



2026:AHC:2906-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

JAIL APPEAL No. - 143 of 2018

Sri Pal

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: From Jail, Saurabh Pandey
Counsel for Respondent(s)	: A.G.A.

Court No. - 48

HON'BLE CHANDRA DHARI SINGH, J.
HON'BLE DEVENDRA SINGH-I, J.

(Per Hon'ble Chandra Dhari Singh, J)

1. The instant Criminal Appeal has been sent from jail by the accused-appellant (Sripal) against a judgment and order dated 17.05.2017 passed by the Additional Sessions Judge, Fast Track Court No. 3, Muzaffar Nagar in Sessions Trial No. 131 of 2012 arising out of Case Crime No. 260 of 2011, under Sections 498-A, 302, 201 IPC and $\frac{3}{4}$ of Dowry Prohibition Act, PS Chhapar, district Muzaffar Nagar whereby the learned Judge convicted and sentenced the accused-appellant as under:

(a) Life imprisonment and a fine of Rs. 20,000/- for the offence under Section 302 IPC.

(b) Seven years' imprisonment and a fine of Rs. 7,000/- for the offence under Section 201 IPC and in case of default in payment of fine, four months' additional imprisonment.

(c) Three years' imprisonment and a fine of Rs. 3,000/- for the offence under Section 498-A IPC and in case of default in payment of fine, two months' additional imprisonment.

(d) Five years' imprisonment and a fine of Rs. 15,000/- for the offence under Section 3 of Dowry Prohibition Act and in case of default in payment of fine, six months' additional imprisonment.

(e) Two years' imprisonment and a fine of Rs. 10,000/- and in case of default in payment of fine, five months' additional imprisonment.

However, all the sentences were directed to run concurrently.

Brief facts

2. In short compass, the facts giving rise to the present criminal appeal are that a written report was given by the informant, Prem Chandra, son of Umrao Singh Prajapat, resident of village Pesar, police station Dohghat, district Baghpat to the Station House Officer, Chhappar, district Muzaffarnagar, that his daughter Smt. Suman (hereinafter referred to as "the deceased") was married to Sripal Prajapat (hereinafter referred to as "the

accused-appellant”) about seven years ago. After some years of marriage, dispute arose between the deceased and the accused-appellant, due to which from time to time deceased used to come her maternal home, but she went to her matrimonial home after her husband and her father-in-law came to take her. It is further alleged in the First Information Report that a year before the occurrence, the accused-appellant made a demand of dowry and kicked her out of her matrimonial home. However, after the intervention of some venerable persons of the society, the matter was settled and accused-appellant took the deceased to his home. The First information further recounts that on 29.08.2011, another daughter of the informant who was married in the same family, informed the informant that accused-appellant has told her that the deceased along with both the children are missing from home. On receiving the said information, the informant rushed to the house of the deceased and found the door locked and nobody was present at the house. On enquiry from the villagers, he was told that accused-appellant along with his wife, the deceased and her children had gone to fetch wood. The informant made a hectic search for his daughter, the deceased, but in vain. Thereafter, he gave a written report at the police station making a suspicion that his daughter along with her children had been done to death by the accused-appellant.

3. On the basis of the aforesaid report (Ext. Ka-1) a case was registered against the appellant at Case Crime No. 260 of 2011, under Section 498-A, 364 IPC and $\frac{3}{4}$ of Dowry Prohibition Act, police station Chhapar, district Muzaffarnagar.

4. After the registration of the First Information Report, the law set into motion and investigation of the case was entrusted to PW-7, SI Dulare Lal, who copied the FIR and recorded the statements of scribe (Chik writer) of the FIR Clerk-Constable 685 Chhotey Lal Pathak and informant Prem Chandra in the case diary and left the police station along with police force for the search of the deceased and her children. After receiving an information that the body of the deceased was lying near the bank of Ganga, he rushed there and recovered the body. Thereafter, the inquest was conducted by PW-4, Nayab Tehsildar Karan Singh, which was marked as Ext. Ka-2 and sent the dead body for post-mortem examination.

