



2026:AHC:197052-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL U/S 413 BNSS No. - 442 of 2026

Shashi Pratap Singh

.....Appellant(s)

Versus

State of U.P. and 2 others

.....Respondent(s)

Counsel for Appellant(s)	: Manshi Upadhyay, Shashi Shekhar Maurya
Counsel for Respondent(s)	: G.A., Jitendra Rana, Shardeshwar Mishra

Court No. - 46

**HON'BLE RAJEEV MISRA, J.
HON'BLE DR. AJAY KUMAR-II, J.**

(Dictated by Hon'ble Dr. Ajay Kumar-II, J.)

1. Heard Mr. Shashi Shekhar Maurya, the learned counsel for appellant, the learned AGA for State- opposite party -1, Mr. Jitendra Rana, the learned counsel representing accused- opposite parties 2 and 3 and perused the record.

2. Challenge in this appeal is to the judgment dated 01.07.2026 passed by Additional Sessions Judge/F.T.C. (Crime Against Women), Gorakhpur in Sessions Trial No. 418 of 2021 (State Vs. Arun Singh and another) arising out of Case Crime No. 192 of 2020, under Sections 498-A, 304-B, 323/34, 315, 506 IPC and Section 3/4 of Dowry Prohibition Act, Police Station- Gulriha, District Gorakhpur, whereby the accused- opposite parties 2 and 3 have been acquitted of the charges framed against them.

3. Brief facts of the case are that younger sister of informant Shashi Pratap Singh was married to Arun Singh in April 2019, according to Hindu rites and customs. The informant gave his sister considerable amount of gifts as per his means, but her husband and his family members continued to demand money in one form or another. Upon coming to know of the aforesaid fact, informant and his relatives visited his sister, Asmita Singh alias Neha Singh to meet the husband and his family members several times to explain the situation. Due to social stigma, the brother of deceased did not report the matter to police. In the night of 19.04.2020, the in-laws of Asmita Singh @ Neha Singh quarreled with her and threatened her that if she informed the first informant she will face dire consequences. On 20.04.2020, upon hearing the news of his sister's death, he got deeply saddened by the incident that occurred. Her husband, Arun Singh, brother-in-law, Ajit Singh, and mother-in-law, Usha Singh, her father-in-law Mohan Singh are alleged to have tortured and assaulted his sister and ultimately murdered her.

4. In view of above, first informant submitted a written report/Tehrir (Ext. Ka-1) alleging therein that accused husband Arun Singh, Ajit Singh (brother-in-law), Usha Singh (mother-in-law) have committed murder of his sister Asmita Singh @ Neha Singh. On the aforementioned written information of first informant, an FIR was registered on 20.04.2020 as Case Crime No. 192 of 2020, under Sections 498-A, 304-B, 323, 506 IPC and Section 3/4 of Dowry Prohibition Act, Police Station- Gulriha, District Gorakhpur at 18:57 hours against accused Arun Singh (husband) and 2 others.

5. In furtherance of aforementioned written report, Investigating Officer conducted inquest proceedings and prepared inquest report (Ext. Ka-2) alongwith other documents and sent the body of deceased for post mortem examination.

6. Dr. Sunil Kumar, PW-4, conducted post mortem of the body of deceased on 21.04.2020. Upon external examination, apart from a

ligature mark on the neck, there were no other injuries found on the body of deceased. Rigger Mortis was present on all limbs. Nails were polished. Eyes were closed and the mouth was half open. Foam was present in the nose. He found that a ligature mark was present on the front of neck measuring 18cm x 1cm, 5cm below the right ear, 4cm below the chin, and 2cm below the left ear. On cutting ligature underneath ecchymosis was present, on opening trachea it would found congested and the hyoid bone was found intact. On internal examination, brain was found congested. The lungs were found congested. The uterus was found gravid with fetus of about three months old. The probable time of death was about 1 day. Cause of death was asphyxia due to ante-mortem hanging.

7. During investigation, no credible evidence was found against accused Ajit Singh and therefore the investigating officer exculpated aforementioned accused. After completion of investigation, charge-sheet was submitted on 19.06.2020 only against accused Arun Singh and Usha Singh i.e. husband and mother-in-law of deceased, who are accused-opposite parties 2 to 3 herein under Sections 498A, 304-B, 323, 506 IPC and $\frac{3}{4}$ of D.P. Act. Thereafter, cognizance was taken upon same on 19.6.2020 and case was committed to the Court of Sessions. After hearing both the parties, charges were framed by concerned Sessions Judge under Section 498-A, 304-B, 323, 506 IPC and in the alternative an alternate charge under Section 302 IPC, and Section $\frac{3}{4}$ of Dowry Prohibition Act was framed against accused opposite parties 2 to 3.

