

State vs Sandeep Mittu Etc on 6 February, 2024

IN THE COURT OF SH. RAVINDRA KUMAR PANDEY,
ADDITIONAL SESSIONS JUDGE-3, SOUTH DISTRICT,
SAKET COURTS, NEW DELHI

CNR No : DLST01-000039-2011

SC No.	54/11 & 6634/16
FIR No.	114/2011
Under Section.	498-A/304-B/34 IPC
Police Station	Safdarjung Enclave

STATE

Vs.

Sandeep Mittu and ors.

1) Sandeep Mittu (already expired)
S/o Sh. Sukhdev Mittu,
R/o H.No. C-153-A, Surya Nagar,
Ghaziabad, Uttar Pradesh.

2) Sukhdev Singh (already expired)
S/o Sh. Roop Singh,
R/o H.No. C-153-A, Surya Nagar,
Ghaziabad, Uttar Pradesh.

3) Anju,
W/o Sh. Sukhdev Singh,
R/o H.No. C-153-A, Surya Nagar,
Ghaziabad, Uttar Pradesh. (on bail)

4. Samranjeet Kaur @ Dalcee,
W/o Sh. Paramjeet Singh,
R/o H.No. 304, Sector-03,
Vasundara, Ghaziabad, Uttar Pradesh. (on bail)

.....Accused persons

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors.

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Name of complainant	:	Sh. Jagtar Singh, S/o Late Sh. Daljeet Singh, R/o H.No. C-7/27, SDA, Hauz Khas, DDA Flats, New Delhi.
Date of Committal	:	25.08.2011
The offence for which accused persons were charged	:	U/S 498-A/ 34 IPC and U/S 304-B IPC

Final arguments heard on	:	31.01.2024
Judgment pronounced on	:	06.02.2024
Final Judgment	:	Acquitted

JUDGMENT

1. Vide this judgment, I shall decide Sessions Case No. 6634/16 (old no. 54/11) arising out of charge sheet which is an outcome of FIR No. 114/2011, registered on 06.05.2011 at PS Safdarjung Enclave in connection with the allegation of offence punishable under Section 498-A/304-B/34 IPC. All the four accused persons namely Sandeep Mittu, Sukhdev Mittu, Smt Anju and Samranjeeet Kaur @ Dalcee have been charged for the offence punishable under Section 498-A IPC r/w Section 34 IPC, offence punishable under Section 304-B IPC. All the four accused persons namely Sandeep Mittu, Sukhdev Mittu, Smt. Anju and Samranjeet Kaur @ Dalcee have pleaded not guilty and claimed for trial vide order dated 26.04.2012.

Prosecution case as per charge sheet

2. The facts, as stated in the charge-sheet are that the deceased Samardeep Kaur got married with the accused Sandeep Mittu on SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 2 of 74 23.10.2010 and after the marriage, accused Sandeep Mittu being the husband of the the deceased/ victim, accused Sukhdev Mittu being the father in law of the deceased/ victim, accused Anju being the mother in law of the deceased/ victim and accused Samaranjeet Kaur @ Dalcee being the sister in law of the deceased / victim subjected the deceased / victim with cruelty during the subsistence of her marriage and harassed the deceased/ victim in view to coerce her to meet the unlawful demand of dowry. It is further allegation against the accused persons that in the intervening night of 05.05.2011 and on 06.05.2011 at unknown time at H.No. 7/27, SDA, Hauz Khas, DDA Flats, New Delhi within jurisdiction of PS Safdarjung Enclave, the victim Samardeep Kaur set her ablaze and died during her treatment at Safdarjung Hospital on 06.05.2011, otherwise and under normal circumstances, within seven years of her marriage and it was found that she was subjected to cruelty and harassment in connection with the dowry demand soon before her death.

3. On the basis of complaint/ statement of the complainant Sh.

Jagtar Singh given to the SDM, the rukka was prepared and FIR bearing no. 114/2011, PS Safdarjung Enclave was registered under Section 498-A/304-B/34 IPC. Investigation was taken up and during investigation, statement of the witnesses including statement of victim were recorded and relevant documents as well as other evidence collected by the I.O. of the case.

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4. After completion of the investigation, charge-sheet was filed by the I.O. in regard to the commission of offence punishable under Section 498-A/304-B/34 IPC against the accused persons.

5. During the trial prosecution examined total fifteen witnesses in support of its case which are as under:-

S.No.	Name of witnesses	Type of evidence
1	HC/ D0 Raj Kumar- PW 1	To prove registration of the case
2	SI Mahesh Kumar- PW 2	To prove site plan
3	SI Naresh Kumar I/C Crime Team - PW 3	To prove Inspection report
4	Dr. Neha Chauhan - PW 4	To prove MLC No. BIN 2056/11 dated 05.05.201, SJ Hospital
5	Dr. Mohit Gupta - PW 5	To prove PM of deceased vide PM No. 1105UKMS42
6	Sh. Raj Pal Singh - PW 6	To prove proceedings Section 176 Cr.PC
7	Record clerk- PW 7 (Sh. Simrandeep Kaur Mayank Aggarwal)	To prove the A/c No. Axis Bank - 910010003890865 of deceased
8	Ms. Gurpreet	To prove the incident and her

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Kaur - PW 7

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statement under Section 161

9	HC Hukam Singh - PW 8	To prove recording of statement of deceased.
10	Ms. Urmil Khana/ Sh. Naresh Yadav - Kaur. PW 9	To prove the seizure of answer sheet of deceased Simrandeep
11	Sh. Jagtar Singh- PW 10	Complainant of the case.
12	Ms. Sunita	- To prove the incident and her

PW 11

statement under Section 161 Cr.PC

- | | |
|----|--|
| 13 | SI Sanjay To prove arrest of accused and Sharma -PW 12 seizure memo |
| 14 | Dr. Kanak Lata To prove the FSL report of two Verma -PW 13 sealed parcels. |
| 15 | Sh. Vijender To prove questioned documents Singh from FSL and admitted documents of Rohini -PW 14 deceased forwarded by the SHO. |
| 16 | Inspector S.K. IO of the case. Sharma - PW |

6. During the course of trial, proceedings against accused Sukhdev Singh stood abated as reported vide order dated 03.08.2012 and proceedings against accused Sandeep Mittu stood abated as reported vide order dated 10.12.2018.

Brief description of testimonies of witnesses examined during SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 5 of 74 the trial.

Public Witnesses

7. PW 7 Smt. Gurprit Kaur was the mother of Samardeep Kaur (deceased). She deposed that on 23.10.2009 marriage of Samar Deep Kaur was solemnized with Sandeep Mittu according to their customs. She further deposed that they had spent approximately 23-24 lakh in the marriage and they had given seven-eight tolas jewellery of gold, some silver jewellery, one Spark Car, cash of Rs. 10 lakh and other household articles. Witness further deposed that thereafter, her daughter started to live with her husband and in laws at Surya Nagar, Jamana Par. Witness further deposed that whenever her daughter visited her house, she used to tell her that she was being harassed by her husband, mother in law, father in law Sukhdev Singh (expired during trial), sister in law Dalcee for more dowry.

7.1 Witness further deposed that aforesaid accused persons used to give beatings to her daughter and they also tortured her for demand of Honda City car as they were not happy with the Spark Car. Witness further deposed that first time, her daughter had visited her matrimonial house after ten days of the marriage and thereafter, she used to visit their house in a gap of ten - fifteen days. Witness further deposed that accused persons used to kick out her daughter after giving beatings to her and they even had never paid any auto fare to his daughter.

7.2 Witness deposed that in every visit of her house, SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 6 of 74 her daughter had told her that aforesaid accused persons were harassing her for more dowry. Witness further deposed that

number of time, she had noticed injury marks on the eyebrow of her daughter. Witness further deposed that in the month of January, 2010, her daughter was mercilessly beaten by the accused persons due to that she got her miscarriage.

7.3. Witness further deposed that on 12.02.2011, her daughter had come at her house by TSR and at that time, she had noticed blueish marks over her whole body. She deposed that her daughter had also told her that all the accused persons had given beatings for demand of dowry. Witness further deposed that her daughter had also told her that the accused persons used to tell her that if she would not bring the cash from her parents, then she would not be allowed to reside in her matrimonial home. Witness further deposed that her daughter was in tension at her house while living there. She further deposed that she had felt that she was disturbed.

7.4. Witness further deposed that on 05.05.2011, at about 09.00 or 09.30 pm, her daughter committed suicide at her house by pouring kerosene oil upon her. Witness further deposed that she was burnt badly, but she was conscious. Witness further deposed that she herself, her husband and her brother who had come to her house on visit had taken her daughter to Safdarjung Hospital by putting her in car. Witness further deposed that police had met her in the hospital. Witness further deposed that HC Hukam Singh had recored the statement of her daughter in her presence. Witness had identified the statement of her SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 7 of 74 daughter as Ex. PW 7/A. Witness had also identified the shape of long S drawn on the statement being belonged to her daughter while she was trying to put her signature.

7.5. Witness further deposed that on 06.05.2011, her daughter was declared dead in the hospital by the doctor at about 02.00 or 03.00 pm. Witness further deposed that they had received the dead body after postmortem. Witness further deposed that police officials had visited their house on 06.05.2011 at about 10.00 or 11.00 am. Witness further deposed that police had taken into possession one plastic bottle, one chappal, one burnt cloth piece. She further deposed that she had shown the place of incident to the police.

7.6. Witness had identified the seven photographs Marked as X1 to X-7 available on judicial file being depicting the scene of crime. Witness further deposed that police had prepared site plan of the spot in her presence. Witness further deposed that the marriage card of her daughter was given to the IO by her husband on 23.10.2010 which was marked as Mark Y. Witness had identified the fourteen photographs marked as Z-1 to Z-14 given to the police. Witness had identified the receipts as Ex. X-A to X-G. Witness had identified one clip of HDFC bank as X-H. 7.7. Witness had identified the seizure memo Ex. PW 7/B of partly burnt cloth piece of the deceased, one empty bottle made of plastic which was used by the deceased to pour the bottle upon her. Witness had identified the one plastic bottle and one pair of chappal in the court as Ex. P-1 (collectively) and SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 8 of 74 plastic bottle as Ex. P-2. Witness had further identified one diary in the court as Ex. P-3. Witness had identified the handwriting material of her daughter as Ex. P-4 (collectively). Witness had further identified the Joint Bank Account form as Ex. P-5. Witness had further identified the accused persons in the court correctly. Witness had further deposed that her daughter had

mentioned in suicide note against the accused persons in detail.

7.8. During her cross examination, witness admitted that on a stamp paper, a divorce deed was written and she had signed the same on 17.04.2014 i.e., before the death of her daughter. Witness further admitted that before the incident, her daughter was residing with them in Delhi in their house. Witness further admitted that her daughters' marriage was love marriage and they had arranged that marriage. Witness further replied that her daughter had an abortion as she came at their residence while she was shunted out from her matrimonial house and she was in a bad condition when she came at their residence.

