STATE OF U.P.

v.

ASHOK KUMAR SRIVASTAVA

JANUARY 14, 1992

[A. M. AHMADI AND K. RAMASWAMY, JJ.]

Indian Penal Code, 1860 : Sections 302 and 34 (Occurrence prior to insertion of Section 304-B).

Dowry death—Accused—Husband, his father and sister—Conviction by Trial Court—Re-evaluation and Re-appreciation of evidence by the High Court—Reversal of conviction order and acquittal of accused by High Court—Held High Court's order resulted in miscarriage of justice and is liable to be set aside.

Constitution of India, 1950 : Article 136—Scope of.

Murder—Conviction by Trial Court—On appeal acquittal by High Court—Appeal against acquittal order—Power of Supreme Court to appreciate evidence and interfere with acquittal order—Held Supreme Court can interfere with acquittal order if High Court's order has resulted in miscarriage of justice.

Indian Evidence Act, 1872 : Section 3.

Circumstantial evidence—Appreciation and evaluation of—Court must adopt a cautious approach—Conviction should be recorded only if all the links in the chain of evidence fully establish the hypothesis of guilt of the accused—But prosecution is not bound to meet any and every hypothesis put forward by accused however far-fetched and fanciful it might be.

Respondent, A, was married to M, daughter of PW2, at Banaras on 13th May, 1973. Subsequent to their marriage A, who was serving as Assistant Engineer, was transferred to Lucknow where he hired a two-room first floor apartment for his residence. The ground floor of the house was occupied by the sons of the landlord, PWs 1 and 4. It was alleged that A, his father and sister were not satisfied with the sufficiency of the dowry and therefore all the three were taunting, tormenting and torturing M. During one of their visits to Banaras the question of dowry was once again raised when A's father and sister misbehaved with M

A and her father and stated that they won't allow M to live with A unless dowry was made good. When there was a heated argument, A returned to Lucknow without M. M entreated her father-in-law to permit her to join A at Lucknow but the latter refused saying that she will have to rot at Banaras alone unless the dowry amount was made good. Ignoring her father-in-law's refusal M went to Lucknow to join her husband. On
B coming to know that M had gone to Lucknow A's father and sister followed her to Lucknow and all the three quarrelled and beat M. On that very night they sprinkled kerosene on M and set her ablaze. Thereafter, all the three accused came out of the room shouting 'fire-fire'. On hearing the shouts PWs 1 and 4 came out of their house and saw that while M was in flames all the three accused were standing in the
C verandah talking to each other and were unconcerned about her plight. None of accused made any effort to extinguish the flames or to rescue her. PW 1 called the fire brigade and PW 3, a fireman, took M to the hospital where she was declared dead. On coming to know of the incident, PW 2, M's father lodged the FIR and all the three accused were prosecuted for murder.
D

Relying upon the evidence of PWs 1, 3 and 4 and other circumstances of the case the Trial Court came to the conclusion that the charge against all the three accused was made out by prosecution beyond reasonable doubt. Accordingly the Trial Court convicted them under
E sections 302/34 and sentenced each of them to imprisonment for life. The Trial Court also rejected the theory of accidental death of M.

The accused preferred an appeal before the High Court which on re-evaluation and re-appreciation of the evidence agreed with the Trial Court that the presence of PWs 1 and 4 on the scene of occurrence was
F probable and natural but suspected the trustworthiness of their evidence. Accordingly, it allowed the appeal and set aside the conviction order by holding that the evidence did not disclose the involvement of the accused and that in all probability the deceased M committed suicide.

The state preferred an appeal before this Court challenging the
G High Court's decision.

Allowing the appeal, this Court,

HELD : 1. While appreciating circumstantial evidence the court must adopt a very cautious approach and should record a conviction
H only if all the links in the chain are complete pointing to the guilt of the

accused and every hypothesis of innocence is capable of being negatived on evidence. Great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. The circumstance relied upon must be found to have been fully established and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet any and every hypothesis put forward by the accused however far-fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the slightest doubt because the law permits rejection if the doubt is reasonable and not otherwise. [46D-E]

2. The presumption of innocence of the accused is strengthened, certainly not weakened, by their acquittal and ordinarily this Court is slow to interfere with an order of acquittal in exercise of its extraordinary powers under Article 136 of the Constitution, but in the instant case the approach of the High Court has resulted in gross miscarriage of justice. Therefore it is not possible for this Court to refuse to interfere when a gruesome crime is committed which has resulted in the extinction of a young mother to be. [46-F, 48-D]

