

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.955 of 2017

Arising Out of PS. Case No.-117 Year-2009 Thana- AKHODHIGOLA District- Rohtas

Rajeev Ranjan Kumar Son of Late Shiv Shankar Paswan, R/o Village-
Chhapragarh, P.S.- Akorhigola, District- Rohtas.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (DB) No. 779 of 2017

Arising Out of PS. Case No.-117 Year-2009 Thana- AKHODHIGOLA District- Rohtas

Sarswati Devi W/o Late Shiv Shankar Paswan, Resident of Village-
Chhapragarh, P.S.- Akorigola, District- Rohtas.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (DB) No. 955 of 2017)

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Arvind Kumar Pandey, Advocate
For the State	:	Mr. Sujit Kumar Singh, APP
For the Informant	:	Mr. Avanish Kumar Singh, Advocate

(In CRIMINAL APPEAL (DB) No. 779 of 2017)

For the Appellant/s	:	Mr. Ajay Kumar Thakur, Advocate Mr. Arvind Kumar Pandey, Advocate
For the State	:	Mr. Sujit Kumar Singh, APP
For the Informant	:	Mr. Avanish Kumar Singh, Advocate Mr. Mukul Kumar Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI

and

HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

Date : 19-04-2025

The present appeals have been filed under Section-

374(2) of the Code of Criminal Procedure, 1973 (hereinafter



referred as 'Cr.P.C.') challenging the common judgment of conviction dated 30.05.2017 and order of sentence dated 01.06.2017, passed in Sessions Trial No. 57 of 2010, arising out of Akorhigola P.S. Case No. 117 of 2009, corresponding to G.R. No. 2674 of 2009, by the Court of learned P.O., F.T.C.-1, Rohtas at Sasaram, whereby the appellants/convicts have been convicted for commission of the offences punishable under Section-304B/34 of I.P.C. and appellant Rajeev Ranjan Kumar has been sentenced to undergo R.I. for life and appellant Sarswati Devi has been sentenced to undergo R.I. for seven years.

2. Heard Mr. Ajay Kumar Thakur, learned counsel for the appellants assisted by Mr. Arvind Kumar Pandey, Mr. Sujit Kumar Singh, learned A.P.P. for the respondent-State and Mr. Avanish Kumar Singh and Mr. Mukul Kumar Singh, learned counsels for the informant.

3. The brief facts leading to the filing of the present appeal are as under:

“The informant Anita Devi, mother of the deceased gave her *fardbeyan* on 11.11.2009 at 22:00 hours at the in-laws' house of her daughter stating that the marriage of her daughter was solemnized on 28.02.2008 according to Hindu Rites and



Rituals. After the marriage, Priyanka (deceased) started to live in her matrimonial house and she visited her parental house in December, 2008. Taking the excuse of an accident, the husband of the deceased took her to Rohtas. Thereafter, Priyanka, her father-in-law, mother-in-law, sister-in-law and her husband started to live at Dihri in the rental accommodation of Dr. Surendra Gupta. The husband of Priyanka compelled her to demand Rs. 50,000/- and a motorcycle from her parents on mobile phone so that the same can be given at the time of his sister's marriage. When the informant side tried to take her back to their house, the father-in-law and mother-in-law told in specific terms that they would not permit Priyanka to go until the aforesaid demand is fulfilled. Sunita, the sister-in-law of Priyanka treated her as a maid servant and did not permit her to watch T.V. From time to time, Priyanka used to inform the informant and her mother (Nani) about the ill-treatment meted to her and expressed apprehension of being killed. On 30.10.2009, when father of Priyanka went to take her back, Priyanka's husband, mother-in-law, father-in-law and sister-in-law insulted him and put the same condition. It is further alleged in the *fardbeyan* that before they could resolve the issue, on 11.11.2009, at about 04:00 p.m., a call from the Priyanka's



husband was received informing that Priyanka is ill. She is fainting off and on. On this information, the informant, son of her sister-in-law namely Sikandar Paswan, elder brother of her husband, namely Vikrama Paswan and her son Gaurav Kumar Nirala went to the in-laws' house of her daughter and found her daughter dead with a black mark around her neck, which clearly indicated that her daughter was murdered by her husband, father-in-law, mother-in-law and sister-in-law by pressing her neck and the accused persons fled away after the local people gathered around the place.”

4. After filing of the F.I.R., the investigating agency carried out the investigation and, during the course of investigation, the Investigating Officer recorded the statement of the witnesses and collected the relevant documents and thereafter filed the charge-sheet against the accused. As the case was exclusively triable by the Court of Sessions, the case was committed to the Court of Sessions where it was registered as Sessions Trial No. 57 of 2010.

