

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2666 of 2022**

Arising Out of PS. Case No.-112 Year-2017 Thana- HALSI District- Lakhisarai

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MUKESH PASWAN Son of Suresh Paswan Resident of Village - Imamnagar,
Surari, Police Station- Halsi, District - Lakhisarai.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Ms. Ankita Kumari

For the Respondent/s : Ms. Anita Kumari Singh

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

JUDGMENT AND ORDER

C.A.V.

Date : 12-05-2026

1. The present appeal has been preferred by the appellant against the judgement of conviction, dated 16.06.2022 and the order of sentence, dated 18.06.2022, passed by the learned Additional Sessions Judge-III, Lakhisarai, in Sessions Trial No. No. 23 of 2019, arising out of Halsi Police Station Case No. 112 of 2017, whereby the appellant has been convicted for the offence punishable under Section 304-B of the Indian Penal Code.

2. Following his conviction under Section 304-B of the Indian Penal Code, the appellant was sentenced to undergo rigorous imprisonment for a term of ten years and fine of Rs. 5,000/-, and in default of payment of fine, the appellant has been further directed to undergo rigorous imprisonment for six months.



3. Under the impugned judgment, the learned Trial Court has acquitted the accused Rajesh Paswan and Lagni Devi, giving them the benefit of doubt.

4. The prosecution case, based on the basis of fardbayan of the informant, Jitendra Paswan, recorded at Patna Medical College and Hospital, Patna, on 11.11.2017, unfolds that the daughter of the informant (now, deceased) was married one and a half years ago to the appellant. After the marriage, the in-laws of the deceased used to pressurize the deceased to bring money and due to non-fulfillment of the demand, all the accused persons, including the appellant, started torturing the deceased. On 02.11.2017, at about 07:30 PM, the appellant (son-in-law of the informant) called him and threatened him to mend his daughter, otherwise he will do it. Just after ten minute, the informant came to know that all the accused persons have set the deceased on fire by sprinkling kerosene oil upon her and they have taken her to Sheikhpura for treatment. The informant met his daughter in the Sheikhpura Hospital, upon which the deceased disclosed before him that these people have done this. From Sheikhpura, she was referred to Patna Medical College and Hospital, Patna, where, in course of treatment, the daughter of the informant died on 11.11.2017.



5. On the basis of aforesaid fardbayan, Halsi Police Station Case No. 112 of 2017, dated 02.12.2017, was registered against the appellant and others for the offence punishable under Sections under Section 304-B/34 of the Indian Penal Code

6. After completion of investigation, charge sheet was submitted on 31.07.2018 against the appellant and accused Rajesh Paswan under Sections 304-B/506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, keeping the investigation pending against other accused persons. On 31.09.2019, the Investigating Officer submitted supplementary charge sheet against accused Lagni Devi, under Sections 304-B/506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, and rest accused persons were not sent up for facing trial.

7. After submission of the first charge sheet on 31.07.2018, cognizance of the offences was taken on 27.08.2018 against the appellant and accused Rajesh Paswan under Sections under Section 304-B/506/34 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act by the learned Judicial Magistrate, 1st Class, Lakhisarai.

8. After cognizance, the trial of the appellant and accused Rajesh Paswan were separated and the case was



committed to the Court of Sessions, vide order, dated 01.02.2019, giving rise to Sessions Trial No. 23 of 2019.

9. On submission of the supplementary charge sheet on 31.01.2019, cognizance of the offences was taken on 28.03.2019 against the accused Lagni Devi under Sections 304-B/506/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act by the learned Judicial Magistrate, 1st Class, Lakhisarai, and her case was committed to the Court of Sessions, vide order, dated 05.04.2019, giving rise to Sessions Trial No. 60 of 2019.

10. Thereafter, on 12.03.2019, the learned Trial Court framed charges against the appellant and accused Rajesh Paswan under Sections 304-B read with Section 149 and Section 302 read with Section 149 of the Indian Penal Code. Against accused Lagni Devi, the learned Trial Court framed charges on 06.05.2019 under Sections 304-B read with Section 149 and Section 302 read with Section 149 of the Indian Penal Code.

11. After framing of the charges, the charges were read over and explained to the appellant in Hindi, to which he pleaded not guilty and claimed to be tried.

