

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.443 of 2019

Arising Out of PS. Case No.-67 Year-2004 Thana- BISFI District- Madhubani

1. PARMILA JHA , Wife of Lal Jha, Resident of Village – Chahuta, P.S. Bisfi, District- Madhubani.
2. Tannu Jha, Daughter of Lal Jha, resident of Village – Chahuta, P.S. Bisfi, District- Madhubani.

... .. Appellants

Versus

The State of Bihar.

... .. Respondent

Appearance :

For the Appellant/s	:	Mr. Manoj Kumar Jha, Advocate Mr. Gopal Jha, Advocate Mr. Shreepal Jha, Advocate
For the Respondent/s	:	Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 18-02-2026

At the outset, it is submitted that appellant no. 1 has died during pendency of present appeal and, therefore, the present appeal stands abated against her.

2. Now this appeal survives only against appellant no. 2, namely, Tannu Jha.

3. The present appeal preferred under section 374(2) of the Code of Criminal Procedure, 1973 (in short the “Cr.P.C.”) by appellant/convict against judgment of conviction and order of sentence dated 03.01.2010 and 08.01.2019 passed by the Presiding Officer, Fast Track Court No-II, Madhubani in Sessions Trial No. 334 of 2005/105 of



2018, arising out of Bisfi P.S. Case No.67 of 2004, corresponding to G.R. No. 823 of 2004, whereby and whereunder appellant/convict has been convicted for the offences punishable under Section 304(B)/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for seven (7) years.

4. The brief case of prosecution, as it appears from the fardbeyan of the informant/PW-10 namely, Amrendra Jha @ Pappu Jha, is that marriage of his sister solemnized with Chandan Jha of Village Chahuta on 28.04.2003. At the time of marriage, gift was given by his father according to his financial capacity. After the *Bidagiri* ceremony, the deceased accompanied her husband to Calcutta. It is alleged that while residing at Calcutta, the accused persons subjected the deceased to cruelty and harassment in connection with additional dowry demands. Subsequently, a Panchayati was convened in order to resolve the dispute and to persuade the husband and his family members. Thereafter, the father-in-law is stated to have performed the *Bidagiri* ceremony and taken the deceased back, leaving her at Village Chahuta in the



company of her grandmother-in-law. In the meantime, the Nanad (sister-in-law), mother-in-law and father-in-law of the deceased allegedly demanded a sum of Rs. 50,000/-, along with a refrigerator and a motorcycle, as additional dowry, stating that only upon fulfillment of the said demand, they would take the deceased back to her matrimonial home. It is further alleged that when the mother-in-law and Nanad of the deceased came to Village Chahuta, the informant (PW-10) was intimated by his maternal uncle (PW-1) that they had called him for talks. Accordingly, on 13.06.2004 at about 7:00 P.M., the informant reached Village Chahuta, where the deceased disclosed to him that if aforesaid demands were not fulfilled, she would be done to death. The informant returned to his village the following morning. On the same day, at about 1:30 P.M., he received information from his maternal uncle (PW-1) that Parmila Jha and Tannu Jha had killed his sister by setting her on fire. Upon receipt of the said information, the informant proceeded to Village Chahuta alongwith his friend and found the dead body of his sister lying in the northern room of the house.



5. On the basis of aforesaid *fard-e-beyan* of the informant, Police drawn First Information Report and registered Bisfi P.S. Case No. 67 of 2004 on 14. 06. 2004 under section 304(B), 34 of I.P.C. against accused persons.

6. Police recorded statement of informant under section 164 of Cr. P. C, and after concluding investigation, submitted Charge Sheet in two sets finding the occurrence true against all the four accused persons on the basis of which cognizance was taken by the learned C.J.M., Madhubani on 21.08.2004, whereafter vide order dated 30.05.2005, the case was committed to the court of Session after amalgamation of the two records with respect to all the four accused persons vide order dated 25.08.2005 passed by the learned C.J.M. Madhubani.

7. After commitment the charge was explained to accused/appellant for offences under sections 304 (B), 34 of I.P.C., which was denied and trial was claimed.

8. To established its case before the learned trial court, the prosecution altogether examined total of twelve witnesses, namely, **PW-1** Bhagyan Narayan Chaudhary, **PW-**



2 Manoj Kumar Jha, **PW-3** Pan Devi, **PW-4** Mahavir Jha, **PW-5** Jagtarni Devi, **PW-6** Sudhir Kumar Jha, **PW-7** Vidya Nand Jha, **PW-8-** Santosh Kumar Jha, **PW-9** Jagdish Choudhary (Doctor), **PW-10** Amrendra Kumar @ Pappu **(Informant)**, **PW-11** Md. Shoaib Khan, **PW-12** Ashok Kumar Jha.