5. PW-7, SI Dulare Lal further deposed in his examination-in-chief that on 04.9.2011 he recorded the statement of accused, who confessed to his crime and stated that due to non-fulfilment of demand of dowry, he has committed the crime. After this statement of the accused, Section 304-B IPC was added. He also prepared site plan on the pointing out of the accused, which was marked as Ext. Ka-10. He also inspected the place from where the dead body of the deceased was recovered

and prepared site plan (Ext. Ka-11). At 13:10 hrs on 04.09.2011, he arrested the accused (Ext. Ka-12). As Section 304-B IPC was also added, the investigation of the aforesaid case was transferred to C.O Sadar Shri Rajesh Kumar Singh.

6. PW-8, Rajesh Kumar Singh in his examination-in-chief, has deposed that investigation of case crime No. 260 of 2011, under Section 498-A, 364, 304-B IPC and $\frac{3}{4}$ of Dowry Prohibition Act was undertaken by him on 06.09.2011. He perused the Case Diary and directed the Station House Officer for tracing the missing children of the deceased. On 14.09.2011 he also copied the Inquest and post-mortem reports in the case diary. On 07.10.2011, he recorded the statement of the informant. He also recorded the statements of witnesses Udai Veer, son of Kallu Ram, Mahipal, son of Prem Chandra, Yashpal, son of Dharmpal. As the incident took place after seven years of marriage of the accused with the deceased, Sections 304-B IPC and $\frac{3}{4}$ of Dowry Prohibition Act were deleted and the case was converted to one under Section 302 IPC. As the case was not a dowry death, the investigation of the case was transferred to PW-9, SHO Bharat Lal Shah on 12.10.2011.

7. PW-9, SI Bharat Lal Shah, in his examination-in-chief, deposed that on 20.10.2011 he was posed as Station House Officer at police station Chhapar. He perused the case diary and other related papers and

recorded the statements of witnesses of inquest namely Bhagat Singh, Monu, Satpal, Narendra. On 16.1.1.2011, he recorded the statement of Constable Virendra Singh, Constable Narendra Singh Verma, Veer Singh and Nayab Tehsildar Karan Sinh.

8. After culmination of investigation, the investigating officer submitted charge sheet against the accused under Section 498-A, 302, 201 IPC and Section 3/4 of Dowry Prohibition Act, which was marked as Ext. Ka-13. The investigation officer also sent the viscera of the deceased to the Forensic Science Laboratory, Agra, which was marked as Ext. Ka-14.

9. However, no poison was found in the viscera report dated 12.07.2013.

10. As the case was exclusively triable by the Court of Sessions, the learned Magistrate committed the case to the Court of Sessions, where case was registered as ST No. 131 of 2012. Learned Sessions Judge, Muzaffar Nagar vide order dated 27.03.2012 framed the charges against the accused under Sections 498-A, 302, 201 IPC and 3/4 of Dowry Prohibition Act, which were read over and explained to the accused in Hindi, who pleaded not guilty and claimed to be tried.

11. To bring home guilt of the accused-appellant beyond the hilt, the prosecution has examined as many as 10 witnesses. PW-1, Prem Chandra, is the first informant and father of the deceased, PW-2, Mahipal,

PW-3 Udai Veer are the witnesses of facts and also the inquest witnesses. PW-4, Karan Singh, Nayab Tehsildar, who got the inquest conducted and sent the body for post mortem examination. PW-5, Dr. Pawan Kumar Jain, who conducted the post mortem on the cadaver of the deceased. PW-6, Chhotay Lal Pathak, who scribed the FIR. PW-7, SI Dulare Lal, the first investigating officer of the Case. PW-8, C.O. Rajesh Kumar Singh, the second investigating officer of the Case. PW-9, Bharat Lal Shah, Station House Officer, police station Chhapar, the third investigating officer, who submitted charge sheet and PW-10, Kusum, wife of Sonu, who is also the sister of the deceased and has been examined as witnesses of fact and last seen of the deceased in the company of the accused-appellant

