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2026:AHC:23711-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 2688 of 1987

Harbans Singh and others
.....Appellant(s)

Versus

State of U.P.
.....Respondent(s)

Counsel for Appellant(s)	:	Ashwini Kumar Ojha,
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		Jaysingh Yadav, Ved Prakash Ojha
Counsel for Respondent(s)	:	

Court No. - 43

HON'BLE SALIL KUMAR RAI, J.
HON'BLE DIVESH CHANDRA SAMANT, J.
(Delivered by Hon'ble Divesh Chandra Samant, J.)

Introduction: The Genesis of the Appeal

1. The present Criminal Appeal has been filed under Section 374 (2) of the Code of Criminal Procedure, 1973 challenging the judgment and order dated 03.11.1987, passed by the learned Sessions Judge, Lalitpur, in Sessions Trial No. 79 of 1986, under Sections 302/34 IPC and Section 3 and 4 of Dowry Prohibition Act, Case Crime No. 91 of 1986, Police Station- Mandawara, District- Lalitpur.

By the impugned judgment, the Appellants were convicted and sentenced as follows:

Name of accused No. 1: Harban Singh		
Act	Section	Sentence Imposed
IPC	302/34	Life Imprisonment
DP Act	3	Five years rigorous imprisonment and a fine of Rs. 15,000/-
DP Act	4	One year rigorous imprisonment

Name of accused No. 2: Ram Rati		
Act	Section	Sentence Imposed
IPC	302/34	Life Imprisonment
DP Act	3	Five years rigorous imprisonment and a fine of Rs. 15,000/-
DP Act	4	One year rigorous imprisonment

The two sentences of imprisonment under Sections 3 and 4 of Dowry Prohibition Act were directed to run concurrently, but these sentences shall run consecutively and not concurrently with the sentence of life imprisonment under Section 302/34 IPC.

Prosecution Case: The Allegations

2. Briefly, the prosecution alleges that in the afternoon of 27 April, 1986, around 4:00 p.m. the deceased Smt. Rajkumari, the daughter of informant/complainant and wife of accused Harban Singh, died. Bharat Singh, brother of the accused went to Police Station and lodged a written report Material Ex. 2 (subsequently exhibited as Ex. Ka-20) at 5.10 P.M. on

27.04.1986 mentioning that his bhabhi Smt. Rajkumari had committed suicide by sprinkling kerosene oil on her body and setting herself on fire. Thereafter, the complainant was informed that her daughter is not well after which the complainant reached the house of the accused at noon of 28.04.1986 and learned about the death of her daughter. The complainant **Smt. Raj Pyari** gave a written complaint dated 29.04.1986 to the I.O. of the case asserting that- her daughter, the deceased, Vijay Kumari alias Rajkumari, was married to Harban Singh son of Suran Singh in village Hasera last year in the month of Agahan. Following the nuptials, when the deceased came home after chauth, she reportedly informed her mother that she was being subjected to persistent mental and physical harassment by her husband and mother-in-law. The primary motive for this harassment was cited as the dissatisfaction with the dowry provided at the time of marriage. Specific threats were allegedly made, stating that "it would not be good for her" if a gold chain and other valuables were not delivered. The deceased expressed significant fear for her life to her mother, requesting jewellery to appease her in-laws. It is alleged that on last Saturday, the complainant provided the deceased with a nose ring and an amulet and sent her off with Laxman Singh to her marital home in Village Hasera and told him to take care of her and send the son-in-law, whereafter arrangements will be made for him and samdhan when the son-in-law comes. It is further alleged in the complaint filed by Raj Pyari that her son, Rameshwar Singh, was informed yesterday about the illness of her daughter. Upon receiving this information, the complainant was deeply distressed and apprehended that some grave and untoward incident might have occurred in relation to her daughter. Upon arriving here (at Hussera), she learned that her daughter is dead. She firmly believe that her daughter's mother-in-law, son-in-law, and his family members have killed her because of insufficient dowry. Thus, the complainant formally alleges that her daughter Vijay Kumari alias Rajkumari was murdered by her husband, mother-in-law, and other family members due to unmet dowry demands. The complainant believes the death

was a direct result of the ongoing domestic abuse and seeks a full investigation to ensure justice.

Proceedings Before Trial

Investigation and Medical Findings:

3. The investigation was assigned to Sub-Inspector N.P. Singh initially. He recorded the complainant's statement at the police station. He went to the spot to investigate the matter with the constables and made entries in G.D. as Ex. Ka-4 and the case was registered under Section 302, 201 of IPC and Sections 3, 4 of Dowry Prohibition Act. The investigation was subsequently handed over to Uday Singh PW-11, C.O. Police of Mehroni Circle who concluded the investigation by filing a charge sheet against the accused-Appellants under section 302/201 IPC and 3/4 Dowry Prohibition Act.

Actions and recoveries made by the I.Os.:

After making entry into GD as 'Daryaft hall' at Rapat No. 12 Ex. Ka-3, the first Investigating Officer Sub-Inspector N. P. Singh went to the scene and inquest proceedings were conducted, resulting in the preparation of the Inquest Report (Ex. Ka-11), and documents Photo-nash, Challan-nash, Letter to Chief Medical Officer, Letter RI Form-33 Ex. Ka-12, 13, 14 & 19 for postmortem examination. The body was sealed and sent for autopsy.

- **Site Plan:** Prepared the site plan (Ex. Ka-15).
- **Recovery:** Recovered pieces of bangles from the scene (Memo Ex. Ka-16), burnt clothes and sample of cotton (Memo Ex. Ka-17) and 'katti tel' (Ex. Ka-18)
- Recieved PMR Ex. Ka-1 disclosing the cause of death to be asphyxia as a result of throttling and burns.
- The complainant gave a written report Ex. Ka-2 to Sub-Inspector N. M. Singh, entries made in GD Rapat Nos. 10, 5 and 15 (Ex. Ka- 4,5 and 6).
- Investigation handed over to Sub-Inspector Udai Singh Ex. Ka-7

- Statements: Recorded statements of accused Harban Singh and Ram Rati and other witnesses. Charge Sheet submitted.

Postmortem Examination of Raj Kumari (Autopsy Findings and Cause of Death)

Dr. P.C. Saxena (PW-1) and Dr. N.M. Saxena (PW-2) performed the autopsy on April 28, 1986, at 5:10 p.m. and prepared a Post-mortem Report Ex. Ka-1 (in short PMR) .

As per PMR the dead body was found in following conditions:-

External Examination

1. Whole body was burnt except lower and partially middle portion of back and upper portion of buttocks showing 3rd degree burns with destruction of cuticles and part of true skin (burnt after throttling and before death)
2. Tongue protruded congested and swollen and bitten by teeth. Reddish froth seen in larynx and trachea.
3. Extravasation of blood seen underneath the neck.
4. No sooty carbon particles seen in the trachea, larynx and stomach.

