

Jaswant Singh and ors. Etc. Vs. State of H.P. and Etc.

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Court : Himachal Pradesh

Decided On : Sep-05-2005

Reported in : 2006CriLJ1609

Judge : Surjit Singh, J.

Acts : Evidence Act - Section 113B; ;[Indian Penal Code \(IPC\), 1860](#) - Sections 34, 304B, 306 and 498A; ;Code of Criminal Procedure (CrPC) - Section 209

Appeal No. : Cri. Appeal No. 177 of 2005 and Cri. Revn. No. 70 of 2005

Appellant : Jaswant Singh and ors. Etc.

Respondent : State of H.P. and Etc.

Disposition : Appeal allowed

Judgement :

Surjit Singh, J.

1. The present appeal and the revision petition are directed against the same judgment of the learned Sessions Court and are, therefore, being disposed of by a common judgment.

2. The appeal has been filed by Jaswant . Singh, husband, Kehro Devi, mother-in-law and Joginder Singh, father-in-law of deceased Suman Bala, who allegedly

died a . dowry death.

3. The revision petition is filed by Wattan Singh, the father of the deceased who lodged the FIR, challenging the absolute acquittal of respondent No. 4, namely Sanjeev Kumar, brother-in-law of the deceased and the finding that the respondents are guilty of offences, under Sections 306 and 498-A of the Indian Penal Code, instead of the offence, under Section 304-B read with Section 34 of the Indian Penal Code, with which they were charged.

4. Deceased Suman Bala was married to appellant Jaswant Singh in May, 2003. On 5-3-2004, early in the morning she was found dead in her bed-room. Appellant Kehro Devi, her mother-in-law, and respondent No. 4 Sanjeev Kumar, her brother-in-law had been with her in her bed-room on the previous night upto 9.00 p.m., when they all watched some programme on the television. Thereafter they went to their own room(s) and the deceased was left in her bedroom.

5. When the deceased was found dead on 5-3-2004, her father Wattan Singh was informed telephonically at Shimla, where he was employed in some bank. He made a telephonic call to the Station House Officer, Police Station Bangana, at 9.00 a.m. and informed him that he had received telephonic message about the death of his daughter and necessary action be initiated. An entry with respect to that telephonic call was made in the daily diary maintained at the Police Station. Wattan Singh then went to the village of the appellants and there he made a statement to the Station House Officer, who was already camping in the village. In the said statement, Wattan Singh got recorded that the marriage of the deceased had been solemnized with appellant Jaswant Singh on 11-5-2003 and that on 5-3-2004 he got the information about her death at 7.45 a.m. from Shri Gian Chand Sharma, who made a telephonic call to him. He further reported that the deceased was subjected to cruelty by her in-laws. The alleged acts of the cruelty, reported by him, were as follows:

(i) Soon after the marriage Kehro Devi (appellant), mother-in-law of the deceased, had started complaining to the people that the members of the marriage party had not been properly entertained.

(ii) Jaswant Singh, husband of the deceased, made a telephonic call to him (Wattan Singh-lodger of the report) and complained that he had not been given a golden chain nor had the deceased done B.Ed, and so on the occasion of Karwa Chauth he gave two chains worth Rs. 25.000/-, one for appellant Jaswant Singh and another for his daughter (the deceased).

(iii) Appellant Jaswant Singh used to tell the deceased almost daily that he would marry some B.Sc.. B.Ed, girl and. therefore, he (Wattan Singh), with the consent of appellant Jaswant Singh and appellant Joginder Singh, father-in-law of the deceased, arranged for the admission of the deceased for B.Ed. Course in some institution at Shrinagar and she was supposed to go to that place on 20-3-2004.

(iv) The deceased had once telephoned him (Wattan Singh -- the complainant) that her husband harassed her by saying that the status of her parents was quite low.

(v) In January, 2004 the deceased, when on a visit to his (complainant's) place at Shimla, told her mother that she had seen her mother-in-law adding something to the milk, which was served to her in a glass, but when she mixed that milk with the milk in another glass, which was meant for drinking by her husband, her husband did not drink the milk.

6. He stated that he strongly believed that Jaswant Singh, husband Joginder Singh, father-in-law, Kehro Devi, mother-in-law, and Sanjeev Kumar, brother-in-law of his daughter Suman Bala, had killed her either by pressing her neck or by poisoning. Case was formally registered on the basis of that report.