7.9. Witness further replied that they never introduced the doctor who conducted the abortion of their daughter as a witness before the investigating agency. Witness admitted that her daughter was suffering from serious depression. Witness replied that her daughter was not taking any medicines to cure depression. Witness further replied that police had recorded her statement on 06.05.2011. Witness further replied that her statement was not recorded by the SDM and in fact, she was present at her house when the statement of her husband was recorded by the SDM.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 9 of 74 7.10. Witness replied that she was present in the hospital at the time of recording of the statement of her daughter and the statement was recorded between 02.00 - 3.00 am in the night. Witness admitted that after signing the divorce deed, there was no communication at all between the two families. Witness replied that they had not made any complaint with any authority about the demand of dowry or torture meted to her daughter by her in laws. Witness further replied that her daughter came on 12.02.2011 at their residence and since then, she was residing with them.

7.11. Witness denied the suggestion that there was no demand of dowry or harassments or beating by her in-laws and the husband to the deceased. Witness further denied the suggestion that her husband and herself had manipulated the statement of the deceased before the Head Constable or that they were not happy with the love marriage of her daughter and were not happy with the in-laws of their daughter. Witness further denied that they wanted her daughter to divorce from the accused Sandeep Mittu, that is why a divorce deed was written. Witness further denied the suggestion that even they called their daughter and aborted her child forcibly as they wanted her daughter's marriage elsewhere.

8. PW 7 Sh. Mayank Aggarwal was the Deputy Manager, Axis Bank. This witness produced the summoned record i.e., statement of savings bank account no. 910010003890865 and its account opening form which was a joint account in the name of SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 10 of 74 Gurpreet Kaur Sidhu and Samarjdeep Kaur Sidhu. Witness proved the statement of account from 10.02.2010 to 09.02.2011 as Ex. PW 7/A and certified copy of the account opening form as Ex. PW 7/B. 8.1. During the cross examination, this witness replied that the above said documents Ex. PW 7/B has been certified in his presence, but it has not been certified by him. Witness replied that he was not the competent person to certify the document Ex. PW 7/B.

9. PW 9 Sh. Naresh Yadav was the Administrator in R.R. School of Nursing, Wazirpur (Sector -95), Pataudi Road, Gurugram, Haryana. He was deputed by the Principal of the said school to depose in the court. He had produced the original admission form of student Samardeep Kaur Sidhu. He deposed that she got admission in their school in September, 2008 for three years in GNM Nursing Course and she studied in the school till 2011. He proved the photocopy of admission form along with three leave applications as Ex. PW 9/A . Witness had identified the seizure memo Ex. PW 9/B. Witness deposed that on 31.05.2011, one police official of PS Safdarjung Enclave had come their school and requested to hand over the handwriting material of student Samardeep Kaur and handed over four exams sheets to him which are Ex. PW 9/C-1 to C-4.

9.1. During the cross examination witness replied that the Principal Jamie was available. He denied the suggestion that he was deposing falsely.

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10. PW 10 Jagtar Singh was the father of Samardeep Kaur (since deceased). He deposed that they had solemnized the marriage of his daughter with accused Sandeep @ Mittu according to Sikh rites and ceremonies on 23.10.2010 and spent approximately 23/24 lacs in the marriage, out of which Rs. 10 lakh were paid in cash to the father of the accused namely Sukhdev Singh. He further deposed that besides this they had also given approximately 6/7 tolas of gold jewellery, approximately 30 tolas of silver jewellery, one Chevrolet Spark car and other household items.

10.1. Witness further deposed that his daughter started living with her husband and her in laws at C-153-A, Surya Nagar, Ghaziabad, Uttar Pradesh. Witness further deposed that his daughter was kept well for about 10/12 days by her husband and her in laws, however, thereafter, her husband and other in laws namely Anju, Sukhdev Singh and Samranjeet Kaur @ Delcy being the mother in law, father in law and sister in law respectively had started to harass her daughter on account of dowry and they used to beat her and sent her to her parental house.

10.2. Witness further deposed that whenever his daughter used to visit his house after 10/15 days, he noticed bruises and swelling on her face. He deposed that his daughter used to tell him that she was given beatings by her husband and by her in laws on account of dowry. He further deposed that accused Sukhdev and Sandeep had left the Chevrolet car in front of his SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 12 of 74 house after 1 1/2 months from the day of marriage by stating that they did not want the said car and demanded Honda City car in lieu of the said car and they had damaged the said car on that day. He further deposed that on each and every visit, his daughter used to tell him that her husband and her in-laws always used to demand cash from her.

10.3. Witness further deposed that he had visited the matrimonial house of her daughter three - four times from the day of her marriage till her death to sort out the issue and on every visit, he had handed over the said car to the accused after getting the same repaired and also tried to sort out the issue of demand of cash and beatings to his daughter. He further deposed that he had assured the

accused persons that he would pay some cash to the accused persons after selling his agricultural land situated in Punjab, however, there was no change in the circumstances and accused persons used to raise demand of cash and gave beating to his daughter thereafter also.

10.4. Witness further deposed that on his second visit, he again tried to sort out the issue of demand of cash and beatings given to his daughter. Witness further deposed that on 01.01.2011, his daughter came at his house through TSR alone and at that time, she was in pitiable condition. He deposed that he along with his wife had taken his daughter to the nearby maternity centre where the doctor had advised to abort the pregnancy immediately as his daughter was having complications. He further deposed that at that time, his daughter told him that accused persons had given beatings as a result of SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 13 of 74 which she felt pain in her abdomen. He further deposed that Dr. Indira Kohli had aborted the pregnancy on 03.01.2011 and she had given prescription Mark X-E to his daughter.

10.5. He further deposed that in between 01.01.2011 to 03.01.2011, he had informed to the husband and in-laws of his daughter about the condition of his daughter and advise of the doctor to which they had reciprocated that they had nothing to do with the said issue. He further deposed that in the end of January, 2011, he had lastly visited the matrimonial house of his daughter along with his wife and his daughter and he again tried to sort out the issue and again he assured to give cash to accused person after selling his agricultural land in Pubjab and he along with his wife returned to their house after leaving his daughter at her matrimonial house.

10.6. Witness further deposed that sometimes, accused persons remained mum, but in the month of February, 2011, he was about to leave his house for his office, his daughter again came alone by TSR at his house and at that time she was having bruises and injury marks on her face and she told them that she was extremely harassed, tortured and given beatings by accused persons for demand of cash. Witness further deposed that he tried to sort out the matter on phone many time with the accused persons.

10.7. He further deposed that on 17.04.2011, he had received a phone call of accused Sukhdev and he called him. He along with his wife went to his house where they found 5/6 other persons including an Advocate besides accused persons SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 14 of 74 were present and they pressurized him and forced him to write on a stamp paper of Rs. 10/-. He deposed that the said document which was written on stamp paper of Rs. 10/- was not given to him by the accused, hence he was unable to produce in the court. He further deposed that on 17.04.2011, he and his wife returned to their house. He deposed that in those days, his daughter was residing in his house and she was extremely tensed.

10.8. He deposed that the on 05.05.2011, he along with his wife and his brother in law (sala) Bhupender Singh Deol were watching T.V. in their room and their daughter was in her room. He deposed that on 09.30 pm, they noticed bad smell and smoke from the bathroom of their house at second floor. He further deposed that they all three reached there and pushed the door of bathroom, however, it was locked from inside and they raised the alarm on hearing the crying voice of his

daughter. He further deposed that his neighbours also came at their house. He deposed that the door of the bathroom was broken by them and found his daughter in flame. He deposed that at that time, his daughter sustained burn injury and her cloth and her skin had become burnt. He deposed that he had wrapped the injured in a quilt and took her to Safdarjung Hospital at about 10.00 pm. He deposed that hospital staff informed to police station about the incident after giving first aid and some treatment.

10.9. He further deposed that police officials of police station Safdarjung Enclave namely HC Hukam Singh had reached at the hospital. He had contacted doctor and asked SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 15 of 74 regarding recording of the statement of his daughter and doctor had written on the paper of police that injured was fit to make statement which is Ex. PW 8/B. He further deposed that then HC Hukam Singh recorded the statement of his daughter. He further deposed that whatsoever, his daughter told to IO, the same was recorded by the IO. He further deposed that his daughter had tried to put her signature, but she was not able to do so she made a figure like 'S' as she was suffering from burn injuries on her both hands.

10.10. He deposed that HC Hukam Singh had attested the statement of his daughter and her signatures figured like 'S' were obtained in his presence as well as in the presence of his wife. He further deposed that on 06.05.2011, in the morning hours, his daughter was declared dead by the doctors during the treatment and the dead body was shifted to mortuary where police officials had come and completed writing work. He had identified dead body as already Ex. PW6/C. He further deposed that Bhupender Singh had also identified dead body as Ex. PW 6/D. He further deposed that police had visited the spot in his absence as he was in the mortuary. He deposed that post mortem examination was conducted on the same day and he had received the dead body afternoon against receipt. He deposed that they had brought the dead body in their house and performed the last rites. He deposed that he had informed the accused persons about the incident as well as death of his daughter, however, they did not pay any heed.

10.11. He further deposed that on 06.10.2011 at SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 16 of 74 about 10.00 am, in the hospital, SDM had come and he had recorded his statement as Ex. PW 6/A and thereafter, his statement was handed over to the police officials to deliver the same to the SHO of PS for necessary action. He further deposed that during the course of investigation, he had handed over the list of dowry articles to the police as Ex. PW 10/A. He had also produced the marriage invitation card of his daughter as Mark XX and marriage photographs as Z-1 to Z-14. He further deposed that he had also produced document pertaining to purchase the dowry items and medical treatment already Mark X-A to Mark X-H which were kept in judicial file. He had identified all the material in the court. He further deposed that he had handed over a request letter to SHO, Safdarjung Enclave mentioning the details of marriage expenditure and dowry items which was incurred in the marriage as Ex. PW 10/B. 10.12. He further deposed that on 17.05.2011, one dairy was found in the room of his daughter, which was checked by him and found some writing material inside the diary including one suicide note. The diary was given to the police and same was seized vide Ex. PW 10/C. He further deposed that Sunita was also present at the time of seizing the aforesaid diary who had studied along with his daughter

when she was pursuing nursing course. He along with Sunita had identified writing of his daughter before police on seeing the writing material on the diary. He further deposed that approximately 15/16 pages of diary were having writing material of his daughter. He deposed that his daughter had committed suicide within seven years of SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 17 of 74 her marriage due to extreme harassment, torture, beatings on account of demand of cash as dowry.

10.13. Witness further deposed that his wife had handed over handwriting material to the police for comparison during investigation. He had identified the accused persons in the court. He had identified a diary and bank account opening form of Axis Bank of his daughter as Ex. P-1.

10.14. During his cross examination, witness replied that his statement was recorded by the SDM. He had admitted that he did not state before the SDM in his statement Ex. PW 6/A that he had spent total amount of Rs. 23-24 lakh in the marriage, out of which Rs. 10 lakh were paid to the father of the accused namely Sukhdev Singh. Witness admitted that he did not tell before the SDM that they had also given approximately 6/7 tolas of gold jewellery, approximately 30 tolas of silver jewellery, one Chevrolet spark car and other household items.

10.15. Witness further replied that he had stated before the SDM in his statement Ex. PW 6/A that his daughter was kept well for about 10/12 days by her husband and her in laws. Witness further replied that her husband and other in laws namely Anju, Sukhdev Singh and Samranjeet Kaur @ Delcy being the mother in law, father in law and sister in law respectively had started to harass his daughter on account of dowry and they used to beat her and send her to her parental house.