3. The approach of the High Court was wholly against the weight of evidence. Since PWs 1 and 4 were occupying the ground floor of the building of which A and M were occupying the first floor their presence at the time of occurrence cannot be doubted. They had no reason to falsely implicate the accused persons and have disclosed vital facts such as the arrival of accused-husband's father and sister hot on the heels of the return of deceased M from Banaras, quarrels and beating which had taken place in the past and immediately before the incident between the accused persons on the one hand and the deceased M on the other, and all the three accused having come out shouting 'fire-fire' when the deceased was afire and none of the accused having gone to her rescue. The conduct of the three accused persons in not trying to save deceased M and in showing total indifference to her fate speaks volumes of their culpability. [48-C, 44-B, 47-C, 44-G-H, 46-A]

3.1 All the circumstances of the case when taken together leave no room for doubt that the three accused persons were the joint authors of the crime. Accordingly the order of acquittal passed by the High Court is set aside and the order of conviction and sentence passed by the Trial Court is restored. [48-C, E]

A CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 464 of 1979.

From the Judgment and Order dated 8.3.1978 of the Allahabad High Court in Criminal Appeal No. 913 of 1976.

B Shiv Pujan Singh and A.S. Pundir for the Appellants.

R.K. Garg and Anil K. Gupta for the Respondents.

The Judgment of the Court was delivered by

C **AHMADI, J.** Meera Srivastava, a young woman aged about 25 years, died of burns on the night between 20th and 21st July, 1974 at about 2.30 a.m. in the two room apartment of her husband Ashok Kumar Srivastava, original accused No. 1. The marriage had taken place less than a year ago on 13th May, 1973 at Banaras. Both the family of the deceased and the family of the husband hail from Banaras but after their wedding Ashok who was D serving as an Assistant Engineer was transferred to Lucknow where he had hired a two room first floor apartment for his residence. The ground floor was occupied by the landlord. The First Information Report was lodged by PW 2 J.P. Shrivastava, father of the unfortunate woman, after he rushed by taxi to Lucknow on learning about the incident. The offence of murder was registered and in the course of investigation statements of PW 1 Prabhat Kumar E and PW 4 Rajendra Prasad, both brothers residing on the ground floor came to be recorded. Statements of other witnesses including PW 3 Ram Raj Mishra, a fire brigade man, and PW 5 S.K. Srivastava, brother of the deceased, were also recorded. On a consideration of the evidence of PWs 1 to 5 as well as the evidence of PW 9 Dr. R.K. Aggarwal, the Trial Court, F bearing in mind other circumstances pointed out in the judgment, came to the conclusion that the charge against the three accused was brought home by the prosecution beyond reasonable doubt. On that conclusion the Trial Court convicted all the three accused persons under Section 302/34, I.P.C., and sentenced each of them to imprisonment for life. Feeling aggrieved by this order of conviction and sentence recorded by the learned Additional Sessions G Judge, Lucknow, the three accused persons preferred an appeal, being Criminal Appeal No. 913/1976, to the High Court. That appeal was heard by a Division Bench of the High Court which on a re-evaluation and re-appreciation of the prosecution evidence came to the conclusion that in all probability the deceased Meera committed suicide and the evidence did not disclose the involvement of the appellants/accused in the commission of the H crime. In that view that the High Court took, the High Court allowed the

appeal, set aside the order of conviction and sentence passed by the Trial Court and acquitted all the three appellants/accused. The State of U.P., not satisfied by the judgment rendered by the High Court approached this Court under Article 136 of the Constitution. This Court granted Special Leave to Appeal and that is how the present appeal is before us. In order to understand the prosecution case we may now state the facts in brief.

