

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.662 of 2019

Arising Out of PS. Case No.-9 Year-2018 Thana- JOKIHAT District- Araria

Md. Saiyad S/o Halimuddin @ Md. Halimuddin R/o village- Chamanpur,
P.S.- Jokihat, District- Araria.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Md. Fazle Karim, Advocate
For the Respondent/s : Mr. Dilip Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
and
HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA)

Date : 24-04-2026

Heard learned counsel appearing on behalf of
appellant and learned A.P.P. for the State.

2. The present appeal has been preferred by the appellant-convict under Section-374(2) of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Code') challenging the impugned judgment of conviction dated 07.05.2019 and order of sentence dated 09.05.2019 passed by learned Additional Sessions Judge-III, Araria in Sessions Trial No. 123 of 2018 (CIS No. 123 of 2018) arising out of Trial No. 100 of 2018, whereby the concerned Trial Court has convicted appellant for the offence punishable under Sections 304(B)/34



and Section 201/34 of the IPC, where appellant sentenced to undergo rigorous imprisonment for life along with fine of Rs. 50,000/- and in in default of payment of fine further directed to undergo simple imprisonment for one year, for the offence punishable under Section 304(B)/34 of the IPC and further sentenced to undergo rigorous imprisonment for five years along with fine of Rs. 25,000/- and in default of payment of fine further directed to undergo simple imprisonment for six months, for the offence punishable under Section 201/34 of the IPC. All aforesaid sentences ordered to run concurrently.

Case of prosecution

3. The brief facts of the prosecution, as it speaks through fard-e-beyan of the informant, namely, Imran (P.W. 4), which was recorded on 14.01.2018 at 22:10 hrs. by an Assistant Sub-Inspector at Jokihat Police Station is that his sister, Hena Parween, had been married to the appellant about five years earlier according to Muslim customs. After marriage, she gave birth to a son who died shortly after birth. Thereafter, her in-laws allegedly began demanding a motorcycle and a cow as additional dowry, leading to a case which was later compromised under pressure. On 14.01.2018, the informant received information that the accused persons had assaulted his



sister and poisoned her. They took her to Araria for treatment, where she died upon reaching the hospital. It was further alleged that the accused persons brought her dead body back and left it on a divider near Toll Tax Bhatta Chowk before fleeing. The informant claimed that accused persons killed her sister by administering poison.

4. On the basis of aforesaid fardbeyan, given by P.W. 4, namely, Imran (informant), Jokihat P.S. Case No. 09 of 2018, was registered for the offences punishable under Sections 328, 304(B), 201/34 of the Indian Penal Code.

5. Learned Magistrate on the basis of materials collected during investigation took cognizance and committed this case to the learned Trial Court for its trial and disposal. Learned trial court accordingly framed charges for offences punishable under Sections 306/34, 304B/34, 302/34, 201/34 of IC against appellant-accused, which was duly explained to him upon which he pleaded “not guilty” and claimed trial.

6. To substantiate its case, before learned Trial Court the prosecution has examined altogether 10 witnesses. They are:-

Sr. No(s).	Prosecution Witnesses
P.W. 1	Israil
P.W. 2	Md. Sabir Alam
P.W. 3	Belal



P.W. 4	Md. Imran (informant)
P.W. 5	Nazra
P.W. 5(A)	Md. Nurul Hoda
P.W. 6	Abdul Raquib
P.W.7	Mehtab
P.W.8	Jitendra Kumar Sharma
P.W.9	Ashok Kumar
P.W.10	Dr. Rajendra Kumar

7. Apart from the oral evidence, the prosecution has also proved the following documents in order to prove the charges:-

Sl. No.	Exhibit Nos.	List of documents
1.	Exhibit-1	Signature of Imran on fardbeyan
2.	Exhibit-1/1	Signature of A.S.I. Ashok Kumar on fardbeyan
3.	Exhibit-1/2	Endorsement of P.S. Case number
4.	Exhibit-2	Formal FIR
5.	Exhibit-3	Charge-sheet
6.	Exhibit-4	Signature of Ashok Kumar on inquest report
7.	Exhibit-X	Postmortem report
8.	Exhibit-5	Certified copy of order sheet of complaint case no. 360 C of 2017
9.	Exhibit-6	Certified copy of Complaint case no. 360 C of 2017

