



2025:DHC:10165-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on : 3rd November, 2025.**Pronounced on : 19th November, 2025*

+ CRL.A. 620/2004

MURARI LAL & ORS.

.....Appellant

Through: Mr. Rishi Malhotra, Sr. Advocate
with Ms. Ansuiya and Mr. Shivaansh
Maini, Advocates.

Versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP.

CORAM:**HON'BLE MR. JUSTICE DINESH MEHTA****HON'BLE MR. JUSTICE VIMAL KUMAR YADAV****J U D G M E N T****Per DINESH MEHTA, J.**

1. The appeal in hand is directed against the judgment and sentence dated 21.07.2004, whereby the learned Additional Sessions Judge, Karkardooma Courts, Delhi (hereinafter referred to as the 'Trial Court') had convicted the appellants for the offences punishable under Sections 498A/304B read with Section 34 of Indian Penal Code ('IPC'), 1860.
2. Appellant No.1-Murari Lal was the father-in-law, whereas appellant No.2-Anoop Kumar, the husband and Appellant No.3-Leelawati, the mother-in-law of the deceased-Seema Devi, who died under suspicious circumstances on 30.05.1999 in her matrimonial house.
3. Said Seema Devi got married on 31.10.1998 and died (on 30.05.1999) in less than a year of her marriage.



4. Complainant/PW-1 Mangtu Ram filed an FIR alleging that her deceased-daughter was murdered by the appellants as they were not satisfied with the dowry given to her by him and his family. Pursuant to the FIR, the Investigating Officer (I.O.) conducted investigation and found that deceased-Seema Devi was not murdered and thus, filed a charge-sheet under Sections 498A/304B/34 IPC while exonerating the appellants for the offences under Sections 302/34 IPC.

5. The case was put to trial, whereafter the Trial Court though framed the charges against the appellants-accused persons under Sections 498A/304B/34 IPC, but alternatively a charge under Section 302/34 IPC were also framed on 19.04.2001. After the case being put to trial, the prosecution examined 13 witnesses. When the statements of the accused persons were recorded under Section 313 Cr.P.C, the appellant-accused persons denied all the charges.

6. PW-1/ Mangtu Ram, father of the deceased appeared in the witness box and supported the prosecution's case. During the oral testimony, he stated that the accused persons started harassing her daughter within 15 days of her marriage and stated that his daughter-Seema had come to his house and made a complaint that her husband and parents-in-law were demanding Rs.50,000/-, colour TV and a scooter. According to the said witness, since he was not in a position to fulfill the demand, he did not send Seema Devi back to matrimonial house. However, after some time, Anoop Kumar, her husband came to his house and took Seema with him.

7. He deposed that even after that her husband continued demanding



dowry. He also deposed that accused persons did not allow Seema to contact him or her mother on telephone. He further averred that about 26 days before her death, he received a phone call and was informed that his daughter told his neighbour that she was apprehending death at the hands of the accused persons.

8. In his statement, PW-1 also stated that the accused persons demanded dowry of Rs. 50,000/-, color TV and a scooter and when the said demand remained unfulfilled, they killed his daughter on 30.05.1999. During his cross examination, PW-1 Mangtu Ram remained firm on his version even when he was recalled. So was the position of PW-2/mother of the deceased, who echoed almost same version, except stating the exact date, when the call was received.

9. So far as Ashok PW-3/Cousin of the deceased and Kapoori Devi, PW-4 are concerned, they did not support the prosecution version and were declared hostile.

10. Dr. Kamal Singh/PW-11, who conducted post-mortem on the body of the deceased, deposed as follows:

“Opinion : Sub Dural hemorrhage was present due to blunt impact and the clotted blood was present over the thyroid cartilage. It possible due to the pressure over the throat. Cause of death is pending. Till the chemical examination report of viscera is received. Time since death is approximately 22 hours.

Cause of death: As per visceral chemical examination report or poisoning vide letter No. FSL 99/C-1622-5139, Dated 29.10.99: signed by the Director for xxxxxx FSL, Delhi and reported that Senior Scientific Director Ms. Kamlesh Miglani. It's result of examination does not reveal any common poison in liver, spleen blood and kidney. So it is concluded that death is due to comma and asphyxia subsequent



to head injury by blunt impact & throttling (pressure) over throat, respectively.

