IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No.23 of 1998 (R)
-----

1. Lakshman Prasad, son of late Bhukhra Sahu
2. Smt. Janki Devi w/o Lakshman Prasad

Both are residents of Kokar Choubey Colony, PS: Sadar, District-Ranchi .... Appellants

Versus

The State of Bihar (Now Jharkhand) .... Respondent

With

Cr. Appeal (DB) No.22 of 1998(R)

Dinesh Prasad, son of Sri Laxman Prasad, resident of Kokar Choubey Colony, PS: Sadar, District: Ranchi .... Appellant

Versus

The State of Bihar (Now Jharkhand) .... Respondent

CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE ARUN KUMAR RAI

For the Appellants : Mrs. Jasvindar Mazumder, Advocate
For the Respondent : Mr. Shailesh Kumar Sinha, Spl.P.P.

C.A.V. ON: 06.12.2025 **PRONOUNCED ON:06/01/2026**

[Per: Sujit Narayan Prasad, J.]

1. Since both the appeal arises out of the common judgment of conviction dated 28.01.1998 and order of sentence dated 02.02.1998, as such, they have been tagged together and taken up together for analogous hearing and are being disposed of by this common order.

Prayer:

2. Both the criminal appeals have been preferred under section 374(2) of the Code of Criminal Procedure against the judgment of conviction dated 28.01.1998 and order of sentence dated 02.02.1998, passed by the learned 4th Additional Judicial Commissioner, Ranchi in Sessions Trial No. 289 of 1996, whereby and whereunder, the learned court below has convicted the appellants under section 304B of the Indian Penal Code and sentenced the appellant of Criminal Appeal (DB)

No.22 of 1998(R) namely Dinesh Prasad to undergo RI for life and the appellants of Criminal Appeal (DB) No.23 of 1998(R) namely Lakshman Prasad and Smt. Janki Devi were sentenced to undergo RI for seven years each.

Prosecution Case:

3. The prosecution case, in brief, as per the written report dated 28.09.1995, of the informant Jeewachh Sahu (P.W.-1) is that daughter of the informant, Renu Sahu was married with the appellant Dinesh Prasad in the month of July, 1991. His daughter was tortured by her husband Dinesh Sahu and her in-laws and hence, a case being Sadar PS Case No. 47 of 1993 was lodged by her daughter. Informant further stated that three months ago the said case was compromised on the saying of Dinesh and his family members. On 28.09.1995, at about 04:00 PM, the informant got information from his son-in-law (appellant Dinesh Prasad herein) that his daughter had bolted the door of the room from inside and is not giving any reply. Then, informant reached with his wife, at the matrimonial home of his daughter and found that the door of the room was locked from inside. Then informant pushed the door and when dooropenedthey found his daughter Renu was hanging dead with sari around her neck.

4. On the basis of written report of the informant Sadar P.S. Case no. 137 of 1995 dated 28.09.1995 was registered against the appellants under section 306/34 of IPC. On completion of investigation, charge-sheet no. 47 dated 22.12.1995, was submitted under section 306/34 IPC

against the appellants. Thereafter, cognizance was taken and case was committed to the court of Sessions.

5. Charges were framed against the appellants under sections 306/34 and in alternative under section 304B/34 of the Indian Penal Code to which they pleaded not guilty and claimed to be tried.

6. Trial commenced and at the conclusion of the trial appellants were convicted and sentenced as aforesaid.

7. The prosecution, in order to prove its case, had examined altogether four witnesses.**PW-1 Jeewachh Sahu** is the father of the deceased and informant of the case; **PW-2 Kamini Devi**, is the mother of the deceased; **PW-3 is Dr. Ram Swaroop Sahu** who had conducted post-mortem on the dead body of the deceased and PW-4 is the Sub-Inspector of police and investigating officer of the case.

8. Defence had examined one witness namely Basant Kishore Narayan, who is a formal witness.

9. The learned trial Court, after recording the evidence of witnesses, examination-in-chief and cross-examination, recorded the statement of the accused persons, found the said appellants guilty and accordingly, convicted in the manner as indicated hereinabove.