8. No defence witnesses were examined on behalf of accused/appellant during the trial.

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



Sl. No.	Exhibit Nos.	List of documents
1.	Exhibit-A	Order sheet dated 13.10.2017 of Case No. M 39 of 2017
2.	Exhibit-B	Compromise petition in case no. 39 M of 2017
3.	Exhibit-C	Order sheet dated 01.02.2019 in case no. 360C of 2017
4.	Exhibit-D	Compromise petition in case no. 360C of 2017

10. The statement of the appellant-accused was recorded under Section 313 of the Code after stating him incriminating evidences/circumstances as surfaced during the trial, which he denied and shows his complete innocence.

11. Taking note of the evidence as surfaced during the trial and the arguments as advanced by the parties, the learned Trial Court has convicted appellant/convict for the offences under Sections 304(B)/34 and Section 201/34 of IPC and sentenced him in the manner as stated above, after recording the acquittal of appellant for the offences punishable under Section 302/34 and 306/34 of the Indian penal Code.

12. Being aggrieved with the aforesaid judgment of conviction and order of sentence, the appellant/convict has preferred the present appeal.

13. Hence, the present appeal.

Argument on behalf of appellant

14. Learned counsel appearing on behalf of



appellant submitted that appellant has been falsely implicated with the present case as deceased committed suicide after consuming poison. This is supported by the fact as the investigating agency, upon completion of investigation, found the case fit only to be register under Section 306 IPC (abetment of suicide) and not under Section 304(B) IPC (dowry death), which reflects the absence of material indicating homicidal death or dowry-related causation. It is pointed out that evidence on record, including medical findings, indicates that the deceased herself consumed poison. However, the Learned Trial Court erred in presuming, without any reliable or corroborative evidence, that the accused persons administered poison to the deceased. Such a conclusion is based on conjecture rather than proof.

15. It is further submitted that since no foundational aspects as to constitute offence under Section 304(B) IPC was proved, therefore, the presumption under Section 113(B) of the Evidence Act is not available to the prosecution. Therefore, the burden remained on the prosecution to prove its case beyond reasonable doubt, which it has failed to do. It is also pointed out that the Trial Court adopted a selective approach in appreciating evidence, while disbelieving defence



witnesses on the ground that no one saw the deceased consuming poison, trial court ignored the equally important fact that no witness saw the accused administering poison, thereby applying unequal standards. In support of his submission learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Karan Singh Vs. State of Haryana, [2025] 1 SCR 1370: 2025 INSC 133.**

16. While concluding his argument, learned counsel submitted that impugned judgment have been founded on presumptions, conjectures, and selective appreciation of evidence rather than proof beyond all reasonable doubt. The prosecution has failed to establish the case of the appellant on the strength of reliable and cogent evidence, while crucial aspects such as the absence of a viscera report and lack of eyewitness testimony have been overlooked. The findings recorded are thus unsustainable in the eyes of law and have resulted in grave miscarriage of justice. It is, therefore, prayed to set aside the impugned judgment and extend the benefit of doubt to the appellant in the interest of justice.

Argument on behalf of the State

17. Learned A.P.P. appearing on behalf of State, while opposing the appeal submitted that the judgment of the learned



Trial Court is based on a proper and holistic appreciation of evidence and does not warrant interference. The prosecution case stands on consistent and reliable witness testimonies, which are duly corroborated by the medical evidence. The post-mortem findings—particularly the “*swelling of the lower lip and congestion of lungs—clearly indicate antemortem injury and an unnatural death.*” Minor discrepancies, if any, are natural and do not affect the core of the prosecution case. The circumstances establish a complete chain pointing towards the guilt of the accused, especially when the death occurred in a situation where the accused was in a position to explain the events, yet failed to offer any plausible explanation.

18. It is further submitted that absence of multiple external injuries does not negate culpability, particularly, where medical and circumstantial evidence clearly indicate otherwise and there is no material suggesting false implication. Hence, there is no occasion to interfere with judgment of conviction of appellant as recorded by the learned trial court.