5. Learned counsel for the appellants Mr. Ajay Kumar Thakur mainly submitted that appellant Rajeev Ranjan Kumar is the husband of the deceased whereas appellant Sarswati Devi is the mother-in-law of the deceased. It is



submitted that the trial court has acquitted two other accused of all the charges. It is further submitted that, in the present case, though the charge was framed under Section-302 of I.P.C., the trial court has acquitted the appellants *qua* the said offence. It is further submitted that the appellants have been convicted for committing the offence punishable under Section-304B read with 34 of I.P.C. However, the prosecution has failed to prove the ingredients of Section-304B of I.P.C. Learned counsel referred the deposition of the prosecution-witnesses and thereafter contended that the prosecution-witnesses did not give any date on which the demand of dowry was made. It is also submitted that general allegations are levelled against all the four accused that they have demanded Rs. 50,000/- and a motorcycle. At this stage, learned counsel referred the deposition given by P.W. 4 Sitaram Paswan, the grandfather of the deceased. It is submitted that the said witness has specifically stated in para-11 that no dowry in cash was given at the time of marriage as there was no such demand from the accused side. Learned counsel further submits that the said witness has once again said that no dowry was demanded at the time of marriage. Learned advocate Mr. Thakur further submits that from the deposition of the prosecution-witnesses, it would



reveal that the deceased was a student of B.A. Part-I at the time of her marriage and by the time of the incident she had passed her graduation. It is further submitted that P.W. 4 has admitted during cross-examination that at the time of marriage, deceased was in B.A. Part-II and her in-laws had continued her studies upto B.A. Final and for the said purpose they had taken a house on rent at Dehri. It is also submitted by Mr. Thakur that appellant Rajeev Ranjan is a teacher in his village and his father teaches in an adjacent village. Both of them regularly go to school on their motorcycle. Learned counsel, therefore, contended that when the appellant/accused Rajeev Ranjan and even his father were having motorcycles and were teachers working in the school, there was no question of demanding motorcycle, as alleged. Learned counsel has also contended that, in fact, the appellants have taken a house on rent near the college in which deceased was studying and she pursued her B.A. Part-II and cleared it. Learned counsel thereafter referred the deposition given by P.W. 7, the Investigating Officer. It is submitted that the I.O. has specifically stated that he had recorded the statement of witness Sushma Devi who stated that the door was locked from the inside. She also stated before him that mother-in-law, father-in-law, husband and sister-in-law of



the deceased came afterwards and the husband of the deceased entered the room through the upper side grill and opened the door. Learned counsel further submits that P.W. 7, I.O., has also stated that the house owner and co-renter said that they never saw any quarrel between the deceased and the accused persons. Mr. Thakur, therefore, contended that there was no demand of dowry and no cruelty was meted out by the appellants to the deceased, as alleged by the prosecution and even there was no cruelty for demand of dowry soon before the death. Learned counsel, therefore, urged that the prosecution has miserably failed to prove all the ingredients of Section-304B of I.P.C. and even presumption under Section-113B of Evidence Act would not be attracted in the facts of the present case.

6. Learned counsel thereafter referred the deposition of P.W. 6, the doctor who had conducted the *post mortem* on the dead body of the deceased. It is submitted that during cross-examination the said witness has stated that asphyxia can be caused even in the case of suicide by hanging and strangulation is also possible in the case of hanging. Learned counsel, therefore, contended that even if the present can be considered as a case of unnatural death at the matrimonial home of the deceased, factum of such unnatural



death in matrimonial home within seven years of marriage is not by itself sufficient to hold accused persons guilty of offence under Section-304B of I.P.C. In support of this contention, learned counsel has placed reliance upon the decision rendered by the Hon'ble Supreme Court in the case of **Bajinath V. State of Madhya Pradesh**, reported in **AIR 2016 SC 5313**. Learned counsel has also placed reliance upon the following decisions:-

(i) **Charan Singh @ Charanjit Singh Vs. State of Uttarakhand**, reported in **AIR 2023 SC 2095**;

(ii) **Karan Singh Vs. State of Haryana**, reported in **2025 SCC OnLine SC 214**;

(iii) **Shoor Singh & Anr. Vs. State of Uttarakhand**, reported in **(2025) 2 SCC 815**;

(iv) **Chabi Karmakar & Ors. Vs. State of West Bengal**, reported in **(2025) 1 SCC 398**;

7. On the other hand, learned A.P.P. and learned counsel for the informant have opposed the present appeals. Learned advocates for the respondents would mainly submit that from the deposition given by the prosecution-witnesses, it transpires that specific allegations are levelled against the appellants herein that they have demanded Rs. 50,000/- cash as well as a motorcycle. It is further submitted that the



prosecution-witnesses have also alleged that the cruelty was meted out to the deceased. At this stage, it has been submitted that span of married life of the deceased with the appellant Rajeev Ranjan Kumar was less than two years. Thus, the deceased had died at her matrimonial home within seven years of her marriage. It is further submitted that from the deposition of the doctor, it can be said that the death of the deceased was unnatural. Learned advocates, therefore, urged that presumption under Section-113B of Evidence Act would be attracted and when the prosecution has proved all the ingredients of the offence punishable under Section-304B of I.P.C., no error has been committed by the trial court while convicting the appellants for the said offences. Learned advocates, therefore, urged that both these appeals be dismissed.

8. We have considered the submissions canvassed by the learned counsels for the parties. We have also perused the evidence of prosecution witnesses as well as defence witnesses and also perused the documentary evidence exhibited.

9. At this stage, we would like to appreciate the relevant extract of entire evidence led by the prosecution as well as defence before the Trial Court.

10. Before the Trial Court, prosecution examined 7



witnesses.

