A GURBACHAN SINGH

v.

SATPAL SINGH & ORS.

SEPTEMBER 26, 1989

B [SABYASACHI MUKHARJI AND B.C. RAY, JJ.]

Criminal Trial—Criminal charge must be brought home—Proved beyond all reasonable doubt-abetment separate and distinct offence—Letting guilty escape is not doing justice according to law.

C **Ravinder Kaur, daughter of Gurbachan Singh was married to Satpal Singh in November, 1962. She died on 25th June, 1983 at about 2.30 P.M. It was alleged, she committed suicide because of the harassment, constant taunts and cruel behaviour of her in-laws towards her and persistent demand for dowry and insinnuations that she was carrying an illegitimate child. It is alleged, provoked by the aforesaid con-**
D **duct and behaviour she committed suicide. The father-in-law, mother-in-law and the husband of the deceased have been the abetters of the crime and the deceased died of second to third degree burns.**

The learned Additional Sessions Judge on the totality of evidence on record held that the accused were guilty of abetment to suicide and
E **as such punishable under Section 306 of the I.P.C. On appeal by the accused the High Court was of the view that the guilt of the accused had not been proved and as such acquitted them.**

The complainant and father of the deceased aggrieved by the order of the High Court preferred these appeals by way of special leave
F **to appeal. This Court holding that the order of acquittal made by the High Court is not sustainable and affirming the conviction of the accused under section 306 of I.P.C. and the sentence imposed by the Additional Sessions Judge, Amritsar,**

HELD: (*Per Sabyasachi Mukharji J.*) **Abetment is a separate and**
G **distinct offence provided the thing abetted is an offence. Abetment does not involve the actual commission of the crime abetted; it is a crime apart. [295G]**

Criminal charges must be brought home and proved beyond all reasonable doubts. While civil case may be proved by mere prepondе-
H **rance of evidence, in criminal cases the prosecution must prove the**

charge beyond reasonable doubt. There must not be any 'reasonable doubt' of the guilt of the accused in respect of the particular offence charged. The courts must strictly be satisfied that no innocent person—innocent in the sense of not being guilty of the offence of which he is charged—is convicted, even at the risk of letting of some guilty persons. Even after the introduction of S. 493A of the I.P.C. and S. 113A of the Indian Evidence Act, the proof must be beyond any shadow of reasonable doubt. There is a higher standard of proof in criminal cases than in civil cases, but there is no absolute standard in either of the cases. [296C-F]

The standard adopted must be the standard adopted by a prudent man which, of course, may vary from case to case, circumstances to circumstances. Exaggerated devotion to the rule of benefit of doubt must not nurture fanciful doubts of lingering suspicions and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let hundred guilty escape than punish an innocent. Letting guilty escape is not doing justice, according to law. [296F]

(Per B.C. Ray, J): Circumstantial avidence as well as the prosecution witnesses in the instant case clearly prove beyond doubt that the accused instigated and abetted Ravinder Kaur, deceased in the commission of the offence by committing suicide by burning herself. [306G]

The findings arrived at by the Trial Court after considering and weighing the entire evidences are unexceptional. The findings arrived at by the High Court without considering properly the circumstantial evidence as well as the evidences of the prosecution witnesses cannot be sustained. As such the findings of the High Court are liable to be reversed and set aside. [306H; 307A]

The suicide having been committed within a period of seven years from the date of her marriage in accordance with the provisions of Section 113A the Court may presume having regard to all the other circumstances of the case that such suicide had been abetted by the husband and his relations. Therefore, the findings arrived at by the Additional Sessions Judge are quite in accordance with the provisions of this section and the findings of the High Court that the accused persons could not be held to have instigated or abetted the commission of offence, is not sustainable in law. [308C-D]

Section 113A of the Indian Evidence Act was inserted in the Statute Book by Act 46 of 1983 whereas the offence under Section 306, I.P.C. was committed on June, 23, 1983 i.e. prior to the insertion of the

A **said provisions in the Indian Evidence Act.** [308E]

Bardendra Kumar Ghosh, **52 ILR Cal. 197.** *Mancini* **v.** *Director of Public Prosecutions,* **[1942] AC I.** *Woolmington* **v.** *The Director of Public Prosecutions,* **[1935] AC 462,** *Bater* **v.** *Bater,* **[1950] 2 AET 458 at 459.** *Wazir Chand and Anr.* **v.** *State of Haryana with State of* B *Haryana* **v.** *Wazir Chand and Anr.*, **[1989] I SCC 244,** *Sat Pal* **v.** *Delhi Administration,* **[1976] 2 SCR 11 at 30.** *Blyth* **v.** *Blyth,* **[1966] A.C. 643.** *Herridge* **v.** *Herridge,* **[1966] I AER 93,** *Brij Lal v. Prem Chand & Anr.* **JT. 1989 3 SC 1,** *Halsbury's Laws of England*, **4th Edn. Vol. 44 P. 510 & P. 574, refered to.**

C CRIMINAL APPELLATE JURISDICTION: Criminal Appeal Nos. 600-601 of 1989.