Internal Examination

During the internal examination of body, the surgeons (PW-1 and PW-2) found that membrane of head and brain were congested.

- Other Findings: Both lungs were congested. Reddish blood seen on lungs section. Stomach was empty. Semi-digested food was in small intestine. Large intestine was full of faecal matter and gases. Uterus was normal and the deceased was not pregnant.
- Recovered Evidence: The surgeon sealed the deceased's 15 bangles, 2 Bichhuas, burnt pieces of dhoti, petticoat and blouse handing them over to the constables.

- Cause of Death: In the surgeon's opinion, death was caused by throttling as a result of asphyxia and burns. (*It should be death caused by asphyxia as a result of throttling and burns' because asphyxia is a symptom of death and can occur in both cases of throttling and burn*)

Charges and Trial Commencement:

4. Following the completion of the investigation, the Investigating Officer submitted the charge-sheet No. 39 of 1986 Dated: 07.07.1986 (Ex. Ka-10) against the accused-Appellants.

- Charges Framed on 11.09.1986:
 - Harban Singh and Ram Rati: A *prima facie* case was found under Sections 302/34 IPC (Murder in furtherance of Common Intention) and 3 and 4 of Dowry Prohibition Act (Taking dowry and making demand of dowry)
 - Plea: The accused pleaded not guilty to the charges and elected to stand trial.

Evidence Adduced by the Prosecution

Documentary Evidence:

The prosecution presented the following key documents (Exs):

- **Ex. Ka-1** :Post-mortem report (PW-1, 2)
- **Ex. Ka-2** :Written report (PW-3, 4)
- **Ex. Ka-3-6** :G.D. enteries (PW-10)
- **Ex. Ka-7-9** : Order of SP by which investigation handed over to Sub-Inspector Udai Singh & G.D. enteries (PW-11)
- **Ex. Ka-10** :Charge- sheet (PW-11)
- **Ex. Ka-11** :Inquest Report (PW-14)
- **Ex. Ka-12-14** :Photo, Challan and letter to CMO (PW-14)

- **Ex. Ka-15** :Site plan (PW-14)
- **Ex. Ka-16-18** :Recovery memo (PW-14)
- **Ex. Ka-19** :Letter RI Form-33 (PW-14)
- **Ex. Ka-20** :Written report by Bharat Singh, brother of Harban Singh (PW-14)

Physical evidence

The prosecution adduced the following physical evidence (Material Exhibits.):

- **Material Ex.-1** Kerosene oil container collected by I. O. from the spot. (PW-8)
- **Material Ex.-2** Written report given by Bharat Singh, brother of accused Harban Singh. (PW-10), subsequently exhibited as Ex. Ka-20.
- **Material Ex.-3** Brocken pieces of bangles collected by I. O. from the spot. (PW-14)
- **Material Ex.-4** Burnt clothes & cotton collected by I. O. from the spot. (PW-14)
- **Material Ex.-5** Burnt clothes, bangle pieces and jewellery etc. recovered by surgeon from the body of the deceased. (PW-14)

Witness Testimony

The prosecution produced the following witnesses:

Witness Type	Name/Designation	PW-No.
Autopsy doctor	Dr. P.C. Saxena	PW-1
Autopsy doctor	Dr. N.M. Saxena	PW-2
Brother of deceased	Rameshwar Singh	PW-3
Mother of deceased	Raj Pyari	PW-4

Witness Type	Name/Designation	PW-No.
Witnesses of fact	Dev Singh	PW-5
	Ujbak Singh	PW-6
	Jasanta	PW-7
	Ramdeen	PW-8
	Nahar Singh	PW-9
Formal witnesses (I. O. etc.)	Komal Singh, Head Constable	PW-10
	Uday Singh, C.O. Mehroni Circle	PW-11
	Izrail Mohammad, Constable	PW-12
	Vishram Singh, Head Constable	PW-13
	Balveer Singh, Head Constable	PW-14

The Appellants, in their statements under Section 313 Cr.P.C., denied the allegations and pleaded false implication and adduced oral and documentary evidence.

Evidence Adduced by the Defence

Documentary Evidence

Produced by Laxman Prasad DW-1

Ex. Kha-1 : Search application regarding Case No. 46 of 1984
u/s 107/116 CrPC

Ex. Kha-2 : Search application regarding Case No. 46 of 1984
u/s 107/116 CrPC

Ex. Kha-3 : Khatauni for 1390-1395 fasli

Witness Testimony

Defence Witness : Laxman Prasad DW-1

5. Heard the arguments of the learned counsel for the appellants as well as learned AGA for the State and meticulously perused the materials available on the record.

Submissions on behalf of Appellants

6. Learned counsel for the revisionist vehemently contends that the conviction is predicated upon mere conjecture rather than established fact, as the prosecution failed to bridge the gap between "may be true" and "must be true" through cogent evidence. While fourteen witnesses were examined, the seven witnesses of fact offered testimonies so riddled with material contradictions and significant improvements that the entire prosecution narrative is rendered inherently unreliable. Critically, the medical evidence aligns with a theory of suicide, directly contradicting the conviction under Sections 302/34 I.P.C., especially given the total absence of credible proof regarding dowry demands or cruelty. The defence further highlights that while the incident was promptly reported as a suicide by the appellant's brother, the prosecution's case was only constructed as an afterthought following a suspicious two-day delay. The circumstances surrounding the *Tehreer* submitted by the deceased's mother—received by Sub-Inspector N.P. Singh during the inquest and subsequently used to escalate the charges—strongly suggest that the complaint was manufactured under police influence for ulterior motives, thereby vitiating the integrity of the trial and necessitating the intervention of this Hon'ble Court.

7. The prosecution's case is crippled by a suspicious and unexplained silence from the very beginning. Although the brother of the deceased was present during the initial police proceedings, he made no mention of dowry demands or foul play. This silence was followed by a significant, unexplained delay in filing the FIR. It is highly improbable that a grieving family would witness the aftermath of a supposed murder yet wait until the

following day to raise an alarm. This gap in time suggests that the allegations were not a spontaneous pursuit of justice, but rather a calculated afterthought.

8. Furthermore, the medical and oral evidence presented is both contradictory and unreliable. The prosecution's own medical expert, Dr. P.C. Saxena, essentially dismantled the state's theory by retracting his initial findings and admitting that the death could likely have been a suicide. Coupled with this, the testimony of key witnesses was marred by personal enmity and bias. The defence also established a solid alibi for the accused, proving they were not even present at the time of the incident. These inconsistencies demonstrate that the investigation was neither fair nor thorough.

