

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.134 of 2014

Arising Out of PS. Case No.-143 Year-2010 Thana- NAWADA District- Nawada

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Krishni Devi Wife Of Krisna Prasad Saw Resident Of Village-Kadirganj, P.S.-
Nawada, District-Nawada.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

with
CRIMINAL APPEAL (SJ) No. 164 of 2014

Arising Out of PS. Case No.-143 Year-2010 Thana- NAWADA District- Nawada

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Vikash Kumar Saw S/O Krisna Prasad Saw R/O Kadirganj, P.S.-Nawada,
District-Nawada.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

=====

Appearance :

(In CRIMINAL APPEAL (SJ) No. 134 of 2014)

For the Appellant/s : Mrs. Rishika Jha, *Amicus Curiae*

For the Respondent/s : Mr. S.N.Prasad, App

(In CRIMINAL APPEAL (SJ) No. 164 of 2014)

For the Appellant/s : Mrs. Rishika Jha, *Amicus Curiae*

For the Respondent/s : Mr. Z.Hoda, App

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
CAV JUDGMENT

Date : 01-07-2026

Heard Mrs. Rishika Jha, learned *Amicus Curiae*

appearing on behalf of the appellants and Mr. S .N. Prasad, and

Mr. Z. Hoda, learned APPs for the State.

2. The present appeal is directed against the
judgment of conviction dated 26.02.2014 and order of sentence
dated 28.02.2014 passed by the learned Additional Sessions



Judge (Ad hoc)-IV, Nawada in Sessions Trial No. 600 of 2010/116 of 2010 arising out of Nawada P.S. Case No. 143 of 2010 (G.R. No. 590 of 2010), whereby the appellants have been convicted for the offences under Section 498A/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years with a fine of Rs. 2,000/-, and in default of payment of fine, to undergo further imprisonment for fifteen days. The appellants have further been convicted under Section 304B/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for seven years with a fine of Rs. 1,000/-, and in default of payment of fine, to undergo further imprisonment for fifteen days.

BRIEF FACTS OF THE CASE

3. The prosecution case, in brief, is that the deceased Bindu Devi was married to accused Vikash Prasad Saw on 18.02.2009. According to the fardbeyan of the deceased recorded on 05.04.2010 at Sadar Hospital, Nawada, after her marriage she was subjected to cruelty and harassment by her husband Vikash Prasad Saw, mother-in-law Krishni Devi and other in-laws in connection with demand of dowry, including television, bed and cash. It is alleged that the accused persons repeatedly threatened that in case the demand was not fulfilled,



she would be killed. The deceased further alleged that on the date of occurrence, after discussions amongst the family members regarding the dowry demand, her husband poured kerosene oil upon her body and set her ablaze with a lighted matchstick with an intention to kill her. On raising alarm, her husband made a show of extinguishing the fire, whereas her father-in-law attempted to save her. She sustained extensive burn injuries and was admitted to Sadar Hospital, Nawada, where her statement was recorded by the police. Subsequently, she was referred to PMCH, Patna, but succumbed to her injuries on the way.

4. On the basis of the aforesaid fardbeyan, Kadirganj (Town) P.S. Case No. 143 of 2010 dated 05.04.2010 was instituted initially under Section 498-A/34 IPC. Upon completion of investigation and considering the death of the victim, charge-sheet was submitted against the accused persons under Sections 498-A/34 and 304-B/34 IPC, whereupon cognizance was taken and the case was committed to the Court of Sessions for trial.

