

State vs Dheeraj Etc on 18 December, 2024

IN THE COURT OF MS. MANISHA KHURANA KAKKAR,
ADDITIONAL SESSIONS JUDGE (FTC) - 01 (SOUTH), SAKET,
NEW DELHI

SC No. : 12/2014 6455/2016
FIR No. : 200/2012
PS : Safdarjung Enclave
State Vs. : DHEERAJ ETC

JUDGMENT

(a) Name of complainant : Sh. Lal Chand.

(b) Name, parentage & : (1) Dheeraj
address of accused(s) S/o Sh. Chotelal
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.
(2) Chotelal
S/o Late Sh. Badan Singh
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.
(3) Sheela Devi
W/o Sh. Chote Lal
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.
(4) Shruti
D/o Sh. Chote Lal
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.
(5) Suhail
S/o Sh. Chote Lal
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.
(6) Neeraj Kumar
S/o Sh. Chote Lal
R/o H.No. N-17, Top floor,
Green Park Extension, New Delhi.

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(c) Offence complained off : 498A/304-B/34 IPC

(d) Plea of accused	:	Pleaded not guilty
(e) Final order	:	Dheeraj & Chotelal (Convicted) Sheela, Shruti, Suhail, Neeraj (Acquitted)
(f) Date of such order	:	18.12.2024
Date of Institution	:	24.09.2012
Date of conclusion of final arguments	:	28.11.2024
Date of Judgment	:	18.12.2024

BRIEF FACTS :-

1. It is the case of the prosecution that after about six months of solemnization of the marriage of accused Dheeraj (husband of deceased) alongwith accused Chotelal (Father in law), Sheela Devi (mother in law of deceased), Shruti (sister in law), Suhail and Neeraj (brother in law) subjected the deceased to cruelty on account of demand for dowry. It is further alleged that in the intervening night of 12/13.06.2012 at about 12:00 mid night at H.No. N-17, Green Park Extension (Top floor), New Delhi deceased Monika committed suicide within 7 years of her marriage with accused Dheeraj, due to cruelty and harassment meted out to her.

2. Consequently, charge-sheet for the offence U/s 498A/304B/34 IPC was filed against accused persons.

After the compliance of section 207 Cr.P.C, matter was committed to the Court of Sessions by Ld. MM vide order dated 17.09.2012.

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3. On the basis of material placed on record, vide order dated 12.03.2013 passed by Ld. Predecessor, charge for the offence u/s 498A/304B/34 IPC was framed against the accused persons to which they pleaded not guilty and claimed trial.

Prosecution Evidence :-

4. In order to bring home the guilt of accused persons, prosecution had examined 27 witnesses in the prosecution evidence i.e. PW1 Lal Chand, PW2 Smt. Pushpa Devi, PW3 Sh. Amitabh Behar, PW4 Ct. Vijender, PW5 PW7 Kamal Singh, PW8 Sh. Alok Sharma, PW9 Nanak Chand, PW10, PW11 Insp. Jitender Kumar, PW12 , PW13 ASI (Retd) Revti Prasad, PW14 WCT. Suman Lata, PW15 Insp. Mahesh Kumar, PW16 WCT. Vaishali, PW17 Ct. Kulbir, PW18 ASI Vinod Kumar, PW19 SI Jitender Kashyap, PW20 Dr. Thejaswi HT, PW21 Dr. Suman Karmakar, PW22 Insp. Sandeep Ghai, PW23 Sh. Parshuram Singh, PW24 Ms. Anita Chhari, PW25 Sh. Munish Kathuria, PW26 Ms. Urmila, PW27 Sh. Ramesh Chand.

Summary of prosecution evidence :-

5. PW1 Sh. Lal Chand (Father of deceased) :- He deposed that his deceased daughter Monika was married on 15.01.2012 with accused Dheeraj and was residing at Green Park Extension, New Delhi. He testified that after the said marriage, all the inlaws of his deceased daughter started demanding dowry demand and PW1 Lal Chand gave Rs. 70-80,000/- to the accused persons.

PW1 Lal Chand further stated that his daughter Monika used to tell them that MANISHA Digitally MANISHA signed by FIR No.200/2012 KHURANA Date: 2024.12.19 KHURANA KAKKAR PS Safdarjung Enclave KAKKAR 15:57:25 +0530 accused persons used to ask her to bring money or to leave the matrimonial house. He further stated that she also used to tell him that her husband i.e. accused Dheeraj used to come late at night at about (1/1:30 AM).

6. As per the testimony PW1 Lal Chand, on 07.06.2012, he came to the house of accused persons as accused Dheeraj had called him to take deceased with him. He further stated that mediator Kamal Singh (relative) (PW7) also met him there, and that accused Chote Lal, Neeraj, Suhail and Kamal Singh (mediator) were also present there. When PW1 Lal Chand asked as to why he should take his daughter from their house the accused persons informed him that deceased Monika did not know any household work and she used to remain in AC for the whole day.

7. PW1 Lal Chand further stated that he had sent his son Ravi Kumar and his nephew Nanak Chand to matrimonial house of his deceased daughter for taking her back. He further testified that his son and nephew told them that the relatives of accused persons were complaining of giving less dowry and that the car was not given in the marriage. He further deposed that accused Dheeraj told his wife that he had not been given sufficient dowry and demanded some money from his wife. Therefore, his wife gave Rs. 5000/- to accused Dheeraj and sent deceased with accused Dheeraj to her matrimonial house.

