

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

Present:

The Hon'ble **Justice Prasenjit Biswas**

C.R.A. 227 of 2010

Raju Adhikary & Ors

-Versus-

The State of West Bengal

For the Appellants : **Mr. Krishnendu Bhattacharya,
Mr. Anirban Kumar Banerjee,
Mr. Subhasri Chatterjee.**

For the State : **Mr. Imran Ali,
Mr. Abhishek Verma.**

Hearing concluded on : **28.08.2025**

Judgment On : **24.09.2025**

Prasenjit Biswas, J:-

1. This appeal is directed against the impugned judgment and order of conviction dated 20.03.2010 passed by the learned Additional Sessions Judge, Fast Track, 1st Court, Baruipur in connection with Sessions

Trial No. 10(1)06 arising out Sessions Case No. 4(9)05 at the behest of the appellants.

2. By passing the impugned judgment these appellants were found guilty for commission of offence punishable under Section 498A of the Indian Penal Code and they were sentenced to suffer simple imprisonment for three years each and to pay a fine of Rs. 10000/- each and in default of payment of fine to undergo further simple imprisonment for nine months. It is further directed by the learned Trial Court that if the fine amount is realized, then 15% of the realized amount will be paid to the parents of the victim.
3. The case set forth by the prosecution, in brief compass, may be summarized as follows:

“The instant case was started on the basis of a written complaint lodged by one Nemai Chandra Dalui stating that his daughter Kalpana Dalui nee Adhikary was married to the appellant no. 1 Raju Adhikary according to Hindu Rites and Ceremonies on 24th Day of Falgun 1410 (BS). It is stated in the written complaint that after some days of marriage all the appellants who are the husband and parents in law of the deceased used to torture upon the victim both physically and mentally on demand of dowry. It

is further revealed from the written complaint that the victim used to come to the house of the defacto complainant due to such torture allegedly inflicted by the appellants and used to narrate such fact before this defacto complainant. The defacto complaint could not fulfil the demand of the accused persons and on 13.10.2004 he got information that his daughter (victim) was burnt due to fire in her matrimonial house. On getting such information he rushed to the Calcutta National Medical and Hospital and found the victim was admitted in the said hospital in burnt condition and on that day in the evening at 6.30 P.M. this complainant saw his daughter in dead condition. Over the complainant lodged by the defacto complainant a case was started by the concerned police station being Canning P.S. Case No. 189 dated 15.10.2004 under Section 498A/304 Indian Penal Code.”

4. After completion of investigation charge-sheet was submitted by the prosecuting agency against the accused persons under Section 498A/304B of the Indian Penal Code. Charge was framed by the Trial Court against the accused persons under Section 498A/304 of the Indian Penal Code.

5. In this case, twenty (20) witnesses were cited by the side of the prosecution and documents were marked as exhibits 1 to 8 on its behalf. Neither any oral, nor any documentary evidence was adduced by the side of the defence.
6. Mr. Krishnendu Bhattacharya, learned Advocate for the appellant said that there are apparent contradictions and omissions in the statement of the prosecution witnesses and as such, the impugned judgment and order of conviction passed by the learned Trial Court on the basis of such statements of the witnesses cannot be sustained under the law. Mr. Bhattacharya further said that in this case prior to lodging of the complaint, there was no complaint of torture allegedly made by the appellants upon the victim. It is further said that it would be revealed from the evidences of PW2 to PW5 and PW9, PW11 and PW3 who are the neighbours of the appellants have stated in their evidences that the relationship between the victim and the appellant was good and cordial. It is further said by the learned Advocate that it would be revealed from their evidences that the victim was cooking in the kitchen and she caught fire and sustained burn injuries and her death was caused due to such injuries. Moreover, none of the appellants were present at the place of occurrence as it would be revealed from the testimonies of these witnesses. The attention of this Court is drawn to the evidence of

PW3 wherein she stated that the victim caught fire and this witness extinguished the fire and the victim told her that she caught fire when she was cooking.