7. Before, the father of the deceased made the aforesaid statement, police reached the spot and conducted the inquest. Dead body was sent for post mortem examination only after the arrival of the parents of the deceased. No external injury was found on the dead body. On opening the thorax pleurae, larynx and trachea were found congested. Lungs were oedematous and on dissection frothy fluid appeared. Right chamber of the heart was found filled with blood On opening the abdomen, mouth larynx and oesophagus, liver, kidney were found congested. Stomach was found to contain blackish watery fluid with pungent smell. Mucosa

were found to be haemorrhaging. Small intestines were found empty and congested. Large intestine contained faecal matter. Uterus was found bulky and a cut section showed early pregnancy. Viscera was preserved and sent to the Chemical Examiner. The Chemical Examiner reported that it contained aluminium phosphide poison. On the receipt of the report, the doctor opined that the cause of death was aluminium phosphide poisoning. The probable time lag between the death and the post-mortem was opined to six to thirty-six hours.

8. During the course of the investigation, the statements of the mother of the deceased and some other witnesses, with regard to the allegations of harassment and cruelty, were recorded. Another alleged act of mal-treatment/harassment of the deceased was brought to the notice of the police during the investigation. The same was that the father-in-law of the deceased, namely appellant Joginder Singh, had demanded Rs. 60,000/- in cash from Wattan Singh, father of the deceased, for sending his another son, named Sandeep Kumar, to some foreign country, as he was employed only as a Beldar.

9. On completion of the investigation, challan was prepared and filed in the Court of the concerned Magistrate, who, after complying with the requirement of Section 209 of the Code of Criminal Procedure, committed the case to the Sessions Court. The learned Sessions Judge charged the husband, father-in-law, mother-in-law and the brother-in-law of the deceased, above-named, with offence, under Section 304-B read with Section 34 of the Indian Penal Code and on their pleading not guilty, proceeded to try them.

10. At the end of the trial, the learned trial Court concluded that there was no evidence showing that the deceased had been subjected to cruelty, soon before, her death and so this was not a case of 'dowry death', but the evidence did prove that the deceased was subjected to cruelty in the past and the cruelty was of such a nature as was likely to drive the deceased to commit suicide and that it was because of such cruelty that she took her life by consuming poison. However, it was held that only three of the four accused, namely appellants Jaswant Singh, 'Joginder Singh and Kehro Devi, the husband, the father-in-law and the mother-in-law, respectively, of the deceased had subjected her to such cruelty and

consequently the above-named appellants were convicted and sentenced for the offences, under Sections 498-A and 306 read with Section 34 of the Indian Penal Code. Fourth accused, namely Sanjeev Kumar, respondent No. 4 in the revision petition, was acquitted with the observations that there was no evidence indicating that he too had treated the deceased with cruelty or had abetted the commission of suicide by her.

11. Appellants are aggrieved by the order of their conviction for the offences under Sections 498-A and 306 of the Indian Penal Code and the consequential sentence for the aforesaid offences. According to them, the evidence on record does not prove that the deceased was ever subjected to any form of cruelty, leave alone the cruelty of such a nature as would have driven her to commit suicide. So they have assailed the finding of the trial Court holding that they treated the deceased with cruelty and abetted her to commit suicide as also their conviction and the sentence awarded for the aforesaid two offences.

12. Wattan Singh, the father of the deceased, has challenged in the revision petition, the finding of the trial Court that the charge of 'dowry death' is not made out. In the alternative, he has prayed for enhancement of punishment in respect of offence, under Section 306 of the Indian Penal Code. He has also challenged the finding of the trial Court that no case is made out against respondent Sanjeev Kumar, brother-in-law of the deceased.

13. Learned Counsel for the appellants, learned Counsel for the revision petitioner and the learned Deputy Advocate General have been heard at length. Record has also been perused. Having analyzed the evidence on record, in the light of the submissions made by the learned Counsel for the parties and the learned Deputy Advocate General, I am of the view that the case of the prosecution does not stand established, beyond reasonable doubt.

14. What is required to be seen is whether the alleged grumblings complaints and the demands of the appellants stand established and if so, whether on account of such complaints/grumblings and/or for pressurizing/forcing/coercing the deceased to meet such demands or even otherwise, she was subjected to cruelty.

15. The prosecution mainly relies upon the testimony of the father, the mother and an aunt of the deceased and the daughter-in-law of the man who acted as go-between for the matrimonial alliance of the deceased with appellant Jaswant Singh. A careful scrutiny of the testimony of the parents of the deceased shows that they have exaggerated minor bickerings and grumblings, which are usually there during the early period of arranged marriages, particularly among the rural people. The statements of the parents of the deceased are at variance, in material particulars. The parents of the deceased are also contradicted by their earlier statements. No witness from the neighbourhood of the deceased has been examined. All these flaws are being highlighted here-in-after.