9. Ultimately, the trial court's decision to convict the appellants was a "perverse" finding that ignored the reality of the evidence. By relying on a flawed narrative and dismissing the retraction of the medical officer, the court reached a conclusion that is entirely unsupported by the facts. Because the prosecution failed to bridge the gap between suspicion and proof, the conviction stands as a miscarriage of justice. To uphold the principles of law, the trial court's judgment must be set aside and the appellants must be acquitted.

Submissions on behalf of State

10. Per contra, the learned AGA has submitted that the present case relates to the brutal murder of the deceased Rajkumari by her own husband and the stepmother of her husband. The conduct of appellant No. 1, who is the husband of the deceased, by itself clearly indicates his involvement in the commission of the alleged offence in furtherance of the common intention of both the convicted appellants. It is true that the case is based on circumstantial evidence and there is no direct eyewitness to the occurrence; however, on the basis of cogent, consistent, and reliable documentary as well as oral evidence, the prosecution has successfully established each and every link in the chain of circumstances and proved the charges against the

accused appellants beyond all reasonable doubt. The medical evidence itself shows that it was not a case of suicide but of culpable homicide. The death of the deceased happened in a suspicious circumstances and in the house of the accused appellants, for which the accused appellants were under liability to disclose or explain as to how and in what manner the death of deceased occurred. The accused appellants failed to explain the same, whereas accused appellant No.2, i.e. the stepmother of the accused appellant No.1, was found present when the father of the accused appellant No.1 and other villagers entered into the house, which indicates the involvement of accused appellant No.1 in committing the offence. The accused appellant No.1 was also found going in a frightful condition at a very relevant time, which indicates that the conduct of the appellant accused No.1 was doubtful, which also insinuates that the death of the victim has been caused by accused appellant No.1. From the oral and documentary evidences, it is very much clear that in all circumstantial facts established by the prosecution, which establishes that the death of the deceased has been caused by the accused appellant in furtherance of their common intention, and there is no possibility of a different case other than this. Therefore, the learned trial court has rightfully convicted the appellant accused by passing the judgment and order, which does not require any interference by this appellate court.

Findings of the Trial Court

11. The learned Trial Court held that the conduct of the accused persons and their family members clearly reflected that their relations with the deceased Smt. Raj Kumari were not cordial. The Court drew an adverse inference from the fact that neither accused Harban Singh nor any member of his family went to fetch the deceased from her parental home, and instead Laxman Singh alone brought her back. The defence failed to examine Laxman Singh to explain under what circumstances he went alone to fetch the deceased or to establish that he had informed the parental family about her death rather than illness. The Trial Court found that the conduct of

Laxman Singh and the accused created serious suspicion and did not support the plea of suicide.

12. The Court further held that since Smt. Raj Pyari and other family members did not accompany Laxman Singh and Rameshwar during the night, it was evident that information of death was not conveyed, and only information of illness was given, as deposed by P.Ws. Rameshwar and Raj Pyari. This conduct was considered unnatural and indicative of an attempt to conceal the real cause of death.

13. While the Trial Court did not fully rely upon the testimonies of P.Ws. Rameshwar and Dev Singh, it accepted the testimony of P.W.4 Smt. Raj Pyari, supported by her written report Ex. Ka-2 and other surrounding circumstances. The Court accepted the statement of P.W.3 Rameshwar only to the extent that the deceased used to remain worried and used to share her concerns with her mother.

14. On the basis of medical evidence, including the post-mortem report Ex. Ka-1 and the testimonies of P.W.1 and P.W.2, the Trial Court found that the deceased had not committed suicide. The medical evidence established that the deceased was first throttled, resulting in asphyxia, and thereafter her body was set on fire. The Court observed that even though P.W.1 attempted during cross-examination to retract from his opinion, the medical findings clearly ruled out death by self-immolation, as the condition of the body was inconsistent with suicide by burning.

15. The Trial Court also relied upon F.I.R. Ex. Ka-20 lodged by Bharat Singh, in which it was specifically stated that accused Smt. Ram Rati was present inside the house at the time of occurrence. This fact was corroborated by P.W.8 Ramdeen. The denial of presence by accused Smt. Ram Rati was held to be false and unsupported by any evidence. The accused also failed to assign any reason for the alleged suicide in their statements under Section 313 Cr.P.C., while simultaneously claiming that the deceased had no worries or troubles, which was found to be contradictory and incriminating.

16. Further reliance was placed on the testimonies of P.W.7 and P.W.8, on the basis of which the Trial Court concluded that the deceased was either already dead or had been rendered unconscious before being set on fire. This supported the prosecution case that death occurred due to throttling and that burning was done subsequently to destroy evidence.

17. The testimony of P.W.9 Nahar Singh was also relied upon, who stated that he saw accused Harban Singh fleeing in haste on a bicycle on the date of occurrence. The Court held that since the accused was seen fleeing shortly after committing the offence, his conduct in not stopping or explaining his hurry further gives strength to the prosecution case. The defence plea of alibi was rejected, as the evidence of D.W.1 Laxman Prasad was found unreliable and unsupported by any documentary proof.

18. The Trial Court also found it suspicious that none of the family members, including the minor children and Bharat Singh, were present in the house at the time of the incident, and concluded that they had been intentionally sent away. The deceased was around 20 years old, had been married for only about one and a half years, and had no children. The Court held that she was subjected to cruelty and harassment over dowry demands shortly before her death.

19. The Trial Court, applying Section 304-B of the IPC and the presumption under Section 113-B of the Evidence Act, concluded that the defence could not disprove the statutory presumption of dowry death. The Court held that the death was a homicide, not a suicide, and resulted from a common intention.

20. Accordingly, the learned Trial Court held accused Harban Singh and Smt. Ram Rati guilty under Sections 302/34 IPC and Sections 3 and 4 of the Dowry Prohibition Act, holding the prosecution case proved beyond reasonable doubt.

