

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3607 of 2019**

**In
CRIMINAL APPEAL (DB) No.796 of 2019**

Arising Out of PS. Case No.-48 Year-1999 Thana- DEHRI TOWN District- Rohtas

ANIL KUMAR JAISWAL Son of Late Murlidhar Jaiswal Resident of
Mohalla-Choudhary Mohalla, P.S.-Dehri, District-Rohtas.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Amresh Kumar, Advocate Mr. Santosh Kumar Pandey, Advocate Mr. Lakshmi Kant Sharma, Advocate
For the State	:	Mr. Ajay Mishra, Spl. P.P.

**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER**

6 13-11-2024 Heard Mr. Ramakant Sharma, learned Senior

Advocate, Mr. Amresh Kumar and Mr. Santosh Kumar Pandey
on behalf of the appellant and Mr. Ajay Mishra, learned Special
P.P. for the State.

2. This appeal has been preferred against the S.T. No.
61 of 2000 arising out of Dehri P.S. Case No. 48 of 1999 for the
offences under Sections 304B, 201/34 of the Indian Penal Code
by the Presiding Officer, Fast Track Court- 2nd, Sasaram
(Rohtas) whereby and whereunder the appellant along with
other three persons were put on trial and held guilty vide
Judgment dated 24.06.2019 under Sections 304B, 201/34 of the
Indian Penal Code and further awarded sentence on 24.06.2019



itself to undergo rigorous imprisonment for 7 years under Section 304B of the Indian Penal Code and further awarded 3 years rigorous imprisonment for the offences under Section 201/34 of the Indian Penal Code. Both the sentences are directed to run concurrently.

3. The prosecution story in nutshell is that one Badri Prasad Bhagat (not-examined) son of Late Rameshwar Bhagat, P.S.- Bagoder, District- Giridih gave his fardbeyan before B. Prasad, Sub-Inspector of Dehri Police Station on 02.02.1999 at 12:00 noon at Choudhary Mohalla that he married his daughter Neelam Devi (deceased) with Sunil Kumar Jaiswal, son of Murlidhar Jaiswal at Annycut Temple, Dehri in the 5th month of 1998 as per Hindu Rites and Customs and thereafter his daughter stayed at her matrimonial home for about 1 ½ months and thereafter the son-in-law of informant Sunil Kumar Jaiswal brought his daughter back to *maike* and demanded Rs. 50,000/- for renovation of his house and also for investment in business. The informant showed his inability and refused to fulfill the demand then his son-in-law get upset and returned home. After ten days, he took away the daughter of the informant along with him. It is further alleged that at the time of last rites of father of informant approx 1 ½ months back, his son-in-law and his



daughter came to his house and at that time, daughter of the informant disclosed that if some monetary help is not provided to her husband then her husband, father-in-law, *devar* and *bhaisur* would kill her. Further prosecution story is that the informant took Rs. 10,000/- from his younger brother namely Chotan Prasad Bhagat and handed over to his son-in-law and also gifted Rs. 3000/- to his daughter and performed *Bidai*. Further prosecution story is that elder brother of son-in-law of the informant namely Sushil Prasad Jaiswal informed him on telephone on 23.01.1999 regarding missing of his daughter and son-in-law and thereafter the informant came to Dehri on 24.01.1999 and inquired about the whereabouts of his daughter and son-in-law from Sushil Prasad Jaiswal who showed his ignorance and thereafter the informant along with his relative namely Sanjay Prasad searched for his daughter and son-in-law at his home but found the house locked and thereafter again the informant on the advice of Sushil Kumar Jaiswal searched his son and daughter-in-law in the house of his other relatives but failed to trace them out. Further prosecution case is that Sanjay Prasad, relative of the informant, informed him on telephone on 02.02.1999 that his daughter Neelam Devi was killed by her in-laws and they threw the deadbody in the well situated in the



courtyard and on receiving such information, the informant went at the house of his son-in-law Sunil Kumar at 12:00 noon and found that police personnel and neighbours had assembled at the house of his son-in-law and elder brother of his son-in-law and a deadbody of a woman was being taken out from the well which was the dead body of his daughter Neelam Devi. The motive behind the occurrence as stated in the FIR is for demand of dowry and to conceal the deadbody, the same was thrown in the well. The informant made allegation against the father-in-law Murlidhar Jaiswal, elder brother-in-law, Anil Kumar Jaiswal (Appellant), Sushil Kumar Jaiswal, husband Sunil Kumar Jaiswal and cousin brother-in-law that they killed her and threw her in the well to conceal the deadbody and said fardbeyan was recorded in presence of his brother Krishna Bhagat and brother-in-law Manik Chandra Bhagat. Accordingly, Dehri P.S. Case No. 46 of 1999 under Sections 304B, 201/34 of the Indian Penal Code was instituted.