8. In order to prove it's case, prosecution adduced PW-1 Shashi Pratap Singh (informant and brother of deceased), PW-2 Shailendra Singh (uncle of deceased), PW-3 Harendra Singh (father of deceased), PW-4 Dr. Sunil Kumar (Autopsy Surgeon), PW-5 ASP, Rachna Mishra, PW-6 SI Virendra Mishra. The witnesses adduced by the prosecution have given their respective oral evidence and also proved 07 prosecution papers and 01 material object, which were marked as exhibits. The same are tabulated herein below:-

Sl. No.	Name	Nature of evidence	Documents proved
PW-1	Shashi Pratap Singh	Informant, who is brother of deceased and witness of fact regarding demand of dowry and harassment of the deceased	Written Report (Tehrir) as Ext. Ka-1, Marriage card as material Ext. -1
PW-2	Shailendra Singh	Uncle of deceased and witness of fact regarding demand of dowry and harassment of the deceased	Inquest report as Ext. Ka-2
PW-3	Harendra Singh	Father of deceased and witness of fact regarding demand of dowry and harassment of the deceased	-
PW-4	Dr. Sunil Kumar (Autopsy Surgeon)	Doctor, who conducted post mortem of deceased	Post mortem report as Ext. Ka-3
PW-5	ASP Rachna Mishra	Formal witness	Site plan as Ext. Ka-4 and Charge-sheet as Ext. Ka-5
PW-6	SI. Virendra Mishra	Formal witness, who prepared Check FIR and made G.D. entry	G.D. entry as Ext. Ka-6 and Check FIR as Ext. Ka-7

9. After prosecution evidence was over, all the adverse/ incriminating circumstances relied upon by the prosecution were disclosed to accused – opposite parties 2 to 3, in question answer form for their version of occurrence as per mandate of Section 313 Cr.P.C. They denied all the suggestions put to them one by one by repeatedly saying that it is false or they have been falsely implicated or the prosecution case is false or the depositions of prosecution witnesses are false. Accused Arun Singh additionally stated that deceased was having pregnancy of 3 months and that child was of someone else, due to which, she committed suicide under depression. Accused Usha Singh deposed that false case was got

lodged and false charge-sheet was submitted after false investigation. The deceased was having 3 months pregnancy and that child was not of Arun Singh, due to which deceased committed suicide under depression. Additionally they deposed that the FIR was got lodged ante time. Case proceeded wrongly against them. They are innocent. They have not committed any offence. In their defence they adduced Ajit Singh as DW-1 and Sonmati as DW-2. The accused also produced original ticket and boarding pass of opposite party -2 from Lucknow to Muscat dated 27.06.2019 and from Muscat to Qatar dated 28.06.2019, original boarding pass from Qatar to Delhi dated 8.2.2020 and from Delhi to Lucknow dated 9.2.2020, original passport vide list 16B, original sale deed dated 17.03.2020 executed in the name of Usha Singh was also produced in defence.

10. By the impugned judgment dated 01.07.2026, Court below acquitted the accused- opposite parties 2 and 3 of the charges under Sections 498-A, 304-B, 323/34, 506 IPC as well as alternate charge under Section 302 IPC, and Section 3/4 of Dowry Prohibition Act.

11. Thus, feeling aggrieved by the said judgment, present appeal has been preferred by the first informant.

12. Learned counsel for appellant submits that the impugned judgment is manifestly illegal and erroneous and, therefore, liable to be set aside by this Court.

13. It was argued by the learned counsel for appellant that prosecution has been able to prove that informant's daughter Asmita Singh @ Neha Singh died on account of hanging within 07 years of her marriage. It is established from record that death of deceased was unnatural. First informant Shashi Pratap Singh himself as PW-1, his uncle Shailendra Singh as PW-2 and his father Harendra Singh as PW-3 in their respective testimonies, have proved the factum of demand of additional dowry made by accused- opposite parties 2 and 3. It has also been proved in their evidence that the accused – opposite parties 2 and 3 were not happy

with the dowry given at the time of marriage and were harassed the deceased Asmita Singh @ Nehe Singh on account of non fulfillment of additional demand of dowry. It has also been proved in evidence that the deceased was subjected to cruelty and harassment in connection with said demand of dowry by her in-laws, that too, soon before her death. As a result, the prosecution was able to establish all the ingredients of dowry death. All the circumstances proved by the prosecution clearly established the guilt of accused beyond reasonable doubt. However, Court below failed to appreciate the oral as well as documentary evidence available on record. He, therefore, strenuously, urged that in view of above, Court below has erred in acquitting the accused. As such, the impugned judgment is liable to be set aside by this Court.

