

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.487 OF 2014

1. Sirajpasha Chandpasha Buwaji,	]	
Age - 32 years, Occ. : Service,	]	
 2. Fatima Chandpasha Buwaji,	]	
Age - 60 years, Occu. : Housewife,	]	
Both R/o. House No.11, Mumtaz Nagar,	]	
Kumtha Naka, Solapur.	]	... Appellants
	]	Orig.Accd.Nos.1 & 2
Versus		
 The State of Maharashtra.	]	... Respondent

Mr. Niteen Pradhan i/b Shubhada D. Khot for Appellants.
Mrs. M. M. Deshmukh, APP for State.

CORAM :- B. R. GAVAI &
SARANG V. KOTWAL, JJ.
DATE :- 13 AUGUST, 2018

JUDGMENT (PER SARANG V. KOTWAL, J.) :-

1. This is an Appeal preferred by the original accused nos.1 and 2 in Sessions Case No.256 of 2009 on the file of the learned Additional Sessions Judge-2, Solapur, challenging the Judgment and Order dated 21/05/2014. By the impugned Judgment and Order, the

Appellants were convicted for commission of offence punishable under Section 498A read with Section 34 of the IPC and were sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.500/- each and in default of payment of fine, to undergo further rigorous imprisonment for one month each. Both the Appellants were further convicted for commission of offence punishable under Section 304-B read with 34 of the IPC and were sentenced to suffer imprisonment for life and to pay a fine of Rs.500/- each and in default of payment of fine, to undergo further rigorous imprisonment for one month each. Both the substantive sentences were directed to run concurrently and the Appellants were given benefit of set off under Section 428 of the Cr.P.C.

2. In addition to the charge for commission of the offences punishable under Sections 498-A and 304-B read with 34 of the IPC, an additional charge was framed under Section 302 of the IPC against both the Appellants on 15/03/2012. Both the Appellants were acquitted of the said charge at the conclusion of the trial.

3. The prosecution case, in brief, is as follows :

The Appellant No.1 got married to one Raesa Begum in November 2008 at Solapur. It is alleged that Raesa was treated properly for about two months after the marriage but after that, both the Appellants started harassing and ill-treating Raesa for demand of Rs.2 Lakhs which they required to purchase a new house. It is alleged that Raesa was mentally and physically harassed for non-fulfillment of the said demand. Raesa became pregnant but she was not sent to her parental house. On 01/07/2009, Raesa's father requested the Appellants to send her with him to his house. It is alleged that the Appellants sent Raesa with him with a condition that she should be sent back only on payment of Rs.2 Lakhs. According to the prosecution case, on 02/07/2009, Raesa hanged herself in her father's house. She was taken to the hospital where during treatment, she breathed her last. A suicide note was found in her purse. Raesa's father lodged his FIR vide C.R.No.69 of 2009 at MIDC Police Station, Solapur, on 03/07/2009 at 120.00 p.m. under Sections 498A read with 304-B read with 34 of the IPC against both the Appellants. The investigation was conducted. Natural handwriting of the deceased was collected. The suicide note and the natural handwriting were

sent for handwriting expert's opinion. Various panchanamas, including the spot panchanama, etc. were conducted. Statements of various witnesses were recorded. The handwriting expert's opinion showed that the suicide note was in Raesa's own handwriting. After conclusion of the investigation, charge-sheet was filed. As the case was exclusively triable by the Court of Sessions, it was committed to the Court of Sessions for trial.

4. During trial, the prosecution examined 15 witnesses. The case of the Appellants was of total denial. After recording the evidence and hearing both the sides, the learned Judge passed his Judgment and Order convicting and sentencing the Appellants.

5. We have heard Mr. Niteen Pradhan, learned Counsel for the Appellants and Mrs. M. M. Deshmukh, learned APP for the State of Maharashtra. With their assistance, we have read the evidence and perused the impugned Judgment.

