

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.291 of 2013**

Arising Out of PS. Case No.-32 Year-2009 Thana- LAKHISARAI District- Lakhisarai

1. Prasadi Sao, S/o Late Sanichar Sao
2. Meena Devi @ Sagar Devi @ Neesha Devi W/O Sri Prasadi Sao
3. Rajesh Sao S/O Sri Prasadi Sao
4. Kabita Devi @ Babita Devi D/O Sri Prasadi Sao
All arr resident of Village - Mahisona, P.S, Distt. - Lakhisarai

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Ms. Sarandha Suman, Amicus Curiae
For the Respondent/s : Mr. S. N. Prasad, APP

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
CAV JUDGMENT**

Date- 09.07.2026

Heard Ms. Sarandha Suman, learned *Amicus Curiae* and Mr. S .N. Prasad, learned APP for the State.

2. The present appeal is directed against the judgment of conviction dated 08.04.2013 and order of sentence dated 09.04.2013 passed by the learned Adhoc Addl. District & Sessions Judge-II, Civil Court, Lakhisarai in S.C. No. 182/2010 arising out of Lakhisarai P.S. Case No. 32/2009, whereby and whereunder, the appellants have been convicted for the offences under Section 304 B/34 and 498A of the Indian Penal Code and sentenced to undergo rigorous imprisonment for ten years under Sections 304B/34 of the Indian Penal Code and rigorous imprisonment for three years under Section 498-A of the Indian



Penal Code with a fine of Rs. 2,000/-, each and in default of payment of fine, to undergo further imprisonment for one month.

BRIEF FACTS OF THE CASE

3. The prosecution case, in brief is, that the father of the deceased had filed a complaint petition before the learned Chief Judicial Magistrate, Lakhisarai, alleging that on 17.09.2008 at about 10:00 A.M., his daughter, Kajal Devi (deceased), informed him over his mobile phone that her in-laws were demanding a sum of Rs. 50,000/- as dowry and when she became pregnant they had threatened to kill as having not fulfilled the demand of dowry. The complainant just after having been informed, he along with other persons, went to Village Mahisona on 17.09.2008 at about 2:00 P.M. and requested the accused persons not to press for the dowry demand, expressing his inability to arrange the amount as a result of which, the accused persons assaulted Kajal Devi (deceased) by fists and slaps in their presence, causing serious injuries, upon which, she became unconscious and while she was being taken for medical treatment, she succumbed to her injuries on the way on 18.09.2008.

4. A complaint petition was filed by the



complainant before the learned Chief Judicial Magistrate, Lakhisarai, registered as Complaint Case No. 514(C) of 2008. The learned Magistrate forwarded it on 16.10.2008 to the police for investigation under Section 156(3) of the Code of Criminal Procedure. Pursuant thereto, Lakhisarai P.S. Case No. 32 of 2009 dated 21.01.2009 was instituted for the offences punishable under Sections 498A and 304B read with Section 34 of the Indian Penal Code.

5. Upon completion of investigation and considering the unnatural death of the victim, charge-sheet was submitted against the accused persons under Sections 304-B, 201 /34 of IPC on 31.10.2009, whereupon, cognizance was taken and the case was committed to the Court of Sessions for trial, upon which completion, all the accused were convicted leading to the filing of the present appeal.

ARGUMENT ON BEHALF OF THE *AMICUS*
CURIAE

6. Learned *Amicus curiae* submitted that the prosecution case suffers from serious infirmities and is liable to be rejected on account of the unexplained delay in institution of the criminal case. It is contended that the alleged occurrence had taken place on 18.09.2008, whereas, the F.I.R. came to be



registered only on 22.01.2009 at 3:00 P.M. on the basis of a complaint petition dated 13.10.2008. The distance of police station is just about two kilometers from the place of occurrence (the house of the complainant) and there was no circumstance preventing him from approaching the police immediately after the occurrence. The complaint petition suffers from any satisfactory explanation about the extraordinary delay of nearly four months. According to learned counsel, the unexplained delay casts a serious doubt upon the truthfulness of the prosecution story and gives rise to a reasonable inference that the allegations were developed after due deliberation with an ulterior motive to falsely implicate the appellants. Learned counsel further submitted that the prosecution deliberately withheld material and independent witnesses. The complainant had admitted that several persons accompanied him to the matrimonial home of the deceased on 17.09.2008, but none of those witnesses were examined during trial. The Investigating Officer (P.W.3) admitted that he had recorded statements of independent witnesses under Section 161 Cr.P.C., who had disclosed that the deceased was pregnant, suffered sudden abdominal pain and died while being taken to the hospital, and that the brother of the deceased was present at the place of



cremation and had participated in the funeral procession. Despite the availability of such crucial witnesses, the prosecution failed to examine them without assigning any reason. The further case of the appellant is that the non-examination of the complainant, who was the author of the complaint and a material witness has caused serious prejudice to the defence, as it deprived the appellants of the opportunity to cross-examine him regarding the delay in lodging the complaint and the contradictions between the complaint petition and the evidence of P.Ws. 1 and 2.