Findings of the Court

21. A perusal of the materials and evidences available on the record shows that on 27.04.1986 a written report Ex. Ka-20 was given by Bharat Singh, the younger brother of the accused-appellant Harban Singh at the Out-post of Madanpur of Police Station-Madawara at 05:10 PM mentioning that his sister-in-law (Bhabhi) Raj Kumari has committed suicide by setting herself on fire after sprinkling kerosene oil over herself. On the basis of this report, an entry was made as "Daryaft Hal" in the G.D. at Rapat No. 12 (Ex. Ka-3) at the Police Station. After endorsing Rapat No.12, the Sub-Inspector N.P. Singh proceeded for necessary action along with Constable 219 Balbir Singh, Constable 183 Chaturbhuj Singh and reached the spot at about 6:30 PM same day. The constable Balbir Singh was sent to police station Madawara, who has informed, after coming back on the spot, that the persons from the village Hasera have gone to call the family members of the deceased. Because the family members of the deceased had not arrived the spot and it was getting dark, the proceedings of inquest could not be started due to lack of lighting arrangement. On the next day in the morning at about 7:00 AM, the proceedings of inquest was started and by that time PW-3 Rameshwar Singh, the brother of the deceased, had also arrived on the spot where the body of the deceased was lying. An Inquest Report was prepared by the Sub-Inspector N.P. Singh which is Exhibited as Ka-11 proved by PW-14 Constable-Balbeer Singh.

22. As per the Inquest Report, Sardar Singh, Ujbak Singh, Veer Singh, Raghuveer Singh and Dhuman Singh were nominated as Panch. As per Inquest Report, the dead body of the deceased was found covered with Dhoti lying in the court yard. There were ash scattered in the room and on the terrace. A plastic container was also found with open lid which smelled like kerosene oil. The container, ash of clothes and cotton and broken pieces of bangles were taken into custody. Memos of the same were prepared which are Exhibited as Ex. Ka-16,17 and 18 proved by PW-14 Constable Balbeer Singh.

23. When the dead body of the deceased was inspected by removing the cover of dhoti, the whole body was found burnt and the tongue was protruding between teeth. No injury mark could have been seen due to burn signs. Some part of petticoat and dhoti was found on the body. 11 bangles in the left hand and four bangles in the right hand and the pajeb in both the legs were found along with ring in the index toe and in finger of right hand.

24. After completing the inquest proceedings, an "Aamad" (returning) of Sub-Inspector NP Singh was entered in the GD at Rapat No. 10 on 29.04.1986 at 1:45 P.M. This endorsement was made by the Sub-Inspector NP Singh himself mentioning about the written report Ex. Ka-2 given by Raj Pyari (PW-4), taking custody of an oil container and two bundles in sealed mohar (Material Ex. 1,3 and 4) which were submitted in the police station. There were burnt clothes in those bundles.

25. All these things were entered in Rapat No. 10 and a copy thereof (Ex. Ka-4) was prepared by PW-10 Constable Komal Singh. These materials were sent to Malkhana, Lalitpur by GD Rapat No. 5 (Ex. Ka-5) on 04.08.1986.

26. On 28.04.1986, the dead body of the deceased was sent to mortuary house along with the police papers, Ex. Ka-12 (Photo-nash), Ex. Ka-13 (challan-nash), Ex. Ka-14 (letter to CMO), Ex. Ka-19 (letter to RI Form No. 33). After conducting autopsy, a postmortem report Ex. Ka-1 was prepared by Dr. P. C. Saxena, PW-1 and Dr. N. M. Saxena, PW-2. The clothes and jewellery found by the Surgeons on the body of the deceased were kept in a sealed cover bundle (Material Ex.-5) and handed over to the police constable with PMR and the body of the deceased, which were further submitted to the police station on 28.04.1986 at 10:50 PM. An entry thereof was made in the Rapat No. 15 (Ex. Ka-6) by PW-10, Constable Komal Singh. The bundle of clothes and jewellery were also sent to the Sadar Malkhana, Lalitpur on 04.08.1986 along with the other bundles.

27. In the post-mortem report, the condition of the body (ante-mortem injuries) were noted by the surgeon as mentioned hereinabove. On the basis

of post-mortem report as well as the written report given by PW-4 Raj Pyari, a case was registered under section 302/201 IPC and 3/4 Dowry Prohibition Act. Sub-Inspector N.P. Singh was the first investigating officer, thereafter, by order of Superintendent of Police (Ex. Ka-7) investigation was handed over to Sub-Inspector Uday Singh, PW-11, who has conducted rest of the investigation and submitted charge sheet Ex. Ka-10.

28. After taking cognizance on the charge sheet, the matter was committed to the Court of Sessions Judge for trial, which got registered as Sessions Trial No. 2688 of 1987. Both the accused appellants Harban Singh and Smt. Ramrati were charged by the then Sessions Judge, Lalitpur on 11.09.1986 that, on 27.04.1986 at about 04:00 PM and in the house of accused Harban Singh both the accused have caused death of the deceased Raj Kumari by which they have committed a culpable homicide amounting to murder which is punishable under Section 302/34 I.P.C. They were also charged for the abatement of dowry under Section 3 and for the demand of dowry under Section 4 of the Dowry Prohibition Act.

29. During the trial, the prosecution has produced 14 witnesses who have been examined before the Trial Court and the defence has produced one witness as DW-1.

30. To adjudicate this criminal appeal, it is imperative to meticulously scrutinize the evidentiary record to determine if the prosecution has discharged its burden of proof. This evaluation hinges on four critical pillars: the promptness and authenticity of the FIR registration, the medical determination of the cause of death, the physical manner in which the demise occurred, and, ultimately, the establishment of a clear, unbroken link between the accused appellants and the alleged commission of the offence

31. The genesis of a criminal prosecution, aimed at establishing the guilt of the accused, lies in the foundational importance of the First Information Report (FIR). This pivotal document serves as the cornerstone of the investigative process, setting the machinery of justice in motion and providing the initial, untainted account upon which the entire integrity of the

case is subsequently constructed. In challenging the prosecution's narrative, the learned counsel for the appellant contends that the case is marred by a fatal absence of a prompt FIR, noting that the initial "Daryaft Hal" entry was predicated solely on a report of suicide provided by the appellant's brother. Counsel emphasizes that even during the subsequent inquest, the record remained devoid of any allegations regarding dowry demands or culpable homicide, with the investigating officer treating the demise as a routine case of self-immolation. It is further argued that the prosecution's case is a post-facto fabrication—a strategic "twist" introduced only on the third day when the matter was belatedly converted into a criminal offence under Sections 302, 201 IPC and 3/4 Dowry Prohibition Act. This procedural shift, occurring only after the Sub-Inspector's return to the station, suggests that the current charges are not a reflection of the initial facts but are instead a concocted narrative built upon a mere General Diary entry rather than a valid, timely FIR.

32. A meticulous perusal of the record reveals that the formal inception of this matter was not a standard FIR, but rather a General Diary entry (Ex. Ka-3, Report No. 12) dated April 27, 1986. This entry confirms that the concerned Police Station received immediate information of the death at 5:10 PM via a written report (Ex. Ka-2) submitted by Bharat Singh—the brother of the accused, Harban Singh. Substantiated by the testimony of Head Constable Komal Singh (PW-10), this sequence of events establishes that the authorities were provided with prompt, immediate information by the accused's own kin, which was duly recorded as a '*Daryaft Hal*' to initiate the preliminary administrative process.