6. Mr. Pradhan submitted that though the Appellants, in their statements recorded under Section 313 of the Cr.P.C., have

denied that the suicide note was in the handwriting of the deceased, there was not much dispute that the suicide note was in the handwriting of the deceased. Mr. Pradhan submitted that if the suicide note is read as it is, it only makes out a case against the Appellant No.2 to some extent and the deceased had not blamed the Appellant No.1 for the extreme step she had taken. Mr. Pradhan further submitted that the evidence shows that even the Appellant No.1 was shocked because of the suicide of the deceased and he had to be treated for 10 days in the hospital. Mr. Pradhan submitted that in any case, the conviction under Section 304-B of the IPC was not proper as the demand was not relatable to 'dowry'.

7. As against the above submissions Mrs. Deshmukh submitted that the prosecution has proved its case beyond all reasonable doubts. The suicide note and the evidence of the father of the deceased sufficiently establish that the deceased was harassed for dowry and therefore, she committed suicide. She, therefore, submits that there was no scope for interference with the impugned Judgment and Order of conviction and sentence.

8. Looking at the nature of the evidence led by the prosecution, there can hardly be any dispute that the deceased had committed suicide when she was present in her father's house. PW 15 Vazir Shaikh was a peon in a primary school at Adarsh Nagar, Solapur. The first informant's house is situated adjacent to the school. PW 15 has deposed that on 02/07/2009 when he was standing near the gate of the school at about 5.00 p.m., he heard commotion from the first informant's house. PW 15 rushed there. He was informed by the first informant's wife that the doors of the house were locked. PW 15 and the first informant's wife broke open the door of the house and found that Raesa was hanging from the ceiling fan. PW 15 and Raesa's mother removed Raesa from the fan. PW 15 brought a Maruti car belonging to the Headmaster of the school. The first informant also came to his house. Thereafter, Raesa was removed to the hospital.

9. When Raesa was brought to Markandeya Hospital, Solapur, PW 7 Dr. Suhas Pujar examined her and he found her to be in extremely serious condition. Raesa did not respond to the measures taken and ultimately died at 6.40 p.m. The post-mortem

was conducted by PW 14 Dr. Suryakant Kamble who had observed a ligature mark encircling the neck of the dimension 10" X 1.½". The cause of death was mentioned as 'death due to hanging'. There is not much dispute about this fact and therefore, it can safely be concluded that on 02/07/2009 in the evening, Raesa committed suicide in the house of her father.

10. PW 6 Hussain Birajdar was a panch for spot panchanama which was carried out between 12.30 p.m. to 1.15 p.m. on 03/07/2009. The spot panchanama shows that Raesa had committed suicide by tying a saree to the ceiling fan and hanging herself. PW 1 Moulasaheb Bagwan was a panch in whose presence the first informant had produced a suicide note. The panchanama is produced at Exh.57. The police seized the suicide note in presence of the panchas. The panchanama shows that the suicide note was found in Raesa's purse. The suicide note itself is produced on record at Exh.100.

11. PW 2 Vishnu Shinde was a panch in whose presence a notebook containing natural handwriting of deceased Raesa was

seized. The said notebook was produced by Headmistress Mrs. Potur. The deceased was serving in the same school and even PW 2 was serving in the same school. PW 4 was Ambubai Potur, the Headmistress. She has deposed that the handwriting in the said notebook was that of the deceased Raesa. The Investigating Officer sent the encircled portion marked Q1 to Q3 on the suicide note along with her natural handwriting in the said notebook marked N1 to N20 to the handwriting expert. PW 10 Deepak Pandit was working as the Assistant State Examiner of Documents. He compared the questioned handwriting Q1 to Q3 with the natural handwriting N1 to N20 and came to the conclusion that both these handwritings were of the same person. The opinion dated 23/08/2010 is produced on record at Exh.98. Through his evidence, the suicide note was marked as Exh.100. The notebook containing natural handwriting was marked as Exh.101. Mr. Pradhan did not much dispute the opinion of this witness, though both these Appellants, in their statements recorded under Section 313 of the Cr.P.C., had denied that the suicide note was in the handwriting of the deceased. Going through the evidence of the handwriting expert, the cross-examination does not bring out anything in favour of the defence to doubt his opinion. Thus, the

prosecution has proved that the suicide note was found in the purse of the deceased. The natural handwriting in her notebook was produced by her Headmistress. Both these documents were sent for obtaining handwriting expert's opinion which showed that the suicide note was written by Raesa herself. Thus, the prosecution has proved that before committing suicide, Raesa had written a suicide note found in her purse.