Deposition of witnesses

19. P.W. 1 is the Israel, He states that the occurrence took place about 6–7 months prior, and he was at home when he came to know around 7:00 PM that Hena Pravin had filed a case



against her husband Saiyad, which continued in court for about a year. He further states that on the day of Muharram, Saiyad took Hena Pravin away. According to him, despite his complaint to the police, Saiyad kept her with him for about three months, during which her whereabouts were unknown. He alleges that Saiyad secured bail in the earlier case by pressurizing her without paying the agreed compromise amount of ₹1,80,000, and thereafter committed her murder on the 14th, disposing of her body near the east side of the toll tax at Jahanpur. The police reached the spot, seized the body and the Scorpio vehicle, sent the body for postmortem to Araria, and later handed it over to the family, whereupon the witness gave his statement.

19.1. Upon cross-examination, he deposed that he had no direct knowledge of the incident and learned about the murder later, after which he went to Saiyad's house where many people had gathered, but the body was not found there. He states that the body was discovered around 2:00 AM near the toll tax in presence of police. He also gives details about the vehicle, driver, and his son, and said that the driver informed his son that Hena Pravin was seriously ill and had been taken to a doctor, where she allegedly died. The witness acknowledges several omissions in his police statement, including not stating that



Saiyad had taken her to Delhi or forcefully taken her away initially, though he reiterates the latter in court. He denies suggestions of false implication, conspiracy for extortion of money, or that Hena Pravin died due to illness while being taken for treatment, maintaining that Saiyad is responsible for her death.

20. P.W. 2 is Md. Sabir Alam, he deposed that the occurrence took place on 14th January 2018, when he was at home attending his daughter's wedding. In the evening, he came to know that Hena Pravin had consumed poison and was taken to the hospital, where she died. He further deposed that her dead body was later found near the toll tax ahead of Jahanpur. The police sent the body to Araria for postmortem, and although he did not see the dead body, he identified the accused Saiyad and gave his statement to the police.

20.1. Upon cross-examination, it was stated by him that Hena Pravin and Saiyad were living happily and she was never harassed for dowry. He stated that she did not consume poison at her in-laws' house, but after returning from outside, it was suspected that she had taken poison and was taken for treatment. He further stated that while bringing back the body, the informant took custody of it near the toll tax and informed



the police. He adds that the couple lived well in Mumbai, earned sufficiently, and had started building a house, though Saiyad did not have good relations with his in-laws, which Hena Pravin tried to resolve.

21. P.W. 3 is Belal. He deposed that on 14th January 2018, he came to know around 7:00 PM that Hena Pravin had been murdered. He went to the place of occurrence, where the dead body was found near the toll tax on the highway around 11:00 PM. He stated that villagers informed him that the body had been transported in a vehicle, after which he informed the police. The police seized the vehicle and driver, took custody of the body, and sent it for postmortem to Araria. He stated that Saiyad Alam and other in-laws jointly committed the murder due to a dowry case and maintenance case filed by the deceased.

21.1. Upon cross-examination, it was stated that he is not the eyewitness of the occurrence and learned about it from others whose names he cannot specify. He stated that when he reached the spot, the police were already present and the body was lying near the toll tax. He also admits not seeing the vehicle at the spot and acknowledges certain omissions in his police statement. He denies suggestions that the death was due to illness or that he has given false testimony, maintaining his



allegation against the accused.

22. P.W. 4, is Md. Ibran, who is also informant of this case, deposed that the incident occurred on 14 January 2018 around 11:00 PM and alleges that Saiyad Alam along with other in-laws committed the murder of Heena Parween. On receiving information, he along with others went to Saiyad's house at Chamanpura, where they learned that she had been killed and her body was taken in a Scorpio vehicle. The police were informed and had already reached the spot near Toll Tax Bhattha Chowk and recovered the body and sent it for postmortem.

22.1. During the course of cross-examination, PW 4 stated that he is not the eye witness of the incident and his knowledge is based on hearsay. He states that when he reached the place of occurrence, the police were already present and the Scorpio vehicle was not there. He confirms that his statement in court is the same as given to the police and denies the suggestion that the deceased died due to illness while being taken for treatment or that he has given false evidence.