12. PW-1, Prem Chandra, who is the first informant and father of the deceased in his examination-in-chief has reiterated the versions given in the First Information Report. He further deposed that dead bodies of his two maternal grandson namely Ansh and Vansh aged about 5 and 1-1/2 years are yet to be recovered. Dead body of his daughter Suman (deceased) was recovered on the same day, when he made application/lodged FIR, from canal inside the Jungle. He recognized the dead body of his daughter. His daughter, her sons Ansh and Vansh have been done to death by the accused for non-fulfilment of demand of dowry.

13. PW-2, Mahipal, in his examination-in-chief, which was recorded on 19.11.2013, deposed that Prem Chandra, the first informant, live in the same Mohalla in which he resides Prem Chandra got his daughter-Suman (deceased) married in the year 2004 to Sripal (accused-appellant). He also participated in the marriage. He was told by Prem Chandra, the first informant that his son-in-law has made his daughter and her sons disappear. Dead body of his daughter (deceased) has been recovered, but her both sons are still untraceable.

14. PW-3 Udai Veer in his examination-in-chief, which was recorded on 03.03.2014, deposed that first informant Prem Chandra was the resident of village Pushar, district Baghpat, but he along with his father Umrao Singh and other family members have settled in Khedi prior to the incident. Daughter of the first informant was married to accused-appellant Sripal. This witness also participated in the marriage. In the marriage, the first informant has given dowry according to his status. After the marriage accused and his father used to torture and beat the deceased for bringing additional dowry, which was told by the deceased to the first informant and other members of the family in his presence. Deceased had two children. The elder daughter (Kusum) of first informant is also married in the same village in which the deceased was married. This witness further deposed that on 29.08.2011 Kusum informed her father over phone that deceased along

with her both sons were made to disappear by the accused and his father. On the aforesaid information Prem Chandra and Mahipal went to Baseda where they came to know that deceased and her sons are untraceable whereas accused-Sripal and his father Kaluram were not at home. Thereafter, information was given at the police station Chhapar. This witness further deposed that after hectic search, body of deceased was found near Ganga *Nahar*, Jauli which was identified by this witness and first informant Prem Chandra. Thereafter, police of police stations Chhapar and Bhopa came there and prepared inquest. He also put his signature on the inquest report, which was marked as Ext. Ka-2.

15. PW-4, Karan Singh, in his examination-in-chief, which was recorded on 03.07.2014, deposed that on 03.09.2011, he was posted in Tehsil Jansath as Nayab Tehsildar. On that day, he received an information from police station Bhopa that between the villages Bakhedi and Sikheda in Ganga *Nahar*, a dead body of a woman was recovered. On getting information from Tehsil, he visited the spot. On reaching there, he came to know that the dead body is of Suman, wife of Sripal, resident of Baseda, police station Chhapar, district Muzaffarnagar. On that date, under his supervision, inquest report, letter for RI, letter to the Chief Medical Officer, Photo Lash, challan Lash were prepared by the

Sub-Inspector. He also put his signatures on all pages of inquest report, which was marked as Ext. Ka 2.

