

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

PRESENT:

THE HON'BLE JUSTICE TIRTHANKAR GHOSH

CRA 65 of 2021

Suman Mondal & Ors.

-vs.-

The State of West Bengal

Mr. Saibal Mondal.
Mr. Rajen Banerjee.

...For the Appellants

Mr. Saswata Gopal Mukherjee, Ld. P.P.,
Ms. Faria Hossain,
Mr. Sandip Chakraborty.

... For the State

Reserved on : 13.12.2022.

Judgment on : 25.01.2023

Tirthankar Ghosh, J:-

The present appeal has been preferred against the judgment and order of conviction and sentence dated 12.01.2021 passed by the Learned Additional District and Sessions Judge, Fast Track Court, Rampurhat, Birbhum in connection with Sessions Trial No. 13/February/2017 arising out of Sessions Case No. 65/2016, wherein the learned trial Court was pleased to convict the appellants namely, Suman Mondal, Urmila Mondal and Biswanath Mondal

under Section 304B/498A of the Indian Penal Code. The learned Trial Court thereafter was pleased to impose sentence as follows:

- (i) Rigorous Imprisonment for 7 years for committing offence under Section 304B of Indian Penal Code.
- (ii) Rigorous Imprisonment for 2 years and fine of Rs.5,000/- in default to suffer Rigorous Imprisonment for 2 months for committing offence under Section 498A of the Indian Penal Code.

The genesis of the present case was on the basis of a letter of complaint filed by Ajay Sahu, son of Nandadulal Sahu with the Officer-in-charge, Mayureswar P.S., Birbhum on 08.06.2015 pursuant to which Mayureswar PS case no. 137/15 was registered for investigation under Section 498A/304B/306/34 of the Indian Penal Code read with Section 3/4 of the Dowry Prohibition Act.

According to the allegations in the complaint, Sumitra Mondal, the sister of the complainant, married Suman Mondal (appellant no. 1) on March 7, 2014. After just a few days of marriage, Suman Mondal, his mother Urmila Mondal/appellant number 2 and his father Biswanath Mondal/appellant number 3 collectively tortured Sumitra Mondal in order to obtain an additional sum of Rs. 2 lakhs as dowry. The complainant's sister had been tolerating silently for the sake of a better future, but in the middle of April, 2015 Sumitra Mondal returned to their house/paternal home, weeping and reported that the inmates of her matrimonial home would kill her if the additional amount of

dowry of Rs.2 lakh was not paid to them. On the fifth day of Jyostha, the second month of the Bengali calendar, the complainant's parents persuaded his sister to go to her in-laws' house, where the aforementioned individuals insulted him and his family, demanded more dowry and physically assaulted his sister. After comforting his sister, the complainant left her house and asked the in-laws for a settlement. After speaking with his parents, the complainant visited his sister's matrimonial home on June 4, 2015, where he asked the residents to consider the amount partially and explained their predicament. However, the accused individuals reprimanded his sister in a vulgar manner and told her to leave their home. After he left the scene, despite convincing his sister, the complainant saw her sister sobbing. Sumitra Mondal, the victim, was physically tortured on June 6, 2015, in the morning for an additional sum of Rs. 2 lakhs, and after the torture, she set herself on fire. The villagers admitted his sister to Rampurhat Hospital, but she passed away at noon on the same day. The complainant claims that all three of the accused are accountable for his sister's death.

Following the initiation of the case, the investigating agency was pleased to conduct their investigation and, upon completion, submitted charge-sheet before the learned Additional Chief Judicial Magistrate, Rampurhat, Birbhum. The Learned Magistrate took cognizance of the offence and was pleased to commit the case to the Learned Additional District and Sessions Judge, Rampurhat, Birbhum, after complying with the provisions of Section 207 of the Code of Criminal Procedure. The case was thereafter made over to the learned

trial Court and the learned trial Court was pleased to frame charges under Section 498A/304B/34 of the Indian Penal Code along with an alternative charge under Section 302/34 of the Indian Penal Code against the accused persons.

