

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.8 of 2016

Arising Out of PS. Case No.-31 Year-2012 Thana- KARJA District- Muzaffarpur

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1. Raj Kishore Ram
 2. Nand Kihore Ram S/o late Binda Lal Ram Both Resident of Village- Pakari Pakohi, P.s Karja, District Muzaffarpur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellants	:	Mr. Pramod Kumar Singh, Advocate Mr. Rahul Kumar Singh, Advocate
For the State	:	Mr. Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 29-04-2026

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

2. This appeal has been filed challenging the judgment of conviction dated 16.12.2015 and order of sentence dated 18.12.2015 passed in Sessions Trial No. 741 of 2012 arising out of Karja P.S. Case No. 31 of 2012 whereby these two appellants have been convicted under Sections 304B, 201 and 34 of the Indian Penal Code and Appellant No. 1, namely Raj Kishore Ram, has been sentenced to undergo rigorous imprisonment for 10 years under Sections 304B and 34 of the Indian Penal Code and rigorous imprisonment for three years and fine of Rs. 5,000/- under Sections 201 and 34 of the Indian



Penal Code and in case of default of fine, to further undergo simple imprisonment for six month and Appellant No. 2, namely Nand Kishore Ram, has been sentenced to undergo rigorous imprisonment for eight years under Sections 304B and 34 of the Indian Penal Code and rigorous imprisonment for three years and fine of Rs. 5,000/- under Sections 201 and 34 of the Indian Penal Code and in case of default of fine, to further undergo simple imprisonment for six month. All sentences have been directed to run concurrently.

3. The prosecution case, in brief, is that marriage of daughter of informant, namely Seema Devi, was solemnized with Appellant No. 1, namely Raj Kishore Ram, on 12.06.2006 and thereafter, she went to her in-laws house. It is alleged that after few days of marriage, husband of daughter of informant and his family members started assaulting and torturing daughter of informant and repeatedly demanded Rs. 40,000/-. It is further alleged that on 03.03.2015 at about 10:55 PM, daughter of informant called him and told that she has brutally been assaulted and requested to be taken away or otherwise, her in-laws would kill her. On the next day, i.e. on 04.03.2012 at about 11 AM, informant, along with his brother-in-law, went to the matrimonial village of his daughter, however, they could not



find his daughter nor any family members were present in the house. Informant suspects that all the in-laws of the daughter of informant, including these appellants, have killed his daughter due to non-fulfillment of demand of dowry, dispose of her dead body and fled away from the house.

4. In this case, in order to bring home guilt of the accused person, the prosecution has examined altogether eight witnesses. P.W. 1, namely Ram Bachan Ram, P.W. 2, namely Mahadeo Ram and P.W. 3, namely Devenda Ram, are co-villagers and have been declared hostile. P.W. 4, namely Ramesh Ram, is brother of the deceased/victim. P.W. 5, namely Ram Agaya Ram, is informant and father of the deceased/victim. P.W. 6, namely Dr. Bipin Kumar, is the doctor who held autopsy of the deceased/victim. P.W. 7, namely Mithlesh Kumar Singh and P.W. 8, namely Vinay Kumar Das, are the Investigating Officers of this case.

5. On the other hand, the defence has produced two defence witnesses, i.e., D.W. 1, namely Aditaya Kumar and D.W. 2, namely Mohan Kumar.

6. After hearing the parties, the learned trial court convicted the appellants and sentenced them, as indicated in the opening paragraph of this order.



7. Learned counsel appearing for the appellants assails the order of conviction and sentence on multiple grounds. He contends that Appellant No. 1 is husband of the deceased and Appellant No. 2 is elder brother of Appellant No. 1 and brother-in-law (*Bhaisur*) of the deceased. He further contends that in order to convict a person under Section 304B of the Indian Penal Code, three essential ingredients are necessary to be present, which are:-

- a. Death of a woman is caused by any burn or bodily injury otherwise than under normal circumstances,
- b. Such death of the woman should occur within seven years of her marriage and
- c. Soon before her death, she should be subjected to cruelty or harassment by the accused in connection with any demand of dowry.