12. Later on, Sessions Trial No. 60 of 2019 was amalgamated in Sessions Trial No. 23 of 2019.



13. The prosecution, in order to substantiate its case, has examined as many as five witnesses and exhibited some documents on its behalf. List of prosecution witnesses and exhibits are being mentioned hereunder in tabular form:-

List of Prosecution Witnesses :

Prosecution Witness No.	Name of witness	Description
1.	Mukhlal Paswan	Eye-witness
2.	Jitendra Paswan	Informant
3.	Ram Khelawan Paswan	Eye-witness
4.	Shivnath Mandal	Eye-witness
5.	Subelal Paswan	Eye-witness
6.	Dinesh Prasad Singh	Investigating Officer
7.	Dr. Shiv Ranjan Kumar	Doctor

List of Exhibits on behalf of the prosecution :

Exhibit No.	Description of the Exhibit	Date
1	Signature of the informant on the fardbayan	17.09.2019
2	Signature of the informant on the inquest report	17.09.2019
1/1	Registration of case by Officer-in-charge, Raj Kumar	23.01.2020
3	Formal First Information Report	23.01.2020
4	Handwriting and signature of I.O. Dinesh Prasad Singh on the first charge sheet	23.01.2020
4/1	Signature of Sitaram Singh on the charge sheet	23.01.2020
4/2	Handwriting and signature of I.O. Dinesh Prasad Singh on the supplementary charge sheet	23.01.2020
4/3	Signature of Officer-in-charge Rajiv Kumar on supplementary charge sheet	23.01.2020
5	Post mortem examination report	10.12.2021



14. The appellant was, then, examined under Section 313 (1) (b) of the Code of Criminal Procedure and, in his examination aforementioned, the appellant denied that he had committed the offences, which were alleged to have been committed by him, the case of the defence being that of denial.

15. Neither any witness has been adduced on behalf of the defence nor produced any document.

16. Having, however, found the appellant guilty of the offences charged with, he has been convicted accordingly and sentence has been passed against him as have been mentioned above.

17. Learned Counsel appearing on behalf of the appellant has submitted, at the very outset, that the judgment of conviction is against the weight of evidence and has been passed merely upon presumption of guilt. There are glaring contradictions in the depositions of all the prosecution witness. The alleged occurrence has taken place on 02.11.2017, and though, according to the informant, he has full knowledge of the occurrence on the date of occurrence itself, the informant gave his fardbayan on 11.11.2017, i.e. after the death of the informant's daughter. The informant and/or other family members of the informant did not bother to inform the police about the alleged unnatural death of



the daughter of the informant on the date of occurrence or on the following date. It has been claimed by the uncle of the deceased (PW 1) that the deceased disclosed before him when he had gone to the matrimonial home of the deceased on the date of occurrence itself after getting information of the occurrence that the appellant and others have burnt her by pouring kerosene oil upon her. On this information also, no one from the side of the informant informed the police, which itself creates serious doubt over the veracity of the prosecution story.

18. Learned Counsel for the appellant has further submitted that in the deposition of the doctor (PW 7), it has not come that the deceased was burnt by pouring kerosene oil. The Investigating Officer (PW 6) has also not found kerosene oil at the place of occurrence.

19. Learned Counsel concluded his argument by submitting that the impugned judgment of conviction is fit to be set aside as the prosecution has miserably failed to prove its case beyond all reasonable doubts. Not only this, the appellant has also succeeded in proving his innocence.

20. On the other hand, learned Counsel for the State argued that the evidence adduced on behalf of the prosecution,



have supported the prosecution case and no interference is warranted by this Court.

21. I have heard learned Counsel for the appellant and learned Counsel for the State and have also gone through the entire materials available on record.

22. In order to give my conclusive finding, it is necessary to analyze and discuss the evidence of prosecution witnesses and the other documents, which were exhibited.

23. In order to appreciate the evidence adduced by the prosecution against the appellant, I would like to first take note of the evidence of the PW 2, the informant of this case, who is the father of the deceased.

24. PW 2, in his examination-in-chief, has stated that the occurrence is of 02.11.2017. On that date, he was in his home when his son-in-law, the appellant, called and said 'ask your daughter to mend her behaviour, otherwise, he would do it'. After half an hour, the appellant called him on his mobile and told him that his daughter has been burnt.

25. This witness (PW 2) has further deposed that his paternal uncle's father-in-law (Fufera Sasur) lives in village Bachhiya Bigha, which is situated next to the village of the appellant, whom he informed about the occurrence and told him to



go and see his daughter. When the paternal uncle's father-in-law of the informant (PW 2) reached the village of the deceased, he saw the deceased in burnt condition, rolling on the ground. Then, this witness called the appellant and told him to take her for treatment, whereafter the appellant took her to Sheikhpura Nursing Home for treatment and due to her serious condition, the deceased was referred to Patna Medical College and Hospital, Patna, and the appellant took her to Patna for treatment.

