

Radhey Shyam Vs. State

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Court : Delhi

Decided On : Mar-14-1988

Reported in : 35(1988)DLT112

Judge : Charanjit Talwar and; M.K. Chawla, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 164 and 313; [Indian Penal Code \(IPC\), 1860](#) - Sections 302, 354 and 452

Appeal No. : Criminal Appeal No. 91 of 1984

Appellant : Radhey Shyam

Respondent : State

Advocate for Pet/Ap. : R.M. Tufail and; R.P. Lao, Advs

Judgement :

M.K. Chawla, J.

(1) On 1st February, 1982, Jai Parkash was posted as Duty Constable at Safdarjung Hospital, New Delhi. At about 4.20 P.M., he gave an information, on telephone, to the Police Post, Malviya Nagar, that one Smt. Kela wife of Ramesh Chand, has been admitted with burn injuries. This information was duly recorded at 4.29 P.M. in the daily diary by Constable Ram Tirath. Its correct copy is Ex. Public Witness -19/A. A copy of the report was immediately handed over to A.S.I.

Ram Kishan, for investigation. Without losing any time, Ram Kishan Along with Constable Bhagwan Singh went to Safdarjung Hospital. On enquiry, he was informed that the patient was in Ward No. 22. On reaching there, he gave an application Ex. Public Witness -9/A to the doctor on duty for permission to record the statement of Smt. Kela. Dr. Akhil Saxena made the endorsement 'Patient is coherent and conscious to give statement'. Underneath his signature, he mentioned the date and time as 5.10 P.M. on 1-2-1982. Ram Kishan immediately proceeded to record the statement of Smt. Kela which is Ex. Public Witness -9/B. It bears the signature of Smt. Kela. Underneath the said statement, he made the endorsement Ex. PW-9/C and sent the ruqa to the Police Station for registration of the case, through Constable Bhagwan Singh. The ruqa was sent at 5.45 P.M. Head Constable Brij Kishore was Duty Officer at Police Station Hauz Khas. On receipt of the ruqa with the endorsement of A. S.I. Ram Kishan, he recorded the formal F.I.R., copy of which is Ex. Public Witness -11/A. After registration of the case, the copy of the formal F.I.R. and the ruqa was sent back to the I.O. for information and further investigation. He also took care to send the special report of this case to the Metropolitan Magistrate of the area. D.C.P. and the Additional Commissioner of Police through Public Witness -6 Constable Ramesh Kumar.

(2) As per the standing instruction, A.S.I. Ram Kishan took steps to get the statement of the injured recorded under Section 164 Criminal Procedure Code . He approached Shri S.M. Chopra, Metropolitan Magistrate, New Delhi, for this purpose and moved an application Ex. Public Witness -15/A before him. The learned Metropolitan Magistrate came to the hospital and recorded the statement Ex.PW-15/B of Smt. Kela, at about 8 P.M. in the presence of the doctor on duty. Thereafter, further investigation of this case was handed over to PW-20, S.I. Ajit Singh, who by that time had reached the hospital. Under the directions of the S.H.O., P.S. HauzKhas, Ajit Singh Along with A.S.I. Ram Kishan and Constable Bhagwan Singh went to the spot, i.e. first floor of House No. 405, Chirag Delhi. Mother of Smt. Kela produced the clothes which were taken into possession vide memo, Ex.PW-1/A. The clothes were converted into sealed parcel. Pieces of clothes in addition to one burnt towel, earth from the floor which was smelling of kerosene oil were taken into possession vide Memo. Ex. Public Witness -1/B and separately converted into sealed parcels. The Crime team and the photographers

were also summoned. The Sub-Inspector then prepared the site plan Ex. Public Witness -20/A at the pointing out of Smt. Kamla. On that very day, the Sub-Inspector deposited the case properly consisting of 4 sealed parcels in the Malkhana of Police Station, Hauz Khas. Its entry was duly made in the Malkhana Register by Public Witness -5, H.C. Sham Singh who was working a Moharrar, H.C. On the pointing out of the Sub-Inspector, Public Witness -14, Constable Harbhajan Singh took the photographs of the place of occurrence from various angles.

