



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL APPEAL NO. 708 OF 2018 (A)

BETWEEN:

STATE OF KARNATAKA BY
GANGAMMANAGUDI POLICE STATION,
BENGALURU.
REPRESENTED BY
STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING,
BENGALURU-01.

...APPELLANT

(BY SRI. RAHUL RAI K., HCGP (P/H))

AND:

1. MR. ASHOK KUMAR @ ASHOKA
S/O GOPAL,
AGED ABOUT 30 YEARS,
R/AT NO.9,
BEHIND GOVERNMENT SCHOOL,
THAMMENAHALLI CROSS,
THOTADA GUDDADAHALLI,
BENGALURU-560 088.
2. SMT. KANTHAMMA
W/O C. GOPAL,
AGED ABOUT 56 YEARS,
R/AT NO.9,
BEHIND GOVERNMENT SCHOOL,



THAMMENAHALLI CROSS,
THOTADA GUDDADAHALLI,
BENGALURU-560 088.

3. KUM. VIJAYALAKSHMI
D/O C. GOPAL,
AGED ABOUT 24 YEARS,
R/AT NO.9,
BEHIND GOVERNMENT SCHOOL,
THAMMENAHALLI CROSS,
THOTADA GUDDADAHALLI,
BENGALURU-560 088.

...RESPONDENTS

(BY SRI. ARAVIND M. NEGLUR, ADVOCATE FOR R3 (P/H);
V/O. DATED 06.03.2026, APPEAL AGAINST R1 IS
DISMISSED;
V/O. DATED 11.03.2026, APPEAL AGAINST R2
STANDS ABATED)

THIS CRL.A. IS FILED U/S.378(1)(3) CR.P.C., PRAYING
TO: (A) GRANT LEAVE TO APPEAL AGAINST THE JUDGMENT
AND ORDER DATED 28.10.2017 PASSED BY THE LEARNED XLV
ADDL. CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY
(CCH-46) IN S.C.NO.664/2011 C/W S.C.NO.644/2012
ACQUITTING THE ACCUSED - RESPONDENTS FOR THE
OFFENCES PUNISHABLE UNDER SECTION 498-A, 304-B, 302
R/W SECTION 34 OF IPC AND SECTIONS 3, 4 AND 6 OF
DOWRY PROHIBITION ACT; (B) SET ASIDE THE JUDGMENT
AND ORDER OF ACQUITTAL DATED 28.10.2017 PASSED BY
THE LEARNED XLV ADDL. CITY CIVIL AND SESSIONS JUDGE,
BENGALURU CITY (CCH-46) IN S.C.NO.664/2011 C/W
S.C.NO.644/2012, BY ALLOWING THIS CRIMINAL APPEAL;
AND (C) CONVICT AND SENTENCE THE RESPONDENTS -
ACCUSED NOS.1 TO 3 FOR THE OFFENCE WITH WHICH THEY
HAD BEEN CHARGED UNDER SECTION 498-A, 304-B, 302 R/W
SECTION 34 OF IPC AND SECTIONS 3, 4 AND 6 OF DOWRY
PROHIBITION ACT, 1961 IN ACCORDANCE WITH LAW.

THIS APPEAL, COMING ON FOR FINAL HEARING, THIS
DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE MOHAMMAD NAWAZ
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

The State has filed this appeal under Section 378(1) and (3) of Cr.P.C. against the common judgment and order of acquittal dated 28.10.2017 in SC No.664/2011 C/w SC No.644/2012 on the file of the XLV Additional City Civil and Sessions Judge, Bengaluru City (CCH-46), acquitting accused Nos.1 to 3 for the offences punishable under Section 498A, 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act, 1961 (for short 'DP Act').

2. Heard the learned High Court Government Pleader for the appellant/State and the learned counsel Sri Arvind M.Neglur, for respondent No.3/accused No.3 and perused the material on record.