33. During the preliminary inquiry into the suspicious death of the deceased, Sub-Inspector N.P. Singh arrived at the scene but was forced to defer the inquest due to insufficient lighting and the absence of the deceased's next of kin. It was only on the morning of April 28, 1986, that the proceedings were finalized in the presence of the deceased's brother, Rameshwar Singh (PW-3). Crucially, the testimony of PW-3 reveals that

upon his arrival at Hasera village, he discovered his sister had succumbed to burn injuries, yet the record is conspicuously silent regarding any allegations of dowry demands or foul play at that stage. Neither his examination-in-chief nor his cross-examination suggests any immediate knowledge of culpable homicide, explaining the absence of any accusations against the appellants during the initial inquest. The narrative only shifted on April 29, 1986, following the arrival of the deceased's mother (PW-4); it was only then that a written report Material Ex.-2 (subsequently exhibited as Ex. Ka-20) was scribed by PW-3 under her dictation, marking the first formal introduction of the criminal allegations that form the basis of the current prosecution.

34. The forensic evidence encapsulated in the post-mortem report (Ex. Ka-1), conducted at 5:10 PM on April 28, 1986, serves as the definitive turning point in this investigation, as it first revealed that the demise was caused by a combination of throttling and ante-mortem burn injuries. Prior to this medical revelation, neither the investigating authorities nor the deceased's brother (PW-3) possessed any objective basis to suspect foul play beyond the initial appearance of suicide. The timeline confirms that it was only after the autopsy findings surfaced and the arrival of mother (PW-4) on April 29, 1986, that the family could have reasonably formed the knowledge necessary to allege culpable homicide. Consequently, the transition of the case from a routine inquiry to a formal criminal complaint upon Sub-Inspector N.P. Singh's return to the station was a natural progression of the unfolding evidence rather than a procedural lapse. Since the one and a half day interval is logically accounted for by the wait for forensic results and the arrival of the informant and given that there is no dispute regarding the identity of the accused; the defence's challenge regarding a "delayed" FIR is fundamentally devoid of merit.

35. A critical examination of the **locus delicti** reveals that the place of occurrence is beyond the realm of dispute. The prosecution's case establishes that the death transpired within the matrimonial home (*Sasural*),

specifically inside the deceased's personal room—a fact not only uncontested but effectively admitted by the defence. This is further substantiated by the material recoveries documented during the inquest, which were formally proved through the testimonies of **PW-12 and PW-13**. Given that the defence declined to cross-examine these witnesses on these pivotal findings, the evidence stands unrebutted, clearly establishing that the incident occurred at the stated location.

36. As per the prosecution story, this is a case of culpable homicide amounting to murder. There are no evidence available on the record to show about any direct evidence which can indicate the incident to be culpable homicide or suicide. In these circumstances, the other facts in regard to the circumstances of the incident become more important and should be dealt with extra care and cautions. Since there is no direct evidence available, the medical evidences, i.e. post-mortem report, becomes vital to ascertain the cause of death. According to the autopsy findings, the cause of death is unequivocally established as asphyxia resulting from both throttling and ante-mortem burns, providing the clinical foundation necessary to ascertain the true nature of the demise.

37. Both the doctors, Dr. P.C. Saxena P.W.1 and Dr. N.M. Saxena P.W.2, who have conducted the autopsy, have been examined, who have proved the post-mortem report, Ex. Ka-1. The PW-1 Dr. P.C. Saxena has stated that the deceased was of average build, whose age was about 20 years. The dead body was found one day old at the time of post-mortem examination. Due to upper part of the body was badly burnt, the presence of rigor mortis could not be ascertained, whereas the rigor mortis was present in the lower limbs. Decomposition was started. The eyes were partially opened. Eye-brows were burnt but the head hairs were not burnt. Menses pad was found in the vagina. The whole body was burnt particularly the middle portion of the back and upper portion of the buttocks which was third degree burn with destruction of cuticle and part of true skin. The tongue was protruding, congested and swollen and bitten by teeth. Reddish froth was seen in the larynx and

trachea. Extra-vasation of blood was seen underneath the neck muscles and the lower boarder of the mandible, more on the angle of mandible. Soot was absent in the trachea, larynx and stomach. On the internal examination, it was found that membrances of head and brain were congested. Reddish blood seen on lungs section on cutting. Stomach was empty. Semi-digested food was in small intestine. Large intestine was full of faecal matter and gaseous. The deceased was not found pregnant as uterus was normal.

38. On the basis of above findings the Doctors PW-1 and PW-2 have opined that the cause of death was due to Asphyxia as a result of throttling and burn. The testimony provided by the medical expert during cross-examination suggests a tentative attempt to deviate from the initial medical opinion established during the examination-in-chief and documented in Exhibit Ka-1. However, this shift in testimony fails to provide any substantive relief to the accused. The core of the matter lies in the physical evidence that if this had been a case of self-immolation i.e. suicide by setting oneself on fire using kerosene, then, the post-mortem condition of the body would have differed fundamentally from the findings recorded by the two examining physicians/surgeons. The forensic reality observed during the autopsy directly contradicts the suicide defence, reinforcing the conclusions previously established by the medical opinion.

39. No soot in respiratory tract is a vital sign of death which proves that the person was not breathing when the fire was active. In a suicide by fire, the person would inhale smoke leaving carbon particles in the trachea and lungs. It is commonly known in the medical jurisprudence that the throttling is application of force to the neck using hands or fingers. In forensic science, mainly, throttling is considered impossible to perform on oneself. The person would lose consciousness and their hands would release before they could finish the act. Therefore, throttling implies the presence of an assailant. In the case in hand, the postmortem report shows that it is a case of 90% burns where the person has been strangulated first. Killer often sets body on fire (postmortem burning) to destroy the evidences i.e. DNA and

fingerprint evidence, obscuring the finger mark or bruising on the neck and make the death look like a suicide or an accident.

40. The medical evidence on record serves as a conclusive diagnostic of the crime's nature; specifically, the absence of soot in the respiratory tract confirms that the deceased was not alive when the fire began, thereby negating accidental death by fire. When coupled with the clinical finding of throttling, the conclusion is inescapable that this is a case of culpable homicide followed by a calculated attempt to destroy evidence through putting the deceased at fire. With the corpus delicti thus established, the inquiry shifts to the culpability of the accused-appellants.

41. As the prosecution's case lacks direct ocular testimony, the determination of guilt rests entirely upon the strength of the circumstantial evidence, requiring the court to meticulously weave together the proven facts to see if they form an unbroken chain pointing exclusively toward the appellants.

