

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Appeal (DB) No.300 of 1994**

(Against the Judgment of conviction dated 04.05.1994 and Order of sentence dated 05.05.1994 passed in Sessions Trial No.916 of 1993 by the court of the Additional Sessions Judge-VII, Patna).

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Anjani Kumar Sinha, son of Keshav Prasad Sinha, resident of village-Dhanhara, P.S. Karakat, District-Rohtas.

.... .... Appellant.

Versus

The State of Bihar

.... .... Respondent.

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**Appearance :**

For the Appellant : M/s. Pramod Kumar Singh and Devi Das Srivastava,  
Advocates.

For the State : Mr. Shivesh Chandra Mishra, A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA**

**and**

**HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA**

**ORAL JUDGMENT**

**(Per: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA)**

**Date: 04-01-2018**

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This criminal appeal is directed against the Judgment of conviction dated 04.05.1994 and Order of sentence dated 05.05.1994 passed in Sessions Trial No.916 of 1993 whereunder the court of the Additional Sessions Judge-VII, Patna, convicted the sole appellant under Sections 498-A and 304-B of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act and sentenced him for life imprisonment under Section 304-B of the Indian Penal Code and rigorous imprisonment for three years under Section 498-A of the Indian Penal Code with a direction to run both the sentences



concurrently with observation that no separate sentence is required under Sections 3/4 of the Dowry Prohibition Act.

2. In brief, the prosecution case is that the informant Hari Shankar Prasad Sinha (P.W.1), the father of the deceased Lata Kumari Sinha, gave his written report dated 16.08.1993 before the Officer Incharge of Sri Krishna Puri Police Station, Patna, to the effect that he performed the marriage of his daughter Lata Kumari Sinha on 20.11.1992 with the accused Anjani Kumar Sinha, son of Sri Keshav Prasad Sinha, resident of village-Dhanhara, District-Rohtas. His son-in-law Anjani Kumar Sinha is the Math Lecturer in R.T. Women's College, Patna, and used to reside on rent in Laxmi Niwas, situated at Gokul Path in Mohalla-Sri Krishna Puri. Since before some days, the behaviour of his son-in-law Anjani Kumar Sinha with his daughter Lata Kumari Sinha was not good due to protest of taking liquor and wasting the money by his son-in-law Anjani Kumar Sinha. He also convinced his son-in-law Anjani Kumar Sinha on several occasions but there was no change in his behaviour. In that course, on 31.07.1993, his son-in-law Anjani Kumar Sinha misbehaved with his daughter Lata Kumari Sinha through various modes in which his daughter Lata Kumari Sinha sustained injury and she was rushed for Raj Chikitsa Hospital and died on 16.08.1993 in course of treatment. Regarding the said incident, he was informed by the mohalla people



on telephone. The informant further alleged that he has believed that his son-in-law Anjani Kumar Sinha tortured his daughter Lata Kumari Sinha through various modes and in that course, burn injury was caused to her due to which she died.

3. After receiving the aforesaid written report (Ext.2) of the informant Hari Shankar Prasad Sinha (P.W.1) at Sri Krishna Puri Police Station, S.K. Puri P.S. Case No.97 of 1993 was instituted on 17.08.1993 under Sections 498-A, 307 and 302 of the Indian Penal Code against the appellant Anajni Kumar Sinha. The police submitted the chargesheet on completing the investigation. Thereafter, on taking the cognizance of the offence, the case was committed to the court of sessions where charges were framed for the offence under Sections 498-A and 304-B of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act on 08.04.1994 against the appellant.

4. To substantiate the charges, the prosecution has examined altogether 6 witnesses. Out of them, Hari Shankar Prasad Sinha (P.W.1), Manjula Sinha (P.W.2) and Shushila Devi (P.W.3) are the father, sister and mother of the deceased Lata Kumari Sinha. P.W.4 is Dr. Bishundeo Prasad, who conducted the post-mortem examination over the dead body of the deceased Lata Kumari Sinha whereas P.W.5 Bhola Choudhary is the Investigating Officer of the case, who on completing the investigation submitted the chargesheet



and P.W.6 Chetana Nand Sinha is the Sub Inspector of Police Station Sri Krishna Puri, who, in course of investigation, only prepared the inquest report of the deceased at Raj Chikitsa Hospital and proved the inquest report of the deceased as Ext.4.