Meera and Ashok, both residents of Banaras, were married on 13th May, 1973 at Banaras. On Ashok being transferred to Lucknow, they occupied a two room apartment of house number 557/17K. Ashok and his wife were occupying the first floor whereas PW 1 and PW 4, the two sons of Kedar Singh to whom the house belonged, occupied the ground floor. The prosecution case is that at the time of and immediately after the marriage there was some bickering in regard to the quantum of dowry paid by the bride's father. The allegation is that the father and sister of Ashok were not satisfied with the dowry or expenditure incurred on gifts by the father of the deceased Meera. They were of the view that what was paid in cash as well as by way of gifts at the time of 'Tilak' was short by about Rs. 4,000. On account of this feeling the three accused were taunting the deceased and when she tried to defend her father she was tormented and tortured by the accused persons. On 13th July, 1974 both Ashok and Meera had gone to Banaras. While they were there this question of dowry once again raised its head and it is alleged that even on that occasion the father and sister of Ashok misbehaved with Meera and her father and stated that they would not allow Meera to live with Ashok unless Rs. 4,000 were paid towards dowry. It appears that after this exchange of heated words Ashok left for Lucknow on 18th July, 1974 leaving Meera behind. Meera was naturally purturbed. She wanted to follow him but her father-in-law did not permit her. She then went to the house of her friend Madhu and from there called her brother PW 5 Sushil Kumar Srivastava and told him she desired to go to Lucknow as she wanted to find out the attitude of her husband. Despite PW 5 advising her not to go to Lucknow in view of the threats administered by the father and sister of Ashok, she went to Lucknow on 20th July, 1974 to the house of her husband. PW 5 left her there and returned to Banaras by the 2.00 p.m. by Punjab Mail. On learning about Meera's visit to Lucknow the father and sister of Ashok also went to Lucknow. The prosecution case is that after they reached Lucknow all the three quarrelled and beat Meera during the day and in the dead of night at about 2.30 or 2.45 a.m., they sprinkled kerosene on her and set her ablaze. The house was occupied by Ashok, his father Rajendra Lal and his sister Sudha when the incident occurred. According to the prosecution at the dead of night these three persons came out of the room shouting 'fire-fire' and stood in the front verandah of the house while Meera

A was still in flames. No effort whatsoever was made by any of them to extinguish the flames or to rescue her. PW 1 and PW 4 on hearing the shouts came out of their house. PW 1 ran up to see what had happened. He was shocked to find that Meera was in flames and the three accused persons were standing in the verandah talking to each other unconcerned about the plight of the woman. PW 1 thereafter ran to the nearby fire brigade station and B informed the staff there about the incident. PW 4 had followed P.W. 1 upstairs. He saw the incident from place where he was not visible to the accused persons. He saw the accused carry Meera to the next room and after a while brought her back with the tongue protruding out. PW 1 returned with the fire-brigade men. The fireman, PW 3 Ram Raj Mishra, carried Meera on a stretcher to the van and then to the Civil Hospital Hazrat Ganj but the C Medical Officer there could not admit her for want of a vacant bed. She was therefore sent to Balrampur hospital where the doctor declared her dead. This, in brief, is the prosecution version regarding the actual incident.

The father of the girl was informed about the incident and as no train was immediately available, he hired a taxi and came to Lucknow. He went D straight to the place of occurrence. Since he was a stranger he talked to certain persons, including PW 1, and thereafter lodged his First Information Report, Ka-I, at about 7.00 p.m. at Alam Bagh Police Station, Lucknow. Prior thereto it may be mentioned that PW 3 Ram Raj Mishra had taken the three accused persons to the hospital and after they were free from there Ashok's father went to the Police Station at about 6.15 p.m. to lodge a report about E his dauhter-in-law's death due to burns. This is how the report Exh. Kha-I and the F.I.R. Exh. Ka-I came to be recorded.

The prosecution placed reliance on the evidence of PW 1 to PW 5 and PW 9 Dr. Aggarwal who undertook the post mortem examination to bring home the guilt against the three accused. On the basis of their evidence and F the 21 circumstances enumerated by the learned Trial Judge, a conviction under Section 302/34, I.P.C., was recorded.

The Trial Court came to the conclusion that having regard to the time at which the incident occurred the presence of PW 1 and PW 4 at the place G of occurrence is not only probable but also natural. He did not doubt their testimony when they deposed that they saw the three accused persons standing in the verandah chit-chatting with each other totally indifferent to the plight of Meera who was on fire. It also accepted the testimony of PW 4 that when Meera was dragged to the smaller room her tongue was inside the mouth, but when she was brought back, her tongue was protruding out, H thereby suggesting that the three accused persons made sure her life was