14. Learned A.G.A. for State has vehemently opposed the present appeal. He submits that the impugned judgment passed by Court below does not suffer from any illegality of law or fact much less a legal error so as to warrant interference by this Court. Court below has examined prosecution case in the light of evidence on record threadbare, without leaving any aspect of the matter untouched. In view of the findings / reasons recorded by court below on each of the points of determination which arose for determination, Court below has rightly arrived at the conclusion that prosecution has failed to prove the very story, which, it set out to prove. The prosecution story is based solely on the allegation that the deceased was harassed on account of non-fulfillment of additional demand of dowry, but after appreciation of evidence of PW-1, PW-2 and PW-3, Court below deduced that prosecution has not been able to prove that any additional demand of dowry was made and no specific instance regarding commit of cruelty coupled with persistent harassment was brought on record, therefore, Court below rightly came to the conclusion that prosecution has failed to prove the essential ingredients of Section 498-A, 304-B, 323, 506 IPC and Section 3/4 of D.P. Act. Court below has also come to the conclusion that there was no harassment of deceased on account of non-fulfillment of additional demand of dowry soon before death and prosecution has failed to prove

the essential ingredients of Section 304-B IPC, therefore, Court below has rightly acquitted the accused. Lastly, it has been urged that no ground for interference with the impugned judgment and order is made out. Learned A.G.A. thus urged for dismissal of present appeal.

15. We have heard the learned counsel for appellant, the learned AGA for State- opposite party 1 and also carefully examined the record in the light of above arguments.

16. Admittedly, this is an appeal against acquittal. While considering the scope of interference in an appeal against acquittal, it has been held by Supreme Court that if two views are possible, one supporting the acquittal and other indicating conviction, the High Court should not, in such a situation, reverse the order of acquittal recorded by Court below. Reference in this regard be made to the judgment of Supreme Court in **Chandrappa and Ors. vs. State of Karnataka, 2007 (4) SCC 415 : AIR 2007 SCC (SUPP) 111.**

17. While dealing with an appeal against acquittal the Supreme Court in **Babu Sahebagoada Rudragoudar Vs. State of Karnataka, 2024 SCC OnLine SC 561**, has observed as under:-

"39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-

- (a) That the judgment of acquittal suffers from patent perversity;
- (b) That the same is based on a misreading/omission to consider material evidence on record;
- (c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.

40. The appellate Court, in order to interfere with the judgment of acquittal would have to record pertinent findings on the above factors if it is inclined to reverse the judgment of acquittal rendered by the trial Court."

18. It has also been observed in above-mentioned judgment that an appellate court, however, must bear in mind that in case of acquittal,

there is double presumption in favour of an 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. It has also been observed that the appellate court can interfere with an order of acquittal only when it comes to a finding that the only conclusion which can be recorded on the basis of evidence on record is that the guilt of accused stands proved beyond reasonable doubt and no other conclusion is possible.

19. In **Gamini Bala Koteswara Rao vs. State of Andhra Pradesh, (2009) 10 SCC 636**, it has been observed by the Supreme Court that interference in an appeal against acquittal should be rare and in exceptional circumstance. It was further held that it is open to the High Court to reappraise the evidence and conclusions arrived at by the trial court. However, it is limited to those cases where the judgment of the trial court is perverse. Apex Court further went on to declare that the word "perverse", as understood in law, means, "against the weight of evidence". If there are two views parallel and the trial court has taken one of the views merely because another view is plausible, the appellate court will not be justified in interfering with the verdict of acquittal.

20. Perusal of impugned judgment in the light of above-noted well settled legal position reveals that present case relates to dowry death of deceased Asmita @ Neha. It is an admitted fact to the parties that marriage of Asmita was solemnized with accused- opposite party 2, Arun Singh on 23.04.2019 and she died on 19.04.2020 i.e. within one year of her marriage. It is also an admitted fact that the death of deceased was unnatural as the deceased died on account of hanging.

21. While dealing with an appeal against conviction for dowry death, the Supreme Court in **Karan Singh vs. State of Haryana, 2025 SCC OnLine**

214, has crystallized the essential ingredients of Section 304-B IPC as under:-

“6. The following are the essential ingredients of Section 304-B:

- 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.

22. While setting aside a judgment of conviction, it has also been observed in above mentioned judgment that presumption under Section 113-B of Indian Evidence Act, will apply only when it is established that soon before her death, the woman was subjected to cruelty or harassment for, or in connection with, any demand for dowry by the accused. Therefore, even for attracting Section 113-B, the prosecution must establish that the deceased was subjected to cruelty or harassment for or in connection with any demand of dowry soon before her death by the accused. Unless the said burden is satisfactorily discharged, the presumption under Section 113-B of the Evidence Act shall not arise.