12. The suicide note at Exh.100 is written by Raesa in Hindi. She has written that she was an educated girl and she could live on her own by doing some job. She wrote that she was sad that the Appellant No.1 was not loving her as earlier and that she still continued to love him. She has specifically mentioned that she had no complaints against the Appellant No.1 and she was clearly blaming the Appellant No.2 for the extreme step she was about to take. She has further written that, in spite of her efforts to behave according to the Appellant No.2's wishes, it was getting difficult for her to bear the torture. Raesa has further written that the Appellant No.2 was constantly telling her that she never liked Raesa and the Appellant No.2 had even pushed and humiliated Raesa. Raesa felt sad that the

Appellant No.1 ignored that. According to Raesa, the Appellant No.2 was causing friction between the couple by telling lies. Raesa has further written that her parents had spent according to their capacity and that it was not possible for them to pay more. She has further written that in spite of the fact that Raesa was pregnant, the Appellant No.2 continued to torture her and that she was fed up with the Appellant No.2's ill-treatment. The tenor of her suicide note shows that she was squarely blaming the Appellant No.2 and had no complaints against the Appellant No.1. In this connection, Mr.Pradhan emphasized on the evidence of PW 7 Dr. Pujar. In his cross-examination, he has admitted that the Appellant No.1 was treated in the hospital from 02/07/2009 to 12/07/2009. The Appellant No.1 was under the treatment of Dr. Khatavkar who was a Psychiatrist. The medical report shows that the Appellant No.1 was in depression and therefore, he was treated. Mr. Pradhan, therefore, submitted that the evidence shows that the Appellant No.1 cared for Raesa and even Raesa had no complaints against him and therefore, the prosecution has not proved its case at least against the Appellant No.1.

13. In this background, it is necessary to refer to the evidence of the father of the deceased i.e. PW 9 Akbar Jamadar. He has deposed that Raesa got married to the Appellant No.1 on 23/11/2008. PW 9 had given 10 tolas gold and household articles worth Rs.2 Lakhs to the Appellants and borne the expenses for both the sides at the time of marriage. He has further deposed that after two months of marriage, both the Appellants started harassing Raesa for demand of Rs.2 Lakhs for purchasing a house. PW 9 told this to one Zakir Jahagirdar who was a mediator who had brought about the marriage. According to PW 9, Zakir Jahagirdar tried to convince the Appellants but they did not listen to him. PW 9 further deposed that Raesa used to tell him about the harassment by calling him on his mobile phone. PW 9 has further deposed that he had even told the Appellant No.1 that if Raesa was not treated properly, he would be compelled to call the meeting of their community. According to PW 9, the Appellant No.1 then threatened Raesa and therefore, PW 9 did not call for any meeting. PW 9 has further deposed that the Appellants used to tell Raesa that if Rs.2 Lakhs were not paid, the Appellant No.1 would get remarried to someone else. He has further deposed that Raesa was pregnant. He has further deposed that he used to provide tiffin to his

daughter through one Ganesh Anbhule. The said Ganesh Anbhule is examined by the prosecution as PW 3 to corroborate his version. PW 9 has further deposed that on 31/05/2009, the Appellant No.1 entered into an agreement with one Noorjahan in respect of her house for consideration of Rs.7 Lakhs. The Appellant No.1 paid earnest money of Rs.5,000/-. On 15/06/2009, the agreement of sale was notarized and on the said day, the Appellant No.1 paid Rs.4,10,000/- to the said Noorjahan. PW 9 has further deposed that the Appellant No.1 had applied for loan from ICICI Bank, Hotagi Road, Solapur but the bank did not sanction the loan. PW 9 had specifically deposed that the Appellants started harassing his daughter on the ground of demand of Rs.2 Lakhs to enable them to perform their part of the agreement with Noorjahan. PW 9 has further deposed that Raesa had informed him on mobile phone that the Appellant No.2 had assaulted her. PW 9 went to the house of the Appellants on 21/06/2009 and expressed his inability to pay the amount. He was told by the Appellants that unless that amount was paid, his daughter would not be treated properly. They even refused to send Raesa with PW 9 for the delivery. On 01/07/2009, PW 1 again went to the house of the Appellants. At that time, the Appellant No.2 told him that he should

take Raesa with him for four days and demanded Rs.2 Lakhs on Raesa's return. Raesa then came to her father's house. Raesa was disturbed. On the next day i.e. on 02/07/2009 at about 4.30 p.m., PW 9 was in his hosiery shop. Raesa's brother and sister were attending their jobs. At that time, Raesa committed suicide by hanging herself with a saree tied to a ceiling fan. She was removed to the hospital as mentioned earlier.

