

**Anil Kumar Vs. State of U.P.**

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**SooperKanoon Citation :** [sooperkanoon.com/848115](http://sooperkanoon.com/848115)

**Court :** Allahabad

**Decided On :** Mar-26-2010

**Judge :** Poonam Srivastav and; S.C. Agarwal, JJ.

**Appellant :** Anil Kumar

**Respondent :** State of U.P.

**Advocate for Pet/Ap. :** Sri. Vivek Yadav

**Disposition :** Appeal allowed

**Judgement :**

**S.C. Agarwal, J.**

1. This criminal appeal has been filed against the judgment and order dated 3rd July, 2006 passed by Additional Sessions Judge, Fast Track Court No. 5, Gautam Budh Nagar in Sessions Trial No. 45 of 2003, whereby the appellant Anil Kumar was convicted under Section 302 I.P.C. and sentenced to undergo imprisonment for life along with fine of Rs. 5000/-, in default of payment of fine to undergo further simple imprisonment for six months.

2. The incident took place on 20.10.2002 at about 7:00 p.m. in Azad Vihar Khoda Colony, P.S. Sector 58, NOIDA, District Gautam Budh Nagar. The F.I.R. exhibit Ka-1 was lodged by the complainant Roop Chand (P.W. 1) on the same day at

P.S. Sector 58, NOIDA at 21:10 hours. Distance of police station from the place of occurrence is 3 kilometers.

3. The prosecution story, as unfolded in the F.I.R., is that the deceased Renu, the sister of complainant Roop Chand, was married with the appellant Anil Kumar about 6 1/2 years ago. After marriage, Anil Kumar used to harass Renu on account of demand of dowry. On 20.10.2002 at 7:00 p.m., a neighbour of the appellant informed the complainant by telephone that Anil Kumar had beaten Renu and murdered her by pouring kerosene oil on her and setting her afire. The complainant and his family members reached the house of the appellant and found dead body of Renu lying in the kitchen.

4. On the basis of written report exhibit ka-1, case crime No. 574 of 2002 under Sections 304-B, 498-A I.P.C. and 3/4 Dowry Prohibition Act was registered against the appellant by Constable Clerk Yadram Singh (P.W.8)

5. On 21.10.2002 Satya Prakash Sharma, Naib Tehsildar, Sadar, Ghaziabad (P.W.7) conducted inquest proceedings on the dead body of the deceased Smt. Renu. He prepared inquest memo exhibit ka-5 and other necessary papers, sealed the dead body and sent it for autopsy through Constables Sarvesh Kumar and Faujdar Singh.

6. Sri Ram Badan Singh, C.O. City - I, NOIDA (P.W.6) commenced the investigation on 22.10.2002. He arrested the accused, recorded the statements of the witnesses and found that more than 7 years had elapsed since the marriage of the deceased and, therefore, the case was converted under Sections 302, 120-B I.P.C. and thereafter on 17.4.2003 the investigation was handed over to S.O., P.S. Sector 58, NOIDA Sri Santosh Kumar (P.W.5), who after completing the investigation, submitted charge-sheet exhibit ka4 against Anil Kumar and charge-sheet exhibit ka-8 against his mother Kiran Devi under Sections 302, 120-B I.P.C.

7. Autopsy on the dead body of Smt. Renu was performed on 22.10.2002 at 3:00 p.m. by Dr. A. Mishra (P.W.4) of District Hospital, Ghaziabad. The deceased was about 25 years of age. Death was caused about 2 days before the postmortem examination. Rigor mortis was present in lower limb only. There were superficial to

deep burn all over the body except both feet in 90% area. On internal examination, 100 ml. semi digestive food was found in the stomach.

8. In the opinion of the doctor, the death was caused on account of shock and haemorrhage due to superficial to deep burn over 90% area of the body. Postmortem report is exhibit ka-3. The death of Smt. Renu could have been caused on 20.10.2002 at 7:00 p.m.

9. Learned Sessions Judge framed charge under Section 302 I.P.C. against the appellant and charge under Section 302/34 and 120-B I.P.C. was framed against co-accused Kiran Devi. Both the accused denied the charge and claimed to be tried.