9. The prosecution also exhibited following documents during the trial to substantiate its case which are as:-

Exhibit-1 - Signature of Sujeet Kumar on fardbeyan dated 14.06.2004

Exhibit-2- Seizure List

Exhibit-3- Postmortem report

Exhibit-4-Entire fardbeyan of case no. 334/05

Exhibit-5- Signature on Formal FIR.

Exhibit-1/1- Written fardbeyan

Exhibit-1/2 Registration on fardbeyan

Exhibit-1/3 Whole fardbeyan

Exhibit-6- Inquest report

Material Exhibit-1- five liters of gallon of kerosene, matchbox, golden mangalsutra.

Exhibit-7 Charge-sheet no. 50/04

Exhibit-8- Supplementary charge-sheet no. 55/05.

10. After examination of the prosecution witnesses and by taking note of evidences and incriminating



circumstances as surfaced during the trial, the statement of appellant/accused person were recorded under Section 313 of the Cr.P.C., which was denied in totality by showing complete innocence.

11. Total of two defence witnesses were examined on behalf of accused/appellant during the trial.

12. The defence also exhibited following documents during the trial to substantiate its case which are as:-

Exhibit-A Attendance register of Shyam Nagar Consumer cooperative Store Ltd. Initial signature of accused Lal Jha for the month of June 2004.

Exhibit- B Initial signature of Lal Jha on receipt of goods purchasing.

Exhibit-C- Initial signature of Chandakur Jha on attendance register of MARS Mahajain Security Service Pvt. Ltd., Patna for the month of June 04.

Exhibit-D- Deposition of P.W. Surma Devi in Cr. 1068/04 T.R. No. 1641/08.

Exhibit-D/1 -e.c. of deposition of PW Shobhit Choudhary in Cr. 1068/04, T.R. No. 1641/08.

13. On the basis of aforesaid evidences as surfaced during the trial, the learned trial court convicted the appellant/convict and passed order of sentences in aforesaid manner, being aggrieved with, appellant/convict preferred the



present appeal.

14. Hence the present appeal.

Argument on behalf of Appellant/Accused

15. Mr. Manoj Kumar Jha, learned counsel appearing on behalf of the appellant submitted that learned trial court without establishing the foundational aspects of the case qua offence punishable under section 304B of the I.P.C., merely on the basis of presumption as available under section 113(b) of the Indian Evidence Act recorded the judgment of conviction qua appellant.

16. It is submitted that from the testimony of none of the prosecution witnesses, it can be gathered that there was any demand of dowry on the part of the appellant soon before the death of sister of the informant (PW-10). It is submitted that appellant is the married sister-in-law and as she was present in her paternal home at the time of occurrence and was with her mother **(appellant no.1 against whom appeal stands abated)**, she was implicated with the present case. It is submitted that as per the testimony of witnesses, it can be safely gathered that at the time of occurrence



appellant was not available at her house, rather she was in the house of neighbour in connection with her bath as no bathroom facility was available in her parental house. She also came to the place of occurrence on public alarm.

17. It is further argued by learned counsel that prosecution witnesses suggests that room in which the occurrence took place was closed from inside which was opened by the crowd gathered after the alarm raised by the grandmother-in-law (not an accused) of the deceased, suggests *prima facie* that it is a case of suicide as the victim was prevented to meet with her paramour Santosh Kumar Jha, who examined as PW-8 during the trial.

18. It is submitted that PW-8 is the brother-in-law of PW-10 (the informant) and he also appears interested witness. It is submitted that PW-1 and other prosecution witnesses are interested witnesses being relative of deceased.

19. Arguing further, it is submitted by learned counsel that with same set of evidence, the husband and father-in-law of the deceased were acquitted by learned trial court believing that at the time of occurrence, they were not present at the



residence, though PW-7 categorically stated that demand of dowry was raised only by father-in-law of the deceased. It is submitted that the conviction of appellant was secured only for the reason that she being married sister-in-law was present in her paternal home, who arrived there just before four days of the occurrence.

20. In support of his submission, learned counsel for the appellant relied upon the legal report of Hon'ble Supreme Court as available through **Karan Singh V. State of Haryana, [2025] 1 S.C.R. 1370: 2025 INSC 133.**

21. Mrs. Anita Singh, learned Additional Public Prosecutor for the State, while opposing the appeal, submitted that appellant, who is sister-in-law was present at the time of occurrence. It is conceded that witnesses not supported the fact that any demand of dowry was raised by this appellant. It is also conceded that with same evidence, father-in-law and husband of the deceased were acquitted by learned trial court.