8. PW1 Lal Chand further testified that deceased had earlier informed him on telephone that accused Dheeraj was demanding Rs. 30,000/- from her and that he had taken Rs. 30,000/- from his brother Veer Singh, on the false pretext that he was under some loan due to the said marriage. Thereafter, he called accused Dheeraj to his house and handed over Rs. 25,000/- to accused

Dheeraj. After MANISHA Digitally MANISHA signed by FIR No.200/2012 KHURANA Date: 2024.12.19 KHURANA KAKKAR PS Safdarjung Enclave KAKKAR 15:57:33 +0530 sometime, he received a call from his daughter that her husband was asking for Rs. 25,000/- as he had suffered some loses in the business. PW1 Lal Chand again took Rs. 25,000/- as loan from his brother Veer Singh, on pretext that he was under some loan. PW1 Lal Chand called accused Dheeraj to his house and handed over Rs. 25,000/- to him. He further stated that once his daughter came to his house alongwith accused Dheeraj and his daughter informed his wife that she was beaten up by accused Dheeraj, as she had seen one Anu and accused Dheeraj in a compromising position. PW1 Lal Chand further stated that deceased told his wife that her husband (accused Dheeraj) threatened not to disclose the same to anyone.

9. PW1 Lal Chand further deposed that on 06.06.2012, he called accused Dheeraj to his house and handed over Rs. 15,000/-. As per his testimony, during this entire period after her marriage, whenever his daughter used to call him or his wife on phone, she only spoke about dowry demand being raised by accused persons. He further stated that in between his daughter told him that her Nanand Shruti had slapped her and had beaten her for bringing less dowry.

10. PW1 Lal Chand further deposed that on 12.06.2012 at about 11:30-12 Noon, he received a telephonic call of his son in law i.e. accused Dheeraj, who asked him to talk to his daughter on phone. PW1 Lal Chand further testified that he informed her that he would come to her matrimonial house on the next day and when PW1 Lal Chand inquired from her, she informed him that accused persons were asking her to leave the matrimonial house.

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11. In his cross-examination conducted by Ld. Addl. PP for State, he affirmed that both 'devars', 'nanand Shruti' were taunting her and harassing her for bringing less dowry and also told her that they were getting good offers for the marriage of accused Dheeraj. He further deposed that he handed over marriage card of his daughter, photograph of the marriage and cash memo for purchasing the articles given in the marriage of his daughter to the police on 17.06.2012 vide memo Ex. PW1/C. The same were placed on record as Ex. P1, P2 to P6 and P7 respectively.

12. During his cross-examination conducted by Ld defence counsel for accused persons, PW1 Lal Chand affirmed that whenever she visited his house, she never complained of harassment or torture against her inlaws. He also affirmed that there was no demand for dowry from the accused persons till the time of marriage of his daughter and that it was a simple marriage. He denied the suggestion that after the incident he had concocted a false list and given the same to the police or that all the bills of the dowry articles had been forged and fabricated by him. He further deposed that first time he paid money to the accused in the month of March, however, he did not remember the date. He

further stated that after that he gave money in the month of May and third time he paid the money to accused on 06.06.2012 as he received a call from his daughter on 05.06.2012. He affirmed that accused Dheeraj had never called him on phone for demanding money. He, however, voluntarily stated that the money was always demanded by his daughter, who used to call him on phone.

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13. He further testified that no witness was present when he paid the money to accused Dheeraj as per his demand and the entire money was paid by him and not by his wife. He further deposed that his daughter was present only once when he paid money to accused Dheeraj and on rest of the occasion, only accused Dheeraj was present, when he gave money to him. He further affirmed that accused Dheeraj had brought his wife to Delhi twice for her treatment, for which PW1 Lal Chand had paid. He further stated that he and his wife had good relations with accused Dheeraj and that is why, they were taken to hospital by him, whenever they were ill.

14. He denied the suggestion that whenever his daughter used to visit his house after marriage, she used to insist that she would go with Mukesh, as PW1 Lal Chand had married her with accused Dheeraj forcibly, without her consent. He also denied the suggestion that deceased also told him that if he did not accede to her demand, she would commit suicide.

15. PW-2 Smt. Pushpa Devi :- She deposed that in the marriage of her daughter, they had given all the household articles including gold articles i.e. gold chain, ring etc. She further testified that after the marriage, her nephew Nanak Chand and her son Ravi had gone to the house of inlaws of deceased to take her back for the first time. However, accused Chotelal (father in law) told her son and nephew that they had not given sufficient dowry including four wheeler in the marriage. PW2 Smt. Pushpa Devi further testified that on the first two visits of her daughter after her marriage, she did not complain about anything. However, she called PW1 Lal Chand from the house of her inlaws, and told him that her inlaws were demanding motorcycle and she demanded Rs. 80,000/- on the asking of her husband i.e. accused Dheeraj. PW2 Smt. Pushpa MANISHA Digitally MANISHA signed by KHURANA Date: 2024.12.19 KHURANA KAKKAR FIR No.200/2012 KAKKAR 15:58:03 +0530 PS Safdarjung Enclave Devi further statd that after sometime accused Dheeraj came alone to their house and her husband paid Rs. 30,000/- to him, after taking the same from his brother Veer Singh.

16. PW2 Smt. Pushpa Devi further testified that her daughter also told her that she had seen accused Dheeraj with Anu on bed and when she asked her about their relations, accused Dheeraj threatened to kill her. As per her testimony, after sometime, accused Dheeraj came to their house to take back her daughter and at that time he demanded Rs. 10,000/- and her husband gave him Rs. 5,000/-. She further stated that in April 2012, PW2 Smt. Pushpa Devi was at her parental house when her daughter called her on phone and asked her to come to her house as she was feeling harassed. PW2 Smt. Pushpa Devi further stated that her daughter informed her that accused Dheeraj was demanding Rs. 15,000/- and had already sold her necklace. She further stated that accused Dheeraj came to their house and her husband gave some amount to him and accused Dheeraj had taken her daughter to the matrimonial house.

17. PW2 Smt. Pushpa Devi further deposed that on 12.06.2012, at about 12 mid night, her daughter made a call to her husband(PW1) and informed him that accused persons were harassing her and she called her father to her matrimonial house.