From the Judgment and Order dated 13.3.1986 of the Punjab and Haryana High Court in Crl. Revn. No. 434 and 1295 of 1984.

D Ms. Geeta Luthra, Ms. Pinky Anand and D.N. Goburdhah for the Appellant.

R.L. Kohli and R.C. Kohli for the Respondents.

The following Judgments of the Court were delivered

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SABYASACHI MUKHARJI, J. Ravinder Kaur, daughter of Gurbachan Singh, resident of Amritsar, was married to Satpal Singh in November, 1982. She died on 25th June, 1983 at about 2.30 p.m. She, it was alleged, committed suicide because of the cruel behaviour of her in-laws soon after her marriage. She used to visit her parents at F Amritsar occasionally and during those visits she used to tell them that there was demand for dowry and also taunting of her by the members of the family of her in-laws and also insinuation that she was carrying on illegitimate child. There are sufficient, relevant and acceptable evidence to that effect. It is alleged that provoked by the aforesaid conduct and behaviour, she committed suicide. The father-in-law, G mother-in-law and the husband of the accused have been the abettors to the crime. The evidence further established that she died of second to third degree burns on the body, and there was sprawling of kerosene oil on her body and the body was burnt by fire. Accused no. 3—Smt. Kamal Dip Kaur, the mother-in-law of the deceased and the mother of the accused Satpal Singh, stated in her statement under s. 313 Cr. P.C. H that she was lying in her house at that time and the deceased was

cooking food on a kerosene stove, and as such the deceased caught fire accidentally. A

Learned Addl. Sessions Judge held that there was absence of burn injuries on the fingertips of the mother-in-law and other members of the family. As mentioned before, the deceased was married in November, 1982. After marriage, she used to stay in the house of her-in-laws at Raja Sansi. The deceased used to visit the house of her parents at Amritsar occasionally, as noted before. During these visits she used to tell them that her-in-laws were not happy with the dowry given to the latter. It is further on evidence that she complained that her in-laws used to taunt her and insisted her to bring more dowry. It is stated that she complained that the in-laws taunted her that at the time of the marriage, her parents did not serve proper meals to the in-laws and their guests. It is further stated that the accused used to tell her that they had been offered by fridge etc. by other parties for the marriage of the accused while she had not brought dowry expected from her parents. It is also on evidence that she was often openly threatened that she would be turned out of the house in case she did not bring more articles. These were all established by the evidence of Gurbachan Singh, father of the deceased and his two daughters. It was insinuated of her by the accused that she was carrying an illegitimate child. B C D

On the totality of these evidence on record, it was held by the learned Sessions Judge that the accused were guilty of abetment to suicide and as such punishable under s. 306 of the I.P.C. The High Court on appeal was of the view that the guilt of the accused had not been proved, and as such acquitted them. E

The first thing that is necessary for proving the offence is the fact of suicide. Abetment is a separate and distinct offence provided the thing abetted is an offence. Abetment does not involve the actual commission of the crime abetted; it is a crime apart. See the observations of *Barendra Kumar Ghosh*, 52 ILR Cal. 197. It was contended on behalf of the accused that there was no direct evidence of the act of suicide by Ravinder Kaur. There, indeed, could not be in the circumstances in which she died. She was in the house of her in-laws. There is ample and sufficient evidence that she had complained that she was taunted for bringing meagre dowry and that even insinuated that she was carrying 'an illegitimate child'. The aforesaid facts stand established by cogent and reliable evidence. These are grave and serious provocation enough for an ordinary woman in the Indian set up, to do F G H

A what the deceased is alleged to have done. There is also evidence that the persons in the house of her in-laws including the mother-in-law—mother of the accused Satpal Singh, made no attempt to save her from the burn injuries. The absence of any burn injury in the hands of the people around, indicates and establishes that there was no attempt to save the deceased though she was seen being burnt. The evidence of attitude and conduct of the in-laws—the father-in-law, mother-in-law and the husband after Ravinder Kaur, the deceased, got burns in not informing the parents and not taking prompt steps to take her to hospital for giving medical assistance corroborate the inference that these accused connived and abetted the crime. Criminal charges must be brought home and proved beyond all reasonable doubt. While civil case may be proved by mere preponderance of evidence, in criminal cases the prosecution must prove the charge beyond reasoonable doubt. See *Mancini* v. *Director of Public Prosecutions*, [1942] AC 1, *Woolmington* v. *The Director of Public Prosecutions*, [1935] AC 462. It is true even today, as much as it was before. There must not be any 'reasonable doubt' about the guilt of the accused in respect of the particular offence charged. The courts must strictly be satisfied that no innocent person, innocent in the sense of not being guilty of the offence of which he is charged, is convicted, even at the risk of letting of some guilty persons. Even after the introduction of s. 498A of the I.P.C. and s. 113A of the Indian Evidence Act, the proof must be beyond any shadow of reasonable doubt. There is a higher standard of proof in criminal cases than in civil cases, but there is no absolute standard in either of the cases. See the observations of Lord Denning in *Bater* v. *Bater*, [1950] 2 AER 458 at 459 but the doubt must be of a reasonable man. The standard adopted must be the standard adopted by a prudent man which, of course, may vary from case to case, circumstances to circumstances. Exaggerated devotion to the rule of benefit of doubt must not nurture fancilful doubts or lingering suspicions and thereby destroy social defence. Justice cannot be made sterile on the plea that it is better to let hundred guilty escape than punish an innocent. Letting guilty escape is not doing justice, according to law.

