

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.467 of 2011

1. MD. MANZARUL HAQUE @ MAJRUL HAQUE and ORS. S/O Late Md.Madni Resident Of Village- Pachhi, P.S.- Madhepur, District- Madhubani
2. Md.Mahfazul Haque @ Mahfuzul Haque S/O Late Md. Madni Resident Of Village- Pachhi, P.S.- Madhepur, District- Madhubani
3. Zohra Khatoon W/O Late Md. Madni Resident Of Village- Pachhi, P.S.- Madhepur, District- Madhubani
4. Subera Khatoon @ Sobaida Khatoon W/O Manjarul Haque Resident Of Village- Pachhi, P.S.- Madhepur, District- Madhubani

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 602 of 2011

MD. MASUDUL HAQUE @ MASUDUL HAQUE S/O Md. Madni Resident Of Village- Pachhi, P.S.- Madhepur, District- Madhubani

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 467 of 2011)

For the Appellant/s : Mr.Vishwanath Pd. Sinha, Sr. Advocate
Mr.Durgesh Kumar Singh, Advocate

For the Respondent/s : Mr.Abhay Kumar, App

(In CRIMINAL APPEAL (SJ) No. 602 of 2011)

For the Appellant/s : Mr.Vishwanath Pd. Sinha, Sr. Advocate
Mr.Durgesh Kumar Singh, Advocate

For the Respondent/s : Mr.Abhay Kumar, App

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
CAV JUDGMENT

Date : 09-04-2026

Heard Mr. Vishwanath Pd. Sinha, learned Senior counsel along with Mr. Durgesh Kumar Singh, learned counsel appearing on behalf of the appellants and Mr. Abhay Kumar, learned APP for the State.

2. The present appeal has been filed under Section



374 (2) and 389 (1) of the Code of Criminal Procedure challenging the judgment of conviction dated 31.03.2011 and order of sentence dated 04.04.2011 passed by the Sessions Judge, Madhubani in S.T. No.373/2008 and 374/2008 in connection with Madhepur P.S. Case No. 58/07 dated 22.03.2007, whereby and whereunder the appellants have been convicted for the offence punishable under Section 304 B and 201/34 of the Indian Penal Code and appellant nos. 1 and 2 of Cr. App. (SJ) No.467 of 2011 along with the appellant (Masudual Haque) of Cr. App. (SJ) No.602 of 2011 have been sentenced to undergo Rigorous Imprisonment for 10 years for offence u/s 304-B along with a fine of Rs.1000/- each and simple imprisonment for one year for offence u/s 201/34 of the Indian Penal Code and in default of fine to undergo simple imprisonment for six months and sentenced appellant nos.3 and 4 of Cr. App. (SJ) No.467 of 2011, RI for seven years for offence u/s 304 B of the Indian Penal Code and SI for one year for offence u/s 201/34 of the Indian Penal and directed the sentences of the appellant and others convicted to run concurrently.

3. Being aggrieved by and dissatisfied with the aforesaid judgment of conviction and order of sentence, the



appellants have preferred the present appeal before this Court. The appellants have assailed the impugned judgment primarily on the ground that the learned trial court failed to appreciate the evidence available on record in its proper perspective and has wrongly recorded the conviction of the appellants despite the existence of serious contradictions and deficiencies in the prosecution case.

4. The prosecution case, in brief, is that Ali Mohammad gave his statement before the police on 22.03.2007 alleging, *inter alia*, that his deceased daughter, Mursilah Parween, was married to Masudul Haque on 21.02.2006 in accordance with Muslim customs and thereafter resided at her matrimonial home with her husband and other in-laws, including Rashid Hussain, where relations remained cordial for about six months, however, subsequently, the accused persons allegedly began pressurizing her to bring Rs. 75,000/- and a motorcycle as dowry, despite the informant having already provided articles worth more than Rs. 2,00,000/-, and upon non-fulfilment of such demand, she was subjected to assault and abuse. In the year 2006 she (deceased) was driven out of her matrimonial home and returned to her parental house, but pursuant to a *Panchayati*, she was sent back where she lived



peacefully for about two months before again being subjected to cruelty and harassment for the same demand which was made at the time she was pregnant. On 15.03.2007, one Sabnam Raza Kamali visited her and she narrated her ordeal and expressed apprehension that she would be killed, whereupon she had informed the informant the same day. On 20.03.2007 the informant along with co-villagers went to her matrimonial village Pachhi, they learnt that she had been killed in the night of 16.03.2007 and her dead body had been clandestinely buried with the assistance of villagers, and upon reaching the house, they found only Md. Madni present, who disclosed nothing while the other accused persons had absconded. The accused persons, including the appellants, being the husband and in-laws of the deceased, committed her murder and caused disappearance of evidence by secretly burying her dead body at some unknown place.

