DEVENDER SINGH & ORS. A

v.

THE STATE OF UTTARAKHAND

(Criminal Appeal No. 383 of 2018)

APRIL 21, 2022 B

[N. V. RAMANA, CJI, A. S. BOPANNA AND HIMA KOHLI, JJ.]

Penal Code, 1860: ss. 304B, 498A & 120B –Evidence Act, 1872 – s. 113B – Dowry death – Presumption of dowry death – On facts, complaint against appellants-husband, mother-in-law and brother-in-law of the victim-wife that the victim was repeatedly harassed for dowry and she died unnatural death within six months of the marriage – Victim went missing from her matrimonial home and her body was subsequently found in the river after 10 days – Conviction and sentence of the appellants u/s. 498A, 304B and 120B by the High Court – On appeal, held: s. 304B r/w s. 113B of the 1872 Act makes it clear that once the prosecution has succeeded in demonstrating that a woman has been subjected to cruelty or harassment for or in connection with any demand for dowry soon after her death, a presumption shall be drawn against the said persons that they have caused dowry death as contemplated u/s. 304B – Said presumption can be rebutted by the accused on demonstrating during the trial that all the ingredients of s. 304B have not been satisfied – Phrase 'soon before her death' in s. 304B, ought to be interpreted to mean proximate and to be linked with but not to be understood to mean immediately prior to the death – On facts, basic ingredients of s. 304B that death being not normal and death occurring within 7 years of marriage established – Also established that deceased was residing at her matrimonial home and had gone missing in circumstances where all the ingredients of s. 304B stood satisfied – Testimonies of prosecution witnesses-close relatives of the victim corroborates the fact of the dowry demand and harassment and cruelty being caused to the victim-deceased – Furthermore, the testimony of doctor that death occurred due to the injuries received before falling into the river – Failure of appellants to rebut the presumption drawn against them u/s.113B, as regards offence u/s. 304B – However, it has been established the mother H

A *in-law and brother in-law of the deceased were residing in a different house, and the demand for dowry was essentially for the benefit of the husband only, and no specific evidence led to show conspiracy hatched by the appellants – Thus, the conviction of the mother in-law and the brother in-law not justified and set aside – Order of conviction and sentence as regards the husband of the victim by the High Court, upheld.*

B

Bansi Lal vs. State of Haryana **(2011) 11 SCC 359 : [2011] 1 SCR 724;** *Maya Devi and Anr. v. State of Haryana* **(2015) 17 SCC 405 : [2015] 11 SCR 903 ;** *G.V. Siddaramesh v. State of Karnataka* **(2010) 3 SCC 152 : [2010] 2 SCR 380;** *Ashok Kumar v. State of Haryana* **(2010) 12 SCC 350 : [2010] 7 SCR 1119 – referred to.**

C

Case Law Reference

D **[2011] 1 SCR 724**	**referred to**	**Para 11**
[2015] 11 SCR 903	**referred to**	**Para 11**
[2010] 2 SCR 380	**referred to**	**Para 11**
[2010] 7 SCR 1119	**referred to**	**Para 11**

E CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 383 of 2018.

From the Judgment and Order dated 14.09.2017 of the High Court of Uttarakhand at Nainital in Govt. Appeal No.57 of 2010.

F Robin R. David, Dhiraj Abraham Philip, Febin Mathew Vargeshe, Samuel David, Amit Negi, Saurabh Sachdeva, Aftab Ali Khan, Advs. for the Appellants.

Jatinder Kumar Bhatia, Krishaam Mishra, Advs. for the Respondent.

G The Judgment of the Court was delivered by

HIMA KOHLI, J.

1. The appellants have assailed the judgment dated 14th September, 2017, passed by the High Court of Uttarakhand at Nainital in Government Appeal No.57 of 2010, whereby the judgment dated 17th April, 2010 H passed by the learned Sessions Judge, Rudraprayag acquitting them from

the charges under Section 498A, 304B and 120B of the Indian Penal Code[1] has been reversed and they have been sentenced to undergo rigorous imprisonment for a period of seven year with a fine of ₹10,000/- (Rupees Ten thousand) and in default, to undergo simple imprisonment for three months for the offence under Section 304B IPC. The appellants have also been sentenced to undergo rigorous imprisonment for one year under Section 120B IPC and two years under Section 498A IPC. Being aggrieved by the said judgment and order of conviction, the appellants are before this Court, in this appeal by way of special leave.

