



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment reserved on: 16.12.2025

Judgment delivered on: 24.12.2025

+ CRL.A. 353/2015

STATE

.....Appellant

versus

KAMAL

.....Respondent

Memo of Appearance

For the Appellant: Mr. Yudhvair Singh Chauhan, APP for the State with
Insp. Kuldeep Singh, SI Johny Kumar, PS Uttam
Nagar.

For the Respondent: Mr. Pranav Yadav, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

1. The appellant-State takes exception to judgment dated 20.09.2012 passed by learned Trial Court whereby accused Kamal i.e. respondent herein has been acquitted.
2. Let us have a quick glance over the factual matrix.
3. Accused-Kamal got married to Preeti on 08.06.2006. The marriage was as per Hindu rites and customs.
4. On 02.08.2006, PW10 Sh. Chander Shekhar (father of Preeti) lodged a missing report with PP Matiala, PS Uttam Nagar. In such missing report (Ex.PW15/X), he stated that last week, her daughter Preeti along with her husband had come from Ram Nagar to Delhi. On 30.06.2006, Sh. Lalit Joshi (brother of accused-Kamal) called him up and



told that Preeti was under some stress (*ladki tannav mai hai*) and requested them to take her back. He, accordingly, brought her daughter back to parental home, where also she used to stay stressed. On 01.08.2006, at about 5:00 pm, Preeti left home saying that she was going to meet her friends. However, since she did not return till late evening, when inquiries were made, it came to fore that she had not visited her friends. It was in the abovesaid factual background that a missing report was got lodged. It will be also worthwhile to mention that in such report, PW10 Sh. Chander Shekhar Pandey, distinctly, stated that he did not suspect involvement of anyone (*mujhe kisi par kisi bhi prakaar ka shak-o- shubha nahi hai*).

5. Next morning i.e. on 02.08.2006, a dead body was found in Najafgarh pond/drain. Such information was reduced in writing vide DD No.15A, PS Najafgarh.

6. Further investigation revealed that such dead body was of Preeti.

7. Since the death had taken place within a period of two months of marriage, the concerned Sub-Divisional Magistrate (SDM) was requested to record statements of parents of the deceased. SDM, accordingly, recorded statements of Sh. Chander Shekhar (PW-10) and of Smt. Rama Devi (PW-9). Since they apprehended that there was demand of dowry, FIR was recommended to be registered for commission of offences under Section 498-A/304-B IPC. Further investigation was carried out and supplementary statements of parents of deceased were also recorded.

8. Accused-Kamal along with his two brothers (Laxmi Dutt and Jagdish) and their respective wives (Rekha, wife of Laxmi Dutt and Rita Joshi, wife of Jagdish) was chargesheeted.



9. Since offence under Section 304-B IPC was triable exclusively by Court of Sessions, the case was committed.

10. Both the sides advanced arguments at length at the time of consideration of charge and learned Trial Court *vide* order dated 28.09.2007 directed accused Kamal to be charged for commission of offences under Section 498-A and under Section 306 IPC only.

11. The accused pleaded not guilty and claimed trial.

12. All the other accused persons were discharged of all the offences. Accused Kamal was also discharged of offence under Section 304-B IPC.

13. Thus, no case of dowry-death was found made out against anyone.

14. Prosecution was directed to adduce evidence and examined fifteen witnesses including PW-4 Dr. Parvinder Singh (the doctor who conducted autopsy), PW-5 Sh. S. S. Parihar (the then learned SDM), PW-9 Rama Devi (mother of deceased), PW-10 Sh. Chander Shekhar Pandey (father of deceased), PW-11 Basant Kumar (brother of deceased) and PW-15 Inspector R. S. Meena (the Investigating Officer).

15. Accused, in his statement under Section 313 Cr.P.C., claimed that it was a false case and that he and his wife had very cordial and intimate relation and there was never any complaint against each other. Though accused expressed his desire to lead evidence in defence, fact remains he did not examine any witness in his defence.

16. Learned Trial Court, after taking note of the various improvements made by the material prosecution witnesses, came to the conclusion that offence under Section 498-A IPC did not stand proved beyond reasonable doubt. As regards offence under Section 306 IPC also, it



observed that even if the alleged instances of demand were presumed to be true, those were not in the nature of abetment, particularly, when the suicide was not immediate as Preeti had rather returned to her parental home and death had taken place after Preeti had started residing at her parental home and, therefore, there was enough time for her to control her emotions and to cool herself down.

17. Learned Addl. P.P. for the State contends that the learned Trial Court has given undue weightage to the trivial contradictions and inconsequential improvements. According to him, the findings are perverse as these are based on surmises and conjectures and do not flow from evidence. It is contended that the death had taken place within two months of marriage and was otherwise than under normal circumstances and since there was specific deposition regarding dowry-demands and torture/harassment related to non-fulfillment thereof, it was, clearly, a case of dowry-death. It is argued that even if it is assumed to be a case of suicide, the suicide was on account of cruelty meted out to Preeti and, therefore, offences under Section 498-A and 304-B IPC stood proved.