In his cross-examination, PW 9 has admitted that even the Appellants had incurred expenses on their part in the marriage. He has admitted that the Appellants had offered gold necklace of 2.¼ tolas, 2 gold rings of 3 gms each and 15 tola silver strips to Raesa. They had also given two expensive sarees to Raesa. In his cross-examination, he has admitted that in his FIR, he has not stated that the Appellants had refused to send his daughter for her first delivery on the ground of demand of Rs.2 Lakhs.

14. The evidence of PW 9, father of the deceased, has to be read in the context of the suicide note written by Raesa. Though PW 9 has clearly blamed both the Appellants and has deposed that they were harassing the deceased on the ground of demand of Rs.2 Lakhs,

the suicide note itself does not make reference to such demand. In fact, the suicide note completely exonerates the Appellant No.1. The evidence of PW 9 also shows that the Appellants had entered into an agreement with one Noorjahan on 31/05/2009. The Appellant No.1 had paid Rs.4,10,000/- and was short of amount of around 2 Lakhs. Mr. Pradhan submitted that this demand cannot be termed as dowry. Mr. Pradhan relied on the Judgment of the Hon'ble Supreme Court in the case of *Satvir Singh and Others Vs. State of Punjab and Another*¹ wherein Mr. Pradhan particularly relied on paragraphs 20 and 21 of the said Judgment which read thus :-

“20. Prosecution, in a case of offence under Section 304-B IPC cannot escape from the burden of proof that the harassment or cruelty was related to the demand for dowry and also that such cruelty or harassment was caused “soon before her death”. The word “dowry” in Section 304-B has to be understood as it is defined in Section 2 of the Dowry Prohibition Act, 1961. That definition reads thus :

2. In this Act, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly---

- (a) by one party to a marriage to the other party to the marriage; or
- (b) by the parents of either party to a marriage or by any other person, to the marriage or to any other person;

¹ (2001) 8 Supreme Court Cases 633

at or before or any time after the marriage, in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim personal law (Shariat) applies.”

“21. Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is “at any time” after the marriage. The third occasion may appear to be an unending period. But the crucial words are “in connection with the marriage of the said parties”. This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not enveloped within the ambit or “dowry”. Hence the dowry mentioned in Section 304-B should be any property or valuable security given or agreed to be given in connection with the marriage.”

15. The Hon'ble Supreme Court has dealt with the interpretation of Section 304-B of IPC in many cases. One such case is ***Appasaheb and Another Vs. State of Maharashtra***². Paragraph 11 of the said Judgment reads thus :

“11. In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or

² (2007) 9 Supreme Court Cases 721

*before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of Statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (See **Union of India v. Garware Nylons Ltd.**³ and **Chemicals and Fibres of India Ltd. v. Union of India**⁴).*

A demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained."

The said Judgment of Appasaheb (*supra*) was followed by the Hon'ble Supreme Court in the case of **Modinsab Kasimsab Kanchagar Vs. State of Karnataka and Another**⁵. Paragraphs 11 and 12 of the said

³ (1996) 10 SCC 413 : AIR 1996 SC 3509

⁴ (1997) 2 SCC 664 : AIR 1997 558

⁵ (2013) 4 Supreme Court Cases 551

Judgment read thus :

"11. Thus the demand of Rs.10,000/- was not a dowry demand but was in connection with a society loan of Rs.10,000/- of the Appellant. This Court in Appasaheb's case (supra) has referred to the provisions of Section 304-B IPC and in particular the explanation appended to sub-section (1) thereof which says that the word "dowry" under Section 304-B will have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 and has held that the word "dowry" in Section 304-B of the IPC would, therefore, mean