16. Wattan Singh, father of the deceased in his testimony as P.W. 1, testified that when the negotiations for settlement of alliance took place, appellant Jaswant Singh and his parents, namely appellants Joginder Singh and Kehro Devi, had told that they did not require any dowry and that the deceased was acceptable to them in the clothes, she would be wearing at the time of the wedding, but soon after the marriage, appellant Kehro Devi, mother-in-law of the deceased, started propagating that the Baraties had not been looked-after well. He further stated that appellant Jaswant Singh and his family members started nagging the deceased that her parents had given third rate articles in the dowry. He further testified that in September, 2003 he received a telephonic call at Shimla from appellant Jaswant Singh that no golden chain had been given to him at the time of marriage and, therefore, he purchased two golden chains for Rs. 25,000/- one for appellant Jaswant Singh and another for the deceased, and gave the same to the appellant on the occasion of Karwa Chauth Brat and thus fulfilled their demand (for dowry). He also stated that appellant Jaswant Singh had been nagging the deceased that he wanted to marry a B.Sc., B.Ed, girl but she had not done even B.Ed. besides the fact that she was not B.Sc. He stated that in October 2003, he went to the house of the appellants and offered that he could arrange for the demand of the deceased for B.Ed. Course and that with their consent, he arranged for the admission of the deceased in a B.Ed. College at Shrinagar by spending Rs. 50,000/-. He stated that in January, 2004, the deceased, when at his place in Shimla, told her mother that her mother-in-law had added something to the milk in the mug which was offered to her and that she had mixed that milk with the milk in

the other mug, which was meant for her husband (appellant Jaswant Singh) and that her husband did not drink that milk and both the mugs were then placed in the fridge, but the next morning the mugs were not found there. He further stated that on 15-2-2004 when he took his daughter to her-in-laws place in Una District, appellant Joginder Singh, father-in-law of the deceased, demanded Rs. 60,000/- for sending his son Sandeep Kumar, who was working as a Beldar, to some middle-east country, but he expressed his inability to pay the money and told him that he had already spent Rs. 25,000/- on two golden chains and Rs. 50,000/- on arranging a seat in B.Ed. College for the deceased and that he was also supposed to bear the monthly expenses of Rs. 2500/- during the stay of his daughter in B.Ed. College in Shrinagar.

17. P.W. 2 Urmila Devi, the mother of the deceased, stated that the marriage had taken place in May, 2003 and that soon after the marriage, all the appellants started complaining that the members of the marriage party had not been properly looked after and entertained. She testified that in September, 2003, the deceased visited her at Shimla and complained that the appellants nagged her for insufficiency of dowry. She further stated that in September, 2003, when her daughter was still at Shimla with her, a telephonic call was received from appellant Jaswant Singh that he had not been given any chain at the time of marriage and so two golden chains, worth Rs. 25,000/-, one for the deceased and the other for appellant Jaswant Singh, were purchased and were given to them on the occasion of Karwa Chauth Brat. She further stated that appellant Jaswant Singh used to torture the deceased for having not done B.Ed, and, therefore, her (witness's) husband arranged for admission of the deceased in a B.Ed. College at Shrinagar by spending Rs. 50,000/-. Further, she testified that in January, 2004, when the deceased visited her again she told that she had suspected that her mother-in-law, i.e. appellant Kehro Devi, had added something to the milk in the mug which was served to her and, therefore, she mixed that milk with the milk in the mug meant for her husband and her husband refused to consume that milk. She also stated that the deceased used to complain that the appellants nagged her saying that the articles of dowry, given by her parents, were of poor quality.

18. P.W. 3 Skindra Devi, an aunt of the deceased, stated that when about two months after the marriage she went to see Suman Bala at her in-law's, place, appellant Kehro Devi, the mother-in-law of the deceased, complained that the dowry articles were of poor quality and all the appellants kept quarrelling with her. She further stated that the deceased herself was not at her in-laws, place on that day. She stated that she again went to see the deceased at her in-laws place about four months after the first visit, in the company of her husband, but the appellants did not allow her to talk to the deceased. Further, she stated that in January, 2004 the deceased visited her at her place of residence in the company of her father and told her that the appellants used to demand dowry and torture her to pressurize her to meet the demand.

