

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.14 of 2016

Arising Out of PS. Case No.-69 Year-2008 Thana- GOGRI District- Khagaria

-
1. Nandan Sharma, S/o Late Chotelal Sharma
 2. Usha Devi, W/o Nandan Sharma, both are Resident of village- Sanhauli,
P.S.- Gogari, District- Khagaria

... .. Appellants

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellants	:	Mr. Binod Kumar, Advocate Mr. Rahul Singh, Advocate
For the State	:	Mr. Abha Singh, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 18-03-2025

The present appeal has been preferred against the impugned judgment and order of sentence dated 10.12.2015 passed by learned Additional Sessions Judge-IV, Khagaria whereby both the appellants have been acquitted of the charges under Section 304B read with Section 109 IPC and Section 201 read with Section 34 of the IPC. However, both of them have been found guilty under Section 498A of the Indian Penal Code and sentenced to undergo R.I. for three years and directed to pay a fine of Rs. 5,000/- for the offence punishable under Section 498(A) of the Indian Penal Code and in case of default to pay fine, they have been directed to undergo additional S.I. for three months.



2. The factual background of this case is that on the death of one Munni Devi, Gogri P.S. Case No. 69 of 2008 was lodged by the brother of the deceased under Section 304B IPC and Section 201 read with Section 34 of the Indian Penal Code against all the accused persons including the appellants herein.

3. After investigation, charge-sheet bearing number 68 of 2008 dated 12.08.2008 was submitted by the police against the appellants along with additional co-accused, Satish Sharma.

4. On commitment of the case, cognizance was taken and charge was framed and trial proceeded for offence punishable under Section 304B read with Section 109 IPC and Section 201 read with Section 34 IPC.

5. Another trial bearing Sessions Trial No. 461 of 2010 was also going on against two co-accused, Dinkar Sharma and Ravindra Kumar, wherein both the accused persons were acquitted of all the charges. However, in the present trial, Sessions Case No. 283 of 2009, the accused, Satish Sharma was acquitted of all the charges. The appellants herein were also acquitted of the charge framed under Section 304B read with Section 109 IPC and Section 201 read with Section 34 IPC. However, they have been found guilty under Section 498A of



the Indian Penal Code. Hence, the present appeal.

6. Heard learned counsel for the appellants as well as learned APP for the State.

7. Learned counsel for the appellants submits that learned Trial Court has rightly acquitted the appellants under Section 304B read with Section 109 IPC and Section 201 read with Section 34 IPC, but erroneously convicted the appellant under Section 498A of the Indian Penal Code and sentenced them accordingly.

8. Learned counsel for the appellants submits that except the bald, general and omnibus allegation of demand of dowry against all the accused persons, including the appellants, there is no specific allegation against the appellants in regard to demand of dowry and torturing therefor. They have been falsely implicated in this case, only on account of being the parents of the husband of the deceased. He further submits that there is no specific allegation regarding demand of dowry with reference to date, place and time. He also submits that prior to the death of the victim, there was no complaint at all in regard to any demand of dowry and torturing therefor. Even as per the FIR as well as the evidence on record, there is only bald and general allegation of demand of dowry and admittedly, at the time of



death she was not at her matrimonial home. In fact, she was living at her *maike* and as per the FIR, only on the way to Bank, she was killed. As per allegation, it is the co-accused, Dinkar Sharma and Ravindra Kumar, who have allegedly caused the death. He further submits that even learned Trial Court has nowhere mentioned any evidence which could show that there was demand of dowry by the appellants on any date, time or place. Only on general and omnibus allegation, the appellants have been convicted under Section 498A. Hence, the impugned judgment is not sustainable in the eye of law.

9. However, learned APP for the State defends the impugned judgment submitting that there is no illegality or infirmity in it, and hence the present appeal is liable to be dismissed.

10. I considered the submissions advanced by both the parties and perused the material on record.

11. I find that there is only general and omnibus allegation of demand of dowry without any specific allegation with reference to time and place, nor is any specific evidence against the appellants to prove the offence under Section 498A of the Indian Penal Code beyond reasonable doubts. Even from the perusal of the Trial Court judgment, nowhere I find any



cogent evidence adduced by the prosecution to show that there was demand of dowry by the appellants and on account of non-fulfillment of the same, she was subjected to cruelty.

12. It goes without saying that for conviction, there must be prosecution evidence to prove its case beyond reasonable doubt. But, after perusal of the evidence on record as well as Trial Court Judgment, I find that the prosecution has failed to prove the offence under Section 498A of the Indian Penal Code against the appellants beyond reasonable doubts.

13. Hence, the impugned judgment is not sustainable and the same is set aside, acquitting the appellants of all the charges.

14. The present appeal stands allowed, accordingly.

(Jitendra Kumar, J.)

Chandan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	21.03.2025
Transmission Date	21.03.2025