16. PW-5, Dr. Pawan Kumar Jain, conducted post-mortem examination on the cadaver of the deceased. In his examination-in-chief, he deposed that on 04.09.2011, he was deputed on post-mortem duty in district Muzaffar Nagar. On the same day at 2:00 PM, he along with Dr. J.P. Tyagi conducted post-mortem examination on the cadaver of the deceased jointly. Following injuries were found on the body of the deceased:

- "1. Abrasion in the shape of a circle measuring 6 x 5 c.m. and located directly on the outside of the forearm.*
- 2. Lacerated wound measuring 0.5 c.m. X 0.5 c.m. X muscle deep. Located on the inside of the left elbow.*
- 3. There were four small lacerated wounds measuring 13 c.m. X 1 c.m. on the front of the middle part of the left leg, measuring 0.5 c.m. X 0.5 c.m. and deep to the muscle deep flesh.*
- 4. There were numerous abrasion marks on both sides of the nect, measuring from 2.5 c.m. X 2.0 c.m. To 1.50 c.m. X 1.00 c.m."*

In the opinion of the doctors, the cause of death of the deceased was asphyxia due to ante-mortem strangulation.

17. The evidences of PW-6, Chhotey Lal Pathak, who scribed the FIR, PW-7, Dulare Lal, the first investigating Officer, PW-8, Rajesh Kumar Singh, the second investigating officer and PW-9, Bharat Lal Shah, the third investigating officer, who submitted charge sheet have already been discussed above.

18. PW-10, Smt Kusum, wife of Sonu, who is the elder daughter of the first informant Prem Chandra, in her examination-in-chief, which was recorded on 06.10.2016, deposed that her sister (deceased) was married to Sripal (accused) about 12-13 years ago. Deceased had two sons, namely Vansh, aged about 5 years and Ansh, aged about 2-1/2 or 3 years. She further deposed that on the date of occurrence, she saw Sripal (accused), Suman (deceased) along with both the sons going towards Jungle. Thereafter, she had not seen her sister and her sons Vansh and Ansh. When she enquired from Sripal (accused) as to where is Suman and her sons, he replied that he has done them to death. She informed her father about the incident. Thereafter, first information report was lodged. After four-five days of lodging of the case, dead body of the deceased was recovered. Her

both the hands were tied. Sripal used to beat her sister for bringing insufficient dowry.

19. After the closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C., in which he denied the charges levelled against him. He further stated that Sonu, husband of Kusum is employed with Pradhan Bhupendra Jaat and witness Kusum is also working in his house. Pradhan Bhupendra Jaat has forcibly grabbed his house and at his instance he has been falsely implicated in this case.

20. Learned Additional Sessions Judge, FTC No. 3, Muzaffarnagar after hearing the learned counsel for the parties and assessing, evaluating and scrutinizing the evidence on record, convicted and sentenced the accused-appellant as indicated herein above.

21. Hence, this appeal.

Submissions on behalf of the appellant

22. Learned counsel appearing on behalf of the accused-appellant has submitted that this is a case of circumstantial evidence and chain of evidence is missing in this case. In support of his submission, he has placed reliance upon the judgments of Hon'ble Apex Court in the case of **Laxman Prasad @ Laxman vs. State of M.P.; 2023 (3) SCC (Cri.) 27, Bheem Singh Vs. State of Uttarakhand; 2015 AIR (SCW) 1118, P.15,**

Dinesh Kumar Vs. State of Haryana; 2023 SCC On-line SC 564, P.15 and Shail Kumari Vs. State of Chhatisgarh; AIR 2025 (SC) 3646 and has submitted that it is settled proposition of law that the chain of circumstantial evidence must be completed.

23. Learned counsel for the appellant has next submitted that there are material contradictions in the statement of PW-1 (informant) and PW-10, Kusum, which make the entire prosecution story doubtful.

24. Learned counsel for the appellant next submitted that the appellant has been falsely dragged in the present case at the behest of Pradhan Bhupendra Jaat.

25. Learned counsel for the appellant lastly submitted that the impugned judgement is based on conjecture and surmises without there being any evidence on record and that the prosecution has totally failed to bring home guilt of the appellant beyond reasonable doubt. The appellant has been in jail since 05.09.2011.

