" should not be given a narrow meaning which would otherwise defeat the very purpose of the provisions of the Act and should not lead to absurd results.

17.11. Section 304-B is an exception to the cardinal principles of criminal jurisprudence that a suspect in the Indian law is entitled to the protection of Article 20 of the Constitution, as well as, a presumption of innocence in his favour. The concept of deeming fiction is hardly applicable to criminal jurisprudence but in contradistinction to this aspect of criminal law, the legislature applied the concept of deeming fiction to the provisions of Section 304-B. 17.12. Such deeming fiction resulting in a presumption is, however, a rebuttable presumption and the husband and his relatives, can, by leading their defence prove that the ingredients of Section 304-B were not satisfied.

17.13. The specific significance to be attached is to the time of the alleged cruelty and harassment to which the victim was subjected, the time of her death and whether the alleged demand of dowry was in connection with the marriage. Once the said ingredients are satisfied it will be called "dowry death" and by deemed fiction of law the husband or the relatives will be deemed to have committed that offence."

9. In Kanwar Pal vs. Shakuntala And Ors. Crl. Rev.P. 345/2006, it was held by Hon'ble High Court of Delhi vide order dated 29-01-2015, that:-

"In our view, onus was on the prosecution to prove beyond reasonable doubt the ingredient of Section 498A, IPC and the essential ingredient of offence under Section 498A is that the accused, as the husband of the deceased, has subjected her to cruelty as defined in the Explanation to Section 498A IPC. Similarly, for the Court to draw the presumption under Section 113B of the Evidence Act that the appellant had caused dowry death as defined in Section 304B, IPC, the prosecution has to prove besides the demand of dowry, harassment or cruelty caused by the accused to the deceased soon before her death. Since the prosecution has not been able to prove

beyond reasonable doubt this ingredient of harassment or cruelty, neither of the offences under Sections 498A and 304B, IPC has been made out by the prosecution."

The concluding para read as under:

"40. I am of the considered opinion that to establish the offence under Section 304B IPC of dowry death, the presumption under Section 113B of the Evidence Act cannot be raised against an accused until independently the offence under Section 498A IPC is proved by leading evidence to the specific allegation with regard to time and date of such demand and cruelty and furthermore establishing the proximity live link between the effect of cruelty based on dowry demand (offence under section 498A IPC) and the death of the victim."

10. Now, let this court apply the above-mentioned principles to the facts of the present case. Indisputably, the alleged incident has taken place within seven years of marriage; the factum of death of deceased Khushboo was brought to the knowledge of parents of the deceased by brother-in-law of the deceased namely accused Ghanshyam by making phone call. It is pertinent to note that the entire police machinery was set into motion by Sh. Rajesh Kumar, father of the deceased, who had stated before the Executive Magistrate vide statement Ex. PW2/A that the in-laws of the deceased used to make dowry demand of Rs. 2 lakhs which he could not fulfill due to his limited financial capacity. The brother in law of the deceased also used to molest her. Only on the basis of the above-stated allegations, present FIR came to be registered.

11. In order to establish the fact that the deceased was subjected to cruelty soon before her death for or in connection with demand of dowry, the prosecution has got examined only three witnesses i.e. PW9 Rajesh Kumar (father of deceased), PW10 Smt. Sunita (mother of deceased), PW11 Ramu Mishra (uncle of deceased). In his deposition dated 09-12-2021, PW9 Rajesh Kumar had stated that after the marriage, her daughter Khushboo started living with her in-laws happily. He did not depose anything to indicate that the accused persons had subjected the deceased to any sort of cruelty, whether physical or mental. Similarly, PW10 Smt. Sunita too in her deposition dated 27-09-2022 did not level any allegation of cruelty towards her daughter for dowry demand by the accused persons. She had categorically stated that after marriage, her daughter was kept well in her matrimonial house. PW11 Ramu Mishra had also testified that after the marriage, his niece Khushboo was kept well by her in-laws. PW9, PW10 and PW11 have also denied all the suggestions put by Ld. Addl. PP for the State indicating the role of accused persons in subjecting the deceased to cruelty for or in connection with demand of dowry, which the said witnesses have stated in their respective statements to the police during investigation of the present case. Rather, PW10 and PW11 had denied having given any statement to the police.

As such, merely on the basis of statement Ex. PW2/A and Ex. PW2/B recorded by PW2 Rakesh Sharma while conducting inquest proceedings prior to the registration of present FIR, presumption u/s 113B of the Indian Evidence Act cannot be drawn.

12. On careful analysis of evidence, it is evident that there is no evidence of demand of dowry subjecting the deceased to cruelty or harassment 'soon before her death', for or in connection with demand of dowry. Presumption u/s 113B of the Indian Evidence Act can be drawn only when the prosecution first establishes essential ingredients of Section 498A of IPC. In view of judgment of Kanwar Pal Vs. Shakuntala & Ors., (Supra), presumption u/s 113B of Indian Evidence Act cannot be raised against an accused until independently the offence under Section 498A of IPC is proved by leading evidence to the specific allegation with regard to time and date of such demand and cruelty and furthermore establishing the proximity live link between the effect of cruelty based on dowry demand (offence under section 498A IPC) and the death of the victim.