18. In her cross-examination, PW2 Smt. Pushpa Devi denied the suggestion that deceased had an affair with one boy Mukesh, who was a resident of village of her mother and wanted to marry her. She further denied the suggestion that her daughter wanted to marry Mukesh but they forced her and persuaded her to marry accused Dheeraj. She also denied the suggestion that she was not happy MANISHA MANISHA KHURANA KHURANA KAKKAR FIR No.200/2012 KAKKAR Date: 2024.12.19 15:58:12 +0530 PS Safdarjung Enclave with accused Dheeraj as she was in love with Mukesh or that accused Dheeraj also informed the said fact to them. She further denied the suggestion that on hearing the complaint of accused Dheeraj in this regard, she alongwith her husband went to the place of inlaws of her daughter and tried to make her understand that accused Dheeraj was her husband and she should live peacefully with him.

19. She, however, affirmed that whenever accused Dheeraj visited their house alongwith her daughter, he never demanded any dowry. She affirmed that accused Dheeraj had taken her to hospital for her treatment near his house, however, she had paid for her treatment.

20. PW2 Smt. Pushpa Devi further stated that she had stayed only once in the matrimonial house of her daughter, however, at that time deceased did not complain of any harassment. PW2 Smt. Pushpa Devi, however, stated that her mother in law complained that they had given less dowry in the marriage and stated that a four wheeler was not given in the marriage. She affirmed that she had visited Delhi for her medical examination at Safdarjung hospital in April 2012 or that on that occasion her son inlaw i.e. accused Dheeraj had taken her to hospital for treatment.

21. PW2 Smt. Pushpa Devi denied the suggestion that false story had been concocted by them regarding giving of money by her husband to accused on his demand. She also denied the fact, PW1 Lal Chand needed money for business purpose and accused Dheeraj paid Rs. 50,000/- to him in the month of February 2012.

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22. She affirmed that accused Dheeraj had given mobile to her daughter, however, as per her testimony, the same was taken back after one month. She denied the suggestion that deceased was constantly in touch with one Mukesh on mobile number 08979833346 from her mobile number 9953924982. She further denied the suggestion that Monika had extended threat to Mukesh that if Mukesh did not take her from her matrimonial house, she would commit suicide.

23. PW7 Sh. Kamal Singh :- He deposed that he knew accused Chhotey Lal, being his distant relative. He further testified that the Marriage between deceased Monika and accused Dheeraj was solemnized in the year 2012 and it was a normal marriage and household articles were given in the marriage by the father of Monika. He further deposed that after 5-6 days before the death of deceased, Neeraj (son of accused Chhotey Lal) had called him at his house on telephone. He further stated that he reached there and a formal talk had taken place between him and accused Chhotey Lal. He further testified that no complaint was made by accused Chote Lal to him or PW1 Lal Chand and he came back to his house after taking dinner. He further deposed that deceased Monika did not tell her father, in his presence that Rs.15,000/- which were given to accused Dheeraj, were not sufficient and he required Rs. 25,000/-. He further stated that after 5-6 days of his visiting the house of accused Chhotey Lal, on one night Neeraj (son of accused Chhotey Lal) informed him on telephone that deceased Monika had fallen from roof and she was admitted in Trauma Center.

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24. The said witness was, however, cross-examined by Ld. Addl. PP for State on the ground that he was resiling from his previous statement given to the police.

25. During his cross-examination conducted by Ld. Addl. PP for State, he denied the suggestion that accused Chhotey Lal had made a complaint against deceased Monika or that when Monika's father asked her about the complaint, she told that her father in law was making false allegations. He further denied the suggestion that deceased Monika had told her father that Rs.15,000/- which were given to her husband (accused Dheeraj) by her father were not sufficient and she further told her father that he would give Rs.10,000/- to accused Dheeraj after coming from Rajasthan.

26. During his cross-examination conducted by Ld defence counsel, he deposed that PW1 Lal Chand never told him that accused persons had demanded cash of Rs. 15,000/-. Rs. 25,000/- or Rs. 30,000/- etc within 6 months of marriage.

Medical Evidence :

27. PW6 Dr. Chitranjan Behra :- He deposed that on 10.07.2012, medical board was constituted for giving subsequent opinion on the request of IO. On 13.07.2012, they examined post mortem report of deceased, copy of FIR, MLC report and 5 photographs of scene of occurrence. On perusal of the aforesaid documents they opined that all the injuries as mentioned in the Post mortem report were collectively sufficient to cause instantaneously death in ordinary course of nature. However, head injury was individually sufficient to cause instantaneous death. The detailed report was placed on

record vide Ex. PW6/A. MANISHA Digitally MANISHA signed by KHURANA KHURANA KAKKAR
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28. In his cross-examination, he deposed that injury no. 5 and 6 were caused by impalement of metal rod and were also ante mortem in nature, which might have been sustained during the process of fall of deceased from the height of building to the ground.

Police witness:

29. PW-22 Insp. Sandeep Ghai :- He deposed that in the intervening night of 12- 13.06.2012, he received a call vide DD No. 4A i.e. Ex. PW13/A regarding fall of a person from PAL building, N17, Green Park Extension. He further testified that the said call was marked to ASI Revti Prasad, who alongwith Ct. Kulbir reached the place of incident. Thereafter, he alongwith SI Jitender Kashyap and Ct. Sanjeev also reached the place of incident after recording DD No. 9A vide Ex. PW22/A. He further stated that at the spot, they found that a portion of a wall had collapsed alongwith part of the railing. However, it was found that the said damage to the wall and the railing had occurred from the impact of the deceased after falling from roof top of the building. He further deposed that some broken pieces of plastic bangles and one pointed iron rod which appeared to be the part of the railing was also found lying there.