On the other hand, while the defence has not examined any witness but got exhibited the paragraphs-23 and 24 of the case diary during the cross examination of P.W.5 Bhola Chaudhary, the Investigating Officer of the case.

It appears to the trend of the cross examination of the prosecution witnesses and the statement of the appellant recorded under Section 313 of the Code of Criminal Procedure that proposal was made on behalf of the informant Hari Shankar Prasad Sinha (P.W.1) and his family members to the appellant for performing the marriage of another daughter just after the death of the deceased in the hospital but the appellant refused, due to that reason, the informant Hari Shankar Prasad Sinha lodged the case after 15 days of sustaining the burn injury to the deceased in the hospital after her death.

**5.** P.W.1 Hari Shankar Prasad Sinha, who is the informant of the case and the father of the deceased Lata Kumari Sinha, has deposed in his evidence that he performed the marriage of his daughter Lata Sinha with the accused Anjani Kumar Sinha on 20.11.1992. Before the marriage, the list of the articles was supplied



to him by the brother of the accused. Accordingly, he gave clothes, ornaments, Rs.23000/- for motorcycle and Rs.3000/- for expenditure of marriage. After marriage, his daughter was accompanied by the accused at Mumbai and both returned at Dalmiya Nagar. Thereafter, his daughter used to reside with her husband (accused) on rent in Patna at the house of Binod Bihari Singh. Due to quarrel in between the daughter of the informant and the accused, both were removed from there and both stayed for some days in Lalita Hotel and shifted in the rented house at Gokul Path in Mohalla-Sri Krishna Puri on the rent of Rs.1400/- per month. In the evening of 31.07.1993, he received message on telephone from a person that his daughter has sustained burn injury or has been burnt. On the said information, he went at the residence of his daughter situated at Gokul Path and saw his daughter in burnt condition but she was in a position to rush for treatment boarding on the rickshaw. He advised the accused to take his daughter for treatment at P.M.C.H., but he took her to Raj Chikitsa Hospital situated at Patliputra Colony, where her treatment was started and she died there on 16.08.1993 at about 09.45 P.M. Thereafter, he lodged the case at the police station by submitting his written report and proved the written report as Ext.2. He further deposed that the accused used to take liquor in excess and he was in the habit of wasting the money. When he queried from the mohalla



people then he came to know that his daughter was put on fire by the accused due to which she sustained injury on the back. It is not true that his daughter had sustained injury due to flame of the stove. The behaviour of the accused was not good with his daughter and the accused used to demand the money for motorcycle to his daughter. On 31.07.1993, the accused had come to his house and made demand of money for Yamaha Motorcycle. He further stated in paragraph-16 of his cross examination that the rituals of marriage was performed in the temple and reception was also arranged in the temple. He alongwith his family members had gone to Sasaram boarding on the bus for performing the marriage and after marriage returned to Patna. In between the period of marriage of his daughter and the occurrence, he visited twice or thrice at the residence of the accused in Patna and his daughter and son-in-law (accused) also used to come to his house. He also met the landlord of his son-in-law (accused) and also met the neighbours. He further deposed in paragraph-20 of his cross examination that regarding taking of liquor in excess and wasting the money by the accused, he used to talk in his family members but he did not make any complaint. He further stated in paragraph-22 of his cross examination that besides the deceased Lata, he has five daughters but he only performed the marriage of his two daughters including the deceased Lata and his four daughters are of



marriageable age. He denied the suggestion of the defence to the effect that there was love marriage of his daughter (deceased) and the accused. He also stated in paragraph-28 of his cross examination that before 16.08.1993, neither his family members made any written complaint nor gave information about the occurrence to the police and in between 31.07.1993 to 16.08.1993, he used to visit at his office. He has not detailed in his written report about the demand of Yamaha Motorcycle by the accused because he was not mentally fit at that time. He also stated in paragraph-32 of his cross examination that it is not mentioned in his written report (Ext.2) that he received information about putting to his daughter on fire by the accused and he has also not detailed therein about giving of Rs.23000/- for the Scooter and Rs.3000/- for expenses of the Barat, ornaments and clothes to the accused. On 31.07.1993, Sub Inspector Mishra Jee had come in the hospital from Sri Krishnapuri Police Station but his daughter had not given statement before him in his presence to the effect that she sustained burn injury in course of preparing the tea on the stove.