2. The brief facts leading to the case are that the appellant No.1, Devender Singh, son of appellant No. 3, Smt. Kunja Devi and Bhawan Singh was married to the deceased, Sushila, the wedding having been solemnized on 20th October, 2007. Sushila is stated to have gone missing from her matrimonial home since 24th April, 2008. This came to the knowledge of the mother of the deceased when the appellant No.2 herein, Jagdish Singh, brother of the appellant No. 1 called her on 25th April, 2008, at 7.00 p.m. to inform her and enquire as to whether Sushila had gone to the parental home. The mother of the deceased in turn informed her son, the complainant, who resided at Haridwar. On returning to his house, the complainant went to the matrimonial home of the deceased on 28th April, 2008. It has been alleged by the complainant that keeping in view the fact that there were repeated demands for dowry made by the appellants and the manner in which they had behaved with him when he had gone to visit them, made him suspect that his sister had been killed by the appellants but they were feigning ignorance and acting as if his sister had gone missing.

3. Based on the complaint, investigation was carried out by the local police and the body of Sushila was subsequently found in Ganga river. Having regard to the fact that an unnatural death had taken place within about six months of the marriage and since there was an allegation of cruelty relating to demand of dowry, a case was registered against the appellants under Sections 498A, 304B and 120B of IPC. The appellants having denied the allegations levelled against them, trial was conducted in Sessions Trial No.18/2008 before the District and Sessions Judge, Rudraprayag. In support of their case, the prosecution examined 14 witnesses arrayed as PW-1 to PW-14. Besides denying their role while recording their statements under Section 313 of the Criminal

[1] for short "IPC"

Procedure Code, the appellants/accused also examined DW-1 to DW-3 as their witnesses. On considering the evidence, the trial Court recorded findings in favour of the appellants and acquitted all of them vide judgment dated 17th April, 2010.

4. Being aggrieved by the judgment dated 17th April, 2010, State of Uttarakhand preferred an appeal before the High Court of Uttarakhand at Nainital vide Government Appeal No.57 of 2010. On reappreciating the entire evidence exhaustively and on applying the legal principles, the High Court has allowed the said appeal. Consequently, the judgment and order dated 17th April, 2010 passed by the Sessions Judge in Sessions Trial No.18 of 2018 was set aside. The appellants have been convicted under Sections 498A, 304B and 120B of IPC and sentenced to undergo rigorous imprisonment for a period of seven years and pay a fine of ₹10,000/- (Rupees Ten thousand) and in default, to undergo three months simple imprisonment under Section 304B IPC. The appellants have also been sentenced to undergo rigorous imprisonment of one year under Section 120B IPC and two years under Section 498A IPC. The sentence was handed down by a separate order dated 05th October, 2017. Claiming to be aggrieved by the judgment of conviction and sentence handed down by the High Court, the appellants are before this Court.

5. Mr. Robin R. David, learned counsel for the appellants while assailing the judgment passed by the High Court has taken us through the records. It is his contention that the High Court has committed an error by misdirecting itself to note the conduct of the appellants in committing a delay in registering the missing complaint relating to the deceased. He contended that a contradictory view has been taken by the High Court while arriving at the conclusion that the complaint was filed after more than 48 hours of the incident despite noticing the fact that the appellant No.1 had telephonically informed the Patwari of the village on 26th April, 2008 and the appellant No.2 had informed the mother of the deceased of the latter going missing from the matrimonial home since 24th April, 2008 itself. He submitted that such an assumption on the part of the High Court has led to a wrong conclusion. Further, it has been argued that the High Court has fallen into an error by holding that there is material on record to indicate that the appellants had been harassing the deceased for bringing insufficient dowry. He pointed out that the mother of the deceased (PW-1) had admitted to the fact that the deceased was staying at the parental home only to continue her studies.

Therefore, the claim of dowry demand being made, as stated, is unacceptable. He further pointed out that DW-3 in whose presence the marriage talks had been held, had deposed in her evidence that there was no demand for dowry and that the marriage expenses had also been shared between the parties.