30. As per his testimony, pieces of green coloured cloth of the Saree, later found to be that of deceased, was also found entangled with the broken iron railing. He further testified that deceased had already been taken to hospital by husband of the deceased. As per his testimony, the railing of the top floor was intact and no impression/evidence of forced fall was observed. He, however, stated one Sofa was found placed on its northern side right above the spot where blood was MANISHA MANISHA KHURANA KHURANA KAKKAR Date: 2024.12.19 FIR No.200/2012 KAKKAR 15:58:53 +0530 PS Safdarjung Enclave found scattered. He further testified that the said fact suggested that deceased was not forcibly made to fall from the terrace of the building.

31. PW22 Insp. Sandeep Ghai further deposed that in the afternoon time, father of deceased Sh. Lal Chand alongwith his wife and other relatives reached the place of incident and he made a call at 100 number to the police, that his daughter had been killed after throwing her from terrace. The said call was received in the PS vide DD No. 24A i.e. Ex. PW1/A. He further testified that thereafter, SDM recorded the statement of father of deceased i.e. PW1 Lal Chand, which was also endorsed by mother of deceased i.e. PW2 Smt. Pushpa Devi and the same was also attested by the SDM. He further stated that after registration of FIR, he alongwith ASI Revti Prasad again visited the place of occurrence and prepared the site plan vide Ex. PW22/B and Ex. PW22/C. Thereafter, all the accused persons were arrested vide memo Ex. PW13/C, PW13/D, PW13/E, PW13/PX2 and PW13/PX1 respectively. Thereafter, he got the postmortem of the deadbody of deceased conducted in pursuance of request of SDM vide Ex. PW8/B.

32. He further deposed that during the course of investigation, he had also collected original marriage invitation card Ex. P1, photographs of marriage Ex. P2 to P6 and the original invoices of stree dhan articles running into 11 sheets vide Ex. PW22/J (Colly) and were seized vide seizure

memo Ex. PW1/C.

33. He had also sent the exhibits to FSL for there examination. Thereafter, he got prepared the scaled site plan vide Ex. PW15/A and had also collected the crime team report vide Ex. PW11/A. He also collected the CDR and other relevant documents running into 11 pages vide Ex. PW22/K (Colly).

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34. In his cross-examination, he deposed that he remained at the spot for about 30- 45 minutes and had made inquires from accused Chote Lal but not recorded his statement. He further testified that he had gone up to the terrace of the said building from where the deceased had fallen down. At that time, none of the occupants residing in the building met him. He further stated that no CCTV camera was installed at the said building. He further deposed that the brother of accused Chote Lal and his family were also residing in a room on the same terrace but they did not meet him at that time. He had not prepared any document during the stay for 45 minutes as the call was assigned to ASI Rewati Prasad and he was the IO at that time. He further testified that he was present during the said proceedings/inspection as the supervisory officer but not as the IO.

35. PW22 Insp. Sandeep Ghai further deposed that the parents of deceased reached at the PS at about 01-01:30 PM on next day i.e. 13.06.2012. He recorded the statement of parents u/s 161 CrPC after registration of FIR.

36. FIR was placed on record vide Ex. PW18/A alongwith rukka vide Ex.

PW18/B.

37. Thereafter, prosecution evidence was closed vide order dated 08.08.2024 and statement of accused persons u/s 313 Cr.P.C. were recorded vide order dated 08.10.2024, wherein accused Dheeraj chose to lead Evidence in his defence.

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38. DW-1 Dheeraj :- He deposed that he is the husband of deceased Monika. He further testified that he and his family members have been falsely implicated by the

parents of the deceased for extortion of money from him and his family members. He further testified that he never demanded any dowry from the deceased and that the deceased was married with him forcibly by her parents. As per his testimony, deceased had a love affair with one person namely Mukesh and she wanted to marry him but her parents forcibly married her with him and that is why she was unhappy with the marriage. He further stated that due to the said reason, she always used to remain frustrated and also committed suicide.

39. He further deposed that the mobile phone of the deceased which was used by her before her death was taken by his family members and on checking the same, call record between one Mukesh and deceased was found. The above call record/conversation was saved in a CD and given to the police along with the Spice mobile phone. He produced the said conversation in a pendrive vide Ex. DW1/P1 along with certificate under section 65B Indian Evidence Act vide Ex. DW1/P2. He also produced the invoice of the pen drive dated 13.11.2024 vide Ex. DW1/A. He further deposed that when his family members had filed the bail application on his behalf before the Ld. Sessions Court on 07.11.2012, the said conversation in CD and the transcript was also placed on record. The said CD was placed on record vide Ex. DW1/P3. During his testimony, the said conversation was played.

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40. As per his testimony, the mobile number of the deceased was 8979833346 while the mobile number of said person Mukesh was 9953924982.

41. During his cross-examination conducted by Ld. Addl. PP for State, he affirmed the suggestion that no particular and date were mentioned on the CD. He also affirmed the suggestion that there was no date, time mentioned on the recording either in pendrive or in the CD. He also affirmed the suggestion that the same was sent to the FSL. He, however, denied the suggestion that he had not given any mobile phone/conversation to the IO. He also denied the suggestion that he had handed over a false and fabricated audio recording before the court and that the said recording did not have the voice of the deceased. He also denied the suggestion that there was no such person by the name of 'Mukesh'.

42. Thereafter, Defence Evidence was closed vide order dated 14.11.2024.

Appreciation of Evidence and Findings :-

43. It is the case of the prosecution that on 13.06.2012, deceased committed suicide and that accused persons i.e. accused Dheeraj (husband of deceased) alongwith accused Chotelal (Father in law), Sheela Devi (mother in law of deceased), Shruti (daughter in law), Suhail and Neeraj (brothers in law) subjected her to cruelty on account of unlawful demand for dowry and committed her dowry death.