42. Regarding appreciation of the evidences while adjudicating the case based on circumstantial evidences, the Hon'ble Supreme Court has laid down golden principles in the case of ***Sharad Birdhi Chand Sarda vs State Of Maharashtra*** reported in ***AIR 1984 SC 1622*** which are reproduced hereunder:-

“(1) The circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned 'must or should' and not 'may be' established.

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty.

(3) The circumstances should be of a conclusive nature and tendency.

(4) They should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

43. Earlier in the case of ***Hanumant Govind Nargundkar v. State of Madhya Pradesh***, AIR 1952 SC 343, the Hon’ble Supreme Court has observed as follows:

“It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn must, in the first instance, be fully established, and all the facts so established must be consistent only with the hypothesis of the guilt of the accused. The circumstances must be of a conclusive nature and tendency and must exclude every hypothesis except the one proposed to be proved. In other words, there must be a chain of evidence so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.”

44. In another case law of ***Khasbaba Maruti Sholke v. State of Maharashtra***, (1973) 2 SCC 449, the Hon’ble Supreme Court has discussed on the nature and reliability of circumstantial evidence and held that:

“In order to base the conviction of an accused on circumstantial evidence, the court must be certain that such evidence is consistent only with the guilt of the accused. If the circumstantial evidence admits of any other rational explanation, an element of doubt arises, and the accused must be given the benefit thereof.

The circumstances relied upon must be conclusive in nature and must exclude every hypothesis other than that of the guilt of the accused. There must be a complete chain of evidence leaving no reasonable ground for a conclusion consistent with the innocence of the accused. If two inferences are possible—one pointing to the guilt of the accused and the other equally plausible suggesting the involvement of someone else—then the circumstantial evidence would not justify conviction.”

45. In a recent case law of ***Shailendra Rajdev Pasawan v. State of Gujarat***, AIR 2020 SC 180, the Hon’ble Supreme Court again observed that:

“Another important aspect in a case based on circumstantial evidence is the time gap between the point when the accused and the deceased were last seen together and when the deceased was found dead. This gap must be so minimal as to exclude the possibility of any intervening event involving the death at the hands of another person.”

46. In view of the principles laid down by the Hon'ble Supreme Court, the prosecution is required to establish the facts and circumstances such as the presence of the accused appellants at the spot, at the time of occurrence and their involvement in causing the death of the deceased by throttling and thereafter, setting her body on fire. From the medical evidence on record, it stands proved that the death of the deceased was caused due to throttling followed by burning. In order to prove its case, the prosecution has examined seven witnesses of fact before the Trial Court. PW-3, the brother of the deceased, has stated that after the marriage with accused Harban Singh the deceased Smt. Rajkumari was subjected to cruelty on account of alleged insufficiency of dowry given at the time of marriage. Both the accused appellants used to complain about the dowry and frequently subjected the deceased to torture and physical assault.

47. PW-3 has stated that after *Gauna*, his sister Rajkumari started residing with the accused Harban Singh and thereafter came back to her *Maika* and informed her mother, in the presence of PW-3, that both the accused persons had subjected her to cruelty on the ground that sufficient dowry was not given to them. After about eight days, Rajkumari again went to her in-laws' house, and after about 8–10 days, she once again returned to her *Maika* and reiterated that she was being beaten by the accused persons on account of dowry demands. Thereafter, his mother gave jewellery, namely a *Nath* and *Tabiz*, and sent his sister back along with Laxman Singh.

48. PW-3 further stated that Laxman Singh again came after about eight days in the midnight and informed that the health of Rajkumari was not good. Thereafter, PW-3 along with Laxman Singh reached village Hasera at about 07:00 AM and found that his sister had died due to burns, and the Sub-Inspector was present there carrying out necessary documentation. PW-3 suspected that his sister had been murdered. On the next day, his mother, Smt. Raj Pyari, reached the village, whereupon PW-3 informed her about the death of Rajkumari, and on the dictation of his mother, he scribed a written report on 29.04.1986, which was handed over to the Sub-Inspector at the

spot. In his cross-examination, PW-3 has stated that accused Smt. Ram Rati is the step mother of the co-accused Harban Singh and they used to sleep together and further stated that he told this fact to the Sub-Inspector, if the Sub-Inspector has not written the same in his statement, he cannot say anything about it. He has also stated that after the incident, Laxman Singh came to his house and informed about the illness of the deceased and not about the death of the deceased. He has stated that his mother reached village Hasera on 29.04.1986, whereas as per the statement of PW-4 Smt. Raj Pyari, she reached in the noon of 28.04.1986. She has also stated that she stayed in the village of accused only for one hour and then came to Madanpura where she stayed for the night and on next day she met Rameshwar at Madanpura then she got the report scribed. It seems that PW-4 is correct about her presence at Hasera on 28.04.1986. There is a minor contradiction on this point for which it is noticeable that the incident took place on 27.04.1986 and the statement of PW-3 was recorded on 16.01.1987 which is almost after nine months, therefore, minor discrepancies may occur in the statement of PW-3 regarding the incident.

49. PW-4 Raj Pyari has also stated about the torture of her deceased daughter by the accused appellants for the demand of dowry. She has substantiated the written report Ex. Ka-2 given by her to the I.O. of the case containing the facts and suspecting murder of her daughter Smt. Rajkumari by the accused. This report was scribed by PW-3 Rameshwar on her dictation.

50. PW-5 Dev Singh has also supported the statement of PW-3 and PW-4 regarding the demand of dowry and torture made by the accused appellants to the deceased. His testimony provides a chilling circumstantial narrative that underscores a persistent environment of coercion and torture preceding the tragedy. He corroborates that Smt. Raj Kumari, in a moment of desperate transparency, openly discussed the accused's demands for insufficient dowry and the subsequent torture she endured, even voicing apprehension that her

life was at risk if these demands remain unmet. He recalls PW-4 Smt. Raj Pyari gifting her daughter golden ornaments that is a Tabij and a Nath, while saying Laxman Singh to ensure her safety, a plea for protection that ultimately went unanswered as Raj Kumari never returned home alive.

51. PW-6 Ujbak Singh, a resident of Hasera, testified that the accused, Harban Singh, had been married for approximately two years without children prior to his wife's death. Following her demise and the subsequent arrest of Harban and a co-accused on murder charges, PW-6 joined by Har Prasad Godariya, visited the accused in Lalitpur Jail about six weeks after the incident. During this visit, both accused reportedly confessed to murdering Harban's wife out of frustration over insufficient dowry and requested their assistance in evading legal consequences. Despite offering a vague assurance of help at the time, he ultimately reported this extra-judicial confession to the Sub-Inspector in charge of the Madanpura Out-post. Their meeting with accused in jail has been substantiated by Ex. Ka-8 and Ex. Ka-9, which are a document of jail record endorsement.