3. The case of the prosecution is that the victim Sunitha married accused No.1-Ashok Kumar on 6.12.2007 at Gangadhareshwara Kalyana Mantapa, Kereguddadahalli. Accused No.2-Smt.Kanthamma is the mother-in-law and accused No.3-Kum.Vijayalaxmi is the sister-in-law of the victim. After the marriage, the victim was residing with the accused persons in the matrimonial home at No.9, behind school, Thammenahalli Cross, Thotada Guddadahalli, Bengaluru. At the time of marriage, accused No.1 along with accused Nos.2 and 3 received an amount of Rs.50,000/- in cash, one gold chain, one long chain, bracelet and 12 sovereign of gold ornaments and one motorcycle valued at Rs.50,000/- as dowry. After the marriage, the relationship of accused persons with the victim was cordial for a period of four months and thereafter they started harassing her to bring more money and also to get the property of her mother transferred in their name as dowry. She communicated the same to her mother-PW1 over phone frequently. Thus, panchayat was



convened and both accused No.1 and the victim were advised to lead their marital life in a peaceful manner and the victim was sent to the house of accused No.1. Thereafter, the relationship of accused No.1 and the victim was cordial for a period of 4 months and again, the accused persons started to harass the victim by not providing food to her, abusing the victim frequently and they were insisting her to get her mother's property transferred in their name and in this process, the accused persons sent the victim to her parental house without sending her child along with her. On 19.1.2011, between 9.40 am to 10.45 am., the victim committed suicide by hanging to the ceiling fan in her parental house when no one was at the house.

4. PW1-mother of the victim/deceased lodged the complaint, which is marked at Ex.P1. A case was registered in Cr.No.12/2011 for the offences punishable under Sections 498(A), 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of the DP Act. Investigation



was conducted and chargesheet was filed against accused Nos.1 to 3.

5. After the matter was committed to the Court of Sessions, the trial Court framed charges against accused Nos.1 to 3 for the offences punishable under Sections 498(A), 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of the DP Act and the accused persons pleaded not guilty and claimed to be tried.

6. The prosecution, in order to prove its case, examined in all 21 witnesses as PWs.1 to 21 and 25 documents were got marked as Exs.P1 to P25. In support of defence, one Cheluvegowda was examined as DW1 and five documents were got marked as Exs.D1 to D5 and the material objects were got marked as MOs.1 to 6. After considering the oral and documentary evidence on record, the trial Court acquitted accused Nos.1 to 3 for the offences punishable 498(A), 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of the DP Act. Being



aggrieved by the judgment of acquittal passed by the trial Court, the State has preferred this appeal.

7. During the pendency of the appeal, accused No.1 died on 12.9.2023 and accused No.2-Kantamma died on 23.12.2024 and the appeal against accused No.1 was dismissed by this Court on 06.03.2026 and against accused No.2, the appeal was dismissed by this Court on 11.03.2026. Thus, the case against accused Nos.1 and 2 stands abated.

8.Learned High Court Government Pleader appearing for the appellant/State would vehemently contend that the prosecution was able to prove the ingredients of Section 498A, 304B of IPC and Section 3, 4 and 6 of DP Act by examining PW1-mother of the deceased, PW7-neighbour of accused No.1, PW8-sister of PW1, PW9-mother of PW1 and PW10-brother of the deceased. These witnesses have categorically stated that narrow talks were held between accused Nos.1 to 3 and PW1 with regard to gold ornaments, motorcycle and cash paid to the accused.



They have also stated that soon after the marriage, the accused persons started to harass the victim by demanding dowry and on the previous night of the incident, the accused persons sent the victim to her parental house, where she committed suicide due to the abetment by accused No.1.

9. Learned High Court Government Pleader further contended that the evidence of PW1 is corroborated by the evidence of PWs.9, 10, 19 and 20. Though PW7 and PW8 have been treated as hostile, their evidence also lends credibility to the case of the prosecution. The trial Court has committed an error in not appreciating the evidence of the said witnesses. The reasons assigned by the trial Court are not just and proper. The trial Court ought to have seen that in case of cruelty and harassment meted out to a married woman within the four walls of the house and in the normal course, independent witnesses will not be available and it is the relatives of the victim, who have to speak about the trauma undergone by the victim. The



cruelty and harassment meted out to the victim at the hands of the accused has been spoken by the material witnesses. The trial Court ought to have convicted and sentenced the accused persons in accordance with law. Hence, the learned High Court Government Pleader prays to allow the appeal.