11. P.W. 1 Gaurav Kumar Nirala is the brother of the deceased. He has stated that the incident is of 11.11.2009. At about 09:00 p.m., he was at his house. At 04:00 p.m. the groom made a call and informed that Priyanka has fallen ill and is fainting time and again. His mother advised him to get her treated, but the call was disconnected which made them suspicious. Thereafter he, his mother, his uncle and the son of his uncle hired a vehicle and went to Akorhigola, Chapra to verify the actual cause. When they went inside the room, he found the dead body of his sister lying in the room. When they asked as to how all this happened, the accused persons did not give any reply. There was a black mark around the neck of his sister from which they came to the conclusion that she has been killed by strangulating her neck. He has further stated that whenever he visited the in-laws' house of his sister, the in-laws, namely Sheo Shankar Paswan, Rajeev Kumar, Sarswati Devi and his (groom's) sister, used to demand Rs. 50,000/- and a bicycle and used to beat his sister. He identifies Sheo Shankar Paswan, Rajeev Ranjan and Sarswati Devi, present in Court.

11.1. In his cross-examination, he has stated that the husband of Priyanka had informed about her illness on



11.11.2009 at 04:00 p.m. Priyanka was living at Dehri at that time as there was no proper arrangement for studies in her in-laws' house, which was situated in a village. The husband and the father-in-law of Priyanka were both in government job and were getting remuneration of Rs.5000/- each. Priyanka had two unmarried sisters-in-law. Matrimonial relation of his sister was not cordial even before her death. The informant side seldom visited Priyanka at her rented house at Dehri. Name of the house owner was Dr. Surendra Gupta. The in-laws' village was at a distance of 6-7 kilometres from Dehri. He had last gone to Dehri on 30.10.2009 to take her to his house on the occasion of Chhath, but she was sent back and a demand of Rs. 50,000/- and a motorcycle was made as a pre-condition for sending her with him. They could not fulfil the aforesaid demand. He has, however, admitted that the accused used to go on duty on motorcycle which was not given by them. He has stated that the accused persons had no piece of land. He has further stated that his sister stayed at her in-laws' house for a period of 10-15 days in all. After the marriage, Priyanka stayed at her parental house for only 25 days and she resided in the house of her maternal grandfather and studied there. She was doing Graduation there. He has further admitted that the expenses over her education



were borne by her in-laws and they had themselves got her enrolled in Part-3. In his further cross-examination, he has stated that he had not visited the house of Surendra Gupta, where the accused persons were residing, either on the date of incident or the following day. He never visited the said place till date. Priyanka died at Dehri in the house of Surendra Gupta. He used to go there before the incident. After the death, the dead body was taken to her *Sasural* at Chapra. However, they took back the dead body to Dehri and performed her funeral. Priyanka's husband was also with them. When they were on the way, the husband of Priyanka was arrested by the Police. He further adds that he was arrested at his house itself in their presence at 09:30 p.m. Before his arrest, no F.I.R. was lodged. When the husband of Priyanka was arrested, they accompanied him to the police station along with the dead body and stayed there for the whole night. Next morning, an F.I.R. was lodged upon which he, his mother, his uncle Vikrama Paswan and the son of his uncle, namely Sikandar Paswan put their signatures. Darogaji wrote in the F.I.R. that the incident took place at 04:00 p.m. on 11.11.2009 at Dehri. He also detailed the manner of occurrence. He has further stated that he himself performed the funeral. After giving written information at the police station, he



never came across Darogaji. He has further stated that he did not get any information at Chapra about the death of Priyanka. The distance of the house of Surendra Gupta from the house of his maternal grandfather is about 1 to 1/5 kilometres. She had visited her maternal grandfather's house only once after her marriage. Deceased Priyanka was very beautiful and Rajeev Ranjan is of very dark complexion. Relation between the two was cordial. He has denied the suggestion of giving false deposition and that no such incident had taken place.

12. P.W. 2 Vikrama Paswan has stated in his examination-in-chief that the incident took place on 11.11.2009. Priyanka was married to Rajeev Ranjan in Akhorigola, Chapra in 2008. He had attended the same. He has briefly stated the sequence of events and supported the deposition of P.W. 1, including the demand of Rs. 50,000/- and a motorcycle. He has identified accused Sheo Shankar Paswan and Rajeev Ranjan, present in Court.

12.1. He has stated that in his cross-examination he is the uncle of Priyanka. At the time of incident, he was at Haider Nagar with his nephew Sikandar Paswan, Anita Devi and Gaurav Kumar. He has also stated that he is not educated, however, he can write his name. He had received the call at



04:00 p.m. of the groom. At that time Priyanka resided at Dehri, but they did not go to Dehri as Priyanka's husband had informed that he is taking her to Chapra. He could not know as to what happened with Priyanka as he resides at Hazaribagh. He has further stated that he has visited Chapra, where the accused persons reside. It is 5-6 kilometres away from Dehri. He is not acquainted with anybody of that village. When he saw the dead body of Priyanka, none else was there. On 11th police took the dead body and record was maintained. He again stated that no document was prepared. He had last visited the house of Priyanka at Dehri on 28.04.2009 to take her back, but she was not allowed to come with him. In his further cross-examination, he has stated that Priyanka's husband and his father both are teachers and they go to the school on motorcycle. He has first stated that police had interrogated him and then denies his version. He has stated that he had gone upto Sasaram with the dead body. He has further stated that he was informed by the wife of Shankar Paswan about the illness of Priyanka.