The conscience of the court can never be bound by any rule but that is coming itself dictates the consciousness and prudent exercise of the judgment. Reasonable doubt is simply that degree of doubt which would permit a reasonable and just man to come to a conclusion. Reasonableness of the doubt must be commensurate with the nature of the offence to be investigated.

Having regard to the circumstances of the case, there is no direct evidence indicating the circumstances in which the death took place, the conduct of the accused and the nature of the crime with which the accused was charged, there cannot be any scope of doubt that the learned Sessions Judge was right and the conviction was properly made. This is not a case where there could be two views possible on the facts found and on the facts which could not possibly be found because of the nature of the offence. The fact the two view are reasonably possible, is not established by the fact that two different conclusions are reached by two adjudicatory authorities. The factum of that may be only a piece of evidence, but whether two views at all are possible or not, has to be judged in all circumstances by the Judge, by the logic of the facts found in the background of law. For the reasons aforesaid, I respectfully agree with the judgment and order proposed by my learned brother.

RAY, J. Special leave granted.

These appeals are at the instance of Gurbachan Singh, the complainant against the judgment and order passed in Criminal Appeal No. 434 SB of 1984 by the High Court of Punjab & Haryana at Chandigarh acquitting the accused-respondents of the charge under s. 306 of the Indian Penal Code on setting aside the conviction and sentence passed by the Additional Session Judge on August 9, 1984 convicting and sentencing all the accused. The appeal was allowed on holding that there was no evidence on record that the accused at the time of commission of suicide by Ravinder Kaur, in any way instigated or abetted her to commit suicide and as such the prosecution failed to establish the charge against the accused and their conviction consequently can not be sustained.

The prosecution case is that the deceased, Ravinder Kaur, daughter of Gurbachan Singh, the complainant was married to Satpal Singh in November, 1982. After marriage, Ravinder Kaur started living in the house of her in-laws at Raja Sansi. She used to visit the house of her parents at Amritsar occasionally and during these visits, she used to tell them that her in-laws were not happy with the dowry given to her and they used to taunt her and insisted her to bring more dowry and that they even used to taunt her that her parents at the time of the marriage did not serve them with proper meals. The accused also used to tell her that they were being offered Fridge etc. by the other parties in the marriage of Accused Satpal Singh and that she has not brought the dowry expected from her parents. She was often told

by them that she would be turned out of the house, in case she did not bring more articles.

In November, 1982, Gurbachan Singh visited the house of her in-laws at Raja Sansi where his daughter complained that the behaviour of her in-laws towards her was not cordial and that they were maltreating her for bringing insufficient dowry and they even taunted her that she was carrying an illegitimate child. Hearing these complaints from her daughter, Gurbachan Singh brought her daughter to his house at Amritsar, one day prior to Baisakhi, 1983 and his daughter continued to remain at his house for about eight days. Thereafter Satpal Singh, his father Harbhajan Singh, accused and his mother Smt. Kanwal Dip Kaur along with Harjit Singh, and Mohinder Singh, maternal uncles of Satpal Singh came to the house of Gurbachan Singh at Amritsar and pursuaded that he should send Ravinder kaur with them whereupon Gurbachan Singh told them that his daughter complained aginast the illtreatment and cruel behaviour towards her for bringing insufficient dowry and they also taunted her for this as well as for her illegitimate child and put pressure on her to bring more dowry. So he was reluctant to send her daughter back to her in-laws. Gurbachan Singh called Ved Prakash, President of the Mohalla Committee, Smt. Raj Kumari, a social worker living in the neighbourhood of Gurbachan Singh and one Ramesh Kumar to his house and all these complaints and grievances were repeated in presence of these persons. The accused assured him that in future they would not maltreat and taunt her and that he would not receive any complaint against them. They also assured him that in future they would not ask her to bring more dowry. On these assurances of the accused, Gurbachan Singh sent his daughter with the accused to Raja Sansi, the house of the accused.