10. PW13-Doctor, who conducted post mortem report, has opined that the cause of death is due to asphyxia as a result of hanging.

11. Per-contra, learned counsel for the respondent/accused No.3 vehemently contended that the oral testimony of PWs.1, 9, 10 and 11 is full of contradictions and omissions and their evidence is not reliable one. During the pendency of the appeal, accused Nos.1 and 2 died and the appeal against accused Nos.1 and 2 stood abated. None of the prosecution witnesses have clearly attributed the role of accused No.3 and have not stated against accused No.3 in a specific manner.



Hence, the trial Court has rightly acquitted the accused persons. Thus, he prayed to dismiss the appeal.

12. Considering the submissions of both the parties and the material available on record, the following point would arise for our consideration:

"Whether the prosecution has made out any case to interfere with the impugned judgment and order of acquittal passed by the learned Sessions Judge, acquitting the accused for the offences punishable Sections 498-A, 304-B and 302 r/w Section 34 of Indian Penal Code and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961, in the facts and circumstances of the present case?"

13. We have given our thoughtful consideration to the arguments advanced by the learned counsel for the parties and perused the entire material including the original records carefully.



14. The substance of the prosecution case is that accused No.1 and Sunitha(deceased) married on 06.12.2007. According to the complaint, they were cordial only for four months and thereafter the accused started harassing the deceased by demanding a house to be transferred in their names situated behind one Sriram temple. The deceased being unable to tolerate the torture given by the accused informed her mother i.e. PW1. Later a panchayat was convened. One Prabhu and Abbigere Krishnappa advised both the families. Accordingly, accused No.1 took the victim with him and led their marital life for a period of four months and again they started to harass the victim and hence, she came back to her parental home on 18.01.2011. The deceased being unable to tolerate the physical and mental torture given by the accused, hanged herself on 19.01.2011 in between 9.40 a.m. and 10.45 a.m. It is the specific case of the accused, who have adduced evidence before the Court that accused No.1 was very much cordial with the victim and they never harassed



her in any manner. He has further stated that prior to the alleged incident, the health condition of the victim was not good as the father of the victim died nine days prior to her marriage and hence, the victim was upset.

15. Before proceeding further in analysing the evidence led in the matter, it is to be borne in mind that it is an appeal against the judgment of acquittal of the accused for the offences punishable under Sections 498-A, 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of Dowry Prohibition Act. Therefore, the accused has primarily the double benefit. Firstly, the presumption under law is that, unless his guilt is proved, the accused has to be treated as an innocent person in the alleged crime. Secondly, the accused has already been enjoying the benefit of judgment of acquittal passed under the impugned judgment. As such, bearing the same in mind, the evidence placed by the prosecution in the matter is required to be analysed.



16. Hon'ble Apex Court, in its judgment in the case of ***Chandrappa and others -v- State of Karnataka*** reported in ***(2007) 4 Supreme Court Cases 415***, while laying down the general principles regarding powers of the Appellate Court while dealing in an appeal against an order of acquittal, was pleased to observe at paragraph Nos.42(4) and 42(5) as below:

"42(4) An appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent Court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial Court.

42(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court."

17. In the case of ***Sudershan Kumar -v- State of Himachal Pradesh*** reported in ***(2014) 15 Supreme Court Cases 666***, while referring to ***Chandrappa's case***



(supra), the Hon'ble Apex Court at paragraph No.31 of its judgment was pleased to hold that, it is the cardinal principle in criminal jurisprudence that presumption of innocence of the accused is reinforced by an order of acquittal. The Appellate Court, in such a case, would interfere only for very substantial and compelling reasons.

18. In the case of **Jafarudheen and others -v- State of Kerala** reported in **(2022) 8 Supreme Court Cases 440**, at paragraph No.25 of its judgment, the Hon'ble Apex Court was pleased to observe as below:

"25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C, the appellate Court has to consider whether the trial Court's view can be termed as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate Court has to be relatively slow in reversing the order of the trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."



