



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1538-SB-2004 (O&M)

Reserved on: 20.05.2026

Pronounced on: 23.07.2026

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Whether only operative part of the judgment is Pronounced : No

Whether full judgment is pronounced: Yes

RAMESH & OTHERS

....Appellants

Versus

STATE OF HARYANA

....Respondent

CORAM: HON'BLE MS. JUSTICE RUPINDERJIT CHAHAL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Eshan Garg, Advocate
for the appellants.

Mr. Gagandeep Singh Chhina, Sr. DAG, Haryana.

RUPINDERJIT CHAHAL, J.

1. The present appeal arises out of the judgment of conviction and order of sentence dated 16.07.2004 passed by the learned Additional Sessions Judge, Bhiwani, in FIR No. 133 dated 17.09.2001 registered under Sections 304-B of the Indian Penal Code, 1860, at Police Station Badhra, whereby the appellants were convicted under Section 304-B IPC to undergo rigorous imprisonment for a period of 7 years along with fine of ₹2,000/- each and under section 498-A IPC to undergo rigorous imprisonment for a

**CRA-S-1538-SB-2004 (O&M)**

period of one year along with fine of ₹1000/-, each and in default of payment of fine, to further undergo rigorous imprisonment for six months each. Both the sentences were ordered to run concurrently.

2. The prosecution case, in brief, is that the FIR in question was registered on the statement of the complainant-Balwant Singh, who is the father of the deceased, Smt. Sunita.

2.1. As per the prosecution, Smt. Sunita was married to appellant no.1, Ramesh, on 15.06.1995 according to Hindu rites and ceremonies. At the time of marriage, sufficient dowry articles were allegedly given according to the financial capacity of the complainant. During the subsistence of the marriage, the deceased and appellant no.1 were blessed with a son.

2.2. It was alleged that after the marriage, the appellants, being dissatisfied with the dowry brought by the deceased, started harassing and maltreating her. It was further alleged that appellants raised an unlawful demand of a scooter and a sum of ₹21,000/- from the complainant. On his failure to fulfil the said demand, the deceased was allegedly subjected to harassment and cruelty from time to time. A Panchayat was convened, pursuant to which the deceased was sent back to her matrimonial home; however, the appellants allegedly did not mend their behaviour.

2.4. It is further the case of the prosecution that an FIR under Sections 498-A and 406 of the Indian Penal Code had earlier been registered against the accused persons, which was subsequently resolved amicably.

**CRA-S-1538-SB-2004 (O&M)**

2.5. The prosecution further alleged that on 14.09.2001, appellant Satbir made a telephonic call to the complainant, whereupon he visited the matrimonial home of the deceased. It is alleged that the appellants again raised an unlawful demand for a scooter and a sum of ₹21,000/-, but the complainant expressed his inability to fulfil the said demand.

2.6. On 17.09.2001, Appellant no. 4-Rajesh informed the complainant that Smt. Sunita had set herself ablaze and had been shifted to PGIMS, Rohtak. Upon receipt of a wireless message regarding the death of the deceased due to burn injuries, ASI Jagmal Singh reached PGIMS, Rohtak, where the complainant made his statement, on the basis of which the present FIR was registered.

2.7. After investigation, challan was presented against the accused persons.

3. During the pendency of the appeal, Appellant no. 2-Satbir and Appellant no. 4-Rajesh Kumar died and proceedings qua them were abated vide order dated 22.07.2005.

4. In order to substantiate its case, the prosecution examined ten prosecution witnesses. Karambir Singh, Constable was examined as PW-1, submitted special report to the Illaqa Magistrate, Ved Parkash PW-2, proved photographs to Exs. P-1 to P-6 and negatives Exs. P-7 to P-9 of the place of occurrence, Mahavir Singh ASI PW-3 proved registration of formal FIR, Ramesh Chander Siwag, Draftsman, PW-4 proved scaled site plan, Balwant Singh (complainant/father of deceased) was examined as PW-5 and deposed regarding marriage, demand of dowry etc. Smt. Jagwanti (mother of

**CRA-S-1538-SB-2004 (O&M)**

deceased) PW-6 corroborated the testimony of PW-5 regarding demand of dowry. Dr. Asha Goel, PW-7, who conducted the Post Mortem examination of the deceased, Satyawar PW-8, Jagmal Singh ASI PW-9 and Sheotaj Singh PW-10 were also examined.

