



2026:AHC:165193-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1239 of 1990

Ashok Kumar

.....Appellant(s)

Versus

State

.....Respondent(s)

Along with :

1. Criminal Revision No. 1240 of 1990:

Megh Singh

Versus

State of U.P.

Counsel for Appellant(s)	: D. Swaroop, K Kapoor, Ravindra Singh, Vikas Srivastava
Counsel for Respondent(s)	: D Swaroop, Ramesh Kumar, V K Chaturvedi

Judgment Reserved On 20.07.2026

Judgment Delivered On 07.08.2026

Court No. - 44

HON'BLE SIDDHARTHA VARMA, J.

HON'BLE ACHAL SACHDEV, J.

(Per: Achal Sachdev,J.)

1. Criminal Appeal No. 1239 of 1990 has been preferred against the judgment and order dated 12.06.1990 passed by the learned Additional Sessions Judge, Aligarh, in Sessions Trial No. 268 of 1987 (State v. Ashok Kumar and four others), whereby accused-appellants Ashok Kumar, Ramadas and Kasturi Devi were convicted under Sections 302/498-A IPC, while co-accused Mahraj Singh and Kumari Sumita were acquitted of the same charges.
2. Criminal Revision No.1240 of 1990 has been filed by the informant, Megh Singh, against the acquittal of Mahraj Singh and Kumari Sumita recorded in the very same judgment. Criminal revision had been filed against the order of acquittal of accused Mahraj Singh and Kumari Sumita on the ground that the trial court failed to take into account

evidence while passing the order of acquittal against the accused Mahraj Singh and Kumari Sunita and seeks the setting aside of the order of acquittal that came to be passed against opposite parties No.2 and 3 in the revision petition.

3. Since both proceedings arise out of the same judgment and involve overlapping evidence, they are being disposed of by this common judgment.
4. During the pendency of the appeal, Appellant No. 2 Ramadas and Appellant No. 3 Kasturi Devi died, and the appeal qua them stood abated by order dated 18.07.2019. The appeal accordingly survives only in respect of Appellant No. 1, Ashok Kumar, while the revision survives in its entirety.
5. On conviction under Section 302 IPC, the accused-appellants were sentenced to imprisonment for life and a fine of Rs.2,000/- each, in default whereof they were to undergo one year's further rigorous imprisonment. On conviction under Section 498-A IPC, each was sentenced to one year's rigorous imprisonment and a fine of Rs.500/- in default whereof they were to undergo three months' further rigorous imprisonment. The sentences under the two sections were directed to run concurrently.
6. The facts of the case, for disposal of this appeal, are that a First Information Report was lodged by the informant, Megh Singh, at Police Station Vijaygarh, District Aligarh, on 27.07.1986 at 1.20 p.m. (tehrir report, Exhibit Ka-1; FIR, Exhibit Ka-7). It was alleged that his daughter, Sunita, was married to Ashok Kumar, son of Ramadas, a resident of village Kaumri, in June 1982, and that dowry was given at the marriage to the extent of the informant's capacity. Thereafter, the husband Ashok Kumar, the father-in-law Ramadas, and the mother-in-law Kasturi Devi demanded a television and a motorcycle as additional dowry, which the informant could not meet, following which the deceased was harassed. For some time she was not permitted to visit her parents; later, at the informant's persuasion, she was sent to her parental home. Manoj, the informant's son, brought Sunita back to her matrimonial home on the assurance that Ashok Kumar's father would arrange for the television and motorcycle. On 30.06.1986, at the deceased's own request, she was taken back to village Kaumri by her brother Anil. On 26.07.1986, the informant received a letter from his daughter asking to be taken away and stating that her life was in danger. On receiving this, the informant, along with Ram Singh, the mediator of the marriage, went to village Kaumri on

27.07.1986 and, at about noon, found Ashok Kumar, Ramadas, Kasturi Devi and Kumari Sumita inside the house, with the body of the deceased already ablaze. On seeing the informant and Ram Singh, the accused fled, and the half-burnt body of Sunita was found lying at the spot. The report was scribed by Ram Singh at the informant's dictation and signed by the informant; leaving Ram Singh at the place of occurrence, the informant then went to Police Station Vijaygarh to lodge the report.