(3) After vigorous search, the Sub-Inspector was able to arrest the accused Radhey Sham on the next day from Chirag Delhi bus stand. His personal search memo. Ex. Public Witness -20/B was prepared. The recovered articles were deposited in the Malkhana vide entry No. 1021 on 17-2-1982. The case properly consisting of 5 sealed parcels Along with the sample seal were sent to the office of the C.F.S.L. through Constable Ramesh Kumar. These very parcels were received back from C.F.S.L. on 27-4-1982. Shyam Singh Constable had made the entires in the Malkhana Register.

(4) On 4-2-1982, Smt. Kela died in the hospital. Ajit Singh, Sub-inspector prepared the Inquest Report Ex. Public Witness -2/A. The body was sent to the A.I.I.M.S. for post mortem examination through Ram Niwas and Kishan Constables. The post-mortem was conducted on the next day. The Sub-inspector collected the post-mortem report, and the parcel containing sample hair of the deceased which were duly deposited in the Malkhana. After recording the statements of various witnesses, the investigation was handed over to Inspector Jagdish Singh, S.H.O. of Police Station Hauz Khas on 22-2-1982. On 11-3-1982, Sub-Inspector Davinder Singh was summoned to prepare the site plan. At the pointing out of Kamla, the site plan Ex. PW-17/A was prepared and handed over to the S.H.O. On 2-4-1982, Inspector Vidya Sagar took over the charge of Police Station Hauz Khas from S.H.O. Jagdish Singh. After receipt of the report from the office of the C.F.S.L. and the photographs from the office of C.R.O., Vidya Sagar completed the investigation and submitted the challan.

(5) The accused was charged to stand trial for the offences punishable under Sections 452, 354 and 302 of the Indian Penal Code by the learned Addl. Sessions Judge. He pleaded not guilty and claimed trial. The prosecution in support of its case produced as many as 21 witnesses out of which PW-1 Smt. Kamla, mother of the deceased and Public Witness -2 Chiranji Lal, maternal uncle of the deceased are witnesses who immediately after the occurrence extinguished the fire and removed her to the hospital. Public Witness -9 Ram Kishan and Public Witness -15, Shri S.M. Chopra, M.M., New Delhi, deposed about the recording of the dying declarations of Smt. Kela. The other witnesses are of formal nature.

(6) The accused in his statement under Section 313 Criminal Procedure Code . took the stand that 4-5 days before the occurrence, he had an altercation with Smt. Kela, who was living with her mother. Smt. Kela was not happy with her in-laws and refused to go back on one pretext or the other. The accused further stated that he had illicit relations with Smt. Kela who used to insist that he (accused) should leave his wife and marry her. This proposal was not acceptable to him. Two or three days before the occurrence, Smt. Kela threatened that in case he did not leave his wife, she would implicate him in a case of murder. On the day of the occurrence, according to him, he went to attend his duty at about 10.30 A.M. and returned from there at about 5.30 P.M. He showed his ignorance as to the incident and stated that he has been falsely implicated by the Police. He, however, did not produce any witness in his defense.

(7) The learned lower court mainly relied upon the dying declarations which were recorded by A.S.I. Ram Kishan and Shri S.M. Chopra, M.M., New Delhi. Support was also sought from the endorsement of the doctor Shri R.K. Sharma, on the M.L.C. at the time of admission of Smt. Kela at the Safdarjung Hospital, to the effect that Radhey Shyam poured kerosene oil and set her on fire, and the surrounding circumstances, to base the conviction of the accused under Section 452 and 302 Indian Penal Code He was sentenced to life imprisonment under Section 302 Indian Penal Code and 2 years R.I. under Section 452 Indian Penal Code The sentences were, however, directed to run concurrently. It is against this order of conviction and sentence that the accused has preferred to file the present appeal.

(8) The submission of the learned counsel for the appellant is that the so-called dying declarations alleged to have been recorded by A.S.I. Ram Kishan (Ex. Public Witness -9/B) and Shri S.M. Chopra, Metropolitan Magistrate (PW-15/A) cannot be relied upon as Smt. Kela was not in a position to make any statement. According to him, as per the endorsement of R.K. Sharma on the M.L.C., Ex. Public Witness -10/A, the patient had about 100 per cent burns which were mainly deep but partly superficial involving head and neck, both the surfaces of trunk, both the upper and lower limbs. Learned counsel also relied upon the observation of Public Witness -16, Dr. Chander Kant under whose supervision the post-mortem on the dead body of Kela Kumari was conducted by Dr. S.K. Khanna, Senior Resident, Department of Forensic Medicines A.I.1.M.S. who opined that the deceased had about 90 per cent of deep and superficial burns all over the body except the lower part of the abdomen area. In such a condition, it is urged that there was no possibility of the deceased making a coherent statement either immediately at the time of the admission in the hospital or later during the day. According to the counsel) her statements are neither in the question and answer form nor are preceded by an endorsement by the doctor that she is fit to make a statement. The learned lower court thus relied upon an inadmissible piece of evidence to base the conviction.

