

Punjab-Haryana High Court

Ami Chand vs State Of Haryana on 13 January, 2015

CRA-D-132-DB of 2003 (O&M)

- 1 -

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-132-DB of 2003 (O&M)

Date of Decision : January 13, 2015

Ami Chand and another

..... Appellants

Vs.

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA HON'BLE MRS. JUSTICE RAJ RAHUL
GARG

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Jaivir Yadav, Advocate with
Mr. Tapan K.Yadav, Advocate
for the appellants.

Ms. Kirti Singh, DAG, Haryana.

RAJ RAHUL GARG, J

This appeal is directed against the judgment of conviction dated 07.01.2003 and order on sentence dated 10.01.2003 rendered by Sh. S.D.Anand, the then Sessions Judge, Gurgaon, whereby, the appellants Ami Chand and Harish were held guilty for committing offences punishable under Sections 498-A/304-B of Indian Penal Code (for short 'IPC'). For committing offence under Section 498A, they were sentenced to undergo rigorous imprisonment for a period of three years and pay a fine of `5000/- each. In default of payment of fine to further undergo rigorous imprisonment for a period of six months.

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However, for committing an offence punishable under Section 304-B IPC, they were sentenced for imprisonment for life. The substantive sentences were ordered to run concurrently.

At the very outset, we would like to make a mention that Chameli wife of Ami Chand was also accused in this case but since she had died, therefore, the trial proceeded only against the accused father-in-law-Ami Chand and husband-Harish.

As per prosecution, Jagwati (deceased) was the eldest daughter of Kanhiya (PW-2). She was married to appellant Harish in the year 1987. Kanhiya (PW-2) incurred the expenditure of `40,000/45,000/- on this marriage. However, appellants were not satisfied with the dowry given to Jagwati. They used to harass her for not having brought a scooter and a refrigerator in dowry. Jagwati used to tell about maltreatment on account of demand for dowry to her mother who had further been informing Kanhiya (PW-2) about it. She used to say that Harish and his father Ami Chand started harassing her for not bringing Fridge and scooter in the dowry. She told this fact to the complainant, his wife Prem and brother Kirori. At this, they tried to make understand Harish and his father and stated that since the complainant had given dowry beyond his capacity therefore, they would not be able to meet their demand for scooter and Fridge. Even, thereafter, they kept on harassing Jagwati. She was telling them that the appellants had been harassing her on account of inadequate dowry and for further demand of dowry but they used to send her back after SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -3-

pacifying her. In the month of April 1990, Jagwati went missing, that was at the instance of appellants. Report in this regard was got lodged by the complainant, copy of which is Ex.PA. The matter was later on got compromised. Again on 25.08.1990, appellant-Harish had filed a divorce petition against Jagwati in the Court. The Court had sent Jagwati with Harish on 10.02.1992 with the understanding that Harish will keep her well in his house.

In-laws of Jagwati informed about her death in Ram Manohar Lohia, Hospital, to the complainant by going to his house on the night of 02.03.1992. In the following morning they reached the aforesaid hospital and found the dead body of Jagwati in burnt condition. Complainant further reported that on account of giving beatings by her in-laws for insufficient dowry and for not fulfilling their demand of fridge, scooter and gold chain and as her mother-in-law Chemeli had been harassing and teasing her day and night on account of inadequate dowry, therefore, she had burnt herself. On this report endorsement Ex.PC/1 was made and formal FIR Ex.PC/2 was recorded.

The facts mentioned in report Ex.PA lodged at the time when deceased went missing are like this; that deceased Jagwati was married to Harish on 19.11.1987. Sufficient dowry was given to her as per the capacity of the complainant. He also performed Muklawa ceremony. Jagwati remained for 10/12 days in her matrimonial house and, thereafter, complainant along with his wife and brother brought SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -4-