5. After the closure of the prosecution evidence, the statements of the appellants under Section 313 Cr.P.C. were recorded, wherein all the incriminating circumstances appearing against them in the prosecution evidence were put to them.

5.1. The appellants denied all the allegations levelled by the prosecution and pleaded false implication. In their defence they examined seven witnesses including Shri Ram (clerk cum cashier of Central Co-operative Bank) as DW-1 to prove the deposit of Rs.2 lakhs in favour of Smt. Jagwanti, Karan Singh, DW-2 (Sarpanch of village Samaspur) deposed regarding allegations of ill character of the victim, Dr. H.L. Beniwal DW-3 deposed regarding the admission of Smt. Jagwanti in General Hospital Dadri, Balwan Singh DW-4 and Radhe Shyam DW-6 denied that the accused persons ever raised any dowry demand, Chander Bhan Arya DW-5 proved the issuance of drafts amounting to Rs.10,000/- and Rs. 12,000/- in favour of Santa Singh and Inder Singh was examined as DW-7. The appellants also tendered certain exhibits in their defence. It was specifically denied that any demand for dowry had ever been raised or that the deceased had been subjected to harassment or cruelty on account thereof. The defence taken by the accused was that the deceased was properly cared for in her matrimonial home and that she was not happy with her forceful marriage as she was having illicit relation with some other boy, because of which the

**CRA-S-1538-SB-2004 (O&M)**

appellant no. 1 had earlier filed for divorce under section 13 of Hindu Marriage Act.

5.2. The learned trial Court, after appreciating and evaluating the evidence available on record, held the accused guilty and convicted them under Sections 304-B and 498-A IPC.

6. Learned senior counsel for the Appellants vehemently contended that the impugned judgment of conviction suffers from serious legal and factual infirmities and has been recorded without the prosecution having established the essential ingredients of Section 304-B IPC beyond reasonable doubt.

6.1. It was argued that the prosecution has miserably failed to establish that the deceased was subjected to cruelty or harassment in connection with any demand for dowry soon before her death, which is the sine qua non for attracting the provisions of Section 304-B IPC. It was submitted that except for vague and omnibus allegations made by the interested witnesses, no independent or contemporaneous evidence has been brought on record to establish that any dowry-related harassment continued immediately prior to the occurrence. In the absence of proof of the proximate and live link between the alleged cruelty and the death, the statutory presumption under Section 113-B of the Evidence Act could not have been invoked against the appellants.

6.2. Learned counsel further submitted that the earlier case under Sections 498-A and 406 IPC had culminated in a compromise between the parties. Once the earlier dispute had admittedly been settled, the same could

**CRA-S-1538-SB-2004 (O&M)**

not have been relied upon by the prosecution to establish continuous cruelty. It was argued that after the said compromise, the prosecution has failed to prove any specific incident of dowry-related harassment immediately preceding the death of the deceased. Consequently, the earlier allegations stand substantially diluted and cannot constitute the foundation for conviction under Section 304-B IPC.

6.3. It was next contended that the medical evidence does not conclusively support the prosecution version. Learned counsel drew attention to the testimony of PW7- Dr. Asha Goel, who conducted the post-mortem examination of deceased, who admitted that suicidal burns caused by pouring kerosene upon oneself could not be ruled out. It was submitted that once the medical evidence itself leaves open a reasonable possibility of suicide independent of dowry harassment, the prosecution version becomes doubtful and the appellants are entitled to the benefit of such doubt.

6.4. Learned counsel further argued that the documentary evidence produced by the defence probabilises an altogether different cause for the unfortunate incident. Reference was made to the Panchayat proceedings (Ex.PG), which reveal serious matrimonial discord and allegations regarding the character of the deceased. Upon perusal of Ex.DG, it is forthcoming that when the Panchayats of two villages i.e. Bilawal and Shamapur were convened, Balwant Singh (father of the deceased) did not come present. However, he appeared during the second occasion but could not satisfactorily answer the queries of the panchayat. A perusal of the statement of DW-2 Karan Singh further fortifies the fact that the Panchayat tried to make Sunita (deceased) understand to behave properly at her matrimonial