The prosecution in order to prove its case relied upon 15 witnesses and 3 documents. The prosecution witnesses who deposed in the Court are as follows: PW1, Ajay Sahu, complainant and brother of the deceased; PW2, Aniruddha Mondal, co-villager of the matrimonial home; PW3, Baidyanath Mondal, co-villager of the matrimonial home; PW4, Amit Kumar Mondal, co-villager of the matrimonial home; PW5, Rabindra Nath Mondal, co-villager of the matrimonial home; PW6, Santi Mondal, co-villager of the matrimonial home; PW7, Ganshekhar Mondal, co-villager of the matrimonial home; PW8, Palash Dhibar, driver of a vehicle who was asked to take the deceased to the hospital; PW9, Amit Mondal, neighbour of the appellants; PW10, Maya Sahu, mother of the deceased; PW11, Nandadulal Sahu, father of the deceased; PW12, Bhaskar Ghosal, seizure list witness and a co-villager of the paternal home of the deceased; PW13, Dayamay Pramanik, barber who participated in the marriage; PW14, Dr. Ashish Kumar Roy, post-mortem doctor and PW15, Subrata Roy, Executive Magistrate who conducted inquest and prepared the report.

Documents which were relied upon by the prosecution are Ext.1, written complaint by Ajay Sahu; Ext.2, Signature of PW12 on the seizure list dated 25.07.2015 and Ext.3, Post-mortem report.

PW1, Ajay Sahu is the complainant and brother of the deceased who deposed that his sister Sumitra Sahu was married with Suman Mondal on 07.03.2014, initially the behaviour of the in-laws towards her was good but gradually they started to pressurise his sister to bring Rs.2 lakhs and also used to assault her for such demand. In the middle of April, 2015, the deceased left her matrimonial home and went back to her parental house, where she stayed for a while. On or about 04.06.2015, the complainant accompanied her to her matrimonial home, where her sister's in-laws demanded money from him. The complainant was surprised and he asked the reason for such demand when they replied that they want the said amount as dowry. On 04.06.2015, the complainant left his sister at her matrimonial home, after informing her in-laws that he would discuss the situation with his parents. He also asked his sister's in-laws to reduce the amount. However, on 06.06.2015 his sister died after sustaining burn injury, at Rampurhat Hospital. On that day at about 10.00 am the complainant's family received telephonic information that his sister has been hospitalized. After post-mortem they took the dead body of his sister for cremation. The incident was informed to Mayureswar police station in writing and the same was drafted by one Mrinal Kanti Ghosh according to his instructions and he signed the same after reading the contents. The FIR was marked as Ext.1. The witness also stated that apart from him the incident is

known to Raju Ghosal, Dayu Paramanik including his relatives Tusar Sahu and Barun Sahu.

PW2, Aniruddha Mondal is a co-villager of the matrimonial home of the deceased who deposed that the deceased set herself on fire about 3 years ago and died by committing suicide. The incident occurred inside the bathroom and hurricane, lighter along with some burnt straws were found in the said bathroom. The witness stated that the distance between his house and that of the appellant's house are about 50 meters. He deposed that he took the deceased to hospital being accompanied by appellant no.2, and Baidyanath Mondal (PW3). The witness represented that there was a cordial relationship between the deceased and the appellants.

PW3, Baidyanath Mondal is also a co-villager of the matrimonial home of the deceased. He deposed that the incident took place 3 years ago when wife of the appellant no.1 passed away by setting herself on fire and committed suicide. He also deposed that the incident occurred in the bathroom where hurricane, lighter and burnt straws were found. Witness stated that the distance between his house and that of the appellant's is about 50 meters and after the incident he along with PW2 and the appellants no.2 and 3 took the deceased at Rampurhat Hospital. Lastly, he stated that the behaviour of the appellants towards the deceased was cordial.

PW4, Anil Kumar Mondal is co-villager of the matrimonial home of the deceased. The witness deposed that the wife of the appellant died by setting

herself on fire at the bathroom. However, he was not aware why she set herself on fire and he was also not aware who took the deceased to Rampurhat Hospital. The witness also stated that he was not aware as to how the appellants behaved with the deceased.

PW5, Rabindra Nath Mondal is co-villager of the appellants. He identified the appellants in Court and deposed that the wife of appellant no.1 died by setting herself on fire. She was taken to hospital. The witness also stated that he never heard the accused persons/appellants demanding money from the parents of the deceased and he also never saw the accused persons torturing the deceased. The witness was declared hostile and was permitted to be cross-examined where he denied the statement which was recorded by the police under Section 161 of the Cr.P.C.

PW6, Santi Mondal is co-villager of the appellants who deposed that the deceased committed suicide by setting herself on fire in the bathroom. He also stated that she cannot say why the wife of appellant no.1 died. The witness was also declared hostile by the prosecution and was permitted to be cross-examined wherein the witness denied the incident having represented in a different manner to the investigating authorities.