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44. It order to prove it's case, the prosecution had examined the father of deceased i.e. PW1 Lal Chand. In his examination in chief, he had testified that deceased Monika @ Bhanu Lata was married to accused Dheeraj on 15.01.2012 and before and at the time of marriage, there was no demand for dowry by the accused persons. He,however, deposed that after marriage, in- laws of his daughter i.e. accused persons started demanding dowry and he gave 70/80,000 to the accused persons/In-laws, in pursuance of the same. He further testified that his daughter used to tell him that accused persons used to ask her to bring money or to leave the matrimonial house. He further testified that her daughter also told him that accused Dheeraj (husband) used to come back to the house late at night i.e. about 1/1:30 AM.

45. As per the testimony of PW1 Lal Chand, he came to the house of the in-laws of his daughter on 7 June 2012 i.e. after about five months of her marriage with the accused, as accused Dheeraj had called him to take deceased Monika with him. He further testified that father-in-law of deceased i.e. accused Chote Lal had also called him to his house on telephone. He further testified that he visited the matrimonial house of his daughter, where Kamal Singh, relative of the accused persons (mediator of the marriage), accused Chote Lal, Kamal Singh, accused Neeraj and accused Suhail were present and all of them asked him to take away his daughter to his house. He further testified that when he inquired about the matter, they informed him that his daughter did not know any household work and she used to remain sitting in an AC room for the entire day. He, however, testified that his daughter brought tea and when he asked her, she told him that they were telling her to leave the house on account of non-fulfillment of their dowry demands. He, however, also stated that his daughter refused to come to his house.

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46. PW1 Lal Chand further testified that one day prior to the death of his daughter i.e. on 12.06.2012, he had gone to Rajasthan for some ceremony and at about 11:30-12 noon, he received a telephone of accused Dheeraj and he asked him to talk to his daughter on the phone. He further testified that his daughter asked him as to when he was going to visit her and he informed her that

he would come on the next day. He further testified that when he asked her what had happened, his daughter informed him that her in-laws were asking her to leave the matrimonial house. As per his testimony, on 13 June 2012, he received the information that his daughter had fallen from the roof of her matrimonial house. The statement of PW1 Lal Chand recorded by the concerned SDM was also placed on record as PW1/A.

47. Perusal of the said statement of the father of the deceased placed on record vide Ex. PW1/A shows that the same was recorded on 13.06.2012 i.e. immediately after the said incident. In the said statement, PW1 Lal Chand had mentioned that that " Shaadi ke baad se hi maang shuru kar di thi kabhi kulkar nahi manga par tab se ab tak 70-80 hazaar main de chuka hoon " "Dheeraj Paise Ke liye Ladki Se phone Karata Tha aur Paise Le Jata tha " .

48. Thus, even in the said statement given by the father of the deceased, immediately after the incident, he had mentioned about persistent demand for money after the marriage of his daughter. In fact, in his testimony, he had enumerated various instances whereby he had not only given household articles and cash just before the marriage of the deceased on 11.01.2012 but had also enumerated various instances when accused Dheeraj had visited the house of PW1 and had taken away money from him and on one occasion from his wife.

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49. PW1 Lal Chand had specifically stated that just after six days of the marriage of the deceased with accused Dheeraj, he had sent his son Ravi Kumar who was only about 16 years of age and his nephew Nanak Chand to the matrimonial house of his daughter and that the relatives of the accused persons were complaining of getting less dowry and not getting a car in the marriage. He had also testified that after 2-3 days of the marriage, when accused Dheeraj had come to pick his daughter from his house, he told his wife that he had not been given sufficient dowry and demanded some money from his wife and his wife parted with Rs. 5000/- and gave it to accused Dheeraj.

50. Thereafter, after 15 days, the deceased again informed PW1 Lal Chand that accused Dheeraj was demanding Rs. 30,000/- from him and he took Rs. 30,000/- from his brother Veer Singh on the pretext of repayment of loan of the marriage of his daughter and he thereafter, gave Rs. 25,000/- to accused Dheeraj at his house. Subsequently, he again received a call from his daughter that accused Dheeraj was asking for 25,000/- as he had suffered some losses in the business and he again took loan from his brother Veer Singh and gave 25,000 to accused Dheeraj at his house.

51. He also stated that he was informed by his wife that accused Dheeraj had beaten her as she had seen accused Dheeraj in a compromising position with one Anu. PW1 Lal Chand also testified that on 05.06.2012, his daughter informed him that accused Dheeraj was going to sell the motorcycle and accused Chote Lal had sold the necklace which was given to his daughter at the time of marriage for 80,000 and she also asked for 25,000 to be given to the accused persons. He further stated that on 06.06.2012 he called accused to his MANISHA Digitally MANISHA signed by KHURANA KHURANA KAKKAR Date: 2024.12.19 FIR No.200/2012 KAKKAR 16:00:03 +0530 PS Safdarjung Enclave house and handed over 15,000/-. He, infact, stated that whenever his daughter used to call him, she would only talk about demands of the accused persons.

52. The said testimony of PW1 Lal Chand is also corroborated by the testimony of the mother of the deceased i.e. PW2 Pushpa Devi. She had also testified that after marriage, when her nephew Nanak Chand had visited the matrimonial house of her daughter along with their minor son Ravi, accused Chhotey Lal had told them that sufficient dowry had not been given along with a four wheeler vehicle in the marriage. She also stated that on the phone, the deceased had called her husband and had told them that her in laws were demanding a motorcycle and there was a demand of 80,000 of accused Dheeraj. As per his testimony, after sometime, accused Dheeraj came to their house and took 30,000 which was given to him after money was taken from brother of PW1 Veer Singh. She also testified that subsequently again accused Dheeraj visited their house and he demanded 10,000 and he was given 5000 by her husband.