19. P.W. 7 Tripta Devi, daughter-in-law of the go-between Shri Bhagat Chand, testified that no demand for dowry was made by the appellants before the marriage, but after the marriage was solemnized appellant Jaswant Singh, Joginder Singh and Kehro Devi complained to her, when she visited their house about two months after the marriage, that the members of the marriage party had not been looked-after well.

20. The testimony of P.W. 1 Wattan Singh, the father, P.W. 2 Urmila Devi, the mother and P.W. 3 Skindra Devi, the aunt of the deceased that the deceased used to be nagged, tortured, harassed and/or maltreated by the appellants for her having not done B.Ed, or the quality of dowry articles being inferior or the dowry being insufficient or to pressurize the deceased to meet the demand for golden chain for appellant Jaswant Singh or for demand of cash of Rs. 60,000/- for sending Sandeep Kumar, a brother of Jaswant Singh, to some middle-east country, are inconsistent, contradictory, unnatural and exaggerated.

21. The first allegation against the appellants is that soon after the marriage, Kehro Devi, the mother-in-law of the deceased, had started propagating that the members of the marriage party had not been looked-after well. In the earliest version, which was given to the police Ext. PA also, this fact finds mention. Improvements have been made by the witnesses during the course of the trial with respect to this allegation. The mother of the deceased, namely Urmila Devi (P.W.

2) stated that not only Kehro Devi, appellant but all the appellants used to grumble that the members of the marriage party had not been entertained properly. None of the witnesses, examined by the prosecution, has stated that the deceased was ever nagged or tortured or maltreated for the alleged complaint of the appellants that the members of the marriage party were not served properly. It is matter of common knowledge that the bridegroom's side generally expects the parents of the bride to make decent arrangements for the meals, stay and entertainment of the members of the marriage party, because the people, particularly in rural areas, feel that if the arrangements are excellent, that adds to the pride of the bridegroom and his parents. It is also a matter of common knowledge that when the arrangements are not upto the expectations, the bridegroom's parents grumble, but such grumbling does not last long. When the bride adjusts in the matrimonial home, the grumbings automatically come to an end. Moreover, this type of grumbling cannot be equated with cruelty within the meaning of explanation to Section 498-A of the Indian Penal Code. In any case, it is not the case of the prosecution that it was ever complained to the deceased that her parents had not looked-after the members of the marriage party properly, leave alone torturing her on this count. The testimony of Urmila Devi (P.W. 2), mother of the deceased, that the deceased used to be nagged on this count, is too vague to be believed. She has nowhere stated that the deceased had ever complained to her that she was nagged on this count. The father of the deceased, namely Wattan Singh (P.W. 1) also does not say so in his deposition.

22. In the FIR Ext. PA also there is no mention that the deceased ever complained that she was nagged by any of the appellants for the members of the marriage party having not been entertained properly. As a matter of fact, in the earliest version Ext. PA, there is no mention that the deceased ever complained either to her father or to the mother that she was harassed or nagged or ill-treated on any count, leave alone the alleged complaint that the marriage party was not looked-after well.

23. The story that the appellants used to grumble that the dowry articles were of inferior quality or that the dowry was insufficient, has been developed only during the course of the trial. This allegation does not find mention in the earliest version

that was given to the police by the father of the deceased, vide statement Ext. PA, on the basis of which formal FIR was recorded. Therefore, the testimony of the father, the mother and the aunt of the deceased that the appellants used to complain that the dowry articles were inferior and the dowry was insufficient, cannot be believed unless corroborated by some independent evidence. Not only that there is no independent corroboration, but even earliest version given to the police by the father of the deceased himself, does not corroborate this allegation. The statement of P.W. 3 Skindra Devi that the deceased visited her place and in the company of her father in January and told that she was tortured by her in-laws to pressurize her to meet the demand for dowry, is not corroborated by the father of the deceased, namely P.W. 1 Wattan Singh. He does not speak of even the visit of the deceased in his company to the house of P.W. 3, leave alone her (deceased) complaining to her (P.W. 3 Skindra Devi) that she was subjected to torture to pressurize her to meet the demand for dowry.

