



2026:AHC-LKO:57007

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 3995 of 2025

Amita Singh

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Lko.

.....Respondent(s)

Counsel for Appellant(s)	:	Divya Tripathi, Prashant Chaudhary
Counsel for Respondent(s)	:	G.A.

**ALONGWITH
CRIMINAL APPEAL No. - 4163 of 2025**

Shivraj Singh

.....Appellant(s)

Versus

State Of U.P. Thru. Prin. Secy. Home Deptt. Lko.

.....Respondent(s)

[A.F.R.]

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Criminal Appeal No. 3995 of 2025 was listed on 07.08.2026 on which date, it could not be taken up due to paucity of time. At the time of rising of the Court, Ms. Kashish Singh, grand-daughter of Amita Singh (the appellant in Criminal Appeal No. 3995 of 2025) requested that her grandmother and father were in jail and the delay in disposal of the appeal was causing a great hardship to her. On her request, Criminal Appeal No. 3995 of 2025 was fixed for the next working day, i.e., 11.08.2026. On 11.08.2026, the matter was posted for 12.08.2026. When the Court took up the matter on 12.08.2026, it transpired that the judgment under challenge has convicted and sentenced another accused Shivraj Singh, whereas his appeal was not connected and listed. Therefore, the Court passed an order for listing Criminal Appeal No. 3995 of 2025 on 13.08.2026 alongwith 4163 of 2025 filed by the other convicted person Shivraj Singh.

2. Although both the Criminal appeals have been filed through Smt. Divya Tripathi Advocate and Criminal Appeal 4163 was filed on 17.12.2025 and it was admitted on 06.01.2026, at the time of admission of the appeal and or at any time thereafter, she did not inform the Court about pendency of Criminal Appeal No. 3995 of 2025 against the same order and she did not make a

request for connection of both the appeals. The learned Counsel for the appellant did not make a request even when the appeal was taken up for hearing. The Court noticed absence of the Appeal of the other convict Shivraj Singh when Criminal Appeal No. 3995 of 2025 was taken up on 12.08.2026 and thereafter both the appeals were listed and taken up together. Even during hearing, the learned Counsel for the appellants could not provide any effective assistance to the Court and the Court has proceeded to examine the entire record of the trial Court with the assistance of Sri. Jayant Singh Tomar, the learned A.G.A. First, to examine the validity of the impugned order of conviction and sentence.

3. As both the aforesaid appeals have been filed challenging the validity of the judgment and order dated 30.10.2025 passed by Sri. Shyam Mohan Jaiswal, the learned Additional Sessions Judge/Special Judge, P.C. Act, Court No. 1, Lucknow in Sessions Trial No. 1003 of 2013, arising out of Case Crime No. 311 of 2011, under Sections 498-A, 304-B, 302, 201 of the Indian Penal Code and 3/4 Dowry Prohibition Act, 1961 (hereinafter referred to as the "*DP Act*") Police Station Vikas Nagar, District Lucknow, whereby both the appellants have been convicted for the offences under Sections 498-A, 304-B IPC and 3/4 DP Act. The appellants have also challenged the validity of the sentence order dated 31.10.2025 passed by the trial court, whereby both of them have been sentenced to undergo rigorous imprisonment for 3 years and to pay Rs. 3,000/- each as fine for the offence under Section 498-A IPC; Amita Singh, the appellant in Criminal Appeal No. 3995 of 2025, has been ordered to undergo rigorous imprisonment for 7 years, whereas Shivraj Singh, the appellant in Criminal Appeal No. 4163 of 2025, has been ordered to undergo rigorous imprisonment for 10 years. Both of them have been sentenced to undergo rigorous imprisonment for 5 years and to pay Rs. 15,000/- each as fine for the offence under Section 3 of the DP Act and to undergo rigorous imprisonment for 2 years and to pay Rs. 2,000/- each as fine for the offence under Section 4 of the DP Act.