10. Against the aforesaid order of conviction and sentence the present appeals have been preferred.

<u>Arguments advanced on behalf of the appellants</u>:

11. The learned counsel for the appellants has submitted that it is a case where there is no ingredient of Section 304B IPC are available out of three ingredients provided under the aforesaid section. One of the

ingredients is that the demand for dowry must be shown to have occurred soon before the death of the deceased and she was subjected to cruelty. It has been contended that no such ingredient has been established by the prosecution to attract this requirement, therefore, in the absence of one of the essential ingredients, no case is made out under Section 304B of the Indian Penal Code.

12. The fact about the demand of dowry is also not established as being committed immediately prior to death of the deceased, since the deceased was living in the matrimonial house from July 1991, but the death took place on 28.09.1995.

13. There is no bodily injury to attract any ingredient or evidence, as is being claimed by the prosecution, showing the involvement of the in-laws, the appellants herein, in either forcing the deceased to commit suicide or in committing her murder.

14. It is further submitted that this is a case of suicide, as would be evident from the medical report, which is also corroborated by the investigating officer.

15. Learned counsel has relied upon the Judgment passed by the Hon'ble Apex Court in case of ***Charan Singh @ Charanjit Singh vs. State of Uttarakhand*** reported in ***(2024)13 SCC 649*** and ***Karan Singh vs. State of Haryana*** reported in ***2025 SCC OnLine SC 214***, in order to strengthen the arguments that no dowry was demanded immediately prior to the death of the deceased.

Arguments advanced on behalf of the respondent-State:

16. The following grounds have been taken on behalf of the learned A.P.P. for the State: -

(i) So far as the argument of the appellants that there is no ingredient of Section 304B of the Indian Penal Code to the effect no demand of dowry has been shown by the prosecution soon before her death as the case under Section 498A of the Indian Penal Code instituted in the year 1993 by the deceased was being contested by the parties and ultimately culminated in acquittal due to the effect of the compromise between the wife and husband on 28.09.1995, in this regard learned counsel for the State has submitted that when the said criminal case resulted in acquittal due to the effect of the compromise, i.e., on 28.09.1995, and on the same day i.e., on 28.09.1995, the deceased was killed by the accused/appellants, so, the demand of dowry is said to be proximate to the death of the deceased.

(ii) The conduct of the appellants is also suspicious in a situation because when deceased had locked herself in the room of the appellants house then instead of making an effort to enter the room of the deceased and try to save the life of the deceased, the appellant/accused had gone to the in-laws' house and to give information about such an incident.

(iii) The suspicious conduct of the appellants is further evident from the fact that when the father of the deceased went to the matrimonial house of the deceased, it was the husband, namely, Dinesh Prasad who gave an indication to the informant to open the door of the southern side of the room and when this door was pushed by the informant, the door opened and deceased was found hanging from the fan, tied with a saree.

(iv) It has been contended that giving the indication by the husband to the father of the deceased to try to open the door on the southern side of the house clarifies that the husband-appellant was aware of the entire affair regarding the death of the deceased, said to have been committed by them.

(v) It has been submitted as per the report of the doctor, wherein a ligature mark of 1½ cm to 2 cm was found on the upper part of the neck, as such the alleged incident has fully been substantiated by the Medical report.

17. Therefore, learned counsel for the State submitted that learned trial court on the basis of evidence of the witnesses and documents available on record has rightly convicted the appellants under section 304 B of the IPC and hence, requires no interference by this court.

Analysis

18. We have heard learned counsel for the parties, perused the documents and the testimony of witnesses as also the finding recorded by learned trial Court in the impugned order.

19. This Court, before appreciating the argument advanced on behalf of the parties as also the legality and propriety of the impugned judgment, deems it fit and proper to refer the testimonies of the prosecution witnesses. For ready reference, the relevant portion of their testimonies is quoted as under:

20. **PW-1 Jeewachh Sahu**, is the informant of the case and the father of the deceased. Informant has stated in his evidence that marriage of his daughter Renu Sahu alias Bimla was solemnized with the accused Dinesh Prasad on 14.07.1991 and just after marriage Dinesh (appellant husband) and his mother and father (appellants herein) started demanding scooter, Rs.50,000/- and photocopy machine and in this regard accused persons subjected torture to Renu(deceased). In this regard Renu had written letter to him. Informant has identified an envelope which bears informant's address and stamp of Post Office, to be in hand writing of Renu was marked as Ext.-1.On receiving this letter informant had gone to the matrimonial home of Renu and tried to pacify the matter, but, the accused persons pay no heed. It had further been deposed that earlier his daughter (deceased) had lodged **S**adar PS Case No. 47 of 1993 under section 498A of the IPC and section 3/ 4 of the Dowry Prohibition Act, 1961.Thereafter, accused/appellant Dinesh Prasad had filed MTS Case No. 23 of 1993,

for dissolution of marriage before the Judicial Commissioner, Ranchi. Informant further stated that accused Dinesh and his mother and father were arrested and after the intervention of court on 27.09.1995, GR case no. 1448/1993 concluded and under the agreement the said MTS Case No. 23 of 1993was withdrawn.

21. Informant had further stated that after the agreement, on 04.06.1995, Dinesh took Renu to her matrimonial home at Kokar**.** Dinesh came to his office on 28.09.1995 at about 4 PM in the evening and informed him that his daughter had bolted the door of the room from inside and closed herself. Then, informant along with his wife reached at the residence of the accused/appellants at Kokar and on seeing the Renu's room closed, he raised alarm several times. He tried to open the eastern side of the door and then, and on saying of Dinesh, he pushed the door situated in the south and on pushing the door, the door opened. When he entered the room, he found his daughter Renu was hanging with sari draped around her neck with fan. They, tried to remove her, so that she can be revived, but she was dead. Accused persons were standing there, but, accused persons did not help.

22. Informant had further testified that accused persons on the conclusion of the criminal case onb27.09.1995 had killed Renu(deceased) on 28.09.1995. Informant further stated that his daughter used to write letter about her condition. Informant has identified three letters, two inland letter and one envelop letter, which having the handwriting of Renu and bears the stamp of post office.

23. Letters were marked as Ext.1 to Ext.-1/3 and envelop were marked as Ext.-2 and Ext.-2/1. Informant had filed two certified copies of MTS Case No.-23/93, which were marked as Ext.-3 and Ext.-3/1 and certified copy of G.R. case no. 1448 of 1993 was also filed, which was marked as Ext.-3/2. The FIR was marked as Ext.-4

24. In his cross-examination P.W.1 informant has stated that the first information report is in his handwriting and previous case 47/93 was filed by his daughter and in that case also there was allegation of demand of Canon machine, scooter and Rs.50,000/- and order was passed in the said case on 28.09.1995 Judicial Magistrate in favour of the accused/appellant. He does not know whether affidavit dated 20.06.1995 was given by her daughter and in that case, compromise dated 04.09.1995 was filed. Informant further stated that MTS Case no.- 23/1993 was filed by the accused and in this case compromise application was filed. The aforesaid compromise was prepared on consent of him and his daughter. He had seen the compromise petition and his daughter had signed on the compromise in his presence.The compromise was arrived on seven points and he has knowledge of compromise.

25. PW-2 Kamini Devi, is the mother of the deceased. She has stated in her evidence that her daughter was married to Renu alias Indra with Dinesh on 14.07.1991 at Ranchi. Her daughter was tortured and beaten at her matrimonial home for dowry and in this regard her daughter had written letter to her. Her daughter had lodged a dowry case against the accused persons in the year 1993 and accused Dinesh had filed divorce case, but,

in the said divorce case was compromised in the court on some conditions. After the compromise, her daughter had gone to her matrimonial home. P.W-2 further stated that in the dowry case, her daughter had compromised on 28.09.1995. On the day of occurrence at 4PM in the evening, her son-in law came to her house and informed them that Renu had closed the door and is inside the room for four hours. Then, she along with her husband, went to Kokar, where family members of Dinesh were there. They raised halla several times, and pushed the door, but, door did not open, then, Dinesh told to push the other door and on pushing the said door, two times, the door opened. When she entered the room with her husband, then she found her daughter hanging with hook of the fan in saree.

26. In her cross-examination, P.W.-2 stated that on the saying of her son-in-law, she had gone to the matrimonial home of Renu. All the three doors of Renu's roomwere closed and on raising halla, when Renu did not reply, then her husband pushed the door 2-3 times, then door opened.