6. Learned counsel for the appellants further submitted that the fact of the appellant No.1 having opened a bank account in the name of the deceased wherein he was depositing a sum of ₹100/- (Rupees One hundred) on alternate days would go to show that there was no reason for the appellants to have made any monetary demands on her. He also contended that the High Court has erred in arriving at the findings relating to the cause of death of Sushila. He alluded to the deposition of PW-10, the doctor who had indicated that the cause of death was due to shock and blood flow received from the injuries sustained and opined that such injuries could occur if a person falls down from a standing rock. Judicial notice taken by the High Court that villagers would go in groups to the forest to bring fodder and fuelwood, is stated to be unwarranted in the facts and circumstances of the present case, without there being any cogent evidence in this regard. It was argued that the trial Court had in fact taken note of the evidence in its correct perspective and arrived at a valid conclusion, which ought not to have been disturbed by the High Court more so, when there was no strong basis for doing so. It was thus submitted that the appeal be allowed and the impugned judgment be set aside.

7. Mr. Jatinder Kumar Bhatia, learned counsel for the State would seek to sustain the judgment passed by the High Court. It was his contention that the trial Court had in fact proceeded to analyse the evidence as if it was considering a matter where the charge framed was for committing murder under Section 302 IPC, whereas, in the instant case, the charges framed against the appellants was under Sections 304B and 498A read with Section 120B IPC, in respect of "dowry death". The said provision itself raises certain presumptions against the accused. In a matter where the death of the wife of the appellant No.1 had occurred within a few months of her marriage when she was residing at the matrimonial home and such a death is an unnatural one, it was for the appellants to have explained the circumstance under which the death had occurred when *prima-facie,* the prosecution had succeeded in proving the basic ingredients of the section. In that light, it was sought to

be urged that the trial Court had in fact completely misdirected itself. It was further submitted that the High Court while deciding an appeal was required to re-appreciate the evidence which has been meticulously done by referring to the evidence tendered by each of the witnesses. Learned State counsel contended that on analyzing the evidence brought on record in the context of the legal position, as enunciated in various decisions of this Court which were taken note of, the High Court has arrived at a just conclusion and has found the judgment of the trial Court to be erroneous, resultantly setting aside the same.

8. In the light of the rival contentions and the charges levelled against the appellants and to place the matter in its correct perspective, it is considered necessary to take note of the provision as contained in Section 304B of IPC which reads as follows :-

"**304B. Dowry death.**—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 [28 of 1961].

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."

9. A perusal of the above provision would indicate that the main ingredients of the offence required to be established are :-

(i) that soon before the death, the deceased was subjected to cruelty and harassment in connection with the demand of dowry;

(ii) the death of the deceased was caused by any burn or bodily injury or some other circumstance which was not normal;

(iii) such a death has occurred within 7 years from the date of her marriage;

(iv) that the victim was subjected to cruelty or harassment by her husband or any relative of her husband;

(v) such a cruelty or harassment should be for, or in connection with the demand of dowry; and

(vi) it should be established that such cruelty and harassment were made soon before her death.

10. The presumption drawn relating to dowry death has been contemplated in Section 113B of the Indian Evidence Act, 1872, which states as follows :

> "**113B. Presumption as to dowry death** - When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.
>
> *Explanation* - For the purposes of this section, "dowry death" shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860)."

11. Section 304B IPC read along with Section 113B of the Indian Evidence Act, 1872 makes it clear that once the prosecution has succeeded in demonstrating that a woman has been subjected to cruelty or harassment for or in connection with any demand for dowry soon after her death, a presumption shall be drawn against the said persons that they have caused dowry death as contemplated under Section 304B IPC. The said presumption comes with a rider inasmuch as this presumption can be rebutted by the accused on demonstrating during the trial that all the ingredients of Section 304B IPC have not been satisfied. [Ref.: ***Bansi Lal vs. State of Haryana***[2]***, Maya Devi and Anr. vs. State of Haryana***[3]***, G.V. Siddaramesh v. State of Karnataka***[4] and ***Ashok Kumar vs. State of Haryana***[5]*].*