- 7.** Learned Advocate for the appellant further assailed drawing attention to the evidences of PW7 wherein this witness has categorically stated in his evidence that the accused picked up trouble with the victim due to giving the light weight ornaments during the marriage of the victim but this statement is not corroborated by any of the prosecution witnesses. It is said that PW11, the mother of the victim stated that their daughter (victim) never made a complaint before the police authority or before any authority and PW14 who happens to be the grandmother of the appellant no. 1 has stated in her evidence that there was cordial relationship between the accused and the victim which virtually supports the evidences of PW2 to PW5, PW9, PW11 and PW13 who are the neighbours of the appellants.
- 8.** It has been urged by the learned Advocate that the learned Trial Court did not properly appreciate the fact that the allegation of harassment or cruelty for dowry, said to have been committed upon the victim by the appellants, was not supported by any clear or specific overt act attributable to any of the three appellants. According to the learned Advocate, the Trial Court overlooked this vital aspect and proceeded to

convict and sentence the appellants without duly considering the materials which emerged, particularly through cross-examination. Thus, it is contended that the judgment and order of conviction and sentence suffer from non-consideration of material facts and circumstances, thereby rendering the impugned judgment unsustainable in the eye of law.

9. In support of his contention, Mr. Bhattacharya learned Advocate for the appellant has placed reliance upon the two judgments rendered by the Hon'ble Apex Court i.e. in the case of **Baijnath & Ors.-vs- State of Madhya Pradesh**¹ and **Shoor Singh-vs- State of Uttarakhand**².
10. In **Shoor Singh (supra)**, the Hon'ble Apex Court examined the conviction of the appellants for offences under Sections 304-B and 498-A of the Indian Penal Code. The Court reiterated the settled legal position that in order to attract the presumption under Section 113-B of the Evidence Act relating to "dowry death," the prosecution must prove beyond reasonable doubt all the essential ingredients of Section 304-B IPC have been proved. The Court held that unless these foundational facts are established, the statutory presumption under Section 113-B cannot be invoked against the accused. It is said by the

¹ **AIR 2016 SC 5313**

² **AIR ONLINE 2024 SC 616**

learned Advocate that in the case at hand, although the death of the deceased occurred within seven years of marriage and otherwise than under normal circumstances, the prosecution failed to establish with certainty that the deceased was subjected to cruelty or harassment soon before her death in connection with dowry demands. The testimonies of the prosecution witnesses, including the parents of the deceased, suffered from significant inconsistencies which cast doubt on the alleged dowry demand. Consequently, the essential link between the alleged demand and the death of the victim was not proved.

11. In case of **Baijnath (supra)**, the Hon'ble Supreme Court considered the scope and applicability of Section 304-B IPC and the presumption under Section 113-B of the Evidence Act in cases of dowry death. In that case, the prosecution evidence was found to be inconsistent and insufficient to prove that the deceased was subjected to cruelty or harassment on account of dowry demand soon before her death. The testimonies of the witnesses did not convincingly demonstrate that there was any proximate connection between the alleged cruelty and the death.
12. Mr. Imran Ali, learned Advocate for the State has said that there is no material in case record for which the impugned judgment and order of conviction passed by the learned Trial Court may be interfered with. It

is said by the learned Advocate that all the witnesses cited by the prosecution support the contentions made in the written complaint. It is further said that there was consistent demands of dowry by the appellants being the husband and parents- in- law of the victim and due to such unbelievable torture this victim faced an unnatural death.

- 13.** Mr. Ali further said that PW7 Nemai Chandra Dolui, father of the defacto complainant has stated in his evidence that when he went to N.R.S. Medical College and Hospital to see his daughter, he could not see the victim there and thereafter he went to Chittaranjan Hospital from where he came to know that his daughter died at Chittaranjan Hospital. It is said by the learned Advocate that this defacto complainant (PW7) has categorically stated in his evidence that after going to the matrimonial house of his daughter, he saw her well but for some time she used to weep. As per submission of the learned Advocate that the learned Trial Court after appreciation of all the evidences have come to the conclusion regarding involvement of these appellants with alleged offence. Moreover, all the witnesses have stated in their evidences supporting the statements made by PW7. It is further said that the mother of the victim (PW11) has stated in her evidence that she gave Rs. 5000/- to the father of the appellant no.1, but on demand

for more money from her daughter by the appellants, there took unhappiness.