For about two months, Gurbachan Singh did not receive any information from his daughter and so he sent his two daughters Surjit Kaur and Sajinder Kaur to Raja Sansi to the house of the in-laws of Ravinder Kaur to enquire about her welfare. The said daughters of Gurbachan Singh went to the house of the in-laws of Ravinder Kaur on June 23, 1983 that is, two days prior to the death of Ravinder Kaur. The deceased complained to them about the torture as well as cruel behaviour of her in-laws, as before and they have not stopped maltreating her and torturing her and she was not happy there. On June 25, 1983 at about 6.30 p.m., Mohinder Singh, maternal uncle of Satpal Singh came to the shop of Gurbachan Singh at Amritsar and informed him that his daughter committed suicide by sprinkling

kerosene oil on her body and then setting herself on fire and that she was lying at S.G.T.B. Hospital, Amritsar. Gurbachan Singh immediately went to the hospital and found the dead body of her daughter lying in the dead house. It has been alleged that Ravinder Kaur committed suicide on June 25, 1983 at 2.30 p.m. having fed up with the cruel behaviour of her in-laws. The appellant alongwith the members of his family stayed in the hospital. On June 26, 1983, Gurmeet Singh, A.S.I. Police Station, Ajnala came to the dead house at Amritsar at about 5 p.m. and examined the dead body of Ravinder Kaur. He recorded the statements of Gurbachan Singh, Ved Prakash and Ramesh Kumar.

The statement of Gurbachan Singh was reproduced in the Roznamcha, and the statements of Gurbachan Singh and Ved Prakash, President of the Mohalla Sudhar Committee and Ramesh Kumar though disclosed the commission of a cognizable offence by the accused yet Gurmit Singh, A.S.I. and even Shri Iqbal Singh Dhillon, D.S.P., Ajnala Police Station did not register the case for extraneous reasons.

On June 27, 1983, Dr. Gurdip Kumar Uppal, Medical Officer, Police Hospital, Amritsar conducted the post mortem examination on the dead body of Ravinder Kaur and found 2nd to third degree burns on the body of deceased.

Gurbachan Singh alongwith his daughters and Raj Kumari, Ramesh Kumar, Ved Prakash and others met the S.S.P. Amritsar in this regard and the investigation of the case was then entrusted by S.S.P. to Shri Surjit Singh, S.P. (Head Quarters) Amritsar who summoned Gurbachan Singh and other persons and recorded their statements on July 23, 1983.

All the three accused were charged for an offence under s. 306 of the Indian Penal Code and they pleaded not guilty to the charge framed against them. The accused no. 3 Smt. Kanwal Dip Kaur, the mother of the accused, Satpal Singh stated in her statement under s. 313 Cr. P.C. that she was lying in her house at the time and the deceased was cooking food in the kitchen on a kerosene stove and she caught fire accidentally.

The learned Additional Sessions Judge held that the absence of burn injuries on the fingertips of the mother-in-law or other members of the family as evident from the statement of D.W. 1, Jaswant Singh,

A ruled out the story of accidental fire as set up by the defence. He further held refering to the provisions of s. 113A of the Evidence Act that having regard to the facts and circumstances of the case it may be presumed that the accused persons have abetted the suicide committed by the deceased and they fail to reverse this prosecution case by any evidence. Accordingly, the Additional Sessions Judge, Amritsar con-
B victed the accused under s. 306 IPC and sentenced them to suffer rigorous imprisonment for five years each and to pay a fine of Rs.2,000 each, in default of payment of fine the accused shall be further liable to rigorous imprisonment for four months.

The accused-respondents preferred an appeal being Criminal
C Appeal No. 454 of 1984 in the High Court of Punjab and Haryana. The appeal was allowed and the conviction and sentence was set aside on the ground that the prosecution failed to establish the charge against the accused persons. Hence this appeal by special leave has been filed by the complainant.

D It has been contended by the learned counsel appearing on behalf of the appellant that the cruel behaviour, mal-treatment and taunts for not bringing sufficient dowry have been made to the deceased, Ravinder Kaur, soon after her coming to the house of her in-laws. It has also been urged that in November, 1982 she complained of her in-laws' ill-treatment and taunts to his father and her father took
E her to his house. It has also been urged that the accused Satpal Singh and his father accused Harbhajan Singh and other relatives of the accused met the deceased father at his house and requested him to send his daughter to the house of her in-laws and assured them that they would not maltreat her or taunt her or torture her for not bringing sufficient dowry. These assurances were given in the presence of Ved
F Prakash, the President of the Mohalla Sudhar Committee, and Raj Kumari, a social worker and one Ramesh Kumar. Gurbachan Singh, father of the deceased on these assurances given by the accused and their relations sent his daughter, Ravinder Kuar to her in laws house. It has also been urged that on June 23, 1983 the two daughters Surjit Kaur and Sujinder Kaur were sent by Gurbachan Singh to the house of
G the in-laws of Ravinder Kaur to enquire about her welfare. Surjit Kaur, PW-7 stated in her statement under s. 161 Cr. P.C. that her sister Ravinder Kaur complained them about the same ill-treatment by her husband continuing in the same manner as before and as such she was not happy. This was reported by them to their father at Amritsar. It has also been urged that all the three accused taunted the deceased,
H Ravinder Kaur that she was carrying an illegitimate child. Being