23. Thus, to bring home a charge under section 304-B IPC, prosecution is required to prove that the deceased was subjected to cruelty or harassment by her husband/ her in-laws in connection with demand of dowry and such demand of dowry was made soon before death. The prosecution must prove demand of dowry and cruelty or harassment of a lady by her in-laws including her husband in connection with any demand for any property or valuable security as demand for dowry or in connection thereof which are the common constituents of both the offences under Sections 498-A and 304-B IPC respectively.

24. Upon evaluation of impugned judgment in the backdrop of aforementioned principles we find that Court below has recorded the following reasons/ findings:-

I. The marriage of the deceased Asmita Singh @ Neha Singh was solemnized with accused-opposite party-2 Arun Singh on 23.04.2019.

II. The informant PW-1 (brother of deceased Asmita Singh @ Neha Singh) moved a written report/ Tehrir (Ext.Ka-1) alleging therein that after solemnization of marriage of his sister with accused-opposite party-2, accused opposite party-2 and his family members started harassing his sister and were demanding money in one form or other.

III. Informant got information of harassment of his sister in the night of 19.04.2020 from deceased herself and also received information of her death at around 12:00 Noon on 20.04.2020 from her husband, but no effort was made by him to promptly lodge FIR. However, the delay in lodging FIR is not such which can raise suspicion over prosecution story.

IV. As per FSL report (Ext. Ka-3) only one ante mortem injury in the shape of an incomplete ligature mark was found on the body of deceased and hyoid bone was found intact. Cause of death of deceased was asphyxia due to ante mortem injury. As per inquest report (Ext. Ka-2), the deceased was found hanging from the hook of a fan in a locked room. The deceased has committed suicide herself.

V. PW-1 in his cross examination has conceded that there was no dispute whatsoever at the time of marriage.

VI. PW-1 in his examination in chief has stated that her sister called him in the night of 19.04.2020 at around 12:00 Noon. However, in his cross examination he stated that his other sister received aforesaid call and the deceased had not called him. PW-1 also admitted that mobile number of deceased and his elder sister (Didi) are registered in his name.

VII. PW-1 is a practicing advocate who in his cross examination stated that inquest proceedings started at 11:00 AM on 20.04.2020. However, inquest was conducted on 21.04.2020. PW-1 stated that when he arrived in the house of in-laws of his sister on 19.04.2020, her dead body was lying outside whereas as a witness of inquest report (Ext. Ka-2), it has been written that dead body was found hanging in a locked room. PW-1 further stated that dead body of his sister was sent for post mortem examination on 20.04.2020 whereas the same was sent on 21.04.2020. He also deposed that there were visible marks of injury on the body of his sister. However, there was no mark

of injury except ligature mark on the body of deceased. Therefore, his testimony was not found trustworthy.

VIII. PW-2 is also a signatory of inquest report (Ext. Ka-2), as a witness, who has deposed that he immediately arrived on spot at 11 AM/12 AM, after receiving information of death of his niece and when he arrived, police had already reached there. Therefore, his statement that they informed police on emergency no. 100 from spot is found false.

IX. PW-2 made contradictory statements in his cross examination. He made contradictory statement regarding calling police on emergency no. 100. In examination in chief he stated that he called police via 100 number from spot, whereas in his cross examination he stated that when he arrived on spot, police had already reached there. He has stated that Ajit Singh demanded money for purchase of land not from him but from Shashi (informant). Arun Singh and Asmita Singh visited informant's house on the eve of Raksha Bandhan whereas it is on record that Arun Singh was out of India from 27.05.2019 to 10.02.2020. His niece talked to informant Shashi on 20.04.2020, however there was no other evidence supporting it. This witness is not a trustworthy witness as his evidence is full of contradictions.

X. From original boarding passes and passport of Arun Singh, it is established on record that he traveled to Muskat from Lucknow on 27.6.2019 and then from Muskat to Qatar on 28.6.2019. He returned from Qatar to Delhi on 8.2.2020 and then from Delhi to Lucknow on 9.2.2020. Thus he was not in India from 27.6.2019 to 9.2.2020 as there is no entry in his passport of his return to India in between. He was working in Merchant Navy and just after about two months of his marriage, he went upon his journey and returned to his home district Gorakhpur only on 10.2.2020. This fact is admitted to both parties and it makes the deposition of PW-2 that he saw Arun Singh and Asmita Singh on the eve of Raksha Bandhan patently false.

XI. PW-3 Harendra Singh in his cross examination has stated that he came to his residence after 5 months of the death of his daughter. He was informed by his wife, daughter and brother regarding incident. From his deposition it is clear that there was no issue at the time of marriage and everything went smoothly with mutual consent. He mostly resided in Andhra Pradesh.

XII. AT the time of death, deceased was stated to be three months pregnant as per post mortem report (Ext. Ka-3) whereas she remained in the company of

her husband from 10.2.2020 to 20.04.2020 for a total period of 2 months and 10 days. Therefore, argument of defence that the fact she became pregnant by another man which caused her to commit suicide can not be out-rightly rejected.