**6.** P.W.2 Manjula Sinha is the daughter of the informant Hari Shankar Prasad Sinha (P.W.1) and the younger sister of the deceased. She has stated that the marriage of his sister Lata Kumari Sinha was performed on 20.11.1992 with the accused Anjani Kumar



Sinha and according to demand of his elder brother, ornaments, other articles and cash Rs.23000/- for scooter were given. In spite of that the accused used to make demand of Yamaha Motorcycle and due to that reason, her sister was being assaulted, this fact was narrated by her sister Lata Kumari Sinha. On 31.07.1993, the accused had come to her house and made demand of money for Yamaha Motorcycle to her mother but when the money was not made available to him, he started quarrel with her mother and moved from the house saying that he will never make demand for motorcycle. On the same day, in the evening, one unknown person gave information on telephone that her sister has been burnt or has sustained burn injury. Thereafter, her father (P.W.1) and brother went to Gokul Path at Sri Krishna Puri where her sister was found in burnt condition sustaining burn injury on the back, below the neck and she was weeping and she was in fear. Before 2-3 days of death, her sister came in conscious position and told her to perform marriage with a respected boy engaged in job or in profession otherwise she would face the consequence like her. She has stated in her cross examination, as detailed in paragraph-16, that her statement and the statement of her mother were recorded by the police on the same day in which they had stated that the accused had made demand of cash for Yamaha Motorcycle and when the money was not given to him, he moved from the house saying that he will never make



demand but P.W.5 Bhola Chaudhary, who is the Investigating Officer of the case, has stated in his cross examination at paragraph-23 that this witness and her mother Shushila Devi (P.W.3) had given statement before him on the same day but they had not stated about coming of the accused on 31.07.1993 at their house and demanding the cash for Yamaha Motorcycle and also returning of the accused saying that he will never make demand. She has further stated in paragraph-19 of her cross examination that in between the date of the occurrence and the death of her sister, the police had come on 31.07.1993 but she was not present there and she had not stated about the misbehaviour of the accused with the deceased to the police nor her family members had made any complaint to the police.

7. P.W.3 Shushila Devi is the wife of the informant Hari Shankar Prasad Sinha and the mother of the deceased Lata Kumari Sinha. She deposed in her evidence that the marriage of her daughter was performed with the accused on 20.11.1992 and according to the demand of Binod Bihari Sinha, the elder brother of the accused, articles and cash Rs.23000/- for scooter and Rs.3000/- for expenses of Barat was given but, after marriage, there was no good relation of the accused with her daughter because the accused was in the habit of taking the liquor and making the demand of cash to her daughter. On 31.07.1993, her son-in-law (accused) had come to her residence and



made demand of cash for Yamaha Motorcycle saying that he is feeling difficulty in moving without the motorcycle then she replied that Rs.23000/- had already been given for the purchase of the scooter then he became annoyed and moved from there without taking the meal saying that he will never make demand for the motorcycle. On the same day, in the evening, her family members received information on telephone about putting her daughter on fire or sustaining burn injury by her. Thereafter, her husband (P.W.1) and her two sons went to the residence of her deceased daughter situated at Sri Krishna Puri. Later on, she alongwith her daughter Manjula Sinha (P.W.2) also proceeded for there then, in the way, she came to know that her daughter has been rushed at the hospital, then she went to Raj Chikitsa Hospital and found her daughter sustaining burn injury at her back, stomach and both hands and she was screaming and she became unconscious. She further stated that she also met her daughter before 2-3 days of her death, at that time, she told that her husband poured kerosene oil and put her on fire lightening the match stick in which she sustained burn injury but asked her not to disclose this fact to anyone. But P.W.5 Bhola Choudhary, who is the Investigating Officer of the case, in paragraph-26 of his cross examination has stated that the said fact was not disclosed before him by this witness in her statement. This witness has further stated that