7. On registration of the FIR, the Circle Officer of Sikandra Rao, accompanied by Sub-Inspector Om Prakash Sharma, reached the spot. The inquest report (Exhibit Ka-6), the letter to the Chief Medical Officer, the challan-lash, the letter to the medical officer (Exhibit Ka-12), the letter to the Superintendent of Police (Exhibit Ka-13), the site plan (naksha nazri) (Exhibit Ka-16) and the sample memos (exhibit numbers 15) were prepared. The body of the deceased was sealed and sent for postmortem examination. Half-burnt wood and clothes were recovered from the spot under a recovery memo (Exhibit Ka-15). Accused Kasturi Devi was arrested on 28.07.1986, the arrest being entered in General Diary No. 20 dated 28.07.1986 at 4.00 p.m. Investigation was thereafter taken over by Circle Officer Sunil C. Varshney, who recorded the statements of witnesses, took into possession letters written by the deceased to her parents, prepared a further site plan (Exhibit Ka-16), and, on completion of investigation, submitted a charge-sheet (Exhibit Ka-17) against all five accused — Ashok Kumar, Ramadas, Kasturi Devi, Mahraj Singh, and Kumari Sumita, daughter of Barilal and niece of Ashok Kumar.
8. The prosecution examined seven witnesses. PW-1 Megh Singh, the informant and father of the deceased, proved the tehriri report (Exhibit Ka-1). PW-2 Ram Singh, the scribe of the tehriri report and a witness to what was found at the house immediately before the FIR was lodged, corroborated it. PW-3 Dr. Rajeev Agarwal conducted the postmortem examination of the deceased on 28.07.1986. PW-4 Ramesh Chandra accompanied the investigating Sub-Inspector to the spot and proved his signature on the inquest proceedings. PW-5 Abhay Kumar, the constable clerk posted at Police Station Vijaygarh on 27.07.1986, proved the FIR (Exhibit Ka-7) and the corresponding General Diary entry. PW-6 Sub-Inspector Om Prakash Sharma prepared the panchayatnama and conducted the inquest of the deceased. PW-7, the Circle Officer who completed the investigation, filed the charge-sheet (Exhibit Ka-17), proved the site plan (Exhibit Ka-16), and recorded the statements of the informant, Ram Singh and Sub-Inspector Sharma.

9. In his examination-in-chief, PW-1 substantiated the allegations set out in the FIR and deposed that the deceased was repeatedly harassed over a demand for additional dowry. PW-2 Ram Singh, who had mediated the marriage between Ashok Kumar and the deceased, supported the case of the prosecution on this point. The fact of the demand and the alleged harassment have gone un rebutted. No specific role, however, has been assigned to accused Mahraj Singh or Kumari Sumita beyond general allegations, and it cannot be excluded that they were falsely implicated along with the appellants who bore the direct brunt of the accusation.
10. The maxim *falsus in uno, falsus in omnibus* (false in one thing, false in everything) has never received acceptance as a rule of evidence in India; it is, at best, a rule of caution, and has not attained the status of a rule of law. It remains the court's duty to separate the grain from the chaff, accepting so much of a witness's testimony as is found trustworthy in relation to each accused and rejecting only that part which is not; only where such separation proves impossible need the evidence be rejected in its entirety (***State of Rajasthan v. Kalki*, (1981) 2 SCC 752; *Ugar Ahir v. State of Bihar*, AIR 1965 SC 277**). On this footing, the possibility that Mahraj Singh and Kumari Sumita were falsely implicated does not, without more, taint the evidence of PW-1 and PW-2 as it bears on the appellant Ashok Kumar and the deceased appellants, whose culpability falls to be examined independently on the medical and circumstantial evidence discussed below.
11. Upon the closure of the prosecution evidence, the accused's statements were recorded under Section 313 Cr.P.C., in which they denied the allegations and pleaded false implication. Two witnesses were examined in defence: DW-1 M.P. Shukla, a Sub-Engineer (Planning) in the Telephone Nigam, and DW-2 Vijaipal Singh, son of Jalla Singh, resident of village Kaumri and son-in-law of the informant. It may be noted that DW-2, though connected to the informant's family by marriage, deposed in support of the defence version of events.
12. The learned Sessions Judge acquitted Mahraj Singh and Kumari Sumita, holding that no evidence connected them either to the dowry demand or to the harassment of the deceased. Ashok Kumar, Ramadas and Kasturi Devi were convicted under Sections 302/498-A IPC and sentenced them as recorded above.
13. Learned counsel for the appellant contends that the deceased's death was accidental, and that there was neither foul play nor any demand for additional dowry. Reliance is placed on the testimony of DW-2 Vijaipal

