*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 24.04.2026
Pronounced on: 18.06.2026

\+ CRL.A. 515/2002
SIRAJUDDIN .....Appellant
Through: Mr.Ranbir Singh Kundu, Mr.Shitanshu Saklani, Mr.Dhruv Malik, Mr.Abhinav Sharma, Ms.Anjali and Ms.Shivani, Advs. along with appellant in person

versus

STATE DELHI ADMN. DELHI .....Respondent
Through: Mr.Aman Usman, APP with Mr.Manvendra Yadav, Adv.
Insp. Manesh, PS-Krishana Nagar.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. The present appeal has been filed by the appellant Sirajuddin against the judgement of conviction dated 19th April 2002 [“**impugned judgement**”] and the order on sentence dated 24th April 2002 passed by the learned Additional Sessions Judge, New Delhi in SC No. 33/1999, arising out of case FIR No. 446/1998 registered at

Police Station Krishna Nagar, under Sections 302/304-B/498A of the Indian Penal Code, 1860 ["**IPC**"].

FACTUAL BACKGROUND:

2. The prosecution case, as per charge sheet, is that on 26th September 1998, at about 10.15 pm, an unknown person telephonically informed at PS Krishna Nagar that a woman has been set ablaze by pouring kerosene oil on her at F-10, Jagat Puri. The information was recorded *vide* DD No. 35-A (Ex. PW-12/A). On receipt of Ex. PW-12/A, SI Dharmender (PW-18/23) along with Constable Nanak Chand (PW-10) went at the spot at F-10, Jagat Puri, Krishna Nagar, where, they came to know that injured Roshan had been sent to Safdarjung Hospital in a burnt condition. No eye witness was found present at the spot. After deputing PW-10 at the spot, SI Dharmender (PW-18/23) went to Safdarjung Hospital Burns Ward, where, they found Roshan, wife of accused Sirajuddin, lying admitted. She was declared "fit for statement" by the doctor, who had also recorded the alleged history of the case being burnt by the husband, who poured kerosene oil and lighted her, following the quarrel between them.

3. Statement of injured Roshan was recorded by PW-18/23, wherein, she stated that she was married 3-4 years back and was having two daughters. Her husband used to quarrel with her for bringing dowry and would oust her from the house after every 10-15 days and that today, i.e. 26th September, 1998, at about 8.00 pm, he started beating her and asked as to why she has not brought money from her parents. At her refusal, he poured kerosene oil from a stove

lying in the house and lighted her with match stick and absconded. Thereafter, in burnt condition shouting "Bachao-Bachao", she ran outside the house, where, she was caught by the persons. They doused the fire and took her to the hospital, where, she was got admitted by her *Jeth* Naseem. She further stated that she was burnt because she was not able to bring money from her parents.

4. Effort was made to contact the SDM but he could not be contacted. PW-18/23 then prepared the *rukka* Ex. PW-18/B on the basis of which, FIR was registered under Section 498-A/307 IPC. Spot was inspected by the crime team. The crime team photographer took the photographs of the spot. Site plan was prepared. The stove, broken bangles and burnt clothes were seized from the spot *vide* memos Ex. PW-10/A, Ex. PW-10/B and Ex. PW-4/A respectively.

5. Statement of Roshan was recorded by the SDM on 27th September 1998. During treatment, Roshan expired at Safdarjung Hospital on 29th September, 1998. Section 307 IPC was replaced by Section 302 IPC.

6. Proceedings under Section 176 of the Code of Criminal Procedure [**"Cr. P.C."**] were conducted by the SDM. Postmortem of the body of victim was conducted. The Appellant surrendered before the Court and was arrested on 03rd October, 1998. He gave disclosure statement Ex. PW-22/C. The scaled site plan Ex. PW-9/A was prepared by the Draftsman. Exhibits were sent to FSL, Kolkata. Investigation was completed and charge sheet was filed under Section 498-A/302/304-B IPC.

7. Charges were framed on 08th July, 1999 under Sections 498-A/ 304-B/302 IPC. Accused pleaded not guilty and claimed trial.

8. In order to prove its case, prosecution examined 23 witnesses. After his part examination, SI Dharmender Kumar (PW-18) was re-examined as PW-23. Statement of accused was recorded under Section 313 Cr. PC, wherein, he denied all the incriminating evidence appearing on record against him. He stated that he was innocent and was falsely implicated in the case. According to him, he was not present at the house at the time of the alleged incident, having gone to market to purchase the household articles, and when he returned, he found that his wife was already been taken to hospital by his brother Naseem. He stated that the incident happened because of the stove burst and that he never demanded any money or dowry articles either from the deceased or from her parents.

9. In his defence, accused examined four witnesses from the neighbourhood.

10. The learned Trial Court, while convicting the accused under Section 302/304-B/498-A IPC, held that prosecution was able to bring home the guilt of the accused and proved the same beyond reasonable doubt. *Vide* order on sentence dated 24th April, 2002, the appellant was sentenced with life imprisonment under Section 302 IPC with fine of Rs.10,000/-, and in default of payment of fine, he was directed to undergo one year simple imprisonment. He was sentenced with life imprisonment for the offence under Section 304-B IPC with fine of Rs.5,000/-, and in default, six months simple imprisonment. He was further sentenced to suffer three years rigorous imprisonment for the

offence under Section 498-A IPC and to pay a fine of Rs. 2000/-, in default, to suffer three months simple imprisonment with direction that all the sentences shall run concurrently.

11. The sentence awarded to the appellant was suspended by this Court *vide* order dated 12th September, 2005.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

12. The learned counsel for the appellant assailed the conviction primarily on the ground that prosecution case rests solely upon three alleged dying declarations which, according to him, are materially inconsistent, suspicious and thus incapable of forming the sole basis of conviction. It was submitted that the first alleged dying declaration is reflected in MLC Ex. PW-21/A, wherein, the history recorded is that the patient sustained burns when "the patient's husband poured kerosene oil and lighted following a quarrel between them." It was argued that this statement cannot be treated as a valid dying declaration because it is not recorded in the actual words of the deceased and merely reflects what the doctor noted in the medical record. It was further argued that the source of fire is not explained in the MLC and the timing therein is noted as 11:00 pm on 26th September, 1998, whereas, the subsequent statements carry different timings, thereby creating serious doubt regarding the prosecution version.