4. The aforesaid case was instituted on the basis of a typed complaint dated 14.12.2011 (Exhibit A-1) given by the complainant Sarita Singh @ Sushma Singh stating that she had got her daughter Ruby Singh married to Shivraj Singh (the appellant in Criminal Appeal No.4163 of 2025) on 30.11.2007. After the marriage, her daughter's husband Shivraj Singh and mother-in-law Amita Singh (the appellant in Criminal Appeal No.3995 of 2025) as well as her father-in-law Deshratna Singh used to harass her for demanding Rs.1 lakh and a motorcycle as dowry and her daughter had told it to her on numerous occasions. One Satyavan Singh, a friend of Shivraj Singh, telephonically informed the complainant at about 7:30 p.m. on 06.12.2011 that her daughter had got burnt by kerosene. The complainant went along

with her other daughter and her elder brother and found her daughter Ruby Singh admitted in SIPS Hospital, Lucknow and she died in the hospital at 7:00 p.m. on 13.12.2011. The complainant alleged that her son-in-law Shivraj Singh had killed her daughter by setting her ablaze in connivance with his parents and friend Satyavan.

5. The dying declaration (Exhibit A-7) of Ruby Singh was recorded on 06.12.2011 i.e. on the date of the incident itself, at about 8:00 p.m. by Sri Arun Kumar, Additional City Magistrate-V, Lucknow, in presence of a doctor, in which she stated that she was cleaning the kitchen at about 5:00 PM. A lit candle was kept there. Kerosene kept in a container fell down from above due to which she suffered burn injuries. She stated that her husband Shivraj Singh lifted her and brought her to the hospital. She further stated she had a daughter aged 3 years. No other person was present inside the house at the time of the incident. The victim died on 13.12.2011 in the hospital after undergoing treatment for one week.

6. The postmortem examination report (Exhibit A-9) mentions the cause of death as septicemia as a result of antemortem septic burn wounds. A diagram of the dead body showing the injuries (Exhibit A-5) forms a part of the postmortem examination report. It shows burn injuries almost on the entire body, except for the soles. The postmortem examination report mentions superficial to deep septic burns present all over the face, front and back of the chest, front of the abdomen, both upper limbs and all around both thighs. It also states that debris were present on wounds on opening a section cutting of both lungs and liver, spleen and kidney, multiple puss foci seen.

7. Thereafter, the FIR (Exhibit A-10) was lodged on 14.10.2011 and the Investigating Officer submitted a charge-sheet dated 16.01.2012 (Exhibit A-12) against the appellants for offences under Sections 498-A, 304-B, 302, 201 IPC and Sections 3/4, Dowry Prohibition Act.

8. The complainant was examined at PW-1. In her examination-in-chief, she stated that she had given Rs.1 lakh cash, a steel almirah, a double bed with bedding, dressing table, a big box and three gold rings for the groom as dowry. Her daughter Ruby had given birth to a daughter who was named Kashish and who was aged about 6 years at the time of recording of the testimony. All the accused persons used to harass Ruby Singh, both mentally and physically, for demanding Rs.1 lakh cash and a motorcycle. Ruby used to tell the complainant about it whenever she used to visit her parental home and whenever someone from her family used to visit her matrimonial home. Upon getting information that her daughter had got burnt, she and some other members of her family had gone to SIPS Hospital Trauma Center at Lucknow where she was being treated. Bandages had been put on her entire

body. The accused persons had given to the complainant a card issued by the hospital permitting visits to the patient but they could only see her from the outside. She was treated in the hospital for 7-8 days but ultimately she died in the evening of 13.12.2011. She stated that she had spent about Rs.58,000/- in treatment of her daughter and her brother-in-law had donated one bottle of blood. PW-1 alleged that Ruby had lastly talked to her telephonically on 04.12.2011 and she had complained that the accused persons were mentally and physically harassing her for demanding Rs.1 lakh cash and a motorcycle as dowry. The complainant had assured her daughter that she would visit her in a day or two and would talk to the accused persons. She alleged that the appellants had set her ablaze by pouring kerosene on her on 06.12.2011 due to which she died on 13.12.2011.