extinct by strangulating her. This inference is corroborated by medical evidence. It also found that the evidence of PW 3 corroborated the evidence of PWs 1 and 4 to some extent. It held that the F.I.R. was lodged without delay and since PW 2 was a total stranger, the absence of names of witnesses cannot weaken it. The motive for the crime was dowry. This fact was found proved from the evidence of PWs 1, 2, 4 and 5. The fact that Meera was carrying twins in her womb since six months is proved beyond doubt. The theory of accidental death had to be brushed aside in view of the presence of kerosene on the scalp of the deceased. Of the two remaining possibilities, the Trial Court came to the conclusion that the evidence placed on record proved beyond doubt that death was homicidal as (i) her tongue was protruding out (ii) there was presence of kerosene and (iii) her stomach was empty. In this view of the evidence, the learned Trial Judge relying on the evidence of PWs 1, 3 and 4 and the 21 circumstances set out in the judgment came to the conclusion that the cumulative effect of the evidence led one to the only conclusion that the accused persons had done Meera to death. Particular emphasis was laid on the unnatural conduct of the three accused persons. The fact that accused Rajinder and Sudha followed Meera to Lucknow and yet they tried to tell a lie on this point betrayed a guilty conscience. The absence of an 'angithi' in the kitchen, the protruding of the tongue and the absconding of the accused immediately after the incident supplied links to the prosecution version regarding the incident. On the basis of this evidence, the learned Trial Judge convicted all the three accused persons of murder with the aid of Section 34, I.P.C.

On appeal, the High Court while agreeing with the Trial Court that the presence of PWs 1 and 4 was both probable and natural doubted their testimony firstly on the ground that their names did not figure in the F.I.R. filed by Meera's father even though they had spoken to him about the incident before he lodged the F.I.R. The High Court observes that this meant that both the witnesses did not disclose anything incriminating the accused persons, for otherwise such facts would have found a mention in the F.I.R. On the basis of this inference drawn by the High Court on account of the absence of their names in the F.I.R., the High Court came to the conclusion that PWs 1 and 4 had falsely implicated the accused persons at the behest of Meera's father and his acquaintances and hence their evidence was not beyond suspicion. The High Court points out that PW 1 hailed from Qadirabad of Banaras District which village was adjacent to village Ghauspur where the complainant's niece was married to one Bansidhar who happened to be a friend of the family of PWs 1 and 4. One Inspector, Vijay Pratap Singh, posted at Lucknow was a 'pattidar' of that family and through him Meera's father had approached the Investigating Officer who in turn succeeded in

A persuading PWs 1 and 4 to testify against the accused persons. Once the High Court suspected the trustworthiness of PWs 1 and 4 it brushed aside the various circumstances pointed out in the judgment of the Trial Court and acquitted the accused persons. The question is whether this approach of the High Court can be sustained?

B As pointed out earlier since PWs 1 and 4 were occupying the ground floor of the building of which Ashok and his wife were occupying the first floor, their presence at the time of occurrence cannot be doubted. Nor have the accused denied their presence in their statements. Even according to the theory put up by the defence the accused persons had come out shouting 'fire-fire' and, therefore, it is not surprising that PWs 1 and 4 woke up from C their sleep. PW 1 immediately rushed to the first floor to find out what had happened. PW 4 followed him and placed himself at a point from where he was not visible to the accused persons. Both these witnesses have deposed that after Ashok and Meera came to occupy the first floor there used to be frequent quarrels between them on the question of insufficiency of dowry. Both of them have deposed that the accused used to beat her and she used D to confide in their sister. They also deposed that the father and sister of Ashok had come to Lucknow from Banaras after Meera's brother, PW 5, had left her at Lucknow and returned to Banaras. The evidence of PWs 2 and 5, the father and brother of Meera, shows that before Meera returned to Lucknow there were quarrels between the accused persons on the one side and she and her family members on the other regarding insufficiency of E dowry. It was after heated exchanges on this account that Ashok left for Lucknow on 18th July, 1974. Meera entreated her father-in-law to allow her to go to Lucknow but the latter refused and stated that she would have to rot at Banaras unless the dowry was made good. Meera, therefore, went to the residence of her friend Madhu, and from there she sent for her brother PW F 5. When her father-in-law returned to the house and found her missing he was annoyed and went to the house of her father and quarrelled with him. Immediately thereafter he and Sudha left for Lucknow and during the day beat and quarrelled with Meera. Her husband too joined them. The absence of food matter in the stomach and small intestines of Meera shows that she did not take her dinner before she went to bed. Ultimately between 2.30 and 2.45 G a.m. the unfortunate incident took place. PWs 1 and 4, therefore, disclose three vital facts, namely, (i) the arrival of the Ashok's father and sister hot on the heels of the return of Meera from Banaras, (ii) quarrels and beating took place in the past and immediately before the incident between the accused persons on the one hand and Meera on the other, and (iii) all the three accused came out shouting 'fire-fire' when Meera was afire at about H 2.30 or 2.45 a.m. and none went to her rescue. Counsel for the defence