10. The prosecution examined eight witnesses in this case. Roop Chand (P.W. 1), Praveen (P.W.3) are the brothers and Smt. Shakuntala (P.W.2) is the mother of the deceased. They are not eyewitnesses, but gave evidence regarding demand of dowry and harassment of the deceased by the appellant. Dr. A.K. Mishra (P.W.4) had conducted the postmortem examination on the dead body of the deceased. Ram Badan Singh (P.W.6) and Santosh Kumar (P.W.5) are the investigating officers. Satya Prakash Sharma (P.W.7) had conducted the inquest proceedings. Yadram Singh (P.W.8) is the scribe of chik report exhibit ka-6 and G.D. Entry No. 49 of 21:10 hours on 20.10.2002 (copy exhibit ka-7).

11. The appellant, in his statement recorded under Section 313 Cr.P.C. denied the prosecution allegations and stated that on the fateful day, his wife was cooking food in the kitchen and he was helping the children in their homework. He heard the cries of Renu and rushed to the kitchen. He found his wife engulfed in flames. He tried to put out the fire and his hands were also burnt. Unfortunately he could not save his wife. He informed his in-laws about the incident, who caught him and took him to the police station where he was detained for two days and in the meantime the family members of his wife took away all the household goods. However, no oral evidence was adduced in defence on behalf of the appellant.

12. Relying upon the prosecution version and the evidence adduced on behalf of the prosecution, learned trial court convicted and sentenced the appellant as

aforesaid. However, the co-accused Kiran Devi was acquitted.

13. We have heard Ms. Ruchi Munjal and Sri Vivek Yadav, learned Counsel for the appellant, learned A.G.A. for the State and perused the record.

14. Learned Counsel for the appellant submitted that the case is based on circumstantial evidence and the chain of circumstances is not complete. The F.I.R. was manipulated and investigation was tainted. The marriage of the deceased took place more than seven years ago. There is no evidence of demand of dowry or harassment of the deceased by the appellant. The recovery of kerosene oil in the kitchen is planted one. No traces of kerosene oil were found on the floor or walls of the kitchen. Inquest witnesses have not been examined. The neighbour of the complainant, who informed the family of the complainant regarding the incident, was not examined and on the other hand it was the appellant himself who had informed the complainant party about death of his wife. It was further submitted that the appellant had tried to save his wife, who was aflame and in the process, the hands of the appellant also got burnt and this circumstance was completely overlooked by the trial court.

15. Per contra, learned A.G.A. vehemently supported the trial court judgment and submitted that the deceased died in the house of the appellant and the appellant was present at the time of incident and the burden lies heavily on the appellant to show under what circumstances the deceased got burnt.

16. In this case there is no direct evidence to connect the appellant with the murder of his wife. The prosecution case is entirely based on circumstantial evidence. We have to keep in mind that in a case based on circumstantial evidence, it is essential that the chain of circumstances must be complete, each circumstance must be fully proved by reliable evidence and must point towards the guilt of the accused, and the cumulative effect of all incriminating circumstances taken together must be to exclude any possibility of the crime being committed by anyone else except the accused.

17. Learned trial court has passed the judgment of conviction on the basis of following incriminating circumstances:

- (1) Since marriage, appellant used to harass his wife Renu for bringing money from her parents.
- (2) Appellant used to beat Smt. Renu.
- (3) Half the money for purchasing the house was paid to appellant by his in-laws.
- (4) After sometime Anil Kumar again beat Renu.
- (5) A Panchayat took place between the family members of the complainant, phoofa and brother-in-law of the appellant wherein it was decided that in future appellant would not beat or harass Smt. Renu.
- (6) On 20.12.2002 at 7:00 p.m. one Mr. Chauhan, the neighbour of the deceased informed the family members of the deceased about the incident.
- (7) The complainant and his family members reached the place of occurrence and found Smt. Renu dead in burnt condition with a gag in her mouth.
- (8) A can containing some kerosene oil was found at the spot.
- (9) Appellant admitted his presence in the house at the time of incident in his statement recorded under Section 313 Cr.P.C.
- (10) Hands of appellant were burnt.
- (11) Appellant absconded when the complainant and his family members reached the spot.
- (12) Though the appellant stated in his statement recorded under Section 313 Cr.P.C. that he tried to save his wife, he did not raise any alarm nor did he inform any neighbour, doctor, police or his in-laws.
- (13) As per inquest report, there was odour of kerosene oil coming from the dead body.
- (14) Prompt F.I.R.

(15) Medical evidence supports the prosecution case.

18. We propose to examine each and every circumstances relied upon by the learned trial court in the light of submissions advanced by learned Counsel for the appellant, learned A.G.A. and the evidence available on record.

Circumstances No. 1 to 5

19. All these circumstances are interconnected and can be taken up together. The crux is whether the deceased was being harassed or beaten by the appellant on account of demand of dowry and whether any amount was paid to him by the complainant side.