- 14.** It has been further urged by the learned Advocate appearing on behalf of the State that the testimony of the mother of the deceased carries significant weight. She has categorically deposed that PW7, the father of the victim, had initially sent their daughter to her matrimonial home in good faith, but the accused persons, instead of allowing her to live peacefully, continued to subject her to cruelty and harassment. Ultimately, as per her evidence, the accused persons went to the extent of burning the victim to death. According to the submission of the learned Advocate, the incident clearly establishes that the victim's unnatural death occurred within the confines of her matrimonial home and was a direct consequence of persistent torture meted out to her by the appellants, which was motivated by unlawful demands for dowry. The chain of events and the testimonies of the prosecution witnesses, particularly PW7 and PW11, who are none other than the parents of the victim, cannot be brushed aside or treated lightly. Their depositions, when considered together, lend strong corroboration to the prosecution case and point towards the culpability of the appellants. Therefore, it has been pressed on behalf of the State that the findings of the learned Trial Court are based on a proper appreciation of the

evidence available on record. Hence, the impugned judgment and order of conviction and sentence passed therein call for no interference. On the contrary, it is submitted that the present appeal, filed by the appellants, being devoid of merit, ought to be dismissed, thereby affirming and upholding the judgment and order under challenge.

- 15.** The arguments advanced by the learned counsels for the parties have been given due consideration, and the materials available on record have been thoroughly examined.
- 16.** In the present case, PW7, Nemai Chandra Dolui, who happens to be the father of the deceased victim, is the complainant on whose initiative the case was set in motion. The complaint was lodged by him alleging that his daughter, Kalpana, met an unnatural death in her matrimonial home and that these appellants were responsible for the same. During his deposition before the Court, PW7 initially stated that his daughter Kalpana had been residing well in her matrimonial house. He, however, further added that since light-weight ornaments were given at the time of marriage, some discontent arose on the part of the in-laws of the deceased, and particularly, appellant no. 1, who is the husband of the deceased, is alleged to have picked up quarrels with Kalpana over such issue. Nevertheless, in the course of cross-examination, this very witness candidly admitted that he had never lodged any complaint

either with the local police station or before any competent authority regarding any assault or ill-treatment being meted out to his daughter by these appellants. His assertion in examination-in-chief that the appellants had troubled or assaulted the deceased does not find any corroboration from the testimony of the other prosecution witnesses. On the contrary, the prosecution evidence, when read as a whole, fails to substantiate the allegation of cruelty or physical assault. Furthermore, PW7 himself stated during his testimony that he had no knowledge as to how his daughter came to catch fire on the date of occurrence. This significant admission not only weakens the substratum of the prosecution story but also raises serious doubt about the veracity of the allegations made in the complaint. The absence of corroboration from independent or other related witnesses, coupled with the admission of PW7, makes it clear that the allegation of cruelty or assault against the appellants is unsubstantiated.

- 17.** PW11, Smt. Bharati Dolui, the mother of the deceased, in her deposition before the Court, stated that a sum of Rs. 5,000/- had been given by her family to the father of appellant no. 1. However, this claim stands uncorroborated since her husband, PW7, who is the complainant in this case, made no such assertion in his testimony. Furthermore, no documentary evidence or material was either seized

during investigation or produced in Court to establish that such a payment of Rs. 5,000/- was ever made to the father of appellant no. 1. According to PW11, the deceased was said to be unhappy in her matrimonial home owing to the alleged non-fulfilment of monetary demands. However, in the same breath, she admitted during her cross-examination that she had never made any report or complaint to any authority, nor to the local police station, to the effect that her daughter was subjected to cruelty or harassment on account of demand of dowry by the appellants. She further acknowledged that she had not informed anyone that her daughter was being tortured by the accused persons in connection with such alleged demand. This witness also mentioned that certain discord and unhappiness between her daughter and the appellants continued for a period of about 5 to 6 months prior to the incident. Nevertheless, the absence of corroboration from PW7 and the lack of any contemporaneous complaint or supporting evidence cast serious doubt upon the reliability of her testimony. The allegation of dowry demand and harassment, therefore, remains unsupported by independent or reliable material, thereby rendering her statement insufficient to sustain the charge of cruelty or dowry-related harassment against the appellants.