depressed with these taunts and ill-treatment the deceased committed suicide by sprinkling kerosene on her person and setting her to fire. The evidences of PW-4 Gurbachan Singh, father of the deceased and the evidence of PW-7 Surjeet Kaur as well as evidence of PW-6 Raj Kumari were duly considered by the trical court and the trial court clearly found the accused persons guility of the offence of abetting the suicide committed by the deceased. The court of appeal below had wrongly found that the prosecution could not prove charge against the accused and set aside the order of conviction and sentence made by the trial court and acquitted the accused. It has been urged in this connection that the defence that it was a case of accidental fire and not of suicide was also not believed by the trial court and the trial court gave very cogent and plausible reasons for not believing this story and holding that it was a case of suicide committed by the deceased Ravinder Kaur by the taunts and ill-treatment made to her by her in laws and this forced her to take her own life by suicide. It has been submitted that the accused have abetted the commission of suicide by Ravinder Kaur, deceased and the accused are, therefore, guilty of the said charge. The order of acquittal made by the High Court is not sustainable in these circumstances.

The learned counsel, Mr. R.C. Kohli has made three fold submissions before this Court. The first submission is that the case of suicide committed by the deceased Ravinder Kaur was not proved and as such the conviction on the charge of s. 306 I.P.C. as made by the trial court was not sustainable. He has further submitted that the prosecution has not proved beyond reasonable doubts that the deceased committed suicide. The next submission made is that the evidences produced on behalf of the prosecution are meagre and do not prove that the accused had abetted the commission of suicide by the deceased Ravinder Kaur. The prosecution did not prove that there was any instigation by the accused persons charged with the offence in this case. The High Court has rightly held that the prosecution failed to prove the ingredients of s. 306 of the IPC and acquitted the accused of the charge under s. 306. This order of acquittal should not be interfered with by this Court in this appeal. It has been lastly contended that if two reasonable views could be taken of evidences, one in favour of the accused and the other against them the appellate court should not interfere in such case and set aside the order of acquittal.

As regards the first submission that the case of suicide has not been proved, it is relevant to mention that in the FIR (Ex. PF) lodged by the complainant it has been specifically stated that due to constant

A harassment of Ravinder Kaur by the accused persons for having brought less dowry in her marriage as well as due to constant taunts and also torture, the deceased committed suicide by pouring kerosene oil on her and burnt herself and afterwards she died. It has been further stated in the FIR that the complainant apprehended that some quarrel must have happened on the day of the incident between his B daughter, Ravinder Kaur and her husband Satpal Singh, father-in-law Harbhajan Singh and mother-in-law Kanwaldip Kaur before she took the extreme step. P.W. 4, Gurbachan Singh has also stated in his deposition that his daughter used to tell them that her husband, father-in-law and mother-in-law always taunted her saying that her parents had not given sufficient dowry during the marriage and had not even C served them with proper meals at the time of marriage. He further stated that on 25th June, 1983 at 6.30 p.m. Mohinder Singh, maternal uncle of Satpal Singh came to shop and told him that his daughter had committed suicide by sprinkling kerosene oil on her body and then setting her on fire. In his statement under Section 161, Cr. P.C. recorded on 23rd July, 1983 he also stated that her two daughters D namely Sajinder Kaur and Surjeet Kaur (P.W. 7) who visited Raja Sansi to meet their sister, Ravinder Kaur two days before the incident were told by her deceased daughter that her in-laws often taunted her for not bringing sufficient dowry. It has also been stated by him that the accused taunted her daughter saying that she was carrying an illegal child which is a great defame for them. It has also been stated E that "due to the bad treatment meted out towards his daughter Ravinder Kaur at the hands of her husband, Satpal Singh, her mother-in-law, Kanwaldip Kaur and her father-in-law, Harbhajan Singh that she had not brought scooter and fridge and had brought less dowry in her marriage they had forced her to put kerosene oil on her body and commit suicide and as they often taunted her saying that she had F begotten immoral and illegal pregnancy and for this reason she had committed suicide and thus had lost her life."

Furthermore, though the house of the accused persons is not far off yet the information was given not by his son-in-law or other members of the family promptly but it was given by the maternal uncle of G the son-in-law, Satpal Singh at 6.30 p.m. to the appellant although the incident occurred at about 2.30 p.m. It is also evident that the deceased, Ravinder Kaur who had second to third degree burns on her person was brought to the hospital in the evening and the doctor, P.W. 1 immediately examined her and declared that she was already dead. Another most pertinent question which has been decided by the Trial H Court is that the defence story as stated by her mother-in-law,

Kanwaldip Kaur in her examination under section 313 Cr. P.C. that it was a case of accidental fire and not a case of suicide, was falsified by the absence of burn injuries on the finger tips of the mother-in-law or other members of the family. The Trial Court rightly held "that the intending circumstances show that she was not allowed to move till the process of burning had become irrecoverable and till she succumbed to her injuries." A B

