IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1408 OF 2015

RAM PYAREY **Appellant(s)**

VERSUS

THE STATE OF UTTAR PRADESH **Respondent(s)**

O R D E R

1. This appeal arises from the judgment and order passed by the High Court of Judicature at Allahabad, Lucknow Bench dated 6th August, 2013 in Criminal Appeal No. 401 of 1993 by which the High Court dismissed the appeal filed by the appellant herein and three other co-accused and thereby affirmed the judgment and order of conviction passed by the trial court for the offence punishable under Sections 306 and 498-A of the Indian Penal Code, 1860 (for short the "IPC") and Section 4 of the Dowry Prohibition Act, 1961.

2. It appears from the materials on record that the appellant herein is the brother-in-law (Jeth) of the deceased. The deceased was married to one Ram Sajeevan.

3. It is the case of the prosecution that there was harassment at the end of the husband, in-laws and the appellant (Jeth) herein to the deceased.

4. The deceased doused herself with kerosene and set herself on fire on 27-09-1990. She died on account of severe burn injuries. The father of the deceased lodged a First Information Report with the Ajgain Police Station, District Unnao on the very same day. The gist of the complaint lodged by the father of the deceased reads thus:-

> **"To,**
> **SHO, Police Station Ajgain,**
> **District Unnao:**
>
> **Sir,**
>
> **It is respectfully submitted that the complainant Shiv Prasad Sahu, S/o. Laxman Sahu is resident of Village Bhakat, P.S. Kotwali, District Unnao. That the father in law Lal Bahadur., S/o. Jugnu, Village Sambhar Kheda, Majra Nana Tikur, P.S. Ajgain, Distt. Unnao took my daughter Kusum with him on 25.09.1990. That in the intervening night of 26.09.1990 and 27.09.1990 my daughter was killed by burning by her in-laws. Before this they were demanding the buffalo and gold chain in dowry after marriage. And told my daughter Kusum Devi if you will not give the dowry then we will kill you. They threatened her. On that I did not send her to her matrimonial house for one year and on 25.09.1990 my daughter was went to her matrimonial house alongwith her father in law Lal Bahadur, Son of Jugnu. They said that she is our responsibility. However, in the intervening night of 26.09.1990 and 27.09.1990 at about 2.00 A.M. Lal Bahadur, S/o. Jugnu, Ram Sajeevan, S/o. Lal Bahadur, Ram Pyare, S/o. Lal Bahadur, Sonawati, W/o. Lal Bahadur killed my daughter Kusum Devi by burning after pouring kerosene oil on her.**
>
> **The complaint of the complainant is against all the four accused. Action may kindly be taken under law after reporting the case. Will be highly greatful.**
>
> **Written by Nand Kishore Sahu,**
> **S/o. Ram Nath, village Rajepur,**
> **P.S. and P.O. Marvi, Distt. Unnao.**
>
> **Complainant Shiv Prasad Sahu**
> **S/o. Laxman Sahu R/o. Village Bakhat, Distt. Unnao**
> **27.09.1990"**

5. On conclusion of the investigation, charge-sheet was

filed for the offences enumerated above, against four accused persons which included the appellant herein. The offence being exclusively triable by the Sessions Court was committed under the provisions of Section 209 of the Code of Criminal Procedure. Charges were framed against four accused persons including the appellant herein.

6. It appears that the original charge framed by the trial court was one for dowry death punishable under Section 304-B of the IPC. However, the trial court acquitted all the accused persons for the offence punishable under Section 304-B, however convicted them for the offence of abetment of suicide punishable under Section 306 and 498 of the IPC and also for the offence punishable under Sections 3 and 4 of the Dowry Prohibition Act.

7. We are informed that the father-in-law and mother-in-law passed away while the appeal before the High Court was pending. So far as, the husband is concerned he has already undergone the sentence as imposed by the trial court. In fact, he did not file any appeal against his conviction.

8. The present appellant who is the brother-in-law of the deceased is here before us with this appeal.

9. We have heard Mr. Bharat Bhushan, the learned counsel appearing for the appellant and Mr. K. Parmeshwar, the learned senior counsel appearing for the State of Uttar Pradesh.

10. We have looked into the oral evidence on record. We have

also looked into the nature of the allegations levelled against the appellant herein.

11. We are of the view that there is practically no evidence on the basis of which it could be said that the appellant herein as brother-in-law abetted the commission of suicide. We need not say anything further in the matter.

12. The law as regards the abetment of suicide punishable under Sections 306 of the IPC is now well settled. It appears that the Courts below laid much emphasis on Section 113B of the Evidence Act, 1872 (for short, "the Evidence Act"). Section 113A of the Evidence Act talks about presumption. Section 113A and Section 113B read thus:-

> **"113A. Presumption as to abetment of suicide by a married woman.— When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.**
>
> **Explanation.— For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).**
>
> **113B. Presumption as to dowry death.— When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.**
>
> **Explanation.— For the purposes of this section, "dowry death" shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860)."**

13. It is relevant to note that under Section 113B, the

Court may presume unlike Section 113A where the statute says that Court shall presume. This is a vital difference between the two provisions which raises presumption as regards abetment of suicide. When the Courts below want to apply Section 113B of the Evidence Act, the condition precedent is that there has to be first some cogent evidence as regards incessant harassment. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightaway invoke Section 113B and presume that the accused abetted the commission of suicide.

14. In view of the aforesaid, this appeal succeeds and is hereby allowed. The judgment and order of conviction passed by the trial court as confirmed by the High Court is hereby set aside.

15. The appellant is already on bail. His bail bonds stand discharged.

16. Pending application(s), if any, stands disposed of.

.....J.
[J.B.PARDIWALA]

.....J.
[R. MAHADEVAN]

New Delhi;
09th January, 2025.

ITEM NO.102 COURT NO.14 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No.1408/2015

RAM PYAREY **Appellant(s)**

VERSUS

THE STATE OF UTTAR PRADESH **Respondent(s)**

Date : 09-01-2025 This appeal was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE R. MAHADEVAN

For Appellant(s) Mr. Bharat Bhushan, AOR
Mr. Keshav Bansal, Adv.

For Respondent(s) Mr. K. Parmeshwar, Sr. Adv, A.A.G.
Mr. Shaurya Sahay, AOR
Mr. Aditya Kumar, Adv.
Ms. Ruchil Raj, Adv.

UPON hearing the counsel the Court made the following

O R D E R

1. The appeal is allowed in terms of the signed order. The operative portion of the signed order reads thus:-

> **“The judgment and order of conviction passed by the trial court as confirmed by the High Court is hereby set aside.**
>
> **The appellant is already on bail. His bail bonds stand discharged.”**

3. Pending application(s), if any, stands disposed of.

(CHANDRESH) (POOJA SHARMA)
COURT MASTER (SH) COURT MASTER (NSH)

(Signed reportable order is placed on the file)