'any property or valuable security should given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties'. (SCC p. 726, para 11)

In this case, the amount of Rs.10,000/- demanded by the Appellant through the deceased was for repayment of a society loan of the Appellant and it had no connection with the marriage of the Appellant and the deceased. Hence, even if, there was demand of Rs.10,000/- by the Appellant, it was not a demand in connection with the dowry and the offence under Section 304-B was not attracted.
”

12. We are, however, of the view that the Appellant was liable for the offence under Section 498-A IPC. Section 498-A read with Explanation (b) thereto provides that if a husband of a woman subjects the woman to harassment with a view to coerce her or any person related to her to meet any unlawful demand for property or valuable security he shall be liable with punishment for a term which may extend to three years and shall also be liable to fine. The demand of Rs.10,000/- towards the society loan made by the Appellant, thus, may not be a demand in connection with dowry but is certainly an unlawful demand for a property or valuable security and there is clear evidence of

the prosecution to show that the deceased was subjected to harassment by the Appellant on account of her failure to meet the aforesaid demand of Rs.10,000/-.”

16. The Hon'ble Supreme Court considered the observations in the case of **Appasaheb** (*supra*) in the case of **Bachni Devi and Others Vs. State of Haryana, through Home Department**⁶. The Hon'ble Supreme Court, in that case, held that the observations made in the case of Appasaheb must be understood in the context of the case. That was a case wherein the prosecution evidence did not show any demand for dowry as defined in Section 2 of the 1961 Act. The allegations to the effect that the deceased was asked to bring money for domestic expenses and for purchasing manure, in the facts of the case, was not found sufficient to be covered by the demand for dowry. It was further held in Bachni Devi's case (*supra*) that Appasaheb's case (*supra*) cannot be read to be laying down an absolute proposition that the demand for money or some property or valuable security on account of some business or financial requirement could not be termed as demand for dowry. It was in the facts of the case that it was held so. If a demand for property or valuable security directly or indirectly has a nexus with the marriage, such demand would

⁶ (2011) 4 SCC 427

constitute demand for dowry. The cause or reason for such demand was immaterial.

17. A three Judge Bench of the Hon'ble Supreme Court, in the case of ***Rajinder Singh Vs. State of Punjab***⁷, has, in paragraph 20, held thus :

“20. Given that the statute with which we are dealing must be given a fair, pragmatic and common sense interpretation so as to fulfil the object sought to be achieved by Parliament, we feel that the judgment in Appasaheb case followed by the judgment of Vipin Jaiswal⁸ do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise.”

18. Thus, considering the law laid down by the Hon'ble Supreme Court in this behalf, it is necessary to see whether the prosecution, in the present case, has proved that there was a demand for dowry. PW 9 has deposed that Rs.2 Lakhs were demanded by the accused for completing the sale transaction for their house. However,

⁷ (2015) 6 Supreme Court Cases 477

⁸ (2013) 3 SCC 684 : (2013) 2 SCC (Cri) 15

the suicide note does not make a reference to the amount of Rs.2 Lakhs or transaction of purchase of house. PW 9 has involved both the Appellants whereas the suicide note written elaborately has clearly blamed the Appellant No.2 alone. Thus, we find that the version of PW 9 is exaggerated and therefore, his evidence cannot be relied on completely to hold that the Appellants had demanded Rs.2 Lakhs. There is some reference in the suicide note of demand of money but it is not elaborated further. Therefore, based on the suicide note, it cannot be held that the demand mentioned in the suicide note fell within the definition of 'dowry' under the Dowry Prohibition Act, 1961.