(9) Learned counsel for the State on the other hand mainly relies upon the consistency in the statement of Smt. Kela before her mother and uncle- Chiranji Lal, while she was being taken to the hospital, before the doctor who prepared the M.L.C., before A.S.I. Ram Kishan and lastly before the learned Metropolitan Magistrate, wherein she named the accused as the person responsible for pouring kerosene oil and setting her on fire. The detailed circumstances leading to the incident according to the learned counsel are incorporated in the statement recorded by A.S.I. Ram Kishan after the doctor declared her fit to make the statement. During all this period, Smt. Kela, though in agony of physical pain was conscious and coherent to give the correct version of the incident and the name of the person responsible for it. The learned lower court, according to him, was justified in placing full reliance on the dying declarations and rightly convicted and sentenced the accused.

(10) We have given our careful thought to the rival contentions of the parties in the light of the legal position. We are of the opinion that there is no merit in any of the contentions raised by the learned counsel for the appellant.

(11) Although the statement of Smt. Kela Ex. Public Witness -9/B recorded by A.S.T. Ram Kishan is the third in the series of her dying declarations, but it gives the minute details leading to the circumstances of her being put on fire by Radhey Shyam accused. It says :

'THAT she was living with her parents at House No. 405, Chirag Delhi, that she was married to Ramesh Chand of Dakshinpuri, that on 1-2-82, she was all alone in the house, that her mother had gone to see off her sister at the bus stand, that her father was away to his place of work, that at about 2.00 or 2.15 P.M., Radhey Shyam came to the house, that 3-4 days before that day, there was a quarrel with Radhey Shyam on account of her molestation by Radhey Shyam, that a day before she had spit on seeing Radhey Shyam, that Radhey Shyam came and asked her as to why she had spit a day before, that she told him that she could do anything she liked, that on hearing this, Radhey Shyam gave her a slap, that in retaliation she also slapped him, that thereupon Radhey Shyam touched her breasts and wanted to forcibly molest her, that she started running and thereupon Radhey Shyam sprinkled kerosene oil on her and set her on fire, that she started raising alarm and just by that time her mother came and extinguished the fire, that Radhey Shyam after putting her on fire ran away, that the neighbours, including her maternal uncle Chiranji came there, that when Radhey Shyam came to the house, she was knitting the sweater while lying in a quilt, that she was immediately removed to the hospital by her mother, that Radhey Shyam had brought the kerosene oil with him.'

(12) This statement bears the signature of Smt Kela and attested by A.S.I. Ram Kishan.

(13) After the registration of the case Ram Kishan approached the learned Metropolitan Magistrate at his residence and requested him to record the statement of Smt. Kela, who was admitted in the Safdarjung Hospital with 100 per cent burn injuries. When Shri S.M. Chopra, M.M. reached the hospital, he found

Kela conscious. Before recording her statement, Shri Chopra noted, 'I have told her that I am a Magistrate. She appears to be almost not in senses but responds now.' Thereafter he proceeded to record her statement on oath. In this statement Smt. Kela named Radhey Shyam, son of her (Tau) father's elder brother trying to molest her and on resistance setting her on fire, after pouring kerosene oil. This statement was completed at 8.00 P.M. It also bears the signature of Smt. Kela. It was recorded in the presence of Dr. R.K.Sharma, under whose treatment she was being treated.

(14) Before dealing with the submissions of the learned counsel for the appellant, it will be relevant to keep in mind the other two dying declarations on which the prosecution places reliance. The first in point of time is when Smt. Kela was 'being' brought to the hospital in a taxi, by her mother and uncle Chiranji Lal. On being questioned, her mother Smt. Kamla stated as under:

'QUES. Did you ask anything from Kela on way to the hospital? Ans. I enquired from Kela as to how it had happened and she replied that Radhey Shyam had burned her by putting kerosene oil on her. She did not tell me as to why Radhey Shyam had burned her. Almost similar is the statement of Chiranji Lal on this aspect. The exact words are: 'ON the way to the hospital, we 'ladki ko samjhaya ki aisa kaon'. She told us that Radhey Shyam came and tried to molest her but as he could not do so he burned her and ran away.'