PW7, Ganshekhar Mondal is co-villager of the appellants who deposed that the deceased committed suicide by setting herself on fire in the bathroom and he was unable to say the reason as to why she died. The witness was declared hostile by the prosecution and was permitted to be cross-examined

when the witness denied of having stated regarding the incident in a different manner to the police authorities.

PW8, Palash Dhibar is the driver who deposed that when he was sitting in his house the owner of his vehicle wrang him for taking a patient from Nandigram to hospital as the patient sustained severe burn injuries. The patient was on the way to Rampurhat Hospital but his vehicle collapsed as such the patient was taken to the hospital by another vehicle. The witness stated that he do not know how the patient suffered burn injury.

PW9, Amit Mondal is co-villager of the appellants who denied of any knowledge relating to death of Sumitra Mondal. He was declared hostile on the prayer of the prosecution and was permitted to be cross-examined. The witness denied the facts relating to demand of dowry and the physical and mental torture inflicted upon the deceased by the inmates of her matrimonial home. The witness also denied that he was interrogated by the police authorities regarding the factum of the accused persons setting fire or the parents of appellant no.1 being responsible for the incident.

PW10, Maya Sahu, mother of the deceased deposed that her daughter was married to Suman Mondal/appellant no.1. He identified the appellant no.1 and appellant no.3 in Court and stated that if the mother-in-law/appellant no.2 was present she could have identified her. She deposed that the marriage of her daughter was solemnized according to Hindu Rites and Customs and at the time of marriage she gave gold ornaments and money as per demand. Soon

after Astamongala accused persons started inflicting torture upon her daughter for demand of an additional sum of Rs.2 lakhs. It was not possible for them to accede to such demand and as a result of such failure the accused persons/appellants used to physically assault and torture her daughter and used to ask her to bring money from them. Her daughter/deceased returned to her parental home due to such torture after one and half years of marriage, somehow she was convinced to go back to her matrimonial home and Suvendu, Tarun, Dilip, Ajay, Haren, Barun, Taposh took her to her matrimonial home. Her daughter was tortured in presence of the persons who took her to her matrimonial home and as such within close proximity of time she committed suicide being unable to bear the torture of the appellants. The reasons for committing suicide was because of the demand of Rs.3 lakhs. She also deposed that her dead body was brought to Rampurhat Hospital and the complaint was filed by her son Ajay Sahu with the police authorities.

PW11, Nandadulal Sahu is father of the deceased. He identified the appellants no.1 and 2 who were present in Court and deposed that he could have identified the appellant no.3 if she was present in Court. He deposed that his daughter was married with Suman Mondal 4 years ago and at the time of marriage gold ornaments and cash were given. The accused persons tortured his daughter for further demand of Rs.2 lakhs and as such her daughter had to return to their house as she was unable to bear such torture. On 04.06.2015 she was sent back to her matrimonial home and on 06.06.2015 his daughter died because of burn injury. The witness held appellants responsible for her

death. He also went to Rampurhat Hospital where his daughter was taken for treatment.

PW12, Bhaskar Ghosal is a co-villager of the parental home of the deceased. He deposed that he knew the deceased and his husband. He stated that after marriage the deceased went to her matrimonial home but he heard the accused persons used to torture the deceased on demand of dowry on several occasions. The deceased returned to her parental home and she was sent back to her matrimonial home. Police prepared seizure list and he signed it. He identified his signature which was marked as Ext.2.

PW13, Dayamay Paramanik deposed that he was present in the marriage of Sumitra and Suman as a barber. He knows that Sumitra died 3 years ago and he heard about her death which was because of burn injury. He saw her dead body in his village and the parents of the deceased stated to him that the appellants used to pressurise the deceased for dowry.

PW14, Dr. Ashish Kumar Roy, deposed that he conducted the post-mortem examination of Rampurhat PS U.D. case no. 202/15 dated 06.06.2015. The dead body was produced and identified by C-962 Kali Chand Roy on 07.06.2015 at 02.05 pm. and he found that the body was medium built. Rigor mortis was present. The eyes were closed and cornea was hazy with diluted pupils. He found first and second degree burn over whole of the skull, face, forehead, all around neck with the syringing of eye brows. He also found first and second degree burn on both arms, chest wall, both breast, upper part

of the abdomen and both the glutial regions including perineum. First and second degree burn on both the thighs and left leg, part of the right leg. All the injuries were showing signs of vital reaction, margin and traces of injuries were congested and showing evidence of blister formation at places. The cause of death according to him is the result of the above noted burn injuries which were ante-mortem in nature. The witness identified the report which was prepared by him in his own hand writing and was also signed by him. The post-mortem report was marked as Ext.3.