18. All such contentions have been resisted by learned defence counsel and, according to him, there was never any demand or cruelty and that a false case had been imposed upon the accused. It is argued that after unfortunate suicide of Preeti, her father demanded handsome amount from the accused and since he was unable to meet such illegal demand, a false case was foisted upon him and his relatives. He has also drawn our attention towards order dated 01.12.2006 of this Court whereby accused were enlarged on bail. It is submitted that even at a very initial stage, despite the fact that the death was otherwise than under normal



circumstances and within two months of marriage, this Court took note of the fact that when the missing report was lodged, the complainant never suspected anybody. It also took note of the fact that at the time of her suicide, she was living at her parental home only. The attention of the Court was also drawn towards the two letters written by Preeti to her husband which, clearly, indicated that her husband was taking due care of her. These letters, written when she was residing at her parental home, expressed her gratitude for the love, her husband had exhibited. These letters also indicated that even while away, she was missing her husband and eagerly waiting to meet him. Thus, on the strength of those letters, it had been argued that there was no ill-treatment meted out to the deceased. Undoubtedly, though the abovesaid observations, appearing in the bail order may not have any automatic bearing on the eventual outcome of the criminal proceedings as these were made at a very initial juncture, these cannot be disregarded altogether, either.

19. However, before we start analyzing the evidence, we would like to re-emphasize that accused Kamal had been subjected to face trial for commission of offences under Section 498-A and Section 306 IPC. He was discharged of offence under Section 304-B IPC and his co-accused were exonerated completely. Such order seems to have attained finality as nothing has been shown which may indicate that order on charge was ever challenged and reversed. In such a peculiar situation, it is not possible for prosecution to pray for conviction under Section 304-B IPC or, for that matter, for conviction of his other relatives, who were not even subjected to any trial.

20. Therefore, we only have to consider whether acquittal of accused



for offences under Section 498-A and Section 306 IPC is justified or not.

21. There is no doubt that the death is within two months of the marriage and is otherwise than under normal circumstances.

22. The cause of death, as per autopsy surgeon PW-4 Dr. Parvinder Singh, is asphyxia consequent to antemortem drowning. Of course, he also observed that the possibility of deceased having been knocked down by someone could not be ruled out. Viscera report was later on obtained and produced before Dr. Parvinder Singh and since there was no presence of any common poison etc., there was no change in the abovesaid opinion given by Dr. Parvinder Singh.

23. Learned Prosecutor, in all fairness, submitted that there is nothing to indicate that it was a case of homicide or someone pushing her in the drain. He, however, submits that since the death has taken place under mysterious circumstances and within two months of marriage, the learned Trial Court should not have given any undue weightage to the trivial contradictions and insignificant improvements.

24. Let us first analyze the abovesaid aspect only.

25. As we have noted already, when the missing report was lodged with the police, Sh. Chander Shekhar did not express his suspicion over anyone. He, simply, revealed to the police that he had received a call from Sh. Lalit Joshi (brother of accused) that Preeti was tense and on receiving such call on 30.06.2006, he brought her back to her parental home. It was also mentioned in such report that thereafter also Preeti used to stay stressed. If at all, there was any harassment or cruelty or demand of dowry, any father, in such a situation, would have, certainly, revealed the same to the police and, therefore, such omission cannot be



digested in a casual manner. Moreover, he never revealed as to why Preeti used to remain upset. If it was on account of cruel behaviour of her in-laws or demand of dowry, it should have disclosed at the first available opportunity. Interestingly, even in their statements given to SDM, the parents, merely, expressed their apprehension that there was demand of dowry. They were not sounding certain and made general and vague allegations, without pinpointing anything in particular.

26. We have carefully seen the statements made by the parents before learned SDM and before the learned Trial Court during the trial and there are indeed umpteen huge improvements, with no plausible explanation with respect thereto.

27. The learned Trial Court analyzed the evidence in a painstaking and comprehensive manner and then came to conclusion that such improvements by all the three witnesses i.e. parents and brother of the deceased were simply with intent to fulfil the ingredients of Section 498-A IPC. It noted that if there was actually any such cruelty committed upon the deceased, all those facts would have been disclosed by them either to the police or to the SDM at the earliest opportunity. It also took note of the fact that the deposition of all these three witnesses i.e. Smt. Rama Devi (PW-9), Sh. Chander Shekhar Pandey (PW-10) and Sh. Basant Kumar (PW-11) were having numerous material contradictions *inter se* and, therefore, the story of demand of dowry and consequent cruelty stood crumbled. It also took note of the fact that the brother of the deceased i.e. PW-11 Sh. Basant Kumar had given another twist to the case of the prosecution by claiming that his wife (wife of PW-11 Sh. Basant Kumar) had told that the real cause of misery of



deceased was that her husband i.e. accused used to drink a lot. No such reason seems to have been disclosed by parents and brother of deceased. Moreover, if that was so, wife of Sh. Basant Kumar should have also been examined by the prosecution but she is not even cited as a witness.