10.16. Witness further replied that he had stated SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 18 of 74 before the SDM in his statement Ex. PW 6/A that whenever she visited his house in a gap of 10/15 days, he noticed bruises and swelling on her face and his daughter used to tell him that she was given beatings by her husband and by her in laws on account of dowry.

10.17. Witness further replied that he had not stated before the SDM in his statement that the accused Sukhdev and Sandeep had left the Chevrolet Spark car in front of his house after 1 ½ months from the day of marriage by stating that they do not want the said car and demanded Honda City in lieu of the Chevrolet car. Witness replied that they also damaged the said car on that day. He further replied that on each and every visit of his house, his daughter used to tell him that her husband and aforesaid in laws always used to demand cash from her.

10.18. Witness further replied that he did not remember whether he stated before SDM that he had visited the matrimonial house of his daughter 3-4 times from the day of her marriage till her death in order to sort out the issue. Witness further replied that on his first visit, he had handed over the Chevrolet Spark car after getting repaired to the accused persons and also tried to sort out the issue of demand of cash and beatings to his daughter.

10.19. Witness further replied that on his second visit i.e., on the pretext of some occasion, which he did not recollect now, he again tried to sort out the issue of demand of cash and beatings to his daughter, witness was confronted with statement Ex. PW 6/A where it is not so recorded.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 19 of 74 10.20. Witness replied that he did not remember whether he had stated before the SDM in his statement Ex. PW 6/A that on 01.01.2011, his daughter came at his house through TSR alone and at that time, she was in a pitiable condition. He further replied that he and his wife took her to nearby maternity centre/ hospital where doctor advised to abort the pregnancy immediately as his daughter was having complications. Witness further replied that at that time, his daughter told them that accused persons had given beatings to his daughter resulting to which she felt pain in her abdomen.

10.21. Witness further replied that Dr. Indira Kohli aborted the pregnancy on 03.01.2011 and she had given prescription to his daughter about the condition of his daughter and advise of doctor to which they reciprocated that they had nothing to do with the said issue and do whatever they feel like to do. He further replied that he could send his daughter along with cash only. He further replied that in the end of January, 2011, he lastly visited the matrimonial house of his daughter along-with his wife and his daughter. He further replied that he along with his wife again went to the house of his daughter and assured the accused persons to give cash after selling his agricultural land in Punjab. Thereafter, they returned to their house. Witness was confronted with his statement on this aspect where it was not so recorded.

10.22. Witness further replied that he did not remember whether he had stated before the SDM in his statement Ex. PW 6/A that sometimes, accused persons SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 20 of 74 remained mum but in the month of February, 2011, he was about to leave his house for his office, in the meantime, his daughter came alone by TSR at his house and at that time she was having bruises and injury marks on her face and she told them that she was extremely harassed, tortured and given beatings by accused persons for demand of cash. He further replied that she tried to sort out the matter on phone many times to accused persons. Witness was confronted with his statement Ex. PW 6/A where it was not so recorded.

10.23. Witness further replied that he did not remember he had stated before the SDM in his statement Ex. PW 6/A that on 17.04.2011, he had received call of accused Sukhdev Singh and accordingly he along with his wife went to his house. There they found 5/6 other persons including an advocate besides accused persons were already present. He further replied that they pressurized him and they forced him to write on a stamp paper of Rs. 10/-. Confronted with statement Ex. PW 6/A where it was not so recorded.

10.24. Witness further replied that he did not state before the SDM in his statement that the said document which was written on stamp paper of Rs. 10/- was not given to him by the accused. Witness further replied that he had stated before the SDM in his statement Ex. PW 6/A that on 05.05.2011, he along with his wife and his brother in law Bhupender Singh Deol were watching TV

in their room and his daughter was in her room and at about 09.30 pm, they noticed bad smell and smoke from the bathroom of their house at second floor. He further replied that SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 21 of 74 they all three reached there and pushed the door of the bathroom, however, it was locked from inside. He stated that they raised alarm on hearing the crying voice of his daughter. He further stated that his neighbours also came at their house. Witness was confronted with his statement Ex. PW 6/A where it was not so recorded.

10.25. Witness further replied that he did not remember whether he had stated before the SDM in his statement Ex. PW 6/A that he brought his daughter to his house around the end of February, 2011 and thereafter he had tried to have settlement for separation. Witness was confronted with his stated Ex. PW 6/A where it was so recorded.

10.26. Witness further replied that he did not remember that he had stated before the SDM in his statement Ex. PW 6/A that his daughter was not legally divorced and since February, 2011, his daughter was staying with them and she had been going through very serious depression and because of this depression and willful stability she closed herself in the bath room of their house and poured kerosene on her. Witness confronted with statement Ex. PW 6/A where it was so recorded.

10.27. Witness admitted that divorce deed was written by him on 17.04.2011, photocopy of which is Ex. PW 10/DA bears his signature at point A, the signature of his wife at point B and his sister in law at point C from his side. Witness further replied that he did not make any complaint anywhere either at Ghaziabad or Delhi that the document i.e., divorce deed that is Ex. PW 10/DA was got written forcibly from him. He did SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 22 of 74 not remember if he had stated to the SDM in his statement Ex. PW 6/A that the divorce decree was forcibly got written from him by the in-laws of his daughter. Witness was confronted with Ex. PW 6/A where the fact of divorce deed is not mentioned.

11. PW 11 Ms. Sunita was the friend of the deceased Samardeep Kaur. She deposed that she knew the deceased Samardeep Kaur as she was her friend and they had stayed together and gone nursing course from R R School of Nursing in the month of April, 2010. She further deposed that her friend deceased Samardeep Kaur was resident of C-7/27, SDA, New Delhi. She deposed that he used to visit her parental house. She further deposed that deceased Samardeep was married to accused Sandeep present in the court on 23.02.2010 at Gurudwara, Green Park. She further deposed that she had also attended the marriage. She deposed that the parents of the deceased had given dowry articles and thereafter, she joined her matrimonial home at Surya Nagar, Ghaziabad. She further deposed that after about ten days of marriage when she was in college, she received a call from her friend deceased Samardeep that her husband and in laws were subjecting her to cruelty in connection of dowry.

11.1. Witness further deposed that she told her that her in laws used to pass comments that her parents did not give sufficient dowry and even they did not allowed her to go for studies. She further deposed that deceased Samardeep had also told her that she was given beatings by accused Sandeep and he SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung

Enclave Page No. 23 of 74 did not even allow her to go to her parental house. She further deposed that deceased Samardeep had also told that her husband and in laws used to pass comments that deceased parents had not arranged the marriage properly and had not given dowry according to their expectations and that she was not being allowed to make call to anyone and that she used to manage to call her by going out of her matrimonial house.

11.2. Witness further deposed that in the month of December, she visited the parental house of deceased Samardeep where she was present and met her and at that time, she came to know that she was pregnant for six weeks and that she miscarriage and for the reason she had visited her parental house. She further deposed that the husband and in laws even did not allow her to talk to anyone or to go anywhere and she was under depression. She further deposed that deceased Samardeep could not perform well in her examinations conducted in the month of January, 2011 and thereafter, she became more depressed. She further deposed that she had met her friend Samardeep before two days of the incident and she was very much depressed at that time. She further deposed that she had told her that even her father in law used to subject her to mental and physical torture.

11.3. She further deposed that after two - three days of the incident, they were arranging her room at her parental home and they found a diary written in her handwriting in which she usually used to write down and they noticed a suicide note in the same that she was going to commit suicide SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 24 of 74 and the persons responsible for the same would be her husband Sandeep, father in law Sukhdev, mother in law Anju and sister in law Simran. She had identified the diary taken into police possession as Ex. PW 10/C. She had also identified the diary containing the suicide note of deceased Samardeep as Ex. PW P-1.

11.4. This witness was cross examined by the Ld. Addl. PP for the State wherein she replied that she had stated to police in her statement that before few days of the incident, in laws of deceased had demanded Godrej Almirah, car and cash of Rs. 1 lakh. She further replied that she had stated in her statement that deceased used to share with her all informations being her close friend. She admitted that she stated to the police that deceased had committed suicide due to harassment by her in laws due to demand of dowry. She further admitted that she could not tell the above said facts as she could not recollect the same due to lapse of time.

11.5. During her cross examination on behalf of the accused persons, witness replied that she did not know her mobile number. She further replied that police never seized her mobile instrument or police never taken her mobile number on which she used to talk with the deceased. She admitted that since the day of her death, she stayed in her parents house till her Teharween. She replied that Teharween was performed after about 10-11 days of her death. She deposed that since the day of incident, she was available at the residence of the deceased, however, on the day of incident she did not make any statement SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 25 of 74 as she was depressed on account of her death. She further admitted that the police officials had not made any inquiry nor father of the deceased requested the police to record her statement.

11.6. She further replied that the deceased told her that she wanted to take the divorce from her husband and she could not give the date, month and year of telling her the same by the deceased. She further replied that the diary Ex. P1 was never written in her presence. She further admitted that the deceased never told her about writing of diary Ex. P1. She further admitted that the deceased and her husband had a love marriage.

11.7. Witness replied that the deceased and her husband were in love before meeting her. She admitted that the pages in the diary bearing date after 14.06.2009 to 26.06.2009 were missing. She admitted that the said pages had been removed/ torn.

11.8. Witness further replied that she had stated in her statement Ex. PW 11/DA to the police that after about 10 days of marriage, when she was in college, she received a call from her friend/deceased that her husband and in laws were subjecting her to cruelty in connection of dowry. Witness further replied that deceased further told her that her in laws used to pass comments that her parents had not given sufficient dowry and even they were not allowing her to go for studies. Witness confronted to this statement Ex. PW 11/DA where it was not so recorded.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 26 of 74 11.9. Witness denied the suggestion that she was deposing falsely at the instance of the deceased or that neither she was the friend nor deceased ever disclosed to her regarding her torture, demand of dowry. She further denied that she had been introduced as a witness subsequently after thought by the father of the deceased.

Police witnesses/ formal witnesses

12. PW 1 HC Raj Kumar deposed that on 06.05.2011, he was working as duty officer and his duty hours were from 08.00 am to 04.00 pm. He deposed that HC Hukum Singh had presented a tehrir to him at about 02.30 pm in the police station and he had recorded the DD entry in that regard in register A at serial no.

18. He further deposed that he got registered the case FIR No. 114/2011 and handed over the rukka and copy of FIR to HC Hukum Singh after registration of FIR. He proved the copy of the FIR as Ex. PW 1/A. 12.1. Witness was not cross-examined on behalf of accused persons despite the opportunity being given to them.

13. PW 2 SI Mahesh Kumar deposed that on 15.07.2011, he had visited C-7/27, SDA DDA Flats, Hauz Khas along with Inspector S.K. Sharma and at the instance of Gurpreet Kaur, he prepared the rough notes and took the measurements of the spot. He further deposed that on the basis of rough notes and measurements, he prepared the scaled site plan on 25.07.2011 and handed over it to the Inspector S.K. Sharma on the same day SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 27 of 74 in his office. He deposed that he had destroyed the rough notes after preparing the scaled site plan. He had identified the site plan as Ex. PW 2/A. 13.1. Witness was not cross-examined on behalf of accused persons despite the opportunity being given to them.