XIII. Prosecution could not prove that accused had been subjecting the deceased to cruelty in connection with demand of dowry soon before her death as there are material contradictions in the statements of prosecution witnesses.

XIV. Prosecution has not been able to prove a single instance of cruelty by accused and there is no concrete and credible evidence on record to prove any act of cruelty by accused with the deceased before her death. Therefore, prosecution has failed to prove demand of dowry and cruelty with the deceased soon before her death. Therefore, Section 113-B of Indian Evidence Act can not be invoked.

XV. Court has already arrived at the conclusion that deceased committed suicide and there is no other ante mortem injury except ligature mark, therefore, accused cannot be convicted under Section 302 IPC.

XVI. There is no evidence on record to conclude that accused played any active role in instigating the deceased to commit suicide.

25. After recording above findings, Court below deduced that the prosecution has failed to prove the charges framed against accused – opposite parties 2 and 3 and thus acquitted them by means of the impugned judgment.

26. The above conclusion derived by Court below on the basis of reasons i.e. the prosecution has failed to establish the guilt of accused beyond reasonable doubt also cannot be said to be illegal or perverse. The findings/reasons returned by Court below are based upon due evaluation of allegations made in the complaint in the light of evidence on record. Court below has assigned specific reasons for coming to the conclusion that no offence under any of the charging Sections is made out against accused. However, out of abundant caution and further to find out whether as per the depositions of PW-1, PW-2 and PW-3, the necessary

ingredients of the charging sections are borne out/ satisfied or not, we have ourselves carefully perused and analyzed the depositions of informant Shashi Pratap PW-1, Shailendra PW-2 and Harendra PW-3 as transcribed in the impugned judgment.

BASIC PROSECUTION STORY

27. The basic prosecution story as unfolded in written report/ Tehrir (Ext. Ka-1) is that marriage of deceased was solemnized with accused – opposite party Arun Singh in April 2019. The informant spent an amount of Rs. 10 lakhs in the said marriage, out of which, he gave Rs. 2,51,000/- in cash and a Bullet motorcycle. The deceased's husband and his family members used to demand money in one or another form. The in-laws of deceased quarreled with the deceased in the night of 19.4.2020, regarding which deceased informed him. On 20.4.2020 they received information that his sister is no more. She was assaulted, tortured and then murdered by her husband, her mother-in-law and her brother-in-law. Therefore, as per written report Ext. Ka-1, deceased was murdered after torturing and assaulting her. However, during course of investigation, complicity of named accused Ajit Singh was not established and therefore he was exculpated and charge-sheet was filed only against accused- opposite parties 2 and 3.

28. Informant Shashi Pratap PW-1 has for the first time in his deposition has stated that accused- opposite parties 2 and 3 alongwith Ajit Singh were demanding Rs. 2,50,000/- cash in additional dowry and they used to harass and assault his sister for this demand. He further deposed that his sister visited her parental home on the eve of Raksha Bandhan and informed regarding this. Thereafter he went to in-laws of his sister and tried to convince them but they were adamant. His sister informed him in the night of 19.04.2020 at around 12:00 AM telephonically that her in-laws have quarreled and assaulted her for aforesaid additional demand of dowry and have threatened to kill her if demand of Rs. 2,50,000/- is not fulfilled. At around 12:00 Noon on 20.4.2020 husband of his sister namely Arun Singh informed him that his sister Asmita @ Neha has

died. Her in-laws were in hurry to perform last rites of her dead body on which he informed police on emergency no. 100 and also informed his uncle who was residing in Gorakhpur.

29. PW-1 in his cross examination has fairly conceded that there was no dispute whatsoever at the time of marriage and they bid adieu of his sister very happily. He also stated that his sister visited him at the time of Raksha Bandhan as well as in the month of March, 2020. **He further deposed that deceased talked to her elder sister in the night of 19.4.2020. He further stated that his elder sister (Didi) received call from mobile no. 9559857878 on her mobile number 9198896397. He further conceded that SIM of both mobile numbers were issued in his name, however he had given these SIMs to his sisters. He further stated that he saw finger prints upon neck of his sister from his eyes.** He also fairly conceded that inquest proceedings were conducted in his presence. Inquest proceedings started at around 11:00 am on 20.4.2020 which continued for about 2-3 hours. His statement alongwith other Panch witnesses were recorded on the spot. In the opinion of witnesses of inquest report, it has been clearly stated that deceased was found hanging at around 12:30 PM on 20.4.2020 in a closed room. The dead body of his sister was sent for post mortem examination in the evening of 20.4.2020. However, inquest proceedings were conducted on 21.4.2020 and dead body was also sent for post mortem examination on 21.4.2020. There is also no mark of injury except ligature mark on the body of deceased. Therefore, deposition of this witness does not inspire any confidence. Thus, PW-1 has leveled general allegations regarding demand of additional dowry and commission of cruelty on account of non-fulfillment of additional demand of dowry. He has not narrated any specific instance regarding commission of cruelty upon deceased with date, time and place of causing cruelty or harassment of his sister at the hands of accused – opposite parties 2 and 3 soon before death of deceased i.e. his sister Asmita @ Neha. He has also not proved any particular act of cruelty or harassment by the accused- opposite parties 2 and 3 due to non

fulfillment of additional demand of dowry and that too soon before death of his sister.