submitted that Meera had a flicker of hope that her husband's attitude would be different from that of her father-in-law and sister-in-law but when she found that he too shared their views she was frustrated and when every one was fast asleep she poured keresone on herself and committed suicide. This suggestion would have found favour with us had the conduct of the accused persons been consistent therewith. The evidence of PWs 1 and 4 clearly shows that after the accused persons came to reside in their house there were frequent quarrels with Meera and she was being beaten by all the three. Even on the evening of the fateful day she was beaten and kicked by her husband and the other two as she was not wanted at Lucknow. On the night of the incident all the three accused persons came out of the house shouting 'fire-fire' and stood in the verandah unconcerned about Meera's fate. They were seen chit-chatting in a casual manner, by both the witnesses. Besides it must be noticed that none of the three accused had any burn marks to suggest that they had tried to go to the rescue of Meera. Since the body of Meera was lying in between the two rooms, the possibility of Meera having bolted one room from inside must be ruled out. Search of the three accused was on and accused Rajinder Lal and Sudha could be apprehended on the 23rd but accused Ashok was absconding and presented himself as late as 5th September, 1974 armed with an anticipatory bail order. He was clearly absconding and his explanation that he had gone to Allahabad to fetch his pay slip must be stated to be rejected. One does not absent oneself from duty for more than one and a half months to fetch a pay slip. A lame and false explanation of this type only adds a link in the prosecution chain of events. Similarly the false explanation of the other two accused that they had not followed Meera but had come a day before her arrival to see an ailing relative shows their anxiety to avoid the situation of having followed her for obvious reasons. No match box was found on the floor but it was found securely placed on the upper 6 feet high slab. Then the statement of accused Rajendra Lal to the police, Kha-1, that Meera was taking her meals at 10.00 p.m. when he retired is falsified by the absence of food material in her stomach and small intestines. These are added circumstances on which the prosecution has justifiably relied.

Much was tried to be made of the fact that it was the accused who gave the alarm of fire and informed the police also which goes to show that they did not have a guilty conscience. This submission, however, overlooks the fact that the apartment was a small two room apartment and with smoke billowing from the clothes and the body of Meera they were virtually forced out of the small room occupied by them. It is, therefore, not surprising that they flung open the door to the verandah and ran out for fresh air shouting 'fire-fire'. It was impossible to keep that information from the neighbours.

A The intimation to the police was also to save their skin as they would have known anyhow since PW 3 had reached the place of occurrence. Therefore, the conduct of the three accused persons in not trying to save Meera and in showing total indifference to her fate which speaks volumes of their culpability cannot be explained away by the above facts. We, are, therefore, not impressed by the two submissions made by counsel for the accused persons. B On the other hand, we find that in the background of facts deposed to by PWs 1 and 4 and their subsequent total indifference regarding the Meera's fate certainly betrays a guilty conscience as observed by the Trial Court. So also we find it difficult to accept the contention that the accused being highly educated (so was Meera) would not commit such a gruesome crime. It is unfortunate that the greed for dowry has been more acute in well to do and C educated families since it is only people in affluent circumstances who can meet it. We cannot countenance such a submission although that found favour with the High Court.

This Court has, time out of number, observed that while appreciating circumstantial evidence the Court must adopt a very cautious approach and D should record a conviction only if all the links in the chain are complete pointing to the guilt of the accused and every hypothesis of innocence is capable of being negatived on evidence. Great care must be taken in evaluating circumstantial evidence and if the evidence relied on is reasonably capable of two inferences, the one in favour of the accused must be accepted. The circumstance relied upon must be found to have been fully established E and the cumulative effect of all the facts so established must be consistent only with the hypothesis of guilt. But this is not to say that the prosecution must meet any and every hypothesis put forward by the accused however far-fetched and fanciful it might be. Nor does it mean that prosecution evidence must be rejected on the slightest doubt because the law permits rejection if F the doubt is reasonable and not otherwise. We are also conscious of the fact that the presumption of innocence is strengthened, certainly not weakened, by their acquittal by the High Court and ordinarily this Court is slow to interfere with an order of acquittal in exercise of its extraordinary powers under Section 136 of the Constitution. However, in the present case the facts found proved as discussed earlier are (i) the accused were unhappy about the cash G and articles given by way of dowry at the time of the 'tilak' ceremony (ii) the accused taunted, tormented and tortured Meera for the insufficiency of the dowry amount (iii) a few days before the incident while at Banaras there was a heated argument and then Ashok returned to Lucknow without Meera (iv) Meera entreated her father-in-law to permit her to join Ashok but the latter refused saying she will have to rot at Banaras alone unless the dowry H amount was made good (v) ignoring her father-in-law's refusal Meera went