19. The above principle laid down by it in its previous case was reaffirmed by the Hon'ble Apex Court in the case of ***Ravi Sharma -v- State (Government of NCT of Delhi) and another*** reported in ***(2022) 8 Supreme Court Cases 536*** and also in the case of ***Roopwanti -v- State of Haryana and others*** reported in ***2023 SCC OnLine SC 179***.

20. Keeping in mind the above principles laid down by the Hon'ble Apex Court, we proceed to analyse the evidence placed by the prosecution in this matter.

21. In order to re-appreciate the oral and documentary evidence on record, it is relevant to consider the evidence of prosecution witnesses and documents relied upon.

22. PW.1 Manjula, mother of the victim, has stated about the marriage talks, marriage of accused No.1 with the victim, harassment given by accused Nos.1 to 3 and suicide committed by her daughter. PW.1 has given vivid account about the role played by accused Nos.1 to 3. She



has stated that one Smt. Manjula, relative of the accused had arranged the marriage and prior to the marriage, accused demanded 12 sovereign gold, Rs.50,000/- cash, one motorcycle, gold neck chain, bracelet and a finger ring. Hence, PW.1 and her family agreed to meet the demands made by the accused. Thereafter, the marriage was performed at Gangadhararashwara Kalyana Mantapa, Kereggudadahally, Bangalore. She has stated that the cash amount was paid 15 days prior to the marriage, a Splendor motorcycle was given one month prior to the marriage and the jewellery was given on 6th prior to the marriage. She has further stated that her husband died 9 days prior to the marriage of accused No.1 and the victim. After the marriage, accused No.1 took the victim to Thottadagudadahally, where, accused Nos.1 to 3, the victim and brother of accused No.1 by name Naveen Kumar were residing. After the marriage, the relationship of accused No.1 with the victim was cordial for a period of four months and again, the accused started to harass the



victim. They used to demand the victim that she should get a house transferred in their name situated behind Srirama Temple. The same was informed by the victim to her mother, however, she consoled her. Later, the accused persons demanded to bring the cash amount, which was informed by the victim to her mother PW.1. Hence, PW.1 informed this aspect to Prabhu and Abbigere Krishnappa, wherein, said Prabhu had called accused Nos.1, 2 and brother of accused No.1 Naveen Kumar and advised them. PW.1 Manjula and victim had also been to the house of Prabhu, wherein panchayat was convened and they advised the accused to look after the victim well and thereafter, the victim was sent to the house of the accused. The relationship of the accused and the victim was cordial for a period of four months. Thereafter, the accused persons started to harass the victim by not providing food to her, they were abusing her frequently, they insisted her to get the house transferred in their name. PW.1 further stated that one day prior to the



incident, the accused persons had sent only the victim to her house without sending her child along with her. On the next day, her son PW.10 Chandrasekhar and victim were in the house and as she had some work at Doddaballapura, she left the house. On the way to Doddaballapura, PW.1 enquired with victim as to whether she made a call to accused No.1 to bring her child back, to which, victim told that she would make a call to accused No.1. Later, when she called up to the phone of victim, the same was switched off. Hence, PW.1 called to one Gopal over phone and asked him to send his wife to their house. Thus Gopal sent his wife along with PW.8 Jyothi-sister of PW.1 to the house of PW.1 and they saw the victim, had committed suicide by hanging herself to a ceiling fan. Accordingly, PW.8 called PW.1 to return to the house. PW.1 has further stated that due to the harassment meted out by the victim at the hands of the accused and as accused No.1 had abused the victim over phone, the victim committed suicide. Hence PW.1 lodged the