4. After investigation chargesheet was submitted being chargesheet no. 62/99 dated 25.04.1999 under Sections 304B, 201/34 of the Indian Penal Code against Murlidhar Jaiswal, Sushil Kumar Jaiswal, Sunil Kumar Jaiswal and subsequently supplementary charge sheet no. 183/99 dated 31.10.1999 against



Anil Kumar Jaiswal (appellant) under Sections 304B, 201/34 of the Indian Penal Code. The case was committed to the court of Session and charges were framed on 17.08.2000 under sections 304B, 201/34 of the Indian Penal Code where appellant denied the charges and claimed to be tried.

5. It has been submitted on behalf of the appellant that the statement of appellant was recorded under section 313 of the Code of Criminal Procedure where he denied the charges.

6. It is further submitted that the prosecution in support of his case examined four witnesses i.e. PW-1 Manik Chandra Bhat (*Phupha* of the deceased), PW-2- Sanjay Prasad (*Bhagindamad* of the informant), PW-3- Krishna Prasad Bhagat (younger brother of the informant and uncle of the deceased), PW-4 Chotan Prasad Bhagat (younger brother of informant and uncle of the deceased).

7. He submits that the informant, Investigating Officer and doctors were not examined in the case which causes serious prejudice to the defence of appellant.

8. The Trial Court held the appellant guilty and awarded sentence as aforesaid.

9. It is further submitted that PW-1 Manik Chandra Bhagat who put his signature on FIR and stated that Murlidhar



Jaiswal informed Badri Prasad Jaiswal regarding missing of couple from the house and when they reached at the house at Dehri then he saw the deadbody of the deceased which was taken out from the well by the sweeper. He accepted the suggestion that he did not ever visited the house of appellant and he also did not disclose before anyone regarding demand of Rs. 50,000/- alleged to be made by the husband of deceased. He did not disclose any direct involvement of appellant in present case/ incident.

10. Learned counsel for the appellant submits that PW-2 Sanjay Prasad who happened to be distant relative of deceased and resided at Dehri but he has no knowledge regarding demand of dowry however he heard that Rs. 50,000/- was demanded by the groomside. He also accepted the suggestion that he never visited the house of appellant however before marriage he went there.

11. It is further submitted that PW-3 Krishna Prasad Bhagat who is the uncle of deceased has accepted that he has no knowledge whether demand of Rs. 50,000/- was made for business. He did not have any knowledge regarding separate house of the appellant and his brother Sunil.

12. He submits that PW-4 is Chotan Prasad Bhagat



and he was declared hostile.

13. He further submits that informant was not examined in this case and the prosecution has not exhibited any document.

14. Learned counsel for the appellant submits that the Investigating Officer has also not been examined in the case which causes serious prejudice to the defence of appellant.

15. It is argued that from the material collected in the trial shows that none of the witnesses named the appellant as a person who made dowry demand just before the suspicious death of the deceased.

16. He further submits that even prosecution failed to establish that the appellant and his younger brother were residing in the same house. He submits that the prosecution also failed to establish beyond reasonable doubt regarding involvement of appellant in any demand of dowry at any stage. However prosecution only established the fact that the appellant is the elder brother of husband of deceased and that is not sufficient to establish the involvement of appellant in the suspicious death of the deceased.

17. He argued that the non-examination of informant, Investigating Officer and doctor caused serious prejudice and



since there is no material on record showing that appellant made any dowry demand and thus he may be acquitted from the charges.

18. It is also submitted that the prosecution witnesses have not established beyond reasonable doubt that appellant was residing with his brother or had a separate house.

19. The appellant has relied upon the following judgments:-

“1. *Chabi Karmakar & Ors. Vs. The State of West Bengal* reported in *2024 SCC OnLine SC 2433*.

2. *Shoor Singh & Anr. Vs. State of Uttarakhand* reported in *2024 SCC OnLine SC 2595*.”

20. The learned Additional Public Prosecutor Shri Ajay Mishra has supported the prosecution case and has submitted that the prosecution has been able to prove the case against the appellant.

21. I have considered the submissions of the parties.

22. The appellant is the elder brother-in-law (*Bhaisur*) of the deceased. From the evidence of the witnesses, it appears that none of them have been witness to the demand of dowry by the present appellant. Even if, the statement of the witnesses is accepted then it appears that the dowry of Rupees Fifty



Thousand demanded by the husband of the deceased and not the appellant.

23. There is no specific allegation against the appellant. It appears that the appellant has been made accused only because he is elder brother-in-law (*Bhaisur*) of the deceased along with the other family members and it is an afterthought.

24. I am of the opinion that the conviction of the appellant cannot be sustained.

25. Accordingly, the Judgment and order dated 24.06.2019 passed by the by the Presiding Officer, Fast Track Court- 2nd, Sasaram (Rohtas) is hereby set aside.

26. In view of the discussions made above, this appeal is allowed and the appellant is acquitted of all the charges levelled against him.

(Sandeep Kumar, J)

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