

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.22 of 2012**

Arising Out of PS. Case No.-34 Year-2005 Thana- HABIBPUR District- Bhagalpur

1. NARESH MANDAL S/O Late Sitaram Mandal R/O Satghara, P.S. Habibpur, Distt. Bhagalpur.
2. Anil Mandal S/O Naresh Mandal R/O Satghara, P.S. Habibpur, Distt. Bhagalpur.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Pravin Kumar Sinha, Advocate

Mr.Ojaswee Kumari, Advocate

Mr.Shivam Aniket, Advocate

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

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH

CAV JUDGMENT

Date : 07-05-2026

Heard learned counsels appearing on behalf of the appellants and learned APP for the State.

2. The present appeal is directed against the judgment of conviction dated 09.12.2011 and order of sentence dated 15.12.2011 passed by the learned Vth Additional Sessions Judge, Bhagalpur in Sessions Trial No. 1484/2005 and 1485/2005, whereby the appellants have been convicted for the offence under Section 304B of the Indian Penal Code and



sentenced to undergo rigorous imprisonment for eight years with a fine of Rs. 5,000/- and in default of payment of fine to undergo further imprisonment for six months. They have further been convicted under Section 201/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years. Both the sentences have been directed to run concurrently.

BRIEF FACTS OF THE CASE

3. The prosecution case, in brief, is that the informant Saraswati Devi lodged a written report alleging that her daughter Guddi Devi was married with appellant no.2 in the year 2001 by way of court marriage. After the marriage, the appellants started demanding dowry of Rs. 50,000/-, television and sewing machine and subjected the deceased to cruelty for non-fulfillment of the same. On 07.03.2005, appellant no.2 informed the informant that her daughter had fled away from the matrimonial home and advised not to disclose the same. Thereafter, despite search, the deceased could not be traced and suspicion was raised that the appellants had caused her death and disposed of the dead body.

4. On the basis of the aforesaid written report, Habibpur P.S. Case No. 34 of 2005 was instituted and after investigation charge-sheet was submitted. The case was



committed to the Court of Sessions and both the sessions trials arising out of the same police case were amalgamated and tried together.

ARGUMENT ON BEHALF OF THE APPELLANTS

5. Learned counsel appearing on behalf of the appellants submitted that the impugned judgment of conviction is wholly unsustainable both in law and on facts. It is submitted that out of eleven prosecution witnesses, a majority of the independent witnesses have been declared hostile and have not supported the prosecution case. The entire case rests upon interested witnesses, namely the informant and her relatives, whose testimonies suffer from material inconsistencies and lack of specific allegations regarding cruelty “soon before death”.

6. Learned counsel submitted that there is no eye-witness to the occurrence and admittedly the dead body of the deceased has not been recovered till date. The prosecution has failed to establish the foundational facts required for invoking the presumption under Section 113B of the Indian Evidence Act. The consistent defence of the appellants has been that the deceased had fled away from the matrimonial home, which is supported by the conduct of appellant no.2, who himself informed the informant regarding the missing of his wife.



7. Learned counsel further submitted that the marriage was a court marriage and both parties belonged to the same village and were living together with two children. The prosecution has failed to prove its case beyond reasonable doubt and the appellants are entitled to benefit of doubt. The appellants have remained in custody since 09.12.2011 and the sentence may be reduced to the period already undergone and appellant no.1 was released on bail *vide* order dated 23.02.2012 and appellant no.2 on 20.08.2014.

ARGUMENT ON BEHALF OF THE STATE

8. *Per contra*, learned APP appearing on behalf of the State submitted that the learned trial court, after appreciating the oral and documentary evidence available on record, has rightly convicted the appellants. The evidence of the informant and other family members clearly establishes demand of dowry and cruelty meted out to the deceased soon before her disappearance. The occurrence having taken place within seven years of marriage and the circumstances indicating unnatural disappearance of the deceased, the presumption under Section 113B of the Evidence Act has rightly been invoked by the learned trial court. It is thus submitted that no interference is warranted by this Court.



ANALYSIS AND CONCLUSION

9. Heard the parties.

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

11. The learned trial court, on the basis of materials as collected during the course of investigation, passed by the judgment of conviction dated 09.12.2011 and order of sentence dated 15.12.2011 for the offence punishable under Section 304 B and 201/34 of the Indian Penal Code.

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

- 1) P.W.1 Sanjay Mandal,
- 2) P.W.2 Sujit Kumar Mandal,
- 3) P.W.3 Chandan Mandal,
- 4) P.W.4 Draupadi Devi,
- 5) P.W.5 Jagdish Mandal,
- 6) P.W.6 Saraswati Devi (informant),
- 7) P.W.7- Binod Kumar Vijeta,
- 8) P.W.8 Pujari Prasad Singh,
- 9) P.W.9 Kiran Devi,



10) P.W.10 Dashrath Mandal

11) P.W.11 Shyam Bihari Singh- (Investigating Officer).