PW15, Subrata Roy, is the Executive Magistrate at Rampurhat. He deposed that on that day he conduct an inquest at Rampurhat in connection with U.D. case no. 202/15 dated 06.06.2015, of the dead body of Sumitra Mondal wife of Suman Mondal of Nandigram, P.S. Mayureswar. The witness deposed that he observed all the formalities, identified the inquest report which was prepared by him in his own handwriting and it bears his signature which was marked as Ext.4 (Ext.3).

Mr. Saibal Mondal, learned Advocate appearing for the appellants submitted that the prosecution failed to prove its case and the defence/appellants in this case has been seriously prejudiced because of the Investigating Officer not being produced as a witness, consequently the defence could not confront the contradictions for assessing the veracity of the prosecution witnesses. Learned Advocate also submitted that the appellants have been falsely implicated in the instant case would be reflected from the

deposition of the prosecution witnesses, as majority of the witnesses i.e. from PW2 to PW9 did not support the prosecution case. Drawing the attention of this Court to the evidence of PW2 and PW3 learned Advocate submitted that the witnesses categorically stated that the appellants had cordial relationship with the deceased. These witnesses were not declared hostile by the prosecution and there is only emphasis on the conduct of the appellants who have been falsely implicated in connection with the instant case. It has been pointed out on behalf of the appellants that in the letter of complaint which was addressed to the Officer-in-charge, Mayureswar police station there was no allegation of giving any dowry at the time of marriage. The said factum has been subsequently developed at the time when evidence was deposed by PWs 1, 10 and 11. Learned Advocate drew the attention of the Court to the cross-examination of PW1 and submitted that the parents never stated that her daughter/deceased was brought up by her aunt namely, Sanaka Sahu who was a working lady. The said aunt was not relied upon as a witness. The appellants also stated that PW1 also referred to Raju Ghosal and two brothers namely, Tusar Sahu and Barun Sahu who were aware regarding the incident but the said witnesses were never produced by the prosecution. Neither the prosecution tendered Subhendu, Tarun, Dilip, Haren, Barun, Tapash in support of this case whose names appeared in the deposition of PW10, Maya Sahu. According to the learned Advocate withholding of vital witnesses and non-examination of the Investigating Officer of the instant case has seriously prejudiced the appellants, as such to rely upon such evidence and convict

them would definitely cause miscarriage of justice. Learned Advocate, therefore, prayed that the judgment and order of conviction and sentence be set aside. Learned Advocate has also relied upon *Biswajeet Halder @ Babu Halder & Ors. -Vs. State of West Bengal* reported in (2008) 1 SCC 202 and *Durga Prasad & Anr. -Vs. - State of M.P* reported in (2010) 9 SCC 73 in order to fortify his arguments.

On the other hand Mr. Sandip Chakraborty, learned Advocate appearing for the State submitted that in this case marriage was solemnized on 07.03.2014, from the evidence it transpired that in the middle of April, 2015 which is after 13 months the deceased had to return to her parental home and she was sent back by her family members on 04.06.2015. The deceased committed suicide on 06.06.2015 i.e. within a very close proximity of time after she returned to her matrimonial home. According to the learned Advocate within 15 months of her marriage the deceased had to end her life because of the immense torture being inflicted upon her for the additional demand of dowry. This evidence adduced in this case, according to the State is consistent so far as the family members of the parental home of the deceased are concerned i.e. PW1, PW10 and PW11. Additionally it has been submitted on behalf of the State that having regard to the time period within which the deceased committed suicide the burden of proof must shift to the appellants to show that there were other reasons for which the deceased committed suicide. Apart from the 15 months within which the incident occurred emphasis was made on the part of the evidence of PW1 wherein he deposed that he had to

face insult for the additional demand of dowry on 04.06.2015 and the deceased set herself on fire on 06.06.2015. Learned Advocate for the State lastly submitted that there is no scope for interference in the judgment and order of conviction and sentence so imposed by the learned Trial Court and prayed for confirmation of the same.