ARGUMENT ON BEHALF OF THE *AMICUS*
CURIAE

5. Learned *Amicus Curiae*, submitted that the



learned trial court has erred in convicting the appellants solely on the basis of the alleged dying declaration of the deceased. It is contended that there were no eye-witnesses to the occurrence and the prosecution has failed to establish that the deceased sustained burn injuries in the manner alleged by her. Referring to the postmortem report and the evidence of P.W.-6, it is submitted that although the deceased had suffered more than 80% burn injuries, no smell of kerosene oil was detected from her body and the doctor also admitted that such injuries could be sustained while cooking food. It is further submitted that the husband of the deceased had allegedly attempted to extinguish the fire and had taken her to the hospital for treatment, which probabilises the defence case that the occurrence was accidental rather than homicidal. Therefore, according to learned counsel, the prosecution has failed to conclusively establish that the death was homicidal in nature.

6. Learned counsel further submitted that the prosecution has failed to prove the ingredients of cruelty or harassment in connection with demand of dowry. It is argued that the allegation regarding payment of Rs.35,000/- by the father of the deceased does not find place in the fardbeyan and has been introduced subsequently through the testimonies of



P.W.-3, P.W.-4 and P.W.-7. No witness has disclosed the date, time or specific circumstances under which such payment was allegedly made, nor has any independent witness supported the same. It is further submitted that neither the deceased nor her family members ever lodged any complaint before any authority regarding the alleged demand of dowry or harassment. According to learned counsel, the evidence of P.W.-3, P.W.-4 and P.W.-7 consists merely of vague and omnibus allegations and, being closely related to the deceased, their testimonies require careful scrutiny and cannot be accepted without independent corroboration.

7. It is next submitted that the alleged dying declaration itself does not inspire confidence and cannot be made the sole basis of conviction. Learned counsel argued that neither the doctor who was attending the deceased nor the police officer who allegedly recorded her fardbeyan was examined during trial. No certificate or endorsement regarding the mental fitness of the deceased at the time of making the statement was obtained. On the contrary, P.W.-4 and P.W.-7 have admitted in their cross-examination that the deceased was unconscious at the hospital. It is further contended that the statement was recorded in the presence of interested relatives and, therefore,



the possibility of tutoring cannot be ruled out. In such circumstances, the alleged dying declaration suffers from serious procedural infirmities and requires substantial corroboration, which is lacking in the present case.

8. Lastly, learned counsel submitted that the evidence on record rather suggests cordial matrimonial relations between the deceased and her husband. Attention has been drawn to the admission of P.W.-7 that the deceased continued her studies after marriage, appeared in her B.A. examinations with the assistance of her husband and had voluntarily returned to her matrimonial home after staying at her parental house for a considerable period. The defence witnesses have consistently stated that the deceased accidentally caught fire while cooking and that her husband attempted to save her and immediately arranged for her treatment. It is, therefore, submitted that the prosecution has failed to establish beyond reasonable doubt that the deceased was subjected to cruelty or harassment for dowry soon before her death and consequently the statutory presumption under Section 113-B of the Evidence Act is not attracted. The appellants are thus entitled to the benefit of doubt and deserve acquittal.

ARGUMENT ON BEHALF OF THE STATE

9. *Per contra*, learned APP appearing on behalf of the



State submitted that the learned trial court has rightly appreciated the oral and documentary evidence available on record and has recorded the conviction upon proper consideration thereof. He submitted that the deceased Bindu Devi was married to appellant Vikash Kumar Saw on 18.02.2009 and she had died an unnatural death due to extensive burn injuries within seven years of her marriage. The prosecution witnesses, namely P.W.-3 Om Prakash Saw, P.W.-4 Reeta Devi and P.W.-7 Ashok Saw, have consistently deposed that the deceased was subjected to cruelty and harassment on account of non-fulfillment of demand of dowry and that despite payment of Rs.35,000/-, the torture continued. The evidence further discloses that soon before her death the deceased had informed her family members regarding the persistent demand of dowry and threats extended by the appellants. The prosecution has, therefore, successfully established the foundational facts necessary for attracting the provisions of Section 304-B IPC and the presumption under Section 113-B of the Evidence Act.

