

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.50 of 2024**

Arising Out of PS. Case No.-621 Year-2019 Thana- BHAGWAN BAZAR District- Saran

Shyamlal Manjhi Son of Late Devnarayan Manjhi R/o vill - Tulsi Ram
Bichhiya Asad Nagar, P.s. - Shahpur, Distt. - Gorakhpur, U.P.

... .. Appellant/s

Versus

1. The State of Bihar
2. Navin Kumar S/o Late Lallan Manjhi R/o vill - Brahmpur, Masumganj,
Ward no. 04, P.S. - Bhagwan Bazar, Dist. - Saran at Chapra, Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Yashraj Bardhan, Adv.
For the State		Mr. Sujeet Kumar Singh, APP
For the Respondent no. 2		Mr. Dhananjay Kumar Tiwary, Adv.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SMT. SONI SHRIVASTAVA)

Date : 10-12-2025

Heard Mr. Yashraj Bardhan, the learned counsel for the appellant, Mr. Dhananjay Kumar Tiwary, the learned counsel for the respondent no.2 and learned APP for the State, Mr. Sujeet Kumar Singh at length.

2. The present appeal has been preferred under Section 372 (proviso) of Code of Criminal Procedure, 1973 challenging the judgment and order dated 14.09.2023 passed by learned Court of Additional Sessions Judge-IV, Saran at Chapra in Sessions Trial No. 186 of 2020 (arising out of Bhagwan Bazar P.S. Case No. 621 of 2019), whereby and where under the learned Trial Court has held that the charges under Section 304B and alternatively under Section 302 read with section 34 of the



Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') have not stood proved and Respondent No. 2 has been convicted for a lesser offence under Section 306 IPC (under which charges were not framed) and by an order of sentence dated 20.09.2023, the respondent no. 2 has been sentenced to undergo rigorous imprisonment for 5 years with a fine of Rs.10,000/- and in default of payment of the same, he has further been directed to undergo additional imprisonment for 2 months.

3. The records of this appeal has been placed before this Court to consider the prayer of the appellant for convicting the respondent no. 2 for a greater offence under Section 304 B of the IPC as he has been acquitted of the charges thereunder and has instead been convicted u/s 306 IPC.

4. The case of the prosecution, in brief, according to the fardbeyan of one Brijendra Kumar (informant, i.e. PW-3) recorded on 30.12.2019 at around 01.15 am is that the marriage of his sister Punam Kumari alias Pallavi Kumari was solemnized with one Naveen Kumar (respondent no. 2) according to Hindu rites and rituals on 12.12.2019 and articles were given as per capacity of the father of the informant and deceased. However, after marriage, the sister of the informant was assaulted on account of varied reasons and demands which



she informed telephonically with specific reference to the fact that at the instigation of Vinod Kumar and Rabindra Giri, Navin Kumar was making a demand of Rs. 5 lakhs from her sister saying that adequate dowry was not given and the same was reiterated by the mother and the 3 sisters of Navin Kumar. It has been alleged that on 29.12.2019 at about 04 pm the accused persons killed the informant's sister by strangulating her and at about 06 pm Navin Kumar had called the informant's father and told that his daughter had committed suicide by hanging. Upon making a query about the condition of the deceased, he disconnected the phone and made no reply to repeated calls. This led the informant to believe that the accused persons, in conspiracy with others, have killed his sister for want of dowry, whether he reached the matrimonial household of his sister to find that her sister had been killed by strangulation, where after he reported the incident to police, whereupon Bhagwan Bazar P.S. Case No. 621 of 2019 dated 30.12.2019 was instituted for offences u/s 304 B / 34 IPC.

5. The learned Counsel for the appellant/Informant, Mr. Yashraj Vardhan has submitted that the allegations made in the First Information Report with regard to killing of the deceased on account of non-fulfillment of dowry demands made



by respondent no.2 and others, stands supported by the evidence adduced during the trial and all the private prosecution witnesses being PW-1, PW-2 and PW-3 are consistent on the point of demand of dowry. The learned counsel for the appellant has made specific reference to the examination-in-chief and paragraph nos. 6 and 8 of the cross-examination of the informant PW-3 to contend that his sister had complained to him with regard to the behaviour and attitude of her husband and his mother and sisters towards her only two days after the marriage and he had even gone to his sister's matrimonial household to pacify the matter. The learned counsel has further invited the attention of this Court to the medical evidence adduced during trial in the form of the deposition of the doctor, Dr. Satyadev Singh (PW-4), who conducted post-mortem examination on the dead body of the deceased as also the post-mortem report (Ext. P-3) which would indicate that the cause of death has been stated to be due to asphyxia caused by strangulation. It has been submitted that on dissection, fracture of trachea was also noticed, hence the learned counsel has emphatically argued that the very fact that asphyxia was caused on account of strangulation, coupled with fracture of trachea, amply demonstrates this fact that it was a homicidal death and the



deceased was strangled to death. It has thus been submitted that the learned Trial Judge has committed a gross error in arriving at a conclusion that the cause of death was due to hanging, suggestive of a suicide in absence of any cogent evidence to support such proposition.