20. Roop Chand (P.W.1) has deposed that when the appellant came to Delhi for service, he asked for a house. A house was purchased in Khoda Colony. Half of the money was paid by the complainant side and the remaining half of the money was paid by phoofa of the appellant. His sister was harassed by the appellant on account of demand of money and was beaten by the appellant. In cross-examination, Roop Chand admitted that the deceased gave birth to three children. The youngest child was eleven months old at the time of death of Smt. Renu. He admitted that till the three children were born, no demand of dowry was made by the appellant. This statement of the witness clearly indicates that for about six years the appellant did not make any demand of dowry. He was married with Renu more than seven years ago and till the birth of 11 months old youngest child, no demand of dowry was ever made. It does not stand to reason that a demand for dowry will be made after more than six years of marriage and birth of three children.

21. Mother of the deceased Smt. Shakuntala (P.W.2) stated that she gave money to her daughter 3 - 4 times, but accused was not satisfied. In cross-examination she stated that when the accused purchased the house, she paid him Rs. 25000/-. She did not say that this amount of Rs. 25000/- was demanded by the appellant. Praveen (P.W.3) is also the brother of the deceased, who deposed that Anil used to beat his sister for money. His mother had paid half of the money to the appellant to purchase the house without his consent. Even then, the appellant used to beat

his sister. On one occasion, when he went to his sister's house, he found her beaten by Anil. He asked her to come to his house, but she declined. After few days Renu was again beaten by Anil and she came to her mother's house. Thereafter a Panchayat was held. Phoofoa and brother-in-law of Anil promised that Anil would not beat his wife in future. In cross-examination, Praveen (P.W.3) admits that he does not know the price of the house purchased by the appellant. His mother paid the appellant without informing him. The money was not paid in his presence. After death of Renu, his mother told him that she had paid money to Anil for purchasing the house. He himself never paid any money to Renu nor Renu was beaten by Anil in his presence. When he brought Renu to his house in injured condition, she was treated domestically and no F.I.R. was lodged. This witness has made a very significant admission in the cross-examination that after marriage, Renu was made to pick cow dung in her sasural in the village and he and his family members wanted her to live in Delhi city. Accused Anil also agreed with the same and started residing at Khoda colony.

22. From the above statement it is amply clear that money for purchasing the house was never demanded by Anil from the complainant or his family members, but on the other hand family of the complainant wished that Renu should not live in the village, but should live at Delhi and, therefore, half the price of the house was paid by Smt. Shakuntala (P.W.2) to the appellant for purchasing the house. This fact can not be treated to be a demand of dowry. The complainant side paid the money for purchasing the house, as they did not like Renu living in the village, but wanted her to settle in the city of Delhi.

23. Learned Counsel for the appellant has drawn our attention to the statement of P.W. 1 that sometime Rs. 5000/- or sometime Rs. 10,000/- were paid to the appellant, as he used to demand dowry from the deceased. No details of alleged payments nor the dates on which the demands were made or payments were made have been disclosed. No F.I.R. was lodged by the complainant or his family members ever against the appellant in this regard. In these circumstances, we are unable to accept the prosecution case that Renu was being harassed by the appellant on account of demand of dowry.

24. Regarding beating by the appellant, Praveen (P.W.3) admitted that on one occasion he found contusions on the body of Renu, but she was not medically examined by any doctor nor any F.I.R. was lodged. No such incident is mentioned in the F.I.R. nor any of the witnesses stated this fact in their statement recorded under Section 161 Cr.P.C. In these circumstances, we are not inclined to rely on this fact which prima facie appears for the first time in the statement of witnesses in Court, which is apparently an afterthought.

25. We are also unable to rely upon the evidence regarding holding of Panchayat, as this fact was also not mentioned in the F.I.R. and the witnesses did not state this fact before the investigating officer at the time of recording their statements under Section 161 Cr.P.C. The investigating officer Ram Badan Singh (P.W.6) has clearly stated that fact about Panchayat at the house of Nanak Chand was not disclosed to him by Smt. Shakuntala Devi or Praveen. Therefore, evidence in this respect can not be relied upon.

26. In the case of Ashok Vishnu Davare v. State of Maharashtra 2004 Crim 300, Apex Court has held that if there are general allegations of demand of money and payment of the same by the family of the victim, conviction on such general allegations can not be sustained and where there are improvements in the statements to the police, but no such allegations were made in the complaint or F.I.R., it is not safe to rely on the same.