10. Learned APP further submitted that the fardbeyan of the deceased, recorded while she was undergoing treatment for burn injuries, constitutes a reliable dying declaration and



inspires full confidence. The deceased specifically named her husband and mother-in-law and attributed a distinct role to them in pouring kerosene oil and setting her ablaze, while at the same time exonerating her father-in-law by stating that he had attempted to save her, which lends assurance to the truthfulness of her statement. The testimony of P.W.-6, Dr. Raj Kishore Prasad, that a person sustaining 80% burn injuries may still be capable of speaking in the initial stage, sufficiently explains the deceased's ability to make the statement. It is, therefore, submitted that the defence has failed to rebut the statutory presumption arising against the appellants and the learned trial court has rightly held them guilty for the offences under Sections 498-A/34 and 304-B/34 IPC.

ANALYSIS AND CONCLUSION

11. Heard the parties.

12. I have perused the lower court records and proceedings and also taken note of the arguments canvassed by learned counsel appearing on behalf of the parties.

13. The learned trial court, on the basis of materials as collected during the course of investigation, passed by the judgment of conviction dated 26.02.2014 and order of sentence dated 28.02.2014 for the offence punishable under Sections



498A and 304 B/34 of the Indian Penal Code.

14. During the trial, the prosecution has examined altogether seven witnesses, namely:

- 1) P.W.1 – Munna Goswami
- 2) P.W.2 – Jeetendra Malakar
- 3) P.W.3 – Om Prakash Saw
- 4) P.W.4 – Reeta Devi
- 5) P.W.5 – Ramchandra Sharma (Investigating Officer)
- 6) P.W.6 – Dr. Raj Kishore Prasad
- 7) P.W.7 – Ashok Saw (Informant/Father of the deceased)

15. The prosecution has also relied upon following documents exhibited during the course of trial:

- (i) Ext.-1 – Signature of Reeta Devi on the fardbeyan;
- (ii) Ext.-2 – Signature of Guljar Ram, S.I. on the carbon copy of the inquest report;
- (iii) Ext.-2/1 – Signature of Ashok Saw on the carbon copy of the inquest report; and
- (iv) Ext.-3 – Postmortem Report.

16. Upon a meticulous examination of the record, the evidence of the prosecution witnesses (PWs) can be



summarised as follows:

I. P.W.-1 Munna Goswami did not support the prosecution case and was declared hostile by the prosecution. Nothing material could be elicited from his evidence in support of the prosecution case.

II. P.W.-2 Jeetendra Malakar also did not support the prosecution case and was tendered by the prosecution. His evidence does not advance the prosecution case in any manner.

III. P.W.-3 Om Prakash Saw, who is the uncle of the deceased, deposed that after the marriage of Bindu Devi with accused Vikash Prasad Saw, the accused persons started demanding dowry and torturing the deceased. He stated that the accused persons demanded television, bed, refrigerator and other household articles and threatened that in case the demand was not fulfilled, the deceased would be killed. He further stated that Ashok Saw had paid Rs.35,000/- to the accused persons, but despite receiving the said amount, they continued to subject the deceased to cruelty and harassment. He deposed that on 04.04.2010 he had received information that the accused persons had burnt Bindu Devi. On reaching Sadar Hospital, Nawada, he found the deceased in a burnt condition. According to him, the deceased disclosed that her husband and mother-in-



law had poured kerosene oil upon her body and set her on fire by a lighted matchstick. He further stated that the police recorded the fardbeyan of the deceased in his presence and thereafter she was referred to Patna for treatment, but she succumbed to her injuries on the way. In his cross-examination, he stated that the hands, legs and almost the entire body of the deceased, except the neck region, had been burnt and that the police obtained the thumb impression of the deceased on the fardbeyan.