9. During cross-examination, PW-1 stated that her husband does cultivation from which he earns Rs.50,000/- annually. She stated that she had 7 daughters, 5 of whom were married. All of her daughters were well educated. The deceased had studied up to B.A. She further stated that marriage of Ruby was previously settled with one Kuldeep Singh in the year 2007 but the proposal did not fructify and it ended on the day following the day on which *god-bharai* ceremony was performed. PW-1 also stated that Ruby was serving in a shop and was earning about Rs.5,000/- per month and she had gone to her office even on 06.12.2011. Upon getting information of the incident, PW-1 came to Lucknow, where she came to know that initially Ruby was taken to Neera Nursing Home and thereafter, she was taken to SIPS Trauma Center. In response to a question, she stated that no person had got burnt in her family, she could not say that SIPS Trauma Center is the best hospital to treat burn injuries. However, PW-1 admitted that it is a very big hospital. She further stated that her daughter remained in the hospital till she died on 13.12.2011. PW-1 remained present in the hospital for taking care of her daughter but she could only see her from the outside. She stated that she had spent Rs.60,000/- in the treatment of her daughter but as her purse had got lost, she did not have any receipt. She expressed ignorance about the fact that the accused persons had paid a bill of Rs.2,57,000/- for treatment of her daughter in the hospital. She admitted that the wedding proposal of her daughter was settled with three persons but thereafter, she had revoked all the three proposals. She admitted that Shivraj Singh had a motorcycle since before her marriage and he had a double-storey house. Shivraj Singh and Ruby Singh resided in the ground floor portion of the house and Shivraj's parents resided in its upper portion. Even after the death of her daughter, her granddaughter was living with the accused persons and she said that they were responsible to take care of their granddaughter.

10. Ram Pratap Singh, an uncle of the deceased, was examined as PW-2 and

he gave a statement similar to that of PW-1.

11. Preeti Singh, an elder sister of Ruby Singh, was examined as PW-3 and she also supported the FIR version. Strangely, she added that when she reached the hospital accompanied by her husband, Shivraj Singh himself had stated that he had set Ruby Singh ablaze. During cross-examination, PW-3 admitted that Ruby was taken to the hospital by her husband and his family members. When she had visited the hospital, Shivraj Singh and his father were present there. Till she reached, the accused persons had borne the expenditure of her treatment. She expressed ignorance of the fact that Shivraj had borne the expenses of Ruby Singh's treatment amounting to Rs.2,56,557/-. She expressed ignorance about Ruby Singh's dying declaration recorded by the Magistrate. She also admitted that Ruby Singh and Shivraj Singh used to reside in the ground floor proportion of the house whereas parents of Shivraj Singh used to reside in its upper floor portion.

12. Sita Singh, another sister of Ruby Singh, was examined as PW-4 and she also supported the FIR version. She further stated that it was her son's birthday on 04.12.2011 and she had called her sister Ruby Singh who told that there was dis-quietness in her house because of demand of dowry. Ruby Singh and Shivraj Singh, had attended the birthday party of her son during which Ruby had told that the accused persons used to beat her for demanding dowry. PW-4 further alleged that Amita Singh used to take Rs.2,000/- per month for taking care of Ruby's daughter and that Shivraj Singh had taken money from her husband on numerous occasions.

13. During cross-examination, PW-4 stated that half of the expenditure of Ruby Singh's treatment was borne by the family members of Shivraj Singh whereas the other half was paid by her mother but she stated that she did not know the total amount spent in the treatment and the amount paid by her mother for treatment of Ruby Singh. She expressed ignorance about the fact that Rs.2,57,557/- were spent in the treatment of Ruby Singh. She also alleged that when she visited the hospital, Shivraj Singh had stated that he had set Ruby Singh ablaze.

14. Vijay Pratap Singh, the father of the deceased, was examined as PW-5 and he also reiterated the FIR version. He further stated that he had met with an accident in the year 2011 and, therefore, he was unable to walk around since then. He stated that Ruby Singh used to serve in a shop. Ruby Singh had come to her home at Hardoi about one week prior to the incident and had told that the accused persons were demanding Rs.1 lakh and a motorcycle and he had assured that he would arrange the same after his health improved. On 06.12.2011, he got information about his daughter being burnt. He too stated that he had spent about Rs.58,000/- in the treatment of his daughter.