22. I have perused the trial court records carefully and gone through the evidences available on record as also



considered the rival submissions as canvassed by learned counsel appearing on behalf of the parties.

23. **PW-1 is Bhagya Narayan Choudhary**, who is maternal uncle of the deceased. It appears from his deposition that he was the person who negotiate the marriage of the deceased with accused Chandan Jha (who acquitted after trial). It was deposed by him that after marriage, the deceased went Kolkata with her father-in-law Lal Jha, mother-in-law Pramila Jha, husband Chandan Jha and sister-in-law Tanu Jha. He also deposed that all the four persons demanded dowry. He is the resident of paternal village of the appellant/accused. He went to the place of occurrence on 14.06.2004 on public alarm alongwith co-villagers and found that smoke was coming out from the house of Lal Jha (accused/father-in-law) and found the gate closed. It was deposed that he alongwith other co-villagers pushed the door forcibly whereafter it was opened half and they saw the burnt body of the deceased sister of the informant. It was deposed that on seeing him, appellant alongwith her mother started to run away but the villagers after chasing for a short,



apprehended them. It is also deposed by him that accused persons committed the murder of her niece by putting her on fire.

23.1. Upon cross-examination, it was deposed by him that appellant/accused Pramila Jha (since died) also lodged a case against him. The demand of motorcycle was raised at the time of *Duragman*. He stated that on the date of occurrence, the co-accused Chandan Jha was not available in the village, but the co-accused Lal Jha was available in his village, as he saw him in morning of the date of occurrence. It was stated that appellant was not apprehended by him rather she was apprehended by villagers. Even the gate was opened with the help of villagers, it was not broken. He also stated that whether it was opened or closed or appellant was apprehended before his arrival, he could not say.

24. **PW-2 is Manoj Kumar Jha** and it appears from his examination-in-chief that he is a chance witness to the occurrence. It was deposed by him that while he was returning after attending his doctor and so when he reached near to the house of accused Lal Jha, he witnessed that



smoke was coming from his house. He shouted and thereafter, 10-15 persons/villagers gathered over there. It was deposed that thereafter the northern gate was pushed by the villagers and he found that the dead body was lying near to stairs. The smoke was also coming from the dead body. It was the dead body of the wife of accused Chandan Jha (husband). It appears from his deposition that he witnessed appellant to exit from the room by using the southern gate, whereafter, she was apprehended by the villagers. It was deposed that he heard about the demand of dowry.

24.1. In cross-examination, it was stated by him that he witnesses Santosh Kumar Jha (PW-8) in the village on the date of occurrence after arrival of the police. It was also stated by him that appellant was coming from southern side upon alarm and upon arrival at the place of occurrence both of them were apprehended and assaulted by co-villagers. This statement contradict his own version of examination-in-chief that he witnessed appellant to exit from the house by using southern gate. His testimony is creating a doubt whether he saw the appellant to exit from the house or found them



coming towards the house, making the presence of appellant doubtful at the place of occurrence.

25. **PW-3 is Pan Devi**, who is also a chance witness to the occurrence. She also witnessed that smoke was coming from the house of the accused persons, while she was going to a local shop for purchasing sugar. She deposed that appellant found exit using the other gates and thereafter she was apprehended by the villagers.

25.1. Upon cross-examination, it was stated by her that PW-1 arrived at the place of occurrence after ten minutes of the opening the gate. This statement of PW-3 makes the statement and presence of PW-1 doubtful at the place of occurrence at the time when the door was opened.

26. **PW-4 is Mahavir Jha**, who is the father of the deceased and supported the marriage with accused Chandan Jha. It was stated by him that his son (PW-10) was told by PW-1 that the accused persons are demanding cash of Rs. 50,000/- and one motorcycle as dowry. He was informed by PW-1 on phone about the occurrence on 24.06.2004 at about 1:30 P.M. It was stated by him that he did not paid any cash



at the time of marriage, however, gift was given in form of ornaments etc.

27. **PW-5 is Jagtarni Devi**, who is mother of the deceased. She deposed regarding the occurrence on the same line as PW-4, who is her husband.

28. **PW-6 is Sudhir Kumar Jha**. He is the witness of fardbeyan, who identified his signature which upon identification was exhibited during the trial as **Exhibit -1**.

29. **PW-7 is Vidya Nand Jha**, who is a co-villager. It was deposed by him in his examination-in-chief that Rs. 50,000/- and one motorcycle was demanded by father-in-law of the deceased. In his cross-examination, it was stated by him that there are four accused in this case but when he visited the place of occurrence, he saw none of them. This testimony of fFPW-7 makes the presence of appellant doubtful at place of occurrence again.