Submissions on behalf of the State

26. Per contra, Mr. Neeraj Kumar Tiwari, learned Additional Government Advocate vehemently opposed the aforesaid contentions and submitted that the prosecution has proved its case beyond reasonable doubt, which is evident from the depositions of PW-1 and PW-10. He further submitted that in her statement PW-10 (Kusum), has specifically stated that she made a

complaint regarding the harassment for demand of dowry to the police station, therefore, it is wrong to say that there are no motive available for harassing the deceased by the accused-appellant. He has further submitted that since the parents of the deceased could not fulfil the demand of dowry, due to which, accused-appellant has killed his wife.

27. It is further submitted that there are no major contradictions in the statements of PW-1 and PW-10. It is further submitted that medical report and doctors' opinion have also supported the prosecution case. As per doctors' opinion, deceased was killed 4-6 days before the date of the post mortem i.e. the date when she was seen with the accused and the children by PW-10.

28. Learned counsel appearing on behalf of the State has submitted that since all the witnesses examined by the prosecution, have supported the prosecution case and prosecution has proved its case beyond reasonable doubt and completed the entire chain of circumstances, as such the trial court has rightly convicted the accused-appellant under the aforesaid sections and there is no error in the impugned judgment and order, therefore, the appeal is devoid of merit and is liable to be dismissed.

Analysis and conclusion

29. The case of the prosecution is entirely based on the circumstantial evidence. In a case based on circumstantial evidence, settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete forming a chain and there should be no gap left in the chain of evidence. Further the proved circumstances must be consistent only with the hypothesis of the guilt of the accused totally in consistent with his evidence. It has been consistently laid down by the Hon'ble Apex Court that where a case rests on circumstantial evidence, the inference of the guilt can be justified only when all the incriminating facts and circumstances are found to be in compatible with the innocence of the accused or guilt of any other person.

30. In ***Sharad Birdhichand Sarda Vs. State of Maharashtra***, AIR (1984) (SC) 1622, the Hon'ble Apex Court has framed five golden principles for the circumstantial evidence, which are as under;

(i) The circumstances from which the conclusion of guilt is to be drawn should be fully established.

(ii) 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.

(iii) The circumstances should be of conclusive nature and tendency

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

(v) 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.

31. In ***State of U.P. Vs. Ashok Kumar Srivastava***, (1992) CrL. L.J. 1104, it was pointed out that great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in the favour of the accused must be accepted. It was also pointed out that the circumstances relied upon must be found to have fully established and cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt.

32. In the case of ***Hanumant Govind Nargundkar v. State of M.P.***, AIR 1952 SC 343, Hon'ble Apex Court observed as under:

"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 should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused."

33. In the case of ***Padala Veera Reddy v. State of A.P.***, 1989 Supp (2) SCC 706, Hon'ble Apex Court opined as under:

"10. Before advertng to the arguments advanced by the learned Counsel, we shall at the threshold point out that in the present case there is no direct evidence to connect the accused with the offence in question and the prosecution rests its case solely on circumstantial evidence. This Court in a series of decisions has consistently held that when a case rests upon circumstantial evidence such evidence must satisfy the following tests:

(1) the circumstances from which an inference of guilt is sought to be drawn, must be cogently and firmly established;

(2) those circumstances should be of a definite tendency unerringly pointing towards guilt of the accused;

*(3) the circumstances, taken cumulatively, should form a chain so complete that there is no escape from the conclusion that within all human probability the crime was committed by the accused and none else; and (4) the circumstantial evidence in order to sustain conviction must be complete and incapable of explanation of any other hypothesis than that of the guilt of the accused and such evidence should not only be consistent with the guilt of the accused but should be inconsistent with his innocence. (See **Gambhir v. State of Maharashtra**, (1982) 2 SCC 351)"*

34. In the case of **C. Chenga Reddy & Ors. v. State of A.P.**, (1996) 10 SCC 193, Hon'ble Apex Court while considering a case of conviction based on the circumstantial evidence, held as under:

"21. In a case based on circumstantial evidence, the settled law is that the circumstances from which the conclusion of guilt is drawn should be fully proved and such circumstances must be conclusive in nature. Moreover, all the circumstances should be complete and there should be no gap left in the chain of evidence. Further, the proved circumstances must be consistent only with the hypothesis of the guilt of the accused and totally inconsistent with his innocence. In the present case the courts below have overlooked these settled principles and allowed suspicion to take the place of proof besides relying upon some inadmissible evidence."

