

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.117 of 2004

BALESHWAR PANDIT

... .. Appellant/s

Versus

STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vishesh Kumar Singh, *Amicus Curiae*
For the Respondent/s : Mr. Anand Mohan Mehta, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

Date : 20-09-2025

Heard Mr. Vishesh Kumar Singh, *Amicus Curiae* for
the appellant and Mr. Anand Mohan Mehta for the State.

2. The present appeal has been preferred:

*“against the order of conviction dated
17.02.2004 under section 3/4 of the Dowry
Prohibition Act and under section 304(B)/34 and
201 of IPC and order of sentence dated 19.2.04
passed in Sessions Case No. 362/1994 (Tr.
No.109/02,G.R. 1766/1991, Dharahara P.S. Case
No.121/1991) by Sri Paras Nath Sinha, Presiding
Officer, Additional Fast Track Court, Munger,
whereby and whereunder appellant has been held
guilty for the offence under section 3/4 of the
Dowry Prohibition Act and under section*



304(B)/34 and 201 of the IPC and has been sentenced to suffer R.I. for ten years under section 304(B) of IPC. No separate sentence has been passed under section 201 of IPC and 3/4 of the Dowry Prohibition Act.”

3. The sole appellant has been convicted under Sections 3/4 of the Dowry Prohibition Act as also Section 304 B/34 and 201 of the Indian Penal Code and was sentenced to undergo rigorous imprisonment for ten years vide an order dated 17.02.2004 by the presiding officer, Additional Court (Fast Track, Munger).

4. The matrix of facts giving rise to present appeal is/are as follows:

5. The appellant was married to the informant's sister Premlata Devi on 06.06.1987 and the second marriage ceremony (Dwiagman) took place on 10.05.1989. However, she was tortured for dowry of Rs. 20,000/- immediately after the second marriage as a result she was brought to the parents' home.

6. Later, the in-laws requested to send the lady to their home, though the informant was reluctant but on assurance of no ill treatment, she went to her in-laws house. However, the



torture continued and on 06.07.1990, they came to know that she has been murdered.

7. They rushed to the place where it was informed that the lady has been cremated and got further information that insecticide consumption was the cause of the death. The Police forced the informant to sign a blank paper. Later, the informant filed complaint and thereafter on the direction of the S.P., Munger, the FIR lodged on 29.10.1999. The Police took up the investigation and later charge-sheet submitted which followed cognizance order dated 02.07.1994 by the learned CJM, Munger under the aforesaid sections. Later, the charges were framed and the case went for trial.

8. Before the Trial Court, the prosecution put forward following witnesses:

(i) P.W.-1, Ramsahai Yadav;

(ii) P.W.-2, Jaiprakash Kumar;

(iii) P.W.-3, Balkisun Pandit;

(iv) P.W.-4, Mahendra Prasad Sah;

(v) P.W.-5, Md. Saukat Ali;

(vi) P.W.-6, Md. Nausad;

(vii) P.W.-7, Chaukidar Fakira Paswan;

(viii) P.W.-8, Hawaldar Akhlesh Nath Chaudhary;



(ix) P.W.-9, Dy.S.P. Lalmohan Prasad;

(x) P.W.-10, S.I. Satish Chandra Sinha.

9. The important exhibits marked were:

(i) Exhibit-1- the FIR;

(ii) Exhibit-2- Fardbayan of Balkishun Pandit;

*(iii) Exhibit-5- Petitions before the S.P. Munger
and Hon'ble Chief Minister, Bihar;*

(iv) Exhibit-8- Supervision note;

10. **P.W.-1, Ram Sahai Yadav** is the Advocate's Clerk who proved the formal FIR.

11. **P.W.-2, Jaiprakash Kumar** and **P.W.-3, Balkishun Pandit** were examined as material witnesses of this case. P.W. 2 is the cousin brother of the informant, Balkishun Pandit (P.W.-3). According to the P.W.-2, he alongwith the brother had gone to meet the deceased earlier, but the husband, father-in-law and mother-in-law did not allow them to meet. Anyhow, they came across her on 01.06.1990 who informed that they are demanding Rs. 20,000/- else, she may be killed.