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

- (i)Exhibit-1- Endorsement on the written report
- (ii)Exhibit-1/1- Formal noting of registration
- (iii)Exhibit-2- Formal First Information Report

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

I. P.W.-1 Sanjay Mandal did not support the prosecution case during trial and was declared hostile by the prosecution. His evidence did not materially advance the prosecution story regarding demand of dowry, cruelty, or the alleged disappearance of the deceased Guddi Devi.

II. P.W.-2 Sumit Kumar Mandal, brother of the deceased Guddi Devi, deposed that the marriage of the deceased with accused Anil Mandal had taken place about four years prior to the occurrence. He stated that accused Anil Mandal came to his house and informed that Guddi Devi had fled away from her matrimonial home and requested him not to disclose the said



fact to others. The witness further stated that the accused persons used to demand dowry and harass his sister on account of non-fulfillment of such demand. He also stated that he came to know that the accused persons had caused the death of Guddi Devi and had disposed of her dead body. In his cross-examination, he stated that Guddi Devi was not happy in her matrimonial home.

III. P.W.-3 Chandan Mandal, another brother of the deceased, stated that after marriage Guddi Devi lived peacefully in her matrimonial home only for about two to four months, after which accused Anil Mandal started harassing her due to non-fulfillment of dowry demands. He stated that although no occurrence had taken place in his presence, he suspected the family members of accused Anil Mandal regarding the disappearance and death of his sister. His testimony supported the allegation of cruelty and harassment for dowry.

IV. P.W.-4 Draupadi Devi, maternal aunt of the deceased and sister of the informant, deposed that the marriage between Guddi Devi and accused Anil Mandal had taken place and two children were born out of the wedlock. She stated that after about six months of marriage, accused Anil Mandal began



assaulting and harassing Guddi Devi for dowry. She further stated that demands for money, motorcycle and sewing machine were made from the deceased and her family members. The witness also alleged that accused persons had murdered Guddi Devi and disposed of her dead body. She further stated that despite search, the dead body of Guddi Devi could not be traced.

V. P.W.-5 Jagdish Mandal did not support the prosecution case and was declared hostile. His testimony did not substantiate the allegations made by the prosecution regarding dowry demand or cruelty.

VI. P.W.-6 Saraswati Devi, mother of the deceased and informant of the case, fully supported the prosecution case. She stated that the accused persons used to assault her daughter and demand dowry in the form of Rs.50,000/-, a motorcycle and a sewing machine. She further deposed that when she visited the matrimonial home of her daughter, the accused persons threatened that unless the demanded dowry articles were provided, they would kill Guddi Devi. She alleged that thereafter the accused persons murdered her daughter and caused disappearance of the dead body. She also stated that the dead body of Guddi Devi could never be



recovered. During cross-examination, though certain inconsistencies regarding dates were pointed out, the witness maintained the allegations of dowry demand and harassment.

VII. P.W.-7 Binod Kumar Vijeta deposed that Guddi Devi was married to accused Anil Mandal in the year 2001 and stated that accused Anil Mandal had killed Guddi Devi and disposed of her dead body. In cross-examination, he admitted that the deceased was his maternal cousin sister. He also stated that he had made similar statements before the police during investigation.

VIII. P.W.-8 Pujari Prasad Singh did not materially support the prosecution case and his evidence did not substantially contribute towards proving the allegations against the accused persons.

IX. P.W.-9 Kiran Devi, though declared hostile by the prosecution, partially supported the prosecution case. She stated that on the night of the occurrence, while returning from the market at about 8–9 P.M., she heard some women discussing that Guddi Devi had refused to cook food and thereafter some quarrel had taken place in the matrimonial home. Her testimony indicated that some dispute had occurred in the house of the accused persons on the night of the occurrence.



X.P.W.-10 Dasharath Mandal did not substantially support the prosecution case and his testimony did not materially establish the allegations relating to dowry demand, cruelty, or disappearance of the deceased.

XI. P.W.-11 Shyam Bihari Singh, the Investigating Officer of the case, proved the fardbeyan endorsement and formal FIR, which were marked as Exhibits 1, 1/1 and 2 respectively. He deposed regarding the steps taken during investigation, inspection of the place of occurrence, and recording of statements of witnesses. He also stated that after the occurrence the accused persons had absconded from their house. The witness supported the prosecution case by corroborating the statements made by witnesses during investigation and proved the investigation conducted by him.