We do not find any infirmity in this finding and we also hold on consideration and appraisement of the evidences as well as the circumstances set out hereinbefore that it was not a case of accidental fire but a case of suicide committed by the deceased Ravinder Kaur being constantly abused, taunted for bringing less dowry and also being defamed for carrying an illegitimate child. It is pertinent to mention that in the appeal before the High Court it was not urged on behalf of the accused that the case of suicide was not proved and as such there was no finding by the High Court on this score. In such circumstances this argument is totally devoid of merit and as such it is not sustainable. C D

It is convenient to refer in this connection the decision cited at the bar in *Wazir Chand and Another* v. *State of Haryana with State of Haryana* v. *Wazir Chand and Another,* [1989] 1 SCC 244 to which one of us (B.C. Ray, J) was a party, wherein it has been held that "a plain reading of this provision (S. 306 I.P.C) shows that before a person can be convicted of abetting the suicide of any other person, it must be established that such other person committed suicide." This decision is not at all applicable to the instant case in view of our specific finding that the evidence adduced on behalf of the prosecution clearly establish that the deceased Ravinder Kaur committed suicide at the instigation and abetment of the accused persons in the commission of the said offence. E F

The next argument advanced is that the evidences were too meagre and unreliable to sustain the conviction. It has also been urged that the High Court considered the evidences and came to a reasonable finding that the prosecution could not prove the ingredients of Section 306, IPC as there was no instigation by the accused nor there was any conspiracy for the commission of that offence. The High Court arrived at this finding on some contradictions in the statement of the evidences of P.W. 4, Gurbachan Singh, father of the deceased and of P.W. 7, Surjeet Kaur, sister of the deceased respectively with their statements made under Section 161 Cr. P.C. G H

A It is convenient to refer in this connection the observation made by this Court in the case of *Sat Pal* v. *Delhi Administration,* [1976] 2 SCR 11 at 30 to the following effect:

> "It emerges clear that on a criminal prosecution when a witness is cross-examined and contradicted with the leave
B of the court, by the party calling him, his evidence cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony. If the Judge finds that in the process, the credit of the witness has
C not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record that part of his testimony which he finds to be creditworthy and act upon it."

D

We have already referred to the material portions of the FIR as well as all the statements made by P.W. 4 in his evidence as well as his statement under Section 161 Cr. P.C. as well as the evidence of P.W. 7 and her statement under Section 161 Cr. P.C. On a plain reading of these statements it will be crystal clear that the accused persons since
E the date when the deceased, Ravinder Kaur went to her in-laws' house after the marriage, was mal-treated and was constantly taunted, harassed and tortured for not bringing sufficient dowry from her father and she was taunted for carrying an illegitimate child. The appellant sometime in November, 1982 went to her in-laws house. His daughter, Ravinder Kaur complained to him about this torture and constant
F taunts for not bringing sufficient dowry. On hearing this, her father brought her to his house and after eight days the accused persons, Satpal Singh, his father Harbhajhan Singh and two maternal uncles came to the house of the appellant and requested him to send his daughter with them assuring that there would be no further taunts or any ill-treatment by the respondents. The President of the Mohalla
G Sudhar Committee, Ved Prakash, P.W. 5 and a social worker, Smt. Raj Kumari, P.W. 6 and another person Ramesh Kumar of the same village were called in by Gurbachan Singh and in their presence all these talks were held. On the assurances given, Gurbachan Singh sent his daughter with them. It is also in evidence that as no information of her was received, Gurbachan Singh sent his two other
H daughters namely Surjeet Kaur, P.W. 7 and Sajinder Kaur, to the

house of the in-laws of the deceased Ravinder Kaur to enquire about her welfare. Ravinder Kaur told them that there was no improvement in the treatment meted out to her and she was being taunted and tortured by her in-laws in the same way and she was not happy. Two days thereafter i.e. on 25th June, 1983 at 2.30 P.M. this unfortunate incident occurred. P.W. 7, Gurjeet Kaur also stated in her deposition to the same effect. In her statement under Section 161 Cr. P.C. she also stated categorically that after about one month of the marriage whenever Ravinder Kaur met her she told that her in-laws i.e. the respondents were not treating her well for bringing less dowry. She was also told that the respondents were demanding refrigerator and a scooter. They had also taunted that she was having illegitimate child. She further stated that two days prior to the present occurrence she and her sister, Sajinder Kaur went to Raja Sansi to enquire about the welfare of our sister, Ravinder Kaur who told them weepingly that she was being beaten by the accused and again was mal-treated for bringing less lowry and scooter and friedge etc. She further stated that the respondents were levelling allegations that she had been carrying an illegitimate child and that she should die. It was also stated by her that her mother-in-law, Kanwaldip Kaur was present in the house and she was abusing Ravinder Kaur in their presence.