(15) The second is when she was brought to the hospital. At the time of her admission, the endorsement of Dr. R.K.Sharma on the M.L.C- reads as under:

'INFORMANT-PATIENT herself. According to the patient's statement, Radhey Shyam entered in the house of the patient in the afternoon of 1st February, 1982 and tried to press her breast. Patient resisted it. In return, Radhey Shyam poured kerosene oil over the patient and set her on fire.'

(16) The doctor described the general condition of the patient as very critical. He further mentioned that 'the patient is fully conscious and coherent but is in the agony of pain'. Her blood pressure was not recordable but on local examination, the doctor found that there were about 100 per cent burns mainly deep and

partially superficial on head and neck, both the surfaces of trunk, both upper limbs and both the lower limbs.

(17) The question that now requires going into is as to whether Smt. Kela was in a position to make these statements and as to whether these statements can be relied upon.

(18) According to the endorsement of Dr. R.K. Sharma on the M.L.C. Ex. Public Witness -IO/A, Smt. Kela had about 100 per cent burns which were mainly deep but partially superficial involving head and neck, both the surfaces of trunk, both the upper and lower limbs. In the opinion of the post-mortem doctor, the deceased had 90 per cent of deep and superficial burns all over the body. In order to determine the degree of damage caused to the body from extensive burns, one has to apply the 'rule of nine', which is a rough estimate of the area of burns. The head and each arm arc allotted 9 percent of the body surface. 18 per cent each for the front and back of the trunk, and 9 per cent each for the front or back of each leg. Using this rough estimate, burns totalling 30 per cent or more of the surface area are associated with a very poor prognosis, especially in old people.

(19) Taylor in his book 'Principles and Practice of Medical Jurisprudence' (13th Edition, page 250) lays down that, for purposes of description, burns can be classified according to the depth of involvement of the tissues, and measured by the amount of body surface affected, according to the normal clinical methods. The classification of Dupuytren in six degrees allows great precision, but in practice, is too detailed.

1st degree = reddening of skin 2nd degree = blistering 3rd degree = skin partly destroyed 4th degree = skin completely destroyed 5th degree = subcutaneous tissues burnt 6th degree = muscle and bone charred

For normal descriptive purposes, certainly as far as autopsy is concerned, a classification into three degrees is sufficient :-

1st degree = reddening and blistering of skin only. 2nd degree = charring and destruction of the full thickness of the skin 3rd degree = charring of tissues

beneath the skin e.g. fat, muscles and bone.

On this aspect, the observations of Dr. Bernard Knight, in 'Medical Jurisprudence and Toxicology' read as under :-

'EVEN in bodies which have very severe external charring, the internal organs may be in relatively good condition, as the tissues of the body are poor heat conductors. Occasionally, complete incineration may occur but this is exceptional and the interior of the body should not be disregarded merely because there is very severe external damage. Sometimes, tissues such as brain, liver, lung, etc. may be cooked in that they are hardened and are discoloured in a manner similar to the culinary cooking of meat but this does not necessarily totally obscure the morphologic appearances on examination by the pathologists.'

(20) In this background, we have to examine the medical evidence and to find out, if Smt. Kela was conscious enough to make a statement. Even though in the opinion of Dr. Chander Kant, the deceased had about 90% deep and superficial burns present all over the body except lower part of the abdominal area, but unfortunately he has not classified the degree of damage caused to her, on a particular part of the body. We are not sure as to on which part of the body of the deceased, there were deep or superficial burns. But it is apparent that even in the case of 90 per cent burns if not on so vital part of the body, the deceased could be in senses and respond to questions and make a statement, and this is exactly what happened in this case.

(21) Now we propose to deal with the different statements made before different persons by Smt. Kela, from the time of the incident till her death. The first in the series is her statement which she made before her mother and uncle Chiranji Lal while being taken to the hospital. She named Radhey Shyam as the person responsible for putting her on fire. This statement is a spontaneous one and cannot be lightly brushed aside. Radhey Shyam admittedly was her uncle's (Tau's) son i.e. her first cousin. She would not normally name a person who is so closely related unless and until he is concerned in the incident. Similarly, there was no occasion for Public Witness -1, Smt. Kamla and her brother, Public Witness -2 Shri Chiranji Lal to falsely involve the son of their brother-in-law. We rely on their

statements.