13. The learned counsel emphasized that although the MLC mentions that the patient was fit for statement, PW-21 admitted during cross-examination that he himself had not written the endorsement "fit for statement" on the MLC. It was further submitted that after

preparation of the MLC, the victim had allegedly been shifted to ICU, whereas, the SDM later claimed to have recorded her statement in the ward, thereby, creating further doubt about the genuineness of the prosecution story.

14. The learned counsel further submitted that the second and third alleged dying declarations, namely, the statement recorded by the Investigating Officer [**"IO"**] forming the basis of the *rukka* and registration of the FIR, and the statement allegedly recorded by the SDM Ex. PW-7/A, are mutually contradictory and suffer from grave procedural infirmities. Our attention was drawn to the testimony of PW-10 Constable Nanak Chand, who categorically stated that the IO recorded the statement of the deceased at about 10:00 am on 27th September, 1998 in the presence of the SDM and further stated in cross-examination that the signatures of the SDM were obtained on the statement recorded by the IO, although, no such signatures appear on record. Furthermore, it was submitted that PW-10 also stated that he got the FIR registered at about 2:30 am on 27th September, 1998 on the basis of the *rukka*, thereby, rendering the prosecution version wholly doubtful since the FIR appears to have been registered before the recording of the statement itself. On this basis, it was argued that the FIR was ante-timed and the *rukka* had been tampered with.

15. The learned counsel further referred to the testimony of PW-7, the SDM, who stated that he received the information at 10:00 am, reached the hospital at about 12:40 pm, and recorded the statement at 12:50 pm in question-answer form. However, the statement Ex. PW-7/A is not in question-answer form at all and is not recorded in the

actual words of the deceased. It was also pointed out that PW-18/23, deposed that despite efforts during the night, the SDM could not be contacted, and therefore, he himself recorded the statement of the injured after obtaining medical opinion regarding her fitness. The IO further stated that the SDM visited the hospital in the morning and recorded another statement. It was contended that these testimonies completely demolish the prosecution case because PW-10 asserted that the IO and SDM recorded the statements simultaneously, whereas, PW-7 and PW-18/23 narrated entirely different sequence of events. The learned counsel further submitted that the material omission regarding the appellant allegedly returning home drunk, which appears in one version but not in the other declarations, further weakens the sanctity of the alleged dying declarations. It was argued that the dying declaration has to be wholly sacrosanct, voluntary, truthful and consistent, before it can be relied upon, but such is not the present case.

16. The learned counsel further contended that apart from the doubtful dying declarations, there exists no independent circumstance connecting the appellant with the alleged offence. It was submitted that deceased, the appellant and their children resided together in a single-room accommodation, yet the prosecution failed to examine any of the children as witnesses, despite they being the most natural witnesses to the occurrence. It was argued that the prosecution story is inherently improbable. According to the deceased's version, the appellant poured kerosene oil from the stove upon her and set her ablaze. The learned counsel submitted that kerosene from the stove

cannot be poured so rapidly and conveniently in the manner that is being alleged. It was argued that if the appellant had indeed poured kerosene, then placed the stove back and thereafter ignited a matchstick, the deceased would have got sufficient time to escape, particularly when, according to her own statement, she immediately ran outside the house after catching the fire.

17. It is also argued by the learned counsel that kerosene is not as instantly inflammable as petrol and therefore the allegation that the victim sustained 50% burns within moments, appears improbable. He further argued that PW-10 himself admitted that no public witness was present near the house when the police reached, thereby, creating serious doubt regarding the occurrence. The learned counsel also emphasized that PW-19, who is the doctor and proprietor of Deepak Nursing Home where the deceased was initially taken, did not support the prosecution case and even the third doctor namely Dr. Arun Chauhan, who allegedly examined the deceased, was never produced as a witness. Thus, according to him, these circumstances cumulatively create substantial and reasonable doubt, which ought to enure to the benefit of the appellant.

18. It was further argued by the learned counsel for the appellant that the allegations regarding dowry demand are vague, general and wholly insufficient to satisfy the ingredients of dowry death. It was argued that the witnesses merely repeated stereotyped allegations regarding demands for scooter, fridge, colour television and money without any specific dates, instances or prior complaints. It was emphasized that the relatives of the deceased as well as the deceased

and the appellant admittedly belonged to a poor strata of the society, residing in a single room accommodation, and therefore, the allegations regarding demand for scooter and other expensive articles appear exaggerated and improbable.

19. It was also submitted that it is not proved that the death occurred within seven years of marriage, inasmuch as, no specific date, month or year of marriage is proved from the testimonies of any of the prosecution witnesses. Referring to the testimony of PW-1, father of the deceased, PW-2 brother of the deceased and PW-3, mother of the deceased, it was contended that all the three witnesses used almost identical language while deposing about the alleged demands, thereby, rendering their testimonies highly tutored and unbelievable. It was argued that during her lifetime, neither the victim nor her parents made any complaint of cruelty or dowry harassment to the police or any other authority, and therefore, the allegations of dowry demand and harassment are nothing but an afterthought.

20. It was also argued that the framing of charge is defective since alternative charges under Sections 302 IPC and 304-B IPC were framed together, although, the burden and legal requirements under the two provisions materially differ. Under Section 302 IPC, the prosecution has to establish that accused had committed the murder, whereas, Section 304-B IPC incorporates a statutory presumption against the accused. The learned counsel argued that such defective framing of charge caused serious prejudice to the appellant. It was thus contended that the conviction based solely upon doubtful dying

declarations and vague allegations of dowry demand cannot be sustained in law and appellant is entitled to acquittal.

SUBMISSIONS ON BEHALF OF THE STATE:

21. Mr Usman, learned Additional Public Prosecutor ["**APP**"] for the State refuted the submissions advanced on behalf of the appellant regarding the alleged inconsistencies in the medical endorsements relating to the fitness of the deceased to make the statements. It was submitted that PW-21 was the doctor who initially attended the victim and prepared the MLC Ex. PW-21/A on the night of 26th September, 1998, whereas, PW-22 Dr. Devesh Sharma was the attending doctor on duty on 27th September, 1998, who subsequently examined the patient and declared her fit for statement. Attention was drawn to the testimony of PW-22, wherein, he categorically deposed that on 27th September, 1998, he was posted at Safdarjung Hospital, the patient Roshan was admitted in the burns ward, and after examining her, he declared her fit for statement at about 12:50 pm. He further proved his endorsement on the MLC Ex. PW-21/A, marked as Ex. PW-22/A.