26. This witness (PW 2) further deposed that two days after the occurrence, he went to Patna to see her daughter, where he saw that her daughter was restless due to the burn injuries and further the deceased disclosed before him that Mukesh Paswan (the appellant), Suresh Paswan, Suma Devi, Lagni Devi, Baby Devi, Satyendra Paswan, and Upendra Paswan, all set her on fire by pouring kerosene oil upon her. When his daughter died on 11.11.2017 in the hospital at Patna, the appellant fled away from there.

27. This witness (PW 2) further deposed that he gave his fardbayan before a Police Officer and he also identified his signature on the fardbayan, which has been marked as Exhibit-1. He further deposed that an inquest report was also prepared at Patna Medical College and Hospital, Patna, upon which he has put



his signature. This witness has identified his signature on the inquest report, which has been marked as Exhibit-2.

28. During cross-examination on behalf of the appellant, this witness (PW 2) has deposed that after getting the news of burning of his daughter, this witness neither went to see her at her place nor anyone from his family went to see her either and when the deceased was admitted to Sheikhpura Nursing Home, his brother went to see the deceased there and returned back in the same night to his village. The informant's brother had told him that the deceased was being treated at Vibha Nursing Home. He further deposed that when he got the news of his daughter's burning, he did not inform the occurrence to the police station.

29. This witness (PW 2) has further deposed that when he went to see the deceased at Patna Medical College and Hospital, Patna, the appellant was there and her daughter told him that she was burnt by the accused persons.

30. This witness (PW 2) denied the suggestion of the defence that his daughter burnt while cooking and it is also not true that the deceased was burnt upto 99 per cent and was unable to speak.

31. Coming to the deposition of one of the eye-witnesses to the occurrence, PW 1, the uncle of the deceased and



the brother of the informant (PW 2), in his examination-in-chief, has stated that his niece, the deceased, was married with the appellant about three years ago and after the marriage, she used to tell that her in-laws used to demand money, and for that she was harassed also. He further deposed that about one and a half years after the marriage, an information was given by the appellant over phone that the deceased had been burnt and was taken to Sheikhpura for treatment, from where, seeing her serious condition, she was referred to Patna Medical College and Hospital, Patna, he went to Sheikhpura hospital to meet her, where the deceased disclosed before her that her husband the appellant), father-in-law (Suresh Paswan), elder brother-in-law (bhaisur), mother-in-law, younger brother-in-law (devar), sister-in-law (nanad), and others had burnt her. Upon receiving the news of her death, this witness went to Patna.

32. This witness identified the appellant who was present in the court, and stated that he is the husband of the deceased. This witness also claimed to identify the other accused, Suresh Paswan, who was on representation. However, this witness could not identify the other two accused persons

33. During cross-examination on behalf of the appellant, this witness has deposed that along with him, father of the



deceased and one or two other women had also gone to the in-laws' house in the night.

34. This witness (PW 1) further deposed that his niece stayed in the Sheikhpura hospital for about half an hour and after that, the appellant, the informant and others took her to Patna Medical College and Hospital, Patna, in a Bolero vehicle.

35. This witness further deposed that when he went to the matrimonial home of the deceased, he did not see any stove. And further denied the suggestion of the defence that his niece got burnt while cooking and had given his evidence falsely out of malice.

36. PW 3, Ram Khelawan Paswan, is the neighbour of the appellant and in his deposition, he has stated that the occurrence is about one and a half years old, at night and at that time, he was at his home and on hearing hulla, he went to the house of the appellant and saw that the appellant's wife was burning. The appellant and his father took the deceased to Sheikhpura for treatment, and from there, they took her to Patna for better treatment, but the appellant's wife died in Patna during treatment.

37. In the cross-examination, this witness (PW 3) has deposed that at the time when he went to the house of the



appellant, the appellant and his father were not present in the house and the deceased was alive, who was saying that while cooking food on a mud stove with straw, her body caught fire.

38. This witness has further deposed that the relationship of deceased with the appellant and his family was good and there was no dispute between the husband and wife and the occurrence had taken place due to an accident while cooking food.

39. PW 4, Shivnath Mandal is the son of PW 3 and is also a neighbour of the appellant. He, in his deposition, has stated that on the hulla, he reached the house of the appellant, where he saw that the deceased was burning, due to which she was screaming and the fire caught while cooking with hay.

40. On the request of the prosecution, this witness was declared hostile.

41. In the cross-examination by the defence, this witness has deposed that at the time when the deceased was burning, the appellant and/or his family members were not present in the house

42. PW 5, Nandlal Paswan, is the brother of the appellant. He, in his examination-in-chief, has deposed that in the evening of the alleged occurrence, he was in his house and the deceased came out of the house in burnt state. He further deposed



that the clothes of the deceased caught fire while cooking with straw. This witness has also been declared hostile on the request of the prosecution.