5. On the basis of the statement of the informant, Madhepur P.S. Case No. 58/07 dated 22.03.2007 was instituted under Sections 304(B), 201 and 34 of the IPC against the accused persons, including the appellants Masudul Haque and Rashid Hussain. After investigation, charge-sheet was submitted under Sections 304(B) and 201/34 IPC, cognizance was taken,



and the case was committed to the Court of Sessions where charges under Sections 304(B)/34 and 201/34 IPC were framed, to which the accused pleaded not guilty and claimed to be tried.

ARGUMENT ON BEHALF OF THE APPELLANTS

6. Learned Senior counsel appearing on behalf of the appellants submitted that the judgment and order of conviction and sentence passed by the learned Trial Court are unsustainable in law as well as on facts, being vitiated by non-consideration and erroneous appreciation of the materials on record. It was contended that the Trial Court failed to account for the inherent improbabilities and inconsistencies in the prosecution case. Prosecution witnesses (PW-1 and PW-2) did not support the prosecution case and stated that the deceased died due to illness (diarrhea and dysentery) and she was treated and buried in presence of her parental family members, with PW-2 being declared hostile. PW-3, PW-4 (informant) and PW-5 supported the prosecution case regarding demand of dowry of Rs. 75,000/- and a motorcycle, alleging that the deceased was subjected to cruelty, turned out of her matrimonial home, and later sent back after Panchayati, but again she was harassed, and shortly before her death she had expressed apprehension of being killed. However, material contradictions emerged in their



evidence, including non-disclosure of certain facts before police, inconsistencies regarding visit to the matrimonial home, and conduct of witnesses. Prosecution witness (PW-6) generally supported the allegation of dowry demand and murder but admitted in cross-examination that his knowledge was hearsay and that he had not previously deposed before the police, while PW-7, the Investigating Officer, stated that he could not locate the burial place of the deceased despite efforts and that no independent witness from the village supported the prosecution case, further admitting that there existed communal tension in the village and that he did not investigate the aspect of the deceased's alleged illness prior to death, thereby leaving material gaps in the prosecution case. The Investigating Officer, has deposed that despite best efforts he could not locate the alleged place of burial of the deceased and, in cross-examination, admitted that none of the villagers supported the prosecution case, that there was communal tension in the village due to the killing of one Ganga Ram Mahto, and that he did not investigate the aspect of the deceased's prior illness, and admittedly there is no eye-witness to the occurrence. There was no demand of dowry at the time of marriage or for about four months thereafter, and PW-1 and PW-2 have categorically stated



that the deceased died due to illness, namely diarrhea and dysentery, and that her parental family was informed and participated in the burial, which is also supported by the Investigating Officer's admission that villagers did not corroborate the prosecution version. From the overall evidence, the relationship between the deceased and her in-laws appears cordial and the prosecution story seems to be an afterthought, with material contradictions in the testimony of witnesses, particularly regarding the date of the informant's visit, which were not properly appreciated by the learned trial court, nor was the real motive behind institution of the case considered. The prosecution has failed to prove its case beyond reasonable doubt, and no effort was made by the authorities to ascertain the place of burial despite alleged disclosure by the accused, rendering the allegations general and omnibus in nature and based on mere hypothesis, and the prosecution case stands falsified by its own evidence, yet the appellants, including appellant no. 3, an aged lady, who remained on bail during trial without misuse of the privilege, have been convicted and sentenced vide judgments and orders dated 31.03.2011 and 04.04.2011 passed in Sessions Trial No. 373 of 2008.

7. Learned Senior counsel further submitted that in



such circumstances, the impugned judgment of conviction dated 31.03.2011 and order of sentence dated 04.04.2011 passed by the Sessions Judge, Madhubani in S.T. No.373/2008 and 374/2008 in connection with Madhepur P.S. Case No. 58/07 dated 22.03.2007 is required to be interfered with and the appellants deserve to be acquitted.