22. The learned APP submitted that PW-22 specifically clarified during cross-examination that he was on duty in the ward since 9:00 am on that day and was the attending doctor of the patient. He further stated that he had not administered any sedative to the patient. According to learned APP, once PW-22, who was attending the patient, was in a perfect position to clarify about the fitness of the patient for statement. It was argued that appellant had attempted to project as though endorsements were made at 12:45 pm and 12:50 pm respectively on different documents, whereas, in fact the

endorsements were made by two separate doctors, acting in different capacities and at different stages.

23. It was contended that there was no material contradiction in this regard and that the alleged discrepancy in "AM" and "PM" appearing in the record was at best a clerical error. It was submitted that the entire prosecution evidence, including the prompt registration of the FIR at 2:30 am on 27th September, 1998, conclusively demonstrates that the *rukka* had in fact been prepared during the intervening night itself, and therefore, the allegation that the FIR was ante-timed is wholly untenable.

24. It was further submitted that even the defence version probabilises the prosecution case rather than discrediting it. It was argued that the Appellant himself admits that the victim sustained burns from the stove while allegedly preparing food, though according to him, the incident was accidental or caused by a stove blast. However, no evidence whatsoever was brought on record to establish that the stove had exploded or was charred or damaged in the manner ordinarily expected in such an occurrence. On the contrary, the scientific evidence supports the prosecution case. Learned APP pointed out that the CFSL report confirmed the presence of kerosene residues on the clothes of the deceased. It was therefore argued that if the victim had merely suffered accidental burns while cooking, there was no explanation as to how kerosene came to be detected upon her clothes in such a manner. According to the State, this circumstance strongly corroborates the prosecution version that kerosene had been deliberately poured upon the victim before she was set ablaze.

25. It was further submitted that the dying declarations made by the deceased are materially consistent on all essential particulars, namely the identity of the assailant, who was her husband, the act of pouring kerosene, and the act of setting her on fire. Learned APP contended that these are the core ingredients constituting the incident and therefore minor discrepancies relating to timings or recording procedure do not dilute the evidentiary value of the declarations. It was argued that the law does not require a dying declaration to be reproduced verbatim in every instance so long as the substance of the accusation remains clear, voluntary and trustworthy.

26. Learned APP also controverted the Appellant's contention that the prosecution witnesses were tutored or that the FIR had been manipulated subsequently. Reliance was specifically placed upon the testimony of PW-10 Constable Nanak Chand, who stated that after reaching the spot with the IO, he was left there while the IO proceeded to Safdarjung Hospital. PW-10 further deposed that at about 1:30 AM during the intervening night, the IO returned to the spot and handed over the *rukka* to him, whereafter he proceeded to PS Krishna Nagar and got the FIR registered. Learned APP submitted that this testimony itself demolishes the appellant's argument that the statement of the victim was recorded only the next morning. Thus, if no statement had existed during the night, there would have been no *rukka* available with the IO to hand over to PW-10 for registration of the FIR at about 2:30 AM. It was therefore argued that the defence theory of ante-timed FIR and fabricated dying declarations stands contradicted by the prosecution evidence itself. Learned APP contended that the

testimonies of the prosecution witnesses, read conjointly with the medical and forensic evidence, establish an unbroken chain of circumstances clearly pointing towards the guilt of the Appellant and leave no scope for any reasonable doubt.

ANALYSIS AND REASONING:

27. We have considered the submissions made by the learned counsels for the parties and have perused the evidence on record.

28. The victim Roshan expired on 30.09.1998, and the post-mortem report Ex. PW-20/A was subsequently proved on record. The post-mortem examination had been conducted by Dr. Chaubey. However, since he was unavailable at the time of trial, PW-20 Dr. Alexander appeared and duly proved the handwriting and signatures of the post-mortem doctor. As per the post-mortem report, the cause of death was septicemic shock resulting from 50% burn injuries.

29. The conviction of the Appellant has been founded primarily upon the dying declarations made by the deceased, which stands duly corroborated by the medical, forensic and surrounding circumstantial evidence on record.

30. As far as law concerning dying declaration is concerned, it is no longer *res-integra* that dying declaration, if found to be voluntary, truthful and made in a fit state of mind, can form the sole basis of conviction, however, where such declaration suffers from inconsistencies, procedural infirmities and improbabilities, the Court must exercise caution in placing reliance upon it. In ***Irfan Vs. State of Uttar Pradesh, 2023 SCC OnLine SC 1060***, the Hon'ble Supreme Court explained the juristic principle on the basis of which dying

declaration is accepted as an important piece of evidence, capable of leading to conviction on its own without further corroboration, but at the same time, also cautioned that the Court must first be satisfied that the dying declaration is reliable and truthful before placing reliance on it. The present case is based on multiple dying declarations. Before proceeding to the merits of this case, it would be appropriate to appreciate the various principles of law laid down by the Hon'ble Supreme Court in regard to cases involving multiple dying declarations.

31. The Hon'ble Supreme Court in ***Kamla v. State of Punjab, (1993) 1 SCC 1*** has held:

> *"5. It is well settled that dying declaration can form the sole basis of conviction provided that it is free from infirmities and satisfies various tests (vide Khushal Rao v. State of Bombay [AIR 1958 SC 22 : 1958 SCR 552 : 1958 Cri LJ 106]). The ratio laid down in this case has been referred to in a number of subsequent cases with approval. It is also settled in all those cases that the statement should be consistent throughout if the deceased had several opportunities of making such dying declarations, that is to say, if there are more than one dying declaration, they should be consistent. If a dying declaration is found to be voluntary, reliable and made in fit mental condition, it can be relied upon without even any corroboration. In a case where there are more than one dying declaration if some inconsistencies are noticed between one and the other, the court has to examine the nature of the inconsistencies namely whether they are material or not. In scrutinising the contents of various dying declarations, in such a situation, the court has to examine the same in the light of the various surrounding facts and*

circumstances."