IV. P.W.-4 Reeta Devi, mother of the deceased, deposed that the marriage of her daughter Bindu Devi with accused Vikash Prasad Saw was solemnized on 18.02.2009. After the marriage, the deceased stayed at her matrimonial home for a few days and thereafter returned to her parental home. Subsequently, she went back to her matrimonial home during the Holi festival. The witness stated that after about fifteen days, her daughter informed her over telephone that her husband, mother-in-law and sisters-in-law were demanding dowry and torturing her. According to the witness, her husband paid Rs.35,000/- to the accused persons to satisfy their demand, but even thereafter the deceased continued to be subjected to harassment and felt insecure in her matrimonial home. She



further deposed that on 04.04.2010 she received information that the accused persons had burnt her daughter. She along with other family members reached Sadar Hospital, Nawada, where she found the deceased in a severely burnt condition. The witness stated that the deceased disclosed before the police that her husband and mother-in-law had poured kerosene oil upon her body and set her ablaze with a lighted matchstick. Since the hands of the deceased had been burnt, she put her thumb impression on the fardbeyan. Thereafter, she was referred to PMCH, but she had died on the way. In cross-examination, this witness stated that she could not properly see the burn injuries as the body of the deceased was covered. She further stated that the deceased was unconscious and that the accused persons fled away from the hospital upon seeing the family members.

V. P.W.-5 Ramchandra Sharma is the Investigating Officer of the case. He deposed that during inspection of the place of occurrence he found smell of kerosene oil emanating from the room and noticed that the room had already been washed. He proved the carbon copy of the inquest report prepared by Guljar Ram, S.I., and identified the signature thereon, which was marked as Ext.-2. He further stated that he did not find any burnt article at the place of occurrence. He also



admitted that he could not record the statement of the attending doctor and that he handed over charge of investigation on 07.04.2010.

VI. P.W.-6 Dr. Raj Kishore Prasad deposed that on 05.04.2010 at about 4:30 P.M. he conducted the postmortem examination on the body of deceased Bindu Devi, wife of Vikash Prasad Saw. During postmortem examination, he found more than 80% dermo-epidermal burn injuries over the body except the lower abdomen, buttocks and soles. He opined that the cause of death was shock resulting from the burn injuries caused by dry heat burn. In his cross-examination, he stated that he did not find any smell emanating from the dead body and further stated that in the initial stage a person sustaining about 80% burn injuries may remain capable of speaking. He proved the postmortem report, which was marked as Ext.-3.

VII. P.W.-7 Ashok Saw, father of the deceased, fully supported the prosecution case. He deposed that his daughter Bindu Devi was married to accused Vikash Prasad Saw on 18.02.2009. According to him, after the marriage the deceased initially stayed at her matrimonial home and thereafter returned to her parental home. Subsequently, she again went to her matrimonial home during the Holi festival. He stated that



after about fifteen days he visited the matrimonial home of his daughter, where she informed him that her husband, mother-in-law and other in-laws were demanding dowry in the form of television, bed, refrigerator and cash and were torturing her on account of non-fulfilment of such demand. The witness further stated that he paid Rs.35,000/- to the accused persons, but despite receiving the said amount they continued to harass the deceased and threatened to kill her if the remaining demand was not fulfilled. He further deposed that on 04.04.2010 he received information that his daughter had been burnt by the accused persons. Upon reaching Sadar Hospital, Nawada, he found her in a burnt condition and the police recorded her statement there. Thereafter, she was referred to PMCH, but died on the way. The witness specifically stated that the accused persons had poured kerosene oil upon the body of the deceased and set her on fire, though her father-in-law attempted to save her. In his cross-examination, he admitted that he had no documentary proof regarding the marriage and could not disclose the name of the priest who had solemnized the marriage. He further stated that the payment of Rs.35,000/- was not made in the presence of any independent witness and that no written complaint regarding dowry harassment had been made prior to the occurrence. He



also admitted that the deceased was unconscious at Nawada Hospital and that he did not notice any burn injury on the body of his son-in-law.

17. On the basis of materials surfaced during the trial, the appellants/accused was examined under Section 313 of the Cr.PC by putting incriminating circumstances/evidences surfaced against him, which he denied and shows his complete innocence.