7. Learned counsel further submitted that the prosecution also failed to establish any prior demand of dowry, cruelty or harassment during the six years of matrimonial life of the deceased. The evidence of P.W.1 and P.W.2 reveals that the marriage between the deceased and appellant Rajesh Sao was solemnized in the year 2003 and a daughter aged about six years was born out of the wedlock and there was no complaint was ever lodged either before the police or any proceeding was initiated before any court alleging dowry demand or ill-treatment prior to the alleged occurrence. It has submitted that on the contrary, P.W.2 categorically admitted that none of the accused persons had ever demanded dowry from her, while



P.W.1 also acknowledged that no such complaint had been made at any earlier point of time. In these circumstances, the case of the appellant is that the allegation of dowry demand raised even within seven years of marriage appears highly improbable and unnatural. Learned counsel has emphasized that the conduct of the appellants was wholly inconsistent with that of guilty persons. The evidence of P.W.1 and P.W.2 clearly shows that immediately after the deceased fell ill, the appellants took her to the hospital and the brother of the deceased also remained present in the vehicle throughout. Such conduct, according to the defence, demonstrates their concern for the deceased and negates any intention either to cause her death or had ever subjected her to cruelty immediately before the death. It is the case of the appellant that the essential ingredients of Section 304-B/34 of the Indian Penal Code, particularly the requirement of cruelty or harassment in connection with dowry demand soon before the death, having been not established beyond all reasonable doubt, the appellants are entitled 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



erred no mistake in convicting the appellant for the offences under Sections 304B/34 and 498-A of the Indian Penal Code.

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 the judgment of conviction dated 08.04.2013 and order of sentence dated 09.04.2013 for the offence punishable under Sections 498A and 304 B/34 of the Indian Penal Code.

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

- 1) P.W.1 – Tuntun Sao (brother of the deceased)
- 2) P.W.2 – Usha Devi (mother of the deceased)
- 3) P.W.3 – Nilambar Jha (Investigating Officer)

13. The prosecution has also relied upon following documents exhibited during the course of trial:

(i) Ext.-1 – Formal First Information Report (Formal FIR)



(ii) Ext.-2 –Charge-sheet submitted after investigation

(iii) Exhibit-A/1 to A/8 (Defence Exhibits) - Eight photographs produced on behalf of the defence

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

P.W.1 – Tuntun Sao stated that the deceased Kajal Devi was his sister and her marriage was solemnized with accused Rajesh Sao in the year 2003. According to him, after the birth of a daughter, the accused persons, namely, Prasadi Sao (father-in-law), Rajesh Sao (husband), Meena Devi (mother-in-law) and Babita Devi (sister-in-law), started demanding Rs.50,000/- from Kajal Devi and subjected her to cruelty and assault on account of non-fulfilment of the said demand. He deposed that the accused persons used to assault Kajal Devi by kicks, fists and stick blows and had assaulted her on the stomach. He further stated that on 18.09.2008, he saw the accused persons taking Kajal Devi in a vehicle for treatment. He was also made to sit in the vehicle and while Kajal Devi was being taken for treatment, she died near Pachna Road. Thereafter, according to him, the accused persons cremated the dead body on the bank of river Kiul.



In cross-examination, he stated that his father had instituted the case. He could not state the exact period after which the case was filed or his statement was recorded during investigation. He admitted that two months prior to the occurrence, the accused persons had assaulted his sister. He denied the defence suggestion that Kajal Devi died due to illness while being taken for treatment. He further stated that his niece Manisha Kumari was residing with them and alleged that the accused persons were not willing to give her any share or rights.