Singh, who deposed that at the time of the incident he saw smoke rising from Ramadas's house, saw Kasturi Devi coming from the direction of the cattle-shed, and that the room door was found locked from the inside; on breaking it open, the deceased was found dead amidst smoke, while Ramadas was not at home. It is submitted that the FIR was ante-dated at the instance of the informant, who exerted influence upon the Naib Tehsildar, and that the accused have been falsely implicated.

14. Learned AGA, appearing for the State, and learned counsel for the revisionist submit that the half-burnt body of the deceased was recovered from within the house in the exclusive occupation of the accused, and that the accused have offered no explanation as to how the deceased came to be in that condition, nor was any information of an accident conveyed to the deceased's father. It is further submitted that the deceased, shortly before her death, had written a letter to her parents (Exhibit Ka-2) complaining of harassment over a demand for additional dowry — a letter, received by the informant one day prior to her death, whose authorship has not been denied by the defence.
15. Dr. Rajeev Agarwal (PW-3) conducted the postmortem examination on 28.07.1986 at the District Hospital, Aligarh, and found the body in a pugilistic position, with froth coming from the mouth and nose. He noted deep, ante-mortem burn injuries with a line of redness at their margins, and opined that death was caused by shock and asphyxia resulting from ante-mortem burns.
16. The pugilistic ("boxer's") position is a well-documented finding in forensic medicine (Modi's Medical Jurisprudence and Toxicology). It results from heat-induced coagulation and consequent shrinkage of the flexor muscle groups, which are bulkier than the extensors, drawing the limbs into a flexed, boxer-like stance — elbows and knees bent, fists clenched. By itself, the pugilistic position is a heat artefact and can occur whether the person was alive or already dead when the burning began; standing alone, it proves only that the body was subjected to intense heat, not that the burns were ante-mortem. Its evidentiary value in this case arises from being read together with the other markers PW-3 recorded in particular, the line of redness (erythema/vital reaction) at the margins of the burn wounds, and the absence of carbon particles in the trachea, as recorded in the autopsy report. A line of redness of this kind reflects a living vascular response to injury blood still circulating and reacting to the burn and is accepted in forensic practice as a reliable indicator that the burns were sustained before death, as distinct from post-mortem

charring, which shows no such vital reaction. Where, as here, the autopsy report also records deep ante-mortem burns as the cause of death, and there is no soot-free area or other feature suggesting the fire was set upon an already-dead body, the totality of the medical evidence supports a finding of ante-mortem, homicidal burning rather than the accidental, post-mortem exposure to fire suggested by the defence. Courts have consistently accepted such findings, corroborated by the treating or autopsy surgeon's oral testimony, as cogent medical evidence on this question; the appellant has not cross-examined PW-3 to displace either the line-of-redness finding or the cause-of-death opinion, nor has the appellant led any medical evidence of his own to support the theory of a post-mortem or accidental fire.

17. The deceased met her death inside a room within the house of the accused, to which access at the relevant time was confined to the inmates of that house. Section 106 of the Evidence Act provides that "when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him," and Illustration (b) to the section — the case of a person found travelling without a ticket, where the fact of possessing a valid ticket is peculiarly within that person's own knowledge — illustrates the kind of fact the provision is meant to reach: not the ultimate fact of guilt, but a subsidiary fact that only the person concerned is realistically in a position to explain.
18. The Supreme Court in *Trimukh Maroti Kirkan v. State of Maharashtra*, (2006) 10 SCC 681, applied this reasoning to a case of a wife's unnatural death in her matrimonial home. The Court held that the pristine rule that the burden of proving guilt lies throughout on the prosecution is not to be treated as a fossilised doctrine to be applied mechanically in every case; where an offence such as murder is committed in the privacy of a house, the prosecution cannot realistically be expected to lead the same quality and quantity of evidence as in a case witnessed in the open, and the burden on it is, in that sense, "of a comparatively lighter character." Correspondingly, Section 106 casts a burden on the inmates of the house to furnish a cogent explanation of how the death occurred. The inmates cannot discharge themselves simply by remaining silent on the premise that the burden always lies wholly on the prosecution; if they offer no explanation, or a false one, that silence or falsity becomes an additional link fortifying the chain of circumstances against them. It bears emphasis that this does not reverse the burden of proving the charge as a whole, which remains on the prosecution throughout, and Section 106 does not relieve the prosecution