after the death of her daughter, she disclosed this fact to her husband when she came in normal position. She further stated in her cross examination at paragraph-10 that she used to talk with her husband (P.W.1) about making demand of cash for Yamaha Motorcycle by her son-in-law (accused) and due to non fulfillment of the same, the occurrence took place. She also stated that the restatement of her husband was recorded by the Investigating Officer in her presence. She denied the suggestion of the defence to the effect that Sri K.N. Mishra, Sub Inspector of Buddha Colony Police Station, had come in the hospital and recorded the statement of her daughter Lata Kumari Sinha in which she had stated about sustaining burn injury due to flame of the stove in course of preparing the tea as appears from paragraph-15. She further stated in paragraph-16 that on 31.07.1993 on receiving information about the occurrence, the police had come at Raj Chikitsa Hospital but, at that time, she was not present there while her husband and sons were present but at the time of recording the statement of her daughter, her husband and sons were outside the hospital and she came to know that the police had recorded the statement of her daughter in the hospital. She has further stated in paragraph-17 of her cross examination that the expenses of the treatment of her daughter Lata was incurred by her family and the accused.



8. P.W.4 is Dr. Bishnu Deo Prasad, who conducted the post-mortem examination over the dead body of the deceased Lata Sinha found the ante-mortem burn injury on her person involving the lower two-third of abdomen, lower two-third of her back and both limbs. According to him, the cause of her death was shock due to burn injury. He proved the Post-Mortem Report as Ext.3. In cross examination, he stated that the burn injury was in the process of healing.

9. P.W.5 Bhola Chaudhary is the Investigating Officer of the case. He has stated that on 16.08.1993, he was posted at Sub Inspector at the Police Station-Sri Krishna Puri. On the same day, at about 10.35 P.M., he received information that Lata Sinha has died. Thereafter, he proceeded and reached at Raj Chikitsa Hospital at 11.05 P.M. where Sub Inspector Chetana Nand Sinha was present and he was preparing the inquest report. At that time, Hari Shankar Prasad Sinha (P.W.1) gave his written report and on that very basis, F.I.R. was lodged under Sections 307, 302 and 394-A of the Indian Penal Code. While he searched the burnt clothes of the deceased Lata Sinha but the same could not be traced out. Thereafter, he recorded the statement of the informant (P.W.1). He also stated that the inquest report was prepared in the carbon process. He proved the same as Ext.4. He further deposed that the dead body was sent for post-



mortem examination at P.M.C.H., Patna, deputing Constable No.117 Kamla Kant Jha and Constable No.3209 Krishnanand Pandey. He visited the place of the occurrence on the identification of the accused situated at Gokul Path in Mohalla-Sri Krishna Puri. He found the utensils in the kitchen well managed and stove was also seized from there in presence of the witnesses Ram Chandra Singh and Laddu Rai. The wife of the informant (P.W.1) handed over the photo copy of the list on which he put his signature and proved the same with objection as Ext.1/1. Thereafter, he prepared the formal F.I.R. and he proved the formal F.I.R. as Ext.6. He further stated that after completing the investigation, he submitted the chargesheet under Sections 498-A and 304-B of the Indian Penal Code. In his cross examination at paragraph-14, while he denied about detailing of the receiving of information before 16.08.1993 regarding the occurrence but he further stated that in paragraph-23 of the case diary there is description of the information which was given by the accused on which basis Sanha Entry No.1098 dated 31.07.1993 was made and regarding the inquiry of Sanha, K.N. Mishra, Sub Inspector of Sri Krishna Puri Police Station, was deputed. He proved the details of Paragraphs-23 and 24 of the case diary as Ext.A, saying that the same are in his pen.