The presence of the Investigating Officer on dock could have assisted the prosecution in narrating only the chronology of evidence in respect of collection of evidence from the registration of the FIR to the submission of charge-sheet. In this case no contradiction has been taken from PW1, 10 and 11 in respect of their earlier statement which they made before the Investigating Officer. Naturally there is no scope for corroborating or contradicting the evidence of PW1, PW10 and PW11, which the presence of the investigating Officer could have enured any benefit to the appellants. As such, I am of the opinion that non-examination of the Investigating Officer in this case is not fatal for the prosecution.

The Principle to be followed in case of non-examination of Investigating Officer was laid down in Behari Prasad & Ors. –Vs. – State of Bihar reported in (1996) 2 SCC 317, paragraph 23 would be relevant for the purpose of this case which is set out as follows:

***“23.** It, however, appears to us that the entire case diary should not have been allowed to be exhibited by the learned Additional Sessions Judge. In the facts of the case, it appears to us that the involvement of the accused in committing the murder has been*

clearly established by the evidences of the eyewitnesses. Such evidences are in conformity with the case made out in FIR and also with the medical evidence. Hence, for non-examination of Investigating Officer, the prosecution case should not fail. We may also indicate here that it will not be correct to contend that if an Investigating Officer is not examined in a case, such case should fail on the ground that the accused were deprived of the opportunity to effectively cross-examine the witnesses for the prosecution and to bring out contradictions in their statements before the police. A case of prejudice likely to be suffered by an accused must depend on the facts of the case and no universal strait-jacket formula should be laid down that non-examination of Investigating Officer per se vitiates a criminal trial. These appeals, therefore, fail and are dismissed. The appellants who have been released on bail should be taken into custody to serve out the sentence.”

In this case marriage was solemnized on 07.03.2014 and the deceased returned to her parental home in the middle of April, 2015. It has been alleged that being unable to tolerate the physical and mental torture inflicted upon her the deceased returned to her paternal home. She was sent back to her matrimonial home on 04.06.2015 being accompanied by her brother/relations and the inmates of the matrimonial home in front of them on 04.06.2015 demanded further sum of Rs.2 lakhs. On 06.06.2015 the deceased set herself on fire in the bathroom and there was first and second degree burn all over her body (as deposed by post-mortem doctor PW14) and in the afternoon hours on the same day she expired.

It has also been submitted that PW2 to PW9 all neighbours and co-villagers of the appellants and all of them in the same breath deposed that the appellants had cordial relationship with the deceased. Although, PW5, 6, 7 and 9 were declared hostile by the prosecution yet PW2, 3, 4 and 8 were not declared hostile and as such their evidence assumes importance and it can be said that the prosecution evidence was divided in opinion on the issue of any torture being inflicted upon the deceased for demand of dowry. The insistence of the learned Advocate appearing for the appellants regarding taking the prosecution evidence as a whole and not relying upon the relative witnesses assumes importance in view of the fact that PW1, PW10 and PW11 on the contrary have submitted that there was a continuous demand of additional dowry and for the said purpose the deceased was subjected to immense physical and mental torture. Additionally it has been submitted that such factum is not consistent even in the evidence of the prosecution witness no.1, 10 and 11 as in the letter of complaint which is stated to be the FIR, there were no allegations that any dowry was given at the time of marriage, thus the question of additional dowry do not crop up.

I have carefully assessed the examination-in-chief of PW1, PW10 and PW11 there was consistent deposition in respect of demand of additional dowry, return of the deceased in the middle of April, 2015 and she being sent back to her matrimonial home on 04.06.2015, consequent to which she set herself on fire on 06.06.2015. I do not find any question with which PW1, PW10 and PW11 were confronted on this issue nor any suggestion was

forwarded to the witnesses on this issue. The evidentiary value of these witnesses are at higher pedestal than the local neighbours who ordinarily would have input in the nature of hearsay evidence if at all.

Mr. Saibal Mondal, learned Advocate relied upon the judgment of Biswajeet Halder @ Babu Halder & Ors. –Vs. State of West Bengal reported in (2008) 1 SCC 202 and submitted that the findings of the Hon'ble Apex Court is applicable to the present case. In the reported decision it has been held that there was no finding that there was demand for dowry and/or that deceased was subjected to cruelty or harassment or that harassment was for or in connection with demand of dowry. The second judgment relied upon by the learned Advocate for the appellants i.e. Durga Prasad & Anr. –Vs. – State of M.P reported in (2010) 9 SCC 73 is based on the principles set out in Biswajeet Halder (supra). The aforesaid two cases relied upon by the appellants are on a different set of facts which are distinguishable from the case under consideration as in this case the deceased Sumitra returned to her parental home on April, 2015 as she was unable to tolerate the pressure and her parents sent her back to her matrimonial home on 04.06.2015. The deceased Sumitra was insulted/assaulted in front of her brother and other relations who accompanied her and the same was for an additional sum of Rs.2 lakhs as dowry. She committed suicide on 06.06.2015. This part of the evidence is uncontroverted as none of the prosecution witnesses were confronted on this issue and the said version was consistent from the initiation of the FIR and in

course of the evidence. These facts of the present case are distinct from the cases referred to and relied upon by the appellants.