27. PW-3 Dr. Ram Swaroop Sahu had conducted post mortem examination of the dead body of the deceased Renu Sahu on 29.01.1995 and found the following injuries on her person-

(i) Ligature Mark- 1 ½ to 2 c.m. in width situated on the upper part of the neck. It is oblique and high up towards back of the neck. The ligature mark is prominent from left mastoid to the right mastoid region on the front part and absent over the back

of the neck. The ligature mark is abraded and contused at places.

(ii) There is dry saliva on the front part of chest. Viscera has been preserved.

(iii) Opinion – The ligature mark is ante-mortem. Death is due to hanging.

Time elapsed since death is 12 to 36 hours from the time of post mortem examination.

In his cross-examination doctor stated that such ligature marks are found generally in suicidal cases and rarely in homicidal case. In suicidal cases such injuries are found.

28. PW-4 Sheo Mangal Singh is the Sub-Inspector of police and investigating officer of the case.Investigating officer has stated in his evidence that on 28.09.1995, at 4 PM in the evening Jeewachh Sahu came at the police station and gave his written report. Investigating has identified the endorsement on the fardbeyan and formal FIR, which were marked as Ex.-6 and Ext.-7 respectively.Investigating officer further stated that on assuming the charge of investigation, he went to the place of occurrence.The place of occurrence is at Jamun Tola, in Choubey Colony, Kokar, P.S.Sadar, in a room of house of accused Dinesh Prasad.The main door of the house is towards south, which is grilled and there is a room in north in which there is three doors in south, north and east and there is a window in the west and in this room body of deceased Renu was laying. He found the head of

the deceased in the east and in her neck, there was triangular mark and neck was draped with sari**.**

29. Investigating officer had further stated that the northern door of the room was closed and he did not find any table or chair and did not find any hook on the ceiling of the roof. Investigating officer had prepared the inquest report and he identified the inquest report which was marked as Ext.-8.

30. In his cross-examination investigating officer stated that after reading the written report, he commenced the investigation and in the said written report Sadar P.S case no. 47/93 was mentioned. He had reached at the place of occurrence at 16.40 hours, after registration of the FIR and accused Lakshman Prasad, and Janki Devi, were not presentthereand he came to know that both had gone to village. He arrested the main accused Dinesh on 29.09.1995 at 5 AM in the morning.

31. This Court, on the basis of the aforesaid factual aspect vis-à-vis argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of the impugned judgment of conviction and order of sentence by formulating following questions to be answered by this Court:

(I) Whether the material/evidence as has come in course of trial, is sufficient to attract the offence committed under Section 304 B of the Indian Penal Code?

(II) Whether all the ingredients of 304 B IPC, are available in the present case for invoking the provision of Section 304 B of the Indian Penal Code?

Re: Issue No.I and Issue No. II

32. Since both the issues are interlinked herein therefore will be taken together.

33. Before proceeding further, it would be fruitful to discuss the admitted facts which has come in the evidence of the prosecution witnesses and documents exhibited before the learned trial court. The admitted facts are that-

(i) Appellant Dinesh Prasad and deceased Renu were married in July, 1991.

(ii) Deceased Renu died on 28.09.1995

(iii) Deceased Renu had lodged Sadar PS Case No. 47 of 1993(G.R. case no. 1448/1993) under section 498A of the IPC and section 3/ 4 of the D.P. Act, against the appellants.

(iv) Appellant-husband Dinesh Prasad had filed suit for divorce being MTS case no. 23/1993.

(v) The aforesaid Sadar PS Case No. 47 of 1993 was compromised between the parties and based on the compromise petition between the partiescourt of Judicial Magistrate,1st Class, Ranchi, had acquitted the appellants for the charges under section 498A of the IPC and section 3/ 4 of the D.P. Act, 1961, by order dated 28.09.1995.

(vi) On the date of acquittal in Sadar PS Case No. 47 of 1993(G.R. case no. 1448/1993) i.e 28.09.1995 Renu (deceased) was found hanged in her matrimonial home.

34. In the backdrop of the aforesaid factual aspect it would be apt to discuss pertinent to analyses the law on dowry death. Section 304-B IPC, which defines, and provides the punishment for dowry demand, reads as under:

> "304-B. Dowry death.--(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.
> Explanation. -For the purpose of this sub-section, "dowry "shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).
>
> (2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."