(22) At the time of the admission of Smt. Kela, at the Safdarjung hospital, she was examined by Dr. R.K.Sharma. In the normal course, he asked for the cause of the burns from the patient. In the M.L.C., Dr. Shanna made the following endorsement :-

'INFORMANT:Patient herself. According to the patient's statement, Radhey Shyam entered in the house of the patient in the afternoon of 1st February, 1982 and tried to press her breasts. Patient resisted it. In return, Radhey Shyam poured kerosene oil over the patient and set her on fire.'

(23) From the general condition, the doctor found her fully conscious and coherent, but in the agony of pain. From the M.L.C., it appears that the patient was in a fit state of mind to make the statement to the doctor about the cause of her burns. Even though Dr. Sharma has not been- examined as by that time he had left the services of the hospital and his whereabouts were not known, but the fact remains that the endorsement of the doctor cannot be ignored. His report has been proved by Public Witness -10, Kamla Mahtu, to be in the handwriting of the concerned doctor. This report is- admissible in evidence. The doctor was not known either to the patient or the person who got her admitted or Radhey Shyam responsible for this burning. There was no occasion for him to have incorporated a wrong version of the patient This statement of Smt. Kela came to be recorded almost immediately after the incident and by that time, there was no occasion for anybody to tutor her to falsely implicate Radhey Shyam. This very statement can conveniently be relied upon as a dying declaration.

(24) Next comes the statement before A.S.I. Ram Kishan. As observed earlier, this statement is quite a detailed one and was recorded at 5.10 P.M. only after Dr. Akhil Saxena described the condition of the patient as coherent and conscious to give the statement. Shri Ram Kishan took precautions to get the signature of Smt. Kela Kumari on this statement which later on formed the basis of the recording of the First Information Report. These minute details could only come from the person who is conscious enough, and fully aware of the same. None else than Smt. Kela could tell the true version. There is no reason to disbelieve the A.S.I,

who recorded the correct statement, and we fully rely on the same.

(25) Apprehending that the condition of the patient may further deteriorate, A.S.I. Ram Kishan approached and requested the learned Metropolitan Magistrate to record the statement of Smt. Kela lying in a precarious condition in the hospital. Before Shri S.M.Chopra sat down to Record the statement of Smt. Kela, he required Dr. R.K. Sharma to remain present. He also took the precaution to appraise the deceased that her statement was being recorded by a Magistrate. Before proceeding further, Shri Chopra made the endorsement that the patient has started responding to his questions. Thereafter, he recorded her statement and obtained her signature. This statement is practically to the same effect as was recorded by the Investigating Officer. Dr. Sharma had also put his signature, thereby certifying that Smt. Kela was in senses and had made the above statement 13 crore the Magistrate. A written record of a dying declaration, not taken down in the presence of the accused, is admissible when it is proved by a witness that the statements contained therein were recorded by a Magistrate and read over to the deceased who admitted their correctness by appending the signatures. The fact remains that this statement was recorded by a Metropolitan Magistrate who cannot be considered to be interested either in the prosecution or in the defense. He is the most impartial witness and certainly a reliable and responsible one.

(26) A dying declaration is the statement made by a person as to the cause of his death or as to any of the circumstances or the transaction which resulted in his death. Dying declarations are made under a sense of impending death concerning circumstances with regard to which the deceased is not likely to be mistaken. When only one person is pointed out, as in the present case, by the dying person, to have caused the death, the statement will ordinarily be entitled to great weight unless of course, there are circumstances to cause doubt on the same. It cannot be laid down as an absolute rule of law that a dying declaration cannot form the sole basis of conviction unless it is corroborated but the court must be satisfied that the declaration is a truthful one.