13. P.W. 3 Sikandar Paswan has stated in his examination-in-chief that Priyanka Kumari was his cousin sister. She was married on 28.02.2008 with Rajeev Ranjan whereafter she went to her *Sasural*. On the date of incident, i.e. on



11.11.2009 Rajeev Ranjan had informed his aunt Anita Devi on phone that Priyanka was ill. Upon such information, Anita Devi, Vikrama Ram, Gaurav Kumar Nirala and he himself went to the *Sasural* of Priyanka at Akhorigola, Chapra where they saw that Priyanka was lying dead and there was a black mark around her neck. His aunt enquired of the accused persons that when Priyanka was ill, why did they not get her treated. The accused persons did not reply to her. Priyanka was kept with dignity for 5-6 months. Thereafter accused Rajeev Ranjan Kumar, Sunita Kumari, Sarswati Devi and Sheo Shankar Paswan started demanding Rs. 50,000/- and a motorcycle which the informant side could not fulfil. Accused then began to ill-treat her and threaten her to kill. Anita Devi informed Akhorigola P.S. on phone upon which police force chased the accused persons and arrested accused Rajeev Ranjan. He has claimed to identify all the accused persons and identifies accused Sheo Shankar Paswan and Sarswati Devi, present in Court.

13.1. In his cross-examination, he has further stated that Priyanka was a student of B.A. Part-I of Mahila College, Dalmia Nagar at the time of her marriage and on the date of incident she had done her Graduation. He has further stated that he is not acquainted with anybody in Chapra, except his



relatives. He had visited Chapra 2-3 time in February, 2008. He has also stated that when he got information about the incident, he informed his maternal grandfather about the same on 11.11.2009 in the night. Police had prepared the paper of the dead body upon which he had put his signature as a witness. The dead body was kept at the police station during night. Next day it was taken for *post mortem*. He had also gone with the dead body. In his further cross-examination, he has stated F.I.R. was drafted in the night itself upon which he, Vikrama Paswan, Gaurav Kumar and Anita Devi had put their signatures. There was none from the village present at Akhorigola P.S. He had talked to the accused persons, but when they did not give any reply regarding the incident, he and others concluded that the accused persons had killed Priyanka for dowry. He has denied the suggestion of falsely implicating the accused persons.

14. P.W. 4 Sitaram Paswan has stated in his examination-in-chief that Deceased Priyanka was his granddaughter (Natini). She was married to Rajeev Ranjan Kumar on 28.02.2008. On the date of incident i.e. 11.11.2009 at 09:30 p.m. he got information through Anita on mobile that Sheo Shankar Paswan, Rajeev Ranjan Kumar, Sarwati Devi and Sunita Kumari had killed Priyanka. Accused demanded Rs.



50,000/- and a motorcycle and due to non-fulfilment of the same they used to torture her and killed her.

14.1. In his cross-examination, he has stated that his granddaughter had passed B.A. At the time of marriage she was in BA-Part II. Her in-laws had continued her studies upto BA Final and for the said purpose they had taken a house on rent at Dehri. Rajeev Ranjan is a teacher in his village and his father teaches in an adjacent village. Both of them regularly go to school on their motorcycle. They cover a distance of 10 kms. to attend their duties from Dehri. He has further stated that his house is 1.5 kms. away from Dehri where he used to go to see his granddaughter. He has also stated in para-11 that no dowry in cash was given at the time of marriage, as there was no such demand from the accused side. However, certain articles were given. It was he who had given all the articles at the time of marriage. He has further stated that Priyanka never wrote any letter to him. Priyanka died at Dehri. He had not lodged any case regarding the death of Priyanka at Dehri. Priyanka's family members had also not lodged any case at Dehri. The owner of the house at Dehri where Priyanka resided with the in-laws was Dr. Surendra Kumar Gupta. He has further deposed that initially Priyanka was kept properly in his *Sasural*. When the accused



started demanding dowry, the relation became strained. He has reiterated that no dowry was demanded at the time of marriage. The motorcycle was demanded for being given in the marriage of the sister of Rajeev Ranjan Kumar. He has denied the suggestion that out of anger he has falsely implicated the accused persons.

15. P.W. 5 Anita Devi has stated in her examination-in-chief that Priyanka was her daughter. She was married to Rajeev Ranjan on 28.02.2008. On 30.12.2008 Priyanka had come to her house when she had fallen ill, but on 25.01.2009 her son-in-law took her back. When her daughter went back to her *Sasural*, her husband Rajeev Ranjan, father-in-law Sheo Shankar Paswan, mother-in-law Sarswati Devi and sister-in-law Sunita Devi started demanding Rs. 50,000/- and a motorcycle. When she expressed inability, they started to beat her and stopped offering food. She had gone to her daughter's *Sasural* 3-4 times when the accused persons said that until the demand is fulfilled, they would not permit Priyanka to go to her parental house. On 11.12.2009, her son-in-law dialed to her and informed that her daughter is severally ill and has developed fainting tendency. Upon such information, she, her sister-in-law's son and her own son went to Chapra. When no



satisfactory reply was given about the illness, they went inside the house and saw Priyanka lying dead with black mark around her neck. None in the locality revealed the truth from which she suspected that all the four accused persons had killed her daughter by strangulating her neck. When she informed her father about the incident, he informed Akhorigola P.A. Police came and recorded her statement. She put her signature on the statement which she identifies. Vikrama Ram, Sikandar Paswan, Gaurav Kumar Nirala had also put their signatures on the same which she identifies (Exts. 1, 1/1, 1/2, 1/3). She has identified accused Rajeev Ranjan and Sheo Shankar Paswan, present in court and claims to identify other accused by face.