27. In the instant case, only general allegations regarding demand of dowry by the appellant and beating of his wife on this account were made. No specific details were given. No F.I.R. was ever lodged in respect of demand of dowry nor Renu was ever subjected to medical examination after alleged beating. In these circumstances, it is not safe to rely upon the prosecution case in this regard. Similarly, factum of alleged Panchayat is also not proved. The money paid for purchasing the house at Delhi was not demanded by the appellant, but was paid simply to enable the appellant to purchase the house at Delhi so that Renu may not have to live in the village, but may live in the city. Praveen (P.W.3) admitted that the appellant agreed to this suggestion that his wife should live at Delhi. Therefore, it is obvious that the idea of living at Delhi and purchasing the house at

Delhi came from the complainant side and the appellant never demanded money for the same.

28. In view of the above, we find that circumstances No. 1, 2, 3, 4 & 5, relied upon by the trial court, have not been proved against the appellant by cogent and reliable evidence and no reliance can be placed on the same.

#### Circumstance No. 6

29. Learned trial court has found that information regarding killing of Smt. Renu was given to the complainant by one Mr. Chauhan, the neighbour of the appellant. Learned Counsel for the appellant has assailed the findings of the trial court on this point on the ground that Mr. Chauhan has not been examined in evidence on behalf of the prosecution. The statements of P.W. 1, P.W.2 and P.W.3 have been placed before us. All the three witnesses stated in their examination-in-chief that some neighbour of the deceased had given them information regarding death of the deceased, but none of them named the neighbour. Only in cross-examination Roop Chand (P.W. 1) stated that one Mr. Chauhan resides in front of the house of Renu and Mr. Chauhan had telephoned them. P.W.1 did not have a telephone at his house and the telephone was received at the house of his neighbour Santosh. There is no evidence to show which of the witnesses received the telephone call. Mr. Chauhan has not been examined by the prosecution to show that he informed the family of the complainant regarding murder of Renu by the appellant. Mr. Chauhan was not even interrogated by the investigating officer nor his name finds place in the list of witnesses in the charge-sheet. It is thus very difficult for us to believe that the complainant was informed about the death of her sister by Mr. Chauhan. On the other hand, the appellant in his statement recorded under Section 313 Cr.P.C. has categorically stated that he himself informed his in-laws about the incident. Since Mr. Chauhan has not been examined in the evidence and there is no evidence to suggest as to which witness received the telephone call, the possibility that the information was given to the witnesses by telephone by appellant himself can not be ruled out. Non-examination of Mr. Chauhan is fatal to the prosecution case.

#### Circumstance No. 7

30. The fact that when the complainant and his family members reached the place of occurrence, they found Smt. Renu dead in burnt condition in the kitchen is not disputed. Learned trial court came to the conclusion that a cloth was found stuffed in her mouth. This finding has been very seriously challenged before us. Learned Counsel for the appellant submitted that this fact was not mentioned in the F.I.R. or the statements of the witnesses recorded by the investigating officer. Even Roop Chand (P.W.1) did not say anything about this fact. For the first time Shakuntala (P.W.2) stated in cross-examination that a cloth was stuffed in the mouth of the deceased. She, however, admitted that aforesaid cloth was taken out of the mouth of the deceased by his son before the inquest. She further stated that this fact was disclosed by her to the investigating officer, but the investigating officer Ram Badan Singh (P.W.6) denied it. Praveen (P.W.3) also stated that there was a cloth in the mouth of Renu. In cross-examination, he admitted that he had taken photographs of the dead body, but in none of the photographs, the cloth was in the mouth of his sister. Even at the time of inquest, no such cloth was found in the mouth of the deceased. Considering all these facts, we have come to the conclusion that the story of a cloth being found stuffed in the mouth of the deceased is simply a figment of imagination of P.W.2 and P.W.3, which can not be relied upon.

#### Circumstance No. 8

31. Learned Counsel for the appellant disputed the recovery of kerosene oil can containing 300 ml. of kerosene oil from the kitchen on the ground that though the F.I.R. is alleged to have been lodged on 20.10.2002, but the police did not care to visit the place of occurrence till the very next day and the recovery memo exhibit ka-2 reveals that it was prepared on 21.10.2002. It was further submitted that the recovery of kerosene oil from the kitchen was a planted one and no witness of alleged recovery has been examined by the prosecution and there was sufficient time for the police and the witnesses to plant kerosene oil in the kitchen. It was also contended that even if recovery of kerosene oil kept in a can is believed, it does not amount to an incriminating circumstance, as the presence of kerosene oil in the kitchen is quite natural.