32. In ***State of Punjab v. Parveen Kumar, (2005) 9 SCC 769***, the Hon'ble Supreme Court further observed:

> *"10. …. The court must be satisfied that the dying declaration is truthful. If there are two dying declarations giving two different versions, a serious doubt is created about the truthfulness of the dying declarations. It may be that if there was any other reliable evidence on record, this court could have considered such corroborative evidence to test the truthfulness of the dying declarations..."*

33. In ***Amol Singh v. State of M.P., (2008) 5 SCC 468***, the Hon'ble Supreme Court held:-

> *"13. … However, if some inconsistencies are noticed between one dying declaration and the other, the court has to examine the nature of the inconsistencies, namely, whether they are material or not. While scrutinising the contents of various dying declarations, in such a situation, the court has to examine the same in the light of the various surrounding facts and circumstances."*

34. Faced with multiple dying declarations, the Hon'ble Supreme Court in ***Lakhan v. State of M.P., (2010) 8 SCC 514*** observed-

> *"21. … In case there are multiple dying declarations and there are inconsistencies between them, generally, the dying declaration recorded by the higher officer like a Magistrate can be relied upon, provided that there is no circumstance giving rise to any suspicion about its truthfulness. In case there are circumstances wherein the declaration had been made, not voluntarily and even otherwise, it is not supported by the other evidence, the court has to scrutinise the facts of an individual case very carefully and take a decision as to which of the declarations is worth reliance."*

35. This judgment was also referred to by the Hon'ble Supreme Court recently in ***Makhan Singh v. State of Haryana***, ***2022 SCC OnLine SC 1019***.

36. In ***Ashabai & Anr. v. State of Maharashtra***, ***(2013) 2 SCC 224*** the Hon'ble Supreme Court observed:-

> *"15. … When there are multiple dying declarations, each dying declaration has to be separately assessed and evaluated and assessed independently on its own merit as to its evidentiary value and one cannot be rejected because of certain variations in the other."*

37. In ***Jagbir Singh v. State (NCT of Delhi)***, ***(2019) 8 SCC 779,*** the following principles were observed:

> *"31. A survey of the decisions would show that the principles of declarations can be culled out as follows:*
> *…. 31.6. However, there may be cases where there are more than one dying declaration. If there are more than one dying declaration, the dying declarations may entirely agree with one another. There may be dying declarations where inconsistencies between the declarations emerge. The extent of the inconsistencies would then have to be considered by the court. The inconsistencies may turn out to be reconcilable.*
> *31.7. In such cases, where the inconsistencies go to some matter of detail or description but is incriminatory in nature as far as the Accused is concerned, the court would look to the material on record to conclude as to which dying declaration is to be relied on unless it be shown that they are unreliable;*
> *31.8. The third category of cases is that where there are more than one dying declaration and inconsistencies between the*

> *declarations are absolute and the dying declarations are irreconcilable being repugnant to one another. In a dying declaration, the Accused may not be blamed at all and the cause of death may be placed at the doorstep of an unfortunate accident. This may be followed up by another dying declaration which is diametrically opposed to the first dying declaration. In fact, in that scenario, it may not be a question of an inconsistent dying declaration but a dying declaration which is completely opposed to the dying declaration which is given earlier. There may be more than two."*

38. In ***Uttam v. State of Maharashtra***, ***(2022) 8 SCC 576,*** the Hon'ble Supreme Court observed:

> *"15. In cases involving multiple dying declarations made by the deceased, the question that arises for consideration is as to which of the said dying declarations ought to be believed by the court and what would be the guiding factors for arriving at a just and lawful conclusion. The problem becomes all the more knotty when the dying declarations made by the deceased are found to be contradictory. Faced with such a situation, the court would be expected to carefully scrutinise the evidence to find out as to which of the dying declarations can be corroborated by other material evidence produced by the prosecution. Of equal significance is the condition of the deceased at the relevant point in time, the medical evidence brought on record that would indicate the physical and mental fitness of the deceased, the scope of the close relatives/family members having influenced/tutored the deceased and all the other attendant circumstances that would help the court in exercise of its discretion."*

39. While considering the aforesaid decisions, the Hon'ble Supreme Court in the case of ***Abhishek Sharma v. State (Govt. of NCT of Delhi), (2024) 13 SCC 660***, summarised the following principles for the consideration of the Courts while dealing with a case involving multiple dying declarations:-

> *"24. … 9.1 The primary requirement for all dying declarations is that they should be voluntary and reliable and that such statements should be in a fit state of mind;*
> *9.2 All dying declarations should be consistent. In other words, inconsistencies between such statements should be 'material' for its credibility to be shaken;*
> *9.3 When inconsistencies are found between various dying declarations, other evidence available on record may be considered for the purposes of corroboration of the contents of dying declarations.*
> *9.4 The statement treated as a dying declaration must be interpreted in light of surrounding facts and circumstances.*
> *9.5 Each declaration must be scrutinized on its own merits. The court has to examine upon which of the statements reliance can be placed in order for the case to proceed further.*
> *9.6 When there are inconsistencies, the statement that has been recorded by a Magistrate or like higher officer can be relied on, subject to the indispensable qualities of truthfulness and being free of suspicion.*
> *9.7 In the presence of inconsistencies, the medical fitness of the person making such declaration, at the relevant time, assumes importance along with other factors such as the possibility of tutoring by relatives, etc."*

40. In the present case, the declarations made by the deceased before the doctor at the time of preparation of the MLC, before the Investigating Officer and subsequently before the SDM, are materially consistent regarding the core substratum of the prosecution case, namely that the Appellant, who was the husband of the deceased, poured kerosene oil upon her and set her ablaze following a quarrel. Minor discrepancies regarding the exact timings, sequence of recording or peripheral details cannot outweigh the substantive consistency regarding the identity of the assailant and the manner of occurrence. The evidence on record unmistakably demonstrates that the deceased remained conscious and oriented for a sufficient period after the incident and consistently implicated the Appellant in causing the burn injuries which ultimately resulted in her death.