- 18.** PW2, Smt. Minati Mondal, PW3, Kalipada Nayek, PW4, Sujit Ali, and PW5, Bharati Ali are the neighbours of the appellants who were examined as prosecution witnesses. Their testimonies, however, do not advance the prosecution case in any manner.
- 19.** PW2, in her evidence, categorically stated that the relationship between the deceased victim and the accused persons was cordial. She further deposed that she had never witnessed any quarrel or discord between them and that the appellants had never subjected the victim to any form of torture. In her cross-examination, she reiterated that she never noticed any unhappiness between the victim and her in-laws. Such a statement by PW2 clearly indicates that she did not support the version of harassment or cruelty put forth by the prosecution. Significantly, despite her testimony being adverse to the prosecution, she was not declared hostile, and therefore her evidence stands on record as it is.
- 20.** PW3, another neighbour, has also given evidence contrary to the prosecution allegations. He stated that on the day of the incident, the victim herself had told him that she caught fire accidentally while she was going to cook. He further asserted that, at the relevant time, the appellants were not even present in the house. He also deposed that during the period he knew the family, he did not find any discord or unhappiness between the victim and the appellants.

- 21.** PW4, Sujit Ali, and PW5, Bharati Ali, echoed the same version as PW2 and PW3. They both stated that the victim was well in her matrimonial home and did not complain of any cruelty or ill-treatment at the hands of the appellants.
- 22.** PW4, the witness to the neighbor of the appellants has stated in his evidence that he did not find that the accused persons demanded dowry from the victim. This witness has said that he heard the incident from his mother in night and he had no personal knowledge about the death of the victim.
- 23.** PW5, who happens to be the mother of PW4, was examined as one of the prosecution witnesses. In her deposition, she stated that on visiting the house of the appellants after the occurrence, she enquired from the victim herself as to how she had caught fire. In reply, according to this witness, the victim told her that while she had gone to cook, she accidentally caught fire. This statement of PW5 is of considerable significance, as it directly reflects the version of the deceased herself regarding the incident. PW5 further deposed that, to her knowledge, the deceased was well in her matrimonial home. This witness did not speak of any incident of cruelty or harassment upon the victim by the appellants. On the contrary, her evidence gives the impression that the victim was living peacefully with her husband and in-laws. In cross-

examination, PW5 went a step further and categorically stated that the relationship between the victim and the appellants was very cordial. She also deposed that at the relevant time when the unfortunate death of the victim occurred, the appellants were not even present in their house. This assertion rules out the possibility of any direct involvement of the appellants at the time of the incident. The witness also stated in clear terms that during her acquaintance with the family, she had never seen any quarrel or unhappiness between the victim and the appellants. She further admitted that she had no knowledge as to whether any demand for dowry was ever made by the appellants. Thus, the testimony of PW5 not only rules out allegations of cruelty or harassment but also supports the defence plea that the incident was purely accidental in nature. Her deposition, coupled with the absence of any corroborative material from other witnesses, weakens the prosecution case substantially and strengthens the probability of the defence version being true.

- 24.** On a careful consideration of the testimonies of the independent witnesses, namely the neighbours of the appellants, it emerges that they were persons who were in close proximity to the family and were in a position to observe the day-to-day affairs between the victim and the appellants. Their evidence, therefore, carries significant weight. These

witnesses, however, have not supported the prosecution case. On the contrary, they have consistently deposed that the victim was living peacefully in her matrimonial home and that there was no indication of quarrel, unhappiness, or ill-treatment on the part of the appellants. Some of them have even stated that the deceased herself had told them that she caught fire accidentally while she was cooking. Such a statement, attributed directly to the victim, rules out the possibility of the incident being a result of cruelty or harassment in connection with demand for dowry. Their evidence, therefore, goes directly against the prosecution version and lends support to the defence contention that the incident was purely accidental in nature. What further assumes importance is that although these witnesses did not support the prosecution case, the prosecution did not take steps to have them declared hostile. Consequently, their testimonies remain unshaken and form part of the record as they stand. The cumulative effect of their depositions is that the foundation of the prosecution case gets considerably weakened, whereas the stand of the defence that the appellants are not guilty of the alleged offences is considerably strengthened.