13. Admittedly, no suicide note of deceased placed on record by the Prosecution. Nor there is any complaint from the side of deceased against her in-laws at any time prior to the date of incident. As per the postmortem report Ex. PW15/A, the cause of death of deceased was opined as asphyxia as a result of antemortem hanging. As such, the foundational facts essential for drawing presumption u/s 113B of Indian Evidence Act have not been established by the Prosecution.

14. Since the prosecution could not prove the essential ingredients of Section 304B of IPC, the question of drawing presumption against the accused persons u/s 113B of Indian Evidence Act does not arise. Thus, the prosecution has failed to prove the charges u/s 498A/34 and 304B/34 of IPC against the accused persons.

15. It is pertinent to mention here that it has been held in case of Sadhu Singh V/s State of Punjab 1997(3) Crime 55 by the Hon'ble Punjab & Haryana High Court that:-

"In a criminal trial, it is for the prosecution to establish its case beyond all reasonable doubts. It is for the prosecution to travel the entire distance from may have to must have. If the prosecution appears to be improbable or lacks credibility the benefit of doubt necessarily has to go to the accused."

16. In Harendra Narain Singh vs. State of Bihar, AIR 1991 S.C. 1842, their Lordships of the Hon'ble Supreme Court had reiterated the well-known principle of the criminal jurisprudence as:

"..... The basic rule of criminal jurisprudence is that if two views are possible on the evidence adduced in a case of circumstantial evidence, one pointing to the guilt of the accused and the other to his innocence, the Court should adopt the latter view favourable to the accused....."

17. In Data Xiva Naique Desai and Another vs. The State, AIR 1967 Goa, Daman and Diu 4, the Hon'ble Supreme Court reiterated the well-known principles of the criminal jurisprudence which are reproduced as under:

"The learned Judge would be advised to observe the following general rules when he is dealing with the serious question of the guilt or innocence of persons charged with crime: (i) The onus of proving everything essential to the establishment of the charge

against the accused lies on the prosecution; (ii) The evidence must be such as to exclude to a moral certainty every reasonable doubt of the guilt of the accused; (iii) In matter of doubt it is safer to acquit than to condemn; for it is between several guilty persons should escape than that one innocent person suffer; and (iv) the hypothesis of delinquency should be consistent with all the facts proved."

18. In Swarn Singh Ratan Singh vs. State of Punjab, AIR 1957 SC 637, it was held by the Hon'ble Apex Court that, "in criminal cases mere suspicion, however, strong, cannot take the place of proof. The Court must also take into consideration that an accused is presumed to be innocent till charges against him are proved beyond reasonable doubt. Mere suspicion, however, strong it may be, cannot take the place of legal proof."

19. Moreover, in Kali Ram vs. State of Himachal Pradesh, AIR 1973 SC 2773, the Apex Court had observed as follows:-

"Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable: it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. Although the benefit of every reasonable doubt should be given to the accused, the courts should not at the same time reject evidence which is ex-facie trustworthy on grounds which are fanciful or in the nature of conjectures.

The guilt of the accused has to be adjudged not by the fact that a vast number of people believe him to be guilty but whether his guilt has been established by the evidence brought on record. Indeed, the courts have hardly any other yardstick or material to adjudge the guilt of the person arraigned as accused. Reference is sometimes made to the clash of public interest and that of the individual accused. The conflict in this respect, in our opinion, is more apparent than real.

It is no doubt true that wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse, however, is the wrongful conviction of an innocent person. The consequences of the conviction of an innocent person are

far more serious and its reverberations cannot but be felt in a civilized society. All this highlights the importance of ensuring as far as possible, that there should be no wrongful conviction of an innocent person. Some risk of the conviction of the innocent, of course, is always there in any system of the administration of criminal justice. Such a risk can be minimized but not ruled out altogether."

#### DECISION OF THE COURT

20. It is well settled that it is the duty of the prosecution to prove the guilt of the accused beyond reasonable doubt. Therefore, on the basis of the material available on the record, the case of the prosecution becomes doubtful and the benefit of doubt certainly goes in favor of the accused persons. The prosecution has failed to prove its case beyond all reasonable doubts against the accused persons. Accordingly, taking into consideration the facts and circumstances of the case, accused persons namely Meera Devi, Umesh Vajpai, Rahul Vajpai and Ghanshyam are hereby acquitted of the charges punishable u/s 498A/304B/406/34 of IPC. File be consigned to record room after compliance of section 437A of Cr.P.C.

Announced in the Open Court  
On 19-12-2024

PANKAJ

Digitally signed by PANKAJ  
ARORA

ARORA

Date: 2024.12.19 16:16:11  
+0530

(PANKAJ ARORA)  
ADDL. SESSIONS JUDGE-04: NORTH-EAST/  
KARKARDOOMA/ 19-12-2024