of establishing the basic incriminating circumstances — here, that the deceased died an unnatural, ante-mortem burn death inside a room occupied by the accused, shortly after her father received a letter recording an apprehension for her life. It is only once those foundational facts are established that the evidentiary burden of explaining them shifts to the accused as persons uniquely placed to do so.

19. This is reinforced by the principle in *Sharad Birdhichand Sarda v. State of Maharashtra*, (1984) 4 SCC 116, where the Supreme Court, while laying down the five conditions (the "panchsheel") governing conviction on circumstantial evidence — that the circumstances must be fully established, must be consistent only with guilt, must exclude every other reasonable hypothesis, must each be conclusively proved, and must together form a complete, unbroken chain and also held that a false defence or a false explanation offered by the accused can be used as an additional link to fortify that chain, provided the other links are otherwise cogently established; a false plea cannot by itself substitute for a missing link, but it can close a chain that is otherwise complete.
20. Applying these principles to the present facts: the explanation of an accidental fire sought to be raised through DW-2 — that the deceased was found dead in a room locked from the inside, with none of the accused present fails to explain why the informant received no intimation of any accident from the accused, who, on this version, were the first to discover the fire; why the deceased's letters complaining of dowry harassment, including the one written barely a day before her death, went unaddressed by the defence; or why, if the fire was accidental and discovered by the family itself, the body was left in that condition for the informant to find on his own initiative rather than being reported to him or to the police by the accused. Read against the postmortem finding of ante-mortem, homicidal burning, this gap in the defence's account is not a peripheral omission but goes to the very fact that Section 106 places within the accused's special knowledge — how the deceased came to be burnt inside their house. On this record, that burden has not been discharged, and the defence version, rather than displacing the prosecution case, becomes an additional link against the accused within the meaning of *Sharad Birdhichand Sarda*.
21. As regards Mahraj Singh and Kumari Sumita, the trial court found no material connecting them to the demand of dowry or to the harassment of the deceased, and their acquittal proceeds on a plausible appreciation of the evidence on record. The challenge to that acquittal comes not by way

of appeal but by way of revision at the instance of the informant, a private party, and the scope of interference available is correspondingly narrower still. In revision against an order of acquittal, the court does not sit as a court of appeal to reappraise the evidence and convert an acquittal into a conviction; interference is confined to categories such as where the trial court lacked jurisdiction to try the case, where it wrongly shut out evidence the prosecution sought to produce, or where the finding is perverse or amounts to no finding at all on the evidence — none of which is shown here (*Akalu Ahir v. Ramdeo Ram*, (1973) 2 SCC 583).

22. For the foregoing reasons, Criminal Appeal No.1239 of 1990, surviving qua Appellant No.1, namely, Ashok Kumar, is dismissed, and the conviction and sentence recorded against him under Sections 302/498-A IPC are affirmed. The appellant no.1, if is on bail, may surrender forthwith. The bail bonds shall stand cancelled.
23. Insofar as appellants nos.2 and 3, namely, Ram Das and Smt. Kastoori Devi, in Criminal Appeal No.1239 of 1990 are concerned, their appeals have already been abated by the order dated 18.07.2019 on account of their deaths during the pendency of the appeal, and no further order on the merits is called for in their cases.
24. Insofar as Criminal Revision No.1240 of 1990 is concerned, it is also dismissed and the acquittal of accused-opposite party nos.2 and 3, namely, Mahraj Singh and Kumari Sumita is affirmed.
25. The aforesaid Criminal Appeal and the connected Criminal Revision stand disposed of accordingly.
26. Let a copy of this judgment be certified to the court concerned for compliance, along with the trial court record, within the period prescribed.
27. Let a copy of this judgment be also placed on the record of the connected case.

August 7, 2026
VKG

(Achal Sachdev,J.) (Siddhartha Varma,J.)