15. During cross-examination, PW-5 had stated that he had met with an accident in September 2011 due to which he had to remain admitted to a nursing home for 21-22 days. He stated that he was suffering from dementia. PW-5 stated that Ruby's daughter Kashish was living with the applicant Shivraj Singh. He stated that he did not have any receipt for payment of Rs.58,000/- to SIPS hospital and he was not aware that Rs.2,57,557/- had been spent in Ruby's treatment.

16. Shailendra Mohan Mishra, a neighbour of the appellants, who was a witness of the inquest proceedings, was examined as PW-6 and he proved the inquest report. He stated that Desh Ratna Singh, father of Shivraj Singh, had asked for money from him for treatment of his daughter-in-law Ruby Singh. PW-6 stated that he would have given Rs.1000-2000/- but he did not remember it well. He came to know that Ruby Singh had got burnt when Desh Ratna Singh asked for money from him. Desh Ratna Singh had told him that he had borrowed money from several persons for treatment of Ruby and she was being treated from the money collected in this manner.

17. Arun Kumar, Additional District Magistrate Bareilly, was examined as PW-7. He stated that after the death of Ruby Singh, an inquest report was prepared in SIPS Hospital under his instructions and he had opined to get a postmortem examination conducted and to videograph it. PW-7 stated that he had recorded the dying declaration of Ruby Singh under instructions of the District Magistrate received through RT set, at 8:00 p.m. on 06.12.2011 and it concluded at 8:10 p.m. Prior to recording the statement, he had satisfied himself that Ruby Singh was conscious and was in a condition to give her statement, which was certified by Doctor Faisal. He proved the dying declaration which was marked as Exhibit-A7.

18. Doctor Pankaj Kumar Srivastava, Senior Consultant, ENT, Doctor Shyama Prasad Mukharjee Hospital, Lucknow was examined as PW-9. He stated that he had conducted the postmortem examination of the dead body of Ruby Singh and had found that postmortem tanning was present on the unburnt back portion of the dead body. Her entire body was covered by hospital bandage. He stated that he had found superficial to deep septic burns. Puss, slough and debris were present in the wounds. There were burn injuries on the entire face, on the abdomen and on both the thighs. Multiple puss and foci was present in both her lungs, liver, spleen and kidney. Her brain, both lungs, liver, gall bladder and spleen were congested. In his opinion, the deceased died due to septicemia as a result of septic burn wounds. No question was put to PW-9 during his cross-examination

19. The investigating officer was examined as PW-11 and he proved the prosecution documents. He stated that on his instructions, SHO, Vikas Nagar had inspected the spot and taken in his possession a curtain which had smell

of kerosene. He had noted burn marks at several places in the room and he had also recorded the statement of doctor Sumit Malhotra and doctor Faisal, who were treating Ruby Singh. He stated that he had obtained opinion of Doctor Anoop Kumar Verma, Associate Professor KGMU, Lucknow, who was a forensic medicine expert. After perusal of postmortem examination report and medico-legal examination report, Doctor Anoop Kumar Verma had opined that the injuries of Rubi Singh could not be accidental burn injuries, it could be suicidal or homicidal.

20. Dr Anoop Kumar Verma was examined as PW-13. He stated that the investigating officer had come to consult him along with the medico-legal report and postmortem examination report and on the basis of the aforesaid documents, he had opined that the injuries could not be accidental burn injuries because the medico-legal report and the postmortem examination report do not mention that portion of the body below the waist and the legs from behind were burnt, which proves that at the time of suffering the injuries, the deceased was sitting on the floor and, therefore, such burn injuries could have been caused in suicide or homicide.

21. During cross examination, PW-13 stated that he had not got any written request to give his opinion and he had given his opinion to the investigating officer during oral talks. He stated that he had merely seen the postmortem examination report and his opinion was based on the postmortem examination report and the oral information given by the I.O. He had not prepared any written report. He stated that he did not remember the information which had been given by the I.O. orally. He further stated that such injuries could be caused in case some burning article fell down.