24. The story regarding demand of golden chain by appellant Jaswant Singh, is also doubtful. Though P.W. 1 Wattan Singh and P.W. 2 Urmila Devi, the father and the mother, respectively, of the deceased, have stated that the golden chain was demanded telephonically by appellant Jaswant Singh in September, 2003 and in the earliest version Ext. PA also this fact finds mention, yet from the over all testimony of P.W. 2 Urmila Devi, the mother of the deceased, it appears that two chains, one to appellant Jaswant Singh and another to the deceased, were given as customary presents in connection with Karwa Chauth fasting. In any case, it is not the case of either the father or the mother of the deceased that any chain was demanded by appellant Jaswant Singh from the deceased nor do they say that the deceased was subjected to cruelty for the fulfilment of the alleged demand.

25. The next allegation is that the deceased was nagged by her husband for having not done B.Ed. P.W. 1 Wattan Singh, father of the deceased, has stated that the deceased had told him that her husband nagged her for not doing B.Ed, and used to say to her that in fact he wanted to marry a girl having B.Sc., B.Ed, qualification. At the same time, he says that in October, 2003, with the consent of the appellants, he arranged for the admission of the deceased in a B.Ed. College at Shrinagar by paying Rs. 50,000/- to some agent. Now, even, if it be believed

that appellant Jaswant Singh, husband of the deceased had grumbled that the deceased was not holding B.Ed. Degree such grumbling could not have been there after October, 2003, because in October the father of the deceased, per his own deposition, had arranged for the admission of the deceased in a B.Ed. College in Shrinagar, with the consent of the appellants.

26. Yet, another allegation against the appellants is that once the deceased had noticed her mother-in-law, namely Kehro Devi, adding something to the milk that was served to her in a mug and that when she mixed that milk with the milk meant for her husband in a separate mug, her husband refused to drink that milk. The evidence with respect to the allegation consists of the testimony of P.W. 1 Wattan Singh and P.W. 2 Urmila Devi, the father and the mother, respectively, of the deceased. Not only that the evidence with respect to this allegation is doubtful but even if it be assumed that something like that had happened that does not amount to an act of cruelty which would have driven the deceased to commit suicide nor can the same be termed as an act of abetment of suicide by the deceased, particularly when the alleged incident had taken place in January, 2004 or even before that because the incident was allegedly reported by the deceased to her mother in January, 2004 and the deceased consumed poison to commit suicide in March, 2004.

27. In the FIR Ext. PA, it is alleged that the deceased had complained to her mother in January, 2004 that she had seen her mother-in-law adding something to the milk in a glass, which was offered to her and that when she mixed that milk with the milk in the other glass meant for her husband, her husband did not consume that milk. But in the testimony of P.W. 1 Wattan Singh, it is recorded that the deceased told her mother that she had noticed her mother-in-law adding something to the milk in a mug that was meant for her and that when she mixed the milk in the other mug, meant for her husband, her husband refused to take the same and then both the mugs were kept in the fridge and in the morning the same were found missing from the fridge.

28. The mother of the deceased, namely Urmila Devi (P.W. 2) testified that her daughter (the deceased) told her that once she suspected that her mother-in-law

had added something to the milk offered to her in a mug and that she mixed that milk with the milk in another mug meant for her husband, but her husband refused to drink the same. She does not corroborate the testimony of P.W. 1 Wattan Singh that the deceased had told her that she had seen her mother-in-law adding something to the milk meant for her. On the contrary, what she says is that the deceased told her that she suspected that her mother-in-law had added something to the milk. Moreover, the testimony of P.W. 1 Wattan Singh and P.W. 2 Urmila Devi is contradicted by the earliest version, which was given to the police vide statement Ext. PA. In the said statement Ext. PA. it is recorded that the milk was there in two glasses, but in the testimony of the witness, the milk is stated to be in two mugs. Story that the mugs were placed in the fridge in the night and next morning they were not there, appears to be an after thought. Only Wattan Singh (P.W. 1) has deposed about it. P.W. 2 Urmila Devi, to whom the deceased allegedly reported this incident, is silent about it. In the FIR also there is no reference to this story.

29. The evidence regarding demand of Rs. 60,000/- by appellant Joginder Singh for sending his another son Sandeep Kumar to some middle-east country, also does not inspire confidence. There is no mention of this alleged demand in the earliest version Ext. PA, which witness gave to the police. He was duly confronted with the said omission but he could offer no reasonable explanation.

30. As a matter of fact none of the allegations, made in the earlier version Ext. PA. amounts to cruelty within the meaning of Explanation to Section 498-A of the Indian Penal Code or abetment for the commission of suicide by the deceased. It appears that this fact was realized by the prosecution later on and so the story regarding demand of Rs. 60,000/- by appellant Joginder Singh was introduced, to bring the case within the purview of Section 304-B of the Indian Penal Code and also to press into service the presumption of Section 113-B of the Evidence Act during trial.