6. The learned counsel for the appellant has also argued that the learned Trial Court has not considered the case in correct perspective by holding that the ingredients of Section 304 B of the IPC were not established, as such, convicted the appellant for a lesser offence under Section 306 of the IPC, totally overlooking the consistent evidence of the prosecution making it an admitted position that the death of the deceased was caused within 17 days of marriage and that too by strangulation as would be evident from the post-mortem report and the evidence of the doctor PW-4. On such basis, it has been contended that the present being a case of dowry death, presumption under 113 B of the Indian Evidence Act, 1872 also comes into play placing the onus on the accused to rebut, in which they could not succeed, hence the findings of the learned Trial Court that the ingredients of offence under 304B of the IPC are not established and the charge thereunder has not been proved is *per se* a perverse and an erroneous finding and



amounts to an apparent error in the impugned judgment of conviction and sentence.

7. *Per contra*, Mr. Dhananjay Kumar Tiwari, learned counsel for respondent no. 2 (Accused), has submitted that the learned Trial Court has not committed any error by holding that the ingredients of offence under Section 304 B of the IPC have not been established thereby acquitting the appellant of the said charge along with the charge under Section 302/34 of the IPC. It has been submitted that as a matter of fact, the deceased had committed suicide by hanging herself on account of a failed love affair as she was forcibly married to respondent no. 2 by concealing the said fact from him. The very fact that the deceased died barely within 17 days of marriage, itself is suggestive of the fact that the deceased committed suicide on account of different reasons of being dissatisfied with the marriage and the same could not be attributed to any demands for dowry or cruelty inflicted in connection thereto. Further argument is that neither any specific date, time or circumstances of demand of dowry are indicated from the prosecution evidence but for some general and vague allegations, non-specific instances of cruelty or torture meted out to the deceased has been pointed out. Learned counsel has also submitted that



all the 3 witnesses PW-1, PW-2 and PW-3 are family members of the deceased, hence they being interested witnesses, their evidence has been evaluated with care and caution in the background of the fact that there is no independent witness to support the charges. It has also been admitted by the prosecution that the information of death was given to them by respondent no. 2 himself and the accused persons made no attempt to dispose off the dead body. It has thus been submitted on behalf of respondent no. 2 as also argued by the learned APP for the State that the learned trial court has correctly held that the charge under Section 304B of the IPC has not stood proved as against the respondent no. 2.

8. Having heard the learned counsel for the parties and having cursorily perused the evidence on record, we find that there are vague and general allegations with regard to demand of dowry and cruelty meted out to the deceased on account thereof. In order to sustain a conviction under section 304 B of the IPC, there are certain essential ingredients which need to be established, which are as under:

a. The death of a woman must have been caused by any burns or bodily injury, or must have occurred otherwise than under normal circumstances;



b. The death must have been caused within seven years of her marriage;

c. Soon before her death, she must have been subjected to cruelty or harassment by the husband or any relative of her husband; and

d. Cruelty or harassment must be for, or in connection with, any demand for dowry.

9. Upon going through the evidence on record, it can be safely concluded that the circumstances mentioned under above-mentioned clause (a) and (b) are established in the facts of the present case as the death, no doubt, is not under normal circumstances and the same is also within seven years of the marriage. However, the evidence has to be examined and analyzed with respect to ingredient no. (c) and (d) for reaching a considered conclusion as to whether the deceased was subjected to cruelty soon before her death and whether the same was in connection with any demand for dowry.

10. It appears that no specific instances of cruelty being meted out upon the deceased has been indicated by the prosecution witnesses in their evidence, much less any instance demonstrated soon before her death. P.W. 1, besides giving some general statements with regard to demand of dowry and



torture based upon some telephonic conversations which have not been substantiated, has not made any statement worth the name to even indicate that the deceased was being subjected to torture for dowry and she was strangled to death on account of non-fulfillment of such demand. Similarly, P.W. 2 has also made general statements and has rather stated in the cross examination that there was no demand of dowry at the time of marriage and that he was involved in getting the marriage settled between the parties. In para-4 and 9 of his deposition, he has categorically stated that there was no demand for dowry and no complaint was ever made before any police station with regard to any torture. He has rather deposed that it was only on account of the black mark on the neck that he had suspected that she was strangled to death. The evidence of P.W. 4, the informant is also based mere some assumptions and presumptions and makes just one reference to the deceased making a disclosure to him on the date of reception that the attitude of her mother-in-law and her three sisters-in-law was not proper towards her, which is totally inconsequential and inconclusive and does not relate to Respondent No.2. At this juncture, we may gainfully refer to the Judgment rendered by the Hon'ble Apex Court in the case of **Karan Singh Vs. State**



of Haryana, reported in 2025 SCC Online 214, paragraph no. 14 and extract of paragraph no. 17 being relevant are being reproduced hereinbelow:-