**CRA-S-1538-SB-2004 (O&M)**

home but she did not accede to the advise of the village panchayat and ultimately the panchayat concluded that Sunita (deceased) is having bad character. It was further submitted that after this incident, appellant no.1 Ramesh had instituted proceedings under Section 13 of the Hindu Marriage Act almost one year prior to the occurrence wherein he sought dissolution of marriage specifically on the ground that Sunita (deceased) was a lady of loose character, remained away from her matrimonial home for days together and on one such occasion was found at Jind after two days of leaving the house. According to learned counsel, these circumstances unmistakably establish that the matrimonial relationship had deteriorated on account of reasons wholly unconnected with any alleged dowry demand and, therefore, the prosecution has failed to establish the necessary nexus between the death and the alleged demand of dowry.

6.5. It was also vehemently contended that the prosecution has deliberately withheld the examination of Santa Singh, who was allegedly present when the demand of ₹21,000/- and a scooter was made. Learned counsel submitted that Santa Singh was the most natural and material witness to corroborate the prosecution story. His non-examination, without any explanation, attracts an adverse inference against the prosecution and seriously undermines the credibility of the allegations regarding dowry demand.

6.6. Learned counsel further submitted that despite allegations of continuous cruelty extending over several years, the prosecution has failed to produce any medico-legal report, injury report, medical record or any contemporaneous complaint demonstrating physical harassment of the

**CRA-S-1538-SB-2004 (O&M)**

deceased. According to counsel, such complete absence of corroborative evidence renders the prosecution story inherently improbable and unsafe to rely upon.

6.7. Attention was also invited to the defence evidence showing that substantial financial transactions had taken place from the appellants' family in favour of the complainant's family. It was submitted that amounts of ₹10,000/- and ₹12,000/- had also been transferred from the accused side to the complainant side in favour of Santa Singh (brother of the deceased) vide demand draft dated 16.02.1998 and 21.07.1998 (Exs. DL/1 and DL/2). Apart from that the accused had also deposited an amount of Rs.2 lakhs in the savings account of Smt. Jagwanti out of which Rs.1,50,000/- was transferred into an FD for a period of three years, which was encashed before the date of maturity by Smt. Jagwanti. Learned counsel contended that, in light of the aforesaid facts and transactions, the allegation that the appellants had been persistently harassing the deceased for payment of an amount of Rs. 21,000/- is vague, unsubstantiated, and lends material support to the defence version.

6.8. It was further argued that the prosecution has failed to establish the individual role of each accused. The allegations against the mother-in-law and brother-in-law are vague, general and omnibus in nature. The defence has also produced material indicating that the in-laws were residing separately. In the absence of any specific overt act attributable to each accused, their conviction merely on the basis of generalized allegations is wholly unsustainable in law.

**CRA-S-1538-SB-2004 (O&M)**

6.9. Lastly, learned counsel submitted that the cumulative effect of the aforesaid circumstances, namely, the absence of proof of cruelty soon before death, the compromise of the earlier criminal proceedings, the possibility of suicide emerging from the medical evidence, the existence of independent matrimonial disputes, the withholding of the most material witness, the absence of contemporaneous evidence of cruelty and the defence evidence probalising the innocence of the appellants, creates more than a reasonable doubt regarding the prosecution case. It was, therefore, prayed that the impugned judgment of conviction and the order of sentence be set aside and the appellants be acquitted by extending to them the benefit of doubt.

7. Per contra, learned State counsel supported the impugned judgment and order of sentence, contending that the learned Trial Court has rightly appreciated the oral as well as documentary evidence and has recorded a well-reasoned finding of guilt. It was submitted that no illegality, perversity or misreading of evidence has been pointed out which would warrant interference by this Court in exercise of appellate jurisdiction.

7.1. It is argued that the prosecution has successfully established that the deceased was subjected to cruelty and harassment in connection with dowry demands. Further, the testimonies of PW-5 and PW-6 clearly prove that the accused persons were dissatisfied with the dowry given and were persistently demanding ₹21,000/- and a scooter. It is further submitted that the death of the deceased occurred within seven years of marriage and under unnatural circumstances.