23. P.W.-5 is Najra, who stated during trial that incident occurred about 8–9 months ago around 4 PM, when she was at her home and learned that Heena Parween had consumed medicine. She was taken to Jokihat and then referred to Araria,



but she died on the way. While her body was being brought back from Araria, her family members allegedly took away the corpse near Jahanpur Chowk. In cross-examination, she stated that Heena Parween was living a good life with her husband Saiyad and that he used to earn well. She added that Saiyad did not have good relations with his in-laws and that a case was filed by Heena and was later compromised, which angered her family and led to disputes between her and her parents.

24. P.W. 5A is Md. Narul Huda, who stated that about a year ago, while he was at home, he heard that Heena Parween had been murdered and her body was thrown near the Toll Tax. He went to the spot where the police had already seized the body and prepared the inquest report, on which he signed as a witness. He also identified the accused Saiyad Alam in court. During cross-examination, he admits that he only came to know about the incident later and did not see the occurrence. He stated that around 100 people were present at the Toll Tax, he signed the papers around 11 PM, and he did not see any Scorpio vehicle. He further stated that the body was lying to the north-east side of the Toll Tax and denies the suggestion that he has deposed falsely.

25. P.W. 6 is Abdul Rakib stated that about 4–5



months prior, he learned that Heena Parween had consumed medicine, and was taken first to Jokihat and then to Araria for treatment, but died, and her body was later found near the barrier. He admits that he did not see the body at the spot and is unaware whether the police arrived there, though he was interrogated by them. During the course of cross-examination, he stated that the deceased had purchased and consumed the medicine herself and fell unconscious, after which she was taken for treatment in a hired Scorpio. He claims that Saiyad was with him in the village at that time and that the body was forcibly taken away from the vehicle by the informant and others. He further stated that Saiyad and the deceased lived happily without disputes, and conflicts existed between Saiyad and his in-laws over money and a dowry case, which was later compromised, leading to disputes within the deceased's parental family.

26. P.W. 7 is Mehtab, who stated that about eleven months before, during a marriage ceremony where he was present with Saiyad, he learned that Heena Parween had consumed medicine following a quarrel. He also supported the occurrence.

27. P.W. 8 is Jitendra Kumar Sharma an ASI posted at



Jokihat Police Station on 14.01.2018, stated that the formal FIR and fardbeyan were recorded by different officers whose signatures he identifies, and thereafter same were marked as **Exhibit-2** and **Exhibit-1/1**. After taking charge of the investigation, he visited the place of occurrence, where the inquest report was prepared near Toll Tax, Bhattha Chowk. He recorded the statements of the informant and witnesses, including relatives of the deceased, and inspected two places of occurrence—first at the road divider on NH-328 E near Bhattha Chowk and second at the in-laws' house in village Chayanpur. After investigation, finding the case true, he submitted Charge-Sheet No. 48/18 dated 20.04.2018 against Saiyad, which he identified and was exhibited as Exhibit-3.

28.1. During cross-examination, he stated that several procedural lapses, including non-recording of dates and times of statements and movements in the case diary. He stated that the case was found true under Sections 306, 201, and 34 IPC. He also referred to the statement suggesting that the deceased consumed poison due to a domestic dispute and was being taken for treatment when she died. Some witnesses did not support allegations of dowry demand or physical abuse. He denies the suggestion that the charge-sheet was falsely submitted without



proper investigation.

29. P.W. 9 is Ashok Kumar, an ASI posted at Jokihat Police Station on 14.01.2018, stated that he prepared the inquest report of Bibi Hina Praveen on the same day, which he identified along with his signature, whereafter it was marked as **Exhibit-4**. In cross-examination, he stated that no external injuries were found on the body, the deceased was clothed, and the *prima-facie* cause of death appeared due to consumption of poison, as also stated by witnesses. He further stated that the inquest report was prepared based on information received at the police station at about 21:40 hours on the same day.

30. P.W. 10 is Dr. Rajendra Kumar, who was posted as Medical Officer (M.O.) at Sadar Hospital, Araria on 15.01.2018 and conducted the autopsy upon Bibi Hina Praveen. Upon examination no external injuries were found on the body except swelling of the lower lip.

1. Internal Examination (Dissection Findings)

Cranial, thoracic, and abdominal cavities were opened.

All internal organs (viscera) were found intact and in situ.

Lungs were congested.

Stomach contained semi-digested food with foul smell.