ARGUMENT ON BEHALF OF THE STATE

8. *Per contra*, learned APP appearing for the State while opposing the appeal submitted that the learned District court, after considering all the evidences on record and exhibits submitted on behalf of the parties during the course of trial, has rightly convicted the appellants for said offences as the offences alleged against the appellants appears to be serious in nature and also constitutes cognizable offence.

ANALYSIS AND CONCLUSION

9. Heard the parties.

10. I have perused the lower court records and proceedings and also taken note of the arguments canvassed by learned counsel appearing on behalf of the parties.

11. The learned trial court, on the basis of materials as collected during the course of investigation, passed by the judgment of conviction dated 31.03.2011 and order of sentence



dated 04.04.2011 for the offence punishable under Section 304 B and 201/34 of the Indian Penal Code.

12. During the trial, the prosecution has examined altogether five witnesses, namely:

- (i) (P.W.-1),- Meraj Ali
- (ii) (P.W.-2),- Md. Siddique
- (iii) (P.W.-3),- Nasim Akhtar
- (iv) (P.W.-4) ,- Ali Ahmad (Informant)
- (v) (P.W.-5),- Sbabnam Raza Kamali
- (vi) (P.W.-6),- Kafil Ahmad
- (vi) (P.W.-7),- Komal Ram (Investigating Officer)

13. On the basis of materials surfaced during the trial, the appellants/accused was examined under Section 313 of the Cr.PC by putting incriminating circumstances/evidences surfaced against him, which he denied and shows his complete innocence.

14. I find it apt to reproduce the provisions of Section 304 B and 201 of the Indian Penal Code, which *inter alia* are as follows:

" 304B. Dowry death.—

(1)Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in



connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.— For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2)Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

201. Causing disappearance of evidence of offence, or giving false information to screen offender.—*Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.— shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.— and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years' imprisonment. — and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both."*

15. Upon a meticulous examination of the record, the evidence of the prosecution witnesses (PWs) can be summarised as follows:



(i) P.W.1 (Meraj Ali- co-villager of the deceased):

This witness has stated that the daughter-in-law of Md. Madni died on 16.03.2007 and that on the said date there was tension in the village on account of the murder of Ganga Ram Mahto. He has further stated that his residence is about 200 yards away from the house of the deceased and that there was a Panchayati between the parties held at the house of the informant, though no document was prepared in that regard. It is pertinent that this witness was not cross-examined by the defence on the point of demand of dowry or alleged torture.

(ii) P.W.4 (Ali Ahmad – informant): This witness has supported the prosecution case in his examination-in-chief and proved his signature on the written report marked as Exhibit-1. He has stated that the written report was scribed at the house of one Sanaullah Saheb. In cross-examination, he has stated that he cannot say who disclosed to him about the burial of the deceased and that prior to lodging of the case there was consultation with others. He has further admitted that at the time of marriage there was no demand of dowry and that such demand allegedly started after 3–4 months, but no complaint was made to any authority. He has also stated that he did not visit the place of burial and has denied the suggestion that the



deceased died due to illness and that the case is based on false allegations.

(iii) P.W.5 (Shabnam Raza Kamali – brother of the deceased): This witness has supported the prosecution case as stated in the written report (Exhibit-1) and has deposed regarding demand of dowry and torture meted out to the deceased. In cross-examination, he has stated that the deceased was pregnant at the time of death and that he had visited her matrimonial home 2–3 times, last on 15.03.2007, when the family members behaved cordially, but the deceased disclosed to him about the alleged torture and dowry demand. He further stated that upon return he informed others about the same. He has denied the suggestion that the deceased died due to vomiting and diarrhoea.

(iv) P.W.6 (Kafil Ahmad- hearsay witness): This witness has stated that the accused persons killed the deceased on 16.03.2007 and hurriedly buried her body. He has further stated that after receiving information, he along with others went to the house of the accused on 20.03.2007 and learnt about the occurrence. He has also deposed that prior to her death, there was demand of Rs. 75,000/- and a motorcycle, for which a Panchayati was held, after which the deceased was sent back to



her matrimonial home. He has stated that no information regarding the death was given to the villagers or the police. In cross-examination, he has stated that he is a Madrasa teacher for the last 30 years and has no blood relation with the informant, that he did not talk to Md. Fakruddin regarding the occurrence, and that he did not visit the place of burial. He has admitted that no document of Panchayati was prepared and that whatever was decided therein was accepted by both parties. He has further stated that no assault ever took place in his presence.