**CRA-S-1538-SB-2004 (O&M)**

7.2. Learned State counsel further contends that once it is established that a woman died otherwise than under normal circumstances within seven years of marriage and was subjected to cruelty or harassment in connection with dowry demand soon before her death, the presumption under Section 113-B of the Indian Evidence Act automatically arises against the accused.

7.3. It is thus argued that the prosecution has duly proved all foundational facts necessary for attracting Section 498-A and 304-B IPC and the learned trial Court rightly convicted the appellants.

8. I have heard learned counsels appearing for both sides at considerable length and with their able assistance carefully gone through the entire evidence available on record, the impugned judgment, the documentary evidence, the depositions of the witnesses as well as the relevant record. Before advertng to the facts of the present matter, it would be apposite to mention Sections 498-A and 304-B of IPC, which read as under:

"498-A. 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 purposes of this section, "cruelty" means-

**CRA-S-1538-SB-2004 (O&M)**

(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."

"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."

9. The following are the essential ingredients of Section 304-B
IPC:

**CRA-S-1538-SB-2004 (O&M)**

- a) The death of a woman must have been caused by any burns or bodily injury, or must have occurred otherwise than under normal circumstances;
- b) The death must have been caused within seven years of her marriage;
- c) Soon before her death, she must have been subjected to cruelty or harassment by the husband or any relative of her husband; and
- d) Cruelty or harassment must be for, or in connection with, any demand for dowry.

10. It is undisputed in the present case that the wife of appellant no.1 died within seven years of their marriage, thereby it is to be seen whether the provisions of Section 113-B of the Indian Evidence Act are attracted or not. Section 113-B of Indian 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 had 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 Indian Penal Code (45 of 1860)."

11. The presumption under Section 113-B of Indian Evidence Act will apply when it is established that soon before her death, the woman has been subjected by the accused to cruelty or harassment for, or in connection

**CRA-S-1538-SB-2004 (O&M)**

with, any demand for dowry. Therefore, even for attracting Section 113-B of Indian Evidence Act, the prosecution must establish that the deceased was subjected by the appellant to cruelty or harassment for or in connection with any demand of dowry soon before her death. Unless these facts are proved, the presumptions under Section 113-B of the Evidence Act cannot be invoked. The Hon'ble Supreme Court, in the judgment of ***Satbir Singh v. State of Haryana, 2021 AIR (SC) 2627***; has summarised the law under Section 304-B, IPC and Section 113-B, Evidence Act as under:

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

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

iii. The phrase "soon before" as appearing in Section 304-B, IPC 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.

iv. Section 304-B, IPC does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental. The reason for such non categorization is due to the fact that death



occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental."

12. In the present case, there is no dispute that the marriage between the deceased Sunita and appellant No.1 Ramesh was solemnized on 15.06.1995 and that the deceased suffered an unnatural death due to burn injuries on 17.09.2001, i.e. within seven years of marriage. However, these two circumstances alone are insufficient to attract the provisions of Section 304-B IPC. The principal question which arises for consideration is whether the prosecution has succeeded in proving beyond reasonable doubt that the deceased was subjected to cruelty or harassment by the appellants in connection with demand for dowry soon before her death, so as to attract the provisions of Section 304-B IPC and the presumption under Section 113-B of the Indian Evidence Act.

13. The expression "soon before her death" occurring in Section 304-B IPC is not synonymous with "immediately before". Nevertheless, the prosecution is required to establish a proximate and live link between the alleged dowry-related cruelty and the death of the deceased. Unless such nexus is affirmatively proved, the statutory presumption under Section 113-B of the Evidence Act cannot be invoked merely because the death occurred within seven years of marriage.

14. The entire prosecution case regarding dowry demand substantially rests upon the testimony of PW-5 Balwant Singh, father of the deceased, and PW-6 Jagwanti, mother of the deceased. Both are admittedly interested witnesses. Although their testimony cannot be discarded solely on

**CRA-S-1538-SB-2004 (O&M)**

that ground, the Court is required to seek satisfactory corroboration, particularly when serious allegations of persistent cruelty extending over several years are made. Upon perusal of the testimony of PW-5 and his cross-examination, it is forthcoming that when he was confronted, he has made material improvements in his statement before the Court as compared to the one given to Police. It is also relevant to note that in his cross examination, he submitted that he does not remember when the deceased had narrated to him about the maltreatment given to her. He had also denied receiving amount of Rs.10,000/- and Rs. 12,000/- through demand drafts as well as the fact that the appellant No. 1 filed for divorce after the decision of panchayat regarding bad character of the deceased.