complaint vide Ex.P1. Soon after lodging the complaint, police came to the spot. They drew spot panchanama as per Ex.P2 and conducted seizure panchanama in the house of the accused and they seized the almirah, pressure cooker, 5 silk sarees, 21 other sarees, clothes, leather bag and a motorcycle under Ex.P3 seizure panchanama. She identified those articles as Exs.P4 to P12. In the chief examination, PW.1 has not stated the role played by accused No.3 in a specific manner. Even in the cross-examination, she has not made any allegations that accused No.3 specifically made harassment to the victim soon before her death in connection with the demand of dowry. On the contrary, she has admitted that they have sold the motorcycle to one Sedehalli Satyappa. She also admitted that the victim-her daughter was very sensitive girl. She has also admitted that the victim was in the habit of going outside from the house during night hours. It is her evidence that a day before the incident, victim came to the house of PW.1 at about 7.00 p.m. and she



complained that accused persons had snatched her child and sent her alone. She has also specifically made allegation against accused No.1 that since accused No.1 abused the victim over phone, she committed suicide and she has not made any specific allegation against accused No.3, who is the sister-in-law of the victim. In order to corroborate the oral testimony of PW.1, the prosecution examined PW.7 Shobha-tenant, PW.8 Jyothi, the sister of PW.1, PW.9 Jayamma mother of PW.1 and PW.10 Chandrasekhar-the brother of victim. These witnesses have not specifically stated against accused No.3. PW.1, PWs.7 to 10 made some general and omnibus allegations against all the accused persons.

23. PW.11 and 12, who are neighbouring witnesses of PW.1, turned hostile to the case of prosecution. PW.13 Dr. Praveen, who conducted post mortem examination of the victim, issued report Ex-P19. PW.14- Somalingappa Chabbi, who is the Police Inspector, registered the case. PW.15-Prasanna Kumar, who collected the clothes of the



deceased from the doctor and handed over to Investigating Officer. PW.16-a witness to seizure mahazar turned hostile to the case of persecution. PW.17 Ranganath-the Special Tahsildar, who conducted inquest on the dead body of victim as per Ex.P14. PW.18 Chandrappa, Investigating Officer. PW.19 Chithra, has stated that on 05.12.2007, PW.1 borrowed a sum of ₹50,000/- as hand loan from her. PW.20 Chellaiah has stated that accused No.1 had sold the gold bracelet and a gold chain for a sum of ₹34,500/- to him and after one and half year, the police seized the gold bracelet and chain from him under Ex.P24. The evidence of PW.19 and PW.20 do not indicate any incriminating circumstance against accused No.3.

24. A meticulous reading of the entire evidence indicates that the complaint disclosed about the marriage of accused No.1 with the victim and the demand made by the accused persons in the marriage talks. The evidence of PWs.1, 7 to 10 are contradictory to each other. The



evidence of PWs.1, 7, 8, 9 and 10, discloses vague allegations against the accused. The oral testimony of PW.1 was only against accused No.1. Absolutely, there is no evidence corroborating with the evidence of PWs.7 to 10 with regard to harassment and demand of dowry made by accused No.3 in a specific manner. They have also not stated that accused No.3 specifically harassed the victim by demanding a house and cash etc. A careful perusal of the evidence adduced by the prosecution witnesses is contrary to the complaint averments. The evidence is nothing but improved version. PW.1 in her evidence has admitted certain omissions and denied certain admissions. The evidence of PW.1 is contrary to the averments made in the complaint Ex.P1. PW.7 is none other than tenant under PW.1. PWs.8 to 10 are none other than sister, mother and son of PW.1. Their oral testimony clearly reveals that they are interested witnesses and this clearly indicates that there is no consistency in the evidence of PWs.1, 7 to 10.



25. The evidence also clearly depicts that victim Sunitha died in her parental home. There is no material produced by the prosecution about specific demand made by accused No.3 soon before the death of Sunitha.

26. In order to attract the provision of Section 304B of IPC, a presumption can be raised only on the proof of following five essentials:-

- a. Death of a woman took place within 7 years of her marriage;
- b. Such death took place not under normal circumstances;
- c. The woman was subjected to cruelty and harassment by her husband or his relatives;
- d. Such cruelty or harassment was for, or in connection with any demand for dowry; and
- e. Such cruelty or harassment was soon before her death.