22. One Prem Kanti, a neighbour of the appellants, was examined as PW-14 but she did not support the prosecution case and she was declared hostile.

23. Satyawar Singh Chauhan, who is named in the FIR, was examined as PW-15 and he stated that Ruby Singh had told him about her household problems and she was aggrieved by her husband and mother-in-law. On 06.12.2011, Shivraj Singh had telephonically informed the PW-15 that Ruby Singh had got burnt and when he reached there, a large crowd had already gathered. Both the appellants were also present there. Some water and some other slippery substance was lying there. He had and some other persons had taken Ruby Singh to Neera Nursing Home, but the doctors there declined to admit her and advised to take her to SIPS Hospital. Thereafter she was taken to SIPS Hospital where she was admitted at 7:00 p.m. and died on 13.12.2011. During cross-examination, he stated that he did not know the cause of burning of the deceased and he did not know whether she was set ablaze or she had set herself ablaze.

24. One Ashish Kumar Pathak, a neighbour of the appellant, was examined as PW-16 and he stated that occasionally the sounds of quarrel came from the house of the appellants.

25. In the statement of the appellants recorded under Section 313 CrPC, they denied all the allegations and they stated that the deceased died due to burn injuries suffered by her accidentally and the entire expenditure of her treatment was borne by Shivraj Singh.

26. The trial Court held that the statements of the prosecution witnesses clearly established that the deceased was harassed for demanding dowry. Her neighbour PW-16 has stated that occasionally voices of quarrel used to emanate from her house. Although, the deceased gave a dying declaration that she had suffered the burn injuries accidentally, PW-13 Doctor Anoop Kumar Verma had opined that the injuries were not accidental but the same were suicidal or due to homicide. The trial Court further held that although the appellant claimed to have made efforts to save the deceased, they did not suffer any burn injuries. These facts proved that the accused persons used to harass her for demanding dowry and they had set her ablaze. The trial Court convicted the appellants for the offences under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act and sentenced them as aforesaid.

27. Before proceeding to examine the allegation of demand of dowry, it is necessary to have a look at Section 3 of the Dowry Prohibition Act, which reads as follows: -

"3. Penalty for giving or taking dowry—(1) *If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:*

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) *Nothing in sub-section (1) shall apply to, or in relation to,—*

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having

regard to the financial status of the person by whom, or on whose behalf, such presents are given."

28. As per the prosecution case, Ruby had got married to Shivraj on 30.11.2007. There is no allegation that any demand of dowry was made by the appellants at the time of marriage. Merely customary items were given at the time of the marriage, that too without any demand. The complainant had not prepared any list of the items given as dowry. The customary items given at the time of marriage without any demand having been made, do not make out the offence of demand of dowry against the appellants.

29. Ruby had a daughter aged 3 years. Ruby was working and earning. She suffered burn injuries on 06.12.2012. Her husband Shivraj and some other persons had taken her to Neera Nursing Home soon thereafter, but the Doctors did not admit her and asked to take her to SIPS Hospital and Trauma Center. Shivraj got her admitted to SIPS Hospital, where her dying declaration was recorded by a Magistrate in presence of a Doctor, within 2 hours of the incident. Ruby Singh succumbed to the burn injuries on 13.12.2011. Shivraj had borne the entire expenses of Ruby's treatment and had paid the hospital bill of Rs.2,57,557/-. The complainant and her family members were not even aware of the amount spent in Ruby's treatment.

30. It is only after Ruby's death, that the complainant alleged that Ruby's husband Shivraj Singh, mother-in-law Amita Singh and father-in-law Deshratna Singh used to harass her for demanding Rs.1 lakh and a motorcycle as dowry and her daughter had told it to her on numerous occasions and this allegation was not levelled even after Ruby had suffered the burn injuries, during the one week's period when she was being treated in SIPS hospital, which the complainant admitted to be a very big hospital.