12. He further deposed that one horse puller coming from the deceased village informed on 06.07.1990 that she has been killed.

13. Upon getting the said information, he alongwith



P.W.-3 and Bisundeo Pandit (not examined) went to the place where the Officer In-charge of Dharhara Police Station compelled them to write down on a piece of paper that she died of diarrhoea and dysentery though they knew that she has been killed as they cremated her dead body before the arrival of the parents. According to him, the Officer-in-charge of Dharhara P.S. Ganga Dayal Choudhary connived with the accused persons for the disappearance of the evidence of the deceased.

14. In the cross-examination, said P.W. informed that the meeting with the deceased did not took place on 31.05.1990 rather on 01.06.1990 at her door when no one else save and except the deceased and P.W. were present when she narrated her ordeal.

15. Further, during the cross-examination, he deposed that all of them had taken meal in the in-laws house on 31.05.1990. Upon drawing his attention to the statement made before the Dy.S.P. that they met with the lady on 31.05.1990 and whether that is correct, he accepted it. Upon further cross-examination whether the accused persons administered aldrin (insecticide) to the lady was also stated before the Dy.S.P., the answered was in affirmative.

16. **P.W.3, Balkishun Pandit** is the informant.



According to him, after the second marriage on 10.05.1989, she went to the in-laws house whereafter the demand of Rs. 20,000/- came. Two months later, when he went to bring back his sister, the demand was repeated. Thereafter, he did not send her to the in-laws house.

17. However, on 20.03.1990, they forced them to allow the lady to come to the in-laws house with assurance that she will not be ill treated. He submitted that he sent his brother, Bisundeo Pandit (wrongly recorded as Sukhdeo Pandit) and cousin brother, Jaiprakash Kumar to the village to meet her who came back and informed that she is being ill-treated for want of dowry.

18. As he was thinking of bringing her back, came the news of her death on 06.07.1990. On receipt of the information, he alongwith his brother, Bisundeo Pandit (not examined) and cousin brother, Jaiprakash Pandit went to the village where he saw the S.I. Ganga Dayal Choudhary and constable at the door of his sister who obtained signatures on blank papers.

19. Later, he filed complaint upon knowledge that she has been administered aldrin and the accused alongiwth S.I., Ganga Dayal Choudhary ensured disappearance of evidence by cremation. The second S.I., Satish Kumar Sinha of Dharhara



Police Station came on 08.11.1991 and recorded his fardbayan.

20. In the cross-examination, the aforesaid P.W. stated that the appellant was unemployed and wanted Rs. 20,000/- for seeking job. In the cross-examination, he deposed that the PW did not ascertain the cause of death of his sister. He further denied that upon reaching the village, he saw the dead body of his sister, took her to his house at Sandalpur and next day, it was cremated at Munger Ghat. He also identified the death certificate (marked-x) which recorded her cause of death as dysentery and diarrhoea.

21. **PW-4** is **Mahendra Prasad Sah** who has been examined on the point of occurrence.

22. **PW-5** and **PW-6** namely **Saukat Ali and Md. Naushad** respectively deposed that they don't know anything about the occurrence and as such, they were declared hostile.

23. **PW-7, Chaukidar Fakira Paswan** in his deposition stated that on hearing weeping sound, he reached the place and saw the dead body lying there. He informed the Officer-In-charge, Dharhara Police Station, Ganga Dayal Choudhary who arrived there and permitted the in-laws to cremate the body.

24. In his cross-examination, when it was asked



whether he had stated before the Police that Balkishun Pandit and Bisundeo Pandit, the two brothers of deceased were present there, the answer was in affirmative.

25. **PW-8** is the **Hawaldar, Akhileshwar Nath Chaudhary** who deposed that he was posted at Police Camp, Bangalwa and after information by the PW-7, he alongwith the other armed forces member went to the in-laws house and found the dead body. He informed the Dharhara Police thereafter. Later, SI, Ganga Dayal Chaudhary came saw the dead body and allowed cremation.

26. In the cross-examination, he has stated that the brother and brother-in-law of the deceased also reached there and both were part and parcel of the cremation of the lady at Munger Ghat.