32. In the case of Gaffar Badshaha Pathan v. State of Maharashtra 2004 Scc (Cri.) 2037, accused and deceased were near relatives. The deceased died due to burn injuries and the accused was present in the house. Matchbox and kerosene tin was found on the floor of the kitchen. The Apex Court held that mere presence of matchbox and the kerosene tin in the kitchen is not a circumstance which by itself will connect the accused with the commission of crime and it was but natural that a kerosene tin with kerosene and matchbox would find place in the kitchen.

33. It is noteworthy that no traces of kerosene oil were found on the floor or the walls of the kitchen. Thus, mere recovery of a can containing 300 ml. kerosene in the kitchen can not be said to be an incriminating circumstance connecting the appellant with the crime.

#### Circumstance No. 13

34. Learned trial judge has placed reliance on the inquest report to hold that odour of kerosene oil was coming from the dead body. In our opinion, this finding is perverse. Though there is a mention in the inquest memo that odour of kerosene oil was coming from the body, but Satya Prakash Sharma, Naib Tehsildar (P.W.7), who conducted inquest proceedings and even P.W.1, P.W.2 or P.W.3 did not utter a single word in their depositions regarding odour of kerosene coming from the body. None of the witnesses of inquest has been examined by the prosecution. In these circumstances, there is no evidence on record to show that odour of kerosene oil was coming from the dead body. Even Dr. A. Mishra (P.W.4) did not say anything in this regard. There is no mention in the postmortem report exhibit ka-3 that odour of kerosene oil was found on the dead body. In these circumstances, we are unable to believe that there was any odour of kerosene oil coming from the dead body. This circumstance is not proved at all.

#### Circumstances No. 9, 10, 11 & 12

35. The appellant has admitted his presence in the house at the time of incident. Learned Counsel for the appellant asserted that there were burn injuries on the hands of the appellant, which were received when the appellant tried to save his wife. The appellant in his statement under Section 313 Cr.P.C. has categorically

stated that his wife was cooking food in the kitchen and he was helping the children in their homework. On hearing the cries of the deceased, he rushed to the kitchen and found her aflame. He tried to put out the fire and his hands were also burnt. Unfortunately he could not save his wife. Roop Chand (P.W.1) admitted in cross-examination that at the time of arrest, the hands of appellant were bandaged. Shakuntala (P.W.2) admitted in cross-examination that appellant was caught by Roop Chand (P.W. 1) on the day of incident itself and his hands were bandaged. Praveen (P.W.3) also admitted that after the incident, in the night at about 12:00 - 1:00 a.m., Anil was brought to the house by Roop Chand (P.W.1) and his hands were bandaged, but he could not say whether hands of the appellant got burnt while trying to save Renu or otherwise. Ram Badan Singh (P.W.6) also admitted in cross- examination that hands of accused Anil were burnt. It is surprising that despite burn injuries on the hands of the appellant, he was not got medically examined by the investigating officer. Learned Sessions Judge, Gautam Budh Nagar, while granting bail to the appellant, noted in the bail order that burn injuries were found on the hands of the accused. Investigating Officer has also admitted this fact. The prosecution has not been able to explain under what circumstances the appellant received burn injuries. In this view of the fact, the assertion of the appellant in his statement under Section 313 Cr.P.C. that he received burn injuries while trying to save his wife assumes importance and there is nothing on record to show that such an explanation offered by the appellant was false.

36. In the case of Gaffar Badshaha Pathan v. State of Maharashtra (supra), the Apex Court held as under: It has further been established that the hands of the accused had been burnt. In these circumstances, the presence of the accused and the burns on the hands of the accused are not necessarily compatible with the commission of offence. The probability of the accused trying to extinguish the fire can not be ruled out. The possibility of the accused reaching the bungalow and the room in question first of all in the manner stated by him in Section 313 Cr.P.C. statement is also a reasonable possibility.

37. In the instant case, it is established from the statements of P.W.1, P.W.2, P.W.3 and P.W.6 that the hands of appellant were found burnt and bandaged. The

explanation offered by the accused that he received burn injuries while trying to extinguish fire to save his wife appears reasonably possible. The possibility that the appellant received injuries while trying to save his wife can not be ruled out and can not be said to be inconsistent with his innocence.