30. We have carefully perused the deposition of PW-1. Except general, vague and omnibus allegations regarding demand of Rs. 2,50,000/- cash as additional dowry there are no other allegations regarding any other demand being ever raised by accused- opposite parties 2 and 3. As this witness has fairly conceded that it was his elder sister (Didi) who received mobile call of deceased in night of 19.4.2020, therefore this witness has not received any information from the deceased in the night of 19.4.2020 and prosecution has not examined elder sister of this witness to support alleged prosecution version regarding deceased informing them telephonically on 19.4.2020.

31. Shailendra PW-2, is uncle of deceased, who in his deposition has stated that in-laws of her niece were not satisfied with the dowry given at the time of marriage. 5-6 months after marriage, in-laws of his niece demanded Rs. 2,50,000/- for the purpose of purchasing a piece of land. They also agreed to give aforesaid amount however because of operation of informant, all amount was spent, therefore, they could not give aforesaid amount to in-laws of his niece. His niece visited her parental home on the eve of Raksha Bandhan and informed them regarding assault upon her on account of non fulfillment of aforesaid demand of money. He got information of demise of his niece Asmita @ Neha from his nephew. Then he alongwith his close associates visited the matrimonial home of his niece where he found that the in-laws of his niece were taking the dead body of deceased to perform last rites. They were adamant upon this. He informed his nephew and also called police on emergency no. 100. Thereafter, inquest of the dead body of his niece was performed and he also signed the inquest report.

32. PW-2 in his cross examination has fairly conceded that he signed inquest report alongwith his nephew Shashi Pratap. He also fairly conceded that informant Shashi Pratap is a practicing advocate. He arrived on the spot at around 11-12 AM and before his arrival police was

already there. The police did not went inside the room in which his niece was found hanging, because of pandemic Corona-19. **He further conceded that it was Ajit Singh who demanded Rs. 2,50,000/- cash for purchasing land from informant Shashi Pratap.** He further conceded that this fact of demand of aforesaid amount was informed to him by informant Shashi Pratap as no demand was made to him by Ajit Singh. **On the eve of Raksha Bandhan his niece Asmita had visited her parental home alongwith her husband. They both came together and after having food they went together.**

33. A perusal of deposition of this witness also reveals that only general allegations regarding demand of additional dowry have been leveled by this witness without there being any specific instance with any date, time and place of causing cruelty or harassment of his niece at the hands of accused – opposite parties 2 and 3. There is nothing in his deposition to suggest that his niece suffered cruelty or harassment at the hands of accused soon before her death that too on account of non fulfillment of additional demand of dowry on account of a particular act of accused. It has come on record that accused- opposite party-2 was out of India from 27.06.2019 to 09.02.2020, therefore, there is no question of his visiting parental home of deceased on the eve of Raksha Bandhan. Court below has thus rightly disbelieved the deposition of PW-2.

34. Harendra PW-3 is father of deceased Asmita Singh @ Neha, who was not residing at his house in village Bajaha at the time of incident but in Andhra Pradesh. He visited his home after several months of the incident. This witness has fairly conceded in his examination in chief that his daughter used to tell regarding additional demand of dowry to his brother and mother whenever she used to visit her parental home. Meaning thereby that the deceased had never disclosed to this witness regarding demand of additional dowry. This witness has stated that marriage of his daughter was solemnized according to Hindu rites and customs without there being any dispute prior to marriage or at the time of marriage or even after solemnization of marriage. He stated that his