- 25.** PW8, Shyam Pal has stated in his cross-examination that he did not see the appellants to torture the victim and he did not find that the

accused persons tortured Kalpana. In cross-examination, this PW8 further stated that the victim was happy in her matrimonial home.

26. PW15, Probhakar Satpathi, who solemnized the marriage between the victim and appellant no. 1, was examined as a prosecution witness. In his examination-in-chief, he stated that he had heard about some disturbances in the matrimonial home of the deceased and further claimed to have heard that the appellants used to torture her. However, when subjected to cross-examination, this witness candidly admitted that he had never personally seen the appellants subjecting the victim to any kind of torture or cruelty. He further clarified that he had no direct or personal knowledge of the alleged incidents and that whatever he stated before the Court was based merely on what he had heard from others. In these circumstances, the testimony of PW15 loses its probative value, as it is purely hearsay in nature and not founded upon his own observation or knowledge. Hearsay evidence, being inherently weak and unreliable, cannot be the basis for establishing criminal liability. Hence, the statement of PW15 cannot be safely relied upon to support the prosecution case.

27. PW17, Dulal Shaw, was examined on behalf of the prosecution. In his deposition, he stated that he had the occasion to see the victim whenever she visited her parental home. According to him, during such

visits, the victim allegedly narrated to her father (PW7) that she was being subjected to torture by the appellants. However, this witness was unable to specify any particular date, month, or even approximate time when such a narration was made by the victim to her father. His evidence, therefore, suffers from vagueness and lack of certainty. More importantly, his testimony is not based on what he himself heard directly from the victim, but rather on what he claims to have observed between the victim and her father. Thus, it does not constitute direct evidence of torture but only amounts to hearsay. Since PW17 has no personal or direct knowledge regarding the alleged acts of cruelty or harassment said to have been inflicted upon the victim, his testimony cannot be safely relied upon to establish the prosecution case. At best, his evidence is of a very weak character and does not advance the prosecution version in any material respect.

- 28.** As already discussed in the preceding paragraphs, the evidence of P.W.2 to P.W.5, P.W.9, P.W.11 and P.W.13 assumes considerable significance. All these witnesses are admittedly neighbours of the appellants and, therefore, were in close proximity to the matrimonial home of the deceased. By virtue of their residence in the same locality, they were in a position to observe the day-to-day conduct of the appellants towards the victim and the overall environment prevailing in

the matrimonial household. Each of these witnesses, without exception, has deposed before the Court that the relationship between the deceased victim and the appellants was cordial. None of them has spoken of any incident of quarrel, unhappiness or cruelty being inflicted upon the victim. On the contrary, their consistent version is that the deceased appeared to be well treated and was leading a normal life in her matrimonial home. The importance of their evidence cannot be ignored merely because they did not support the prosecution story. These witnesses are independent members of the community, having no apparent interest in shielding the appellants or giving evidence in their favour. In fact, as neighbours, they would be natural witnesses to speak about the actual state of affairs, and their testimonies carry the stamp of credibility. Their categorical assertion that the relations were cordial directly contradicts and undermines the prosecution's allegation of cruelty and harassment for dowry. When independent witnesses who were in a position to know the truth depose in one voice that the victim was leading a peaceful life, such evidence creates a serious dent in the prosecution case. In these circumstances, their depositions must be given due weight and cannot be brushed aside as inconsequential.