38. Learned trial court found that soon after the incident, the appellant absconded and did not raise any alarm and did not inform any neighbour, doctor, police or his in-laws. It is submitted by learned Counsel for the appellant that the appellant never absconded. Police showed his arrest on 22.10.2002 whereas Shakuntala (P.W.2) admitted that Anil was apprehended on the day of the incident itself by Roop Chand (P.W. 1). Praveen (P.W.3) also admitted this fact that in the night at 12:00 - 1:00 a.m. Anil was caught. In the teeth of this admission by the prosecution witnesses, the police showed the arrest of the appellant on 22.10.2002 i.e. after two days, which can not be believed. It is apparent that the appellant was present in the house and he was detained by the prosecution witnesses and later on he was handed over to the police and it was the appellant, who informed the witnesses by telephone regarding incident. The appellant himself was injured and received burn injuries. The F.I.R. was lodged by Roop Chand (P.W. 1). There was no need to call the doctor, as the deceased was already dead. The appellant was in the custody of the witnesses, therefore, his not informing the doctor or the police can not be said to be unnatural.

#### Circumstance No. 14

39. The promptness of the F.I.R. has been challenged by learned Counsel for the appellant on the ground that even though the F.I.R. is alleged to have been registered on 20.10.2002 at 21:10 hours, the police did not reach the place of occurrence on that day at all. The inquest proceedings were held on 21.10.2002. Spot inspection was done and recovery memo exhibit ka-2 regarding recovery of kerosene oil was prepared on 21.10.2002 and nothing was done on 20.10.2002. The incident did not take place in a remote village area, but it took place in a high-tech city NOIDA. It is inconceivable that the police would not even care to reach the place of occurrence immediately. The inaction on the part of the police and the authorities for a considerable long time gives rise to the suspicion that F.I.R. was

not lodged at the time it is purported to be lodged.

#### Circumstance No. 15

40. It is an admitted fact that deceased died due to burn injuries, but there is no evidence on record to show that kerosene oil was poured on her by any person. Postmortem report does not indicate odour of kerosene oil coming from the body, which is wholly inconsistent with the prosecution case that kerosene oil was poured on the deceased and she was set on fire by the appellant. The possibility that the deceased caught fire while cooking food, can not be ruled out.

41. Learned A.G.A. has relied on a decision of the Apex Court in the case of Trimukh Maroti Kirkan v. State of Maharashtra 2007 (57 ACC 938) wherein the Apex Court observed -

where an accused is alleged to have committed the murder of his wife and the prosecution succeeds in leading evidence to show that shortly before the commission of crime they were seen together or the offence took place in the dwelling home where the husband also normally resided, it has been consistently held that if the accused does not offer any explanation how the wife received injuries or offers an explanation which is found to be false, it is a strong circumstance which indicates that he is responsible for commission of the crime.

42. The facts of the present case are different. Admittedly, the appellant was in the house at the time of incident, but he has offered an explanation how his wife received injuries and the said explanation can not be said to be false, but is rather supported by evidence that the hands of the appellant were also burnt while trying to extinguish fire to save his wife. Thus, this ruling is of no help to the prosecution.

### **CONCLUSION**

43. In view of foregoing discussion, we have come to the conclusion that deceased died due to burn injuries. The appellant was present in the house at the time of incident. Appellant had burn injuries on his hands, which have not been explained by the prosecution. Most likely, it was the appellant himself, who informed his in-laws about incident. Though kerosene oil was found in the kitchen,

it itself is not an incriminating circumstance. No traces of kerosene oil were found on the floor or the walls of the kitchen to show that kerosene oil was poured on the deceased before setting her aflame. The appellant received burn injuries possibly while trying to save his wife by extinguishing the fire. Demand of dowry and harassment of the deceased by the appellant after marriage is not proved at all. There is no motive for the crime.

44. In view of what has been stated above, the appellant is entitled for benefit of doubt and we hold that the prosecution has not been able to establish its case by means of reliable evidence beyond reasonable doubt. The chain of circumstances is not complete nor does it conclusively point towards the guilt of the accused. The judgment of conviction recorded by the learned Sessions Judge has no legs to stand. The judgment and order dated 3rd July, 2006 passed by Additional Sessions Judge, Fast Track Court No. 5, Gautam Budh Nagar in Sessions Trial No. 45 of 2003 is set-aside.

45. The Appeal is accordingly allowed. The appellant Anil Kumar is in jail. He shall be set at liberty forthwith unless wanted in some other case.

46. Let a copy of this judgment along with the trial court record be sent to the court concerned for compliance.