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[2] (2011) 11 SCC 359
[3] (2015) 17 SCC 405
[4] (2010) 3 SCC 152
[5] (2010) 12 SCC 350

12. Having taken note of the relevant provision and the ingredients thereof, the facts of the instant case would disclose that the deceased and the appellant No.1 had got married on 20th October, 2007. Sushila, wife of the appellant No.1 had gone missing from the matrimonial home from 24th April, 2008 and her dead body was fished out on the 10th day from river Alakhnanda near Naragasu. From the basic facts noted above, the basic ingredients of Section 304B IPC such as the death not being normal and such a death having occurred within 7 years from the date of her marriage would stand fully established. The question, therefore, is as to whether the evidence tendered by the prosecution would be sufficient to establish the remaining ingredients of Section 304B IPC with regard to the demand for dowry and perpetration of cruelty and harassment in connection with such a demand. Further, whether such cruelty and harassment were suffered by the deceased soon before her death so as to constitute a dowry death. As to the phrase *'soon before her death',* it is well-settled that the same ought to be interpreted to mean proximate and to be linked with but not to be understood to mean immediately prior to the death.

13. While taking note of the evidence and the other aspects of the matter, what is also to be borne in mind in the instant case is that the death which did not take place in normal circumstances, had occurred within just about 6 months from the date of the marriage. In that context, a perusal of the evidence of Smt. Thapa Devi (PW-1), mother of the deceased gains significance. She had categorically stated that when the deceased had for the first time come to the parental home from her in-laws, she had said that her in-laws and husband were demanding dowry and had been harassing her. The nature of the demand was also specified to say that they were seeking payment of a sum of ₹2,00,000/- (Rupees Two lakhs) as dowry and in the alternative, to get a house constructed in Haridwar. PW-1 further stated that on 10th April, 2008, when she had gone to her daughter's house, the appellants had at that stage quarrelled with her and placed a demand before her for ¹ 2,00,000/- (Rupees Two lakhs) or to have a house constructed for them in Haridwar. She however came back on 11th April, 2008, leaving her daughter behind. Within 2-4 days thereafter, the deceased is stated to have called PW-1 indicating that she was disturbed as the appellants were harassing her badly and also beating her. PW-1 stated that she had conveyed this to her brother-in-law, Mr. Rajendra Singh and shared with him about such a demand

and harassment faced by the deceased. Her brother-in-law had assured her that he would come over after 2-3 days and attempt to sort out the matter.

14. When this was the position, on 25th April, 2008, PW-1 received a phone call, from appellant No.2, brother of her son-in-law (appellant No.1) who had enquired as to whether the deceased had come to the parental home as she was missing from the matrimonial home. PW-1 thereafter informed her sons, who came from Haridwar and thereafter went to the in-laws' place. It is undisputed that the body was traced after 10 days. The evidence tendered by PW-1 was not discredited in the cross-examination. It was suggested to PW-1 that the deceased was staying for most of the time at the parental home within about 10-11 days after the marriage so as to complete her education and the said suggestion was made to indicate that there was no scope for demanding dowry. However, this was clarified by PW-1 who stated that though it was so, the deceased had gone back to the matrimonial home on the very next day when her inter-examination was over. The further suggestion made that the appellants No.2 and 3 were residing in a separate house away from that of the appellant No.1 was also denied.

15. In addition to the aforesaid evidence, the High Court has noted the evidence of Balbir Singh (PW-2), brother of the deceased, who corroborated the version of the mother of the deceased (PW-1). In fact, PW-2 has also stated with regard to the deceased having telephoned on the morning of 24th April, 2008 and informed them that she was pregnant and had pain in her abdomen and when she told her husband to bring medicine and a blouse piece, she was beaten by saying that she should get it from her parents. The evidence of Smt. Mira Bhandari (PW-3), sister-in-law of the deceased and Sh. Tajwar Singh (PW-4), brother of the deceased, was also taken note of by the High Court in reasonable detail wherein the sequence of the events as narrated by PW-1 and PW-2 stood corroborated by them. Further, Sh. Rishipal Singh (PW-5), and Sh. Rajendra Singh (PW-7), uncles of the deceased had also deposed with regard to the incident and that they were told about the dowry demand and harassment caused to the deceased. Sh. Vijaypal Singh (PW-8), the Pradhan of the village deposed that he was aware that the deceased had gone missing on 24th April, 2008 and they were searching for her subsequently. He had also visited the spot from where the body had been recovered.