52. The accused Harban Singh, in his statement under Section 313 CrPC, has raised a defence of malicious prosecution, attributing his implication to a deep-seated ancestral feud involving his grandfather, Santosh Singh, his uncle, Bhagwat Singh, and the witness Ujbak Singh. He contends that this 'party-bandi' (factionalism) was leveraged to exert undue influence over the local police, resulting in a fabricated case, while further alleging that PW-9, Nahar Singh, is merely an associate of the same hostile faction. However, this plea remains a bare assertion, entirely unsupported by any cogent or corroborative evidence. In the absence of such substantiation, these claims of enmity fail to discredit the testimony of PW-6 or cast a shadow of doubt upon the prosecution's narrative.

53. PW-7 Jasanta and PW-8 Ramdeen are the father and son from the same village Hasera who have stated, on the day of incident, that when they

were going to their Khalihan with the Bullocks, they saw that there was smoke coming out from the window of the house of Harban Singh. They incidently informed Suran Sing who is the father of the accused Harban Singh and then Suran Singh, by climbing over the Khaprail, opened the window and disclosed that his daughter-in-law is burned.

54. In his cross-examination, the PW-7 has stated that only Suran Singh was there in his Khalihan and denied the presence of Ramrati, Laxman Singh, Bharat, and the daughters in the Khalihan. He has also stated that there was no screaming coming out from the house. PW-8 Ramdin Singh, son of PW7, has stated that after disclosure by Suran Singh by climbing over the Khaprail that his daughter-in-law is burnt, his father Jasanta went to his Khalihan with the bullocks and on the shoutings, some other people from the village came and he (PW-7) and other persons got the fire extinguished by entering into the house. When they entered the house, they found that the mother of Harbhan, i.e. accused Ramrati, was present there in the courtyard in a very frightful condition and no other was present there. On cross-examination, he again reiterated that the mother of Harban Singh i.e. accused Ramrati was present in the courtyard of her house.

55. PW-7 and PW-8 have been cross-examined by defence in detail but nothing could be found which can create any doubt over their statement given in examination-in-chief.

56. The most important witness Nahar Singh has been examined as PW-9, who has supported the version of PW-3 and PW-4 about the torture and demand of dowry, who testified to the circumstances surrounding the murder of Smt. Raj Kumari, stating that frequent quarrels occurred between the accused and the deceased over the alleged insufficiency of her dowry. On the date of the incident, at approximately 2:00 P.M., the witness observed the accused, Harban Singh, cycling hurriedly and in a visibly frightened state toward Village Didoniya, roughly one kilometer from Hasera; when

questioned about his haste, the accused refused to provide an explanation and continued on his way. Upon reaching the village around 3:00 P.M., the witness heard a commotion and learned that the accused's house had been set on fire and his wife had been burnt, yet he did not visit the scene until 5:00 P.M. that evening, at which point he discovered the deceased's body lying in the courtyard in the presence of several other villagers.

57. Therefore, all the witnesses of fact, that is PW3, PW4, PW5, PW6, PW7, PW8, PW9, have supported the prosecution version, which indicates that at the time of incident, the accused Ramrati was present in the house and the Harban Singh, the other accused, was seen in a hurry and in a very scared condition, which shows that the Harban Singh was aware about the facts of the incident, but he had not made any effort to tell it to anyone and was running away by bicycle, which creates doubt over his conduct, which is very material in the facts and circumstances of the case.

58. In his statement recorded under Section 313 CrPC, accused Harban Singh has denied any demand of dowry or any quarrel relating thereto. He has admitted that Laxman Singh had brought Rajkumari to the matrimonial home about eight days prior to the incident. He has further admitted that Laxman Singh was sent to convey information and that he himself accompanied the dead body of the deceased, and that Rameshwar also went for the post-mortem examination. However, he has denied the post-mortem report and stated that he has no knowledge thereof. He has admitted the recovery and seizure of clothes and other articles during the inquest proceedings. He has denied having made any confession before Ujbak Singh and has alleged that the present case has been falsely instituted due to enmity and party-bandi. He has taken the plea of alibi, stating that he works in a Khadan (mine) and on the date of the incident he was present at the Khadan along with Laxman, Munsu and Gopi Kharghar has informed him about 6:00 PM that he has seen the body of the wife of the accused in a burnt condition and smell of kerosene was also coming from there.

59. He stated that after the cremation, the police arrived and took him along with his mother to Police Chowki Madanpur, from where they were sent to Police Station Madhaura by challan. He further stated that his wife died by setting herself on fire and committed suicide, and that he does not know anything beyond that.

60. Similarly, accused Ram Rati, in her statement under Section 313 CrPC, stated that at the time when her daughter-in-law died due to burn injuries, she was not present inside the house but was in the khalihan and the children were playing near the well. She further stated that Jasanta and Ramdeen saw flames coming out of the house and, upon their information, she and her husband rushed to the house and found that the door was closed from inside. Thereafter, her husband climbed over the khaprail and, through the stairs, opened the door from inside the courtyard, following which she, Jasanta, Ramdeen, and other villagers entered the house. She further stated that the doors of the Kotha were closed and that the quilt and mattress had also caught fire. She stated that she does not know why Raj Kumari committed suicide.

61. From her statement under Section 313 CrPC, the accused Ram Rati has attempted to establish that she was not present inside the house at the time of the incident; however, this plea is not substantiated by the statements of Jasanta (PW-7) and Ramdeen (PW-8), on whose information the Suran Singh, the husband of accused Ram Rati, came to the house from Khalihan and climbed the Khaprail (roof) and when he looked through the window he found that his daughter-in-law had been burnt.

62. To establish the plea of alibi, the DW-1 Laxman Prasad has been examined in defence evidence, who has stated that he is working for last 12 to 13 years in the Khadan and accused Harban Singh was also working from the last three to four years in the Khadan, but now he is not working in the Khadan for the last one and a half years. He has said that on 27.04.1986,

Harban Singh was present in the Khadan at 8:30 a.m. and at about 4:30 to 5:00 P.M, Gopi Khhagar of village Hasera came there and informed that the wife of Harban Singh has died by setting herself on fire. There is a difference regarding time of Gopi Khhagar reaching at the Khadan. The accused Harban Singh has stated that Gopi Khhagar has given information at about 6 p.m., whereas DW1 Laxman Prasad has stated that the Gopi Khhagar has informed them at about 4:30 to 5:00 P.M.