P.W.2 – Usha Devi, the mother of the deceased, deposed that Kajal Devi was married to accused Rajesh Sao in the year 2003 and out of the wedlock a daughter, namely Manisha Kumari, was born. She stated that at the relevant time Kajal Devi was pregnant. According to her, the accused persons demanded Rs.50,000/- and subjected Kajal Devi to cruelty for non-fulfilment of the said demand. She deposed that upon receiving information from Kajal Devi, she went to her matrimonial home and requested the accused persons that they were not in a position to pay the demanded amount. Thereupon, according to her, the accused persons assaulted Kajal Devi by kicks and fists and also hit her on the stomach despite her pregnancy. She further stated that on the next day, while Kajal



Devi was being taken for treatment, she died on the way.

In cross-examination, she stated that she had visited the matrimonial home of Kajal Devi on the day preceding her death. She explained that no report was lodged earlier because Kajal Devi had restrained her from doing so. She further stated that the incident of assault had been disclosed to the villagers. She maintained that Kajal Devi was assaulted in her presence and that she also sustained injuries while trying to save her daughter. She denied the defence suggestion that Kajal Devi died on account of any pre-existing illness.

P.W.3 – Nilambar Jha (Investigating Officer) stated that he took over the investigation of the case and proved the formal First Information Report and the charge-sheet. He deposed that during investigation he inspected the place of occurrence, recorded the statements of witnesses and, finding the allegations to be true, submitted charge-sheet against the accused persons.

In cross-examination, he admitted that certain facts stated by P.W.2 before the Court were not found recorded in her statement under Section 161 Cr.P.C. He further stated that he had also recorded the statements of some other witnesses during investigation. After completion of investigation, he submitted



charge-sheet against the accused persons.

15. 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.

LAW GOVERNING DEMAND OF DOWRY

AND DOWRY DEATH

16. I find it appropriate to reproduce the provisions of Sections 498 A and 304B/34 of the Indian Penal Code for the sake of convenience and better understanding:

“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.Explanation.— For the purpose of this section, “cruelty” means—

(a)any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b)harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

“Sections 304B- 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)."

17. The present is a case in which allegation is under Section 304 B and 498 IPC. I proceed first to analyze the essential ingredients for attracting the offence under Sections 498-A and 304-B IPC, as consistently laid down by the Hon'ble Supreme Court, require the following conditions to be cumulatively satisfied:

The essential ingredients of the offence under Section 498-A IPC are:

(i) that the accused is the husband of the woman or a relative of her husband;

(ii) that the woman was subjected to cruelty by the accused;

(iii) that such cruelty consisted of any wilful conduct of such a nature as was likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health (whether mental or physical); or

(iv) that such cruelty consisted of harassment with a view to coercing the woman or any person related to her to meet



any unlawful demand for any property or valuable security, or on account of failure by the woman or her relatives to meet such unlawful demand, And it is only upon the prosecution proving the existence of the aforesaid essential ingredients beyond reasonable doubt that an offence punishable under Section 498-A IPC can be said to have been established.

18. The Hon'ble Supreme Court, in case of ***Onkar Nath Mishra & Ors. v. State (NCT of Delhi) & Anr.***, reported in ***(2008) 2 SCC 561***, has held that "cruelty" within the meaning of Section 498-A IPC contemplates either (i) any wilful conduct of such a nature as is likely to drive a woman to commit suicide or to cause grave injury dangerous to her life, limb or health, whether mental or physical; or (ii) harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand. The relevant observations of the Hon'ble Supreme Court are reproduced hereinafter:

"17. The term cruelty, which has been made punishable under Section 498A I.P.C. has been defined in the Explanation appended to the said Section, to mean: (i) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or (ii) harassment



of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. Therefore, the consequences of cruelty, which are either likely to drive a woman to commit suicide or to cause grave injury, danger to life, limb or health, whether mental or physical of the woman or the harassment of a woman, where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand are required to be established in order to bring home an offence under Section 498A I.P.C.”

19. The essential ingredients of the offence under Section 304-B of IPC are:

(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.

20. Law in this regard is well settled by the Apex Court in case of ***Rajinder Singh v. State of Punjab, (2015) 6 SCC 477*** that agreeing to give and receive dowry can be at before, or anytime after the marriage is a social evil and the cruelty and harassment differs from case to case, therefore, subjecting to harassment and cruelty soon before death is a relevant term. The matter of emotion cannot have fixed formula. Section 114 of the Evidence Act implies that the interval should not be too long between the time of making the statement and the death. Following paragraphs may be referred *inter alia* in this regard:

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*



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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.”