53. She further specifically testified that in April 2012, her daughter called her on the phone and asked him to come to their house as she was feeling harassed and on the phone she also informed that accused Dheeraj was demanding Rs. 15,000/- and that accused Chotel Lal had already sold her necklace. She further testified that accused Dheeraj again came to their house and PW1 Lal Chand gave some amount to Dheeraj.

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54. She also testified about the fact that on 07 June 2012, her daughter made a call to her husband, i.e. PW1 Lal Chand and called him to her matrimonial house to take her back to her parental house. She also corroborated that at about 2-3 PM accused Chhotey Lal made a call to her husband and asked him to take away his daughter. She further deposed that on 12.06.2012, when they had gone away to Rajasthan for a ceremony, at about 12 midnight, her daughter Monika made a call to her husband and informed him that accused persons were harassing her and she called her father to her matrimonial house. She further testified that at about 01 AM, the in laws of her daughter informed her husband that Monika had fallen from the roof. She further stated that at the time of making the statement to the SDM, she was not in a fit state of mind. Therefore, she could not state all the relevant facts.

55. Thus, PW2 Pushpa Devi had corroborated the fact that there was persistent demand for money by accused Dheeraj and that in fact, accused Chote Lal had also called her husband to take away deceased Monika to her matrimonial house and that he had also sold the necklace of the deceased in

order to obtain money.

56. In fact, the prosecution had also examined PW9 Nanak Chand who also deposed that after the marriage of his cousin sister i.e. deceased Monika, he alongwith her younger brother and family member had gone to the house of accused Dheeraj when accused Sheela (mother in law) had complaint regarding 'Car and Khaan katora' being not given in the marriage. Thus, he had also deposed that there was complaint regarding not giving of proper dowry in the said marriage.

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57. PW12 Veer Singh from whom PW1 Lal Chand had allegedly borrowed money had also corroborated his version and he had also deposed that after two months of the said marriage, PW1 Lal Chand had borrowed Rs. 30,000/- and after about one and half months, he had again borrowed Rs. 25,000/- from him. He had, however, stated that at that time he had told him that the said debt was taken on account of huge expenditure being incurred by him in the marriage of daughter. Thus, the fact that PW1 Lal Chand had taken the said amount as stated by him in his testimony was also corroborated by the testimony of PW12 Veer Singh.

58. Be that as it may, Ld defence counsel had tried to assail the testimonies of the aforesaid witnesses on the ground that in the statement of the father of deceased recorded by the statement i.e. Ex. PW1/A, he had stated that there was suspicion that his daughter had been pushed from the roof, however, as per the testimony of the IO i.e. PW22 Insp. Sandeep Ghai, he had gone to the terrace and he had found that railing of the top floor was intact and there was no evidence of forceful fall. Thus, it had been argued that the statement given by the father of the deceased was a mere suspicion and not a proof of the offences alleged against the accused persons.

59. Be that as it may, it is but obvious that all the incidents that had transpired in the matrimonial house of the deceased would not have been in the knowledge of the parents of the deceased. The knowledge they gained about the demands of the accused persons was through the deceased herself, who was at the brunt of the said demands. Therefore, the relevant fact is that the demand of money by accused Dheeraj was specifically mentioned in the statement of PW1 Lal Chand recorded by the SDM i.e. Ex. PW1/A. The said statement was recorded MANISHA Digitally MANISHA signed by KHURANA Date: 2024.12.19 KHURANA KAKKAR FIR No.200/2012 KAKKAR 16:00:30 +0530 PS Safdarjung Enclave on 13.06.212 i.e. immediately after the incident. Although, it does not narrate all the demands of the accused persons, as naturally the father of the deceased was still reeling under shock. However, it does mention that accused Dheeraj had made demands through the deceased, which she used to convey on the phone to him. He, however, had specifically mentioned that accused Dheeraj used to come and take money as per the said demand. The said fact is not only corroborated by both the parents of the deceased but also by the brother of PW1 Lal Chand i.e. PW12 Veer Singh, who had also corroborated the factum that he had provided money to PW1 Lal Chand for repayment of loan of his daughter. Although, he did not have the knowledge whether the said money was being paid to accused Dheeraj. Therefore, the father of the deceased who was not even present in Delhi at the time of death of his daughter would have all the reason to raise

suspicion on the role of the inlaws in the death of the deceased.

60. Be that as it may, since the IO had specifically deposed that the roof from where the deceased had fallen was intact, therefore, it does not appear that there was any forceful push given to the deceased before the incident which led to her death, therefore, the possibility of the same is ruled out from the testimony of the said IO.

61. Ld defence counsel had further raised a defence that there was no demand for dowry as per the statement given by material witnesses i.e. PW2 Smt. Pushpa Devi and that she had specifically stated in her testimony that whenever accused Dheeraj visited their house alongwith their daughter, he never raised any demand for dowry. Ld defence counsel had infact, also relied upon the testimony of PW1 Lal Chand and had argued that even as per his testimony, MANISHA Digitally MANISHA signed by KHURANA Date: 2024.12.19 KHURANA KAKKAR FIR No.200/2012 KAKKAR 16:00:39 +0530 PS Safdarjung Enclave accused Dheeraj had never called on phone for demand of money. However, the said contention is misconceived as PW1 Lal Chand had also further testified that the money was always demanded through their daughter who used to call them on phone but the money was collected by accused Dheeraj from them. However, his testimony is consistent on that aspect that the phone calls were received from their daughter and not from accused Dheeraj, although, the demands were of accused Dheeraj.