27. **PW-9** is the **Dy.S.P., Lal Mohan Prasad** while **PW-10** is **S.I., Satish Chandra Sinha**. PW-9 supervised the investigation of this case and submitted the supervision report while PW-10 investigated the matter, handover the charge to S.I., Shakil Ahmad who later handed it over to A.S.I., Mangal Pandey who finally submitted charge-sheet in this case.

28. **PW-10, S.I. Satish Chandra Sinha** deposed that he being the Investigating Officer, recorded the fardbayan on



08.11.1991 on the direction of the S.P., Munger on 29.10.1991 and verbal direction of the DSP, Jamalpur. He investigated the matter and later handover the charge to the S.I., Sakil Ahmad. In the cross-examination, he conceded that the Dy.S.P had directed him to investigate on the points whether the informant and his family had detained the accused persons while returning from cremation and released them only after payment of Rs. 13,000/- but he did not investigated the said point.

29. The Defence side on the other hand completely denied the prosecution story and it was their case that they had a very good relationship with the lady who died of dysentery and diarrhoea. The information was sent to her parents, the informant and his brother-in-law reached the village, the dead body was taken to the parent's house at Sandalpur and later to Munger Ghat for cremation.

30. Later, when they were returning after the cremation of the body, were detained at the house of the informant and only after payment of Rs. 13,000/-, they were released after two days. The further case is that this case was filed fourteen months after the date of death with the sole intention to harass/implicate the appellant.

31. The family members who were part and parcel of



the FIR namely, Santosh Pandit (brother of the appellant) stated that he is a Teacher residing with his wife, Kaushalya Devi at village Mahuli having no concern with the family and on the fateful day, they were attending the marriage of daughter of Chedi Pandit at Braham Asthan and thus were away from the place of occurrence.

32. The two DWs examined were **Ramdhari Singh (D.W.-1)** the Sarpanch of Bariyarpur and **Rajendra Sah (D.W.-2)**, the Sarpanch of Bangalwa Panchayat.

33. **DW-1, Ramdhari Singh** deposed that Chedi Pandit is his neighbour, the marriage of Sushila Kumari, daughter of Chedi Pandit took place on 05.07.1990 and Santosh Pandit (accused) being brother-in-law of Chedi Pandit, alongwith his wife, Kaushalya Devi were attending the marriage.

34. **DW-2, Rajendra Sah** who was Sarpanch of Bangalwa Panchayat deposed that Premlata Devi died of diarrhoea and dysentery on 05.07.1990, her parents' family/informant arrived and participated in the cremation.

35. The Trial Court took up the matter and recorded that:

(i) the undisputed facts are that the appellant



was married to Prem Lata Devi (deceased) on 06.06.1987;

(ii) Babu Lal Pandit and Jhaliya Devi (both deceased) were father-in-law and mother-in-law respectively of the late Premlata Devi;

(iii) accused Jogendra Pandit, Maksudan Pandit and Rajendra Pandit are/were brothers-in-law of the deceased while;

(iv) Bhama Devi is wife of Jogendra Pandit and Batashwa Devi and Kausaliya Devi are sisters-in-law (nanad);

(v) Shankar Pandit and Santosh Pandit are brothers-in-law (nandoi) of the Premlata Devi (deceased);

(vi) further admitted fact is that she died on 05.07.1990.

36. Learned Trial Court thereafter recorded the disputed facts as to:

(i) whether the husband and the in-laws subjected her to cruelty with demand of dowry;

(ii) whether they have committed murder.

37. The learned Trial Court thereafter came to the



conclusion that delay has been explained in lodging the FIR as S.I. Ganga Dayal Chaudhary took his signature on a blank paper in which it was recorded that she died of diarrhoea and dysentery. The Court also took note of the fact that petitions were addressed by the informant (Exhibit-5) to the Hon'ble Chief Minister, Bihar and the S.P., Munger requesting to take actions against the accused persons.

38. Further, it was only after the intervention of S.P., Munger that the fardbayan could be recorded on 08.11.1991 thus being apprehensive of the S.I., Ganga Dayal Choudhary, he could not lodge the FIR in time.