The learned Sessions Judge after carefully considering and weighing the evidences held that the witnesses P.W. 4, Gurbachan Singh, P.W. 5, Ved Prakash, President of the Mohalla Sudhar Committee, P.W. 6, Smt. Raj Kumari, social worker and P.W. 7, Surjeet Kaur clearly proved that the respondents mal-treated Ravinder Kaur for bringing less dowry and they even tortured her for carrying an illegitimate child. The said witnesses testified to the greedy and lusty nature of the respondents that they were persistently demanding more money. It has also been held that the worst part of the cruelty was that she was even taunted for carrying an illegitimate child. The Trial Court also held that a respectable lady cannot bear this kind of false allegation levelled against her and this must have mentally tortured her. Thus the persistent demands of the accused for more money, their tortures and taunts amounted to instigation and abetment that compelled her to do away with her life.

This finding was arrived at by the learned Sessions Judge on a proper appreciation of the evidences adduced by the prosecution. The High Court without properly considering and weighing the evidences of the prosecution witnesses and on a wrong appreciation of the evidences found that the prosecution failed to prove the ingredients of

A Section 306 of I.P.C. It was also held that there was no evidence on record that the accused at the time of commission of suicide by Ravinder Kaur, deceased in any way instigated or abetted her to commit suicide even though it has been brought but in evidences that the deceased was being maltreated by the accused continuously after her coming to the house of her in-laws. It was further held that the pro-
B secution has singularly failed to establish the charge against the accused and their conviction and sentences were consequently unsustainable.

We have already stated hereinfore that P.W. 4, Gurbachan Singh, P.W. 7, Surjeet Kaur have clearly stated in their depositions about the ill-treatment, torture and the cruel behaviour meted out to
C the deceased Ravinder Kaur which instigated her to take the extreme step of putting an end to her life by sprinkling kerosene oil on her body and setting fire. We have also stated hereinbefore that though the incident occurred at 2.30 P.M. the information of the death of Ravinder Kaur by burning was given to her father, Gurbachan Singh at 6.30
D P.M. in his shop at Amritsar. Gurbachan Singh with members of his family immediately rushed to the hospital and found the dead body of her daughter in the dead house of the hospital. It is also in evidence that Ravinder Kaur was brought to the hospital after much delay when she was already dead.

E The Trial Court rightly held that in such cases direct evidence is hardly available. It is the circumstantial evidence and the conduct of the accused persons which are to be taken into consideration for adjudicating upon the trustfulness or otherwise of the prosecution case.

F We have alreay referred to hereinbefore the evidences of the prosecution witnesses who clearly testified to the greedy and lusty nature of the accused in that they persistently taunted the deceased and tortured her for not having brought sufficient dowry from her father. It is also in evidence that they also taunted her for carrying an illegitimate child. All these tortures and taunts caused depression to
G her mind and drove her to take the extreme step of putting an end to her life by sprinkling kerosene oil on her person and setting fire. Circumstantial evidence as well as the evidences of the prosecution witnesses clearly prove beyond reasonable doubt that the accused persons instigated and abetted Ravinder Kaur, deceased in the commission of the offence by committing suicide by burning herself. The
H findings arrived at by the Trial Court after considering and weighing

the entire evidences are unexceptional. The findings arrived at by the High Court without considering properly the circumstantial evidence as well as the evidences of the prosecution witnesses cannot be sustained. As such the findings of the High Court are liable to be reversed and set aside.

The High Court drew an inference from the conduct of Gurbachan Singh, P.W. 4 in making a delay of about 24 hours after receipt of the information regarding her daughter's death to make a statement to the police about the incident with lodging the F.I.R. on the same date, i.e. June 25, 1983 or on the following morning. The High Court, therefore, held that all these circumstances would raise considerable doubt regarding the veracity of the evidence of these two witnesses (P.W. 4 and P.W. 7) and point an infirmity in their evidence as would render it unsafe to base the conviction of the accused.

It is in evidence of P.W. 4 that he was intimate about the death of his daughter by committing suicide, by the maternal uncle of Satpal Singh, son-in-law on June 25, 1983 at about 5.30 p.m. He immediately rushed to the hospital with members of his family where his daughter was brought. It is also in his evidence that he stayed there the whole night with his wife and other members of his family near the dead body of his deceased daughter and also on the next day till the dead body was handed over to him after the completion of post martem in the afternoon. The Assistant Sub-Inspector of Police of Ajnala Police Station reached SGTB Hospital on the next day i.e. on June 26, 1983 and got his statement recorded there. It has been rightly held by the Additional Sessions Judge that in the circumstances it cannot be said that there has been any delay in reporting the matter to the police. We fully accept this finding of the Additional Sessions Judge and we also held that the delay in lodging the FIR in the above circumstances does not raise any doubt regarding the veracity of the said two witnesses and there is no infirmity in the evidences of P.W. 4 and P.W. 7 which would render them unsafe to base the conviction of the accused as wrongly observed by the High Court.