Both injuries can also cause death individually in the ordinary course of nature.”

11. Dr. Kamal Singh/PW-11 further deposed that as per the internal examination and FSL report, the deceased did not die of any poison but due to coma and asphyxia subsequent to head injury by blunt impact and throttling (pressure) over throat respectively.

12. After going through the oral and ocular evidence, the Trial Court concluded that the prosecution failed to bring on record any evidence which could prove murder by the appellants, but held the appellants guilty of offence under Section 304B/34 IPC essentially because the death was within the period of 7 years of marriage and convicted them for the said offence.

13. Learned counsel for the appellants firstly, argued that the Trial Court has wrongly framed charges. He argued that the framing of charge under Section 304B and in alternative under Section 302 IPC is unsustainable, because if charge under Section 304B has been framed as a primary charge where the burden of proof lies upon the accused persons, a concurrent, charge under Section 302 IPC cannot be framed because in that case the burden to prove the charge rests upon the prosecution.

14. Learned counsel in other words submitted that in this matter, the appellants were deprived of their right to lead evidence in their support, as they remained under impression that the prosecution has to prove its case that the deceased died of murder committed by the appellants-accused persons. He argued that throughout the trial, the appellants/accused persons



were bona-fidely of the view that the burden is upon the prosecution to prove the case completely, being oblivious of the fact that they could be convicted under Section 304B IPC, where the burden to disprove the offence rests upon the accused persons, in face of the presumption under Section 113B of Indian Evidence Act.

15. Learned counsel for the appellants argued that the testimony of the prosecution witnesses though unreliable, even if taken into account, there is no evidence to show that the deceased was subjected to cruelty immediately before her death.

16. Reading the provisions of Sections 498A and 304B IPC, learned counsel for the appellants further contended that the cruelty should have immediate proximity with the death and since the prosecution has failed to show any incident which had happened on or within 2-3 days of the occurrence, the appellants cannot be convicted for the offences under Section 304B and 498A IPC.

17. Inviting Court's attention towards statement of PW-2/Sharda-mother of the deceased, learned counsel submitted that the mother has not stated anything adverse against the appellants except that the accused persons used to demand dowry (Rs 50,000/-, color TV and the Scooter), all the time. He submitted that the other part of the deposition is very vague and general and does not constitute any offence worth the name.

18. Learned counsel further inviting Court's attention towards statement of Leelawati under Section 313 Cr.P.C, more particularly her response to question No.5 and argued that she had aptly responded to such question. He



argued that the defence taken by Leelawati-accused No.3 cannot be brushed aside, wherein she stated that the deceased had fallen in her room.

19. In support of his arguments, learned counsel relied upon the judgment of the Hon'ble Supreme Court rendered in **Karan Singh v. State of Haryana**, reported in 2025 SCC OnLine SC 214 to substantiate his argument that to constitute an offence under Section 304B IPC, the cruelty and harassment should be soon before the death. Learned counsel also relied upon the judgment rendered by Hon'ble the Supreme Court in the case of **C. Muniappan and Ors. vs. State of Tamil Nadu**, reported in (2010) 9 SCC 567 and in the case of **Ashok vs. State of Uttar Pradesh**, reported in (2025) 2 SCC 381, relevant Para of which is reproduced hereinfra:

*“9. More importantly, he submitted that the incriminating circumstances brought on record in the evidence against the appellant were not put to him in his examination under Section 313 CrPC. Therefore, the appellant's right of defence was seriously prejudiced. He relied upon a decision of this Court in **Raj Kumar vs. State (NCT of Delhi)**, (2023) 17 SCC 95.”*

20. Mr. Aman Usman, learned APP while inviting Court's attention to Section 221 Cr.P.C., submitted that if the court is having doubt as to which offence(s), one single act or series of act constitutes, the accused may be charged for having committed all or any such offences and all such charges may be tried at once. In other words, he submitted that the charges can be framed in alternative and accused can be tried and convicted accordingly. He further submitted that in light of clear provision contained in section 221 Cr.P.C., the Trial Court has committed no error of law in framing charges



under Sections 304B and 302 of IPC alternatively.