8. Learned counsel for the appellants submits that in this case, there is no evidence or chit of paper to substantiate the allegation that there was any demand of dowry soon before death of the deceased. Though, it is alleged that there was demand of dowry and a *Panchayati* was also convened in this regard, however, the same has not been proved on the basis of



any documentary or oral evidence. It is further contended that as per *post mortem* report, no external injury were found on the person of the deceased. Thus, the key ingredients to convict a person under Section 304B of the Indian Penal Code are not present in the instant case. As a matter of fact, the deceased went to attend the call of nature and did not return and for the same occurrence, these appellants informed the police, prior to lodging of the present F.I.R., which has been produced during trial as Exhibit "A" and has also been supported by both the defence witnesses. It is further contended that there is material contradiction in the statement of the informant (P.W. 5). In the F.I.R., the informant has alleged that his deceased daughter informed him over phone call that these appellants have assaulted her, however, during cross examination, he has stated that Appellant No. 2 called him and informed about the fact that his daughter is missing. Further, in the F.I.R., the informant has alleged that when he reached the matrimonial house of his daughter, no one was present there, however, in the cross-examination, he has stated that Appellant No. 1 was present in the house. It is further submitted that P.W. 4, who happens to be brother of the deceased, in his statement, has categorically stated that he used to frequently visit the matrimonial house of



his sister and her in-laws used to greet him with warm hospitality. It is highly doubtful that since the in-laws of the victim were having good relations and showing great hospitality to P.W. 4 whenever he used to visit the matrimonial house of his sister, the in-laws would commit any torture or harassment with the victim or demand dowry, that too after six years of marriage. Learned counsel for the appellants lastly contends that since there is material contradiction in statement of the prosecution witness and informant, fact that no injuries were found on the person of the deceased and absence of necessary ingredients to convict a person under Section 304B of the Indian Penal Code goes to show that it is a case of no evidence and prosecution has failed to prove the case beyond reasonable doubt and hence, these appellants are fit to be acquitted.

9. On the other hand, learned A.P.P. for the State has submitted that there is no need of any interference in this appeal since the prosecution witnesses have supported the corroborated the prosecution story and there is no reason to differ with the findings of the learned trial court and the judgement of conviction and order of sentence are justified and legal.

10. From going through the evidence and perusal of the records, it appears that none of the two independent



prosecution witnesses have seen the occurrence and are related to the victim/deceased and are highly interested witnesses. The prosecution has not brought on record any proof with regard to the torture or demand of dowry prior to death of the deceased.

11. It is also pertinent to mention here that in order to establish the offence under Section 304B of the Indian Penal Code, the prosecution is obliged to prove the three essential ingredients, as discussed above. If the prosecution, proves all the three essential ingredients, then the presumption under Section 113B of the Evidence Act will operate. Such presumption is rebuttable and the onus to rebut shifts on the accused person. If the prosecution fails to establish the aforesaid ingredients, then the presumption under Section 113B of the Evidence Act does not apply and in such cases, the burden does not shift to the accused persons to rebut the presumption under the law.

12. In this case, it is evident that there is nothing on record to show that soon before the death of the deceased, there was any demand or torture by the appellant, which is a necessary ingredient to bring guilt of the accused under Section 304B of the Indian Penal Code. Moreover, as per *post mortem* report, no injuries were found on the person of the deceased.



Since two of the essential ingredient of Section 304B of the Indian Penal Code is absent on record, in my view, the appellants cannot be convicted under Section 304B of the Indian Penal Code. Moreover, in this case, there is material contradiction in the statement of the two independent prosecution witnesses.

13. Thus, in view of the facts and circumstances of the case, as discussed above, it is not sufficient to come to a conclusion that these appellants committed dowry death due to non-fulfillment of demand of dowry.

14. It is well established rule of law that in case of circumstantial evidence, the chain must be complete to establish the guilt of the accused person. Hence, the prosecution has failed to establish its case beyond the shadow of all reasonable doubts and the appellants are entitled to get the benefit of doubt.

15. In that view of the matter, the judgment of conviction dated 16.12.2015 and order of sentence dated 18.12.2015 passed by the learned Additional Sessions Judge III, Muzaffarpur in connection with Sessions Trial No. 741 of 2012 arising out of Karja P.S. Case No. 31 of 2012 are hereby set aside.



16. Appellants are acquitted of all the charges and are discharged from the liability of the bail bonds in connection with this case.

17. Accordingly, this appeal stands allowed.

18. Pending Interlocutory Applications, if any, shall also stand disposed of.

(Prabhat Kumar Singh, J)

shashank/-

AFR/NAFR	NAFR
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