35. In the case of **Ramreddy Rajesh Khanna Reddy v. State of A.P.**, (2006) 10 SCC 172, Hon'ble Apex Court again considered the case of conviction based on circumstantial evidence and held as under:

*"26. It is now well settled that with a view to base a conviction on circumstantial evidence, the prosecution must establish all the pieces of incriminating circumstances by reliable and clinching evidence and the circumstances so proved must form such a chain of events as would permit no conclusion other than one of guilt of the accused. The circumstances cannot be on any other hypothesis. It is also well settled that suspicion, however grave it may be, cannot be a substitute for a proof and the courts shall take utmost precaution in finding an accused guilty only on the basis of the circumstantial evidence. (See **Anil Kumar Singh v. State of Bihar**, (2003) 9 SCC 67 and **Reddy Sampath Kumar v. State of A.P.**, (2005) 7 SCC 603)."*

36. In the case of **Sattatiya v. State of Maharashtra**, (2008) 3 SCC 210, Hon'ble Apex Court held as under:

"10. We have thoughtfully considered the entire matter. It is settled law that an offence can be proved not only by direct evidence but also by circumstantial evidence where there is no direct evidence. The court can draw an inference of guilt when all the incriminating facts and circumstances are found to be totally incompatible with the innocence of the

accused. Of course, the circumstances from which an inference as to the guilt is drawn have to be proved beyond reasonable doubt and have to be shown to be closely connected with the principal fact sought to be inferred from those circumstances." This Court further observed in the aforesaid decision that:

"17. At this stage, we also deem it proper to observe that in exercise of power under Article 136 of the Constitution, this Court will be extremely loath to upset the judgment of conviction which is confirmed in appeal. However, if it is found that the appreciation of evidence in a case, which is entirely based on circumstantial evidence, is vitiated by serious errors and on that account miscarriage of justice has been occasioned, then the Court will certainly interfere even with the concurrent findings recorded by the trial court and the High Court--Bharat v. State of M.P., (2003) 3 SCC 106. "

37. In the case of **State of Goa v. Pandurang Mohite**, (2008) 16 SCC 714, Hon'ble Apex Court reiterated the settled law that where a conviction rests squarely on circumstantial evidence, the inference of guilt can be justified only when all the incriminating facts and circumstances are found to be incompatible with the innocence of the accused or the guilt of any person. The circumstances from which an inference as to the guilt of the accused is drawn have to be proved beyond reasonable doubt and have to be shown to be

closely connected with the principal fact sought to be inferred from those circumstances.

38. The decision in **Sharad Birdichand Sarda** (Supra) has recently been followed by Hon'ble Supreme Court in catena of judgement including **Laxman Pradad alias Laxman Vs. State of Madhya Pradesh**, 2023(3) SCC (Cri) 27 and **R. Sreenivasa Vs. State of Karnataka** (2024) 17 SCC 426.

39. In the light of the above pronouncements of Hon'ble Apex Court, we shall now consider whether in the present case, the prosecution succeeded in establishing the chain of the circumstances leading to an inescapable conclusion that the accused-appellant had committed the crime. In the present case, the prosecution, in order to prove its case mainly relied on the following circumstances:

- (1) The death of the deceased Suman was homicidal in nature.
- (2) Deceased-Suman was last seen with the accused-appellant Sripal going towards Jungle 8-9 days before the murder of Suman.

40. The autopsy on the body of the deceased was conducted by PW-5, Dr. Pawan Kumar Jain. According to him following injuries were found on the dead body:

"1. Abrasion in the shape of a circle measuring 6 x 5 c.m. and located directly on the outside of the forearm.