21. Learned APP relied upon judgment of Hon'ble the Supreme Court in the case of **Jasvinder Saini v. State (Govt. of NCT of Delhi)**, reported in (2013) 7 SCC 256, specifically para 13 in his support, which is reproduced hereinunder:

“13. Be that as it may the common thread running through both the orders is that this Court had in Rajbir’s case (supra) directed the addition of a charge under Section 302 IPC to every case in which the accused are charged with Section 304-B. That was not, in our opinion, the true purport of the order passed by the this Court. The direction was not meant to be followed mechanically and without due regard to the nature of the evidence available in the case. All that this Court meant to say was that in a case where a charge alleging dowry death is framed, a charge under Section 302 can also be framed if the evidence otherwise permits. No other meaning could be deduced from the order of this Court. It is common ground that a charge under Section 304B IPC is not a substitute for a charge of murder punishable under Section 302. As in the case of murder in every case under Section 304B also there is a death involved. The question whether it is murder punishable under Section 302 IPC or a dowry death punishable under Section 304B depends upon the fact situation and the evidence in this case. If there is evidence whether direct or circumstantial to prima facie support a charge under Section 302 IPC the Trial Court can and indeed ought to frame a charge of murder punishable under Section 302 IPC, which would then be the main charge and not an alternative charge as is erroneously assumed in some quarters. If the main charge of murder is not proved against the accused at the trial, the Court can look into the evidence to determine whether the alternative charge of dowry death punishable under Section 304B is established. The ingredients constituting the two offences are different, thereby demanding appreciation of evidence from the perspective relevant to such ingredients. The Trial Court in that view of the matter acted mechanically for it framed an additional charge under Section 302 IPC without adverting to the evidence adduced in the case and simply on the basis of the direction issued in Rajbir’s case (supra). The High Court no doubt made a half-hearted attempt to justify the framing of the charge independent of the directions in Rajbir’s case (supra), but it would have been more



appropriate to remit the matter back to the Trial Court for fresh orders rather than lending support to it in the manner done by the High Court.”

22. Having cited such judgments, learned APP submitted that as a matter of fact, Hon’ble the Supreme Court has directed all the Trial Courts to frame charges of Sections 304B and 302 of IPC in alternative in cases of unnatural death of a newly married girl, if the death happens within seven years of the marriage.

23. Learned APP submitted that the argument of learned counsel for the appellants that PW2 has not deposed anything which constitutes harassment is factually incorrect. After carefully reading the testimony of PW2, he pointed out that the mother of the deceased had clearly stated that the deceased-her daughter had been beaten up by the accused persons. He further submitted that if the testimony of PW2 is read in its entirety, it transpires that she had clearly stated that the dowry was demanded repeatedly. He argued that repeated demand of dowry amounts to harassment and cruelty.

24. Learned counsel submitted that appellant No.1-Murari Lal has already passed away and thus, his appeal stands abated. He also submitted that so far as appellant No. 2/husband is concerned, he has completed a custody of more than three years, while his mother i.e. appellant No.3 has completed custody of nine months.

25. Impeaching the testimony of PW1, learned counsel for the appellant argued that he is an unreliable witness inasmuch as he has made a reference of a neighbour, who had allegedly received telephonic call from his daughter



(deceased) 26 days before her death, but did not disclose her/his name or even telephone number. He submitted that such part of the oral testimony is unbelievable and this fact has been asserted simply with the view to bring out a case that the deceased was harassed sometime before the date of death.

26. Learned counsel for the appellants took the Court through the testimony of DW1/Rinki and submitted that the cause of her suicide/death is one Ratan (their old tenant) and the appellants have been falsely implicated.

27. Heard learned counsel for the appellants and learned APP for State.

28. On the basis of testimony of PW1, the father of the deceased and PW2-Sharda, what emerges is, that appellants-accused persons used to demand dowry (Rs.50,000/-, colour TV and a scooter). So far as factum of demand of dowry is concerned, the same has aptly been proved.