14. PW 3 SI Naresh Kumar deposed that on 06.05.2011 at about 08.45 am, he had received an information from the control room to reach at the H.No. C-2/27, Second Floor, SDA Flat, Hauz Khas. He deposed that on that day, he went to the spot along with crime team at about 09.15 am, where HC Hukum Chand met there.

14.1 He further deposed that in the bathroom of the house, one burnt piece of cloth, one pair of chappal and plastic bottle were found. He further deposed that he inspected the site and scene of crime was photographed. He deposed that he had handed over his report to HC Hukum Singh and he identified his inspection report as Ex. PW 3/A. 14.2. Witness was not cross-examined on behalf of accused persons despite the opportunity being given to them.

15. PW 6 Sh. Rajpal Singh was the SDM Vasant Vihar and he had conducted the inquest proceedings. He deposed that on 06.05.2011, he was posted as SDM Vasant Vihar and on that day, on being informed by the police, he went to the Safdarjung Hospital where one Samardeep Kaur was found to be admitted in the hospital who died due to the burn injuries on 05.05.2011.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 28 of 74 Witness further deposed that since the deceased died within seven years of her marriage, therefore, he recorded the statement of the father of the deceased. He identified the said statement as Ex. PW 6/A. 15.1 Witness further deposed that on that day, he had conducted the inquest proceedings and filled up form no. 25.35, and identified the same as Ex. PW 6/B. Witness further deposed that the apparent cause of death was to be burn injuries. He identified the statements regarding identification of dead body, counter signed by him as Ex. PW 6/C and PW 6/D. He also proved his application which was moved for autopsy as Ex. PW 6/E. 15.2. During his cross examination, witness replied that he did not remember the name of the police official but he had received the call from the PS Safdarjung Enclave. Witness further replied that he recorded the statement at 10.50 am on 06.05.2011 at Safdarjung Hospital. Witness further replied that he did not get the statement Ex. PW 6/A attested from any doctor.

16. PW 8 ASI Hukum Singh deposed that in the intervening night of 05/06.05.2011, he was on duty at PS and he was handed over a copy of DD No. 3-A Ex. PW 8/A at about 08.05 am for taking action in the matter which was in connection with admission of one lady Samardeep Kaur W/o Sandeep in burnt condition in Safdarjung Hospital. He further deposed that he along with Ct. Yaadvir reached the hospital and collected MLC Ex. PW 4/A of SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 29 of 74 Samardeep Kaur.

16.1. Witness further deposed that Doctor opined that patient was able to speak on his written application which is Ex. PW 8/B and doctor had also made endorsement about the fitness of patient at point A on it. He further deposed that parents of the injured were present in the burn ward and he recorded the statement of injured Samardeep Kaur in the presence of her parents which is Ex. PW 7/A. 16.2. He further deposed that whatsoever injured told him, same was recorded in her aforesaid statement upon which injured Samardeep tried to put her signature and a big letter like 'S' at point X. 16.3. Witness further deposed that he had read over aforesaid statement to the injured then he had attested the same at point Y. He further deposed that the mother of the injured namely

Gurpreet Kaur had also put her signature on the said statement at point A and J S Sodhi put his signature at point B. 16.4. He further deposed that in the meantime, Inspector Sandeep Ghai along with Inspector Sunil Kumar and SI Sanjay Sharma came to the hospital and met him and he narrated the aforesaid facts to them and they discussed and called SDM, South West District. He further deposed that thereafter SDM came and interrogated parents of injured and recorded the statement of Jagtar Singh as Ex. PW 6/A. He deposed that no statement of the mother of deceased is available on judicial file.

16.5. Witness deposed that the SDM handed over the statement of Jagtar Singh to the SHO after making endorsement SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 30 of 74 to take action as per law and then the Inspector Sunil had made endorsement Ex. PW 8/C to get the FIR registered for commission of offence punishable under Section 498-A/304- B/34 IPC. He further deposed that thereafter, he got the FIR registered by HC Rajkumar while taking the rukka to the police station from Hospital and returned to the hospital along with rukka Ex. PW 8/C and copy of FIR Ex. PW 1/A and handed over the same to the Inspector Sunil for investigation.

16.6. Witness further deposed that all the police officials left the hospital and reached at the spot at DDA Flat No. C-7/27, Second Floor, SDA, New Delhi. He deposed that IO inspected the spot, particularly bathroom of the said flat and called the crime team officials. He further deposed that HC Ram Sahai and HC Raj Singh along with SI Naresh Kumar came to the spot. He further deposed that photographer HC Raj Singh took seven photographs of the scene of crime marked as X1-X7 and he had identified them being pertained to crime scene. Witness further deposed that crime team prepared SOC report Ex. PW 3/A and handed over the same to the IO.

16.7. Witness further deposed that one chappal (slipper), one piece of burnt cloth and one empty plastic bottle were found lying at the spot and same were lifted and seized by the IO and memo Ex. PW 7/B was prepared. He further deposed that the mother of the injured had also signed the aforesaid memo. He further deposed that thereafter, IO had prepared the site plan Mark Y at the instance of the mother of injured. He deposed that thereafter they returned to the hospital.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 31 of 74 16.8. Witness further deposed that in the mortuary, Inspector Sunil Kumar with the assistance of SDM completed inquest proceeding in his presence. He deposed that the dead body was shifted to the mortuary after declaring injured Samardeep Kaur dead in hospital after 2.00 pm. 16.9. He deposed that the dead body was identified by the father of the deceased and one Bhupender Singh and memos Ex. PW 6/C and Ex. PW 6/D were prepared. He further deposed that SDM Rajpal Singh also signed the aforesaid statements. Witness further deposed that inquest form Ex. PW 6/D was also filled up by the SDM. He further deposed that thereafter, inquest papers were sent to post mortem surgeon. He deposed that post mortem was conducted on the same day. He further deposed that dead body was released to its legal heirs against the receipts Ex. PW 8/D. He deposed that IO had seized one sealed parcel containing hair of deceased along with sample seal in his presence which had been received after PM examination.

16.10. Witness further deposed that it had come to his notice that husband of deceased was present in the Burn Ward of the hospital and IO had arrested him and memo Ex. PW 8/E was prepared and his personal search was conducted and memo Ex. PW 8/F was prepared. He further deposed that IO had interrogated the accused Sandeep and recorded his disclosure statement. He further deposed that thereafter, they came to the PS and accused was put in the lockup and sealed parcels were deposited with the MHC (M) by the IO.

16.11. During his cross examination, witness SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 32 of 74 replied that the statement of the deceased was recorded by him at about 02.05 am and injured died at 5.00 am. Witness further replied that he did not obtain the signature of the Doctor on the statement of victim/ Samardeep Kaur Ex. PW 7/A. Witness replied that thumb impression of the victim was not taken as both her hands were wrapped with bandage and he neither took the impression of the feet of the victim. He further replied that he did not remember the telephone number of the SDM on which he tried to contact him, though Nurse was present with the patient/ deceased, but he did not obtain her signature.

16.12. Witness replied that she refused to sign. Witness replied that he did not mention this fact in the case diary, however, he had told this fact to the SHO. Witness further replied that the doctor to whom he had requested to put signature on the statement of the patient, also refused for the same, but he had made endorsement on his application Ex. PW 8/B which was made by him before recording of the statement of the patient.

16.13. Witness further replied that he could not tell the name of the doctor who declared the patient fit for statement. Witness further replied that he did not put the time of his recording the statement on the statement. Witness denied the suggestion that the patient had never given her statement. He further denied the suggestion that he had recorded the statement with the connivance of the parents of the deceased or that he had not called the SDM in the hospital. Witness further denied the suggestion that he had manipulated the statement of the SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 33 of 74 deceased who had never given any such statement or that he had not obtained her signatures or thumb impression.

17. PW 12 Inspector Sanjay Sharma deposed that on 06.05.2011, he was posted as SI at PS Safdarjung Enclave and on that day duty officer entrusted a call vide DD No. 3-A to Inspector Sunil Sharma and he had also accompanied him. He further deposed that they reached at Burn Ward Safdarjung Hospital where they came to know that the patient Samardeep Kaur had died and that she died in unnatural circumstances within seven years of her marriage.

17.1. He further deposed that he collected the MLC and other documents and he informed the SDM of Vasant Vihar about the death of Samardeep. Witness further deposed that SDM had reached at the Burn Ward, Safdarjung Hospital. He further deposed that Jagtar Singh, the father of the deceased was also present in the hospital at that time and his statement was recorded by the SDM which was handed over to the Inspector Sunil and he made endorsement on the statement and then handed over the same to HC Hukum Singh with direction to register to FIR.

17.2. He further deposed that HC Hukum Singh got the FIR registered, meanwhile, they reached to the scene of crime at C-7/27, SFS Flats, SDA. He deposed that HC Hukum Singh handed over the rukka and copy of the FIR to Inspector Sunil. Inspector Sunil called the crime team at the spot and IC -Crime Team had inspected the scene of crime and photographer took SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 34 of 74 the photographs of the bathroom. He further deposed that Inspector Sunil seized one slipper, burnt piece of cloth and one plastic bottle which were converted into a parcel and sealed with the seal of SK and were taken into possession.

17.3 . He deposed that thereafter, Inspector prepared site plan of the scene of crime at the instance of mother of deceased Gurpreet and statement of Gurpreet was recorded. He further deposed that in the meanwhile, IO had received the information that husband Sandeep Mittoo was present in the Safdarjung Hospital and then they reached to the Safdarjung Hospital, where accused Sandeep was interrogated and arrested in the present case.

17.4. He had identified the arrest memo and personal search memo of the accused Sandeep as as Ex. PW 8/E and Ex. PW 8/F. He further deposed that accused Sandeep was got medically examined and thereafter brought to PS and put in the lock-up.

17.5. He further deposed that on 24.05.2011, he again joined the investigation of the present case along with Inspector Sunil Sharma who had received the information that accused Sukhdev was present at his shop at Lal Quarter, Krishna Nagar. He further deposed that they along with complainant Jagtar Singh had reached there and on pointing out and identification of the father of the deceased, they apprehended accused Sukhdev Singh and then he was arrested and his personal search was conducted. He had identified the arrest memo and personal search memo as Ex. PW 2/B and Ex. PW 2/C. SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 35 of 74 17.6. He further deposed that the accused Sukhdev was brought to the Police Station and thereafter he was got medically examined and sent to lock up. He deposed that his statement was recorded. Witness has identified the accused Sandeep in the court. Witness had identified the case property i.e., one plastic bottle, one pair of slipper, one piece of cloth as Ex. P-2.

17.7. During the cross examination on behalf of the Ld. Counsel for the accused persons, he replied that they used to tell brief facts to the crime team and they also mentioned this fact on their own language in their inspection report. Witness further replied that within half an hour after getting the information in the police station, they reached the spot along with IO Inspector SK. Sharma. Witness further replied that the girl was already found dead when they reached the hospital and when they reached the hospital, the dead body was already sent to the mortuary.

17.8. Witness further replied that he could not tell whether the signature of the doctor concerned was required to be obtained on the endorsement regarding the fitness of the patient to give statement. Witness further deposed that they did not use to take the signature of the doctor on the dying declaration.