41. The first dying declaration of the deceased emerges from the MLC Ex. PW-21/A prepared by PW-21 Dr. Rajender Kumar at Safdarjung Hospital on the night of 26.09.1998. PW-21 deposed that the injured Roshan was brought to the hospital at about 11:00 PM with burn injuries and that the history was narrated by the patient herself. The MLC specifically records that the patient sustained burns when "the patient's husband poured kerosene oil and lighted following a quarrel between them." PW-21 further stated that at the time of examination, the patient was conscious and oriented though her condition was critical. The doctor noted that she had suffered approximately 50% burns involving the neck, trunk, back, upper thighs and arms. During cross-examination, PW-21 clarified that although he had used the expression "self informant" in the MLC, the

same clearly signified that the patient herself narrated the history and was capable of speaking. He further explained that had the patient not been able to speak, the history could not have been recorded from her directly. The MLC thus constitutes the earliest version of the incident furnished immediately after the occurrence and before any possibility of tutoring or concoction could arise. The declaration clearly identifies the Appellant as the assailant and attributes to him the act of pouring kerosene oil and setting the deceased on fire after a quarrel. Though the Appellant attempted to challenge this declaration on the ground that it was not recorded verbatim in the precise words of the deceased, the substance of the statement remains clear, voluntary and unambiguous regarding the cause of the burn injuries and the identity of the perpetrator. The contention of the Appellant that the MLC does not mention that the Appellant had come home in a drunken condition, and therefore the prosecution case becomes doubtful, is wholly devoid of merit. It must be borne in mind that the deceased had sustained approximately 50% burn injuries and was in a state of severe pain, trauma and shock, and therefore omission of certain peripheral details in the earliest version cannot overshadow the consistent and categorical allegation that the Appellant poured kerosene oil upon her and set her ablaze. The Supreme Court in ***Paranagouda and Anr v. The State of Karnataka, (2024) 18 SCC 793***, *inter alia* held that non-mentioning of minute details cannot be a ground to reject the said declaration and brief statement would suffice.

42. The second dying declaration is contained in the statement recorded by PW-18 Inspector Dharmender Kumar, the Investigating Officer, during the intervening night of 26/27.09.1998, which subsequently formed the basis of the *rukka* and registration of the FIR. PW-18 deposed that after receiving DD No. 35-A, he initially visited the place of occurrence and thereafter proceeded to Safdarjung Hospital where the injured Roshan had been admitted in the burns ward. He stated that the doctor opined that the injured was fit to make a statement and, since the SDM could not be contacted during the night despite efforts made by both him and the Additional SHO, he himself proceeded to record the statement of the injured after obtaining medical endorsement regarding her fitness. The statement recorded by the IO was proved as Ex. PW-18/A. In the said statement, the deceased categorically implicated the Appellant by stating that following a quarrel, he poured kerosene oil upon her and set her ablaze. PW-18 further deposed that after recording the statement he returned to the spot, prepared the *rukka* and handed it over to PW-10 Constable Nanak Chand for registration of the FIR at about 1:30 AM, pursuant to which FIR No. 446/1998 came to be registered at about 2:30 AM. The testimony of PW-10 corroborates this sequence insofar as he admitted that the IO returned from the hospital during the intervening night and handed over the *rukka* for registration of the FIR. The defence sought to challenge this dying declaration by relying upon portions of the cross-examination of PW-10 wherein he stated that the IO had recorded statements at about 10:00 AM in the morning. However, PW-10 admittedly remained stationed at the spot

while the IO was at the hospital during the night and therefore had no personal knowledge regarding the exact proceedings undertaken at the hospital before the preparation of the *rukka*. The dying declaration recorded by the IO is therefore significant as it was made promptly after the incident and forms the foundational basis for initiation of criminal investigation against the Appellant.

43. The challenge raised regarding the endorsements of fitness also does not persuade this Court to discard the prosecution case. The evidence clearly establishes that PW-21 was the doctor who initially attended the victim on the night of 26.09.1998, whereas PW-22 Dr. Devesh Sharma was the attending doctor on duty on 27.09.1998 and examined the patient before the SDM recorded her statement. PW-22 specifically deposed that he had been on duty since 9:00 AM, that he had not administered any sedation to the patient, and that after examination he found the patient fit for statement at about 12:50 PM. The alleged discrepancy regarding endorsements at 12:45 PM and 12:50 PM is wholly insignificant and stands adequately explained by the fact that the endorsements were made at different stages by different doctors in discharge of their official duties. No material has been brought on record to suggest any manipulation or fabrication in the medical record. The evidence of PW-22 clearly establishes that the deceased was medically fit to make the statement recorded by the SDM on 27.09.1998.

44. Equally devoid of merit is the contention that the FIR was ante-timed or that the *rukka* had been fabricated subsequently. The

testimony of PW-10 Constable Nanak Chand clearly establishes that during the intervening night of 26/27.09.1998, the IO returned to the spot at about 1:30 AM and handed over the *rukka* to him for registration of the FIR, pursuant to which the FIR was registered at about 2:30 AM. The testimony of PW-10 further reveals that after initially accompanying the IO to the place of occurrence, he had been left at the spot while the IO proceeded alone to Safdarjung Hospital. PW-10 admittedly remained stationed at the spot till approximately 1:30 AM-2:00 AM and therefore he had no personal knowledge regarding the exact proceedings that transpired at the hospital during that period. Consequently, any statement made by him regarding the subsequent recording of statements by the IO or the SDM at about 10:00 AM cannot override the direct evidence showing that the *rukka* had already been prepared and dispatched during the intervening night itself. Merely because PW-10, during cross-examination, made certain statements regarding the subsequent recording of statements by the SDM or the IO at about 10:00 AM, it cannot be inferred that the FIR itself was fabricated later in time. The *rukka* is essentially an investigative document prepared for the purpose of setting the criminal machinery into motion and commencement of investigation. The evidence on record consistently shows that the IO had already visited the hospital during the night, found the injured fit for statement, recorded her statement and thereafter took steps for the registration of FIR. The subsequent statement recorded by the SDM on the next day was an independent dying declaration and does not invalidate or nullify the earlier investigative steps undertaken by the

IO. A reading of the deposition of PW-18/23, wherein he stated that he attempted to contact the SDM at his residence and, upon the SDM being unavailable, requested the doctor to record the statement of the injured after obtaining an opinion regarding her fitness, clearly indicates that the mention of "12:45 PM" is a typographical error. In the facts and circumstances of the case, the time ought to be read as "12:45 AM" on 27.09.1998. The Trial Court rightly held as under;