**10.** While P.W.1 Hari Shankar Prasad Sinha, who is the informant and the father of the deceased, has stated in his evidence



that his daughter was burnt due to non fulfillment of the demand of Yamaha Motorcycle but it would appear from the written report (Ext.2) of the informant (P.W.1), which is the basis of the F.I.R., that he has not stated about making demand of Yamaha Motorcycle by the accused on the date of the alleged occurrence reaching at his house while the written report (Ext.2) was given after 15 days of the occurrence on 16.08.1993. From the evidence of P.W.1, it is also clear that the marriage of the deceased with the accused was performed in the temple at Dalmiya Nagar. P.W.2 Manjula Sinha and P.W.3 Shuhila Devi, who are daughter and the wife of the informant (P.W.1), while have stated about coming of the accused at their residence on 31.07.1993 and making demand of cash for Yamaha Motorcycle and returning of the accused from there saying that he will not make demand in future on non payment of the money but the Investigating Officer has specifically stated in his cross examination at paragraphs-23 and 27 that both had not stated the said fact in their statement in course of investigation. While P.W.3 has stated that her daughter informed her before 2-3 days of her death about putting her on fire but P.W.5 in paragraph-26 has stated that the said fact was not stated by the P.W.3 in her statement as given in course of investigation. From the evidence of P.Ws.1, 2 and 3, it is apparent that they received information about sustaining burn injury by the



deceased Lata Kumari Sinha and reached at Raj Chikitsa Hospital on the same day where the deceased was rushed for treatment by her husband (accused) and they used to visit there till her death in the night of 16.08.1993 but no any complaint was made about making demand of cash for purchasing the Yamaha Motorcycle and it is also not detailed in the written report (Ext.2) of the informant (P.W.1) dated 16.08.1993, which is the basis of the F.I.R. P.W.3, the mother of the deceased, also stated about recording the statement of her deceased daughter Lata Kumari Sinha at Raj Chikitsa Hospital by the police saying that at that time, she was not present. P.W.5, who is the I.O. of the case, in paragraph-14 of his evidence has stated that there is description in paragraph-23 of the case diary about receiving the information regarding the occurrence by the accused on 31.07.1993 on which basis Sanaha Entry No.1098 dated 31.07.1993 was made at 09.50 P.M. in the night. K.N. Mishra, Sub Inspector of Sri Krishna Puri Police Station, was deputed for inquiry about Sanaha Entry, who recorded the statement of the deceased. Paragraphs-23 and 24 of the case diary have been proved by P.W.5 as Ext.A. Ext.A shows that in paragraph-24, the statement of the deceased Lata Kumari Sinha, as given by her before the Sub Inspector K.N. Mishra, is detailed in which the deceased stated about sustaining burn injury in course of preparing tea due to catching of flame of the stove.



**11.** On the basis of the evidence of the witnesses, as discussed above, it is apparent that while the deceased sustained burn injury on 31.07.1993 in the evening and she was rushed by the accused-appellant in presence of the informant (P.W.1) at Raj Chikitsa Hospital, Patna, and died on 16.08.1993, but neither the informant (P.W.1) gave any information about putting the deceased on fire by his son-in-law Anjani Kumari Sinha (appellant). While P.W.1 gave written report on 16.08.1993 in the late night after the death of his daughter deceased Lata Sinha but he did not disclose about demanding the money by the appellant for Yamaha Motorcycle in his written report (Ext.2). Paragraphs-23 and 24 of the case diary, which is marked as Ext.A., in course of cross examination of P.W.5, shows that on the basis of the information given by the appellant, Sanaha Entry was made and in verification, Sub Inspector K.N. Mishra of Sri Krishna Puri Police Station recorded the statement of the deceased in injured condition in the hospital in which she stated about sustaining burn injury in course of preparing tea due to catching of flame of the stove. It has also come in the evidence of P.W.3, who is the mother of the deceased, that the expenses of treatment of the deceased was incurred by her family and also by the appellant. As such, the circumstances go to show that the prosecution has not been able to prove its case against the appellant beyond all reasonable



doubts and, as such, the appellant is entitled to get the benefit of doubt.

**12.** In the result, this criminal appeal is allowed. The Judgment of conviction dated 04.05.1994 and Order of sentence dated 05.05.1994 passed in Sessions Trial No.916 of 1993 by the court of the Additional Sessions Judge-VII, Patna, passed against the appellant is set aside and he is acquitted of the charges. The appellant is on bail, therefore, he is discharged from the liabilities of his bail bonds.

**(Hemant Kumar Srivastava, J)**

**(Rajendra Kumar Mishra, J)**

**P.S./-**

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