17.9. Witness denied the suggestion that he had signed all the memos while sitting in the PS at the instance of the IO. Witness further denied the suggestion that he never visited the hospital along with the SHO. Witness denied the suggestion that he was never associated with the investigation of the case.

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18. PW 15 ACP S.K. Sharma deposed that on 06.05.2011, he was posted at PS Safdarjung Enclave as Inspector Investigation and on that day, DD No. 3-A regarding the admission of a lady namely Samarjeet Kaur in Safdarjung Hospital due to burn injuries was assigned to SI Sanjay Sharma who left the PS for attending the call along with HC Hukum Singh and it was apprised to SI Sanjay Sharma that the incident of burning took place within seven years of marriage and the lady was newly married who succumbed to that and therefore, the IO informed to SDM and he was also informed about the death of the lady.

18.1. Witness further deposed that he reached at Safdarjung Hospital and SDM had come to the hospital and recorded statement of the father of the deceased. He further deposed that the SDM had made endorsement on the statement of Jagtar Singh and marked the same to SHO. He further deposed that subsequent to the registration of the present case FIR, investigation of the case was marked to him. He further deposed that during the course of investigation, SDM got the postmortem on the dead body of Samarjeet Kaur. He further deposed that after the postmortem, the dead body was handed over to the legal heirs of the deceased.

18.2. He further deposed that from the documents which were received to him with the case file, there was statement Ex. PW 7/A of the deceased which was recorded by HC Hukum Singh at the hospital. He further deposed that he along with SI Sanjay Sharma went to the place of incident i.e., SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 37 of 74 C-7/27, DDA Flats, New Delhi. He further deposed that prior to the inspection of the spot by him, the crime team had already inspected the spot. He further deposed that he possessed some burnt cloth piece, burnt chappal and one empty plastic bottle and converted the same into different pullandas.

18.3. Witness had identified the seizure memo of article as Ex. PW 7/B. He deposed that he prepared the site plan earlier marked as Mark Y as Ex. PW 15/A. He deposed that he recorded the statement of witnesses during the course of investigation. He further deposed that during the investigation, he arrested the accused Sandeep Mittu, the husband of the deceased and interrogated him thoroughly and identified his arrest memo as Ex. PW 8/E and personal search memo as Ex. PW 8/F. He had identified the accused Sandeep Mittu in the court. He further deposed that the accused was produced before the Ld. MM and thereafter sent to JC.

18.4. Witness further deposed that on 17.05.2011, the father of the deceased produced one diary containing the writing of the deceased and he had seized the same. He had identified the seizure memo of diary as Ex. PW 10/C. He identified the diary as Ex. P1. He further deposed that during the

course of interrogation of the accused Sandeep, he also recorded his disclosure statement on 06.02.2011.

18.5. Witness further deposed that during investigation, he moved appropriate request before Axis Bank to produce the handwriting of the deceased and he also moved an application before the concerned school of the deceased for providing SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 38 of 74 answer-sheets and on producing the relevant document, the seizure memo was prepared as Ex. PW 9/B. He further deposed that the list of istridhan articles was also provided by the father of the deceased as Ex. PW 10/A and Ex. PW 10/B. 18.6. Witness further deposed that on 24.05.2011, he had arrested the father in law of the deceased namely Sukhdev Singh and he also interrogated him. Witness identified the arrest memo of accused Sukhdev Singh as Ex. PW 12/B and personal search memo as Ex. PW 12/C. 18.7. Witness further deposed that the co-accused persons namely Anju and Simranjeet who were the mother in law and sister in law of the deceased were absconding and therefore their NBWs were obtained and both of them were granted anticipatory bail and both of them had appeared in Police Station.

18.8. He identified the arrest memo of Simranjeet Kaur as Ex. PW 15/B and that of Anju as Ex. PW 15/C. He further deposed that on 16.09.2011, he prepared the supplementary charge sheet against accused Anju who was arrested on 19.08.2011 and other accused Simranjeet who was arrested on 22.07.2011.

18.9. Witness further deposed that during the course of investigation, he collected photographs of the marriage and the marriage card from the parents of the deceased and same were placed on record. He further deposed that he had also sent the exhibits to FSL Rohini and recorded statement of sample carrier and SDM. He further deposed that he had also got the place of SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 39 of 74 incident inspected through the draftsman and lateron he had prepared scaled site plan.

18.10. He further deposed that FSL report was collected and placed on record. He further deposed that on completion of the investigation, main charge sheet and supplementary chargesheet were filed against the accused persons. He had identified the accused Simranjeet and Anju in the court.

18.11. Witness had identified the case property i.e., one empty plastic bottle, one pair of chappal and burnt cloth piece and one cloth piece as already Ex. P2.

18.12. During cross examination on behalf of accused person, witness denied the suggestion that he did not investigate the case fairly and properly. He denied the suggestion that he deliberately did not place the divorce deed in the case file. He denied the suggestion that no torture was given by the accused persons in regard to the demand of dowry. Witness denied the suggestion that deceased was under

depression and due to that reason, she committed suicide. Witness denied the suggestion that he deposed falsely.

Medical witnesses

19. PW 4 Dr. Neha Chauhan was the Senior Resident at Safdarjung Hospital. She deposed that on 05.05.2011, she was posted at Safdarjung Hospital in the department of Burns and Plastic Surgery and on that day, one Samardeep Kaur aged about 22 years female was admitted in the hospital with alleged SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 40 of 74 history of suffering suicidal burns and the patient poured kerosene oil over herself and set herself on fire. She further deposed that the patient Samardeep Kaur alleged that she was married six months back and was being continuously harassed for dowry and she was depressed, tensed and humiliated by that. She further deposed that there was no history of convulsions, unconsciousness, diabetes mellitus, hypertension and any other chronic illness or drug allergy.

19.1. She further deposed that last menstrual period was three to four days back. She further deposed that on examination, her condition was very critical, pulse was 110 per minute, BP was unrecordable, respiratory rate was 28 per minute and there was decreased air entry in both lungs. She further deposed that on local examination, she was found to have 95% deep thermal burns with facial and inhalational burns and the nature of injury was dangerous. She prepared her detailed MLC in this regard and identified the same as Ex. PW 4/A. 19.2. During her cross examination on behalf of accused persons, witness replied that the patient had not stated any name of anyone who had harassed her for dowry. Witness further replied that the patient had stated to her that she was harassed by her in laws. Witness admitted that she had not written in the MLC that the patient had stated to her that she was harassed by her in laws.

19.3 Witness denied the suggestion that she had manipulated the MLC at the instance of father of the deceased. Witness further replied that she had not prepared the death SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 41 of 74 summary mark X and the same was prepared by Dr. Juhi. Witness further replied that she was not present there when the death summary mark X was prepared.

20. PW 5 Dr. Mohit was the Senior Resident at Department of Forensic Medicine, Safdarjung Hospital, New Delhi. He deposed that on 06.05.2011, he was posted at Safdarjung Hospital in the department of Forensic Medicine. He deposed that on that day, he along with Dr. Sweta Garg had conducted the post mortem on the dead body of deceased Samardeep Kaur. He deposed that on examination, he found following ante- mortem external injuries:

Burnt areas on the body: Epidermal to dermal flame burn injuries present all over the body except small patch over chest and nape of neck, genitalia and both soles. Burn areas show inflammatory base with peeling of superficial skin. Bald patch present over scalp.

The approximate percentage of burn injuries was 95%. The cause of death in this case was due to shock caused by ante-mortem flame burn involving 95% of total body surface area. The time since death was approximately six hours.

20.1. He deposed that the detailed post mortem report was prepared by him and Dr. Sweta Garg and he identified the report as Ex. PW 5/A. Witness further deposed that Dr. Sweta Garg had left the hospital and her present whereabouts were not known and he was acquainted with her signature and hand writing as he had worked with her in the Department of Forensic SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors.

FIR No. 114/2011, PS Safdarjung Enclave Page No. 42 of 74 Medicine. He had identified the signature of Dr. Sweta Garg in post mortem Ex. PW 5/A at point B. 20.2. During his cross examination on behalf of the accused persons, accused persons did not ask anything from the witness despite opportunity was given to them.

21. PW 13 Dr. Kanak Lata Verma deposed that on 23.06.2011, she was posted as a Sr. Scientific Officer (Chemistry), FSL Delhi and two sealed parcels were received in FSL pertaining to the present case and the same were assigned to her for examination and reporting. Witness further deposed that she opened the parcel no. 1 which was found containing one pair of chappal and one empty bottle and partially burnt piece of cloth while the parcel no. 2 was also found containing bunch of black hair.

21.1. Witness further deposed that she had examined the exhibits and on GC examination Ex. 1B i.e., empty bottle was found to have contents of residue of kerosene and residue of inflammable substance including kerosene could not be detected in Ex. 1A, 2c and 2 i.e., pair of chappal, partially burnt piece of cloth and a bunch of black hair. Witness further deposed that she resealed the remnants, affixed her seal KLV FSL Delhi and prepared her report as Ex. PW 13/A. 21.2. During his cross examination on behalf of the accused persons, accused persons did not ask anything from the witness despite opportunity was given to them. .

22. PW 14 Sh. Vijender Singh, Assistant Director (Documents), SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 43 of 74 FSL, Rohini deposed that on 21.06.2011, questioned documents, admitted documents of deceased Samarjeet Kaur were forwarded by the SHO in connection with this case and he marked the questioned documents as Mark Q1 to Q16 in a diary of KRIBHCO 2009 and the admitted writing as Mark A1 to A15.

22.1. Witness further deposed that he had examined all the documents carefully with scientific instruments and found that questioned documents Mark Q1 to Q16 and admitted documents Mark A1 to A15 were all written by one and the same person. He further deposed that he had prepared his report which is Ex. PW 14/A. He further deposed that the diary and bank account opening form of the deceased are collectively already Ex. P1 containing the questioned writing/ signature of the deceased and the admitted writing / signature are Ex. PW 9/C1 to C4 running into fifteen pages.

22.2. During the cross examination on behalf of the accused persons, this witness replied after seeing his record that the questioned document and the admitted handwriting were sent to FSL from concerned SHO of PS Safdarjung Enclave and it was brought by S.K. Sharma. Witness further

replied that he did not know whether the documents received were already verified by any family member or other person.

22.3. Witness voluntarily stated that he had examined the documents as sent by the SHO. He further replied that he received the questioned documents and the admitted handwriting in open condition from their receipt branch. He SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 44 of 74 could not tell orally as to how many pages were received, but he could tell after seeing the record. Witness further replied that he had not given any statement under Section 161 Cr.PC regarding his report to the police.

22.4. Witness further replied that he considered only the questioned writings and signatures on the documents sent to FSL and compared the same with admitted writing. He admitted that there was no document sent by the police official about the admitted writing and the name / details of the person who admitted the writing to be of deceased Samardeep Kaur. Witness admitted that the account opening form does not bear signature of Samardeep Kaur.

23. After completion of the prosecution evidence, statement of accused persons namely Anju and Simranjeet Kaur were recorded under Section 313 Cr.PC. Both the accused persons opted to lead defence evidence.