> *"9. On the face of the evidence as discussed and also the explanation by the IO that 12.45 PM of the endorsement on opinion for the fitness was a mistake on the part of the Dr., with regard to the timings as patient was declared fit during night at 12.45 AM on the spot. On the face of evidence/testimony of PW-18/23, the doubt if any, could have been cleared by the ld. Def. Counsel as now sought to be argued when PW-24 was examined but no such question was put to PW-24 which to my mind could have been answered by PW-24, as PW-24 was the Dr. Working with the Dr. Who made the said endorsement at the relevant time. In fact, there is no challenge to the opinion of Dr. Chauhan as proved by Dr. Sanjeev Kumar examined as PW-24."*

45. Even assuming for the sake of argument that some doubt exists regarding the statement recorded by the IO, the third and last dying declaration recorded by the SDM Ex. PW-7/A remains wholly reliable and independently sufficient to sustain the conviction of the Appellant. PW-7 Sanjeev Kumar, the SDM, deposed that upon receiving information from PS Krishna Nagar, he proceeded to Safdarjung Hospital on 27.09.1998 and reached the burns ward at about 12:40 PM where the injured Roshan was admitted on Bed No. 9.

Before recording her statement, he obtained the medical opinion regarding her fitness from PW-22 Dr. Devesh Sharma, the attending doctor on duty. PW-22 specifically certified at about 12:45 PM that the patient was conscious and fit to make a statement and proved his endorsement Ex. PW-22/A on the MLC. PW-22 further stated during his testimony that he had been on duty in the burns ward since 9:00 AM and had not administered any sedative medication to the patient. Immediately thereafter, at about 12:50 PM, PW-7 recorded the statement of the deceased in his own handwriting, which was proved on record as Ex. PW-7/A. The statement bears the thumb impression of the deceased as well as the signatures of the SDM. In the said declaration, the deceased categorically stated that her husband poured kerosene oil upon her and set her on fire after a quarrel. The SDM was an independent Executive Magistrate discharging official duties and there is absolutely no material on record suggesting any animus, bias or motive on his part to falsely implicate the Appellant. The defence attempted to assail the declaration on the ground that it was not recorded in a strict question-answer format and was not reproduced verbatim in the exact words of the deceased. When questioned about the same, the SDM stated as under:-

> *"The statement Ex. PW-7/A of Roshan was recorded by me in the question answer form. Said question answers are so appearing in the statement. Ex. PW-7/A beginning with as to what was her name? Husbands name, Address, as to how long she was married, and as to what was her age, and it was on the question put to her that as to how the incident occurred,*

she had replied the remaining part of the contents appearing in Ex. PW-7/A."

46. Even otherwise, it is well settled that a dying declaration cannot be discarded merely because it is not recorded in a stereotyped format so long as the substance of the statement is voluntary, truthful and coherent. The declaration recorded by the SDM clearly reflects that the deceased was mentally fit, conscious and capable of narrating the incident. Significantly, the material particulars stated therein are entirely consistent with the earlier declarations made before PW-21 and PW-18/23, particularly regarding the identity of the assailant, the pouring of kerosene oil and the act of setting the deceased ablaze. The consistency running through all the declarations materially strengthens their evidentiary value and rules out the possibility of fabrication or tutoring. Consequently, the dying declaration Ex. PW-7/A recorded by the SDM inspires full confidence of this Court and by itself furnishes a cogent, reliable and legally sustainable basis for affirming the conviction of the Appellant. The Trial Court while observing about the authenticity of the dying declaration given to the SDM held as under;

"12. The crucial testimony of PW-7 Sanjeev Kumar SDM on record, further proved the consistent natural and cogent piece of dying declaration on record beyond reasonable doubt. PW-7 proved the dying declaration recorded by him in his own writing as Ex. PW7/A who undoubtedly did not seek the certification of the Dr. as the same was sought by the IO/SI accompanying him and Dr. declared the patient was fit for statement at 12.50 P.M. on 27.9.98 and within 5/10 mins he

> *recorded the statement of the deceased who he had put questions including husband's name and address and how long she was married which were replied by her when she narrated the statement on questions as to how the incident took place. Ex. PW-7/A, further proved, in the sequence of the events, the consistent dying declaration as were made by the deceased. The mentioning of marriage with the accused for 4/5 years back while in her statement to the IO it was mentioned that she was married 3/4 years back, does not call for any doubt in the statement of the deceased, that too, on the merits of the case. The dying declaration Ex. PW7/A was duly right thumb impressed by the deceased at point-X as proved by PW-7 which is signed by the SDM at point-A. There is no reason at all to dis-believe the testimony of the SDM who is a responsible officer as well as dying declaration recorded by him on the face of the confirmation of patient being fit for statement by PW-21, as already discussed in detail."*

47. We are thus of the view that the dying declarations made by the deceased before PW-21 (Doctor) at the time of preparation of the MLC, before PW-18/23 (Investigating Officer) during the intervening night of 26/27.09.1998, and before PW-7 (SDM) on 27.09.1998 are materially consistent and corroborative of each other. In all the three declarations, the deceased consistently identified the Appellant as the person who poured kerosene oil upon her and set her on fire following a quarrel. The consistency running through these declarations on the material particulars of the occurrence lends strong assurance to their truthfulness, voluntariness and reliability.