(Emphasis supplied)

21. 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.*

22. The Section 304 B of the Indian Penal Code is, therefore, required to be considered in the background of the facts and material in the context of the above view of the Apex Court, the moot question *which arises is whether in the present case, soon before the death offence under Section 498A, 304B of Indian Penal Code is made out?*

23. The record reveals that the victim was a married woman. The accused are husband and relatives of the deceased, who was allegedly subjected to cruelty by them. The evidence in respect of the alleged cruelty and harassment was reported before the police by registering case against them. 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.

24. The record reveals that the prosecution examined only three witnesses during trial, namely, P.W.-1 Tuntun Sao, P.W.-2 Usha Devi and P.W.-3 Nilambar Jha, the Investigating Officer. P.W.-1 Tuntun Sao, who is the brother of the deceased Kajal Devi, was admittedly not an eyewitness to the alleged assault said to have taken place at the matrimonial home of the deceased. His testimony is primarily based upon what he had learnt from the deceased and other family



members. Though he deposed regarding the alleged demand of Rs.50,000/- by the accused persons and stated that the deceased was subjected to cruelty and assault on account of non-fulfillment of the said demand, he admitted in cross-examination that he had not gone to the matrimonial home of the deceased on the date of the alleged occurrence. His evidence, therefore, remains largely hearsay in nature so far as the alleged assault immediately preceding the death of the deceased is concerned. P.W.-2 Usha Devi, the mother of the deceased, claimed to be an eyewitness to the alleged assault and stated that on receiving information from the deceased she had gone to her matrimonial home, where the accused persons allegedly assaulted Kajal Devi and demanded Rs.50,000/-. She further stated that the deceased, who was pregnant at the relevant time, was assaulted by kicks and fists and was struck on her stomach. However, her testimony suffers from material omissions and improvements, as the Investigating Officer (P.W.-3) admitted during cross-examination that several material facts narrated by P.W.-2 before the Court were not found recorded in her statement made during investigation. P.W.-3 Nilambar Jha, being the Investigating Officer, is only a formal witness who proved the formal FIR and charge-sheet and deposed regarding



the steps taken during investigation. He admittedly had no personal knowledge of the occurrence and his evidence is confined to the investigation conducted by him. Thus, except for the interested testimonies of P.W.-1 and P.W.-2, who are the brother and mother of the deceased respectively, no independent witness was examined by the prosecution to support the allegations of demand of dowry, cruelty, or assault. The informant himself was not examined during trial. Furthermore, no medical evidence, post-mortem report, or testimony of any doctor was brought on record to establish the cause of death of Kajal Devi or to corroborate the allegation that she succumbed to injuries allegedly inflicted by the accused persons. Consequently, the evidence of the prosecution witnesses requires careful scrutiny and cannot be accepted without independent corroboration for establishing the charges under Sections 498-A and 304-B of the Indian Penal Code against the accused/appellants.

25. The conviction of the appellants has been founded principally upon the testimonies of P.W.-1 Tuntun Sao and P.W.-2 Usha Devi, who are the brother and mother of the deceased Kajal Devi respectively. These witnesses have deposed that the deceased was married to appellant Rajesh Sao in the year 2003



and was subjected to cruelty and harassment by the appellants on account of a demand of Rs.50,000/-. According to them, the deceased had informed her parental family that the accused persons were pressurizing her to bring the said amount from her parents and were subjecting her to physical and mental torture on account of non-fulfilment of the demand. P.W.-2 Usha Devi further claimed that upon receiving information from the deceased, she visited her matrimonial home and witnessed the accused persons assaulting Kajal Devi by kicks and fists and causing injuries on her stomach while she was pregnant. Both P.W.-1 and P.W.-2 have further stated that on the following day the deceased was being taken for medical treatment by the accused persons when she died on the way. The prosecution version also finds support from the testimony of P.W.-3 Nilambar Jha, the Investigating Officer, who, after recording the statements of witnesses and conducting investigation, found the allegations to be true and submitted charge-sheet against the accused persons. Thus, the testimonies of P.W.-1 and P.W.-2 regarding the alleged demand of Rs.50,000/-, cruelty and assault meted out to the deceased shortly before her death, coupled with the evidence of P.W.-3 regarding the investigation conducted by him, constitute the principal basis on which the conviction of



the accused/appellants has been recorded by the learned Trial Court. However, it is noteworthy that no independent witness to the alleged occurrence was examined, the informant himself was not produced during trial, and no medical or post-mortem evidence was adduced by the prosecution to establish the cause of death of Kajal Devi.