19. The evidence of PW 9 shows that there was no demand of Rs.2 Lakhs at the time of marriage. In fact, his evidence shows that the Appellants had borne some expenses of the marriage and had gifted gold and silver articles as well as expensive sarees to the deceased. The evidence of PW 5 Karim Mulla is also significant in this connection. PW 5 Karim Mulla is complainant PW 9's close friend. He has deposed that after marriage, Raesa lived happily for a few days. PW 5 has deposed that Raesa told him that the Appellant

No.1 started demanding Rs.2 Lakhs for purchasing a house and on that ground, both the Appellants subjected Raesa to mental and physical harassment. In his cross-examination, he has admitted that he did not tell the police in his statement that Raesa had told him that the Appellant No.1 had demanded Rs.2 Lakhs for purchasing a house. This shows that the demand of Rs.2 Lakhs is not proved by the prosecution through cogent evidence. Therefore, even the evidence of PW 9 in respect of demand of Rs.2 Lakhs is not supported by the suicide note. In the suicide note, there is no reference to the amount of Rs.2 Lakhs or any other amount which was required for purchasing a house. Therefore, the prosecution has not proved beyond reasonable doubt that there was a demand of Rs.2 Lakhs by any of the Appellants.

20. Thus, in the present case, the case of the prosecution brought on record through the evidence of PW 9 is not exactly corroborated by the suicide note in respect of demand of Rs.2 Lakhs. We are inclined to place reliance on the suicide note rather than on the evidence of PW 9. The prosecution has proved beyond reasonable doubt that the said suicide note Exh.100 was written by Raesa herself.

Therefore, placing reliance on the contents of the suicide note, we find that the deceased had no complaints whatsoever against the Appellant No.1. Coupled with this aspect, it is necessary to take into consideration the subsequent conduct of the Appellant No.1. After Raesa's suicide, he went in a shock and had to be admitted in the hospital. Therefore, it cannot be said that he had committed any act which had driven Raesa to commit suicide.

21. However, the case of the Appellant No.2 is different. In the suicide note at Exh.100, the deceased Raesa has squarely blamed the Appellant No.2 for compelling her to take this extreme step of committing suicide. Raesa has elaborated that the ill-treatment at the hands of the Appellant No.2 had become unbearable and she was left with no option but to commit suicide. Raesa had also made a reference to demand of money. But the suicide note shows that Raesa was ill-treated by the Appellant No.2 because she never liked Raesa from the beginning. Section 498A of the IPC reads thus :

“498A. *Husband or relative of husband of a woman subjecting her to cruelty – Whosoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be*

liable to fine.

Explanation.-- For the purpose of this section, "cruelty" means--

- (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*
- (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."*

The act of the Appellant No.2 falls within the definition of 'cruelty' under Section 498A of the IPC. As mentioned earlier, the prosecution has proved beyond reasonable doubt that Raesa had committed suicide. Therefore, the prosecution has proved that the Appellant No.2 had subjected Raesa to cruelty within the meaning of Section 498A of the IPC and has also committed an offence of abetment of suicide under Section 306 of the IPC. Therefore, the Appellant No.2 is liable to be convicted for commission of offence punishable under Sections 498A and 306 of the IPC.

22. On the point of sentence, Mr. Pradhan submitted that the Appellant No.2 is an old lady and has lost sight of her both eyes,

therefore, lenient view should be taken. Considering his submission, we are of the view that the ends of justice will be met if the Appellant No.2 is sentenced to suffer rigorous imprisonment for seven years.

23. Hence, the following order :

ORDER

- I) Criminal Appeal No.487 of 2014 is partly allowed.
- II) The conviction of Accused No.1 - Sirajpasha Chandpasha Buwaji for the offence punishable under Section 304-B and 498-A of IPC is quashed and set aside.
- III) The Accused No.1 - Sirajpasha Chandpasha Buwaji is acquitted of the charges, charged with.
- IV) The Accused No.1 - Sirajpasha Chandpasha Buwaji is on bail, his bail bonds shall stand discharged.
- V) The conviction of Accused No.2 - Fatima Chandpasha Buwaji for the offence punishable under Section 304-B of IPC is quashed and set aside.
- VI) Since the Accused No.1 - Sirajpasha Chandpasha Buwaji is acquitted of the offence punishable under Section 498-A r/w 34 of IPC, conviction of Accused No.2 - Fatima

Chandpasha Buwaji for the offence punishable under Section 498A r/w 34 of IPC is set aside and she is convicted for the offence punishable under Section 306 of IPC and sentenced to suffer rigorous imprisonment for seven years.

- VII) Needless to state that Accused No.2 - Fatima Chandpasha Buwaji is entitled for set off for the period undergone.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)