LAW GOVERNING DOWRY DEATH

18. It would be appropriate to reproduce the provisions of Sections 304B and 34 of the Indian Penal Code for the sake of convenience and better understanding:

“Sections 304B- *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 purpose of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).”*

498A. *Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.***Explanation.—** *For the purpose of this section, “cruelty” means—*

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to



cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

19. The essential ingredients for attracting the offence under Section 304-B IPC, as consistently laid down by the Hon'ble Supreme Court, require the following conditions to be cumulatively satisfied:

(i) that the death of a woman has been caused by burns or bodily injury or has occurred otherwise than under normal circumstances;

(ii) that such death has occurred within a period of seven years of her marriage;

(iii) that the deceased was subjected to cruelty or harassment by her husband or his relatives soon before her death; and

(iv) that such cruelty or harassment was in connection with, or in furtherance of, a demand for dowry and it is only upon the strict establishment of all the aforesaid ingredients that the offence under Section 304-B IPC can be said to be made out and the presumption under Section 113-B of



the Evidence Act can be invoked.

20. Law in this regard is well settled by the Apex Court in case of ***Rajinder Singh v. State of Punjab, (2015) 6 SCC 477*** reported in para nos. has held *inter alia* as under:

8. *A perusal of Section 2 shows that this definition can be broken into six distinct parts:*

(1) Dowry must first consist of any property or valuable security— the word “any” is a word of width and would, therefore, include within it property and valuable security of any kind whatsoever.

(2) Such property or security can be given or even agreed to be given. The actual giving of such property or security is, therefore, not necessary.

(3) Such property or security can be given or agreed to be given either directly or indirectly.

(4) Such giving or agreeing to give can again be not only by one party to a marriage to the other but also by the parents of either party or by any other person to either party to the marriage or to any other person. It will be noticed that this clause again widens the reach of the Act insofar as those guilty of committing the offence of giving or receiving dowry is concerned.

(5) Such giving or agreeing to give can be at any time. It can be at, before, or at any time after the marriage. Thus, it can be many years after a marriage is solemnised.

(6) Such giving or receiving must be in connection with the marriage of the parties. Obviously, the expression “in connection with” would in the context of the social evil sought to be tackled by the Dowry Prohibition Act mean “in relation with” or “relating to”.

9. *The ingredients of the offence under Section 304-B IPC have been stated and restated in many judgments. There are four such ingredients and they are said to be:*

(a) death of a woman must have been caused by any burns or bodily injury or her death



must have occurred otherwise than under normal circumstances;

(b) such death must have occurred within seven years of her marriage;

(c) soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and

(d) such cruelty or harassment must be in connection with the demand for dowry.

21. *Coming now to the other important ingredient of Section 304-B—what exactly is meant by “soon before her death”?*

22. *This Court in Surinder Singh v. State of Haryana [(2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769] had this to say : (SCC pp. 137-39, paras 17-18) 22. This Court in Surinder Singh v. State of Haryana [(2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769] had this to say : (SCC pp. 137-39, paras 17-18)*

17. *“Thus, the words ‘soon before’ appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to*

spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words ‘soon before’ is, therefore, important. The question is how ‘soon before’? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, ‘soon before’ is



a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.

18. In this connection we may refer to the judgment of this Court in Kans Raj v. State of Punjab [(2000) 5 SCC 207 : 2000 SCC (Cri) 935] where this Court considered the term 'soon before'. The relevant observations are as under : (SCC pp. 222-23, para 15)

'15. ... "Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be "soon before death" if any other intervening circumstance showing the non-existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.'

Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case



and calls for a pragmatic and sensitive approach of the court within the confines of law.”

17. *“Thus, the words ‘soon before’ appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words ‘soon before’ is, therefore, important. The question is how ‘soon before’? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, ‘soon before’ is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.*

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Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law."