It is also convenient to refer to this connection to the provisions of Section 113A of Indian Evidence Act, 1872 which provide that:

> "113-A. Presumption as to abetment of suicide by a married women—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

A 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."

B

In the instant case the deceased Ravinder Kaur was married to the accused, Satpal Singh in November, 1982 and she committed suicide on June 25, 1983. It has also been found on a consideration of the circumstantial evidence that she was compelled to take the extreme step of committing suicide as the accused persons had sub-
C jected her to cruelty by constant taunts, mal-treatment and also by alleging that she has been carrying an illegitimate child. The suicide having been committed within a period of seven years from the date of her marriage in accordance with the provisions of this Section, the Court may presume having regard to all the other circumstances of the case which we have set out earlier that such suicide has been abetted
D by the husband and his relations. Therefore, the findings arrived at by the Additional Sessions Judge are quite in accordance with the provisions of this Section and the finding of the High Court that the accused persons could not be held to have instigate or abetted the commission of offence, is not sustainable in law.

E It has been contended on behalf of the accused-respondents that Section 113-A of the Indian Evidence Act was inserted in the Statutes Book by Act 46 of 1983 whereas the offence under Section 306, I.P.C. was committed on June 23, 1983 i.e. prior to the insertion of the said provision in the Indian Evidence Act. It has, therefore, been submitted by the learned counsel for the respondents that the provisions of
F this Section cannot be taken recourse to while coming to a finding regarding the presumption as to abetment of suicide committed by a marriage woman, against the accused persons.

The provisions of the said Section do not create any new offence and as such it does not create any substantial right but it is merely a
G matter of procedure of evidence and as such it is retrospective and will be applicable to this case. It is profitable to refer in this connection to Halsbury's Laws of England, (Fourth Edition), Volume 44 Page 570 wherein it has been stated that:

"The general rule as that all statutes, other than those
H which are merely declaratory or which relate only to mat-

ters of procedure or of evidence, are *prima facie* prospective, and retrospective effect is not to be given to them unless, by express words or necessary implication, it appears that this was the intention of the legislature ....."

It has also been stated in the said volume of Halsbury's Law of England at page 574 that:

> "The presumption against retrospection does not apply to legislation concerned merely with matters of procedure or of evidence; on the contrary, provisions of that nature are to be construed as retrospective unless there is a clear indication that such was not the intention of Parliament."

In *Blyth* v. *Blyth*, [1966] A.C. 643 the wife left the husband in 1954 and lived with the co-respondent until August, 1955, when she broke off the association. In 1958 the husband and wife met by chance and sexual intercourse took place. In December, 1962, the husband sought a divorce on the ground of his wife's adultery. During the pendency of the application section 1 of the Matrimonial Causes Act, 1963 came into force on July 31, 1963 which provided that any presumption of condonation which arises from the continuance or resumption of marital intercourse may be rebutted on the part of a husband, as well as on the part a of wife, by evidence sufficient to negative the necessary intent. The question arose whether this provision which came into force on July 31, 1963 can be applied in the instant case. It was held that the husband's evidence was admissible in that Section 1 of the Act of 1963 only altered the law as to the admissibility of evidence and the effect which the courts are to give to evidence, so that the rule against giving retrospective effect to Acts of Parliament did not apply.

In *Herridge* v. *Herridge*, [1966] 1 AER 93 similar question arose, it was held that section 2(1) of the Act of 1963 was a procedural provision, for it dealt with the adducing of evidence in relation to an allegation of condonation in any trial after July 31, 1963; accordingly the subsection was applicable, even though the evidence related to events before that date, and the resumption of cohabitation in the present case did not amount, by reason of Section 2(1), to condonation.

On a conspectus of these decisions, this argument on behalf of

A the appellant fails and as such the presumption arising under Section 113-A of The Evidence Act has been rightly taken into consideration by the Trial Court.

It has been urged by referring to the decision in *Brij Lal* v. *Prem Chand & Anr.*, JT 1989 3 SC 1 that where two views could reasonably B be taken the appellate court should not interfere with the order of acquittal made by the Trial Court.

In the instant case on a proper consideration and weighing of the evidences the only reasonable view that can be taken is that the cruel behaviour and constant taunts and harassment caused by the accused C persons while Ravinder Kaur, deceased was in her in-laws house instigated her to commit suicide and in our considered opinion no other reasonable view follows from a proper consideration and appraisement of the evidences on record. As such the decision cited above is not applicable to the facts and circumstances of the instant D case.

For the reasons aforesaid we set aside the judgment and order of acquittal passed by the High Court and affirm the conviction of the accused of the offence under Section 306 I.P.C. and sentence imposed upon them by the Additional Sessions Judge, Amritsar. The respondents will immediately surrender in the Court of Sessions Judge, E Amritsar to serve out the remaining period of their sentence.

R.N.J. Appeals allowed.