31. Although the complainant, her husband and daughters have stated that Ruby used to tell that she was harassed for demanding Rs.1,00,000/- and a motorcycle as dowry, there is no allegation that any of the appellants had made any demand from the complainant, her husband or any other family member.

32. The prosecution witnesses themselves have stated that the appellants have a double storied house, Ruby and Shivraj used to live in the ground floor portion of the house whereas Shivraj's parents used to lived in its first floor portion. Shivraj already had a motorcycle. Ruby was earning and her mother-in-law Amita Singh used to look after her daughter. They also admitted that the 3 years' old daughter of Ruby was living with and was being looked after by the appellants as it was their responsibility.

33. The aforesaid analysis of the testimony of prosecution witnesses gives rise to a reasonable apprehension against the correctness of the allegation of

demand of dowry levelled by them belatedly and it does not inspire confidence.

34. Therefore, I am of the view that the prosecution has failed to prove that the appellants used to demand dowry from the deceased Ruby and that she had harassed her for demanding dowry, soon before her death.

35. The Magistrate (PW-7) stated that he had recorded the dying declaration after being satisfied that Ruby was fully conscious and in a proper state to give her statement. In her dying declaration, Ruby specifically stated that she was cleaning the kitchen at about 5:00 p.m. A lit candle was kept there. Kerosene kept in a container fell down from above due to which she suffered burn injuries. She further stated she has a daughter aged 3 years and no other person was present inside the house at the time of the incident. She stated that her husband Shivraj Singh lifted her and brought her to the hospital.

36. In **Nallapati Sivaiah v. SDO**: (2007) 15 SCC 465, the Hon'ble Supreme Court held that: -

"24. There is a legal maxim "nemo moriturus praesumitur mentire" meaning, that a man will not meet his Maker with a lie in his mouth. Woodroffe and Amir Ali, in their Treatise on Evidence Act state:

"when a man is dying, the grave position in which he is placed is held by law to be a sufficient ground for his veracity and therefore the tests of oath and cross-examination are dispensed with".

37. In **Shudhakar v. State of M.P.**: (2012) 7 SCC 569, the Hon'ble Supreme Court held that: -

"20. The "dying declaration" is the last statement made by a person at a stage when he is in serious apprehension of his death and expects no chances of his survival. At such time, it is expected that a person will speak the truth and only the truth. Normally in such situations the courts attach the intrinsic value of truthfulness to such statement. Once such statement has been made voluntarily, it is reliable and is not an attempt by the deceased to cover up the truth or falsely implicate a person, then the courts can safely rely on such dying declaration and it can form the basis of conviction. More so, where the version given by the deceased as dying declaration is supported and corroborated by other prosecution evidence, there is no reason for the courts to doubt the truthfulness of such dying declaration."

38. When a reliable dying declaration can form the basis of a conviction, the standard required for which is proof beyond reasonable doubt, it can certainly form the basis of an acquittal, the standard of proof required for which is merely preponderance of probabilities, more so, when there is no good ground to disbelieve the genuineness of the dying declaration, as it was recorded by a Magistrate in presence of a doctor, after being satisfied that

the deceased was fit to give her statement and there is no good ground to disbelieve the correctness of the dying declaration.

39. The doctor (PW-13) who had given opinion that the injuries could not have been caused due to accidental burns and it was a case of homicide or suicide, stated that the medico-legal report and the postmortem examination report do not mention that portion of the body below the waist and the legs from behind were burnt, which proves that at the time of suffering the injuries, the deceased was sitting on the floor and, therefore, such burn injuries could have been caused in suicide or homicide. During his cross-examination that his opinion had not been sought formally and he had given the opinion to the investigating officer orally after merely having a look at the medico-legal examination report and the postmortem examination report and the oral information given by the investigating officer. A forensic medicine expert working in KGMU normally does not give his medical expert's opinion orally, on an oral request of an investigating officer, on the basis of oral information given by him and it gives rise to a serious doubt against the truthfulness of the statement of PW-13.