21. Similar view was taken by the Apex Court in case of ***State of Madhya Pradesh vs. Jogendra and Anr.*** reported in ***(2022) 5 SCC 401.***

22. The Section 304 B of the Indian Penal Code is also required to be considered in the background of the facts and material in the context that whether soon before the death offence under Section 498A Indian Penal Code is made out. The essential ingredients for attracting the offence under Section



498-A IPC, as evident from the statutory provision, require the following conditions to be established:

(i) that the victim is a married woman;

(ii) that the accused is either the husband of the woman or a relative of her husband;

(iii) that the woman was subjected to cruelty by the accused;

(iv) that such cruelty consisted of either:

any wilful conduct of such a nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb, or physical or mental health; or

(v) that such cruelty or harassment was inflicted with a view to coercing the woman or any person related to her to meet an unlawful demand for any property or valuable security, or was on account of failure to fulfil such demand; and

(vi) that the prosecution must establish the aforesaid ingredients through cogent, reliable and convincing evidence, whereupon the offence under Section 498-A IPC can be said to be made out against the accused.

23. The record reveals that P.W.-1 Munna Goswami and P.W.-2 Jitendra Malakar did not support the prosecution



case during trial. P.W.-1 was declared hostile by the prosecution, whereas P.W.-2 was tendered and did not depose anything incriminating against the accused persons. Nothing substantive emerged from their testimonies which could be said to corroborate or lend assurance to the prosecution version regarding the alleged demand of dowry, cruelty, harassment, or the circumstances leading to the death of Bindu Devi. Neither of these witnesses had any direct knowledge of the alleged occurrence, nor did they support the prosecution case on any material aspect. Consequently, their evidence does not advance the prosecution case in any manner and is of no assistance in establishing the guilt of the accused persons. Therefore, the testimonies of P.W.-1 and P.W.-2 are not relevant *qua* proving the charges under Sections 498-A and 304-B of the Indian Penal Code against the accused/appellants.

24. The conviction of the appellants has been founded principally upon the testimonies of P.W.-3 Om Prakash Saw, P.W.-4 Reeta Devi, and P.W.-7 Ashok Saw, who are close relatives of the deceased Bindu Devi. These witnesses have consistently deposed that after the marriage of the deceased with appellant Vikash Kumar Saw, she was subjected to cruelty and harassment on account of persistent demands for dowry,



including a television, bed, refrigerator and cash. According to them, despite payment of Rs.35,000/-, the deceased continued to be ill-treated and was threatened with dire consequences in case the remaining demands were not fulfilled. The aforesaid witnesses have further stated that upon receiving information regarding the burn injuries sustained by the deceased, they reached the hospital where the deceased allegedly disclosed that her husband and mother-in-law had poured kerosene oil upon her and set her ablaze. Their version finds support from the evidence of P.W.-5 Ramchandra Sharma, the Investigating Officer, who noticed the smell of kerosene oil at the place of occurrence, and P.W.-6 Dr. Raj Kishore Prasad, who found more than 80% ante-mortem burn injuries on the body of the deceased and opined that the death was caused by shock resulting from dry heat burns. Thus, the testimonies of these witnesses, coupled with the alleged dying declaration of the deceased, constitute the principal basis on which the conviction of the accused/appellants has been sustained by the Trial Court.

25. From the perusal of the records and facts and circumstances of the present case and in light of consistent observation and the view of the Court and the expression “dowry” under Section 304-B IPC must receive a broad and



purposive construction so as to effectuate the legislative intent of eradicating the social evil of dowry deaths, and any demand for money or valuable security having a nexus with the marital relationship, even if made subsequent to the marriage, would fall within its sweep; however, for the presumption under Section 113-B of the Evidence Act to arise, the prosecution is obligated to establish, by cogent and reliable evidence, that the deceased was subjected to cruelty or harassment in connection with such demand “*soon before her death*” and that there existed a proximate and live link between the alleged cruelty and the death and in the absence of such foundational facts, mere general or omnibus allegations would not suffice to sustain a conviction under Section 304-B IPC, and the Court must, therefore, exercise due circumspection in evaluating the evidence so as to ensure that the statutory presumption is not invoked in a mechanical manner but only upon strict satisfaction of the requirements contemplated by law.