- 29.** On the contrary, P.W.7 in his deposition made a solitary statement alleging that the accused persons had picked up trouble with the victim

on account of the ornaments being of light weight. However, this allegation stands on a fragile footing for more than one reason. Firstly, it is a bald and uncorroborated statement, not supported by any of the remaining prosecution witnesses, including the neighbours who were the most natural and independent witnesses to the domestic life of the victim. Secondly, no specific instance, date, or detail has been given by P.W.7 as to when such quarrels allegedly took place. The absence of particulars makes the testimony vague and unreliable. Thirdly, when the overwhelming number of prosecution witnesses, who are independent neighbours, have categorically stated that the relationship between the victim and the appellants was good, the solitary and uncorroborated version of P.W.7 pales into insignificance.

- 30.** It is a settled principle of criminal jurisprudence that in order to bring home the guilt of the accused, the prosecution must prove its case beyond all reasonable doubt, and stray, unsubstantiated statements cannot take the place of substantive proof. The testimony of P.W.7, being inconsistent with the evidence of the other neighbours, does not inspire confidence and fails to establish the allegation of ill-treatment or harassment. On the contrary, the depositions of P.W.2 to P.W.5, P.W.9, P.W.11 and P.W.13 lend assurance to the defence version that the victim was living on good terms with the appellants, and there was

no cruelty as alleged. Therefore, the evidences on record, when considered as a whole, clearly demonstrate that the prosecution has failed to prove that the appellants ever subjected the victim to cruelty or harassment. The uncorroborated statement of P.W.7, standing isolated and contradicted by several other prosecution witnesses, cannot be made the foundation for conviction.

- 31.** It is also of considerable significance to note that, though very serious allegations have been made in the complaint and in the course of trial regarding alleged torture and harassment of the deceased on account of demand of dowry, there is not a single contemporaneous complaint or report lodged by the parents or any other close family members of the deceased before any competent authority or police station during the lifetime of the victim on account of the demand of dowry made by the appellants. PW7 in his cross-examination has categorically admitted that he did not lodge any complaint to anybody that the accused persons assaulted his daughter as well as he did not make any complaint with the local police station. Similarly, PW11 who is the mother of the victim stated in her cross-examination that they did not inform anybody that the accused persons tortured their daughter for demand of dowry and she did not lodge any diary at the local police station on the allegation that the appellants used to torture upon the

victim. In cases of alleged cruelty for dowry, it is natural and expected that if the victim was being continuously subjected to harassment or torture, her parents or inmates would approach the local police station, women's commission, panchayat or any other authority to seek redressal or protection. The complete absence of such a step by the family members creates a serious doubt about the genuineness of the prosecution's version.

- 32.** It appears that when alleged allegations are made after the death of the victim without any prior complaint or contemporaneous record of grievance, the Court has to approach such allegations with caution. The failure of the parents and close inmates of the deceased to take any remedial measure during her lifetime is inconsistent with their present claim that the deceased was being tortured and harassed for dowry. Such silence, coupled with absence of any documentary or independent corroboration, substantially weakens the prosecution case. So, the conduct of the parents of the inmates of the victim on failure to report before any appropriate authority regarding alleged torture by the appellants upon the victim casts a shadow of doubt on the very foundation of the complaint. It gives rise to the inference that the allegation of the dowry demand as allegedly made by the defacto complainant may be a subsequent afterthought, brought in only after

the unfortunate death of the victim, and not a reality during her lifetime.

- 33.** PW11, being the mother of the victim would have been the most natural witness to speak of any complaints or grievances made by the victim regarding ill-treatment at the matrimonial home. This PW11 has said in her evidence that for about one month/two months after her marriage the victim was well in her matrimonial home. I have already said that this PW11 has admitted in her cross-examination that they did not inform anybody that the appellants tortured their daughter on the demand of dowry and she did not lodge any diary at the local police station on the allegations of alleged infliction of torture by the appellants upon their daughter. This silence of PW11 indicates that no such incident occurred or there was any marital discord, it was not on account of the dowry demand as alleged.
- 34.** Likewise, P.W.14, who happens to be the grandmother of appellant no. 1, was examined on behalf of the prosecution. A close family elder residing in the same household would ordinarily be in a position to witness and speak about the domestic atmosphere in the matrimonial home, particularly if there were any persistent quarrels or incidents of cruelty as alleged. However, a reading of her deposition makes it evident that she has not uttered a single word suggesting that the