24. In support of their defence, accused persons namely Anju and Simranjeet Kaur had examined DW 1 Dr. Nikhil Raheja.

25. DW 1 / Dr. Nikhil Raheja deposed that he first formally examined Mr. Sandeep Mittu sometime in the second half year of 2012 wherein he was brought to his clinic by his family who was known to him since about 2009-2010. He further deposed that he was a practicing as Psychiatrist.

25.1 Witness further deposed that Sandeep was SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 45 of 74 examined in his clinic with clinical symptoms of negative thinking, crying, not eating, lost of motivation and confidence. Witness further deposed that on MSE (Mental Status Examination) and history taking there were frank symptoms of suspiciousness, irrelevant talking and major depressive symptoms. He further deposed that the family and the patient had reported that the Sandeep had been in a love relation and got married to the some girl. He further deposed that further history revealed that his wife had committed suicide sometime in May 2011 and subsequent to that Sandeep was arrested and was recently released on bail.

25.2. This witness was cross examined on behalf of State by the Ld. Addl. PP for the State wherein witness denied the suggestion that he had not examined Sandeep Mittu at any point of time. He further denied the suggestion he deposed falsely at the instance of the accused.

26. After defence evidence, matter was listed for final arguments.

27. Final arguments heard.

28. It is argued on behalf of the State that total four accused persons namely Sandeep Mittu, Sukhdev Singh, Anju and Samaranjeet Kaur @ Dalcee were charge sheeted and charged for commission of offence punishable under Section 498-A/304- B/34 IPC. It is further argued that during the trial, accused / husband Sandeep Mittu and accused/ father in law Sukhdev Singh had expired. It is further argued that accused Anju is the SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 46 of 74 mother in law of the deceased / victim and accused Samaranjeet Kaur @ Dalcee is the sister in law of the deceased/ victim.

28.1. It is further argued that the marriage between the deceased/ victim and accused Sandeep Mittu was solemnized on 23.10.2010 and it is duly proved during the trial that the accused persons had harassed the deceased/ victim in order to coerce her to meet the unlawful demand of dowry. It is further argued that it is also duly proved that in the intervening night of 05/06.05.2011, at unknown time, at C-7/27, SDA, Hauz Khas, DDA Flats, New Delhi within jurisdiction of PS Safdarjung Enclave, deceased/ victim had set her ablaze and during treatment she died on 06.05.2011.

28.2. It is further argued that at the time of incident, the deceased/ victim was residing at her parental house. It is further argued that deceased / victim had committed suicide and her death was caused under the unnatural circumstances within the period of seven years of her marriage. It is further argued that the fact of dowry demand and harassment by the accused persons in order to meet the dowry demand is duly proved during the trial by the prosecution against the accused Anju and Samaranjeet Kaur @ Dalcee.

28.3. It is further argued that the fact that victim / deceased committed suicide and her death was caused under unnatural circumstances due to the dowry demand made by the accused persons is also duly proved by the prosecution. It is further argued that the case of prosecution regarding the charge of commission of offence punishable under Section 498-A/34 SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 47 of 74 IPC and charge for commission of offence punishable under Section 304-B/34 IPC is also duly proved. It is further argued that the accused persons namely Anju and Samaranjeet Kaur @ Dalcee are liable to be held guilty and convicted for the offence punishable under Section 498-A/34 IPC and offence punishable under Section 304-B/34 IPC.

29. On the other hand, it is argued on behalf of the accused persons by LAC / defence counsel Sh. Rajeev Jain that case of prosecution is not proved beyond reasonable doubt. It is further argued that at the time of alleged incident of suicide, the victim was admittedly residing with her parents and she was residing with her parents since the month of February, 2011.

29.1. It is further argued that prosecution has relied upon the alleged statement of the victim/ deceased recorded during the treatment of the victim/ deceased and in the said alleged statement of the victim/ deceased, the names of the accused persons namely Anju and Samaranjeet Kaur @ Dalcee were not mentioned specifically, nor any specific role had been assigned in the said statement. It is further argued that the alleged suicide note had not been proved beyond reasonable

doubt that it was written by the victim and only few pages of the said documents were placed before the court during the trial and collected during the investigation and there were missing pages in between the those pages which were produced during the trial which reflect that there was manipulation in presentation of complete document.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 48 of 74 29.2. It is further argued that no corroborative evidence came on record against the accused persons from the testimonies of the parents of the deceased / victim, neither any complaint was lodged against the present accused persons by the parents of the deceased/ victim or by deceased / victim prior to the alleged incident. It is further argued that there was no communication between the deceased / victim and present accused persons.

29.3. It is further argued that the alleged dying declaration does not bear the signature of the victim/ deceased, nor having any mention of signature of mother and father of the deceased/ victim, so it cannot be said that the same was the dying declaration of the deceased / victim. It is further argued that case of prosecution regarding charges of offence punishable under Section 498-A/34 IPC and offence punishable under Section 304-B/34 IPC is not proved beyond reasonable doubt.

29.4. It is further argued that it is settled law that benefit of doubt is always given to the accused and case of prosecution is not proved beyond reasonable doubt, so accused persons namely Anju and Samaranjeet Kaur @ Dalcee are entitled to be acquitted from the present case and from the charge of offence punishable under Section 498-A/304-B/34 IPC.

30. The court has heard the rival submissions of both the parties, perused the record of the trial, statement of witnesses and evidence which came on record during the trial.

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31. In order to prove the charge of offence punishable under Section 498-A/34 IPC and charge of offence punishable under Section 304-B/34 IPC, prosecution has mainly relied upon the dying declaration of the victim/ deceased recorded during her treatment Ex. PW 7/A, statement of the father of the victim recorded by SDM Ex. PW 6/A/ complaint and alleged suicide note Ex. PW P-1 (produced during the examination of witness PW 10 Jagtar Singh, the father of the victim).

32. The said dying declaration and statement of the father of the victim/ deceased is reproduced as under:-

HC Hukam Singh had recorded the statement of the Samardeep Kaur / victim which is reproduced herein as under:-

"Bayaan ajane Samardeep Kaur D/o Jagtar Singh Siddu R/o c-7/07, SDA, DDA Flats, IInd Floor, New Delhi aged 22 years, Ph. No. 958372602.

Bayaan kiya ki pata uprokt par apne mata-pita ke paas rahaiti hun, aur Nurse ka course karke filhaal ghar par hee rahaiti hun. Meri Shadi 22 Oct 2010 ko Sandeep S/o Sh. Sukhdev Singh R/o C-153-A, Ground Floor, Surya Nagar, Ghaziabad se Hindu riti riwaj ke anusaar hui thi. Mujhe mere sasural walon ne kuch din mujhe theek rakha aur Feb 2011 mein mujhe maar peet karke mujhe ghar se bhaga diya, aur kaha ki tere maa baap ne dahej mein mere bete aur humein ladke ke mata pita ko dahej mein kuch bhi nahin diya. Jab humein aur mere bete ko achha dahej denge to tabhi hamare SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 50 of 74 ghar aana. Jo main usi din se main apne mata pita ke paas rahai rahi hun, aur main in baaton ko lekar ke usi din se mansik tanav mein rahai rahi thi, aur aaj main apne sasural walon se tang aakar apne ko baathroom mein jakar apne app ko band karke hamare ghar mein rakha hua petrol apne par dalkar apne mein aag laga li. Yaha sab maine apne sasural walon dwara mujhe dahej ke liye pratarit karne par mansik tanav mein lagai hai. Yaha bayan main apni marzi se bina kisi dabav ke apne pita va mata Gurpreet Kaur ki mauzoodgi mein hosh hawas mein de rahi hun.

Bayaan sun liya theek hai Gurpreet 6-5-2011 JS Sidu 6/5/2011 at night HC HUKAM SINGH 338/SD

33. PS S.J. ENCLAVE"

34. After the death of the victim / deceased, the SDM was informed by the police regarding the inquest proceedings and during inquest proceedings, SDM had recorded the statement of the father of the victim/ deceased as Ex. PW 6/A which is reproduced here as under:-

"STATEMENT OF SH. Jagtar Singh; AGE: 54 years S/o Latge Shri Daljeet Singh, R/o C-7/27, SDA, Hauz Khas, DDA SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 51 of 74 Flats, New Delhi. WHO IS FATHER DECEASED / PATIENT MRS. SAMARDEEP KAUR W/O SH. SANDEEP R/O C-7/27, SDA FLATS, HAUZ KHAS, NEW DELHI AT 10-50 AM ON 06/05/11 AST SAFDARJUNG HOSPITAL, DELHI.

It is hereby stated that I married my daughter Samardeep Kaur with the Sandeep in the month of Oct'2010 and everything was peaceful for about 10 days and after that they started demanding several things like blanket, Godrej Almirah etc. which I gave but that Almirah was sent back to my house and my daughter's mobile was also taken by them and my daughter was not able to talk. And my daughter was harassed by my son in law, his parents and sister in law, that one day my daughter gave a call that she is not feeling comfortable here and take her and after that we brought her to our residence of Delhi. She was married to Sandeep who stays C- 153/A, Surya Nagar, Ghaziabad (UP). I brought my daughter at my residence around Feb end of 2011 and thereafter, I tried to have settlement for separation since in-laws of my daughter were not good people, though my daughter was not legally divorced and since Feb 2011,

my daughter Samardeep is staying with us, but she had been going through very serious depression and because of this depression and willful stability, she closed herself in the bathroom of our house and doused / poured kerosene. When she cried, then we opened the door and found her totally in fire and immediately brought her to Safdarjung hospital on 05.05.11 and the incident also took place on 05.05.11 and she expired on 06.05.2011 at Safdarjung SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 52 of 74 Hospital. It is stated that my daughters' father in law had two wives. My daughter took this step of ending her life because of the harassment worked out to her by her husband, Sandeep, father in law Sukhdev Singh, mother in law Madhu and Sister in law Dalsy and they are responsible for extreme step taken by my daughter and death of my daughter. I want legal action against all of these four namely, Sandeep, Sukhdev Singh, Madhu and Dalsy. I do not want to state more than this, any thing. I have given this statement of my own without any pressure. I have read the statement and the statement has been read over to me and it is correct.

JS Sidhu 06.05.2011 Concerned SHO to take l/a as per law in this regard. Concerned SHO SDM Rajpal Singh".

35. During the investigation, the diary of the victim/ deceased was also seized which was found having suicide note of the victim and during the trial, the same was produced as Ex. P-1. The content of the said suicide note of the victim is reproduced as under:-

"meri suicide ke responsible pura Mittu pariwar hai, Simple, Simple ki maa, Dalcey (bitch), Sukhdev Mittu ko doshi mana hai."

36. The prosecution has relied upon the above three statements as SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 53 of 74 dying declaration of the victim / deceased and on the other hand, defence has contended that these statements are not duly proved as per law and these statements cannot be treated as dying declaration. The defence has also challenged the admissibility of these statements and also contended that the execution of these documents is not duly proved by the prosecution during the trial.

37. The legal position regarding the admissibility of the statement recorded during the treatment of the dowry death cases and evidencery value of such statement has been settled by the superior courts in various judicial pronouncements.

The law on dying declaration is now almost settled, the dying declaration is an admissible piece of evidence by virtue of Section 32 of the Indian Evidence Act, despite the same being hearsay. Section 32 of the Indian Evidence Act is reproduced as under:-

Section 32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant. --Statements, written or verbal, of relevant facts made by a

person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases.

SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 54 of 74 (1) when it relates to cause of death. --When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

In *Vikas and Anrs. Vs State of Maharashtra Appeal (Crl.) 321/06*, dated 25.01.2008, Hon'ble Supreme Court of India has held that:-

Clause (1) of Section 32 of the Act has been enacted by the Legislature advisedly as a matter of necessity as an exception to the general rule that hearsay evidence is no evidence and the evidence which cannot be tested by cross examination of a witness is not admissible in a Court. But the purpose of cross examination is to test the veracity of the statement made by a witness. The requirement of administering oath and cross-examination of a maker of a statement can be dispensed with considering the situation in which such statement is made, namely, at a time when the person making the statement is almost dying. A man on the death-bed will not tell lies. It has been said that when a person is facing imminent death, when even a shadow of continuing in this world is practically over, every motive of falsehood is vanished. The mind is changed by most powerful ethical and moral considerations to speak truth and truth only. Great solemnity and sanctity, therefore, is attached to the words of a dying man. A person on the verge of permanent departure from his earthly world is not likely to indulge into falsehood or to concoct a case against an innocent person, because he is answerable to his Maker for his act. SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 55 of 74 Moreover, if the dying-declaration is excluded from admissibility of victim may be the only eye-witness of a serious crime. Exclusion of his statement will leave the court with no evidence whatsoever and a culprit may go unpunished causing miscarriage of justice"

38. Statement of a dying person is sufficient to convict a person without any corroboration, if court find the same trustworthy and reliable. In *Atbir vs Govt of NCT of Delhi (2010) 9 SCC 1* In Para 16 it is held:-

"The analysis of the above decisions clearly shows that:

(i) Dying declaration can be the sole basis of conviction if it inspires the full confidence of the court.

(ii) The court should be satisfied that the deceased was in a fit state of mind at the time of making the statement and that it was not the result of tutoring, prompting or imagination.

(iii) Where the court is satisfied that the declaration is true and voluntary, it can base its conviction without any further corroboration.

(iv) It cannot be laid down as an absolute rule of law that the dying declaration cannot form the sole basis of conviction unless it is corroborated. The rule requiring corroboration is merely a rule of prudence.

(v) Where the dying declaration is suspicious, it should not be acted upon without corroborative evidence.

(vi) A dying declaration which suffers from infirmity such as the deceased was unconscious and could never make any statement cannot form the basis of conviction.

(vii) Merely because a dying declaration does not contain all the details as to the occurrence, it is not to be rejected.

(viii) Even if it is a brief statement, it is not to be discarded.

(ix) When the eyewitness affirms that the deceased was not in a fit and conscious state to make the dying declaration, medical SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors.

FIR No. 114/2011, PS Safdarjung Enclave Page No. 56 of 74 opinion cannot prevail.

(x) If after careful scrutiny, the court is satisfied that it is true and free from any effort to induce the deceased to make a false statement and if it is coherent and consistent, there shall be no legal impediment to make it the basis of conviction, even if there is no corroboration."

39. In *Khushal Rao v. State of Bombay*, 1958 SCR 552, it is held that:-

"a statement by a dying person as to cause of death has a special sanctity which should on first principles be respected if it is credible and trustworthy. There should not be any evidence to the effect that the statement was a result of tutoring, prompting or a product of imagination. Further the deceased should be in fit state of mind to make the statement. This caution and care has to be taken as the deceased is not subjected to cross-examination. The court must be fully satisfied that the dying

declaration impress a truth on it, after examining the circumstances in which the dying person had made the ex- parte statement. If on such examination, the court is satisfied that the declaration was the true version of the occurrence, conviction could be solely based on it."

40. In *Surinder Kumar v. State of Haryana*, 2011 (12) Scale 172, the dying declaration was rejected because it did not inspire confidence. There were infirmities and contradictions as to the occurrence.

41. In *Paparambaka Rosamma and Others v. State of A.P.*, SC No. 54/11 & 6634/16 ; *State Vs Sandeep Mittu and ors.* FIR No. 114/2011, PS Safdarjung Enclave Page No. 57 of 74 (1999) 7 SCC 695 it has been observed that where conviction is solely based on the dying declaration, the Court has to consider carefully the dying declaration and the evidence of the witnesses supporting it. Care should be taken to ensure whether it is established that the dying declaration was genuine, true and free from doubts and was recorded when the injured was in a fit state of mind.

42. Section 304B IPC provides as under:-

Section 304B. Dowry death-- (1) 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.

Explanation - for the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a terms which shall not be less than seven years but which may extent to imprisonment for life.

A legal fiction has been created as per Section 304B IPC. If it is established that soon before the death, the deceased was SC No. 54/11 & 6634/16 ; *State Vs Sandeep Mittu and ors.* FIR No. 114/2011, PS Safdarjung Enclave Page No. 58 of 74 subjected to cruelty or harassment by her husband or any of his relative, for or in connection with any demand of dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. The Parliament has also inserted Section 113-B in the Evidence Act, 1972 which reads as under :-

43. Section 113-B of the Indian Evidence Act, 1872 provides about the presumption as to dowry death and the same is reproduced as under:-

When the question is whether a person has committed the dowry demand of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for

dowry, the Court shall presume that such person had caused the dowry death.

Explanation---For the purposes of this section, "dowry death", shall have the same meaning as in Section 304-B of the Indian Penal Code.

44. In the combined reading of Section 304-B IPC and Section 113- B, Evidence Act, 1872 reflects a presumption if the prosecution establishes the following circumstances as set out in Section 304-B IPC:

(i) The death of the woman caused by any burns or bodily injury or in some circumstances which is not normal;

(ii) Such death occurs within 7 years from the date of marriage;

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(iii) The victim was subjected to cruelty or harassment by her husband or relatives of her husband;

(iv) Such cruelty or harassment should be for or in connection with demand of dowry; and

(v) Such cruelty and harassment was made soon before her death.

45. Section 498 A IPC is reproduced as under :--

Section 498-A: 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 willful 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.

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46. The cruelty has not been defined u/s 304B IPC. But same has been defined u/s 498A IPC.

47. The combined reading of section 304B IPC and 498A IPC cruelty which falls in explanation (b) of section 498A i.e. cruelty committed for demand of dowry only comes within the ambit of section 304B.

The word 'dowry' in Section 304B IPC has to be understood, as it is defined in Section 2 of the Dowry Prohibition Act, 1961, 'the word dowry means any property or valuable security given or agreed to be given either directly or indirectly ; (i) by one party of the marriage to the other party of the marriage, (ii) by the parents of either party to a marriage or by any other persons but either party to the marriage or to any other person.

In *Satvir Singh & Others Vs. State of Punjab and Anr.* [2009 SCC 633] the Hon'ble Supreme Court of India has held that, 'there are three occasions related to the dowry, one is before the marriage, second is at the time of marriage and third is at any time after the marriage. The third occasion may appear to be a unending period. But the crucial words are that, "in connection with the marriage of the said party". This means that giving or agreeing to give any property or valuable security or any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment or giving property as between the SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 61 of 74 spouses. For example customary payments in connection with birth of a child or other like ceremonies are proceeded in different societies. Such payments are not enveloped within the ambit of dowry.

48. In case titled as *Appa Saheb and Another Vs. State of Maharashtra* (2007) (1) RCR (Criminal) 747, it was held that "In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of Statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (See *Union of India v. Garware Nylons Ltd.*, AIR (1996) SC 3509 and *Chemicals and Fibres of India v. Union of India*, AIR (1997) SC 558). A demand for money on account of some financial stringency or for meeting some urgent domestic expenses of for SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 62 of 74 purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what

was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained."

49. The most important ingredient of Section 304B IPC is cruelty soon before death for demand of dowry. There is no fixed period provided in the statute in which if demand is made, it could be considered as demand of dowry made soon before death.

In *Hira Lal & Others V State (Govt of NCT) Delhi*, (2003) 8 SCC 80, the Supreme Court of India observed that the expression "soon before her death" used in the substantive Section 304-B IPC and Section 113-B of the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression "soon before" is not defined. The determination of the period which can come within the term "soon before" is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression "soon before" would normally imply that the interval should not be much between the cruelty or harassment concerned and the SC No. 54/11 & 6634/16 ; *State Vs Sandeep Mittu and ors.* FIR No. 114/2011, PS Safdarjung Enclave Page No. 63 of 74 death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence. if Section 304 IPC is to be invoked. But it should have happened "soon before her death". The said phrase no doubt is an elastic expression and can refer to a period either emotionally before her death or within few days or few weeks before it. But proximity to her death. No definite period has been indicated and expression "soon before" is not defined. A reference to the expression "soon before" used in Section 114 Illustration (a) of the Evidence Act is relevant. It lays down that a court may presume that a man who is in the possession of goods "soon after the theft, is either the thief or has received the goods knowing them to be stolen, unless he can account for their possession". The determination of the period which can come within the term "soon before" is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that 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 and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no SC No. 54/11 & 6634/16 ; *State Vs Sandeep Mittu and ors.* FIR No. 114/2011, PS Safdarjung Enclave Page No. 64 of 74 consequence."

50. In the matter titled as "*Krishan Kumar @ Setu & Anr. Vs. Govt. of NCT of Delhi*" reported at 2015 (1) JCC 116, Hon'ble Delhi High Court has held that Section 304B IPC presupposes the following essential ingredients which have prima-facie to be established by the prosecution before the presumption U/s 113 (B) of the Evidence Act can be attracted:-

- i. The incident of death has occurred within 7 years of marriage; ii. It was an abnormal death;

iii. There have been dowry demands within the definition of 'dowry' as contained in Section 3 of Dowry Prohibition Act; iv. These dowry demands must have been made 'soon before death' and what is 'soon before death' has to be examined in the light of the facts and circumstances of each case.

51. The Hon'ble Supreme Court of India in the matter titled as "Vipin Jain Vs. State of A.P. represented by Public Prosecutor" passed in Criminal Appeal No. 1431/2007 decided on 13.03.2013 has held that general allegations of harassment by accused towards deceased would not be sufficient to bring the case within the purview of Section 498-A/304-B IPC.

52. In the present case, the prosecution has relied upon the statement of the victim as Ex. PW 7/A which was recorded by HC Hukum Singh during the treatment of the victim in the hospital. The prosecution has contended that the statement Ex. PW 7/A of the SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 65 of 74 victim to be treated as dying declaration. The prosecution has also contended that the averments mentioned in the document Ex. PW 7/A regarding the incident is a dying-declaration of the victim and prosecution has proved it through the examination of HC Hukum Singh and PW 7 Gurpreet Singh in whose presence, the statement was recorded by HC Hukum Singh. The prosecution has also contended that the said statement was given by the victim in fit and conscious statement of mind and the same was certified by the doctor who was treating the victim at that time and prosecution has relied upon the document Ex. PW 8/B in support of it. The document Ex. PW 8/B was the application moved by the HC Hukum Singh seeking opinion of the doctor and permission of the doctor for recording statement of victim and on the application, the doctor had made endorsement regarding fitness of the victim to give statement.