daughter was harassed for demand of Rs. 2,50,000/- as additional dowry. He further stated that his daughter visited his house on the eve of Raksha Bandhan in the month of August and informed about harassment caused to her on account of non fulfillment of additional demand of dowry. He also stated that one day prior to incident i.e. 19.04.2020 his daughter informed him telephonically regarding her harassment and assault. He asked his son to call back his sister however she was murdered in the intervening night of 19-20.4.2020 by her in-laws. At the time of incident he and his wife were residing in West Godawari, Andhra Pradesh. After getting information of death of his daughter he came to his native place only in the month of August. He further stated that he came to his native place on the eve of Raksha Bandhan and after spending 10-12 days at his home he went back to Andhra Pradesh. His wife stayed with him in Andhra Pradesh from November, 2019 to June 2020. He came to his residence only after one year. Meaning thereby that this witness remained in Andhra Pradesh for the year 2019 to August 2020. He met his daughter only on the occasion of Raksha Bandhan falling in the month of August 2019. He stated that marriage was solemnized in a very happy atmosphere and even wedding procession departed very happily. This witness also stated that when his daughter died, then he came to know that she was having pregnancy of 03 months. This witness remained mostly in Andhra Pradesh not only at the time of death of his daughter, but even prior to the death of his daughter. Moreover there is no call details record available on record indicative of fact that his daughter called this witness on 19.4.2020 at around 11:00 am. His son PW-1 has not stated anything regarding this witness calling him on 19.04.2020 to call back the deceased. Therefore, this part of his testimony lacks of corroboration. This witness has also miserably failed to state any particular act of cruelty or harassment of his daughter on account of non fulfillment of additional demand of dowry at the hands of accused soon before her death.

35. Prosecution has examined PW-1, PW-2 and PW-3 as witnesses of fact regarding harassment of deceased at the hands of accused for non

fulfillment of alleged additional demand of dowry to the tune of Rs. 2,50,000/- cash. However, it has consistently come on record that aforesaid amount of Rs. 2,50,000/- was demanded by co-accused Ajit Singh, who was not chargesheeted by the police and there is nothing on record to show that any application under Section 319 Cr.P.C. was ever moved by informant or prosecution to summon aforesaid accused Ajit Singh.

36. We have carefully perused the depositions of these 03 prosecution witnesses. One glaring fact has clearly emerged on record and has also been admitted by the father of deceased that the deceased was in family way (for the last three months) at the time of death. It has also come on record that deceased's husband was out of India from 27.6.2019 to 9.2.2020 and he arrived at Gorakhpur only on 10.2.2020. Meaning thereby that husband of deceased started cohabitation only on 10.2.2020. However, inspite of above the deceased was having pregnancy of 3 months and her date of conceiving precedes the date of return of her husband. In this background Court below has rightly held in paragraph 139 that defense stand cannot be brushed aside that the deceased came in family way from someone else other than her husband. Aforesaid aspect as rightly pointed out by Court below, cannot be lost sight. Infact this is prima facie the case of suicidal death of deceased.

37. Dr. Sunil Kumar PW-4 the autopsy surgeon in his deposition has proved the post mortem report of deceased as Ext. Ka-3. This witness found only one ante- mortem injury on the body of deceased that too in the shape of an incomplete ligature mark. In the opinion of autopsy surgeon, the cause of death of deceased was asphyxia as a result of ante mortem injury. We have carefully perused the deposition of this witness as well as the description occurring in the post mortem as transcribed in paragraph 24 and 27 of the impugned judgment. We have also perused the analysis of Court below as recorded in paragraph 73 to 87 of the impugned judgment. However, upon evaluation of the same we find that the deceased committed suicide by hanging and therefore, the cause of

death of deceased is asphyxia as a result of hanging. Court below has therefore rightly concluded that the death of deceased is due to hanging.

38. We have carefully perused the depositions of PW-1, PW-2 and PW-3 as transcribed in the impugned judgment. However, there is nothing on record to establish that there was any demand of additional dowry by the accused prior to marriage or even at the time of marriage. None of the above-mentioned witnesses have specified any date, time and place of last alleged harassment and even no specific instance of harassment or cruelty to the deceased on account of non-fulfillment of additional demand of dowry has been narrated by these witnesses in their respective oral depositions. There is no evidence to indicate that the deceased was subjected to cruelty or harassment at the hands of accused soon before her death that too on account of non fulfillment of additional demand of dowry. Except for a general and vague allegation regarding demand of Rs. 2,50,000/- cash as additional dowry, no specific instance attributable to accused – opposite parties 2 and 3 regarding any mental and / or physical harassment of the deceased on a particular date, time and place on account of non-fulfillment of additional demand of dowry has emerged in the depositions of PW-1, PW-2 and PW-3. Thus, in our considered opinion, the prosecution has failed to prove beyond doubt – much less a reasonable doubt that cruelty or harassment upon the deceased was committed in connection with any demand for dowry as contemplated in the two provisions of India Penal Code (i.e. 498-A & 304-B IPC) under which, the accused- opposite parties have been charged. Although, it is true that the deceased died on 20.4.2020, which is about 11 months from the date of her marriage therefore within 07 years of her marriage and that the death of deceased occurred due to hanging. Therefore, the factum of unnatural death of deceased in her matrimonial home, that too, within 07 years of her marriage, is proved by the prosecution, but the same is ipso-facto not sufficient to bring home the charge under Section 304-B and 498-A IPC of the Code against an accused. The prosecution has miserably failed to prove that deceased was harassed/ subjected to cruelty on account of non

fulfillment of demand of additional dowry. The death of deceased is suicidal and not homicidal. As the prosecution has failed to prove the crucial ingredients of physical and mental cruelty committed upon deceased by direct and cogent evidence, therefore, the statutory presumption available under Section 113-B of Indian Evidence Act gets clearly rebutted. As the death of deceased is prima facie not a dowry death, therefore, Court below has rightly recorded a finding that prosecution has failed to prove beyond doubt i.e. beyond reasonable doubt the charges leveled against opposite parties 2 to 3 under Sections 498-A, 304-B IPC and Section 3/4 of Dowry Prohibition Act.