**WHETHER PROSECUTION PROVED THEIR
CASE BEYOND REASONABLE DOUBT?**

26. It is observed that merely because P.W.-1 Munna Goswami did not support the prosecution case and was declared hostile, and P.W.-2 Jitendra Malakar was tendered without



supporting the prosecution version, the evidence of the remaining material witnesses cannot be discarded on that score alone. The testimonies of P.W.-4 Reeta Devi (mother of the deceased), P.W.-7 Ashok Saw (father of the deceased), and P.W.-3 Om Prakash Saw (uncle of the deceased) consistently speak about the demand of dowry, the payment of Rs.35,000/-, the continued harassment of the deceased, and the statement allegedly made by the deceased in the hospital implicating her husband and mother-in-law in the occurrence. Their evidence receives support from P.W.-5 Ramchandra Sharma, the Investigating Officer, who found the smell of kerosene oil at the place of occurrence, and from P.W.-6 Dr. Raj Kishore Prasad, who proved that the deceased had sustained more than 80% ante-mortem burn injuries and that her death was caused by shock resulting from burn injuries. The *fardbeyan* of the deceased, treated by the learned trial Court as a dying declaration, was also relied upon as a substantive piece of evidence. Thus, the cumulative effect of the oral, medical, and documentary evidence establishes that the deceased died an unnatural death within seven years of her marriage and that she had allegedly been subjected to cruelty and harassment in connection with dowry demands *soon before* her death. In such



circumstances, the learned trial court held that the presumption under Section 113-B of the Evidence Act stood attracted and, the defence having failed to rebut the same to its satisfaction, recorded the conviction of the appellants under Sections 498-A/34 and 304-B/34 of the Indian Penal Code.

27. In view of the aforesaid facts and circumstances, and in the light of the settled legal principles and law laid down by the Hon'ble Supreme Court in ***Rajinder Singh (supra)*** and ***Jogendra (supra)***, this Court is of the considered opinion that the learned Trial Court has erred no mistake in convicting the appellants. I find that the appellants having subjected the deceased to ill-treatment and also threaten her at her matrimonial home and poured kerosene oil on her body and set her ablaze causing 80% ante-mortem burns causing her an unnatural death occurring within seven years of marriage and that she had been subjected to cruelty and harassment in connection with dowry demands soon before her death, thereby attracting the presumption under Section 113-B of the Evidence Act and resulting in the conviction of the appellants under Sections 498-A/34 and 304-B/34 of the Indian Penal Code.

28. The conviction of the appellants under Sections 498-A/34 and 304-B/34 of the Indian Penal Code is,



accordingly, upheld. However, having regard to the overall facts of the case, the period already undergone by the appellants during the course of investigation, trial and appeal, and considering the mitigating circumstances brought on record, this Court is of the view that the ends of justice would be adequately served by modifying the sentence. Accordingly, while maintaining the conviction, the sentence awarded to the appellants is reduced to the period already undergone by them in custody i.e. appellant no.1 (1.7 years), appellant no.2 (4.5 years). Since the appellants are on bail, they are discharged from the liabilities of their respective bail bonds. The fine amount, if already deposited, shall be refunded to the appellants forthwith, subject to verification by the court concerned.

29. Accordingly, the present appeals stand partly allowed.

30. Office is directed to send back the lower court records along with a copy of this judgment to the learned court below forthwith.

31. The Patna High Court, Legal Services Committee is, hereby, directed to pay a sum of Rs. 10,000/- (Rupees Ten Thousand) to Mrs. Rishika Jha, learned *Amicus Curiae*, as consolidated fee, for rendering her valuable professional service



for disposal of the present appeal.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	15.06.2026
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