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 DOWRY DEATH

16. It would be appropriate to reproduce the provisions of Sections 304B and 201/34 of the Indian Penal



Code for the sake of convenience and better understanding:

“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).”*

Section 201 IPC *Causing disappearance of evidence of offence, or giving false information to screen offender.—*

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

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

(i) that the death of a woman has been caused by



burns or bodily injury or has occurred otherwise than under normal circumstances;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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



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

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

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

‘15. ... “Soon before” is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term “soon before” is not synonymous with the term “immediately before” and is opposite of the expression “soon after” as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time



of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be “soon before death” if any other intervening circumstance showing the non-existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.’

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

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19. 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.*

20. The record reveals that **P.W.-1 Sanjay Mandal** and **P.W.-5 Jagdish Mandal** were declared hostile during the trial as they did not support the prosecution case on material particulars, and nothing substantive transpired from their testimonies which could be said to corroborate or lend assurance to the version of the other prosecution witnesses. Their evidence does not support the prosecution case with regard to the allegations of dowry demand, cruelty, or the alleged disappearance of the deceased. Therefore, the testimonies of these witnesses are not relevant qua establishing the guilt of the accused/appellants.

21. The conviction of the appellants has been sustained primarily on the testimonies of **P.W.-2 Sumit Kumar Mandal**, **P.W.-3 Chandan Mandal**, **P.W.-4 Draupadi Devi**, **P.W.-6 Saraswati Devi (informant)** and **P.W.-7 Binod Kumar**



Vijeta, who have consistently stated that after the marriage of the deceased Guddi Devi with appellant no.2, she was subjected to cruelty and harassment on account of non-fulfillment of dowry demands, including cash, motorcycle and sewing machine. These witnesses have further deposed that the deceased was not happy in her matrimonial home and was frequently assaulted and threatened by the accused persons, and that subsequently she went missing under suspicious circumstances, leading to the allegation that the appellants had caused her death and disposed of the dead body. Their testimonies, thus, form the basis for sustaining the conviction of the accused/appellants.

22. 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.

**WHETHER PROSECUTION PROVED THEIR
CASE BEYOND REASONABLE DOUBT?**

23. It is observed that merely because P.W.-1 Sanjay Mandal and P.W.-5 Jagdish Mandal have turned hostile, or that P.W.-8 Pujari Prasad Singh and P.W.-10 Dasharath Mandal have not fully supported the prosecution case, the otherwise consistent and reliable testimonies of the material witnesses cannot be discarded. The evidence of P.W.-9 Kiran Devi, though declared hostile, lends partial corroboration by indicating that a quarrel had taken place in the matrimonial home on the night of occurrence. Further, the Investigating Officer, P.W.-11 Shyam



Bihari Singh, has duly proved the fardbeyan and formal FIR and has supported the prosecution case with regard to the investigation conducted. Thus, the cumulative effect of the evidence on record establishes a proximate and live link between the cruelty for dowry and the disappearance of the deceased, and in such circumstances, the statutory presumption under Section 113-B of the Evidence Act stands attracted, which the defence has failed to rebut, thereby fully justifying the conviction of the appellants.

24. 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 has rightly appreciated the evidence and has correctly convicted the appellants. The prosecution has successfully established, beyond reasonable doubt, the essential ingredients of the offence under Section 304-B IPC, particularly that the deceased Guddi Devi was subjected to cruelty and harassment in connection with dowry demand soon before her disappearance. The testimonies of P.W.-2 Sumit Kumar Mandal, P.W.-3 Chandan Mandal, P.W.-4 Draupadi Devi, P.W.-6 Saraswati Devi (informant) and P.W.-7 Binod Kumar Vijeta



consistently disclose that after the marriage, the deceased was subjected to persistent harassment and cruelty on account of non-fulfillment of dowry demands, including cash, motorcycle and sewing machine, and that she was not living happily in her matrimonial home, ultimately leading to her disappearance under suspicious circumstances. Significantly, despite sustained search, the dead body of the victim could not be recovered, which lends further credence to the prosecution case regarding her unnatural disappearance of body.

25. In facts of the case, this Court don't find any reason to interfere with the conviction of the appellants which is upheld but the sentence to undergo rigorous imprisonment for 8 years under section 304-B I.P.C and rigorous imprisonment for 3 years under section 201/34 I.P.C. is modified to the period already undergone by the appellants in custody i.e. four and half years. Since the appellants is on bail, as such, they are discharged from the liability of their bail bonds. The fine deposited by the appellants, if any, shall be refunded to them.

26. Accordingly, the present appeal stands partly allowed.

27. 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)

Ashishsingh/-

AFR/NAFR	AFR
CAV DATE	23.04.2026
Uploading Date	07.05.2026
Transmission Date	07.05.2026

