



2026:AHC:81841

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 1945 of 2019

Divyansh Pandey @ Tinkoo Pandey

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	:	Anshul Tiwari, Lav Srivastava
Counsel for Respondent(s)	:	G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Vakalatnama filed today by Sri Ashish Kumar Mishra, learned counsel for the appellants is taken on record.
2. This appeal under Section 374(2) of Cr.P.C. has been filed against the judgment and order dated 15.02.2019 passed by Additional Sessions Judge, Court No.4, Varanasi in Sessions Trial No.563 of 2012, arising out of Case Crime No.253 of 2012, under Sections 498A, 304B I.P.C. and Section 3/4 of Dowry Prohibition Act, Police Station- Sigara, District Varanasi.
3. Heard Sri Ashish Kumar Mishra, learned counsel for the appellants and Sri Rahul Asthana, learned A.G.A. for the State.
4. The First Information Report was lodged at the police station on the basis of a written complaint, submitted by the informant Shivram Pandey, s/o Late Shivakant Pandey, resident of village Gajadharpur, Police Station- Rohaniya, District- Varanasi, submitted a written report on 03.07.2012 at police station- Sagra, District- Varanasi. It was alleged that his daughter Snehlata Pandey was married according to Hindu rites in the year 2010 with Divyansh Pandey s/o Vinod Pandey, resident of village Sikhadh, Police Station- Chunar, District- Mirzapur.
5. It was alleged that after about one year of marriage, his daughter went to her matrimonial home. After two to three months, when she returned to her parental home, she disclosed that her husband and his family members, including her father-in-law, mother-in-law and elder brother-in-law were demanding dowry in the form of Rs.50,000/- cash, a refrigerator and washing machine. She further stated that she was subjected to cruelty, harassment and physical assault on account of non-fulfillment of these demands.
6. According to prosecution, on 21.07.2012, her husband Divyansh Pandey allegedly, set her on fire at his residence situated at Soniya police station-

Sigra, Varanashi, resulting in her death. It was further stated that in the intervening night of 21/22.7.2012 an unknown person informed the informant over the phone that his daughter had died due to burn injuries. Upon receiving this information, the informant rushed to the matrimonial home of his daughter and found her dead body lying in a burn condition on a bed. The family members and relatives of the accused were also present there.

7. On the basis of the said report, Case Crime No.253 of 2012 was registered under Section 498A, 304B of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

8. During investigation, the Investigating Officer conducted inquest proceedings on the dead body, got the post-mortem examination conducted, inspected the place of occurrence and took into custody relevant articles from the spot, preparing seizure memo accordingly.

9. Statements of witnesses were recorded and upon completion of investigation, a charge-sheet was submitted against the accused persons.

10. The trial court took cognizance and summoned the accused. Charges were framed against them for offences under Section 498A, 304B I.P.C. and Section 3/4 of Dowry Prohibition Act. They pleaded not guilty and claimed trial.

11. In support of its case, the prosecution examined, P.W.-1 Shivram Pandey, P.W.-2 Asha Pandey, P.W.-3 Dr. Sanjay Sharma, P.W.-4 The investigating officer Shoib Iqbal, P.W. -5 Constable Pramod Kumar Singh, P.W.-6 Constable Vijay Bahadur.

12. Documentary evidence written report Ext. Ka-1, FIR Ext. Ka-2, post-mortem Ext. Ka-3, site plan Ext. Ka-4, recovery memo of plastic can, match stick, Kathari etc. Ext. Ka-5, charge-sheet Ext. Ka-6, carbon copy of FIR Ext. Ka-7, copy of G.D. Ext. Ka-8, inquest report Ext. Ka-9, police paper Ext. Ka-10, photo of dead body Ext. Ka-11, letter to CMO Ext. Ka-12 and letter to R.I. Ext. Ka-13 and original FIR Ext. Ka-14 are available on record.

13. P.W.-1 Shivram Pandey, father of the deceased and P.W.-2 Asha Pandey supported the prosecution version in their statements. Both witnesses stated that the accused persons used to demand dowry and subjected their daughter to cruelty, harassment and physical assault. They further deposed that they had visited the matrimonial home of the deceased to persuade and counsel the in-laws but even after she was sent back, the accused person continuing to harass her. It was also stated that the deceased had informed them over the phone about the continued harassment shortly before the incident, the deceased had again called and complained whereupon she was assured that her father would visit the next day to resolve the issue, however, on that very

night, she was allegedly, killed by her in-laws. When the informant reached the spot, he found the dead body of the deceased lying there.