63. It has been accepted by Ram Rati that Jasanta and Ramdeen has informed about the smoke coming out from the house. Except DW-1 Laxman Prasad, no other witness has been produced by the accused appellants in their support. Most importantly, the Suran Singh, the father of the accused Harban Singh, who was the first person to see the deceased Raj Kumari in a burnt condition, was not produced as a witness by the prosecution as well as by the defence. If there have been any substance in the the defence taken by the accused appellants, Suran Singh, the father of the accused Harban Singh and Laxman Singh, the father of the accused Ramrati would have been produced and examined as defence witness before the Court. In absence of their evidence a negative inference goes against the accused appellants.

64. The said Gopi Khhagar has not been produced as witness despite the fact that he was resident of same village Hasera from where both the accused belong.

65. Therefore, from the above discussions and the evaluation of evidence available on the record, it is very much clear that at the time of incident, the accused appellant No. 2 was present inside the house and the accused appellant No.1 Harban Singh was found to be running away by a bicycle in a scared condition.

66. This indicates that after committing the offence, accused Harban Singh attempted to flee. Both the accused were present at or around the place of occurrence, yet neither made any effort to inform the villagers or explain the circumstances of the incident. Had the deceased committed suicide by setting herself on fire, the accused would have immediately disclosed the incident to the villagers and produced independent witnesses in their defence, which they failed to do.

67. Further, even Suran Singh appears to have shown no inclination to defend his son and wife, which lends support to the statement of PW-3 that there existed an illicit relationship between accused Harban Singh and Ramrati. The possibility of existence of such an illicit relationship, which was within the knowledge of the deceased Rajkumari, insinuates towards motive for the accused to eliminate her and consequently, both the accused appear to have planned the murder of Rajkumari and thereafter set her body on fire in order to give the incident the appearance of suicide. Since this statement regarding illicit relationship has been made first time by PW-3 in his cross-examination, it would not be safe to rely on it.

68. Though the chain of circumstances has been fully and conclusively established by the prosecution, it points only to one conclusion, namely, that the deceased Rajkumari was murdered by the accused appellants in furtherance of their common intention. The motive for the crime also stands proved, as the deceased had knowledge of the illicit relationship between the accused appellants.

69. Apart from this, since the incident admittedly occurred inside the house of the accused appellants and in their presence, it was incumbent upon them to explain the circumstances under which the death of the deceased occurred. However, the accused appellants failed to discharge this obligation. In such circumstances, Section 106 of the Indian Evidence Act comes into operation, which casts a burden upon the accused to explain facts

especially within their knowledge when a death occurs in suspicious circumstances inside their house.

70. Recently in the case of **Sabitri Samantaray vs. State of Odisha, 2022 LiveLaw (SC) 503**, concerning the establishment of guilt through the circumstantial evidence and the application of Section 106 of the Indian Evidence Act, the Hon'ble Supreme Court has held:

“18. Section 106 of the Evidence Act postulates that the burden of proving things which are within the special knowledge of an individual is on that individual. Although the Section in no way exonerates the prosecution from discharging its burden of proof beyond reasonable doubt, it merely prescribes that when an individual has done an act, with an intention other than that which the circumstances indicate, the onus of proving that specific intention falls onto the individual and not on the prosecution. If the accused had a different intention than the facts are specially within his knowledge which he must prove.

19. Thus, although Section 106 is in no way aimed at relieving the prosecution from its burden to establish the guilt of an accused, it applies to cases where chain of events has been successfully established by the prosecution, from which a reasonable inference is made out against the accused. Moreover, in a case based on circumstantial evidence, whenever an incriminating question is posed to the accused and he or she either evades response, or offers a response which is not true, then such a response in itself becomes an additional link in the chain of events. [See Trimukh Maroti Kirkan Vs. State of Maharashtra, (2006) 10 SCC 681]”

71. In this case of **Sabitri Samantaray (supra)** the Hon'ble Supreme Court has relied on its another judgements **Trimukh Maroti Kirkan Vs. State of Maharashtra, (2006) 10 SCC 681 wherein the Hon'ble Court has held as undere:**

“15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was

committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.”

72. A critical pillar of this case is the medical evidence, which categorically refutes any claim of suicide, confirming instead that this was a culpable homicide. Since the death occurred under highly suspicious circumstances within the appellants' own home, the law places a clear burden on them to explain the tragedy. Their failure to provide a credible account, coupled with the stepmother's presence at the scene and the husband's panicked flight immediately following the crime, serves as a powerful admission of their involvement.

73. Ultimately, the prosecution has bridged every gap in the narrative, establishing a sequence of events that leads to only one logical conclusion: the appellants are responsible for the murder. The facts leave no room for alternative theories or innocence. Consequently, the trial court's decision to convict was both legally sound and factually justified, requiring no interference or reversal by this appellate court.

74. The accused-Appellants have utterly failed to prove their innocence or offer any plausible explanation. Therefore, in the facts and circumstances of the case, it is clearly established that the deceased Rajkumari was first murdered and thereafter her body was set on fire by pouring kerosene oil with an intention to destroy evidence. Consequently, the accused appellants have committed the offence of culpable homicide amounting to murder, punishable under Section 302/34 IPC.

75. Accused-appellants have already been convicted under Section 3 and 4 of the Dowry Prohibition Act for the offences of taking and for demanding dowry. The relevant portion of Section 3 and 4 are as under:-

“3. Penalty for giving or taking dowry.—

If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more: Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

4. Penalty for demanding dowry.—

If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees: Provided that the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.”

76. From the statements of PW-3 and PW-4, it also stands proved that the deceased was subjected to cruelty on account of demand of dowry and was repeatedly tortured and beaten by the accused appellants. It is also proved that to satisfy the illegal dowry demands of the accused appellants, the complainant PW-4 has given jewellery in the form of a Nath and an Amulet to her deceased daughter. The oral testimonies of PW-3 and PW-4 are corroborated by the statements of PW-5, PW-6 and PW-9. Therefore, there are sufficient and reliable evidences produced by the prosecution to prove the guilt of the accused appellants under Section 3 and 4 of the Dowry Prohibition Act beyond reasonable doubt.

77. The findings of the Trial Court are not only amply supported by credible evidence but also represent a legally plausible view of the testimony. The appellants have failed to discharge the burden of demonstrating any perversity or manifest error that would warrant appellate intervention. Given the gravity of the offences and the strength of the evidence, the sentences imposed remain well-reasoned and proportionate. Since a rational trier of fact could easily conclude that the prosecution has

proven its case beyond a reasonable doubt, we find this appeal to be devoid of merit. Consequently, the appeal is **dismissed**.

(Divesh Chandra Samant, J.) (Salil Kumar Rai, J.)

February 04, 2026

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