Again in the case of Parvati Devi –Vs. – State of Jharkhand reported in 2021 SCC OnLine SC 1285, the Hon’ble Supreme Court was pleased to consider applicability of Section 304B of the Indian Penal Code, relevant paragraphs in the reported judgment are set out as follows:

“16. The import of the aforesaid provisions has been explained in several decisions of this Court. In Bansi Lal v. State of Haryana¹, it has been held that:

“17. While considering the case under Section 498-A (Sic. Section 304-B), cruelty has to be proved during the close proximity of time of death and it should be continuous and such continuous harassment, physical or mental, by the accused should make life of the deceased miserable which may force her to commit suicide.”

17. In Maya Devi v. State of Haryana², it was held that:

“23. To attract the provisions of Section 304-B, one of the main ingredients of the offence which is required to be established is that “soon before her death” she was subjected to cruelty or harassment “for, or in connection with the demand for dowry”. The expression “soon before her death” used in Section 304-IPC and Section 113-B of the Evidence Act is present with the idea of proximity test. In fact, the learned Senior Counsel appearing for the appellants submitted that there is no proximity for the alleged demand of dowry and harassment. With regard to the said claim, we shall advert to while considering the evidence led in by the prosecution. Though the language used is “soon before her death”, no definite period has been enacted and the expression “soon before her death” has not

been defined in both the enactments. Accordingly, the determination of the period which can come within the term “soon before her death” is to be determined by the courts, depending upon the facts and circumstances of each case. However, the said expression would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. In other words, there must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the women concerned, it would be of no consequence.”

[Also refer to G.V. Siddaramesh v. State of Karnataka³ and Ashok Kumar v. State of Haryana⁴]

18. *Section 304B IPC read in conjunction with Section 113B of the Evidence Act leaves no manner of doubt that once the prosecution has been able to demonstrate that a woman has been subjected to cruelty or harassment for or in connection with any demand for dowry, soon before her death, the Court shall proceed on a presumption that the persons who have subjected her to cruelty or harassment in connection with the demand for dowry, have caused a dowry death within the meaning of Section 304B IPC. The said presumption is, however, rebuttable and can be dispelled on the accused being able to demonstrate through cogent evidence that all the ingredients of Section 304B IPC have not been satisfied.*

19. *In the instant case, despite the shoddy investigation conducted by the prosecution, we are of the view that the circumstances set out in Section 304B of the IPC have been established in the light of the fact that the deceased, Fulwa Devi had gone missing from her matrimonial home within a few months of her marriage and immediately after demands of dowry were made on her and that her*

death had occurred under abnormal circumstances, such a death would have to be characterized as a “dowry death”.”

In this case within one and half years of marriage the wife/lady/deceased committed suicide and there are consistent allegations of additional demand of dowry by the near relations of the deceased. The other fact which assumes importance is that on 04.06.2015 she came back from her parental home to her matrimonial home and on 06.06.2015 in the morning she set herself on fire. It has been deposed that when the PW1/brother of the deceased and the other relations accompanied her to her matrimonial home, the in-laws demanded money from PW1 which was additional amount of dowry. PW1 also requested the in-laws to reduce their claim of Rs.2 lakhs. The proximate time of the insult inflicted upon the brother and the other relations on 04.06.2015 and she having died out of burn injury on 06.06.2015 attracted the provisions of Section 113(B) of the Indian Evidence Act.

As such the judgment and order of conviction and sentence passed by the learned Trial Court do not call for any interference.

Accordingly, CRA 65 of 2021 is dismissed.

Pending applications, if any, are consequently disposed of.

The appellants are on bail, their bail bonds stands cancelled and are directed to surrender before the learned Trial Court within a week from date.

Department is directed to send back the Lower Court Records to the Trial Court and communicate this judgment, so that effective steps are taken by the learned trial Court.

All parties shall act on the server copy of this judgment duly downloaded from the official website of this Court.

Urgent Xerox certified photocopy of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Tirthankar Ghosh, J.)