35. From perusal of the aforesaid provision, it is evident that Section 304-B (1) defines "dowry death" of a woman. It provides that "dowry death" is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven years of 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, in connection with demand for dowry. Sub-clause (2) provides for punishment for those who cause dowry death.

36. Thus, it is evident that there are three conditions in the aforesaid statute and if those three conditions are fulfilled then the case will come under the purview of Section 304-B. Three conditions which culled out from section 304-B are as follows:

i. The death caused by burn or bodily injury or occurs otherwise within under normal circumstance.

ii. Death was occurred within seven years of her marriage.

iii. It has been shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

37. It needs to refer herein that in order to sustain the conviction under Section 304B of the IPC, it is mandatory to establish that soon before death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry and death caused by burn or bodily injury or occurs otherwise within under normal circumstance within seven years of victim's marriage.

38. After going through the statutory provision relating to Section 304 B IPC, it would be pertinent to see the judicial decisions related to Section 304 B IPC.

39. In case of ***Major Singh v. State of Punjab, (2015) 5 SCC 201*** a three-Judge Bench of the Hon'ble Apex Court has laid down the guideline wherein it has been specifically observed that in order to

sustain the conviction under Section 304-B IPC, cruelty or harassment is shown to have been meted out to the woman soon before her death. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

> *"10. To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:*
>
> *(i) the death of a woman should be caused by burns or bodily injury or otherwise than under a "normal circumstance";*
> *(ii) such a death should have occurred within seven years of her marriage;*
> *(iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband;*
> *(iv) such cruelty or harassment should be for or in connection with demand of dowry; and*
> *(v) such cruelty or harassment is shown to have been meted out to the woman soon before her death."*

40. It needs to refer herein that the cruelty or harassment differs from case to case. 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 depriving her of economic resources or essential amenities of life. The list is illustrative and not exhaustive.

41. 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.

42. The phrase "soon before" as appearing in Section 304-B IPC cannot be construed to mean "immediately before". It 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. 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. 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.

43. The aforesaid position was emphasized by the Hon'ble Apex Court in the case of ***Satbir Singh v. State of Haryana, (2021) 6 SCC 1***, wherein it has been held which reads as under:

> *"15. Considering the significance of such a legislation, a strict interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, "soon before" they did not mean "immediately before". Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exactly the phrase "soon before"entails.*
>
> *17. Therefore, courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term "soon before". What is pivotal to the above determination, is the establishment of a "proximate and live link" between the cruelty and the consequential death of the victim."*

44. When the prosecution shows that "soon before her death such woman has been subjected to cruelty or harassment for, or in connection with, any demand for dowry", a presumption of causation arises against the accused under Section 113-B of the Evidence Act. Section 113-B of the Evidence Act reads as under:

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

45. It is evident from the aforesaid provision that the word "shall" has been stipulated therein which provides mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry and as such onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts on the accused.

46. The Hon'ble Apex Court while relying on the provisions of Section 113-B of the Evidence Act, 1872 (for short "the Evidence Act") and Section 304-B IPC, where the words "soon before her death" find mention, the following observations have been made in the case of ***Surinder Singh v. State of Haryana, (2014) 4 SCC 129*** :

"17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-BIPC. 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 [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."

(emphasis supplied)

47. Further, the Hon'ble Apex Court in the case of ***State of M.P. v. Jogendra, (2022) 5 SCC 401*** has pithily summarized the law on Section 304-BIPC and Section 113-B of the Evidence. For ready reference the relevant paragraph is being quoted as under:

"17.In the above context, we may usefully refer to a recent decision of a three-Judge Bench of this Court in Gurmeet Singh v. State of Punjab [Gurmeet Singh v. State of Punjab, (2021) 6 SCC 108 : (2021) 2 SCC (Cri) 771] that has restated (at SCC pp. 111-12, para 9) the detailed guidelines that have been laid down in Satbir Singh v. State of Haryana [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , both authored by N.V. Ramana, C.J. relating to trial

under Section 304-BIPC where the law on Section 304-BIPC and Section 113-B of the Evidence Act has been pithily summarised in the following words : (Satbir Singh case [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , SCC p. 13, para 38)

"38.1. Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-BIPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase "soon before" as appearing in Section 304-BIPC cannot be construed to mean "immediately before". The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

38.4. Section 304-BIPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental."

(emphasis supplied)

48. Reverting to the present case, Renu was married to the appellant Dinesh Prasad in the month of July, 1991 and Renu died on 28.09.1995.Hence, deceased Renu died within seven years of her marriage therefore, one of the essentials elements of the offence under section 304-B IPC is satisfied.