30. **PW-8 is Santosh Kumar Jha**, with whom the deceased was said to be in illicit relation by the defence side. He is the brother-in-law of PW-10 (informant). He identified his signature on seizure list, which upon his identification,



exhibited as **Exhibit '2'**. He deposed that *Mangalsutra* of deceased was also found burnt during the occurrence, but he could not see any burn mark on plastic jar (*dabba*). It was stated by him that Chandan Jha was present in village but after the occurrence he fled away. It was stated that Lal Jha was also present in village but after the occurrence he also fled away. It appears from his deposition that he was not questioned by the defence *qua* his relation with the deceased, making the defence version unbelievable as despite of having all opportunity, why not any question was asked on this point to PW-8.

31. **PW-9 is Dr. Jagdish Choudhary**, who was posted as Medical Officer on 15.02.2004 in Sadar Hospital, Madhubani and examined the dead body of Sonu Jha at about 9.20 A.M. and found following ante-mortem injuries on her person:-

(i) Superficial to deep burn over scalp, face, neck chest, abdomen, back superior extremist & inferior extremist. Percentage of burn is 99% On dissection rain & mangus congested. Heart Right chamber face of blood & left chamber empty lungs, liver, spleen and kidney congested. Stomach containing it required flied. Intestine containing trickle matter & gase. Urinary bladder empty. Uterus nor graud.



2. Time of death within 24 hours.
3. Death was clued to shock cause by thermal burn. This burn can be caused by kerosene oil.
4. This postmortem report is my pen and signature and obsuror has also put his signature on P.M. master it as exhibit no.3. XXX
5. In cross-examination, he has not mention the small of kerosene oil in his P.M. report.
6. If the deceased try to save herself then 99% burn injury can not be occur. 7. It is wrong to say that the postmortem report is collusive one.

32. **PW-10 is Amrendra Kumar @ Pappu**, who is the informant/brother of the deceased Soni Jha. It was deposed by him that demand was made on phone by the accused persons. It also deposed that before four days of the occurrence matrimonial family members of his deceased sister came to village Chahuta, whereafter he was informed by his maternal uncle namely, Bhagya Narayan Choudhary (PW-1) that they are now available in village and therefore please come to discuss the issue regarding their demands. Whereafter he visited village – Chahuta on 13.06.2004 in evening and discussed the issue with family members of the deceased. It was told by the deceased to him that “*bhaiya whatever they are demanding, give them, otherwise they may kill her*”. It was stated by him that when he arrived at



Chahuta, the villagers apprehended Pramila Jha (since died), whereas Chandan Jha and Lal Jha were fled away. It was stated that occurrence was took place in Chahuta village.

33. From the testimony of all aforesaid discussed witnesses, it transpires that none of the witnesses are the eye witness of the actual occurrence, even the chance witnesses (PW-2 & PW-3), who are the co-villagers, were not the eye witness of the actual occurrence and they arrived at the place of occurrence on seeing the smoke coming out from the house of the deceased. Upon their arrival, gate was found closed which was pushed by the villagers and they saw the dead body of the deceased was lying over there in burnt condition. Testimony of PW-2 and PW-7 makes the presence of appellant at house/place of occurrence at real time of the occurrence.

34. Testimony of PW-10/informant is appearing more important to understand the nature of demand. It appears from his testimony that on the preceding day of the occurrence, he visited the village Chahuta upon information given by PW-1 that matrimonial family members of the



deceased are available in village, therefore, to come and discuss the issue. PW-1 is the maternal uncle (Mama) of the PW-10 and also of the deceased. Upon information, he visited there and meet with the family members of the deceased and discussed the issues, but it nowhere transpired from his testimony that during discussion any demand of dowry was ever raised by appellant or other accused persons, rather he was told by the deceased only that “*whatever their demand please give them*”.

35. Certainly, aforesaid statement of deceased cannot be accepted that any demand of dowry was raised on the part of appellant soon before the occurrence, therefore, the basic foundational aspect that cruelty was committed in connection with demand of dowry soon before death not appears established in this case as to import the presumption available under section 113(b) of the Indian Evidence Act. Though, other basic ingredients like death within seven years of the marriage or also death due to burn injury appears available in this case, but to attract the offence completely, the aforesaid essential ingredients qua demand of dowry is missing. With



the same set of occurrence, learned trial court acquitted father-in-law (Lal Jha) and husband (Chandan Jha) of the deceased.