43. According to the evidence of the doctor (PW 7), he found, on conducting post mortem examination on the dead body of Sulekha Devi, wife of the appellant, as follows:

“External appearance: Average built, rigor mortis present all over the body, eyes and mouth close, burn area bandage, no decomposition, singeing of scalp and axillary hairs.

Cranial and Spinal Canal: Brain congested edematous

Thorax: Bilateral lung congested, edematous with patchy consolidation oozing foul smell, froth on cutting. Heart- left chamber empty, right little blood.

Abdomen: All the internal organs congested. Stomach contain cream colour pasty material about 100 gms. Bladder empty. Uterus – normal

Thermo-epidermal burn involving lower face, neck, front and back of chest and abdomen, left upper limb including palm, right upper limb excluding hand and left thigh. Dark brown crusts were present at places. Burn areas were infected with pus. Superficial sloughs were present at places.

Opinion:- 1. The above noted burn injuries were ante mortem

2. caused by flame burn

3. death was due to burn and its complications



4. Time elapsed since death was within 24 hours (approx) from the time of post mortem examination

5. A tuft of hair and body swab was preserved for FSL examination to detect any inflammable substance, if any. The preserved sample was handed to the police Agencies.”

44. It is noteworthy that the doctor (PW 7) could not give any definite opinion with regard to the use of inflammable substance and, therefore, viscera was preserved for chemical examination. The post mortem report stands proved as Exhibit-5. No finding, on the viscera, which had been preserved, has been brought to the evidence on record.

45. In the backdrop of what has been pointed out above, it is not only difficult, but wholly impossible to infer, far less hold, that the death of appellant’s wife was homicidal in nature with kerosene oil.

46. PW 6, Sri Dinesh Prasad Singh, is the Investigating Officer of this case. He, in his examination-in-chief, has deposed that on 11.11.2017, he was posted as a Sub-Inspector of Police at Halsi Police Station. On that day, the fardbeyan of informant Jitendra Kumar was received at Halsi Police Station from Pirbahore Police Station, Patna. After that, a formal F.I.R. was registered by the then Station House Officer, Raj Kumar Prasad,



based on the said fardbeyan. Based on the said formal F.I.R., Harsi Police Station Case No. 112 of 2017, dated 02.12.2017, was registered under Section- 04B/34 of the Indian Penal Code. After the registration of the formal F.I.R., the investigation of this case was handed over to this witness.

47. This witness (PW 6) has further deposed that the place of occurrence of this case is the house of the deceased, which is made up of bricks and asbestos sheet, where the incident of the deceased catching fire was stated.

48. This witness (PW 6), in his cross-examination on behalf of appellant Mukesh Paswan, has deposed that he did not find any inflammable substance or the smell of any flammable substance at the place of occurrence. I did not prepare any sketch map of the place of occurrence of this case. This witness has recorded the statements of witnesses, namely, Subelal Paswan, Dwarika Paswan. Shivnath Mandal. Ramkhelawan Paswan, at the place of occurrence and witnesses, namely, Dwarika Paswan, Subelal Paswan, Ramkhelawan Paswan, and Shivnath Mandal gave statement at the place of occurrence that at the time of the incident, the deceased was cooking food on a straw stove and while cooking food, she burnt.



49. This witness has further disclosed that there is no mentioning of any station diary entry in the case diary from the date of burning of the deceased till her death in the hospital. After burning, the deceased was treated at Sheikhpura and PMCH, Patna, but no where the deceased has recorded her statement.

50. Four witnesses from the vicinity of the place of occurrence, namely, Dwarika Paswan, Subelal Paswan, Shivnath Mandal and Ramkhelawan Paswan, gave statements before this witness that dowry was not demanded by the in-laws' side from the deceased and her family.

51. In the cross-examination on behalf of accused Rajesh Paswan, this witness has deposed that he did not find any remains of burning at the place of occurrence because the place of occurrence had been cleaned and plastered.

52. After going through the evidence of the informant (PW 2), it is evident that he got information of burning of his daughter on the date of occurrence itself. At one place, this witness has deposed that neither he nor any other from his family went to see the deceased, on the other hand, he deposed that his brother went to see the deceased while she was admitted in the hospital at Sheikhpura. When this witness went to Patna Medical College and Hospital, Patna, to see the deceased, the deceased



disclosed before him that Mukesh Paswan (the appellant), Suresh Paswan, Suma Devi, Lagni Devi, Baby Devi, Satyendra Paswan, and Upendra Paswan, all set her on fire by pouring kerosene oil upon her.