her to his house. They asked Ami Chand to send Harish to their house on Raksha Bandhan festival to bring Jagwati. Accordingly, she was taken by Harish. She stayed in her matrimonial home only for two months. In the month of October, complainant had gone to the house of Jagwati to bring her to his house and at that time in his presence Chemeli mother-in-law of Jagwati quarrelled with her and said that neither her father has given fridge nor gold chain to Harish in dowry and insulted them in front of their relations by giving only articles. With folded hands and feet, complainant pleaded about his poor state. He brought Jagwati to his house. At that time she stayed with them for 4/5 months. Complainant's cousin Giriraj (uncle's son) and Tau's son visited at the shop for getting their truck repaired where Parkash and Harish used to work as Mechanic, Chander and Giriraj both the brothers had a talk with Harish to bring back Jagwati to his house. At that time Parkash and Harish supported the version of Harish's mother regarding demand of fridge, scooter and gold chain. But on the advice of Chander and Giriraj, Harish visited their house after 20 days to bring back Jagwati. With folded hands, complainant sent Jagwati to the house of appellants. After about one month, complainant's son Jagdish aged 15-16 years had gone to see Jagwati in her matrimonial home. In the presence of Jagdish, father-in-law Ami Chand and mother-in-law Chameli gave beatings to Jagwati with dandas and said as to why her brother did not bring fridge, scooter and gold chain. Jagdish stayed for only one night at the house of his sister and on SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -5-

going back home, he narrated the whole story to the complainant. After 3-4 days, complainant along with his brother Kirori visited the in-laws of Jagwati and requested Ami Chand, Chemeli, Parkash 'Jaith', Harish-husband and asked them to keep Jagwati in their house as the complainant party was very poor. He also protested that it was not good for them to give beatings to Jagwati daily and, thereafter, they returned. After four months, he had gone to the matrimonial house of Jagwati to bring her, then she told him that her-in-laws had been harassing her for not bringing fridge, scooter and gold chain. At that time Jagwati stayed with them only for 2 months. Thereafter, complainant sent his son Jagdish to call Harish-appellant telling him to take back Jagwati to his house with the promise that he shall give some money to him after harvesting of crops. Under these circumstances, Harish took Jagwati to his house. On 02.03.1990, when his younger brother Kirori was returning to his village Alawalpur via Khandsa Shakti Park after attending engagement ceremony in Nanukalan then Ami Chand met near Anaj Mandi and told that he (Kirori Singh) had sent Jagwati to their house by making flimsy promise but did not give anything. After some days when complainant's mother Lori and sister Kela went to see Jagwati, the in-laws of Jagwati were quarreling with her, who narrated the aforesaid story to the complainant on their return. On 29.04.1990, Harish told the complainant about missing of Jagwati for the last 7-8 days. Kirori (PW-1) and Karan Singh had gone to the matrimonial house of Jagwati SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -6-

in search of her but Ami Chand-appellant blamed them on the point of missing of Jagwati. They came back and, thereafter, they took 40-50 persons of their village by way of Panchayat to the house of Ami Chand. Ami Chand could not give any satisfactory answer rather requested for 15 days time for searching Jagwati. Complainant even said to Ami Chand that he will fulfill Ami Chand's demand after selling his house but he should show Jagwati to him. After expiry of 15 days, complainant and his brother Kirori again went to the house of Ami Chand but he did not care for them. Complainant

party also kept on searching Jagwati in their relations but all went in vain. As per Complaint, the in-laws of Jagwati in conspiracy to each other, had concealed their daughter Jagwati with bad intention and thus raising demand for fridge, scooter and gold chain. As per complainant, he being a poor person, was unable to fulfill their aforesaid illegal demand.

Again on 03.03.1992, the statement of Kanhiya, father of the deceased, was recorded by the police which is Ex.PB. Most of the allegations are the same as mentioned in aforesaid Ex.PA. However, the only additional allegation is this that in April 1990, in-laws of Jagwati concealed her; showing that she had gone missing. In this regard report was lodged by the complainant. However, after some time, the in-laws of Jagwati brought her and took her to their house through Gurgaon Police. On 25.08.1990, Harish-appellant filed a divorce petition against Jagwati in Gurgaon Court. Court sent Jagwati SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -7-

with Harish. Krishan maternal uncle of Harish brought Jagwati to their house and again raised a demand of scooter which was out of his capacity. On 03.03.1992, in the day, they received information regarding death of Jagwati by burns. They had gone to Ram Manohar Lohia, Hospital, Delhi, and the complainant was informed that the FIR shall have to be lodged at Police Station Gurgaon. Thus, complainant party returned to Gurgaon at about 10:00 P.M. and lodged FIR (Ex.PC) with the police Officer who happened to be present at Sessions Chowk near Police Station. Scaled site plan Ex.PE was got prepared from Mool Chand (PW-5) on the pointing of Hans Raj PW. Medico Legal report of Jagwati is Ex.PF, death summary is Ex.PG and death report is Ex.PG/1. After completion of necessary investigation, challan against the accused was presented.