49. Now, coming to the second condition which relate to deceased being subjected to cruelty in connection with dowry demand by husband or

any relative, soon before her death, this Court find that informant P.W.1, who is the father of the deceased has stated that just after marriage Dinesh and his mother and father started demanding scooter, Rs.50,000/- and photocopy machine and accused persons tortured Renu and in this regard his daughter had written letter to him and the same has been exhibited before the learned Trial Court.

50. Further, earlier daughter of the informant had lodged Sadar PS Case No. 47 of 1993 (G.R.case no. 1448/1993) under section 498A of the IPC and section 3/ 4 of the Dowry Prohibition Act. The institution of the aforesaid case itself substantiated the fact that deceased was meted out with the cruelty by the hand of appellants.

51. Further, P.W-2, who is the mother of the deceased, has also stated that her daughter was tortured and beaten at her matrimonial home for dowry and in this regard her daughter had written letter and she had lodged a dowry case against the accused persons in the year 1993.

52. Both informant father P.W.-1 and mother P.W.-2 of the deceased had stated that her daughter had written letter to them from her matrimonial home about demand of dowry and torture given to her by the accused persons.In this regard prosecution had exhibited letters, which are marked as Ext.-1, Ext.-1/1, Ext.-1/2 and Ext.-1/3 out of which two are inland letters. Envelop were also exhibited which are marked as Ext.-2 and Ext.-2/1.

53. On going through the record, this Court find that both the inland letters and envelop bears the stamp/seal of the post office. On perusal of these letters, we find that in these letters, deceased had written that

she was being tortured in various ways for Rs. 50,000/- and Scotter and for this she was beaten. She had apprehension of her death and she was forced to sign on a divorce paper. Therefore, the demand of dowry and torture has fully been corroborated from the aforesaid letters which were written in1993.

54. This Court is conscious with the fact that as persection 304 B of IPC the demand of dowry shall be "soon before the death of the deceased" as discussed and referred hereinabove. In the aforesaid context we find that the deceased had filed case under section 498A of IPC and section ¾ of Dowry Prohibition Act,1961against these appellants being lodged as Sadar PS Case No. 47 of 1993, G.R.Case no. 1448/1993, and appellant-husband Dinesh Prasad had filed divorce suit being had filed MTS no. 23/1993. On going through the record, we find certified copy of order dated 28.09.1995 passed in G.R.Case no. 1448/1993 by J.M. 1st Class, Ranchi. On perusal of this order, we find that all the appellants were charged under section under section 498A of IPC and section ¾ of Dowry Prohibition Act,1961, butdue to compromise arrived between the parties, learned court had acquittedthe appellants. Appellants have filed the copy of petition seeking permission to compromise which has been filed before the court of J.M. 1st Class, Ranchi, which was marked as Ext.-A and on perusal this compromise petition, we find signature of deceased Renu dated 16.08.1995on this compromise petition and in the said case final order was passed on 28.09.1995 and Renuon 28.09.1995 itself, was found hanged in her matrimonial.

55. Hence, ongoing through this chronology of dates i.e. 16.08.1995, the date on which deceased had signed on the compromise petition (Ext.-A), order of acquittal passed on 28.09.1995, which was based on compromise petition between the parties and again on the date of acquittal itself i.e. on 28.09.1995, deceased was found hanging in her matrimonial home. Hence, evidence of informant father P.W.-1 and mother P.W-2 of the deceased Renu and documentary evidence proves that there was proximate link for demand of dowry and related torturer soon before the death deceasedRenu and she was subjected to cruelty for dowry by the appellants as compromise in the G.R.Case no. 1448/93 and death of the deceased all occurred within a span of one and half month.