15.1. In her cross-examination, she has stated that the marriage of her daughter was organized at her parental house at Dehri. By that time, her daughter had completed her B.A. Part I. Further, she had completed her B.A. Final from her *Sasural*. Her deceased daughter, son-in-law and other family members resided at Dehri in the rented house and her daughter attended the college from there and had appeared at the examination also from there. She has further stated that she had not visited the house of Dr. Surendra Gupta where her son-in-law resided on rent. When she had gone to Chapra, police was



not there, rather it came after an hour. She went to the police station with the police. The police did not take her to Dr. Gupta's house. Though the demand of Rs. 50,000/- and a motorcycle was made before the incident, but she had not disclosed about the same. She has denied the suggestion that in absence of the accused persons her daughter had committed suicide by hanging herself and that she had falsely implicated the accused persons.

16. P.W. 6 Dr. Rajesh Kumar Singh has stated in his deposition that he was posted as M.O. at Sadar Hospital, Sasaram on 12.11.2009. He conducted the *post mortem* examination of the dead body of the deceased Priyanka Kumari on 12.11.2009 at 02:15 p.m. and noted the following:-

“External Exam:-

1. Rigor Mortis -present in all four limbs.
2. Face- Gyanosed.
3. Lips- livid.
4. A ligature (depressed) over front and right side of neck and discontinuous on left side laterally. The depressed ligature mark was 1/4” wide.

On dissection:-

Skull bones intact meninges and brain substance intact and congested neck. Haematoma under the ligature mark and below.

Muscles- Torn.

Thyroid cartilage fractured blood found in trachea. Mucosa red and congested.

Chest- Lungs congested.

Heart- Right side full of blood left side contain little blood.



Stomach- Contain 100 ml liquid.

Abdomen- Liver, spleen, kidney found congested.

Small intestine contain fluid and gas.

Large intestine faecal matter and gas.

Uterus- Non-gravit.

3. Time elapsed since death- 12 to 24 hours.

Cause of death- Asphyxia due to strangulation.

16.1. In his cross-examination, he has stated that the post-mortem report is written by him with the assistance of others. He has further stated that ligature mark is possible even in case of hanging. Asphyxia can be caused even in the case of suicide by hanging. Strangulation is also possible in case of hanging.

17. P.W. 7 Dayanath Jha is the Investigating Officer of the present case. He has stated that on 11.11.2009 he was posted as S.H.O., Akhorigola P.S. On that date he recorded the *fardbeyan* of Anita Devi at 10:00 hours in the night. The *fardbeyan* is in his pen and signature, which he identifies. Anita Devi, finding the contents of the *fardbeyan* to be true, put her signature on the same. Sikandar Paswan, Vikrama Ram, Gaurav Kumar Nirala also put their signatures as witnesses in his presence (Ext-3). The formal F.I.R. is in the pen and signature of S.I. Arvind Kumar Jha (Ext-4). He himself took the charge of investigation and recorded the re-statement of the informant as also the statements of witnesses Gaurav Kumar Nirala, Vikrama



Paswan and Sikandar Paswan. He also arrested accused Rajeev Ranjan Kumar. Next morning, he prepared the inquest report of the deceased. He sent the dead body of the deceased Priyanka Kumari @ Guria for *post mortem*. Based on the statement of the accused, he went to the Dehri house of the accused and took the statement of local residents there. He, thereafter, inspected the place of occurrence. The incident is alleged to have taken place in the room in which father-in-law and mother-in-law of the deceased resided.

17.1. In his cross-examination, he has stated that he received the information about the occurrence on 11.11.2009 at 21:30 in the night. He recorded the *fardbeyan* at 22:00 hours by the side of the deceased. He was, first of all, informed by Ram Chandar Paswan. The mother of the deceased was informed about the incident by the husband of the deceased, as recorded in the re-statement. He had taken the statements of the local residents, but the same is not mentioned in the case diary. He recorded the statement of the wife of a co-renter in para-20. He also recorded the statement of the land lady in para-19 of the case diary. Witness Sushma Devi stated that the gate was locked from inside. Her statement is recorded in the case diary. She did not tell about the presence of accused at the relevant point of



time. She further stated that mother-in-law, father-in-law, husband and sister-in-law of the deceased came afterwards. She also stated that the husband of the deceased entered the room through the upper side grill and opened the door. The house owner and a co-renter disclosed that they never saw any quarrel between the accused persons and the deceased. Nothing incriminating was found in the room in which deceased is stated to have hanged herself. He has denied the suggestion that he has conducted a faulty investigation and submitted a false charge-sheet against the accused persons, without any cogent material or evidence against them.

18. Defence has also examined 6 witnesses, namely D.W. 1, Mahendra Sharma, D.W. 2 Jagarnath Sharma, D.W. 3, Sushma Devi, D.W. 4 Rajiv Ranjan Kumar, D.W. 5 Ramadhar Ram and D.W. 6 Surendra Kumar Sinha.

19. We have considered the arguments canvassed by the learned counsels appearing for the parties, re-appreciated the entire evidence led by the prosecution as well as defence and perused the paper-book and trial court record.