Finding a prima facie case against the accused they were charge sheeted for committing offences punishable under Sections 498-A, 306 and 304-B of IPC to which accused did not plead guilty but claimed trial.

After taking prosecution evidence, statements of accused recorded under Section 313 Cr.P.C wherein both the accused took similar plea to the effect that the case was registered on the false grounds. No demand of dowry was ever made. Kanhiya, father of the deceased is in habit of making false complaint. Such a complaint was made by him earlier on the basis of which false FIR Ex.PA was registered in the year 1990 under Sections 498-A and 365 IPC which SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -8-

was ultimately cancelled on the statement made by the deceased that there was no demand of dowry and on the statement of Kanhiya himself. In defence, accused examined HC Sis Ram (Assistant VRK, SP Office, Gurgaon), he deposed about the cancellation of FIR No. 324 dated 07.06.1990 under Sections 498-A and 365 IPC of Police Station Sadar Gurgaon which was lodged by Kanhiya Lal. As per this witness that case has since been cancelled on 15.09.1992 by the learned Illqua Magistrate. Ex.DA is the copy of cancellation report.

After hearing both the counsel for the parties and appraising the entire material and evidence coming on record, the learned trial Court held both the appellants guilty for committing offences

punishable under Sections 498-A and 304-B IPC and also passed order of sentence on 10.01.2003 as mentioned in the earlier part of the judgment.

I have heard Sh. Jaivir Yadav, Advocate for the appellants and Ms. Kirti Singh, DAG, Haryana and also appraised the entire material and evidence coming on record.

It was argued by learned counsel for the appellants that in fact, there was a matrimonial discord between the parties and on that account there were differences. But on account of demand of dowry, deceased was not harassed by the appellants or any of their family members. Deceased had committed suicide. As per Ex.PB and further Ex.PK, divorce petition was filed by the appellant Harish against Jagwati. Jagwati thus, resided with her parents. There was no question SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -9-

of any kind of harassment of Jagwati on account of dowry. In Ex.PB, Kanhiya-complainant stated before the police that after some days of the marriage, Jagwati made a complaint to him that her-in-laws i.e. mother-in-law, father-in-law and Harish used to harass her on account of bringing insufficient dowry. This statement of complainant is vague. Complainant failed to furnish any date, time or year when demand for dowry was made. Even in this statement, complainant did not make a mention as to what articles or what amount was demanded by the appellants by way of more dowry. It was further contended that when Jagwati went missing, a case in this regard was registered and that case was cancelled on the statement of Jagwati as she deposed that there was no demand for dowry. Even the statement of Kanhiya (PW-2) is not consistent with the prosecution case as he has deposed that the appellants started harassing Jagwati after 1 and 1 1/2 years of marriage whereas in Ex.PB he stated that after few days of the marriage she was being harassed by her in-laws. The statement of Kanhiya is not believable when he states that he had been paying `1,000/- or `1500/- on every visit made by them to the house of Jagwati. So has not been stated by him in any of his statements made to the police at the time of getting the FIR registered or prior to that when he lodged the report regarding missing of Jagwati. It was further contended that the statement of Kanhiya (PW-2) is also not believable on the point that he had incurred `40/50,000/- on the marriage of Jagwati. Kanhiya (PW-2) belongs to a poor strata of society. He is a labourer. The SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -10-

marriage was a simple affair. There is nothing on record to show as to from where he had obtained the aforesaid amount for incurring expenditure of the marriage of Jagwati. Not only this, even Kanhiya (PW-2) was in the habit of making false complaints. He lodged a report Ex.PA with the police in the year 1990 under Sections 498-A and 365 of IPC. That FIR was ultimately cancelled on the statement of deceased Jagwati there was no demand of dowry and on the statement of Kanhiya (PW-2) himself. It was also contended that even kalandara under Section 182 Cr.P.C. was ordered to be prepared and brought in this Court against Kanhiya. This all, discredit the statement of Kanhiya.