62. Ld Defence counsel had raised a defence that infact, the deceased was having an affair with a person namely Mukesh and that she was in touch with him through her mobile phone. It had been further argued that deceased was not happy with her marriage with accused Dheeraj and that was the reason for her to commit suicide. In order to prove the said defence, accused Dheeraj had stepped into a witness box as DW1. In his testimony, he had testified that the deceased was married to him forcibly by her parents and she had a love affair with the said person Mukesh and she wanted to marry him. He had further testified that since she was not happy with the said marriage, she used to remain frustrated and consequently, she committed suicide. He had also placed reliance upon a call recording between the said person Mukesh and the deceased, during her call made by her mobile phone make Spice. The said call recording was placed on record in a pendrive vide Ex. DW1/P1 alongwith certificate u/s 65B Indian Evidence Act i.e. DW1/P2. In fact, during the course of arguments Ld defence counsel had argued that the said call recording was also placed on record alongwith the bail application moved by the accused Dheeraj before the Ld. Sessions Court on 07.11.2012 and that the IO had failed to verify the said recording.

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63. Ld. Addl. PP for State had argued that the said recording was not admissible in evidence. Ld. Addl. PP for State had further argued that the said conversation cannot be read in evidence as the same was never sent to FSL and the recording played in it is not the voice of the deceased and that there is no date, time and stamp mentioned on the recording either in the pendrive or on the CD.

64. Be that as it may, it is well settled that the audio recording is also an electronic document within the meaning of 'Documentary Evidence' as envisaged under section 3 Indian Evidence Act, 1872 and the same can be read an evidence subject to the following condition as laid down in Ram Singh & Ors Vs Colonial Ram Singh 1986 AIR 3 :-

* Recognition of Voices:- The voices on the recording must be recognized by those making the recording or by anyone involved in the case. * Authentication:- The recording must be authentic and this authenticity must be demonstrated through sufficient means.

* Preservation of Integrity:- The conversation must be presented without tampering or erasure. The courts in India examine the recording as a whole. * Relevance:- The statements in the recording must be relevant to the facts of the case.

* Safe custody:- The voice recording device must be sealed and kept in safe custody.

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65. It is but obvious that after the death of the deceased her mobile phone would be in the possession of her family members and most likely her husband (accused Dheeraj) and he would be in a position to produce the said data in evidence. He had also placed on record a certificate u/s 65B Indian Evidence Act, whereby he had stated that the conversation was taken from the mobile phone and a copy of the same was made from his computer which was used by him regularly. Thus, there is no doubt about the integrity of the said data which was produced before the court and it is relevant to the fact in issue that is " whether the accused persons had committed dowry death of the deceased ? "

66. In respect of recognition of voice, DW1 Dheeraj had categorically deposed that the said voice was of his wife i.e. deceased. Since, the accused himself relied upon the said conversation, there is no doubt about the authentication.

67. Thus, the contention raised by Ld. Addl. PP for State that the same cannot be read as evidence and that only after examination at FSL, audio recording can be made admissible in the evidence, is misconceived and the said law pertaining to electronic evidence is governed by section 65B Indian Evidence Act 1872, whereby copy of an electronic record is duly admissible in case, if it is duly supported by an affidavit under the said provision. Thus, there is no requirement of FSL report to authenticate the same.

68. Be that as it may, transcript of the said conversation had also been placed on record vide Ex. DW1/B, the said conversation was also played during the testimony of DW1 in the court.

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69. Perusal of the said transcript shows that the deceased had specifically stated that the same " Unhone Drama Kiya na mere sath Inhone apni marzi se shadi to kee nahi thi gharwalo ke jor se ki thi" "fir ye baat baat me dhamki dete hai ki chod ke chala jaunga. Ye vo hai maine bhi soch rakha hai panchvi manzil ke floor me rehti hu jis din drama kiya us din kood ke jaan de dunga. Ye to maine soch rakha hai ".

70. Ld defence counsel had also relied upon the transcript where it is stated that "Maine bhi soch rakha hai din to mere bhi nazdeek a gaye hai. Maine bhi ye soch rakha hai ki shadi se pehle marungi to bahut badnami hogi shadi ke baad his aisa karungi". Thus, it is alleged that due to the love affair with one Mukesh, she had committed suicide.

71. Be that as it may, perusal of the transcript shows that she had also stated that "Pata nahi meri tabiyat kharab ho gayi hai pata nahi kya ho gaya. Ek din mai akeli so rahi thi. Pata nahi kuch ajeeb sa dikha muje. Usi din se dawai bhi nahi lag rahi hai. Lambi lambi heart beat chal rahi hai. Jyada lambi-lambi saans aa rahi hai hai dil dhadak raha hai". She, infact, also stated that "Isiliye phone kiya tha ki ham bahar jaa rahe hai honeymoon pe." " Agar ham waha aaye to ek baar hamse milne jaroor aana." Deceased in fact, also stated when the said person (Mukesh) asked her as to whether she had told her husband about him, that "Nahi vo to keh rahe the ki har kisi ki jindagi me koi na koi hota hai. Vo ek samjhदार insaan hai". She also stated "Unse (husband) mai aaj gussa hu vo call par call kar rahe hai mai unka phone nahi uthaungi".

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72. Thus, from the said recording, it is apparent that there was some love affair between the deceased and one person Mukesh at some point in time, prior to the marriage of the deceased, however, that does not lead to an inference that she had committed suicide because of the same. In fact, from the said conversation, it is apparent that something had transpired on that day and accused was Dheeraj calling her persistently and the thoughts of committing suicide were crossing her mind. She had, in fact, also stated that he kept telling her that he would leave her and when he would again talk about leaving her, she would commit suicide. The said fact is also in consonance with the testimony of the parents, who had also stated that on 12.06.2012, when the deceased called them at midnight, she informed them that the accused persons were harassing her and as per the testimony of PW1 Lal Chand, she had also told them to visit her and that the inlaws were asking her to leave the matrimonial house.