2. Lacerated wound measuring 0.5 c.m. X 0.5 c.m. X muscle deep. Located on the inside of the left elbow.

3. There were four small lacerated wounds measuring 13 c.m. X 1 c.m. on the front of the middle part of the left leg, measuring 0.5 c.m. X 0.5 c.m. and deep to the muscle deep flesh.

4. There were numerous abrasion marks on both sides of the neck measuring from 2.5 c.m. X 2.0 c.m. To 1.50 c.m. X 1.00 c.m."

41. In the opinion of the doctors, the death occurred 4 to 6 days prior to the date of post-mortem. The hyoid bone was also found fractured. Doctor further opined that the cause of death of the deceased was asphyxia due to ante-mortem strangulation.

42. On the basis of the ante-mortem injuries of the deceased, it has been opined by the doctor that the cause of death of the deceased Suman was due ante-mortem strangulation. According to the medical evidence, it is clear that deceased Suman suffered a homicidal death.

43. So far as the last seen evidence is concerned, PW-10, Kusum deposed that her sister (deceased) was

married to Sripal (accused) about 12-13 years ago. Deceased had two sons, namely Vansh, aged about 5 years and Ansh, aged about 2-1/2 or 3 years. She further deposed that on the date of occurrence, she saw Sripal (accused), Suman (deceased) along with both the sons going towards Jungle. Thereafter, she had not seen her sister and her sons Vansh and Ansh. When she enquired from Sripal (accused) as to where is Suman and her sons, he replied that he has done them to death. In her cross-examination, PW-10-Kusum deposed that she saw the deceased going with the accused-appellant 8-9 days before the death of the deceased. Thereafter again accused-appellant met her 2-3 days and told her that he has eliminated the deceased. However, PW-10, Kusum could not specifically tell as to where accused-appellant met her and at what distance she saw the accused going with the deceased. Further PW-10 Kusum was unable to recollect date, time and year when she saw the accused-appellant with the deceased. Even she was not able to specify the place where she met with the accused. Moreover, she was not able to produce the said mobile phone and also could not recollect her mobile number.

44. From the above deposition of PW-10, Kusum, it would be unsafe to hold that chain to circumstantial evidence is complete and after the recovery of dead body and post-mortem report she has cooked up this false story to implicate the accused-appellant.

45 Now coming to the next submission of learned counsel for the appellant that there are material

contradictions in the depositions of PW-1, Sripal (first informant) and PW-10, Kusum.

46. Before appreciating the next contention of learned counsel for the appellant that there are material contradictions in the statements of the witnesses, it would be useful to refer certain pronouncements of Hon'ble Supreme Court:

47. In **State represented by Inspector of Police Vs. Saravanam and another, AIR 2009 SC 152**), Hon'ble Supreme held that while appreciating the evidence, the court has to take into consideration whether the contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The Trial Court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate Court in normal course would not be justified in reviewing the same again without justifiable reasons.

48. In **State of Rajasthan Vs. Rajendra Singh**, (2009) 11 SCC 106 held as under:

“Where the omission(s) amount to a contradiction, creating a serious doubt about the truthfulness of a witness and other witness also make material improvements before the

court in order to make the evidence acceptable, it cannot be safe to rely upon such evidence."

49. In **Mahendra Pratap Singh Vs. State of Uttar Pradesh**, (2009) 11 SCC 334) held as under:

"The discrepancies in the evidence of eye-witnesses, if found to be not minor in nature, may be a ground for disbelieving and discrediting their evidence. In such circumstances, witnesses may not inspire confidence and if their evidence is found to be in conflict and contradiction with other evidence or with the statement already recorded, in such a case it cannot be held that prosecution proved its case beyond reasonable doubt."