Of course with the statement of DWI HC Sis Ram (Assistant VRK, SP Office, Gurgaon), the aforesaid case stood cancelled. Ex.DA is the copy of the cancellation report yet DW-1 during the

course of his cross-examination deposed that before accepting of cancellation report no notice was issued to the complainant by the learned Illaqa Magistrate nor any such notice was given by the police before submitting cancellation report. Under these circumstances it is clear that Kanhiya (PW-2) was not heard before cancellation. Even the statement of Jagwati is also not on the file to show as to what exactly she deposed in the Court. Jagwati was with the appellants who were in the position to exercise influence on her. In the absence of statement of Jagwati on record, the above contention of learned counsel for the appellants is not sustainable.

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It is not disputed that in the case in hand Jagwati died with 100% burns and further that she burnt herself i.e. she committed suicide. From this fact, it is established on the file that Jagwati died under un-natural circumstances. It is also not in dispute that Jagwati died within 7 years of her marriage. Undisputedly, she got married to Harish in the year 1987 and died in March 1993. under these circumstances, Section 113-A of Indian Evidence Act comes into play. The aforesaid Section was introduced, keeping in view the increase in dowry death cases. The Legislators had duly taken into consideration the fact that dowry related offences are committed within the four walls of the matrimonial house and the accused have an opportunity/advantage to choose the timing of the commission of crime and direct evidence in that behalf is very rarely forthcoming. The provision of Section 113-A of the Indian Evidence Act reads as follows:-

113-A: Presumption as to abetment of suicide by a married woman:-

" When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -12-

or by such relative of her husband.

Explanation:- For the purposes of this section, "cruelty" shall have the same meaning as in Section 498-A of the Indian Penal Code (45 of 1860).

It is true that the presumption is rebuttable. Raising of presumption in the course of trial is not a part of substantive law but a part of the procedure. By enacting this provision of law an opportunity is given to the accused to prove and explain as to how and under what circumstances, the bride had ended her life. The following

observations made by the Division Bench of this Court in Amarjit Singh and others Vs. State of Punjab, 1989 (1) Recent Criminal Reports, 18, are on the point:-

" Much water has flown under the bridges since then. Section 105, Indian Evidence Act, 1872, stands rusted by dis-use in criminal cases. In the backdrop of thousands and thousands of dowry-death cases in which direct evidence of the crime is not available due to the set-up of homes in India, we feel a time has come to employ the said provision to meet an exceptional situation in appropriate case when it would be disproportionately difficult by the prosecution to establish facts. By and large in such cases, the young bride, by tradition, is displaced from her parental roof to go under the roof of her husband's family.

Being a stranger in that environment and the trauma she SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -13-

experiences by her transplantation, it is her legitimate due that the people who have brought her to that house, look after her needs and give her the necessary protection, physical and mental, so that she takes roots in the new soil. It is elementary that she has freedom from fear in the first few years till she gains ground. If fear be instilled in her mind by the attitude of the husband and/or his family members she may even be afraid to go to sleep, lest anything be done to her while asleep. If the tradition- bound society puts the bride in the four-walls of a new house and those four-walls not remain open to the view and gaze of others all the time, and in that closeted set-up her live body is turned into a corpse or is made to turn into a corpse. I see then no reason why the society cannot insist the inmates of the house, being accountable in terms of Section 106, Indian Evidence Act, 1872 to disclose facts especially within the knowledge of the accused"

Of course the complainant party belongs to a very very poor family. Complainant is a labourer only. Whatever a father could do by giving dowry to his daughter, the same was given to Jagwati when she was married to Harish. Statement of Kanhiya (PW-2) and his brother Kirori clearly show that right from the very inception Jagwati was maltreated and harassed by the appellants and Chemeli for bringing insufficient dowry and for not fulfilling their demand of SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -14-

fridge, scooter and gold chain. Kanhiya (PW-2) has categorically telling the appellants that he being a poor man, was unable to fulfill their demand of fridge, scooter and gold chain yet the same proved ineffective. That was the reason for Jagwati to visit her parental home at short intervals otherwise there was no reason for a married woman to pay frequent visits to her parental home. She was harassed to an extent that her living was made impossible in that house. It is generally seen that when a married woman feels suffocated in her matrimonial home and also finds no way to live with her parents, she has no option but to commit suicide. As per Kanhiya (PW-2), Jagwati at one point