39. He further came to the conclusion that the married sisters/their husbands as also the brother/sister-in-law are living separately and hence not involved in the death of Premlata Devi. Though it is true that with the help of brothers and others, the dead body was cremated on the permission of S.I., Ganga Dayal Choudhary.

40. Thus the Court came to the conclusion that the charge of 304B/34 and 201 of the IPC is/are not proved accordingly they were not held guilty and were acquitted of the charges and discharged from the liabilities of bail bond.

41. So far as the husband, Baleshwar Pandit (appellant



herein) is concerned, the Court came to the conclusion that he being the husband, demanded Rs. 20,000/- for his job, upon non-fulfillment of the said demand, ensured her death and as such, charges under Section 3/4 of the Dowry Prohibition Act and 304B/34 and 201 of the IPC is/are proved and he was accordingly convicted under Section 3/4 of the Dowry Prohibition Act and 304B/34 and 201 of the IPC and sentenced to undergo 10 years rigorous imprisonment under Section 304 of the IPC while no separate sentence was passed under section 201 of the IPC and Section 3/4 of the Dowry Prohibition Act.

42. Aggrieved the present appeal.

43. It has been submitted by learned Amicus Curiae that the learned Court while passing the order failed to take into account;

(I) there is the delay of fourteen months in lodging of the FIR;

(ii) the deposition of the DWs that she died natural death;

(iii) the failure of the Police to investigate on the allegation that the accused alongwith family was/were detained by the informant's side for two days when they were returning after cremation and only after payment of Rs. 13,000/-, were let



free.

44. Learned APP, Mr. Mehta on the other hand opposes the prayer submitting that reasoned order has been passed by the learned Trial Court while convicting the husband/sole appellant while exonerating the family members of the said charges.

45. Having heard the parties and length and perusing the records, the question/issues that arises;

(i) whether the prosecution side established beyond doubt the justification of delay in lodging the FIR is/are as to;

(ii) whether the lady died natural death due to diarrrohea and dysentery or was killed;

(iii) whether the demand of dowry was made immediately before the death;

(iv) whether the family had arrived and saw the dead body or not;

(v) whether the statement/deposition of the PWs were proved beyond doubt;

(vi) whether the husband can be singled out for convicting when on similar charges, others were exonerated recording that the case has not been proved against them beyond doubt.



46. So far as the statement/deposition of the informant/cousin brother is concerned, they have stated that prior to the death, the cousin brother met the deceased and was informed of payment of Rs. 20,000/-. Later, they came to know about her death and on reaching her in-laws house, it was informed that she has been cremated and died due to diarrhoea and dysentery. Further, S.I., Ganga Dayal Chaudhary forced them to sign a blank paper which later was used to record that her death was natural.

47. On the other hand, the **Investigating Officer (PW-10) Satish Chandra Sinha** deposition is that he took the statement of the informant on the direction of the S.P., Munger and Dy.S.P., Jamalpur and also investigated the matter before handing over the charge to S.I., Shakil Ahmad. In his cross-examination, he accepted that despite the instruction of Dy.S.P., Jamalpur to also look into the claim of the accused that the informant side had detained them for two days while returning from cremation/at their home and only after payment of Rs. 13,000/-, they were allowed after two days.

48. **PW-7** is the **Chowkidar, Fakira Paswan** who informed that on hearing the weeping sound, he reached the place, saw the dead body and informed the Officer-in-charge of



Dharhara Police Station. He thereafter arrived and permitted the in-laws to cremate the body. It is important to take into account his statement that upon questioning him as to whether the brothers of the deceased were present beside the dead body, the answer was in affirmative.

49. **PW-8 is Hawaldar, Akhileshwar Nath Chaudhary** who also saw the dead body, having visited the place upon information and found that the entire clothes of the lady was wet. He also during cross-examination accepted that the informant and the brother-in-law of the deceased had reached the place and both carried the dead body for cremation to Munger.