14. P.W.-3 Dr. Sanjay Sharma proved the post-mortem report and deposed that the body emitted a smell of kerosene oil. He further found a ligature mark around the neck, measuring approximately 32 cm. x 3 cm. According to the doctor, the ligature mark was antemortem in nature, whereas the burn injuries on the body appeared to be post-mortem. He opined that the cause of death was asphyxia due to hanging.

15. P.W.-4 the Investigating Officer proved the steps taken during investigation including inspection of the place of occurrence at the instance of the informant, preparation of the inquest report and other related proceedings.

16. P.W.-5 Constable Pramod Kumar Singh proved the registration of the case on the basis of the written complaint and the preparation of the chik FIR and relevant entries in the general diary.

17. P.W.-6 Constable Vijay Bahadur, a witness of the inquest proceedings proved the preparation of the inquest report and related documents.

18. In their statements recorded under Section 313 Cr.P.C., the accused persons admitted the marriage and the fact that the deceased had gone to her matrimonial home after about one year of marriage, however, they denied all allegations made by the prosecution witnesses and claimed that they had been falsely implicated in the case. In defence, the accused examined D.W.-1 Chandrabali Yadav and D.W.-2 Rajesh Kumar. They also produced documentary evidences relating to the medical treatment of the deceased.

19. After appreciating the entire evidence and material on record, the trial court came to the conclusion that the ingredients of Sections 498A, 201, and 306 of the IPC were made out against the appellant, Divyansh Pandey. Accordingly, he was convicted under Section 306 IPC and sentenced to 10 years' imprisonment along with a fine of Rs. 25,000; under Section 498A IPC to three years' imprisonment along with a fine of Rs. 5,000; and under Section 201 IPC to three years' imprisonment along with a fine of Rs. 10,000. Co-accused Bindu Pandey alias Bindo Pandey, was convicted under Section 201 IPC and sentenced to three years' imprisonment along with a fine of Rs. 10,000. The remaining two co-accused persons were acquitted of all charges by extending to them the benefit of doubt.

20. Aggrieved with the judgment of conviction and sentence the present appeal has been preferred on behalf of the appellant Divyansh Pandey on the ground that the recording of the conviction of the appellant is perverse and deserves to be set aside.

21. The learned trial court has ignored the fact that all the prosecution

witness are closely related and interested witness, therefore, their testimony is not worthy. The learned trial court has utterly failed to consider the testimony given by defence witnesses D.W.-1 and D.W.-2. The order of conviction suffers from manifest error of law and jurisdiction. The conviction and finding imposed upon the appellant is against the weight of evidence on record and legally bad in law.

22. Learned counsel for the appellant submitted that the trial court failed to properly appreciate the evidence on record and has erroneously convicted the appellant. It was argued that the death of the deceased was due to illness and not on account of any act attributable to the appellant. It was further submitted that there was no credible evidence of cruelty or abetment so as to attract Section 306 I.P.C. it was also argued that the appellant has already undergone the entire sentence of 10 years imprisonment and, therefore, he does not want to press the appeal on merit.

23. Learned A.G.A. for the State supported the judgment of conviction and sentence.

24. This Court has carefully examined the record, evidence and the findings recorded by the trial court.

25. The testimonies of P.W.-1 Shivram Pandey, father of the deceased, P.W.-2 Asha Pandey, the mother of the deceased consistently established that the deceased was subjected to cruelty and harassment on account of dowry demands. Their statements are natural consistent and inspire confidence. Nothing substantial has been elicited in their cross-examination so as to discredit their testimony.

26. The medical evidence as proved by P.W.-3 Dr. Sanjay Sharama clearly indicates that death was not natural.

27. The presence of ante-mortem ligature mark around the neck and the opinion that the cause of death was Asphyxia due to hanging belie the difference plea of death due to illness. The additional finding that the burn injuries were post-mortem further strengthens the prosecution case that an attempt was made to give a different colour to the occurrence. The conduct of the accused and the surrounding circumstances including the consistent allegations of harassment and the proximity of such conduct to the death, he has been established the guilt of the accused.

28. The acquittal of the co-accused persons does not dilute the specific role attributed to the appellant. The trial court after appreciation of evidence on record has rightly returned the finding of guilt and convicted and sentenced the appellant. There is no illegality, infirmity or perversity in the judgment of conviction warranting interference. The appeal lacks merit and is liable to be dismissed.

29. Accordingly, the appeal is **dismissed**.

30. The conviction and sentence of the appellant under Section 306 I.P.C. as recorded by the trial court is hereby affirmed.

31. Let a copy of this judgment along with trial court record be transmitted to concerned trial court for necessary compliance.

April 15, 2026

P. Pandey

(Mrs. Vani Ranjan Agrawal,J.)