20. From the evidence led by the prosecution, it would reveal that marriage of the deceased with the appellant Rajeev Ranjan Kumar was solemnized on 28.02.2008 and the



deceased died on 11.11.2009 at her matrimonial house. Thus, within a period of seven years, the deceased died at her matrimonial home. Now, informant Anita Devi is the mother of the deceased who has lodged the First Information Report in which mainly it has been alleged that after the marriage there was a demand of Rs. 50,000/- and a motorcycle by the accused. In the F.I.R. it has been alleged that accused Sunita Devi, sister-in-law of the deceased, was misbehaving with the deceased and she was not allowed to watch television. Thereafter, there is a reference of the incident of 30th October, 2009 in the F.I.R. that father of the deceased, i.e. husband of the informant, had visited the matrimonial house of the deceased when all the in-laws misbehaved with him and at that time also they demanded a motorcycle. It is alleged that on 11.11.2009, the deceased died.

20.1. However, it is pertinent to note that the prosecution has failed to examine the father of the deceased and thereby failed to prove the so-called incident which took place on 30th October, 2009. It is also required to be observed that none of the prosecution-witnesses have deposed before the Court with regard to the so-called incident which took place on 30th October, 2009.

21. Keeping in view the aforesaid aspects, if the



deposition of P.W. 1 is examined, it is revealed that he has alleged in para-2 that whenever he was visiting the house of his sister, the accused were demanding Rs.50,000/- and a bicycle. Thus, the said witness has stated about the demand of a bicycle and not motorcycle. Further, the said witness has not given the specific date with regard to the demand of Rs. 50,000/- and a bicycle. Further, during cross-examination the said witness has admitted that his deceased sister was residing at Dehri because in the village in which her matrimonial house is situated, there was no arrangement/facility for studies of the deceased. He has also said that husband and father-in-law of the deceased are in Government job. It is further revealed that the said witness has also admitted that accused were using their motorcycles. Further, the said witness has also admitted that after the marriage, the deceased continued her studies and for that purpose expenses of which were borne by the in-laws. P.W. 1 further stated that deceased Priyanka Kumari was very beautiful, however, her husband Rajeev Ranjan Kumar is of very dark complexion. P.W. 1 has further admitted that relation between the two was cordial. Thus, from the aforesaid deposition of P.W. 1 it can be said that the relation between husband and wife was cordial and, in fact, after the marriage the



expenses of studies of the deceased was borne by her in-laws and the accused were using their own motorcycles. The said motorcycles were not given by the informant side.

22. P.W. 4 Sitaram Paswan is the grandfather of the deceased. The said witness has, in fact, admitted during his cross-examination that at the time of marriage the deceased was in B.A. Part-II and her in-laws had continued her studies upto B.A. Final and for the said purpose they had taken a house on rent at Dehri. The said witness has also stated that accused Rajeev Ranjan is a teacher in his village and his father teaches in an adjacent village. Both of them regularly go to their schools on motorcycles. The said witness has also admitted in para-11 that no dowry in cash was given at the time of marriage as there was no such demand from the accused side. Once again the said witness has admitted that no dowry was demanded at the time of marriage.

22.1. Thus, from the aforesaid deposition given by P.W. 4, grandfather of the deceased, it can be said that there was no demand of cash or dowry at the time of marriage and, in fact, appellant Rajeev Ranjan Kumar and his father were having their own motorcycle and they were serving in school and were doing government job. Further, with a view to see that the deceased



pursues her studies, they had taken a house on rent at Dehri near the college and after marriage the deceased studied upto B.A. Final.

23. Informant is P.W. 5, who is mother of the deceased. The said witness has also admitted during cross-examination that her daughter had completed B.A. Part-I and thereafter completed her B.A. Final from her matrimonial home. She has also admitted that her deceased daughter, son-in-law and other family members resided at Dehri in the rented house and her daughter attended the college from there and had also appeared at the examination from there. She has also admitted that she has not visited the house of Dr. Surendra Gupta where her son-in-law resided on rent. She has also admitted that though demand of Rs. 50,000/- and a motorcycle was made, she had not disclosed about the same.

24. At this stage, we would like to examine the deposition given by P.W. 7, I.O. The said witness has stated in his cross-examination that he had recorded the statement of witness Sushma Devi who stated before him that the gate was locked from inside. Statement of the said witness was recorded in the case diary, however, the said witness did not tell about the presence of the accused at the relevant point of time. P.W. 7



further stated that Sushma Devi also stated that mother-in-law, father-in-law, husband and sister-in-law of the deceased came afterwards and the husband of the deceased entered the room through the upper side grill and opened the door. P.W. 7 has further stated that the house owner and the co-renter disclosed that they never saw any quarrel between the accused persons and the deceased. Thus, from the aforesaid deposition of P.W. 7, it can be said that the independent witness Sushma Devi, whose statement was recorded in the case diary, stated that the accused were not present in the house when the incident took place and the room was locked from inside. However, it is relevant to note that prosecution has failed to examine the independent witness Sushma Devi.