56. Now we shall discuss the remaining condition whether the death of Renu occurred otherwise than under normal circumstance. It is admitted fact that Renu died in her matrimonial home on 28.09.1995. In the evidence of P.W.-1 and P.W-2 it has come that on 28.09.1995 at about 4PM their son-in-law Dinesh Prasad had informed them that Renu had bolted the door of the room from inside and closed herself.Thereafter, father/informant P.W.-1 and mother P.W.-2 of the deceased, had reached the matrimonial home of her daughter and found the door locked.

57. In paragraph-7 of his evidence, informant P.W.-1has stated that on raising alarm when, Renu did not open the door then informant P.W.-1, tried to open the door of the eastern side of the room, but on saying of Dinesh (appellant husband herein), informant pushed the southern

door as a result door opened and they found her daughter hanging with fan by saree.

58. P.W.-2 mother of the deceased in paragraph-5 of her examination -in-chief had stated that they raised halla several times, but, door was not opened, then, Dinesh told to push the other door and on pushing the said door, two times, the door opened and in her cross-examination at paragraph-7, P.W.-2 had stated that when her husband pushed the door 2-3 times, then door was opened.

59. In the evidence it has come that in the alleged room, where Renu (deceased) was found hanging, consisted of three doors and from the evidence of informant P.W.-1 and P.W.-2, it is apparent that one door of the room was unbolted and pushing the said door, it opened.

60. As per the contention the learned counsel for the appellants, deceased committed suicide by hanging herself.The question remains whether death of the deceased Renu was suicide by hanging or homicidal death.

61. From the evidence of doctor, argument of defence and prosecution witnesses and evidences available on record, it is established that death was not under ordinary circumstance and hence, it needs to be explained. On going through the post mortem report, we find that doctor had found ligature Mark- 1 ½ to 2 c.m. in width situated on the upper part of the neck and opined that ligature mark is ante-mortem and death was due to hanging.

62. So, this post-mortem report has to be tested in the light of the evidence of the prosecution witnesses and other facts and

circumstances.As per the evidence of informant P.W.-1 and P.W-2, out of the three doors of the said room, where deceased was found hanging with fan, one door of the room was unbolted and on pushing the said door, the door opened.Hence, question arises why deceased, who is going to commit suicide by hanging himself with fan, will not close the door and that too when deceased was living inher matrimonial home.

63. Here, it is pertinent to note that in his statement under section 313 Cr.P.C, appellant Dinesh had admitted that when door was pushed by the informant it opened and Renu was found hanging. Hence, it cannot be accepted that deceased had not closed the door and committed suicide without closing the door.

64. The learned trial court also rightly came to the conclusion that accused Dinesh Prasad had indicated the door which could be opened as soon as it was pushed by P.W.-1 and hence, the room was not actually closed from all side. Learned trial court had also noted that the defense taken by the accused persons that deceased committed suicide alone and on her own, is found imaginary and is not acceptable.

65. But,even if contention of the learned counsel for the appellants is accepted that deceased had committed suicide, then also appellants will not be exonerated of the charges under section 304 B of IPC, if ingredients of the section 304B IPC is fulfilled, reason being that the Hon'ble Apex court in case of ***Shanti v. State of Haryana, (1991) 1 SCC 371***, related to dowry death had come to the finding that death of

the deceased was not natural and hence, held that "in the result it was an unnatural death; either homicidal or suicidal. But even assuming that it is a case of suicide even then it would be death which had occurred in unnatural circumstances. Even in such a case, Section 304-B is attracted and this position is not disputed. Therefore, the prosecution has established that the appellants have committed an offence punishable under Section 304-B beyond all reasonable doubt." Paragraph-5 of the said judgment is quoted herein below-