deceased was ever subjected to harassment or cruelty in connection with demand for dowry. On the contrary, her testimony conveys that the relationship between the victim and the appellants appeared to be normal and that no discord or disharmony was visible in the household. This aspect is of considerable importance, for if there had truly been frequent altercations, demands for money, or acts of torture, P.W.14, being an elderly and respected member of the family, would naturally have been aware of such developments and would have been the most competent person to speak about them. Her silence, therefore, is not without significance. Rather, it indicates that no such acts of cruelty or harassment, as projected by the prosecution, took place within the matrimonial home. The absence of incriminating statements from a natural witness like P.W.14 substantially weakens the prosecution case and lends support to the defence contention that the deceased was not subjected to dowry-related cruelty at the hands of the appellants.

- 35.** It is relevant to point out that the learned Trial Court, while dealing with the matter, acquitted the appellants from the charge under Section 304B of the Indian Penal Code, yet proceeded to convict them under Section 498A of the Indian Penal Code. It creates a serious legal inconsistency in the judgment. Section 304B IPC deals with dowry

death and one of its primary ingredients is that soon before her death, the woman must have been subjected to cruelty or harassment by her husband or his relatives in connection with demand for dowry. Therefore, proof of cruelty or harassment for dowry demand is a common essential element both under Section 304B as well as under Section 498A. Once the Court has found that the charge under Section 304B has not been proved, it logically follows that there was no reliable evidence to establish cruelty or harassment for dowry. In such circumstances, the conviction under Section 498A cannot be sustained merely on the basis of vague and general allegations, unless there is cogent, independent and convincing evidence specifically establishing cruelty as defined under Section 498A IPC. It is a well-settled principle that acquittal under Section 304B does not *ipso facto* lead to acquittal under Section 498A, but at the same time, there must be sufficient, independent material to sustain a conviction under Section 498A. In the present case, when the Court has already disbelieved the prosecution case regarding dowry death, and when the most natural witnesses including the mother (PW11) and other neighbours have not supported the prosecution allegation of cruelty for dowry, the conviction under Section 498A appears to be unsustainable.

- 36.** The distinction between the two provisions is narrow but significant. Section 498A covers cruelty in a wider sense – not limited to dowry demands, but also encompassing willful conduct likely to drive the woman to commit suicide or to cause grave injury. However, in the present case, no specific, consistent or cogent evidence has come on record to demonstrate such willful conduct or harassment. The evidence is at best omnibus, general, and in many parts are full of contradictions. Therefore, when the Trial Court itself found that the prosecution failed to establish the more serious charge under Section 304B, the conviction under Section 498A without any additional substantive evidence is clearly unsustainable in law.
- 37.** The learned Trial Court, in the present case, has manifestly failed to appreciate the evidence on record in its proper perspective, and, in doing so, has committed a serious error in arriving at the conclusion of guilt against the appellants. A careful and dispassionate scrutiny of the testimonies of the prosecution witnesses demonstrates that the allegations of harassment and cruelty upon the victim on account of demand for dowry remain entirely unsubstantiated.
- 38.** Firstly, none of the prosecution witnesses has attributed any specific overt act of harassment or cruelty to the appellants. The evidence on record, at best, contains vague, generalized, and omnibus assertions of

ill-treatment, without reference to any concrete incident, date, or circumstance. It is well-settled law that, in criminal trials, conviction cannot rest on such vague allegations; it must be founded upon clear, cogent, and specific evidence that establishes the accused's culpability beyond reasonable doubt.