(v) P.W.7 (Komal Ram – Investigating Officer):

This witness has stated that he took up investigation on the basis of the written report dated 22.03.2007 and inspected the place of occurrence, namely the house of Md. Madni, describing its structure and boundaries. He has further deposed that despite serious efforts, he could not locate the place where the dead body of the deceased was buried, as the villagers only indicated village Umri without specifying the exact place, and therefore the body could not be exhumed for post-mortem examination. He has proved the formal F.I.R. (Exhibit-2) and endorsement on the written report. In cross-examination, he has stated that the villagers did not support the prosecution case, that there was communal tension in the village due to the murder of Ganga



Ram Mahto around the relevant time, and that he did not investigate the aspect of illness of the deceased prior to her death.

16. The record reveals PW-2 was declared hostile during the trial as nothing transpired from his testimony during the trial which may be said relevant for the purpose of corroborating or contradicting the version of other prosecution witnesses, who supported the crime in question during the trial. Therefore, the testimony of the PW-2 is not relevant qua establishing guilt of the accused/appellants.

17. From the perusal of the records and facts and circumstances of the present case and in light of consistent observation and the view of the Court and the expression “dowry” under Section 304-B IPC must receive a broad and purposive construction so as to effectuate the legislative intent of eradicating the social evil of dowry deaths, and any demand for money or valuable security having a nexus with the marital relationship, even if made subsequent to the marriage, would fall within its sweep; however, for the presumption under Section 113-B of the Evidence Act to arise, the prosecution is obligated to establish, by cogent and reliable evidence, that the deceased was subjected to cruelty or harassment in connection



with such demand “*soon before her death*” and that there existed a proximate and live link between the alleged cruelty and the death and in the absence of such foundational facts, mere general or omnibus allegations would not suffice to sustain a conviction under Section 304-B IPC, and the Court must, therefore, exercise due circumspection in evaluating the evidence so as to ensure that the statutory presumption is not invoked in a mechanical manner but only upon strict satisfaction of the requirements contemplated by law.

18. The essential ingredients for attracting the offence under Section 304-B IPC, as consistently laid down by the Hon’ble Supreme Court, require the following conditions to be cumulatively satisfied:

(i) that the death of a woman has been caused by burns or bodily injury or has occurred otherwise than under normal circumstances;

(ii) that such death has occurred within a period of seven years of her marriage;

(iii) that the deceased was subjected to cruelty or harassment by her husband or his relatives soon before her death; and



(iv) that such cruelty or harassment was in connection with, or in furtherance of, a demand for dowry and it is only upon the strict establishment of all the aforesaid ingredients that the offence under Section 304-B IPC can be said to be made out and the presumption under Section 113-B of the Evidence Act can be invoked.

19. Law in this regard is well settled by the Apex Court in case of *Rajinder Singh v. State of Punjab*, (2015) 6 SCC 477 reported in para nos. has held *inter alia* as under:

8. A perusal of Section 2 shows that this definition can be broken into six distinct parts:

(1) Dowry must first consist of any property or valuable security— the word “any” is a word of width and would, therefore, include within it property and valuable security of any kind whatsoever.

(2) Such property or security can be given or even agreed to be given. The actual giving of such property or security is, therefore, not necessary.

(3) Such property or security can be given or agreed to be given either directly or indirectly.

(4) Such giving or agreeing to give can again be not only by one party to a marriage to the other but also by the parents of either party or by any other person to either party to the marriage or to any other person. It will be noticed that this clause again widens the reach of the Act insofar as those guilty of committing the offence of giving or receiving dowry is concerned.

(5) Such giving or agreeing to give can be at any time. It can be at, before, or at any time after the marriage. Thus, it can be many years after a marriage is solemnised.

(6) Such giving or receiving must be in



connection with the marriage of the parties. Obviously, the expression “in connection with” would in the context of the social evil sought to be tackled by the Dowry Prohibition Act mean “in relation with” or “relating to”.

9. The ingredients of the offence under Section 304-B IPC have been stated and restated in many judgments. There are four such ingredients and they are said to be:

(a) death of a woman must have been caused by any burns or bodily injury or her death must have occurred otherwise than under normal circumstances;

(b) such death must have occurred within seven years of her marriage;

(c) soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and

(d) such cruelty or harassment must be in connection with the demand for dowry.