of time lived with them for two months but, thereafter, he had to send his son Jagdish to tell Harish that after harvesting of crops, he would pay some money to him and pleaded that Harish should take Jagwati at home. An another occasion when Jagwati stayed at her parents house for 4-5 months, complainant sent his cousin Giriraj and Chander to Harish to have a talk with him so that he may take back Jagwati. In Ex.PA, it finds mention that when Giriraj and Chander talked to Harish in this regard, Harish reiterated the demand raised by his mother Chemeli and demanded fridge, scooter and gold chain. On the advice of Giriraj and Chander, Harish came to their house after about 20 days and had taken Jagwati.

Allegation regarding demand of fridge, scooter and gold chain and harassment of Jagwati on that account finds mention in EX.PA report which was lodged by Kanhiya (PW-2) with police at the SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -15-

time when Jagwati went missing. This report is first in point of time. Even, thereafter, in Ex.PB which was just a supplement to Ex.PA no specific allegation of dowry was there it is of no consequence.

Ex.PC, FIR coupled with Ex.PA and Ex.PB and statement of Kanhiya (PW-2) corroborated by Kirori (PW-1) clearly established that Jagwati used to be harassed for bringing insufficient dowry and for not fulfilling the demand of fridge, scooter and gold chain raised by the appellants.

When Kanhiya (PW-2) stated in Ex.PC that his daughter Jagwati had burnt herself, that shows how genuine is Kanhiya (PW-2) as otherwise he could very easily level this allegation on the appellants. At that juncture as well Kanhiya (PW-2) specifically stated that her daughter Jagwati was also given beatings by her in-laws.

The afore-discussed evidence also shows that the living of Jagwati had become impossible at her matrimonial home. She had taken an extreme step of ending her life when, after filing of divorce petition with torturous allegations of character assassination of Jagwati; she was sent to her matrimonial home where again she was meted with harassment, finding no place to go and not even to her parents' house, she had committed suicide.

Kanhiya (PW-2) deposed that when Jagwati was sent through Court to the house of Harish, the maternal uncle of Harish had brought Jagwati to his house and told him that Jagwati will be kept only in the event, if he gives scooter and refrigerator in dowry. He SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -16-

further deposed that Jagwati was sent back along with maternal uncle of Harish. Court sent Jagwati to her matrimonial house on 10.02.1992 and the incident in question is dated 03.03.1992. In between maternal uncle of Harish brought Jagwati to the house of Kanhiya (PW-2) as mentioned above. Under these circumstances when Kanhiya (PW-2) had been sending Jagwati to her matrimonial home by folded hands in front of the appellants and further by resorting to one way or the other i.e. at one time by sending his cousin to Harish and at the other occasion by sending his

son Jagdish, Jagwati must have sensed that there was no place for her either in her matrimonial home or at her parents home. Thus under these circumstances when her living in her matrimonial home became impossible on account of her harassment for demand of more dowry, for bringing insufficient dowry and on account of suffering of beatings at the hands of appellants, she took an extreme step of ending her life as the offence has been committed within seven years of marriage, the case under Section 304-B of IPC is clearly established against the appellants.

Besides demand of dowry, Harish did not think even once while levelling allegations of character assassination of Jagwati who was none but his own wife. It was pleaded by Harish in divorce petition, copy of which is Ex. PK, that when Jagwati went missing, on her return to her matrimonial home, she informed Harish-appellant and other members of his family that her father and father's brother-in-law had locked her up in a room in village Mohammad Pur Delhi and were SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -17-

earning lot of money from the person of Jagwati by illegal means and so many persons i.e. 5/6 in a day or night used to come to Jagwati in the room and fulfill their lust from the person of Jagwati. Jagwati also told him that she had been in difficulty since 24.04.1990 and could hardly escape from the clutches of her father and father's brother-in-law. Thereafter, on 05.08.1990, Jagwati was handed over to police and she also narrated the whole story to the police. He also made averments to the effect that the father of Jagwati is a poor person and wanted to sell Jagwati to some other man and she had become corrupted.