39. As a logical consequence of above analysis we are, therefore, of the opinion that the findings returned by the Court below regarding failure of prosecution to prove that accused demanded additional dowry from the deceased and that cruelty was committed upon her on account of non-fulfillment of additional demand of dowry as well as failure of the prosecution to establish and prove that deceased was subjected to cruelty or torture soon before her death are based upon due appreciation of the depositions of PW-1, PW-2 and PW-3 by Court below.

40. As prosecution has miserably failed to prove the charges regarding demand of additional dowry, harassment of deceased on account of demand of additional dowry and dowry death, therefore, Court below also examined the evidence available on record in respect of the alternate charge against accused under Section 302 IPC. Learned counsel for appellant argued that as unnatural death of deceased took place in the house of accused- opposite parties 2 to 3, therefore, section 106 of Evidence Act comes into picture and no explanation whatsoever has been offered by the accused persons in their statements recorded under Section 313 Cr.P.C. regarding the manner of occurrence. Accused-opposite parties 2 to 3 have failed to discharge the burden under Section 106 of Evidence Act as to how and under what circumstances, unnatural death of deceased took place in their house. It was thus urged by learned

counsel for appellant that accused opposite parties 2 to 3 be convicted for an offence under Section 302 IPC.

41. The Apex Court in **Shivaji Chintappa Patil vs. State of Maharashtra**, AIR 2021 SC 1249, has observed as under:-

“22. It could thus be seen, that it is well-settled that Section 106 of the Evidence Act does not directly operate against either a husband or wife staying under the same roof and being the last person seen with the deceased. Section 106 of the Evidence Act does not absolve the prosecution of discharging its primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or which makes out a prima facie case, that the question arises of considering facts of which the burden of proof would lie upon the accused.”

42. In the present case, we have already held that the deceased committed suicide by hanging herself. There was no other mark of injury on the body of deceased. Therefore, no sign of any struggle was found on the body of deceased. The prosecution has failed to prove the factum of homicidal death of deceased beyond reasonable doubt. The deceased was found hanging from the hook of a ceiling fan inside a locked room as per inquest report Ext. Ka-2, PW-1 and PW-2 both are not only signatories of aforesaid inquest report, but are also witnesses of inquest in whose presence inquest proceedings were conducted and even their opinion was recorded in it. The room in which deceased was found hanging was locked from inside, meaning thereby that deceased committed suicide. Thus, the prosecution has failed to discharge the primary burden of proving the prosecution case of murder of deceased by accused – opposite parties 2 to 3 beyond reasonable doubt. Therefore, in the present case, Section 106 of Evidence Act does not help the prosecution. In view of above circumstance, it cannot be presumed that accused- opposite parties 2 to 3 have committed murder of deceased either. We are therefore of the considered opinion that prosecution has failed to prove that accused opposite parties 2 to 3 have committed murder of deceased. Since the prosecution has failed to discharge it's

primary burden of proving charge of murder of deceased against accused opposite parties 2 to 3, therefore, statutory presumption available under Section 106 of the Evidence Act also does not get attracted. The analysis of evidence by the trial Court, in our view, has been in proper perspective i.e. factual and legal and thus the findings recorded by it are correct and cogent findings and therefore the same are not liable to be upset by this Court.

43. In view of the discussion made above, we do not find any perversity in the judgment so as to interfere with the findings returned by Court below. The conclusion drawn by Court below is the outcome of due appreciation of evidence on record. No misreading or omission on the part of Court below could be pointed out by the learned counsel for appellant either. However, being the last Court of fact, we have ourselves evaluated the evidence on record to find out whether there is any perversity in the impugned judgment or Court below has misconstrued any material evidence. However, we could not gather any such fact from the record so as to conclude that the conclusion drawn by Court below is against the weight of evidence on record. It thus, cannot be said that only the view consistent with the guilt of accused is possible as per the evidence on record. We, therefore, do not find any good ground to entertain the present appeal filed under Section 413 BNSS, which consequently fails and is, accordingly **dismissed**.

(Dr. Ajay Kumar-II,J.) (Rajeev Misra,J.)

September 15, 2026

Dhirendra/