15. The prosecution has relied upon an earlier case under Sections 498-A and 406 IPC to establish continuing harassment. However, it is an admitted position that the said criminal proceedings culminated in a compromise between the parties and the deceased resumed cohabitation in her matrimonial home. Once the earlier dispute admittedly stood settled, the prosecution was required to establish by reliable evidence that fresh acts of dowry-related cruelty continued thereafter and persisted till immediately preceding the death. Except for general and omnibus assertions, no convincing evidence has been produced to establish such continuity.

16. The prosecution has heavily relied upon the alleged incident dated 14.09.2001, when, according to PW-5, appellant Satbir called him to the matrimonial home and reiterated the demand of ₹21,000/- and a scooter. Significantly, the prosecution itself asserts that one Santa Singh was present at the relevant time. Santa Singh was thus the most natural and independent

**CRA-S-1538-SB-2004 (O&M)**

witness to corroborate the alleged demand. No explanation whatsoever has been furnished for withholding his testimony. In the peculiar facts of the present case, where the alleged demand made three days prior to the death constitutes the foundation for invoking Section 304-B IPC, the prosecution's failure to examine such a material witness assumes considerable significance and gives rise to an adverse inference against the prosecution.

17. Equally significant is the lack of any contemporaneous material to indicate that, after the compromise, the deceased had complained of persistent dowry-related harassment. No letter, complaint, Panchayat resolution proximate to the occurrence, medico-legal record, or independent evidence has been produced to establish that she was continuously subjected to cruelty in connection with dowry demands. While physical injuries are not a sine qua non for proving cruelty under Sections 498-A or 304-B IPC, the complete absence of such corroborative material assumes significance when considered cumulatively with the other infirmities in the prosecution case.

18. The defence has, on the other hand, succeeded in probabilising an alternative matrimonial background. Documentary evidence regarding Panchayat proceedings and the fact that appellant No.1 had instituted proceedings under Section 13 of the Hindu Marriage Act prior to the occurrence indicate that serious matrimonial discord already existed between the spouses independent of the alleged dowry demand because of the bad character of Sunita. The deposition of DW-4 Balwan Singh assumes importance as he specifically stated that he alongwith Satbir had gone to Jind Police Station where the deceased Sunita was apprehended with one Tittu by the police. Whether those allegations ultimately stood proved or not is

**CRA-S-1538-SB-2004 (O&M)**

immaterial. The relevance of such evidence lies in demonstrating that the marriage had become strained for reasons not necessarily attributable to dowry. Consequently, the possibility of the unfortunate incident having occurred due to matrimonial incompatibility cannot be completely ruled out.

19. The medical evidence also does not conclusively advance the prosecution case. PW-7 Dr. Asha Goel admitted during cross-examination that the possibility of suicidal burns by pouring kerosene upon oneself could not be excluded. Though such opinion by itself does not exonerate the accused, it certainly weakens the prosecution case when the foundational facts necessary for invoking Section 304-B IPC have themselves not been satisfactorily established.

20. The defence evidence regarding financial transactions, including deposits made for the benefit of the minor child and monetary transfers from the appellants' family, may not by itself conclusively establish innocence. There are substantial financial transactions on record which had taken place from the appellants' family in favour of the complainant's family i.e. amounts of ₹10,000/- and ₹12,000/- were transferred from the accused side to the complainant side in favour of Santa Singh (brother of the deceased) vide demand draft dated 16.02.1998 and 21.07.1998 (Exs.DL/1 and DL/2). Apart from that the accused had also deposited an amount of Rs.2 lakhs in the savings account of Smt. Jagwanti out of which Rs.1,50,000/- was transferred into an FD for a period of three years, which was encashed before the date of maturity by Smt. Jagwanti. Thus, it is highly improbable that on one hand the appellants are transferring money to the

**CRA-S-1538-SB-2004 (O&M)**

complainant's family and on the other hand persistently harassing the deceased solely for extracting ₹21,000/- and a scooter.