40. Secondly, PW-13 claims to have seen Ruby's medico-legal examination report, whereas no such report is available and no prosecution witness has stated that such a report had been prepared. The absence of medico-legal examination report on the record gives rise to a doubt against the correctness of the statement of PW-13.

41. Thirdly, PW-13 stated that the medico-legal examination report and the postmortem examination report do not mention that portion of the body below the waist and the legs from behind were burnt, which proves that at the time of suffering the injuries, the deceased was sitting on the floor and, therefore, such burn injuries could have been caused in suicide or homicide. However, the postmortem examination report (Exhibit A-9) mentions superficial to deep septic burns present all over the face, front and back of the chest, front of the abdomen, both upper limbs and all around both thighs. Moreover, the diagram of the dead body (Exhibit A-5) shows burn injuries almost on the entire body, except for the soles. Presence of burns on the front of chest and abdomen and all around both thighs does not support the theory of PW-13, that the deceased was sitting on the floor.

42. The trial Court has ignored the testimony of PW-9 Doctor Pankaj Kumar Srivastava, who had conducted the postmortem examination who stated that there were burn injuries on the entire face, on the abdomen and on both the thighs. PW-9 stated that he had found superficial to deep septic burns, puss, slough and debris were present in the wounds, multiple puss and foci was present in both her lungs, liver, spleen and kidney. In his opinion, the deceased died due to septicemia as a result of septic burn wounds. Presence

of debris in the wound after the deceased remained admitted to a hospital for one week, prima facie indicates that the wound had not been cleaned properly and it could be a factor that caused septicemia which resulted in death of Ruby Singh.

43. The statement of PW-13 is merely an opinion and it cannot take precedence over the dying declaration and the testimony of the doctor who had conducted the postmortem examination. PW-13 stated that he had given his opinion to the I.O. orally, without any formal request having been made asking for his opinion, allegedly after seeing the non-existent medico-legal examination report, the postmortem examination report and getting some undisclosed oral information from the Investigating Officer, which report is contrary to the findings recorded in the postmortem examination report and the diagram of the dead body, does not inspire confidence and it cannot form the basis of conviction of the appellants, more particularly, when it runs contrary to the dying declaration of recorded by a Magistrate in presence of a Doctor, the observations recorded in the postmortem examination report, the diagram of the dead body attached to the postmortem examination report, and the statement of the doctor who had conducted the postmortem examination.

44. When there is an opinion given by a government doctor without any formal request asking for his opinion, merely after seeing the postmortem examination report and getting some undisclosed oral information from the investigating officer, which runs contrary to the findings recorded in the postmortem examination report and the diagram of the dead body, does not inspire confidence and it cannot form the basis of conviction of the appellants, more particularly, when it runs contrary to the dying declaration of recorded by a Magistrate in presence of a Doctor, the observations recorded in the postmortem examination report, the diagram of the dead body attached to the postmortem examination report, and the statement of the doctor who had conducted the postmortem examination.

45. In view of the foregoing discussion, I am of the considered view that the prosecution has failed to prove the guilt of the appellants. The trial Court has convicted and sentenced the appellants without a proper appreciation of the prosecution evidence, which renders its judgment unsustainable in law.

46. Accordingly, both the appeals are **allowed**. The judgment and order dated 30.10.2025 passed by Sri. Shyam Mohan Jaiswal, the learned Additional Sessions Judge/Special Judge, E.C. Act Court No. 1, Lucknow in Session Trial No. 1003 of 2013, convicting the sentencing the appellants for the offences under Sections 498-A and 304-B IPC and Sections 3/4 of the Dowry Prohibition Act, is hereby **set aside**.

47. The appellants are in custody. They are directed to be released on furnishing personal bonds and two sureties as per the provision contained in Section 437-A Cr.P.C., for their appearance before the Hon'ble Supreme Court in case any appeal is filed against this order and the Hon'ble Supreme Court issues notice of the appeal and the bonds shall hold good for a period of six months from today.

August 13, 2026

-Amit K-

(Subhash Vidyarthi,J.)

Whether the order is speaking :- Yes
Whether the order is reportable :- Yes

(Subhash Vidyarthi,J.)