“14. There is something fundamental which goes to the root of the matter. While deposing about the demand of dowry, she has not deposed to any particular act of cruelty or harassment by the appellant. This is an essential ingredient of Section 304 B. It is not made out from the evidence of PW-6.

17. Not a single incident of cruelty covered by Section 498 A was proved by the prosecution. Section 304 B of the IPC was brought on the statute book in 1986. This Court has repeatedly laid down and explained the ingredients of the offence under Section 304 B. But, the Trial Courts are committing the same mistakes repeatedly. It is for the State Judicial Academies to step in. Perhaps this is a case of moral conviction...”

11. It is an admitted fact that the information with regard to death of the deceased was given to the informant by the respondent no. 2 which has been accepted in the FIR as also in the evidence of the informant P.W. 4. P.W. 1 has also accepted that when they reached the house of the deceased one hour after receiving information about the incident on mobile, the respondent no. 2 was very much present at the place of



occurrence along with other family members. This makes it clear that there was no attempt on the part of the respondent no. 2 or any of the family members to surreptitiously dispose of the dead body of the deceased in order to cause disappearance of evidence, which leads to an inference that the respondent no. 2 and his family members were not involved in causing death of the deceased. The evidence also supports the fact that the informant and other witnesses even participated in the cremation of the deceased.

12. Further, the evidence on record, although vaguely indicates that a demand of Rs. 5,00,000/- as dowry was being made, but no specific instances of such demand is borne out from the evidence and the evidence of P.W. 2 is rather specific to the extent that there was no demand of dowry at the time of marriage and as per the evidence of P.W. 1, the marriage had been performed in a very peaceful and congenial atmosphere.

13. It can thus be gathered from evidence on record and the attending factors and circumstances that the reason for death of the deceased does not seem to be on account of any torture caused due to dowry demand as it is hard to believe and comprehend that within 17 days of marriage, the deceased would be subjected to such torture leading to even strangulating



her to death while just a few days back, marriage was performed very peacefully. In this regard, the consistent suggestion made by the defence to the prosecution witnesses about deceased having committed suicide on account of losing her mental balance due to reason of failed love affair and being dissatisfied with the marriage with respondent no. 2, is also worth noticing.

14. However, on behalf of the appellant, emphasis has been primarily laid upon the medical evidence showing the opinion of the Doctor P.W. 4 based upon the postmortem report, that the death of the deceased was due to asphyxia caused by strangulation and further that a fracture of trachea was also seen on dissection. It is true that the cause of death has been indicated due to asphyxia caused by strangulation but one cannot lose sight of the fact that except for a bruise found on the anterior part of neck and ligature mark present all over neck, no other external injury was found which could be suggestive of any kind of physical violence inflicted upon the deceased. Further, the question as to whether the death was actually caused by strangulation, has been answered in Modi's Medical Jurisprudence and Toxicology that no inference should be drawn simply from a ligature mark and fracture of hyoid bone is generally caused in a case of strangulation and not merely



fracture of trachea which could be caused due to other reasons. It has further been stated that to arrive at a conclusion that death was due to strangulation, the effects of violence in the underlying tissues is to be noted in addition to the ligature mark etc. The probability of homicidal strangulation is further increased upon existence of marks of violence on other parts of the body to show some evidence of struggle. In the present case, no such injuries have been found, as such, the medical evidence is also not sufficient to prove that the death is a homicidal one, *i.e.* the deceased has been strangled to death.

15. As far as the question of presumption under Section 113 B of the Indian Evidence Act is concerned, the law is settled that the same would apply only when it is established that the deceased has been subjected to cruelty by the accused soon before her death in connection with the demand for dowry. Unless these facts are proved, the presumption under Section 113B of the Evidence Act cannot be invoked as has been held in the case of **Karan Singh (supra)** and in several other judicial pronouncements. It would be relevant to refer to a Judgment rendered by the Hon'ble Apex Court in the case of **Baijnath Singh Vs. The State of MP**, reported in **AIR 2016 SC 5313** wherein the ingredient of Section 304B of the IPC were deliberated upon with special reference to the meaning of cruelty or harassment along with



the consideration of the presumption of guilt under Section 304B of the IPC as engrafted in Section 113B of the Indian Evidence Act. Paragraph nos. 27 to 30 of the case of **Bajnath Singh** (supra) are being quoted hereunder:

27. The expression “dowry” is ordained to have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961. The expression “cruelty”, as explained, contains in its expanse, apart from the conduct of the tormentor, the consequences precipitated thereby qua the lady subjected thereto. Be that as it may, cruelty or harassment by the husband or any relative of his for or in connection with any demand of dowry, to reiterate, is the gravamen of the two offences.