21. This Court also finds substance in the contention raised on behalf of the appellants that the allegations against appellant Nos.3 and 4 are vague and omnibus in nature. The prosecution has failed to attribute any specific overt act constituting dowry-related cruelty to them. Mere general allegations involving all family members, in the absence of specific evidence demonstrating their active participation, cannot constitute a safe basis for sustaining conviction.

22. The Trial Court appears to have proceeded substantially on the premise that since the death occurred within seven years of marriage and an earlier FIR regarding dowry harassment had existed, the statutory presumption automatically stood attracted. Such an approach, in the considered opinion of this Court, overlooks the settled legal position that the prosecution must first establish, beyond reasonable doubt, that the deceased was subjected to cruelty or harassment for or in connection with demand for dowry soon before her death. Insofar as the presumption under Section 113-B of the Evidence Act is concerned, the same arises only when the prosecution first establishes the foundational facts, particularly cruelty or harassment for dowry soon before death. The allegations levelled by the prosecution remain general, vague and unsupported by any independent evidence. Most importantly, the prosecution has failed to prove that any such cruelty or harassment was meted out to the deceased "soon before her death", which is a *sine qua non* for attracting the provisions of Section 304-B IPC. Consequently, the statutory presumption does not arise. Reliance in



this regard is placed upon decision of Hon'ble Supreme Court in ***Baijnath v. State of Madhya Pradesh, 2017 (1) SCC 101***; wherein it was held that the factum of unnatural death in the matrimonial home and that too within seven years of marriage is ipso facto not sufficient to bring home the charge under Sections [304B](#) and [498A](#) of I.P.C. against accused and to convict the accused prosecution has to prove ingredient of cruelty on account of demand of dowry by cogent evidence beyond reasonable doubt. It was also held that general allegations unsupported by cogent and reliable evidence are insufficient to invoke the statutory presumption under section 113-B of Indian Evidence Act. The relevant paragraphs are reproduced below:

"31. Section [113B](#) of the Act enjoins a statutory presumption as to dowry death in the following terms:

"113B. Presumption as to dowry death. - When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation - For the purpose of this section, "dowry death" shall have the same meaning as in Section [304B](#) of the Indian Penal Code (45 of 1860)"

32. Noticeably this presumption as well is founded on the proof of cruelty or harassment of the woman dead for or in connection with any demand for dowry by the person charged with the offence. The



presumption as to dowry death thus would get activated only upon the proof of the fact that the deceased lady had been subjected to cruelty or harassment for or in connection with any demand for dowry by the accused and that too in the reasonable contiguity of death. Such a proof is thus the legislatively mandated prerequisite to invoke the otherwise statutorily ordained presumption of commission of the offence of dowry death by the person charged therewith.

33. A conjoint reading of these three provisions, thus predicate the burden of the prosecution to unassailably substantiate the ingredients of the two offences by direct and convincing evidence so as to avail the presumption engrafted in Section [113B](#) of the Act against the accused. Proof of cruelty or harassment by the husband or his relative or the person charged is thus the sine qua non to inspirit the statutory presumption, to draw the person charged within the coils thereof. If the prosecution fails to demonstrate by cogent coherent and persuasive evidence to prove such fact, the person accused of either of the above referred offences cannot be held guilty by taking refuge only of the presumption to cover up the shortfall in proof.

34. The legislative primature of relieving the prosecution of the rigour of the proof of the often practically inaccessible recesses of life within the guarded confines of a matrimonial home and of replenishing the consequential void, by according a presumption against the person charged, cannot be overreased to gloss-over and



condone its failure to prove credibly, the basic facts enumerated in the Sections involved, lest justice is the casualty.

35. This Court while often dwelling on the scope and purport of Section 304B of the Code and Section 113B of the Act have propounded that the presumption is contingent on the fact that the prosecution first spell out the ingredients of the offence of Section 304B as in Shindo Alias Sawinder Kaur and another v. State of Punjab, 2011(2) RCR (Criminal) 878 : 2011(3) Recent Apex Judgments (R.A.J.) 123 : (2011) 11 SCC 517 and echoed in Rajeev Kumar v. State of Haryana, 2013(4) RCR (Criminal) 964 : 2013(6) Recent Apex Judgments (R.A.J.) 362 : (2013) 16 SCC 640. In the latter pronouncement, this Court propounded that one of the essential ingredients of dowry death under Section 304B of the Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the Court will presume that the accused has committed the offence of dowry death under Section 113B of the Act. It referred to with approval, the earlier decision of this Court in K. Prema S. Rao v. Yadla Srinivasa Rao, 2002(4) RCR (Criminal) 697 : (2003) 1 SCC 217 to the effect that to attract the provision of Section 304B of the Code, one of the main ingredients of the offence which is required to be established is that "soon before her death" she was subjected to cruelty and harassment "in connection with the demand for dowry