26. It is observed that the prosecution case rests substantially upon the testimonies of P.W.-1 Tuntun Sao and P.W.-2 Usha Devi, who are the brother and mother of the deceased Kajal Devi respectively. Both these witnesses have consistently deposed that the deceased was subjected to cruelty and harassment by the accused persons on account of a demand of Rs.50,000/- and that shortly before her death she was physically assaulted by the accused persons. P.W.-2 Usha Devi specifically stated that she had visited the matrimonial home of the deceased and had witnessed the accused persons assaulting Kajal Devi by kicks and fists and causing injuries on her stomach while she was pregnant. P.W.-1 also supported the prosecution case regarding the alleged demand of money and harassment meted out to the deceased and further stated that the deceased died while being taken for treatment by the accused persons. Their evidence receives formal support from P.W.-3



Nilambar Jha, the Investigating Officer, who, upon completion of investigation, found the allegations to be true and submitted charge-sheet against the accused persons. The learned trial court further relied upon the circumstance that the marriage of the deceased had taken place in the year 2003 and her death occurred in the year 2008, i.e., within seven years of marriage. The trial court also accepted the prosecution version that the deceased had been subjected to cruelty and harassment in connection with the demand of Rs.50,000/- immediately prior to her death and held that such demand constituted dowry-related harassment. On the basis of the oral evidence of P.W.-1 and P.W.-2 and the investigation conducted by P.W.-3, the learned trial court concluded that the deceased had died an unnatural death within seven years of marriage after being subjected to cruelty and harassment in connection with a demand for money soon before her death. Accordingly, invoking the presumption available under Section 113-B of the Evidence Act and holding that the defence had failed to establish its plea that the deceased had died due to illness, the learned trial court recorded the conviction of the appellants under Sections 498-A/34 and 304-B/34 of the Indian Penal Code. However, it is noteworthy that neither the informant was examined during trial, nor was any



medical evidence or doctor, who performed post-mortem and prepared the report were examined to establish the cause of death of the deceased or to corroborate the allegation that her death was the consequence of the alleged assault.

27. As per the records, it appears that the Investigating Officer has proceeded to investigate in the matter after the death of the deceased. In course of investigation, he has admitted that he has examined several villagers and the independent witnesses. Case diary has not been exhibited. In course of investigation, the Investigating Officer has also not been able to examine the 6 years old minor daughter of the deceased, who was also present at the time of alleged death.

28. 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 learned Trial Court erred in holding that the death of the deceased had occurred within seven years of her marriage and that she had been subjected to cruelty and harassment in connection with an unlawful demand of dowry, leading her to commit suicide soon before her death, no case under Section 498 A IPC is made out. Accordingly, I find that merely on the



basis of the statement of mother of deceased, I don't find that ingredient of Sections 304B of Indian Penal Code and Section 113 B of the Evidence Act are attracted. The circumstances show that the deceased was taken to the hospital by the appellants and the brother of the deceased. The deceased was in an advanced stage of pregnancy and the family members while had taken her to see the doctor, she died on way due to severe pain and other complications.

29. In the facts and circumstances of the present case, I am of the considered opinion that the prosecution has failed to establish its case against the appellants under Sections 498-A and 304-B/34 of the Indian Penal Code beyond reasonable doubt in the absence of specific and convincing evidence to attract conviction under Sections 498 A and 304 (B) of Indian Penal Code. Consequently, the conviction dated 08.04.2013 and order of sentence dated 09.04.2013 are set aside and quashed and the appellants no.1, 2, 3 and 4 are acquitted of the charges levelled against them.

30. Since the appellants stand acquitted and all the appellants are on bail, they are discharged from the liabilities of their respective bail bonds. The fine amount, if already deposited by the acquitted appellants, shall be refunded



forthwith, subject to verification by the court concerned.

31. Accordingly, the present appeal stands allowed.

32. The Patna High Court, Legal Services Committee is, hereby, directed to pay a sum of Rs. 10,000/- (Rupees Ten Thousand) to Ms. Sarandha Suman, learned *Amicus Curiae*, as consolidated fee, for rendering her valuable professional service for disposal of the present appeal.

33. Office is directed to send back the lower court records along with a copy of this judgment to the learned court below forthwith.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	AFR
CAV DATE	22.06.2026
Uploading Date	09.07.2026
Transmission Date	09.07.2026