The above allegations remained unsubstantiated and even inconsistent, when suggestion was given to Kanhiya (PW-2) that Jagwati had eloped with the person whose identity was known to Kanhiya (PW-2) and other relations of Jagwati. All these acts show that the appellant-Harish was trying to falsely insinuate Jagwati.

It was also averred by Harish in divorce petition that Jagwati had left the matrimonial home in his absence. However, FIR regarding missing of Jagwati was lodged by Kanhiya copy of which is Ex.PA. On the other hand, appellants did not take the trouble to go to the police for lodging the FIR nor did they do. In Ex.PA, it finds mention that the information regarding missing of Jagwati was given to complainant on 29.04.1990 i.e. after about 7-8 days. That very day Kirori (PW-1) and Karan Singh visited the matrimonial house of Jagwati so that she may be searched but Ami Chand blamed them for the same. The next day complainant party took 40/50 persons of their SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -18-

village by way of Panchayat to the house of Ami Chand but Ami Chand could not satisfy them regarding Jagwati and requested for 15 days time. At that time Kanhiya (PW-2) told Ami Chand that he will fulfill his demand after selling his house but he was to show his daughter to him. This very fact shows that the appellants had been concocting the stories in their favour which they failed to substantiate on record.

It was contended by learned State counsel that of course Jagwati was taken to Ram Manohar Lohia, Hospital, New Delhi by the appellants and also identified the dead body at the time of post mortem examination but the moment, the parents of Jagwati reached Ram Manohar Lohia, Hospital, the accused dis-appeared even the dead body was received by the parents of Jagwati who performed her last rights. This shows the guilty conscious of the appellants. This contention of learned State counsel carries weight. In fact, PW-1 deposed that information about the death of Jagwati was given to them on 03.03.1992 at about 9:30 A.M. whereas Jagwati was taken to Ram Manohar Lohia, Hospital on 02.03.1992 at about 5:35 P.M. and she died at 6:00 P.M. There is no explanation on the file to show as to why the parents of Jagwati were reported late. Why were they not informed just after the incidence. This circumstance also speaks about the guilty conscious of the appellants.

In cancellation report Ex.DA, it finds mention that Jagwati and Harish had appeared before the police. Jagwati informed the SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -19-

police that she had gone to the house of her Bua (father's sister) following an altercation with her parents-in-law. For the last three months she had been residing with her parents. That cancellation report is dated 08.08.1990. In the divorce petition Harish attributed to Jagwati that when she came to his house of her own on 05.06.1990, she told that her father and father's brother-in-law had locked her in a room in village Mohammad Pur Delhi State and were earning lot of money by pushing her to work as prostitute. As such there is inconsistency between two versions i.e. one contained in Ex.PK and the other on the basis of which FIR lodged by Kanhiya (PW-2) regarding missing of Jagwati. This FIR was cancelled (Ex.DA). Levelling of allegations regarding character of Jagwati and, thereafter, when maintenance of `200 per month was fixed, getting the divorce case compromised on the pretext that appellant Harish will keep Jagwati well in his house and, thereafter, harassing Jagwati by sending her with his maternal uncle to the paternal house of Jagwati telling them that they will keep her only if they fulfill their demand of fridge, scooter and gold chain etc.; had driven Jagwati to take an extreme step of ending her life. All this goes to show that it is the case of a dowry death and nothing else.

For the aforesaid reasons, maintaining the judgment of conviction dated 07.01.2003 and order on sentence dated 10.01.2003, this appeal is ordered to be dismissed. If the appellants are on bail, their bail bonds, shall stand cancelled and they be taken in custody for SMRITI 2015.01.30 16:06 I attest to the accuracy and authenticity of this document CRA-D-132-DB of 2003 (O&M) -20-

serving the remaining period of sentence. The concerned Chief Judicial Magistrate, shall take necessary steps, to comply with the judgment, with due promptitude, keeping in view the applicability of the provisions of Section 428 of the Criminal Procedure Code, and submit compliance report, to this Court, within a period of two months, from the date of receipt of a copy thereof.

The District & Sessions Judge, Gurgaon, shall ensure that the directions are complied with, within the time frame, and the compliance report is submitted immediately thereafter.

The Registry shall keep track of the submission of compliance reports, and put up the papers whether the reports are received or not, within the time frame, immediately after the expiry thereof.

(ASHUTOSH MOHUNTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

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