21. Coming now to the other important ingredient of Section 304-B—what exactly is meant by “soon before her death”?

22. This Court in Surinder Singh v. State of Haryana [(2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769] had this to say : (SCC pp. 137-39, paras 17-18) 22. This Court in Surinder Singh v. State of Haryana [(2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769] had this to say : (SCC pp. 137-39, paras 17-18)

17. “Thus, the words ‘soon before’ appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to

spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words ‘soon before’ is, therefore, important. The question is how ‘soon before’? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be



depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, 'soon before' is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.

18. In this connection we may refer to the judgment of this Court in Kans Raj v. State of Punjab [(2000) 5 SCC 207 : 2000 SCC (Cri) 935] where this Court considered the term 'soon before'. The relevant observations are as under : (SCC pp. 222-23, para 15)

'15. ... "Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be "soon before death" if any other intervening circumstance showing the non-existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential



death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.'

Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law."

17. *"Thus, the words 'soon before' appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words 'soon before' is, therefore, important. The question is how 'soon before'? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, 'soon before' is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.*

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Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law.”

20. Similar view was taken by the Apex Court in case of ***State of Madhya Pradesh vs. Jogendra and Anr.*** reported in ***(2022) 5 SCC 401.***



21. In view of the aforesaid facts and circumstances, and in the light of the settled legal principles and law laid down by the Hon'ble Supreme Court in ***Rajinder Singh (supra)*** and ***Jogendra (supra)***, this Court is of the considered opinion that the prosecution has failed to prove, beyond reasonable doubt, the essential ingredients required to constitute an offence under Section 304-B IPC, particularly the existence of cruelty or harassment "soon before the death" of the deceased in connection with any alleged demand for dowry and the existence of a proximate and live link between such alleged cruelty and the death; on the contrary, the evidence of PW-1 and PW-2, who have categorically attributed the death to illness, namely diarrhea and dysentery, coupled with the hostile nature of material witnesses, lack of independent corroboration, and the deficiencies in investigation as admitted by the Investigating Officer, creates a serious doubt in the prosecution case and also the prosecution case, when read in light of the depositions of PW-4, PW-6 and PW-7, suffers from serious inconsistencies and lack of corroboration on material particulars, thereby entitling the appellants to the benefit of doubt. PW-4 admits that there was no dowry demand at the time of marriage and that the alleged demand began only after 3–4 months, yet no complaint



was ever made to any authority, and he did not visit the alleged place of burial, rendering the allegations doubtful. PW-6, an independent witness, does not support the prosecution at all, as he states that no information of the death was given to villagers or police, he neither visited the burial site nor witnessed any assault, and he admits that no document was prepared regarding the alleged Panchayati, thereby making it unsubstantiated. The Investigating Officer (PW-7) further weakens the case by admitting that the place of burial could not be ascertained, the dead body was never exhumed for post-mortem, the villagers did not support the prosecution, and that he did not investigate the possibility of illness of the deceased, leaving a plausible alternative cause of death unexplored. Thus, there is no reliable evidence of cruelty or dowry demand, no proof of homicidal death, and no confirmed recovery of the body, and the chain of circumstances remains incomplete and broken, making it unsafe to sustain the conviction and entitling the appellants to acquittal. In such circumstances, the statutory presumption under Section 113-B of the Evidence Act cannot be invoked in a mechanical manner, and the prosecution case, resting on general and omnibus allegations, fails to inspire confidence.

22. Accordingly, the present appeals are allowed.



23. The impugned judgment of conviction dated 31.03.2011 and order of sentence dated 04.04.2011 passed by the Sessions Judge, Madhubani in S.T. No.373/2008 and 374/2008 in connection with Madhepur P.S. Case No. 58/07 dated 22.03.2007, is hereby set aside. Consequently, the above-named appellants/accused are acquitted from all the charges levelled against them. Since the appellants are on bail, as such, they are discharged from the liability of their bail bonds. The fine deposited by the appellants, if any, shall be refunded to them.

24. Office is directed to send back the lower court records along with a copy of the judgment to the learned District Court forthwith.

(Purnendu Singh, J)

Ashishsingh/-

AFR/NAFR	NAFR
CAV DATE	30.03.2026
Uploading Date	09.04.2026
Transmission Date	09.04.2026