53. The defence counsel for the accused persons namely Anju and Samaranjeet Kaur @ Dalcee has contended that the document Ex. PW 7/A is not a duly proved document as the doctor who was treating the victim at that time, had not endorsed the statement of the victim. It is further contended that no independent witness or staff of the hospital was associated by the HC Hukum Singh at the time of recording of statement of the victim. It is further contended that the document Ex. PW 7/A does not bear the signature of the victim or her thumb impression or her toe impression and no valid explanation is offered by the prosecution in that regard. It is further contended that the alleged signature on document Ex. PW 7/A of the SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 66 of 74 mother of the victim was obtained lateron and statement was manipulated and no such statement was recorded by HC Hukum Singh and document Ex. PW 7/A is not an admissible piece of evidence.

54. On perusal of document Ex. PW 8/B, it reveals that the said application was moved by PW 8 HC Hukum Singh for recording the statement of victim and the doctor on duty endorsed the application regarding the fitness of the victim to give statement. The statement of the victim Ex. PW 7/A was recorded by PW 8 HC Hukum Singh and the said recording of statement is proved by the witness HC Hukum Singh himself as well as witness PW 7 Gurpreet Kaur. There is no reason to disbelieve the testimony of PW 7 and PW 8 regarding the recording of statement of the victim by PW 8. Hence, the contention of the accused persons namely Anju and Samarjeet Kaur regarding admissibility of

the Ex. PW 7/A is rejected and document Ex. PW 7/A is found to be admissible piece of evidence.

55. The prosecution has also relied upon the document Ex. P-1 i.e., the pages of diary of the victim and prosecution has contended that the said diary was written by the victim in which victim had written suicide note. It is contended by the prosecution that the pages of the diary Ex. P-1 is an admissible piece of evidence and same may also be treated as dying-declaration.

The accused persons through defence counsel has contended that the said diary was manipulated one as some pages were torn and missing from the diary and no explanation SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 67 of 74 was offered by the prosecution in that regard. It is further contended that the said diary / pages were seized on 17.05.2011 and after ten days of the alleged suicide dated 06.05.2011 and possibility of its manipulation cannot be ruled out, so the document Ex. P-1 i.e., alleged suicide note is not an admissible piece of evidence.

The testimony of PW 10 Jagtar Singh find mention the explanation of handing over the said document Ex. P-1 on 17.12.2011 and it is stated by the PW 10 Jagtar Singh i.e., father of the victim that when he checked the room of the victim, he found written material inside the diary of the victim including suicide note and thereupon, he gave the same to the police which was seized as Ex. PW 10/C. The court is of the view that the document Ex. P-1 is an admissible piece of evidence and contention of the accused persons namely Anju and Samaranjeet Kaur @ Deley is rejected.

56. Now, on perusal of the dying-declaration Ex. PW 7/A and suicide note Ex. P-1, following allegations came against the accused Anju, the mother in law of the victim and Samaranjeet Kaur @ Dalcee the sister in law of the victim.

57. As per allegations in dying-declaration Ex. PW 7/A of the victim, the marriage was solemnised between the victim Samardeep Kaur and the deceased accused Sandeep Mittu on 22.10.2010 and after the marriage, the accused persons (Sasural wale) kept the victim properly and thereafter, in February, 2011, they thrown out the victim from their house while beating her SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 68 of 74 and while saying that father of the victim had not given sufficient dowry to them. They further asked the victim to return her matrimonial home only after giving proper dowry to their son / accused Sandeep Mittu. It is also mentioned in the dying- declaration that due to the above noted fact, victim was under

depression. It is also alleged in the dying-declaration that due to the harassment caused by her in laws, she put petrol on herself in the bathroom and set herself ablaze. She further stated in her dying declaration Ex. PW 7/A that she committed the said act due to the depression after the harassment caused by her in laws in regard to the dowry demand.

58. The victim alleged in the suicide note Ex. P-1 that entire Mittu family (in laws), accused Simple (Sandeep), Simple's (Sandeep) mother/ accused Anju, accused

Dalcee (sister in law) and accused Sukhdev Mittu were responsible for her suicide.

59. The prosecution has contended that the averments regarding the harassment to the victim in regard to dowry demand made by the accused persons as mentioned in the dying-declaration Ex.

PW 7/A of the victim and suicide Ex. P-1 of the victim were corroborated to the testimony of PW 7/ Gurpreet Kaur, the mother of the victim and PW 10/ Jagtar Singh, the father of the victim. The prosecution has further contended that the victim had committed suicide due to the cruelty and harassment caused by the accused persons including the accused Anju (mother in law) and accused Samarjeet Kaur @ Dalcee (sister in law). It is further contended that death of the victim was caused within seven years of her marriage and the death was caused in SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 69 of 74 unnatural circumstances.

60. On the other hand, accused persons Anju and Samaranjeet Kaur @ Dalcee through their counsel have contended that no material having specific allegations came against the accused persons in the dying-declaration Ex. PW 7/A and suicide note Ex. P-1. It is further contended that numerous contradictions and improvements came during the examination of PW 7/ Gurpreet Kaur and PW 10/ Jagtar Singh and their testimonies cannot be treated as sufficient to corroborate the allegations against the accused persons regarding the commission of offence punishable under Section 498-A/ 304-B/ 34 IPC.

61. It is an admitted fact that on the date of incident dated 05.05.2011 and on the date of death of the victim on 06.05.2011, the victim was residing at her parental home i.e., H.No. 7/27, SDA, DDA Flats, Hauz Khas, New Delhi within jurisdiction of PS Safdarjung Enclave where she set herself ablaze and she died during treatment in Safdarjung hospital. It is also an admitted fact that the victim was residing at her parental home since 12.02.2011. It is also an admitted fact that during the period i.e., from the date of marriage dated 23.10.2009 between deceased accused Sandeep Mittu and Victim Samardeep Kaur till 12.02.2011, when victim left her matrimonial home and started residing at her parental home, no police complaint in any manner of any nature was lodged or to any authority regarding the alleged beating and harassment for dowry demand given to the victim by the victim herself or by her parents or her relatives. It is also an admitted fact that no complaint was SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 70 of 74 lodged with any authority by the victim or her relatives even after 12.02.2011 when the victim started residing with her parents at her parental home.

On perusal of complaint lodged by the father of the victim Ex. PW 6/A as recorded by the SDM on 06.05.2011, it reveals that the victim was brought to her parental home by her father in the month of February, 2011 and since then, she was residing with her parents. It is also mentioned in the complaint Ex. PW 6/A that victim was under serious depression and because of the depression, she closed herself in the bathroom of their house and poured kerosene upon her and when she cried, they opened the door and found the victim in burned condition and they got her admitted in the Safdarjung Hospital on 05.05.2011 and she expired on 06.05.2011 in Safdarjung Hospital. The

statement Ex. PW 6/A of the father of the victim also reveals that accused persons had started demanding dowry articles from them and they harassed the victim for the same.

62. The averments made in the complaint Ex. P/W 6/A of the father of the victim does not find mention of the specific date, time, mode and manner of demand of dowry by the accused persons including the accused Anju and Samaranjeet Kaur @ Dalcee. It also does not find mention about the nature of harassment caused to the victim.

The averment made in the dying-declaration Ex. PW 7/A and suicide note Ex. P-1 also does not find mention the specific allegations against the accused persons namely Anju and SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 71 of 74 Samranjeet Kaur @ Dalcee regarding the alleged dowry demand made by them or alleged harassment caused by them or mode and manner of harassment. The document Ex. P/W 7/A and Ex. P-1 also does not find mention the specific date and time of the alleged harassment caused by the accused persons Anju and Samarajeet Kaur @ Dalcee. It is also an admitted fact that no medical document of any nature was placed on record or proved during the trial regarding the alleged beatings given to the victim as mentioned in dying-declaration Ex. PW 7/A or as averred by PW 7 in her examination in chief.

The witness PW 7/ Gurpreet Kaur i.e., the mother of the victim had admitted during her cross examination that victim Samardeep Kaur and her husband Sandeep Mittu were in the process of taking divorce and some documents in that regard were signed by the witness on 17.04.2014 prior to the death of the victim. Witness further admitted that the marriage between the victim Samardeep Kaur and accused Sandeep Mittu was a love marriage which was arranged by them. Similarly, during cross-examination of PW 10 Jagtar Singh, the father of the victim, witness admitted that accused Sandeep Mittu i.e., husband and deceased victim were in the process of taking divorce and some documents were prepared on 17.04.2011 Ex. PW 10/D-A.

63. The legal principle as laid down by Hon'ble Supreme Court of India in case titled as Hira Lal and others Vs State (Govt. of NCT of Delhi), (Supra) in regard to the cruelty caused soon before death for demand of dowry is applicable in the fact and SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 72 of 74 circumstances of the present case. In the present case, the victim was residing with her parents since 12.02.2011 and on the date of incident, she was not in the company of the accused persons including accused Anju and Samaranjeet Kaur @ Dalcee. So, it cannot be said that cruelty, if any, caused to the victim in regard to the dowry demand was caused soon before the death. No material came on record that after 12.02.2011, the accused persons Anju and Samaranjeet Kaur @ Dalcee were in touch with the victim in any manner and no averment came on record during the examination of the PW 7 or PW 10 in the court. The important ingredient of Section 304-B IPC i.e., cruelty soon before the death for dowry demand is not attracted in the facts and circumstances of the present case.

64. The present case does not fulfill the criteria of law as laid down by Hon'ble High Court of Delhi in case titled as Krishan Kumar @ Setu and anr. Vs Govt of NCT of Delhi (Supra.) as per which the dowry demand must have been made "soon before the death" and what is "soon before death" has to

be examined in the light of the facts and circumstances of each case.

65. The allegations as made in complaint Ex. PW 6/A, dying-

declaration Ex. PW 7/A and suicide note Ex. P-1 are general in nature without specifying the role of the accused persons Anju and Samaranjeet Kaur @ Dalcee and without specifying the date and time of harassment and the fact of the case does not fulfill the criteria of law laid down by Hon'ble Supreme Court of India in case titled as Vipin Jain Vs State of AP (Supra.) as per which the general allegation of harassment by the accused persons SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 73 of 74 towards the deceased would not be sufficient to bring the case within the purview of Section 498-A/304-B IPC.

66. In view of the above discussion, the court is of the considered opinion that prosecution has failed to prove the charge of offence punishable under Section 498-A/304-B/34 IPC against the accused persons Anju and Samaranjeet Kaur @ Dalcee beyond reasonable doubt. Accordingly, accused persons namely Anju and Samaranjeet Kaur @ Dalcee are acquitted of the charge of offence under Section 498-A/304-B/34 IPC and from the present case.

67. Accused persons Anju and Samaranjeet Kaur @ Dalcee are directed to furnish bail bond and surety bond in terms of Section 437-A Cr.PC for sum of Rs. 10,000/- each. Bail Bond/ Surety Bond accepted.

68. File be consigned to record room after due compliance.

Announced in open Court (Ravindra Kumar Pandey) on 06.02.2024 Additional Sessions Judge-3 (South) Saket Courts, New Delhi SC No. 54/11 & 6634/16 ; State Vs Sandeep Mittu and ors. FIR No. 114/2011, PS Safdarjung Enclave Page No. 74 of 74