50. In the light of the aforesaid observations of Hon'ble Supreme Court, we will now consider whether the contradictions/omissions had been of such magnitude that they may have materially affected the trial

51. PW-10, Kusum deposed that she has informed her father, PW-1 about the death of the deceased, whereas the first information report has been lodged by PW-1, Prem Chandra on 29.08.2011 in which it has been clearly stated that PW-10, Kusum has informed him on telephone that she has been told by accused-appellant that deceased-Suman is missing for the last two days

along with children. Further, PW-10 in her deposition stated that a written report has been lodged in respect of demand of motorcycle by accused-appellant as additional dowry, whereas PW-1, Prem Chandra deposed that he has not made any application in respect of demand of dowry or torture of the deceased either to any police officer or Women Commission or Human Rights Commission. Moreover, PW-1, in his examination-in chief has deposed that he has received an information from his daughter Kusum-PW-10 that deceased is missing, whereas in his cross-examination he has stated that information in respect of death of the deceased has been given by PW-10. Moreover, the first informant has mentioned in the FIR making suspicion that his daughter has been done to death by the accused-appellant.

52. In view of the above discrepancies, it can be held that the prosecution witness are not reliable.

53. So far as the submission of learned counsel for the appellant that the appellant has been falsely implication in the present case at the instance of Pradhan Bhupendra Jaat is concerned, it is to be noted that accused-appellant in his statement under Section 313 Cr.P.C. has stated that Sonu, husband of Kusum, PW-10 is employed with Pradhan Bhupendra Jaat and witness Kusum is also working in his house. Pradhan Bhupendra Jaat has forcibly grabbed his house and at his instance he has been falsely implicated in this case. PW-1, Prem Chandra, the first informant has specifically deposed is his cross examination that after getting the information

in respect of death of his daughter, the deceased, he left for the house of the deceased, which is 3 kms away. Police station is also situated near the house of the deceased. From Doghar, he left for Budhana, where police station Kotwali is also situated. Thereafter, he left Budhana for Shahpur and from Shahpur to Muzaffarnagar and from Muzaffarnagar to Chhapar and thereafter to Baseda. Although, police station were situated at all the places, but he (PW-1, the first informant) did not care to lodge the first information report at any of the police station.

54. He further deposed that after reaching Baseda, he stayed at the house of Pradhan Bhupendra Jaat for 3-4 days and got the first information report lodged at police police Chhapar. PW-1 has also stated that "after the marriage there was dispute between the accused-appellant and the deceased for certain reasons" has been written on the dictation of Pradhan, who was standing besides the Constable (Deewan Ji) and dictating the report. He also deposed that accused-appellant was caught by Udai Veer and Bhupendra Jaat and was brought to Baseda. Thereafter, police was informed, who came there and arrested the accused.

55. From the above deposition of the first informant, PW-1, false implication of the accused-appellant at the best of Pradhan Bhupendra Jaat cannot be ruled out.

56. This Court is of the view that the evidence produced by the prosecution has neither quality nor

credibility and it would be unsafe to rest conviction upon such evidence. After having considered the matter thoughtfully, we find that the evidence on record in the case is not sufficient to bring home guilt of the appellant.

57. Accordingly, the order dated 17.5.2017 passed by the Additional Sessions Judge, Fast Track Court No. 3, Muzaffarnagar in ST No. 131 of 2012 arising out of Case Crime No. 260 of 2011, under Sections 498-A, 302, 201 IPC and $\frac{3}{4}$ of Dowry Prohibition Act, PS Chhapar, district Muzaffarnagar is set aside.

58. Consequently the appeal is allowed.

59. Appellant Sripal is in jail. He shall be released forthwith unless wanted in any other case.

60. Appellant is directed to comply with the provision of Section 437-A Cr.P.C./ 481 of BNSS.

61. Office is directed to transmit a copy of this order along with trial court record to the court concerned for compliance and compliance report be submitted to this Court within two months.

(Devendra Singh-I,J.) (Chandra Dhari Singh,J.)

January 7, 2026
Ishrat