25. P.W. 6, the doctor who had conducted the post mortem on the dead body of the deceased, has admitted during cross-examination that ligature mark is possible even in case of hanging. Asphyxia can be caused even in the case of suicide by hanging. Further, strangulation is also possible in the case of hanging. From the aforesaid evidence led by the prosecution, it can be said that the prosecution has failed to prove the demand of dowry, i.e. Rs. 50,000/- and a motorcycle soon before the death of the deceased. No specific date and time has been



mentioned by the prosecution with regard to such demand. Further, cash and/or motorcycle was not demanded at the time of marriage. In fact, appellant Rajeev Ranjan Kumar and his father both were having their own motorcycle which they were using. Further, there was cordial relationship between husband and wife and, as per the statement given by the neighbours before the police, i.e. P.W. 7, there was no quarrel between the deceased and her in-laws. It would further reveal that the appellant Rajeev Ranjan Kumar and his family members have taken a house on rent at Dehri near the college in which the deceased was staying so that she could pursue her studies and it is also revealed from the evidence that expenses of her studies were borne by the accused persons. If that is the case, then we are of the view that the prosecution has failed to prove that there was a cruelty meted out to the deceased soon before her death in connection with demand of dowry. Merely because deceased died an unnatural death at her matrimonial home, that by itself is not sufficient to hold the accused persons guilty of offence punishable under Section-304B of I.P.C. as held by the Hon'ble Supreme Court in the case of **Baijnath** (supra). The Hon'ble Supreme Court observed in para-38 of the said judgment as under:-

“38. A cumulative consideration of



the overall evidence on the facet of dowry, leaves us unconvinced about the truthfulness of the charge qua the accused persons. The prosecution in our estimate, has failed to prove this indispensable component of the two offences beyond reasonable doubt. The factum of unnatural death in the matrimonial home and that too within seven years of marriage therefore is thus ipso facto not sufficient to bring home the charge under Sections 304B and 498A of the Code against them.”

26. At this stage, we would like to refer the decisions upon which reliance has been placed by the learned counsel for the appellants.

27. In the case of **Charan Singh** (supra), Hon’ble Supreme Court has observed in para Nos. 12, 13, 21 and 23 as under:-

12. As the aforesaid case was also pertaining to dowry death, presumption under Section 113B of the Indian Evidence Act was also discussed in detail in paras 29 to 31 of the aforesaid judgment. The same are extracted below:-

“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 pre-requisite 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 inspirit 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 above referred offences cannot be held guilty by taking refuge only of the presumption to cover up the shortfall in proof.

31. The legislative primature of relieving the prosecution of the rigour of the proof of the often practically inaccessible recesses of life within the guarded confines of a matrimonial home and of replenishing the consequential void, by according a presumption against the person charged, cannot be overreached to gloss over and condone its failure to prove credibly, the basic facts enumerated in the sections involved, lest justice is the casualty”.



13. A conjoint reading of Section 304B IPC and Section 113B of the Indian Evidence Act with reference to the presumption raised was discussed in para 32 of the aforesaid judgment, which is extracted below:-

“32. This Court while often dwelling on the scope and purport of Section 304-B of the Code and Section 113-B of the Act have propounded that the presumption is contingent on the fact that the prosecution first spell out the ingredients of the offence of Section 304-B as in *Shindo v. State of Punjab* [*Shindo v. State of Punjab*, (2011) 11 SCC 517: (2011) 3 SCC (Cri) 394: (2011) AIR SCW 6556] and echoed in *Rajeev Kumar v. State of Haryana* [*Fajeev Kumar v. State of Haryana*, (2013) 16 SCC 640: (2014) 6 SCC (Cri) 346]: (AIR 2014 SC 227). In the latter pronouncement, this Court propounded that one of the essential ingredients of dowry death under Section 304-B of the Code is that the accused must have subjected the woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the Court will presume that the accused has committed the offence of dowry death under Section 113-B of the Act. It referred to with approval, the earlier decision of this Court in *K. Prema S. Rao v. Yadla Srinivasa Rao* [*K. Prema S. Rao v. Yadla Srinivasa Rao*, (2003) 1 SCC 217: 2003 SCC (Cri) 271]: (AIR 2003 SC 11) to the effect that to attract the provision of Section 304-B



of the Code, 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 and harassment “in connection with the demand for dowry”.

21. In the aforesaid evidence led by the prosecution, none of the witnesses stated about the cruelty or harassment to the deceased by the appellant or any of his family members on account of demand of dowry soon before the death or otherwise. Rather harassment has not been narrated by anyone. It is only certain oral averments regarding demand of motorcycle and land which is also much prior to the incident. The aforesaid evidence led by the prosecution does not fulfil the pre-requisites to invoke presumption under Section 304B IPC or Section 113B of the Indian Evidence Act. Even the ingredients of Section 498A IPC are not made out for the same reason as there is no evidence of cruelty and harassment to the deceased soon before her death.

23. On a collective appreciation of the evidence led by the prosecution, we are of the considered view that the pre-requisites to raise presumption under Section 304B IPC and Section 113B of the Indian Evidence Act having not been fulfilled, the conviction of the appellant cannot be justified. Mere death of the deceased being unnatural in the matrimonial home within seven years of marriage will not be sufficient to convict the accused under Section 304B and 498A IPC. The cause of death as such is not known.”

28. In the case of **Karan Singh** (supra), Hon’ble Supreme Court has observed in para Nos. 14, 16 and 17 as



under:-

“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.