28. Section 113-B of the Act enjoins a statutory presumption as to dowry death in the following terms:

“113-B. Presumption as to dowry death.—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation.— For the purposes of this section, “dowry death” shall have the same meaning as in Section 304-B of the Penal Code, 1860.”

29. Noticeably this presumption as well is founded on the proof of cruelty or harassment of the woman dead for or in connection with any



demand for dowry by the person charged with the offence. The presumption as to dowry death thus would get activated only upon the proof of the fact that the deceased lady had been subjected to cruelty or harassment for or in connection with any demand for dowry by the accused and that too in the reasonable contiguity of death. Such a proof is thus the legislatively mandated prerequisite to invoke the otherwise statutorily ordained presumption of commission of the offence of dowry death by the person charged therewith.

30. A conjoint reading of these three provisions, thus predicate the burden of the prosecution to unassailably substantiate the ingredients of the two offences by direct and convincing evidence so as to avail the presumption engrafted in Section 113-B of the Act against the accused. Proof of cruelty or harassment by the husband or his relative or the person charged is thus the sine qua non to inspire the statutory presumption, to draw the person charged within the coils thereof. If the prosecution fails to demonstrate by cogent, coherent and persuasive evidence to prove such fact, the person accused of either of the abovereferred offences cannot be held guilty by taking refuge only of the presumption to cover up the shortfall in proof.

16. The judgment of the Trial Court seems to have taken into consideration the relevant facts while acquitting the respondent no. 2 from the charge under Section 304 B of the IPC and the principles of law have very clearly been laid down



in the celebrated case of **Chandrappa & Ors. Vs. State of Karnataka, reported in (2007) 4 SCC 415** that in cases of acquittal, there is a double presumption in favour of the accused, one being the presumption of innocence under the fundamental principle of criminal jurisprudence and the second being the judgment of acquittal secured by the accused which reinforces the presumption of innocence of the accused. The above-mentioned legal principle stands affirmed by a three Judges Bench of the Hon'ble Apex Court in the case of **Rajesh Prasad Vs. State of Bihar reported in (2022) 3 SCC 471** and in paragraph nos. 28 and 29 of the said judgment the principles laid down in **Chandrappa case (supra)** have been reproduced and reiterated. We are tempted to quote paragraph no. 29 of the Judgment rendered in the case of **Rajesh Prasad (supra)** laying down the basic guiding principles to be followed in appeals against acquittal:

29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words : (Chandrappa case, SCC p. 432, para 42)

“42. From the above decisions, in our considered view, the following general



principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasis the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall



be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.”

17. It would be clear from the above mentioned general principles of law that if two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court. The said principle has been reiterated by the Hon'ble Apex Court in the case of **Vijay Singh @ Vijay Kumar Sharma Vs. State of Bihar**, reported in **2024 SCC Online SC 2623** wherein it has been held that a finding of acquittal by the trial court cannot be reversed merely because the possibility of an alternate view was alive. Rather, the view taken by the trial court must be held to be completely unsustainable and not a probable view, in order to interfere with the judgment of acquittal.

18. Thus, in view of the settled law that if two views are possible from the evidence on record, the appellate court



must be extremely slow in interfering with the judgment of acquittal, this Court does not find any good ground to interfere with the impugned judgment not holding the respondent no. 2 guilty of the charge U/s 304 B of the IPC.

19. Taking a holistic view of the facts and circumstances as discussed in the preceding paragraphs, considering the submissions of the parties and for the foregoing reasons, we are of the considered view that the impugned judgment and order dated 14.09.2023 passed by the learned Court of Additional Sessions Judge-IV, Saran at Chapra in Sessions Trial No. 186 of 2020 (arising out of Bhagwan Bazar P.S. Case No. 621 of 2019) needs no interference, as such, the present appeal preferred by the appellant(informant) praying for convicting the respondent no. 2 for a greater offence u/s 304 -B IPC, is bereft of any merit.

20. Accordingly, the present appeal stands dismissed.

(Mohit Kumar Shah, J)

(Soni Shrivastava, J)

devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.12.2025
Transmission Date	10.12.2025