28. Sh. Chander Shekhar (PW-10) has indeed come up with vast improvements. As we have noted, there was no allegation or suspicion against anyone when the missing report was lodged. Such report was lodged on 02.08.2006 and after the dead body of Preeti was recovered on 03.08.2006, all of a sudden, he came up with additional averment that she used to be harassed by her in-laws and that there was demand of dowry. In his such subsequent statement dated 03.08.2006 made before SDM, he claimed that he had brought his daughter back on 30.07.2006 and it was then that her daughter had revealed about the alleged harassment. The abovesaid allegation was also general in nature. Things did not stop there. In his subsequent statement made on 20.08.2006, various other instances of demand and harassment were divulged. If such statement is to be believed then immediately after marriage, the brothers and the respective wives of accused Kamal started taunting her, claiming that she had not brought anything in dowry. So much so, according to him, all such relatives asked Kamal to start beating her up so that she can bring money from her father. It was also mentioned in such statement made under Section 161 Cr.P.C. that on 25.07.2006, accused Kamal had laced tea with some intoxicating substance and when Preeti consumed such tea, she became unconscious. So much so, she was made to board a train and it was only when she regained consciousness, she called up her parental side from Kota, Rajasthan and it was with great difficulty that she



returned home. He further claimed that, on 30.07.2006, accused and his brother had beaten her up and she was pushed out of her house and she had to spend the entire night outside the house. There were allegations regarding demand of plot, car, etc. and when Preeti claimed that her in-laws would kill her, she was brought back.

29. Obviously, if there were, actually speaking, these kinds of serious allegations and instances of harassment, there was no reason for Sh. Chander Shekhar to have not revealed when his daughter had gone missing. On the contrary, he claimed that he had no suspicion over anyone.

30. On careful perusal of trial court record, we feel that learned Trial Court has rightly analyzed and appreciated the material improvements and, therefore, we do not find any reason, much less a compelling one, to come to any different conclusion. We also need not remind ourselves that mere demand, even if it is presumed to be there, would not be sufficient unless prosecution is able to show and establish that there was harassment and cruelty, on account of non-fulfillment of such demand. Section 107 of IPC would come into play only when there is some positive or overt act of such a nature which instigates any person to such an extent that there is no other option left, except to commit suicide. There has to be, thus, presence of *mens rea* and a specific act, compelling any such person to take such an extreme decision, seeing no other option. Here such element of instigation or abetment is, visibly, missing.

31. Undoubtedly, a precious life is lost and the reason is not discernible.

32. Prosecution does not know as to how, and in what manner, Preeti



fell into the drain. We do not have any ocular evidence with respect to the abovesaid incident. There is no one who might have seen the alleged incident of drowning of deceased and, therefore, it is at all not clear as to how did she die – whether she committed suicide or someone pushed her or it was merely an accidental fall in the drain. It was incumbent on the part of prosecution to have clarified all such doubts while eliminating the possibility of someone pushing her or it being an accidental death.

33. Mere fact that the death was by drowning would not, *ipso facto*, make it a case of dowry-death, particularly when there is no such charge, even. Merely because her dead body was recovered from a drain and the death was on account of antemortem drowning, it cannot be, automatically, presumed that it was a case of abetment of suicide. The statutory presumption under Section 113A of Indian Evidence Act, 1872 (Section 117 of *Bharatiya Sakshya Adhiniyam*, 2023) cannot be pressed into service, without establishing the foundational facts. The presumption would stand attracted only when the prosecution is able to show that such person was subjected to cruelty.

34. We have noted that the evidence led, on the alleged aspect of cruelty, does not inspire much confidence as no such thing was brought to the notice of the police authorities at the first available opportunity. On the contrary, the father of the deceased had not suspected involvement of anyone when his daughter had gone missing. Moreover, we also do not find from the Trial Court record as to what happened to those love letters which had been, allegedly, written by deceased to her husband. Trial Court Record has been perused but somehow, we did not come across any investigation or reference about the same. Since these



had come to the knowledge of the prosecution when the bail applications were filed before this Court, the Investigating Agency ought to have analyzed those. Moreover, no necessity was felt of contacting and recording statements of her friends. Preeti had gone that day to meet her friends and no statement of any such friend was either recorded by the police. They could have also thrown some light about the mindset of deceased.

35. Be that as it may, fact remains that we do not find any perversity in any of the findings returned by the learned Trial Court. The evidence led by the prosecution has been assessed and analyzed very appropriately by the learned Trial Court.

36. In an appeal against acquittal, the scope of interference is constricted and order of acquittal cannot be upset merely for the reason that another view is also possible. The appellant-State is mandated to demonstrate and establish that there is illegality or perversity in the findings or that conclusion has been given, ignoring material evidence.

37. As an upshot of our foregoing discussion, we dismiss the appeal.

38. Bail-bonds of accused are cancelled and his surety is discharged.

(VIVEK CHAUDHARY)
JUDGE

(MANOJ JAIN)
JUDGE

DECEMBER 24, 2025
st/pb