16. Though, it was contended on behalf of the appellants that the Patwari had been informed immediately, Sh. Jagdish Prasad Gairola (PW-9) who was the Patwari, stated that appellant No.1 had informed him on the telephone only on 26th April, 2008, that his wife had gone missing, which he is stated to have entered in the G.D. The contention as put forth by learned counsel for the appellants regarding no delay in making the complaint as noted by the High Court, loses significance in the light of the other related aspects.

17. Though, the High Court has also referred to the evidence of the remaining witnesses produced by the prosecution, keeping in view the fact that the evidence as required for establishing the demand of dowry and harassment is to be noted from the evidence as taken note of hereinabove, it would be clear that even though the appellants have sought to urge that at the time of fixing the marriage, no dowry was exchanged or demand placed and that the wedding expenses were also shared by both sides, the categorical oral testimony of PW-1 to PW-4 that remained unshaken would indicate that soon after the marriage, when the deceased for the first time came to her parental home, she had stated about the demand for dowry made on her and specified the demand, i.e., a sum of ₹2,00,000/- (Rupees Two lakhs) or to construct a house in Haridwar. Even though it has been contended on behalf of the appellant that the deceased was staying at her parental house to complete her studies, as per the version of PW-1 while accepting that position, she had asserted that about 10-11 days after the wedding, Sushila had gone to her parental home but soon after sitting for the intermediate examination, she had gone back to the matrimonial home. The fact however remains that she went missing from the matrimonial home and the body was recovered from the river in the vicinity of the matrimonial home. In that regard, apart from the testimony of the witnesses who deposed that the deceased had told them about the dowry demand and harassment during her first visit to the parental home, PW-1 referred to the incident that took place on 10th April, 2008, when she herself had gone with her daughter to the in-laws' house to drop her and all of them had quarrelled with her on the aspect relating to dowry in the same terms, i.e., a demand of ₹ 2,00,000/- (Rupees Two lakhs) or for a house to be built in Haridwar. She had thereafter returned on 11th April, 2008 which was about two weeks prior to the date on which the deceased had gone missing. Further, PW-1 has also stated that within 2-4 days from 11th April, 2008, after she had returned, the deceased had made a phone call and was very disturbed

since she was being harassed badly and was being beaten. She had shared this with her brother-in-law, Sh. Rajendra Singh, who has been examined as PW-7. In addition, PW-2 also deposed with regard to the complaint made by the deceased over the phone in the morning of the fateful day, i.e., 24th April, 2008, about her husband treating her with cruelty when in her pregnant state, she had asked for medicine for the pain in her abdomen.

18. In the above background, even if in the evidence, Smt. Maya Devi (DW-3) who was the go-between for finalizing the marriage, had stated that there was no demand for dowry at that point in time, it is of no consequence since what is relevant is the demand which was made subsequent to the marriage and soon before the incident to which the said witness was in any event, not privy.

19. Further, the evidence of Sh. Rakesh Bisht (DW-1) to the effect that the appellant No.1 had opened a Bank account in the name of the deceased and was depositing ₹100/- (Rupees one hundred) every other day in the said account with effect from 07th December, 2007, cannot alter the situation since that, in any event, cannot take away the specific nature of the dowry demand that was referred to by PW-1 to PW-4, as having been made by the appellant No.1. The evidence of Shri Prem Singh (DW-2) who stated that while he was travelling in a bus on 24th May, 2008, he had noticed a girl wearing red clothes falling from the cliff, has rightly been held to be unreliable in as much as if such an incident had been noticed by him, admittedly the said witness did not take any further steps in that regard.

20. A perusal of the impugned judgment would disclose that the High Court has appreciated the evidence in the correct perspective. Though the trial Court also referred to the very same evidence and the analysis commenced from para 27 of the judgment, it indicates that the observation made by the trial Court that there was no such evidence available on the file that the murder of the deceased, Sushila had been committed, will disclose that the trial court was appreciating the evidence from the prism of assessing the charge under Section 302 IPC, when the evidence on record ought to have been analyzed and appreciated keeping in mind the requirements of Section 304B and 498A IPC and the ingredients thereof.