2. Viscera Preserved for Chemical Analysis

The following samples were preserved and handed over:

Stomach with contents

One kidney

Portions of small and large intestine

Portions of lungs, liver, heart, and spleen

3. Opinion on Cause of Death

No definite cause of death could be determined at the time of post-mortem. Cause of death was kept pending, subject to chemical analysis of viscera.

4. Post-Mortem Report

The report is in the doctor's handwriting and bears his signature. The submitted copy is a true photocopy of the original (marked as Exhibit X).

30.1. Upon cross-examination doctor stated that no abnormality was found on the body of the deceased

31. In present factual scenario, it would be apposite to reproduce para no(s). 3, 6 and 7 of the **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”



Discussion & Conclusion

32. In view of aforesaid, coming to the factual aspects of this case, it appears that none of the prosecution witnesses stated that sister of informant (P.W. 4) was subjected to cruelty arising out of dowry demand soon before her death, rather they stated that she was murdered by the appellant. The testimony of P.W. 1 to P.W. 7 not support the allegation of murder even as poison was not said to be administered by the appellant. P.W. 1 in his cross-examination stated that prior to the occurrence deceased lodged the case against appellant which was compromised against sum of Rs. 1,80,000/- but said amount was not paid by the appellant and, thereafter, creating a pressure he obtained bail in said criminal case lodged by the deceased, but this fact was not supported by P.W. 4/informant.

33. It also appears from the testimony of P.W. 1 to P.W. 7 that the dead body of the deceased was found at east of Toll Tax, Jahanpur. It was suspected to be thrown by the appellant and his family members. They are not the actual eyewitness of the occurrence. P.W. 6 stated that he came to know that after consumption of poison deceased was taken by family members for her treatment to Jokihat, where after she was taken to Araria for Dr. Arshad. He also stated that the



parents of deceased lodged a false case under dowry act against appellant, but same was subsequently compromised by the deceased without taking consent of her parents due to which her parents and brother were unhappy. P.W. 7 also supported this fact that quarrel took place between deceased and her brother that why she compromised criminal case with her husband.

34. P.W. 8, who is IO of this case deposed that he submitted charge-sheet under Sections 306, 201 and 34 of the IPC. However, the factual aspects of this case do not support this charge as, the testimony of witnesses does not indicate the act of appellant was of such a nature, as could be said to force the deceased to commit suicide without leaving any other option and, therefore, appellant was acquitted from charge under Section 306 of the IPC by learned trial court itself.

35. P.W. 8 also deposed that witnesses P.W. 5 and P.W. 2 did not support that any dowry demand was made. These witnesses were not declared hostile by the prosecution rather it was deposed by I.O. that during the investigation he came to know, regarding domestic quarrel of deceased with mother-in-law as to prepare cow dung cake due to which sister of informant (P.W. 4) consumed poison.

36. P.W. 9 is the seizure list witness, who also



supported that no sign of physical assault was found upon body of the deceased. P.W. 10 upon postmortem could not ascertain the cause of death, viscera was preserved but FSL report was not made available for consideration by the learned Trial Court.

37. In view of aforesaid, we arrive at the conclusion that prosecution miserably failed to establish foundational aspects for the offence punishable under Section 304(B) of the IPC, in terms of legal ratio as discussed through **Karan Singhs's Case**. No doubt, without proving the foundational aspects, presumption as available under Section 113 (B) of the Indian Evidence Act cannot be import.

38. 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 07.05.2019 and 09.05.2019 as passed by the Additional Sessions Judge-III, Araria in Sessions Trial No. 123 of 2018, Trial No. 100 of 2018 arising out of Jokihat P.S. Case No. 09 of 2018 is hereby set-aside. Appellant/accused is acquitted of the charges levelled against him.

39. Accordingly, the instant appeal is allowed on contest.

40. The accused/appellant be acquitted of the



charges and released at once, if he is in custody.

41. The Office is directed to issue release order at once. Fine amount, if any, which has been deposited by the appellant be returned to him.

(Chandra Shekhar Jha, J)

Bibek Chaudhuri, J:- I agree

(Bibek Chaudhuri, J)

S.Tripathi/Veena-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	01.05.2026
Transmission Date	01.05.2026