48. In ***Jemaben v. State of Gujarat***, ***2025 SCC OnLine SC 2299***, the Supreme Court *inter alia* held as under;

> *"13. We are of the view that merely because there are minor discrepancies in the version given by the prosecution witness with regard to the dying declaration and with regard to the manner of occurrence of the incident, the first dying declaration given by the deceased before the independent witness, i.e PW-3, cannot be ignored. The first dying declaration is supported by the independent documentary evidence, and therefore, the High Court has rightly placed reliance upon the decision rendered by this Court in the case of Nallam Veera Stayanandam v. Public Prosecutor, High Court of A.P., (2004) 10 SCC 769, and thereby, rightly set aside the order of acquittal rendered by the trial court qua the appellant/accused."*

49. Similarly, in ***Suresh v. State of T.N.***, ***(2025) 4 SCC 794***, the Supreme Court while referring to its previous decision in ***Uttam v. State of Maharashtra*** (supra), inter alia held as under;

> *"14. Now coming to the issue of the dying declaration. There is no doubt regarding the well-settled position of law that a dying declaration is an important piece of evidence and a conviction can be made by relying solely on a dying declaration alone as it holds immense importance in criminal law. However, such reliance should be placed after ascertaining the quality of the dying declaration and considering the entire facts of a given case.*
>
> *15. This Court in Uttam v. State of Maharashtra [Uttam v. State of Maharashtra, (2022) 8 SCC 576 : (2022) 3 SCC (Cri) 538] , with respect to inconsistent dying declarations, observed as follows : (SCC p. 587, para 15)*
>
> *"15. In cases involving multiple dying declarations made by the deceased, the question that arises for consideration is as to which of the said dying declarations ought to be believed by the court and what would be the*

> *guiding factors for arriving at a just and lawful conclusion. The problem becomes all the more knotty when the dying declarations made by the deceased are found to be contradictory. Faced with such a situation, the court would be expected to carefully scrutinise the evidence to find out as to which of the dying declarations can be corroborated by other material evidence produced by the prosecution."*
>
> *(emphasis supplied)*
>
> *In other words, if a dying declaration is surrounded by doubt or there are inconsistent dying declarations by the deceased, then courts must look for corroborative evidence to find out which dying declaration is to be believed. This will depend upon the facts of the case and courts are required to act cautiously in such cases."*

50. We also find no substance in the argument that the prosecution version is inherently improbable because kerosene allegedly could not have been poured from the stove in the manner suggested. Such submission is purely speculative and unsupported by any expert evidence. Significantly, the defence itself suggested that the deceased sustained burns due to the stove burst while cooking food. However, no evidence whatsoever was led to establish that the stove had burst or exploded. The prosecution witnesses, including the photographer PW-8 and the police officials who visited the spot, merely found the stove lying near the bed along with articles used for food preparation. No material has been brought on record indicating any accidental stove burst. On the contrary, the CFSL report Ex.PW-22/E confirmed the presence of high boiling petroleum hydrocarbon residues resembling those of Kerosene on the clothes of the deceased, thereby lending

strong corroboration to the prosecution version that kerosene had been deliberately poured upon her. The seizure memo of the stove Ex. PW-10/A merely records that the stove was lying near the entrance door with some kerosene oil remaining in its tank, and had there in fact been any stove blast as suggested by the Appellant in his section 313 Cr.P.C., statement and the statement given by DW-1, the stove would ordinarily have been found disfigured or with the tank burst, whereas no such signs were noticed or recorded during investigation. The photograph of the stove Ex.PW-8/4 shows that the stove is intact and lying on the floor. The defence has failed to furnish any plausible explanation for the presence of kerosene residues in the manner detected by the forensic/CFSL examination. The defence of the Appellant that the stove had burst while he was away getting household articles is therefore not acceptable.

51. The conduct of the Appellant subsequent to the incident also constitutes a significant incriminating circumstance against him. According to him, he had allegedly gone to the market at about 7:30 PM for purchasing household articles and was not present at the time of the occurrence, which admittedly took place at about 8:00 PM. However, despite the fact that his wife had sustained approximately 50% burn injuries and had been admitted to Safdarjung Hospital in a critical condition, there is no evidence whatsoever to show that the Appellant visited the hospital at any point during the night or made any attempt to ascertain her condition. No prosecution witness, including the relatives of the deceased or the police officials present at the hospital, saw the Appellant there. On the contrary, the evidence on

record shows that the Appellant remained absconding and ultimately surrendered only on 30th September, 1998, as deposed by the IO Inspector Laxmi Narayan. This conduct is wholly inconsistent with the behaviour expected of a husband whose wife had suffered "accidental" burn injuries. Furthermore, it appears highly improbable that the Appellant remained away from his residence for several hours, from about 7:30 PM till after midnight, merely for the purpose of purchasing household articles. The unnatural conduct of the Appellant in neither accompanying the injured to the hospital nor visiting her thereafter materially weakens the defence version and lends further assurance to the prosecution case. Such post-occurrence conduct of the Appellant is also a relevant fact under Section 8 of the Indian Evidence Act, as it reflects his behaviour before and after the incident and constitutes an additional incriminating circumstance against him.

52. The defence witnesses examined on behalf of the Appellant do not inspire confidence and fail to probabilise the defence version in any meaningful manner. Their testimonies are not only vague and unsupported by any independent material. None of the defence witnesses could satisfactorily explain the presence of kerosene residues detected on the clothes of the deceased or the absence of any signs of explosion or blast on the stove seized from the spot. Their testimonies also stand contradicted by the consistent dying declarations of the deceased, the medical evidence and the surrounding circumstances proved by the prosecution. Moreover, the defence witnesses appear to be closely associated with the Appellant and their versions do not find corroboration from any independent or

contemporaneous evidence on record. In these circumstances, this Court finds that the evidence led by the defence is unreliable and insufficient to create any reasonable doubt in the otherwise cogent prosecution case.

53. The submission that independent public witnesses or the children of the deceased were not examined is also insufficient to discredit the prosecution case. The incident admittedly occurred inside the matrimonial home where only the deceased and the Appellant were residing along with their children. However, there is no evidence that at the time of incident, children were present inside the house. Thus, non-examination of children, particularly in circumstances involving traumatic domestic violence, cannot by itself be fatal to the prosecution. Moreover, the prosecution has examined material witnesses including the doctors, SDM, IO, police officials and relatives before whom the deceased consistently implicated the Appellant. It is also pertinent that PW-10 admitted that public persons were present outside the house though none claimed to be an eyewitness. Absence of independent eyewitnesses in offences committed within the confines of the matrimonial home is neither unusual nor fatal.

54. On the issue of dowry demand and cruelty, the testimonies of PW-1 father of the deceased, PW-2 brother of the deceased and PW-3 mother of the deceased inspire confidence and establish a consistent course of harassment meted out to the deceased by the Appellant during the subsistence of the marriage. All the three witnesses categorically deposed that the Appellant used to raise demands for

scooter, fridge, colour television and money and used to subject the deceased to cruelty upon non-fulfilment of such demands. Their testimonies further reveal that the deceased frequently complained to her parental family regarding the harassment and beatings administered by the Appellant in connection with the said demands. The evidence of these witnesses, when read conjointly, reveals a continuing pattern of matrimonial cruelty and harassment rather than isolated or stray allegations.