53. I find it quite improbable and unbelievable that a father will get information of burning of his own daughter at the hands of her in-laws and still he did not bother to inform the Police about the occurrence. It is also improbable that if there is demand of dowry by the deceased, torture was also there soon before the occurrence and later on, she was burnt, yet the father (PW 2) and/or his family members will not visit her at once and went to see her ailing daughter on the third day of the occurrence.

54. After going through the entire deposition of this witness (PW 1), I find glaring contradictions in the deposition of this witness (PW 1) and also the deposition of the informant (PW 2). This witness (PW 1) stated that he, along with father of the deceased and one or two other women had gone to the in-laws' house in the night, whereas the informant (PW 2) had clearly deposed that he or any other member of his family had not gone to the matrimonial home of the deceased in the night.

55. Though this witness (PW 1) has deposed that the appellant, the informant and others took the deceased to the Patna



Medical College and Hospital, Patna, in a Bolero vehicle; whereas the informant (PW 2) has stated that the appellant and his family members had taken the deceased to the Patna Medical College and Hospital, Patna, and he did not go to Patna Medical College and Hospital, Patna, in the night.

56. I find it quite improbable and unbelievable the statement of the informant (PW 2) that after getting information of burning of the deceased at the hands of her in-laws, this witness, who is the own uncle of the deceased, did not inform the Police about the occurrence when there was earlier demand of dowry and kept mum till the death of the deceased.

57. The alleged occurrence took place on 02.11.2017, and the fardbayan was recorded by the police at the Patna Medical College and Hospital, Patna, on 11.11.2007, i.e. after 8-9 days of the alleged occurrence, without any explanation, and after the death of the deceased, though the informant side had full knowledge of the occurrence. This also creates serious doubt on the prosecution version.

58. I also find that the evidence of PW 3, a neighbour of the appellant and eye-witness to the alleged occurrence, is in tune with the earlier statement given before the police and he has not been declared hostile by the prosecution. The deposition of PW 3



cannot be discarded only on the ground that he is the neighbour of the appellant.

59. From the testimonies of PW 1 and PW 2, it is evident that the deceased was in a position to describe the entire occurrence, which she did to her uncle (PW 1) and father (PW 2). Had this part of the evidence of PW 1 and PW 2 is treated to be reliable and the deceased was in a position to describe the entire occurrence, she would have obviously disclosed it before the doctor, who initially treated her at Sheikhpura Hospital and later on, at Patna Medical College and Hospital, Patna, where her treatment continued for about 10-11 days, and knowing the factum of burn at the hands of her in-laws, the doctors, without any hesitation, would have obviously informed the police about the occurrence at the initial stage of treatment itself.

60. The prosecution has not produced any such documents, which would go to show that the deceased had ever informed the doctors, either at Sheikhpur, or at Patna Medical College and Hospital, Patna, that her in-laws had put her on fire after pouring kerosene oil upon her.

61. In the opinion of this Court, this part of the evidence of the uncle (PW 1) and father (PW 2) of the deceased is also not reliable.



62. In view of the aforesaid facts and circumstances, I am of the considered opinion that the appellant has successfully proved that the essential ingredients required to constitute an offence under Section 304-B of the Indian Penal Code, i.e. the existence of cruelty or harassment soon before the death of the deceased in connection with the demand of dowry and the existence of a proximate and live link between the alleged cruelty and death, are missing in the present case.

63. Because of what have been discussed and pointed out above, I am satisfied that the evidence on record is grossly inadequate and did not meet the standard of proof, which is insisted in a criminal trial, and, in a case of present nature, the appellant could not have been convicted of the offence, which he stood charged with. The learned trial Court, on the basis of the depositions of the prosecution witnesses, specially PW 1 and PW 2, which I have discussed above, ought to have accorded, at least, benefit of doubt to the appellant.

64. In the result, and for the reasons discussed above, this appeal succeeds. The impugned conviction of the appellant by the judgment, under appeal, and the consequential sentence, passed under the impugned order, are hereby set aside. The appellant is



held not guilty of the offence, for which he stood convicted, and is acquitted of the same under benefit of doubt.

65. The appellant is in custody. He is directed to be released forthwith from custody unless he is required to be detained in connection with any other criminal case.

66. The Registry is directed to return the Lower Court’s Record forthwith along with a copy of this judgment.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

AFR/NAFR	AFR
CAV DATE	21-04-2026
Uploading Date	12-05-2026
Transmission Date	12-05-2026