31. The above stated position apart, even this allegation does not amount to cruelty or abetment for commission of suicide, because as per the testimony of P.W. 1 Wattan Singh, the demand was made from him on 15th February, 2004.

He does not say that the deceased was there when the demand was made or he had told the deceased about such demand nor is it stated by him or by the mother of the deceased or for that matter any other witness, that the deceased ever complained to anybody that any demand for Rs. 60.000/- for sending Sandeep Kumar to some middle east country, was made from her or on account of the alleged demand, having been made from her father and his having not fulfilled the same, she was subjected to cruelty.

32. Defence plea is that the deceased was being pressurized by her parents to get her pregnancy terminated so that there was no obstacle in her doing the B.Ed. Course at Shrinagar and perhaps, due to this stress and pressure, she took her life. The plea is probabalized by the evidence on record. The appellants have proved on record by examining two doctors, namely DW-1 Mohit Rai, M.O. Primary Health Centre. Thariakalan, District Una, and D.W. 2 Dr. Monica Sood, Vidya Clinic and Diagnostic Centre, Lower Bazar, Shimla, that the deceased had become pregnant sometime in November/December, 2003 and that the pregnancy was got terminated in the last week of December 2003. The post-mortem report shows that the deceased again conceived because during the course of the post-mortem she was found to be carrying early pregnancy, which according to the deposition of P.W. 6 Dr. Satinder Chauhan, who conducted the post-mortem was less than 12 to 16 weeks. The mother of the deceased in her cross-examination has stated that in December, 2003 the deceased had telephonically informed her that she was carrying six weeks pregnancy and that because of the said pregnancy, she would not be in a position to join the B.Ed. Course next year. She further testified that on 21-12-2003 she received another telephonic call from the deceased informing her that there had been mis-carriage. She also stated that on 28-12-2003, the deceased, accompanied by her husband, came to Shimla and that she was taken to a private clinic, named Vidya Clinic and Diagnostic Centre (the clinic from which DW-2 Dr. Monica Sood had been examined by the appellants) and that the doctors of that clinic advised her daughter to consult them before getting pregnant again. Her statement corroborates the testimony of the above named two doctors, examined by the appellants, that the pregnancy, which the deceased was carrying in December 2003, had been terminated.

33. It appears that the deceased did not use any contraceptive to avoid pregnancy after the termination of the first pregnancy and the result was that she again became pregnant. The fact is borne out from the post mortem report as also the testimony of P.W. 6 Dr. Satinder Chauhan that the deceased was carrying early pregnancy, which was less than 12 to 16 weeks. It appears that the deceased having realized that she was again pregnant and the pregnancy was bound to come in her way of acquiring the B.Ed. Degree, probably felt that there was no way out from this awkward situation, especially when one pregnancy had already been got terminated to the knowledge of her father. Perhaps she developed the feeling that it was difficult for her to face her father, who by spending huge amount of money had arranged to her admission in B.Ed. College at a far off place and was prepared to meet other expenses also, but she was unable to attend the B.Ed. College, because of the pregnancy. This might have been the cause for her taking her life.

34. The argument put-forward by the counsel for the revision petitioner, i.e. the father of the deceased, that this was a case of forcible administration of poison or deceitful poisoning, requires outright rejection. The deceased was a young woman and aluminium phosphide, which is normally in the form of large sized tablets, could not have been forced down her throat. It could have also not been administered deceitfully, because, as per the testimony of P.W. 6 Dr. Satinder Chauhan, aluminium phosphide, whenever brought into contact with liquid, emits offensive and pungent smell. Moreover, there is no evidence on record supporting such an argument.

35. As a result of the above discussion, the appeal filed by appellants Jaswant Singh, Joginder Singh, Kehro Devi, is accepted. Their conviction and sentence for offences, under Sections 498-A and 306 read with Section 34 of the Indian Penal Code, are set aside and they are acquitted.

36. The revision petition filed against the acquittal of respondent Sanjeev Kumar and also for the conversion of the conviction of the appellants from 498-A and 306 read with Section 34 of the Indian Penal Code to the one under Section 304-B of the Indian Penal Code or in the alternative, for enhancement of their sentence for

the offences under Sections 498-A and 306 read with Section 34 of the Indian Penal Code, is dismissed for the reasons recorded, hereinabove, for the acceptance of the appeal.

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