to Lucknow (vi) the two accused Rajendra Lal and Sudha followed her to Lucknow (vii) while at Lucknow all the three illtreated her (viii) Meera was found on fire at about 2.30 or 2.45 a.m. (ix) while she was burning the three accused who alone were inside came out of the room and stood in the verandah chit-chatting unconcerned about her plight (x) none of them tried to help Meera (xi) soon after that the house was locked and the accused could not be found (xii) while the two accused were apprehended on the 23rd Ashok could not be traced till he surrendered on 5th September, 1974, and (xiii) false explanation or statements were made to explain away their conduct.

PWs 1 and 4 had no reason to falsely implicate the accused persons. The suggestion that they had implicated them at the behest of Inspector, Vijay Pratap Singh, is too far-fetched to be accepted. Even according to the evidence of PW 2, the father of Meera, he did not know them prior to the incident. This unfortunate father came to the scene of occurrence after he was informed about the death of his young daughter. He naturally went to the place of occurrence, contacted the people there and talked to PWs 1 and 4. He went back and lodged a complaint, Ext. Ka-1, in which he did mention the presence of the house owner though he did not name them. That is quite natural because he had not enquired of their names having regard to the strain, stress and tension in which he was at the relevant point of time. We are afraid the High Court was not justified in coming to the conclusion that they had been set up at the behest of Inspector Vijay Pratap Singh who was their pattidar. We see no reason to disbelieve any part of the version given by PWs 1 and 4 except to say that perhaps the evidence of PW 4 that Meera's tongue was not protruding when she was removed to the smaller room and the same was found protruding when she brought back may be an exaggeration based on medical testimony. We, therefore, find it difficult to agree with the High Court that these two witnesses have been falsely set up at the instance of Inspector Vijay Pratap Singh to give false evidence against the accused persons. So far as the complainant and his son are concerned they have not tried to exaggerate or introduce false material to support the prosecution case. Their testimony regarding the quarrels which took place on account of insufficiency of dowry stands corroborated by the evidence of PWs 1 and 4 and can be accepted without hesitation.

The evidence of PWs 1 and 4 is partly corroborated by PW 3. Immediately after the fire was noticed and the smoke was seen billowing out, PW 1 ran to the nearby fire station and called the fire brigade. P.W. 3 arrived at the scene of occurrence and he too saw the three accused persons standing in the verandah totally indifferent to what was happening to Meera. He took

A the victim Meera on a stretcher to the Hospital. Counsel for the defence tried to contend that the fact that the accused went to the hospital along with her is consistent with their innocence. We are afraid we cannot accept this submission for the simple reason that they had no alternative but to go along with the fireman since they were asked to do so. It was thereafter that Ashok's father lodged the report Ext. Kha-1. After the F.I.R. was lodged by B Meera's father foul play was suspected but by then the accused had left. The investigation ultimately led to the arrest of the two accused other than Ashok on the 23rd. Ashok was still untraced and no valid explanation is to be found for his absence. He secured anticipatory bail and thereafter surrendered on 5th September, 1974. It would, therefore, appear that he had made himself scarce for over one and a half months. This is a circumstance which betrays C guilty conscience. In addition thereto, a number of circumstances have been pointed out by the Trial Judge which taken together leave no room for doubt that the three accused persons were the joint authors of the crime. We have no hesitation, whatsoever, in concluding that the approach of the High Court was wholly against the weight of evidence and it is impossible to approve the same.

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Ordinarily, in an acquittal this Court is slow to interfere while exercising power under Article 136 of the Constitution but here we find that the approach of the High Court has resulted in gross miscarriage of justice. It is not possible for this Court to refuse to interfere when a gruesome crime is committed which has resulted in the extinction of a young mother to be.

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In the result, we allow this appeal, set aside the order of acquittal passed by the High Court and restore the order of conviction and sentence passed by the Trial Court. The accused will surrender to their bail forthwith.

T.N.A. Appeal allowed.