> *"**5.** Both the courts below have held that the two appellants did not send the deceased to her parents' house and drove out the brother as well as the father of the deceased complaining that scooter and television have not been given as dowry. We have carefully examined this part of the prosecution case and we are satisfied that the prosecution has established beyond all reasonable doubt that the appellants treated the deceased cruelly and the same squarely comes within the meaning of "cruelty" which is an essential under Section 304-B and that such cruelty was for demand for dowry. It is an admitted fact that death occurred within seven years of the marriage. Therefore three essentials are satisfied. Now we shall see whether the other essential namely whether the death occurred otherwise than under normal circumstances is also established? From the evidence of PW 1, the father, PW 2 the brother, and PW 3 the mother, it is clear that they were not even informed soon about the death and that the appellants hurriedly cremated the dead body. Under these circumstances, the presumption under Section 113-B is attracted. The accused examined defence witnesses to rebut the presumption and to show that the deceased suffered heart-attack. We have examined the evidence of DWs 2 and 3 and we agree with the courts below that this theory of natural death cannot be accepted at all. No material was placed to show that the deceased suffered any such attack previously. If it was natural death, there was no need for the appellants to act in such unnatural manner and cremate the body in great and unholy haste without even informing the parents. Because of this cremation no post-mortem could be conducted and the actual cause of death*

> *could not be established clearly.* ***There is absolutely no material to indicate even remotely that it was a case of natural death. It is nobody's case that it was accidental death. In the result it was an unnatural death; either homicidal or suicidal. But even assuming that it is a case of suicide even then it would be death which had occurred in unnatural circumstances. Even in such a case, Section 304-B is attracted and this position is not disputed. Therefore, the prosecution has established that the appellants have committed an offence punishable under Section 304-B beyond all reasonable doubt."***
>
> *(emphasis supplied)*

66. Again, Hon'ble Apex Court reiterated the viewof ***Shanti v. State of Haryana(supra)***, in case of ***Satvir Singh v. State of Punjab, (2001) 8 SCC 633*** and held that it is unable to concur with the contention that if the dowry-related death is a case of suicide it would not fall within the purview of Section 304-B IPC at all.The relevant paragraph is quoted herein below-

> "We are, therefore, unable to concur with the contention that if the dowry-related death is a case of suicide it would not fall within the purview of Section 304-B IPC at all. In *Shanti* v. *State of Haryana* and in *Kans Raj* v. *State of Punjab*2 this Court has held that suicide is one of the modes of death falling within the ambit of Section 304-B IPC."

67. Accordingly, Issue no.1 and Issue No. 2 has been answered against the appellants.

68. Since, in the case in hand the ingredients of Section 304-B IPC are satisfied, hence, the presumption under Section 113-B of the Evidence Act operates against the appellants, who are deemed to have caused the offence specified under Section 304-B IPC.

69. The burden therefore shifts on the accused/appellants to rebut the aforesaid presumption. But, in the present case, the accused/appellants failed to place any cogent evidence on record to prove that the death was accidental or unconnected with the accused persons.

70. Therefore, the presumption provided in Section 113-B of the Evidence Act takes full effect in this particular case, which has not been rebutted by the appellants-accused persons herein. The appellants have failed to make out a case to interfere in the finding of the learned trial court, wherein the appellants-accused were convicted under Section 304-B of the IPC.

71. In light of the above findings, after perusing the relevant material and the evidence available on record, we find that the trial court has not committed any error in convicting the appellants under Section 304-B IPC as the appellants have failed to discharge the burden under Section 113-B of the Evidence Act.

72. This Court, having discussed the factual aspect and legal position and considering the finding recorded by the learned trial Court, is of the view that the prosecution has been able to prove the charge under section 304 B of IPC against all the appellants beyond all shadow of doubts, therefore, order impugned requires no interference by this Court and are sustained and upheld.

73. Accordingly, Cr.Appeal (DB) No.22 of 1998(R) and Cr. Appeal (DB) No.23 of 1998(R) are hereby dismissed.

74. Consequent upon dismissal of the appeals, appellants since are enjoying the suspension of sentence after order passed by this court

directing to release them during pendency of the appeal, the bail bond of appellants are hereby cancelled and appellants are directed to surrender before the learned trial court for serving out the sentence passed against him.

75. Pending interlocutory application(s), if any, stands disposed of.

76. Let the Trial Court Records be sent back to the Court concerned forthwith, along with a copy of this Judgment.

(Sujit Narayan Prasad, J.)

I Agree

(Arun Kumar Rai, J.)

(Arun Kumar Rai, J.)

Jharkhand High Court
Dated: 06 /01/2026
KNR/AFR
Uploaded On: 07/01/2026