55. PW-1 specifically deposed that after the marriage, the deceased frequently visited her parental home and informed him that the Appellant demanded articles such as scooter, fridge and colour television and used to beat and harass her for bringing insufficient dowry. He further stated that shortly before the incident the Appellant demanded Rs.50,000/- for construction of his house and that due to poverty and financial incapacity, the family was unable to fulfil the said demand. PW-1 also testified that the deceased had been turned out of her matrimonial home on several occasions and had repeatedly sought shelter and assistance from her parental family. The testimony of PW-2, brother of the deceased, materially corroborates the deposition of PW-1, as he stated that the Appellant used to beat the deceased and demand articles including scooter and fridge from her parental family. PW-2 further deposed that approximately fifteen days prior to the incident, the deceased approached him stating that the Appellant demanded Rs.50,000/- for construction purposes, but he was financially incapable of arranging such amount despite efforts made by the family. PW-3, mother of the deceased, also deposed

consistently that after about two years of marriage, the Appellant started demanding money and expensive household articles and used to harass the deceased on account of non-fulfilment of such demands. She stated that although the family occasionally gave small sums of money in an attempt to maintain peace in the matrimonial relationship, the Appellant continued to raise further demands and subject the deceased to cruelty. PW-3 further testified that the deceased frequently cried before her and narrated the harassment inflicted upon her by the Appellant. The prosecution case is further strengthened by the testimony of PW-11 Aftab, who specifically stated that about fifteen days prior to the incident, the Appellant demanded Rs.50,000/- for construction of the house and the deceased had approached him for arranging the said amount, but neither he nor the family could arrange such money and consequently the deceased returned to her matrimonial home without it.

56. This Court does not find any merit in the contention raised by the Appellant that the testimonies of the relatives are unreliable merely because no prior written complaint or police report had been lodged. In cases arising out of matrimonial cruelty and dowry harassment, it is not uncommon for the victim's family to initially attempt reconciliation and settlement instead of immediately approaching law enforcement agencies. Families often endure such harassment silently in the hope that matrimonial relations may improve with time and intervention of relatives. The absence of prior complaints therefore cannot by itself be treated as fatal to the prosecution case when the oral testimonies otherwise inspire

confidence and stand corroborated by the surrounding circumstances on record.

57. The contention of the Appellant that the witnesses belonged to a poor family and therefore the allegations regarding demand for costly articles and money appear improbable, is equally devoid of substance. Merely because the parental family of the deceased was financially weak does not render the allegations of unlawful demands inherently false or absurd. On the contrary, the evidence suggests that the economic vulnerability of the deceased's family was exploited by the Appellant, who repeatedly pressured them to fulfil demands beyond their financial capacity and just within 1 month before the incident the appellant had sent the deceased to her family members to bring Rs. 50,000/-. The inability of the deceased's family to meet such demands appears to have been a continuing source of discord and harassment in the matrimonial home.

58. This Court is also unable to accept the argument that no person would demand expensive articles or substantial sums of money from a poor family. Greed and unlawful desire for dowry are not confined to any particular economic class and unfortunately continue to plague all sections of society. The social evil of dowry is deeply entrenched and often manifests in demands that are wholly disproportionate to the financial condition of the bride's family. The fact that the family of the deceased was poor does not make the allegations improbable, rather, it lends credence to the prosecution case that the deceased was

subjected to sustained pressure and harassment because the demands raised by the Appellant could not be fulfilled.

59. The evidence of PW-1, PW-2 and PW-3, when read conjointly with the consistent dying declarations of the deceased and the surrounding circumstances established by the prosecution, clearly proves that the deceased was subjected to cruelty and harassment in connection with unlawful dowry demands soon before her death. Their testimonies are natural, cogent and free from any material contradiction affecting the core of the prosecution case. We, therefore, find no reason to discard the evidence led by the prosecution on the aspect of cruelty and dowry demand merely on the basis of speculative arguments advanced by the defence.

60. The argument regarding defective framing of charge is likewise devoid of merit. It is well settled that alternate charges under Sections 302 IPC and 304-B IPC may validly be framed where the evidence on record discloses ingredients attracting both provisions. No prejudice whatsoever has been demonstrated to have been caused to the Appellant on account of such framing of charge. The Appellant was fully aware of the accusations levelled against him and had ample opportunity to defend himself during trial. The evidence led by the prosecution was exhaustive and the Appellant was afforded complete opportunity to cross-examine all material witnesses. Mere technical objections regarding framing of charge cannot invalidate an otherwise lawful conviction unless failure of justice is shown, which is conspicuously absent in the present case.

CONCLUSION:

61. Accordingly, upon an overall appreciation of the dying declarations given by the deceased, oral, documentary, medical and forensic evidence on record, we are satisfied that the prosecution has successfully established beyond reasonable doubt that the deceased sustained burn injuries after the Appellant poured kerosene oil upon her and set her ablaze, and that the said injuries ultimately resulted in her death. The dying declaration recorded by the SDM is wholly trustworthy and stands corroborated by the medical evidence, MLC history, forensic evidence and surrounding circumstances. The alleged discrepancies highlighted by the defence are minor in nature and do not go to the root of the prosecution case.

62. Consequently, we find that prosecution has been able to prove the charges under Sections 498-A/302 IPC against the accused. Once we hold so, separate conviction under Section 304-B IPC is not warranted.

63. Consequently, while maintaining the conviction of the appellant under Sections 498-A/302 IPC and the sentence awarded there-under, we set aside the conviction of the appellant under Section 304-B IPC and the sentence awarded for the said offence. The appeal is disposed of accordingly.

64. Appellant Sirajuddin is directed to surrender before the Jail Superintendent within two weeks from today to serve his remaining sentence. In the event of failure to surrender, appropriate steps shall be taken by the State to ensure that he is taken into custody for undergoing the remaining sentence.

65. A copy of this judgement be sent to the Trial Court and Jail Superintendent for information and necessary action.

RAVINDER DUDEJA, J

NAVIN CHAWLA, J

JUNE 18, 2026/na