36. In this context, it would be apposite to reproduce para nos. 3, 6 and 7 of **Karan Singh's case (supra)**, which reads as under:

*"3. The learned counsel appearing for the appellant has taken us through the notes of evidence of material prosecution witnesses. He submitted that all the allegations made by the witnesses regarding the demand of dowry are omissions. Therefore, there is no legal evidence to show that the appellant demanded dowry. Moreover, there is no evidence that the appellant subjected the deceased to cruelty. Learned counsel relied upon a decision of this court in the case of **Charan Singh alias Charanjit Singh v. State of Uttarakhand** and submitted that there is no evidence to show that soon before her death, the deceased was subjected to cruelty or harassment by the appellant for or in connection with demand for dowry. He would, therefore, submit that in the absence of legal evidence against the appellant, the Courts ought to have acquitted him.*

6. The following are the essential ingredients of Section 304-B:

- a) The death of a woman must have been caused by any burns or bodily injury, or must have occurred otherwise than under normal circumstances;*
- b) The death must have been caused within seven years of her marriage;*
- c) Soon before her death, she must have been subjected to cruelty or harassment by the husband or any relative of her husband; and*
- d) Cruelty or harassment must be for, or in connection with, any demand for dowry.*

7. If the aforesaid four ingredients are established, the death can be called a dowry death, and the husband and/or husband's relative, as the case may be, shall be deemed to have caused the dowry death. Section 2 of the Dowry Prohibition Act, 1961 provides that dowry means any property or valuable security given or agreed to be given



either directly or indirectly by one party to a marriage to the other party to the marriage or by the parents of either party to a marriage or by any other person, to the other party to the marriage or to any other person. The dowry must be given or agreed to be given at or before or any time after the marriage in connection with the marriage of the said parties. The term valuable security used in Section 2 of the Dowry Prohibition Act, 1961 has the same meaning as in Section 30 of IPC”

37. It appears that finding of learned trial court is perverse particularly in view of the reasons assigned through impugned judgment. In this context, it would be apposite to reproduce **paras 35, 36 & 41** of the impugned judgment itself, which are as under:

“35. In this case in particular all the five ingredients are present and this is obviously a case of dowry death and the provision laid down under section 113B of the Evidence Act is applicable which reads:-

“Presumption as to dowry death- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.”

36. Thus, accused Lal Jha and Chandan Jha are not such persons within the meaning of 113-B of the Evidence Act for they were not present at village Chauhuta on the date of occurrence admittedly. Soni Jha had been at her Naihra for six months prior to the occurrence and when she was brought to village Chauhuta whatever happened is happened only after arrival of accused Parmila Jha and Tannu Jha and in their presence and accordingly, the presumption of causing dowry death is sustainable only against them and rest of the accused persons namely, Lal Jha and Chandan Jha are entitled to acquittal.

41. Considered. There is evidence on record that during the occurrence the grandmother-in-law of the deceased was



raising alarm from the top of her house on which the people assembled and this aspect of the matter is indicative of the fact that the house inmates were not having intention of killing of the deceased. This has also come on record that the two convicts came runningly to the house after knowing the occurrence and this shows that the convicts had no knowledge of the occurrence as well. Speaking technically, still, all the five ingredients are present against the convicts and considering this aspect of the matter, they have been held guilty. In my view, the minimum prescribed punishment is required in this case and, accordingly, both the convicts are awarded seven years rigorous imprisonment under section 304(B)/34 I.P.C. each. They are sent back to District Jail, Madhubani, to serve out the sentence awarded.”

38. Aforesaid reasons assigned for conviction of appellant by learned trial court categorically suggest that conviction was recorded with perverse reasons. Discussing essential ingredients of section 304B of the I.P.C., learned trial court arrived to conclusion of conviction on the sole ground as appellant was present at her parental home during the occurrence, which is not the correct position of law.

39. Accordingly, conviction of the appellant, as recorded by the learned trial court, is hereby set-aside. The impugned judgment of conviction and order of sentence dated 03.01.2019 and 08.01.2019 passed by the Presiding Officer, Fast Track Court No-I, Madhubani in Sessions Trial No. 334 of 2005/105 of 2018, arising out of Bisfi P.S. Case No.67 of



2004, corresponding to G.R. No. 823 of 2004 is hereby set-aside. Appellant/accused is acquitted of the charges levelled against her.

40. Since the appellant is on bail, she is discharged from her liabilities of respective bail bonds. Sureties stands discharged. Fine, if any paid, be returned to the appellant henceforth.

41. The appeal stands allowed.

42. TCR, if any, be sent back to learned trial court along with the copy of this judgment immediately.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	26.02.2026
Transmission Date	26.02.2026