29. Though these witnesses can be labelled as interested witnesses and no other independent witness apart from father and mother of the deceased had been brought to the witness box to substantiate the demand of dowry. But on the basis of the oral testimony, the fact that the appellants-accused persons used to demand dowry stands proved. Simply because prosecution witnesses, PW1 and PW2 and PW3 are close relatives of the deceased, their testimony cannot be discarded, at least in case of dowry related offence. Because dowry and harassment due to dowry cannot necessarily come to the knowledge of others and even if known to others, there is every likelihood that those persons would not turn to give evidence, in light of social setup .

30. It is also clear from the record that the I.O. could not find any evidence of murder (if any) committed by the appellants and that is why, he



had filed charge sheet under section 304B, read with Section 498A of the IPC and not under Section 302 IPC. That is the reason for which the prosecution's case proceeded in the direction of dowry death only.

31. On sifting through the record, we are of the view that there is no evidence pointing towards murder to have been committed by the appellants. Therefore, the Trial Court has rightly acquitted the appellants-accused persons of the charges under Section 302 of IPC. The moot question which remains to be considered by us is, as to whether on the basis of the evidence, charge under Section 304B, read with Section 498A of IPC has been proved?

32. In the background of the aforesaid question, if evidence of PW2 is considered, what all she has told was, that after marriage, the appellants-accused persons used to raise demand of dowry (Rs.50,000/-, a scooter and a colour TV) and that they did not allow the deceased to telephone them. She has also said that her daughter also used to get beating in relation to dowry. She has also stated that about 20-25 days before the date of occurrence, they went to the house of the accused persons; she has also stated that she had given her statement to SDM i.e. Ex.PW2/A. We have seen Ex. PW2/A, her statement given to SDM on 31.05.1999. A perusal thereof reveals that she had stated about the harassment in the name of dowry so also the fact that on 19.05.1999, they had gone to meet their daughter.

33. If the testimony of PW1-Mangtu Ram, father of the deceased is taken into account, he also in unequivocal terms deposed the factum of demand of dowry so also the fact that about 26 days prior to the death of his daughter,



he had received a call from a neighbour. Though PW1 has not disclosed the name of the neighbour, who had called him, but according to us that does not make any significant difference. It can be safely deduced that on 19.05.1999 or about 26 days prior to the incident, they had received an information about the harassment by the accused persons. But then, there is a conundrum, which is to be resolved in the instant case, that what does the expression “soon before” given under section 304B IPC mean.

34. On the basis of the facts which have come on record, the harassment to the deceased reached at its peak on 19.05.1999 or 25-26 days before the date of incident. If the testimony of PW-2 and PW-1 is read in conjunction, it can be inferred that the deceased was harassed for Dowry, but whether the harassment was to such an extent that its effect continued for 21 days so as to lead the deceased to commit suicide?

35. On the basis of the evidence available it is very difficult to conclude that it was soon before the death, because in spite of the information of the harassment and after receiving the telephonic call, the family of the deceased did not bring her back to her parental house and the fact that neither the police nor any relative or panchayat etc. was contacted, raises a doubt about the extent of harassment.

36. According to us, the harassment in the name of dowry which was done on 19.05.1999 and the fact that there is no evidence of the deceased trying to contact her parents lead us to decipher that there was no extreme harassment after 19.05.1999.

37. Though the deceased died unnatural death, but the same might be a



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murder for the reasons not known and by the person unknown. However, convicting the appellants for the offence under section 304B of IPC, without any evidence will not be justified, more particularly when more than 26 years have passed since the incident took place.

38. We, therefore, set aside the appellants' conviction under section 304B of IPC while upholding their conviction under section 498A of the IPC. Their sentence is however reduced to the period already undergone (three years of appellant No.2 and nine months of appellant No.3). The Bail Bonds of appellant no. 2 & 3 are hereby discharged.

(DINESH MEHTA)
JUDGE

(VIMAL KUMAR YADAV)
JUDGE

NOVEMBER 19, 2025/ck