50. From the aforesaid facts, what emerges is/are that learned Trial Court;

*(i) failed to look into the contention of the defence side duly affirmed by the independent witnesses namely the **Chowkidar (P.W.-7)/the Hawaldar (PW-8)** that the family members of the deceased were by the side of the dead body and actually participated in the cremation;*

(ii) the clothes of the lady was wet which could have been taken note of as the contention of the accused



persons was/were that she died of diarrhoea and dysentery;

(iii) in that background, when the entire story is to be taken into account, the delay in lodging the FIR which actually came to be registered fourteen months later cannot be brushed aside.

51. The informant claimed that the appellant was unemployed and for his job wanted Rs. 20,000/-. This Court has doubts as to whether a request to help financially so that he could get a job can be clubbed in the category of demand for dowry.

52. Further, in his cross-examination, **P.W.2, Jaiprakash Kumar** accepted that the meeting with the deceased took place on 31.05.1990 and not on 01.06.1990 which he earlier stated during the deposition.

53. **P.W.3, Balkishun Pandit**, the informant has stated that he arrived at the deceased house where S.I., Ganga Dayal Prasad took his signature on blank paper in the presence of constable.

54. When this statement of P.W.3, **Balkishun Pandit** is read with the deposition of the **P.W.8, the Hawaldar, Akhileshwar Nath Chaudhary** who upon information reached



the place of occurrence, saw the dead body was wet and further the two brothers (P.W.2 and P.W. 3) were present there, can not be overlooked.

55. It is to be noted that P.W. 3 talks about the presence of the Hawaldar who in turn talks about reaching the place upon information of death. Thus, one can construe from the aforesaid facts that the P.W.2 and P.W.3 had arrived at the deceased's place of occurrence and actually saw the dead body.

56. Further, despite the informant alleging the role of the S.I., Ganga Dayal Prasad, neither he was examined nor at any point of time, such prayer made by the prosecution nor the learned Trial Court thought it proper to summon him.

57. Thus, this Court cannot overlook the contention of the two independent witnesses and the Government Officials, the Chowkidar, (PW-7) and the Hawaldar, (PW-8) that when they arrived at the place of occurrence, saw the brother (P.W.3) and cousin brother (P.W.2) present there and who took part in the cremation of the dead body.

58. Another aspect that has to be taken note of by this Court is that the prosecution story has charged everyone in the family which include the brother, sister-in-law (Bhabhi), married sisters, brothers-in-law (bahnoi) of torture for dowry



and later, the reason for her death. However, while they have been exonerated by the learned Trial Court simply on their statements that they are living separately and were not present on the date of occurrence, on the same set of charges, the husband has been convicted.

59. This Court in the aforesaid background comes to the conclusion that:

(i) the prosecution side miserably failed to justify the delay in the lodging of the FIR;

(ii) it further failed to prove that the lady did not die due to diarrhoea and dysentery rather was killed;

(iii) it again failed to prove the demand for dowry as two different dates of meeting was given by the brother during deposition/cross-examination;

(iv) the consistent statement of two PWs (Chowkidar/Hawaldar) present beside the dead body falsely their claims that when they arrived, the body was cremated;

(v) the inconsistent statements of the two PWs (P.W.2 and P.W.3) cannot be relied upon in background of the statements made by the other PWs.

60. Thus, in the opinion of this Court, the prosecution



miserably failed to prove its case beyond reasonable doubt the allegation against the sole appellant that led to his conviction/sentence.

61. As such, the order of conviction/sentence of the sole **appellant, Baleshwar Pandit** dated **17.02.2004/19.02.2004** under section **3/4 of the Dowry Prohibition Act** and section **304(B)/34 and 201 of IPC** passed in **Sessions Case No. 362/1994 (Tr. No.109/02,G.R. 1766/1991, Dharahara P.S. Case No.121/1991)** by Sri Paras Nath Sinha, Presiding Officer, Additional Fast Track Court, Munger, is hereby **set aside**.

62. The appellant is on bail. Let him be free of the bail bonds if not wanted in any other case.

63. Cr. Appeal (SJ) No. 117 of 2004 stands allowed.

64. Mr. Vishesh Kumar Singh, Amicus Curiae is entitled to Rs. 2,000/-. The Patna High Court Legal Services Committee to do the needful.

(Rajiv Roy, J)

Adnan/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	23.09.2025
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