16. In the cross-examination, PW-7 stated that police had recorded his statements on 3rd April 1998 and 7th April 1998, which were marked as exhibits DG and DH, respectively. He accepted that the allegation that the accused used to maltreat his sister on account of insufficient dowry given in the marriage and having brought broken furniture is not found in both the police statements. He also stated that the demand for a refrigerator, a motorcycle, and a mixi does not find place in both statements. Therefore, the version of PW-7 in his examination-in-chief about the demands of dowry is a significant and relevant omission. Hence, this amounts to a contradiction. The public prosecutor claimed that the demand for a refrigerator, a motorcycle, and a mixi was mentioned in his third statement, which was recorded on 23rd June 1998. The third statement, recorded belatedly, obviously appears to be an afterthought. As regards his statement that the accused used to give a beating to his sister, it seems that he got this information when he visited the matrimonial home of his sister three months after the marriage. It is a very vague allegation. Moreover, the witness has not stated that this was disclosed to him by his deceased sister. Assuming that what he has said is correct, this incident of beating must have taken place between



25th June 1996 till end of September 1996. Therefore, this incident did not happen soon before the death. It is not his case that when the deceased allegedly visited his house nine to ten days before the incident, she complained about any cruelty or any harassment. Thus, none of the three statements of the witnesses contain any specific instances of cruelty or harassment.

17. Now, coming to evidence of PW-8, Ram Singh. PW-6 has not deposed that any demand of dowry was made to PW-8 or in his presence. She claimed in the cross-examination that PW-8 had told her about the maltreatment and the demand of dowry by the accused three to four months after the marriage. She stated that before 23rd June 1998, the police did not record the statement of PW-8. She stated that PW-8 had come to her house after the death of the deceased but she did not tell her brother to make a statement before the police. The statement of PW-8 was recorded more than two and half months from the date of the incident. Moreover, he had no personal knowledge whether the appellant had subjected the deceased to cruelty or harassment. Therefore, the prosecution did not prove the material ingredients of the offence punishable under Section 304-B. 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.”



29. In the case of **Shoor Singh** (supra), Hon'ble Supreme Court has observed in para Nos. 18 and 23 as under:-

“18. The testimonies of PW 1, PW 2 and PW 3 do not indicate that any demand for dowry was made by the appellant-accused either before or at the time of marriage of the deceased with their son. Further, there is no evidence that the appellant-accused directly demanded a motorcycle or cash from any of the above witnesses. In fact, evidence is to the effect that the deceased had informed PW 1 and PW 2 on 4-1-2007 and 11-1-2007 about the demand for a motorcycle and cash. Further, from the deposition of PW 1 and PW 2, it appears that the aforesaid demand was not in connection with marriage but as a mark of celebration on birth of a male child.

23. Indisputably, the accused have not been convicted for murder, and rightly so, because there was no worthwhile evidence to show that except for the burn injuries, which could be self-inflicted, the accused suffered any other ante-mortem injury. Moreover, the presence of the accused in the house at the time of occurrence is not proved. In such circumstances, the death was most probably suicidal though this would not make a difference for commission of an offence punishable under Section 304-BIPC if all the other ingredients of dowry death stand proved. But, as noted above, here harassment/cruelty at the instance of the appellants in connection with any demand for dowry has not been proved beyond reasonable doubt.”

30. From the decisions rendered by the Hon'ble



Supreme Court, it can be said that in the offence of dowry demand defined under Section-304B of I.P.C., the following ingredients are required to be proved by the prosecution:-

(i) death of the woman concerned is by any burns or bodily injury or by any cause other than in normal circumstances and

(ii) is within seven years of her marriage and

(iii) that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of the husband for, or in connection with, any demand for dowry.

31. Keeping in view the aforesaid decisions rendered by the Hon'ble Supreme Court, if the evidence led by the prosecution, as discussed hereinabove, is carefully examined, we are of the view that the prosecution has failed to prove the crucial ingredient of cruelty and harassment by direct and cogent evidence, thereby disentitling itself to the benefit of the statutory presumption available under Section- 113B of Evidence Act. At this stage, it is also required to be observed that the trial court has committed serious error by recording the finding in para-23 of the impugned judgment that there is a cogent and clear evidence that deceased was subjected to harassment and torture soon before her death, i.e. in between



January, 2009 and 11.11.2009 for bringing Rs. 50,000/- cash and motorcycle in dowry. In fact, there is no evidence led by the prosecution to suggest that there was harassment and torture soon before the death of the deceased for bringing Rs. 50,000/- cash and motorcycle in dowry. We are, therefore, of the view that the prosecution has failed to prove all the ingredients of the alleged offence, despite which the trial court has recorded the order of conviction. Hence, when the prosecution has failed to prove the case against the appellants beyond reasonable doubt, the impugned judgment and order passed by the trial court is required to be quashed and set aside.

32. Accordingly, the impugned judgment of conviction dated 30.05.2017 and order of sentence dated 01.06.2017, passed in Sessions Trial No. 57 of 2010, arising out of Akorhigola P.S. Case No. 117 of 2009, corresponding to G.R. No. 2674 of 2009 by the Court of learned P.O., F.T.C.-1, Rohtas at Sasaram, are quashed and set aside. The appellants are acquitted of the charges levelled against them by the learned Trial Court.

32.1. Appellant Rajeev Ranjan Kumar (in Cr. Appeal (D.B.) No. 955 of 2017) is in custody. He is directed to be released from jail custody forthwith, if his custody is not



required in any other case.

32.2. Appellant Sarswati Devi (in Cr. Appeal (D.B.)
No. 779 of 2017) is on bail. She is discharged from the
liabilities of her bail-bonds.

33. Both the appeals stand allowed.

(Vipul M. Pancholi, J)

(Sunil Dutta Mishra, J)

K.C.Jha/-

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