73. Thus, from the aforesaid testimonies of the parents of the deceased it is apparent that the trigger for her to take the said fateful decision and to loose the feeling of self preservation was when she was asked to leave the matrimonial house at midnight and not the fact that she had a past love interest in another person. Infact, as correctly pointed out by Ld. Addl. PP for State, there was no time and date mentioned in the aforesaid transcript/audio conversation and there was nothing to link the said conversation immediately prior to the date of her death. Therefore, from the said conversation, it cannot be culled out that she was talking to the said person on the day or one day prior to the date of her death i.e. immediately before her death. Although, the said conversation is only relevant to the extent that the deceased had thoughts of committing suicide as the accused Dheeraj used to talk about leaving her. Per MANISHA MANISHA KHURANA KHURANA KAKKAR FIR No.200/2012 KAKKAR Date: 2024.12.19 16:01:25 +0530 PS Safdarjung Enclave contra, the testimony of the parents of the deceased cannot be negated and they had specifically mentioned that she had called before her death as she was being asked to leave the matrimonial house.

74. Thus, from the testimonies of PW1 Lal Chand and PW2 Smt. Pushpa Devi, it stands established that the deceased was being harassed by accused Dheeraj after her marriage for bringing money from her parents and that on several occasions her parents acceded to the said demands of accused Dheeraj, which was conveyed through the deceased via phone to the parents and they handed over various amounts to accused Dheeraj on various instances.

75. Not only that, accused Chote Lal had even called PW1 Lal Chand to her house to take away the deceased and infact, the deceased had stated that they were telling her to leave the house on account of non-fulfillment of dowry demands. In fact, as per the testimony of PW1 Lal Chand, he was

informed that since his daughter was not performing household works, therefore, they wanted her to leave the house. Accused Chote Lal had even sold the necklace of the deceased to obtain money.

76. Thus, from the testimony of aforesaid witnesses it is apparent accused Dheeraj and Chotelal had continuously harassed the deceased for non-fulfillment of dowry demand and accused Dheeraj had infact, also taken money on several occasions.

77. However, apart from the said allegations there are no substantial allegation against the other accused persons for harassment and both the parents have not cogently deposed against the other accused persons.

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78. Be that as it may, the moot question that is now involved is that whether the accused persons had committed dowry death of the deceased ?

79. It is well settled that in Kaliyaperumal and Anr Vs State of Tamil Nadu, CrL.

1358 of 2002, Hon'ble Supreme Court had held that :-

In order to attract section 304B IPC, the essential ingredients are as follows:-

1. The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstances.
2. Such a death should have occurred within seven years of her marriage.
3. She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
4. Such cruelty or harassment should be for or in connection with demand of dowry.
5. Such cruelty or harassment is shown to have been meted out to the woman soon before her death.

80. Be that as it may, perusal of the testimony of PW1 Lal Chand and PW2 Smt Pushpa Devi shows that there had been allegations for payment of money till April 2012 in their testimonies, however, no allegations regarding any unlawful demand were made 'soon before the death of deceased'. Although, PW1 Lal Chand had deposed that on 06.06.2012, he had handed over Rs. 15,000/- to accused Dheeraj, however, PW2 Smt. Pushpa Devi had not corroborated the said fact and PW7 Kamal Singh had resiled from his previous statement given to the police, in respect of the said amount. However, conspicuously, the parents of the deceased had leveled allegations that the accused persons wanted MANISHA MANISHA KHURANA FIR No.200/2012 KHURANA KAKKAR Date: 2024.12.19 KAKKAR 16:01:43 +0530 PS Safdarjung Enclave them (parents) to take away the deceased and on 12.06.2012, in fact, she had specifically stated to her father that she was being harassed and she wanted her father to come to her matrimonial house. Thus, as aforementioned the starting point for her loss of feeling of preservation was a fact that she was asked to move out of the house when her parents were away. In fact, PW1 Lal Chand had stated that on 07.06.2012, when he asked the deceased to come with him, she had flatly refused, even though her inlaws had called him for taking her from matrimonial house. Thus, it is apparent that the deceased was being treated as a liability in the house of inlaws and accused Dheeraj who had himself called the father of the deceased i.e. PW1 Lal Chand on the fateful night for making him to talk to his daughter was also participating and initiating her removal from the matrimonial house. Accused Chote Lal had himself called the father of the deceased to take her away.

81. In Amalendu Pal @ Jhantu Vs State of West Bengal AIR 2010 Supreme Court 512, it was held that :- " Thus, this court has consistently taken the view that before holding an accused guilty of an offence u/s 306 IPC, the court must scrupulously examine the facts and circumstances of the case and also access the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life".

82. Therefore, there was unlawful demand for money, harassment of deceased and 'wilful' conduct on the part of accused Dheeraj and Chote Lal in trying to remove her from the matrimonial house, which drove her to take away her life and to commit suicide by jumping from the roof of her matrimonial house.

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83. Therefore, since no dowry demand could be proved by the prosecution 'soon before death' of the deceased, the offence u/s 304B IPC is not made out against the accused persons as aforesaid. However, even though, charge for the offence u/s 306 IPC was not framed against the accused persons, since there was 'wilful conduct' on the part of the accused persons which drove the deceased to commit suicide, there is no bar in convicting the accused persons u/s 306 IPC even though no specific charge was framed for the said offence, as is also held in K.Prema S. Rao Vs Yadla Srinivasa Rao (2003) 1SCC 217.

84. Therefore, the prosecution has proved its case beyond reasonable doubt against the accused Dheeraj and Chote Lal, they are hereby convicted for the offences u/s 498A/306/34 IPC. However, other accused persons are hereby acquitted as prosecution has failed to prove its case beyond reasonable doubt.

85. Copy of judgment be given to the convicts free of cost.

ANNOUNCED IN OPEN COURT

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on 18.12.2024

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Date: 2024.12.19

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ASJ (FTC) - 01, SOUTH DISTRICT
SAKET: NEW DELHI

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