21. In the above backdrop and keeping in view the fact that the deceased was residing at the matrimonial home and had gone missing in

A circumstances where all the ingredients of Section 304B stood satisfied, the evidence of Dr. Digvijay Singh (PW-10) becomes relevant. The nature of injuries found on the body of the deceased at the time of the post-mortem was adverted to and PW-10 has deposed that the death had occurred about a week earlier to the examination. He opined that death
B had occurred due to shock and blood flow from the injuries received before the death. The doctor was categorical that the cause of death was not from drowning as there was no water inside the lungs and abdomen. Though learned counsel for the appellants referred to this aspect to contend that the High Court has erred in not properly considering the same, in our opinion, when it is indicated that the deceased
C had suffered injuries before her death and there was loss of blood and also when it is medically indicated that the death was not caused due to drowning as there was no water in her lungs and abdomen, the natural corollary and a fair conclusion would be that the said death had occurred even before falling into the river, which would rule out any accidental
D fall, as sought to be claimed by the appellants. In fact, this would only increase the burden cast upon the appellants to explain the situation.

22. Though, the appellants have attempted to set up a story that the deceased had gone to hills to cut grass, as rightly noted by the High Court, she could not have gone alone. Be that as it may, except for a
E bald statement, the appellants have not brought any material on record to demonstrate that it was a normal practice for the deceased to go to the hills for cutting grass more so in circumstances where she was less than six months at her matrimonial home, pregnant and also during that very period, she had been going to her parental house for continuing her education, as has been contended by the appellants themselves.
F Therefore, in such a situation, we have no hesitation in observing that the appellants have miserably failed to rebut the presumption drawn against them under Section 113B of the Evidence Act, in a matter relating to an offence under Section 304B of IPC.

23. Having arrived at the above conclusion, the issue before us is
G as to whether in the facts and circumstances of the instant case, the appellants No.2 and 3 should also be held equally guilty as the appellant No.1. It is no doubt true that the evidence of PW-1 indicates that the deceased had informed her that the husband and the in-laws had been harassing her and when PW-1 had gone to drop her daughter back to
H the matrimonial home on 10th April, 2008, the in-laws had raised a dowry

demand. However, what has also been brought on record is that the appellants No.2 and 3 were residing separately, in a different house. In the cross-examination of PW-1, a suggestion was made to her about the distance between the two houses. Further, fact remains that the trial Court also referred to this aspect in para 31 of the judgment where learned counsel for the defence had brought to the notice of the Court that there were two ration cards and the ration card of the appellants No.2 and 3 is separate from that of the appellant No.1 which mentions his name and that of the deceased. That apart, the nature of the demand made was for a lumpsum amount of ₹2,00,000/- (Rupees Two lakhs) or for constructing a house in Haridwar, either of which was essentially for the benefit of the appellant No.1. Therefore, there is no specific role with regard to the demand of dowry and nor has any specific instance of cruelty and harassment been ascribed to the appellants No.2 and 3 except for the general assertion. Moreover, in a circumstance where the charge was also under Section 120B IPC, there is no specific evidence led by the prosecution relating to the conspiracy allegedly hatched by the appellants. In the aforesaid circumstances, we are of the opinion that the appellants No.2 and 3 deserve to be given the benefit of doubt and their conviction would not be justified.

24. In the above backdrop, the conviction and sentence handed down by the High Court to the appellant No.1 (husband of the deceased) is upheld. However, the conviction and sentence handed down by the High Court to the appellants No.2 and 3 is set aside. The judgment dated 14th September, 2017 passed in Government Appeal No.57/2010 stands modified to the said extent. It is ordered that the appellant No.2 and 3 who were released on bail on 12th March, 2008, be set free. The bail bonds executed by the appellants No.2 and 3 are, accordingly, cancelled. Appellant No.1 shall, however, surrender within two weeks and serve the remaining part of the sentence imposed on him.

25. The appeal is partly allowed on the above terms.

26. Pending applications, if any, shall stand disposed of.

Nidhi Jain
(Assisted by : Shashwat Jain, LCRA)

Appeal partly allowed.