27. The expression 'soon before her death' used in the substantive section 304-B IPC and 113B of the Indian



Evidence Act was considered by Hon'ble Apex Court in the case of ***Hira Lal v. State(NCT of Delhi)*** reported in ***(2003) 8 SCC 80***, wherein at paragraph 8, it is held as under:-

8. *Section 304-B IPC which deals with dowry death, reads as follows:*

"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."

The provision has application when 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 relatives of her husband for, or in connection with any demand for dowry. In order to attract application of Section 304-B IPC, the essential ingredients are as follows:

(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.

(v) Such cruelty or harassment is shown to have been meted out to the woman soon before her death.

Section 113-B of the Evidence Act is also relevant for the case at hand. Both Section 304-B IPC and Section 113-B of the Evidence Act were inserted as noted earlier by Dowry Prohibition (Amendment) Act 43 of 1986 with a view to combat the increasing menace of dowry deaths. Section 113-B reads as follows:

"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 the Penal Code, 1860."

The necessity for insertion of the two provisions has been amply analysed by the Law Commission of India in its 21st Report dated 10-8-1988 on "Dowry Deaths and Law Reform". Keeping in view the impediment in the pre-existing law in securing evidence to prove dowry-related deaths, the legislature thought it wise to insert a provision relating to presumption of dowry death on proof of certain essentials. It is in this background that presumptive Section 113-B in the Evidence Act has been inserted. As per the definition of "dowry death" in Section 304-B IPC and the wording in the presumptive Section 113-B of the Evidence Act, one of the essential ingredients, amongst others, in both the provisions is



that the woman concerned must have been "soon before her death" subjected to cruelty or harassment "for or in connection with the demand of dowry". Presumption under Section 113-B is a presumption of law. On proof of the essentials mentioned therein, it becomes obligatory on the court to raise a presumption that the accused caused the dowry death. The presumption shall be raised only on proof of the following essentials:

(1) The question before the court must be whether the accused has committed the dowry death of the woman. (This means that the presumption can be raised only if the accused is being tried for the offence under Section 304-B IPC.)

(2) The woman was subjected to cruelty or harassment by her husband or his relatives.

(3) Such cruelty or harassment was for or in connection with any demand for dowry.

(4) Such cruelty or harassment was soon before her death.

28. The evidence of PWs.1, 7 to 10 depicts that they have made general and omnibus allegations against the accused persons and they have not specifically deposed against accused No.3 and the role played by her in the matter. Prior to the incident, the victim Sunitha was suffering from ill-health and she was regularly taking treatment. Further, she was a sensitive woman, her father had died nine days prior to her marriage and thus she was upset. It is the defence of the accused that because of the



ill- health and as her father had died, she was depressed and hanged herself in her parental house and not in the house of accused No.1. The evidence of DW.1 coupled with the evidence of PWs.1, 7 to 10 and taking into consideration the defence set up by the accused and considering the entire material on record, the learned Sessions Judge has rightly acquitted the accused for the offences punishable under Sections 498-A, 304-B and 302 of IPC and Sections 3, 4 and 6 of Dowry Prohibition Act, 1961 and the same is in accordance with law and the State has not made out any ground to interfere with the impugned judgment and order of acquittal exercising powers under Sections 378(1) and (3) of Cr.P.C.

Accordingly, we proceed to pass the following:

ORDER

1. Appeal is ***dismissed*** as devoid of merit.
2. The judgment of acquittal dated 28.10.2017 passed in SC No.664/2011 C/w SC No.644/2012



on the file of the XLV Additional City Civil and Sessions Judge, Bengaluru City (CCH-46), acquitting accused Nos.1 to 3 for the offences punishable under Section 498A, 304-B and 302 r/w Section 34 of IPC and Sections 3, 4 and 6 of the Dowry Prohibition Act, 1961 is hereby confirmed.

3. The appeal filed against respondents/accused Nos.1 and 2 stands abated and the appeal filed against respondent No.3/accused No.3 stands dismissed.

Sd/-
(MOHAMMAD NAWAZ)
JUDGE

Sd/-
(VENKATESH NAIK T)
JUDGE

TL/MN
List No.: 1 Sl No.: 10