- 39.** Secondly, the testimony of the natural witnesses, such as the mother of the deceased, PW11, and the grandmother of appellant no. 1, PW14 failed to disclose any instance of torture, cruelty, or harassment in connection with dowry. Both these witnesses, who were closely associated with the family and had ample opportunity to observe the domestic environment, have remained silent on any such allegations. Similarly, the independent neighbours i.e. PW(s) 2 to 5, PW9, and PW13—consistently stated that the relationship between the victim and the appellants was cordial and that they did not observe any discord or ill-treatment. Their consistent and independent testimonies, coming from persons in a position to know the actual state of affairs, effectively refute the prosecution's claim that the victim was subjected to cruelty on account of dowry.
- 40.** Thirdly, the only witness who made a casual reference to a dispute concerning the weight of ornaments, PW7, was not corroborated by any other prosecution witness. His solitary statement, which is contradicted

by the overwhelming body of evidence from other witnesses, cannot be treated as sufficient to establish cruelty for dowry beyond reasonable doubt.

- 41.** The Supreme Court of India has recently delivered a significant judgment concerning the misuse of Section 498A of the Indian Penal Code (IPC), which addresses issues of cruelty by a husband or his relatives towards a married woman. In the case of **Rajesh Chaddha v. State of Uttar Pradesh**³, the Court acquitted the appellant after a prolonged legal battle spanning 26 years. The appellant had been convicted under Section 498A and the Dowry Prohibition Act, 1961, based on allegations of dowry demands and cruelty. The Court found that the allegations made by the complainant were vague and lacked specificity. The complainant failed to provide concrete details regarding the alleged incidents of cruelty, such as specific dates, times, or instances of dowry demands. The prosecution did not present credible evidence to substantiate the claims. There was an absence of medical reports, eyewitness testimonies, or other corroborative materials that could support the allegations of cruelty or dowry harassment. The Court expressed concern over the misuse of Section 498A, noting that such provisions are sometimes employed as tools for personal

³ 2025 AIR (SC) 2836

vendettas rather than to address genuine grievances. The Court emphasized the need for a balanced approach to protect the rights of both parties involved. This judgment underscores the importance of presenting specific and credible evidence in cases involving allegations under Section 498A. It also highlights the judiciary's role in safeguarding against the misuse of legal provisions intended to protect women from genuine instances of cruelty and dowry harassment.

42. In above report, the Hon'ble Apex Court held interalia that-

14. The term "cruelty" is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. We cannot ignore the missing specifics in a criminal complaint, which is the premise of invoking criminal machinery of the State. Be that as it may, we are informed that the marriage of the Appellant has already been dissolved and the divorce decree has attained finality, hence any further prosecution of the Appellant will only tantamount to an abuse of process of law."

- 43.** In spite of these glaring weaknesses in the prosecution case, the learned Trial Court mechanically concluded that the appellants had subjected the victim to harassment for dowry, without analyzing the evidence in the correct legal perspective. It failed to appreciate that the prosecution is bound to prove its case beyond all reasonable doubt, and in the absence of specific, reliable and corroborated evidence of cruelty for dowry, the appellants were entitled to acquittal.
- 44.** The findings of the learned Trial Court to the conviction of these appellants under Section 498A is, therefore, unsustainable in law as it is based on conjectures and presumptions rather than on substantive proof. As such, the impugned judgment and order of conviction passed by the learned Trial Court deserves to be set aside and the appellants are liable to be acquitted.
- 45.** For the reasons already recorded and the factual matrix discussed above, it is evident that the impugned order of conviction suffers from legal infirmity and cannot be upheld.
- 46.** Accordingly, the instant appeal be and the same is hereby **allowed**.
- 47.** The impugned judgment and order of conviction dated 20.03.2010 passed by the learned Trial Court in connection with Sessions Trial No. 10(1)06 arising out Sessions Case No. 4(9)05 is hereby set aside.

- 48.** The appellants are on bail. They are to be discharged from their respective bail bonds and be set at liberty if, they are not wanted in any other cases.
- 49.** In accordance with the mandate of Section 437A of the Code of Criminal Procedure (Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023), it is incumbent upon the appellant to furnish bail bonds, accompanied by suitable sureties. Such bonds, once executed, shall remain in full force and effect for a period of six months, ensuring the presence of the appellant as required by law and securing the due administration of justice.
- 50.** Any pending applications, if existing, are hereby disposed of.
- 51.** Let a copy of this order along with T.C.R. being sent down to the Trial Court immediately.
- 52.** Urgent Photostat Certified Copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)