36. *Tested on the judicially adumbrated parameters as above, we are of the unhesitant opinion that the prosecution has failed to prove beyond reasonable doubt, cruelty or harassment to the deceased for or in connection with any demand for dowry as contemplated in either of the two provisions of the Code under which the accused persons had been charged. Noticeably, the alleged demand centers around a motorcycle, which as the evidence of the prosecution witnesses would evince, admittedly did not surface at the time of finalisation of the marriage. PW-5, the mother of the deceased has even conceded that there was no dowry demand at that stage. According to her, when the husband (who is dead) had insisted for a motorcycle thereafter he was assured that he would be provided with the same, finances permitting. Noticeably again, the demand, as sought to be projected by the prosecution, if accepted to be true had lingered for almost two years. Yet admittedly, no complaint was made thereof to anyone, far less the police. Apart from the general allegations in the same tone in geminated with parrot like similarity by the prosecution witnesses, the allegation of cruelty and harassment to the deceased is founded on the confidential communications by her to her parents in particular and is not supported by any other quarter."*

.....emphasis supplied

23. In the present case, the prosecution has failed to satisfactorily establish those foundational facts. Consequently, the statutory presumption itself does not arise. Even otherwise, the defence evidence and the

**CRA-S-1538-SB-2004 (O&M)**

surrounding circumstances are sufficient to create a reasonable doubt regarding the prosecution version.

24. Criminal jurisprudence mandates that suspicion, however grave, can never take the place of legal proof. Conviction under Section 304-B IPC entails serious penal consequences and, therefore, strict proof of each essential ingredient is indispensable. The cumulative effect of the compromise in the earlier proceedings, absence of convincing evidence of cruelty after the compromise, withholding of the most material independent witness, absence of contemporaneous corroboration, existence of prior matrimonial discord independent of dowry, inconclusive medical evidence and the vague allegations against the remaining appellants creates substantial and reasonable doubt regarding the prosecution case.

25. The prosecution has thus failed to establish beyond reasonable doubt that the deceased was subjected to cruelty or harassment in connection with dowry demand soon before her death. Consequently, the conviction recorded under Section 304-B IPC cannot be sustained.

26. For substantially the same reasons, the prosecution has also failed to prove the ingredients of Section 498-A IPC beyond reasonable doubt. The evidence led is insufficient to establish continuous wilful conduct amounting to cruelty as defined under the said provision.

27. Criminal jurisprudence mandates that prosecution must prove its case beyond reasonable doubt. Where material contradictions, and other factors coexist, the benefit of doubt must necessarily ensue to the accused, In *Sharad Birdhichand Sarda v. State of Maharashtra (1984) 4 SCC 116*;



while relying upon its previous decision in ***Kali Ram v. State of Himachal Pradesh, 1973 (2) SCC 808***; had emphasised that where circumstances create reasonable doubt, the accused is entitled to its benefit. The relevant part is reproduced below:

*"162. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an accused, the accused is undoubtedly entitled to the benefit of doubt. In **Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808**, this Court made the following observations :*

"Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence."

28. More recently, In ***Narendra Singh v. State of Madhya Pradesh, 2026 (2) RCR (Criminal) 800***; the Hon'ble Supreme Court has held that in a criminal trial, in case there are two inferences possible, then the one favouring the accused must be followed.

29. Accordingly, the present appeal deserves to be allowed.



CRA-S-1538-SB-2004 (O&M)

30. The judgment of conviction and order of sentence dated 16.07.2004 passed by the learned Additional Sessions Judge, Bhiwani, are hereby set aside. The surviving appellants are acquitted of all the charges by extending to them the benefit of doubt. Their bail bonds stand discharged. Pending applications, if any, shall also stand disposed of.

23.07.2026
Puneet

(RUPINDERJIT CHAHAL)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes