IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 477 of 2009

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[Against the Judgment of conviction dated 06.05.2009 and Order of sentence dated 12.05.2009, passed by learned 2nd Additional Sessions Judge, Hazaribag in Sessions Trial Case No.140 of 2008]

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Rajesh Sao Son of Sri Somar Sahu resident of Village – Kandaber, Police Station-Keridari, District-Hazaribag.

… **Appellant**

Versus

The State of Jharkhand

… **Respondent**

……

For the Appellant : Mr. Jyoti Prasad Sinha, Advocate
For the State : Mrs. Priya Shrestha, Spl. P.P

……

P R E S E N T
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

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JUDGMENT

C.A.V. on 18.06.2026 **Pronounced on 20.07.2026**

1. I have already heard the arguments advanced by Mr. Jyoti Prasad Sinha, learned counsel for the appellant as well as Mrs. Priya Shrestha, learned Spl. P.P. for the State.

2. Instant criminal appeal is directed against the judgment of conviction dated 06.05.2009 and order of sentence dated 12.05.2009 passed by learned 2nd Additional Sessions Judge, Hazaribag in Sessions Trial Case No.140 of 2008, whereby and whereunder the appellant has been held guilty for the

offence under Section 306 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years along with fine of Rs.5,000/- with default stipulation.

3. Factual matrix giving rise to this appeal is that one Sabtri Devi lodged F.I.R. before Keridari Police Station stating *inter alia* that on 26.10.2007 at about 05:00 p.m., she received telephonic information from Rajesh Sao (appellant) that her daughter Lalita Devi had committed suicide by jumping into well and her dead body has been brought out from the well and kept at the house. The informant along with other family members went to the matrimonial home of daughter and saw her dead body and also noticed some injuries on her person. Therefore, the informant speculated that her daughter has been murdered by the accused persons and dead body was thrown into well for disappearing the evidence of crime. It is further alleged that the marriage of the deceased was solemnized with accused Rajesh Sao (appellant) about two years prior to the occurrence. The deceased started residing at her matrimonial home but just after few days of the marriage, the accused persons started demanding T.V. due to non-fulfilment of the said demand by the informant due to

paucity of fund, her daughter was subjected to cruelty both physical and mental by the accused persons.

On the basis of above information, one Keredari P.S. Case No.79 of 2007 dated 27.10.2007 was registered for the offence under Section 304B/34 of the I.P.C.

4. After completion of investigation, charge-sheet was submitted against the present appellant and his mother Manwa Devi for the offences under Sections 304B/201/34 of the I.P.C. The case was committed to the Court of Sessions where Sessions Trial Case No.140 of 2008 was registered. Both the accused persons denied from the charges levelled against them and claimed to be tried.

5. In the course of trial, altogether 6 witnesses were examined by the prosecution. Apart from oral testimony of witnesses following documentary evidence has also been adduced.

Exhibit 1 **:** Post-mortem Report.

Exhibit 2 **:** Written report

Exhibit 3 **:** Formal F.I.R.

6. On the other hand, the case of defence is denial from occurrence and false implication by the mother of the

deceased due to anguish. However, one oral evidence, i.e., D.W.1 Baij Nath Rana has been adduced by defence but no documentary evidence has been adduced.

7. The learned Trial Court after appreciating the evidence adduced by the prosecution arrived at definite finding about guilt of the appellant for the offence under Section 306 of the I.P.C. The appellant and his mother were acquitted from the original charges framed under Sections 304B and 201/34 of the I.P.C. and learned Trial Court has sentenced the appellant as stated above which has been assailed in this appeal.

8. Learned counsel for the appellant has submitted that it is specific finding recorded by learned Trial Court itself that the demand of dowry and consequent torture meted with the deceased soon before her death at the hands of her husband (present appellant) or in-laws has not conclusively been proved by the prosecution. Therefore, the appellant along with his mother who was also arrayed as an accused were acquitted from the charges under Sections 304B/201 read with Section 34 of the I.P.C. but the appellant has been convicted for the offence under Section 306 of the I.P.C. on wrong assumption of the learned Trial Court that the

deceased died at her matrimonial home under suspicious circumstances. Therefore, under Section 106 of the Indian Evidence Act burden of proof shifts upon the accused to prove the circumstances under which the deceased died while she was in his custody. It is further submitted that such type of presumption based on extraneous facts cannot be invoked without any material. The specific case of prosecution was commission of dowry death and if the accused is held guilty for the offence under Section 306 of the I.P.C. then also the prosecution is duty bound to prove that the appellant has instigated for commission of suicide by the deceased and in this regard the presumption can be raised under Section 113A of the Indian Evidence Act which also requires proof of abetment of suicide. Therefore, the conviction of the appellant solely on the ground of presumption raised under Section 106 of the Indian Evidence Act is not warranted under law and absolutely illegal and liable to be set aside and this appeal may be allowed.

9. On the other hand, learned Spl. P.P. for the State defending the judgment of conviction and sentence of the appellant has submitted that the learned trial Court has very

wisely and aptly considered all the materials available on record and rightly convicted the appellant for the offence under Section 306 of the I.P.C. and has not committed any illegality or infirmity in passing the impugned judgment which does not call for any interference in this appeal, which is devoid of merits and fit to be dismissed.

10. I have gone through the record of the case along with the impugned judgment and order in the light of contentions raised on behalf of both side.

11. The only point for consideration is that as to **"Whether the conviction under Section 306 of the IPC is tenable when charge is only under Section 304B of the IPC ?"** And **"Whether the conviction and sentence of the appellant suffers from any error of law, calling for any interference in this appeal ?"**

12. Before embarking upon adjudicating the above points, it is pertinent to take brief resume of the evidence available on record.

13. It appears that altogether 6 witnesses were examined by the prosecution, out of them, P.W.3 Kishun Sao (father of the deceased), P.W.5 Churaman Sao and P.W.6 Doman Sao have

not supported the prosecution case and as such, they have been declared hostile. **P.W.3 Kishun Sao** has deposed that he had gone to Kolkata for his livelihood. According to him, the deceased had never made any complaint to him and he had no knowledge as to how she died. As he did not support the prosecution case, he was declared hostile.

In his cross-examination, he stated that his daughter was living peacefully in her matrimonial home. Though he stated that accused Rajesh Sao used to demand dowry, but he admitted that no such demand was ever made in his presence and that he had not paid any dowry.

P.W.5 Churaman Sao has deposed that he had heard that Lalita Devi (deceased) had gone to well for fetching water and she fell down in the well.

P.W.6 Doman Sao has also deposed that Lalita Devi died by falling into the well.

P.W.1 Sabitri Devi is the informant-cum-mother of the deceased. She has deposed that her daughter Lalita Devi (deceased) was married to accused Rajesh Sao (appellant) about two years prior to her death and at the time of marriage, Rs. 50,000/- was given as dowry. According to her,

the deceased lived peacefully in her matrimonial home for about one year. Thereafter, the accused persons allegedly started demanding Rs. 5,000/- in cash, a colour T.V. and a generator and due to non-fulfilment of the said demand, they subjected the deceased to assault and cruelty. She has further deposed that four days prior to the occurrence, the deceased informed her over telephone that her life was in danger if the demand was not fulfilled. She assured the deceased that a black and white television would be provided after six months. She has further stated that suddenly accused Rajesh Sao informed her over telephone that the deceased had fallen into a well. On receiving such information, she along with others reached the matrimonial house and found the dead body of her daughter. She noticed injuries on the head, elbow and chest of the deceased. According to her, Rajesh Sao was present there and informed them that the deceased had fallen into the well. Thereafter, she went to Keredari Police Station and lodged the written report.

In her cross-examination, she admitted that when she reached the place of occurrence, only her son-in-law Rajesh Sao was present there.

P.W.2 Tekan Sao has deposed that the deceased Lalita Devi was married to accused Rajesh Sao about two years prior to the occurrence. According to him, the deceased lived peacefully in her matrimonial home for about six months. Thereafter, the accused persons allegedly started demanding a colour T.V. and a generator and upon non-fulfilment of the said demand, they began assaulting and harassing the deceased. He has further stated that the deceased had informed him about such cruelty. He has further stated that he had visited the matrimonial house of the deceased and attempted to pacify the matter and expressed his inability to fulfil the demand. He has further stated that the accused persons killed the deceased and threw her dead body into a well. Initially, Rajesh Sao informed him over telephone that the deceased was ill and subsequently informed that she had fallen into the well. On reaching the place of occurrence, he found the dead body of the deceased and noticed injuries on her head and chest.

He was cross-examined at length, but nothing material could be elicited to discredit his testimony.

P.W.4 Dr. Syed Noor Mohammad has conducted the post mortem examination on the dead body of the deceased and found following injuries on her person :-

External examination :- Both eyes closed, mouth closed, Rigour mortis present in both limbs. Frothy blood discharged from both nostrils.

Antemortem Injuries :-

(i) bruise on back on right lumber region 1" x 1".

(ii) bruise on right scapular region 1/2" x 1/2".

(iii) bruise on left fore arm near elbow 1" x 1/2".

On dissection:-

Both lungs ballooned, spongy. On cut section, there was forth discharged. Heart-right chamber contains blood clot, left chamber empty. Liver, spleen and Kidney- intact and congested. Stomach wall normal contains water mixed with partially digested rice, Dal, vegetable-8 ozs. Uterus veginal N.A.D. bladder empty.

Time elapsed since death within 6 to 36 hours.

He has opined that cause of death is asphyxia due to drowning. He has proved the post mortem examination report as Exhibit 1.

In his cross examination, he has deposed that all the injuries found on the dead body may be possible if she dashed to any object while falling in the well.

14. On the other hand, defence has also examined one witness. **D.W.1 Baij Nath Rana** has deposed that he is a resident of village Kandaber and his house is situated about ten steps away from the house of accused Rajesh Sao. He has further stated that he knew the deceased Lalita Devi and that there was a cordial relationship between her and the accused persons. According to him, there was never any demand for dowry nor any quarrel in the matrimonial home. He has further stated that on 26.10.2007 at about 04:30 p.m., the deceased had gone to fetch water from the well carrying a rope and a bucket. While he was sitting in front of his house, he heard an alarm and rushed towards the well, where he found that Lalita Devi had fallen into it. On his raising alarm, villagers assembled and the deceased was taken out of the well. He has further stated that at the relevant time, accused Rajesh Sao and Manwa Devi were not present in the house, as they had gone out for work. They were informed and called back, but before their arrival, Lalita Devi had already died.

He also stated that the parents of the deceased were thereafter informed.

In his cross-examination, he admitted that only the slippers of the deceased were found near the well, whereas the rope and bucket allegedly carried by her were not found at the place of occurrence

15. From the aforesaid discussion of prosecution evidences, it is crystal clear that P.W.3, P.W.5 and P.W.6, who are material witnesses, have not supported the prosecution case and were declared hostile. P.W.3, the father of the deceased, categorically deposed that the deceased had never complained to him regarding any cruelty or harassment and further admitted that she was living peacefully in her matrimonial home. Though he states that there was a demand of dowry, he candidly admitted that no such demand was ever made in his presence and that he had not paid any dowry. P.W.5 and P.W.6 consistently stated that the deceased had gone to fetch water and accidentally fell into the well, thereby completely demolishing the prosecution version regarding the manner of death**.** The prosecution case substantially rests upon the testimonies of P.W.1 (informant)

and P.W.2, who have alleged demand of dowry and cruelty. However, their allegations are general and omnibus in nature without any independent corroboration. Except interested testimony, there is no reliable evidence to establish that the deceased was subjected to such cruelty soon before her death. Moreover, P.W.1 herself admitted that when she reached the place of occurrence, the appellant was present there and had himself informed the family members about the incident, which is inconsistent with any conduct suggesting of guilt. The medical evidence adduced through P.W.4 further weakens the prosecution case. The doctor found the cause of death to be asphyxia due to drowning and categorically admitted that all the injuries found on the body could have been sustained while striking against objects during the fall into the well. Thus, the medical evidence does not rule out the possibility of an accidental fall and, in fact, lends support to the defence version. The defence has also examined D.W.1, an independent neighbour, who consistently deposed that the deceased had gone to fetch water and accidentally fell into the well and that the appellant was not present at the house at the relevant time. His testimony substantially

probabilises the defence case and has not been effectively discredited in cross-examination.

16. At the outset for better appreciation of the case, the relevant provisions have to be extracted as under:

Section 306 of the I.P.C. reads as follows:

> ***"306. Abetment of suicide.*** *– If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."*

Section 113A of the Indian Evidence Act reads as under:-

> ***"113-A. Presumption as to abetment of suicide by a married woman.*** *– When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume,having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.*
>
> *Explanation.- For the purposes of this section, "cruelty" shall have the same meaning as in Section 498-A of the Indian Penal Code."*

17. The learned trial Court has properly considered that the said demand of Rs. 5,000/- does not come within the

definition of dowry. Therefore, the provision of Section 304B of the I.P.C. read with Section 113B of the Indian Evidence Act has no application in the facts and circumstances of this case. Accordingly, the appellant and deceased mother-in-law were acquitted under Section 304B of the I.P.C. and Trial Court convicted only the appellant for the offence under Section 306 of the I.P.C. and the deceased mother-in-law was acquitted by giving her benefit of doubt. It further appears that the learned trial Court after acquitting the accused persons from the charge under Section 304B of the I.P.C. proceeded on its whim without dealing with provisions under Section 306 of the I.P.C. and Section 113A of the Indian Evidence Act and in absence of charge under Section 306 of the I.P.C., convicted and sentenced the accused appellant thereunder. The learned Trial Court simply observed that the deceased had died due to drowning as per Post-mortem Report conducted by Dr. Syed Noor Mohammad (P.W.4) and in the suggestion extended to the accused persons were demanding Rs.5,000/-, a colour T.V. and a generator as dowry due to non-fulfilment of the same, she was being assaulted and tortured, hence, under same, she might have

committed suicide. The evidence of cruel treatment and harassment of the deceased has also been proved by the witnesses P.W.1 and P.W.2, hence offence under Section 306 of the IPC read with Section 113A of the Indian Evidence Act is also applicable in this case.

18. The learned Trial Court in para-14 has observed as under :-

> *"At the very outset, I would like to mention here that deceased was residing with the accused persons after her marriage is not disputed. She met her ends in the well is also not disputed. Even if the defence version is admitted to be true that the deceased committed suicide within seven years of her marriage, it makes the accused persons liable to explain under what circumstance, she committed suicide. There is specific allegation that the accused persons were demanding Rs. 5,000/-, a colour T.V. and a generator as dowry and for non-fulfilment of the same she was being tortured and assaulted as a result thereof she committed suicide. I do not find any substance in the defence version whereas P.W.1 and 2 have fully supported the case of prosecution that demand of Rs.5000/-, a colour T.V. and generator was made by the accused persons and soon before her death she was being subjected to cruelty. However in the facts and circumstances of the case, I find that the accused persons are not liable to be convicted U/s 304B/34 I.P.C. for the reason that father of the deceased and other important*

witnesses have turned hostile, P.W. 2 has not supported the demand of Rs.5000/- and whole case is based on the testimony of P.W.1 and the doctor who is of the opinion that the death was caused due to asphyxia due to drowning. Therefore, I am of the view that the deceased became upset for repeated demands by the accused persons and the husband of the deceased is responsible and liable for unnatural death of his wife within seven years of her marriage. Therefore, I am of the view that the deceased was compelled to commit suicide by her husband Rajesh Sao as such, in my considered view, accused Rajesh Sao is liable to be convicted U/s 306 I.P.C."

19. It is trite that gravity of offence and severity of punishment imposes an obligation on the Court to appreciate the evidence in threadbare manner so that no injustice is suffered by any of the party. In the instant case, the most important witnesses are P.W.1 informant-cum-mother of the deceased and P.W.2. Other relevant witnesses are P.W.3, P.W.5 and P.W.6, did not support the prosecution case and were declared hostile. P.W.3, the father of the deceased, categorically admitted that the deceased was living peacefully in her matrimonial home and that no demand of dowry was ever made in his presence. P.W.5 and P.W.6

consistently stated that the deceased died after accidentally falling into the well. Though P.W.1 and P.W.2 alleged demand of dowry and cruelty but their evidence is general in nature and does not disclose any specific act of instigation, intentional aid or active conduct on the part of the appellant.

20. I have given anxious consideration to the overall aspects of the case and the evidence available on record. From the evidence, the case does not appear to be 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.

21. In the case of ***Gurjit Singh vs. State of Punjab, (2020) 14 SCC 264***, the Hon'ble Apex Court has occasion to decide as to whether conviction under Section 306 of the IPC was tenable though charge was only under Section 304B of the I.P.C.

> *Now the question that would fall for consideration is as to whether when the prosecution establishes cruelty and also establishes that the deceased committed suicide within seven years of the marriage, could the accused appellant be also held guilty for the offence punishable under Section 306 of the I.P.C. with the aid of Section 113A of the Indian Evidence Act. It was further observed that to attract the applicability of Section 113A of the*

Indian Evidence Act, the following conditions are required to be satisfied:

(i) That the woman has committed suicide;

(ii) Such suicide has been committed within a period of seven years from the date of her marriage;

(iii) And the husband or his relatives, who are charged had subjected her to cruelty.

On the existence and availability of the aforesaid circumstances, the court may presume that such suicide had been abetted by her husband or by such relatives of her husband. It has been held that the presumption is not mandatory; but only permissive as the words "may presume" suggests. It has further been held that the existence and availability of the aforesaid three circumstances shall not, like a formula, enable the presumption being drawn. It has been held that before a presumption being drawn, the court shall have regard to all other circumstances of the case. The consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the court to abstain from drawing the presumption. It, thus observed that the expression "the other circumstances of the case" used in Section 113A of the Indian Evidence Act suggests the need to reach a cause and effect relationship between the cruelty and the suicide for the purpose of raising a presumption.

22. In the instant case, the prosecution has failed to prove that the accused has abetted her and abetment was of such a

nature which left no choice to the deceased than to commit suicide.

23. In the above discussions and reasons, I arrive at a definite conclusion that though there is no legal bar in convicting the accused for the offence under Section 306 of the I.P.C. when he was charged for the offence under Section 304B of the I.P.C. There is no material on record to show that immediately prior to the deceased committing suicide there was a cruelty or abetment meted out to the deceased by the accused due to which the deceased had no other option than to commit the suicide.

24. There is no whisper about any ill-treatment or any kind of demand by the appellant husband. It was also stated by P.W.3 (father of the deceased) that the deceased had never made any complaint to him regarding any cruelty or harassment and also admitted in his cross-examination that her daughter was living peacefully in her matrimonial home and no such demand of dowry was ever made. Thereafter, she ended to end her life by jumping into well and cause of death has also been opined to be drowning. In such circumstances, the conviction of appellant for the offence

under Section 306 of the I.P.C. does not appear lawful. Therefore, conviction and sentence of appellant for the offence under Section 306 of the I.P.C. is hereby set aside and this **appeal is Allowed.** The appellant is acquitted from the charges levelled against him.

25. The appellant is on bail, hence, he is discharged from liability of bail bond and sureties are also discharged.

26. Pending I.A., if any, stands disposed of.

27. Let a copy of this judgment along with Trial Court record be sent back to the concerned Trial Court for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 20/07/2026
Sachin / **NAFR**
Uploaded On: 22/07/2026