(27) In order to test the reliability of a dying declaration, the court must keep in view the circumstances like the opportunity of the dying man for observation, for example, whether there was sufficient light if the crime was committed at night ; whether the capacity of the man to remember the facts stated had not been impaired at the time he was making the statement, by circumstances beyond his control ; whether the statement has been consistent throughout if he/she had several opportunities of making a dying declaration apart from the official record of it ; and whether the statement has been made at the earliest opportunity and was not the result of tutoring by interested parties. Normally, the dying declaration which has been recorded by a competent Magistrate in a proper manner, that is to say, in the form of questions and answers and, as far as practicable, in the words of the maker of the declaration, stands on a much higher footing, than a dying declaration which depends upon oral testimony which may suffer from all the infirmities of human memory and human character. Where, however, the court is entirely satisfied with regard to the truth and genuineness of an uncorroborated dying declaration, there is nothing to prevent it from regarding such a dying declaration as sufficient to base the conviction.

(28) All the above said tests have been found to be fully satisfied in the present case. Each and every statement of Smt. Kela before different persons at different point of time is quite a consistent one, pointing an accusing finger towards the accused. We do not find any inherent weakness in any of the dying declarations as a piece of evidence and we are entirely .satisfied with regard to the truth and genuineness of the uncorroborated, if at all it can be said so, dying declaration. On that score alone, the conviction of the accused can be maintained.

(29) Even otherwise, the surrounding circumstances do lend full support to the prosecution version as disclosed in the statement of the deceased.

(30) The accused in his statement under Section 313 Criminal Procedure Code . has taken up the plea of alibi. His case is that on 1-2-1982, he went to attend to his duties at about 10.00 or 10.30 A.M. and returned from there at about 5.30 P.M. At that time, the Police came and took him to the Police Station where he was given harsh beating and ultimately sent to the lock-up. His further stand is that

while in the lock-up, his signatures were obtained on a number of blank papers. He also expressed his willingness to produce the defense in support of this plea. But, during the course of the trial, he has not produced any witness in his defense meaning thereby that his plea of alibi could not be established by him.

(31) A person accused of a crime is under no obligation to offer any Explanationn of his conduct or of any circumstances which direct suspicion towards him. He may, if he chooses, meet the charge in any other way he thinks fit. But the burden of proving alibi undoubtedly lies on the accused setting up this defense. Whenever this defense is set up and that defense utterly breaks down, it is a strong inference that if the accused was not in fact where he says he was, then, in all probability, he was where the prosecution says he was. In this case, this has, in fact, happened. We thus, reject this plea of alibi.

(32) Learned counsel for the appellant pointed out that the room of Kela was on the first floor of house No. 405, Chirag Delhi while on the ground floor, there are rooms of other tenants. His submission is that the prosecution has not produced any witness who had seen the accused going to the first floor and after the alleged incident, coming downstairs. We are not impressed by this argument. It has come in the evidence that there is only one room on the first floor where Kela Along with her mother was living. The roof of the said house is accessible from the adjoining roof. If the accused had come from the adjoining roof and after setting her on fire, ran away from that very route, then possibly, there was no occasion for any person living downstairs to see him coming and going.

(33) There is another important circumstance in this case which conclusively establishes the involvement of the accused. When Smt.Kamla, the mother of the deceased went to see off Smt. Shakuntia, Smt. Kela was alone in the house. At that time, there was no question of bolting the door from outside as Smt, Kela, a grown-up married daughter was inside. Smt. Kela could not of her own bolt the door from outside nor she would like to bolt the door from inside as she was not apprehending any danger. When Smt. Kamla returned after seeing off her sister, she found the door of the room bolted from outside. The presumption is that some third person bolted the door from outside. The surrounding circumstances are

suggestive of the fact that this was only the accused who bolted the door from outside after setting Smt. Kela on fire and escaped through the adjoining roof. This circumstance has not been challenged in the cross-examination of the prosecution witnesses.

(34) The next submission of the learned counsel that possibly Kela was not happy with her marriage and committed suicide due to frustration in love, has no force. Ramesh Chand, the husband of Smt. Kela has come in the witness box to state that the relations between him and his wife were very cordial. The plea of the accused that although a cousin of second or third degree, yet he was having extra-marital relations may or may not be true but that, by itself, will not be the cause for committing suicide. Frustration in love, if any, could arise initially when the accused was married and also had children from his wife. The second stage of frustration could come when Kela was married against the wishes of accused, which is not the case here. She would not commit suicide after 8 or 10 months of her marriage, particularly, when she was having cordial relations with her husband. It also cannot be visualised 'that Smt. Kela would ask Radhey Shyam to leave his wife and children so that they could remarry. This plea to remarry is quite unnatural and has to be brushed aside.

(35) In the result, we do not find any substance in the appeal and the same is hereby dismissed.