IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4728 of 2024

CNR No. BRHC010990132024

Arising Out of PS. Case No.-60 Year-2021 Thana- SARAI RANJAN District- Samastipur

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Raja Rai S/o Suraj Rai R/o Village- Jan Mohammadpur, P.S.- Sarairanjan, District- Samastipur

... ... Appellant/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rambabu Yadav, Advocate
Mr. Manish Kumar, Advocate
Mr. Pramod Kumar Ojha, Advocate

For the State : Mr. Syed Ashfaque Ahmad, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

CAV JUDGMENT

Date : 30-10-2026

Heard Mr. Rambabu Yadav, learned counsel appearing for the appellant and Mr. Syed Ashfaque Ahmad, learned Additional Public Prosecutor (APP) for the State.

2. The instant criminal appeal has been preferred by the appellant against the Judgment of Conviction dated 02.09.2024 and the Order of Sentence dated 05.09.2024 passed in Sessions Trial No. 349 of 2021, arising out of Sarairanjan P.S. Case No. 60 of 2021, by the learned Additional District and Sessions Judge-IV, Samastipur, whereby the appellant has been

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convicted for the offences punishable under Sections 304B and 498A of the Indian Penal Code (for short, “IPC”) and Section 4 of the Dowry Prohibition Act (for short, “D.P. Act”). Upon such conviction, the appellant has been sentenced to undergo rigorous imprisonment for ten years for the offence punishable under Section 304B of the IPC. He has further been sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 5,000/- for the offence punishable under Section 498A of the IPC and in default of payment of fine, to further undergo simple imprisonment for a period of three months. He has also been sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 500/- for the offence punishable under Section 4 of the D.P. Act and in default of payment of fine, to further undergo simple imprisonment for a period of ten days. All the sentences imposed upon the appellant have been directed to run concurrently.

3. <u>Prosecution Story</u>:-

The prosecution case, as unfolded from the fardbeyan of PW-6, Rampreet Rai, is that he is the father of the deceased. He stated that he had solemnized the marriage of his daughter with the appellant/accused, Raja Rai, on 12.06.2020 according to Hindu rites and customs. After the marriage, Raja

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Rai and his family members allegedly subjected his daughter to assault and abuse and repeatedly demanded a motorcycle and a sum of Rs. 80,000/- as dowry. The informant stated that owing to his financial condition, he assured them that he would provide the motorcycle once he had sufficient money; nevertheless, the alleged demand continued and his daughter was subjected to assault and abuse. It is further alleged that on 10.04.2021 at about 2:30 P.M., the informant received information that his daughter had been killed by her husband, Raja Rai and his family members at her matrimonial home situated at Jan Mohammadpur. Upon receiving the information, the informant accompanied by some villagers, proceeded to the matrimonial house of his daughter, where he found her lying dead. According to him, all the members of her matrimonial family had fled from the house. The informant thereafter informed the Sarairanjan Police Station and upon making enquiries from the persons present in the vicinity, came to know that Raja Rai, Khushi Kumari, Jasamti Devi and Kajal Devi were allegedly involved in the killing of his daughter. It was further stated that the villagers informed him that the aforesaid persons had assaulted and strangulated his daughter, Sangeeta Devi, resulting in her death and thereafter fled away from the

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house.

4. On the basis of the fardbeyan of the informant, Rampreet Rai, Sarairanjan P.S. Case No. 60 of 2021 dated 10.04.2021 was registered against the appellant for the offence punishable under Section 304B read with Section 34 of the IPC, thereby setting the criminal law into motion.

5. Upon completion of the investigation, on 30.10.2021, the Investigating Officer submitted a charge-sheet against the appellant for the offences punishable under Sections 498A and 304B read with Section 34 of the IPC and Sections 3 and 4 of the D.P. Act.

6. On 30.11.2021, upon submission of the charge-sheet, the learned magistrate took cognizance of the offences punishable under Sections 498A and 304B of the IPC and Sections 3 and 4 of the D.P. Act against the appellant.

7. The appellant stood charged on 14.03.2022 for the offences punishable under Sections 304B, 302 and 498A of the IPC and Sections 3 and 4 of the D.P. Act. The charges were read over and explained to the appellant in Hindi, to which he pleaded not guilty and claimed to be tried.

8. During the trial, the prosecution examined the following witnesses:

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Sl. No.	Name of Witness	Description
PW-1	Ajeet Kumar @ Ajeet Rai	Brother of the deceased
PW-2	Sarvind Rai	Hostile Witness
PW-3	Dinesh Rai	Hostile Witness
PW-4	Sunil Rai	Maternal Uncle of the deceased
PW-5	Bhagat Prasad Yadav	Investigating Officer
PW-6	Rampreet Rai	Informant & father of the deceased
PW-7	Yashwant Rai	Hostile Witness
PW-8	Dr. Vishal Kumar	Doctor
PW-9	Devnandan Rai	Eye-witness

9. The prosecution also proved the following documents and got them marked as exhibits:

Sl. No.	Exhibit No.	Description of Exhibit	Proved By/Attested By
1.	Exhibit-1	Signature of the SHO on the written report	PW-5
2.	Exhibit-1/1	Signature of the informant on the fardbeyan	PW-6
3.	Exhibit-2	The signature of the SHO on formal FIR	PW-5
4.	Exhibit-3	Postmortem report	PW-8

10. Upon completion of the prosecution evidence, the statement of the appellant was recorded under Section 313 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the "Cr.P.C."). The appellant denied all the incriminating circumstances appearing against him in the prosecution

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evidences and claimed to be innocent.

11. The appellant produced and examined following witnesses in his defence:-

Sl. No.	Name of Witness	Description
DW-1	Ramnath Rai	Co-villager of the appellant
DW-2	Ram Shreshth Rai	Co-villager of the appellant
DW-3	Bhaiya Ram Sahni	Co-villager of the appellant

Submissions on behalf of the appellant:-

12. Mr. Rambabu Yadav, learned counsel appearing for the appellant, has argued that as per the evidence of the informant, who was examined as PW-6, the initial information regarding the commission of the alleged occurrence was given by one Nawal Rai, who was the best person to explain the circumstances in which the deceased died, however, he was not examined before the learned trial court by the prosecution. On account of his non-examination, the prosecution failed to establish the informant's claim that he had received information regarding the death of his daughter through the said Nawal Rai. Among the testimonies of the prosecution witnesses, there is a serious contradiction with regard to the place where the dead body of the deceased was allegedly found. The informant and other prosecution witnesses made allegations regarding the commission of the alleged dowry death merely on the basis of

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their presumption. The prosecution also failed to prove the inquest report of the deceased. As per the allegation, a panchayat meeting was held between the prosecution party and the appellant's family, however, to prove the same, none of the panches who participated in the said meeting, or any other person belonging to the village of the appellant, was examined. Even PW-1, the brother of the deceased, who is said to have participated in the said panchayat meeting, stated in his cross-examination that no document had been prepared in recpect of the said meeting. Thus, the prosecution failed to establish that any such panchayat meeting was ever convened in between the parties during the relevant period. In fact, the alleged occurrence took place at night when the deceased was asleep and at that time, a brick wall of the appellant's house suddenly collapsed upon the deceased, causing serious injuries to her. The prosecution witnesses stated before the learned trial court regarding the presence of bricks at the place of occurrence. Further, all the injuries found on the body of the deceased were on the left side of her body, which, according to learned counsel, would not be consistent with the allegation that the deceased had been subjected to physical cruelty by the appellant and his family members during relevant period of time. While referring

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to the deposition of PW-4, it was further submitted that there was a cordial relationship between the members of the victim's parental family and the appellant's family during the last period of the victim's life. In his cross-examination, PW-4 stated that before the panchayat meeting, he had gone to the appellant's house and was properly welcomed there at that time. It was further submitted that, as per the prosecution's allegation, the accused persons, including the appellant, had been torturing the deceased since the time of her marriage and between the date of her marriage and the registration of the FIR in the present matter there was no written complaint or any legal action taken by the prosecution party against the accused persons, including the appellant in respect of the alleged cruelty meted out to the deceased as per allegation. Learned counsel has further submitted that in the instant matter, the prosecution has failed to establish the essential ingredients of the offence of dowry death, particularly that the deceased was subjected to physical cruelty or harassment soon before her death by the accused persons, including the appellant. Therefore, the statutory presumption under Section 113-B of the Indian Evidence Act, 1872, would not arise in favour of the prosecution. In support of this contention, learned counsel has placed reliance upon the

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following judgments:

(i) ***Karan Singh vs. State of Haryana*** reported in ***(2025) INSC 133***. Paragraph No. 16 upon which reliance has been placed, is reproduced as under:-

> *" 16. In the cross-examination, PW-7 stated that police had recorded his statements on 3rd April 1998 and 7th April 1998, which were marked as exhibits DG and DH, respectively. He accepted that the allegation that the accused used to maltreat his sister on account of insufficient dowry given in the marriage and having brought broken furniture is not found in both the police statements. He also stated that the demand for a refrigerator, a motorcycle, and a mixi does not find place in both statements. Therefore, the version of PW-7 in his examination-in-chief about the demands of dowry is a significant and relevant omission. Hence, this amounts to a contradiction. The public prosecutor claimed that the demand for a refrigerator, a motorcycle, and a mixi was mentioned in his third statement, which was recorded on 23rd June 1998. The third statement, recorded belatedly, obviously appears to be an afterthought. As regards his statement that the accused used to give a beating to his sister, it seems that he got this information when he visited the matrimonial home of his sister three months after the marriage. It is a very vague allegation. Moreover, the witness has not stated that this was disclosed to him by his deceased sister. Assuming that what he has said is correct, this incident of beating must have taken place between*

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25th June 1996 till end of September 1996. Therefore, this incident did not happen soon before the death. It is not his case that when the deceased allegedly visited his house nine to ten days before the incident, she complained about any cruelty or any harassment. Thus, none of the three statements of the witnesses contain any specific instances of cruelty or harassment."

(ii) ***Charan Singh @ Charanjit Singh vs. State of Uttarakhand*** reported in (***2023) OnLine SC 454***. Paragraph Nos. 23 and 25 upon which reliance has been placed are reproduced as under:-

"23. *In the aforesaid evidence led by the prosecution, none of the witnesses stated about the cruelty or harassment to the deceased by the appellant or any of his family members on account of demand of dowry soon before the death or otherwise. Rather harassment has not been narrated by anyone. It is only certain oral averments regarding demand of motorcycle and land which is also much prior to the incident. The aforesaid evidence led by the prosecution does not fulfil the prerequisites to invoke presumption under Section 304-B IPC or Section 113-B of the Evidence Act. Even the ingredients of Section 498-A IPC are not made out for the same reason as there is no evidence of cruelty and harassment to the deceased soon before her death.*

25. *On a collective appreciation of the evidence led by the prosecution, we are of the*

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considered view that the prerequisites to raise presumption under Section 304-B IPC and Section 113-B of the Evidence Act having not been fulfilled, the conviction of the appellant cannot be justified. Mere death of the deceased being unnatural in the matrimonial home within seven years of marriage will not be sufficient to convict the accused under Sections 304-B and 498-A IPC. The cause of death as such is not known."

(iii) ***Chabi Karmakar & Ors vs. The State of West Bengal*** reported in ***2024 INSC 665.*** *R*eliance has been placed upon the paragraph Nos. 6 and 7 which are being reproduced as under:-

" 6. After going through the evidence of PW-1, PW-3, PW-4 and P- 16 (who are the brother, father, mother and cousin of the deceased respectively), it becomes clear that the deceased faced cruelty and harassment at the hands of her husband (appellant no.2) which compelled her to commit suicide. However, these witnesses did not state that such cruelty and harassment was in connection with the demand for dowry. With respect to the demand for dowry, they have just made some general statements which are not sufficient to convict the appellants under section 304B of IPC.

7. Trial Court raised a presumption under section 113B of Evidence Act to convict the appellants under section 304B of IPC. The High Court did not go into the question of whether the trial court was right in relying upon section 113B of the Evidence Act. In

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Charan Singh alias Charanjit Singh vs. State of Uttarakhand 2023 SCC OnLine SC 454, where there were allegations against the husband that he was subjecting the deceased therein on the demand of a motorcycle and some land, this Court in relation to Section 113B of Evidence Act and section 304B of IPC, had noted that:

"21……It is only certain oral averments regarding demand of motorcycle and land which is also much prior to the incident. The aforesaid evidence led by the prosecution does not fulfil the pre-requisites to invoke presumption under Section 304B IPC or Section 113B of the Indian Evidence Act……

22.XXXXXXX

23. On a collective appreciation of the evidence led by the prosecution, we are of the considered view that the prerequisites to raise presumption under Section 304B and Section 113B of the Indian Evidence Act having not being fulfilled, the conviction of the appellant cannot be justified. Mere death of the deceased being unnatural in the matrimonial home within seven years of marriage will not be sufficient to convict the accused under Section 304B and 498A of IPC." Similarly, in the case at hand, it has not been proved by the prosecution that the deceased was subjected to cruelty soon before her death in connection with the demand of dowry and hence we are of the opinion that this is not a case of dowry death under section 304B of the Indian Penal Code. PW-1 and PW-3 had only stated that deceased used to tell them about her torture. PW-4 (mother of the deceased) did not speak about any demand of dowry after marriage. Moreover, this witness had said that appellant no.2 used to assault her deceased daughter as the deceased had objections to the illicit relation of appellant no.2 with another woman. PW-16, who is the cousin of the deceased, had deposed in

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> court almost a year after the testimony of PW-1, 3 & 4 and his deposition regarding the physical assault of the deceased in connection with the demand of dowry is also not believable. Considering the aforesaid, in our view, the trial court erred in raising a presumption under section 113B of the Indian Evidence Act, even though the demand for dowry was not established.””

12.1. It is further submitted that the evidence of PW-9, upon which the trial court has placed reliance, is not credible as admittedly the said witness has enmity with the appellant's family members and the same was accepted by him in the cross-examination and there was litigation in between them which was also accepted by him.

Submissions on behalf of the State:-

13. On the other hand, Mr. Syed Ashfaque Ahmad, learned APP appearing for the State, has argued that it is an admitted position that the deceased died within one year of her marriage in the house of the appellant. All the material prosecution witnesses have remained consistent with regard to the alleged demand of Rs. 80,000/- and a motorcycle being made by the appellant from the deceased since the time of her marriage and according to them, the said demands continued having been made by the appellant till the death of the deceased. They have also remained consistent with regard to the alleged

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harassment meted out to the deceased by the appellant and his family members for non-fulfilment of the appellant's demands and in this regard, the evidence of PW-4, an uncle of the deceased, is very relevant. Learned APP has further submitted that several injuries, including fractures of the ribs, were found on the body of the deceased, which fully corroborate the allegation of physical cruelty with the deceased. As the injuries were opined to have been sustained within 36 hours preceding the date and time of the post-mortem examination and it is an admitted position that the dead body of the deceased was recovered from the house of the appellant, these circumstances are sufficient to establish that the deceased was subjected to physical torture and cruelty soon before her death. Thus, the essential ingredients of Section 304-B of the IPC have been fulfilled, so the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 would operate against the appellant in respect of the dowry death of the deceased, which the appellant has failed to rebut. As far as the evidence of the defence witnesses, DW-1, DW-2 and DW-3, is concerned, their evidence is not reliable, because none of them is an eyewitness to the incident which occurred inside the house of the appellant, and their presence at the place of occurrence immediately after

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the incident is highly doubtful. Learned APP has further submitted that the defence, taken by the appellant, that the deceased had sustained injuries accidentally due to the falling of bricks upon her body is wholly unreliable, as there is nothing on record in support of the same. None of the prosecution witnesses, either in their examination-in-chief or in cross-examination, has stated that a large quantity of bricks was lying in a condition under which they could have fallen upon the deceased at the place of occurrence. Further, the appellant has remained silent with regard to this defence while his statement under Section 313 of the Cr.P.C. was recorded.

Consideration and Analysis:-

14. I have heard both sides, perused the impugned judgment, considered the evidence adduced by both sides and examined the statement of the appellant.

15. At the outset, in the light of the findings recorded by the trial court in the impugned judgment holding the appellant guilty of the charged offences and having regard to the relevant facts emerging from the prosecution case and the arguments advanced by both sides, I deem it appropriate to analyse, in brief, the evidence adduced by both sides.

16. PW-1, the brother of the deceased, stated in his

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examination-in-chief that the marriage of his sister was solemnized with the appellant on 12.06.2020 and after the marriage, she started residing at her matrimonial home. He further stated that the appellant and his family members subjected his sister to physical assault and demanded a motorcycle and Rs. 80,000/- from her. As the demands could not be fulfilled by the members of the deceased's parental family, a Panchayat meeting was convened between the parties, in which he, one Balram Kumar and the in-laws of his sister participated. During the course of the Panchayat, the appellant assaulted his father and threatened that he would have to flee, otherwise he would be killed. Thereafter, he and others returned to their home. He further stated that on 01.04.2021, the appellant telephoned him and informed that his sister had been ousted from her matrimonial home. Thereafter, he brought his sister (the deceased) back. On 10.04.2021, one Nawal Rai informed him that his sister had died. On receiving the said information, he, his aunt, namely, Sita Devi and several others went to the matrimonial house of the deceased, where they found her lying dead. The appellant and his family members were not present there and had fled away. Thereafter, the police arrived at the place of occurrence upon being informed. He

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further stated that the police prepared the inquest report in respect of the dead body of the deceased, on which he put his signature as a witness. In his cross-examination, the witness stated that after the marriage, his sister used to visit her matrimonial home and that he used to meet her regularly. He further stated that Nawal Rai, a resident of Janpur village, and some other persons, whose names he did not know, had participated in the Panchayat, but no person from his village had participated as a Panch. He also stated that no document was prepared during the Panchayat. He further deposed that the in-laws of the deceased had started demanding dowry from her sister after 2–3 months of her marriage. He stated that the appellant's house was constructed with bricks and plastic sheets had been put over it. He further deposed that he had given his motorcycle to the appellant and the dead body was lying near a trunk, where some bricks were also lying. He denied the suggestion put to him in cross-examination that his sister had sustained injuries on account of bricks falling upon her body and such injuries had resulted in her death.

17. PW-2, a co-villager of the appellant, was declared hostile. In his examination-in-chief, he initially stated that he did not recognise the appellant or his wife. However, in

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the cross-examination, he stated that he knew the appellant as he was his neighbour. With regard to the cause of death of the deceased, he stated that during the night, bricks had fallen upon the body of the deceased while she was sleeping, as a result of which she sustained injuries and died.

18. PW-3, another co-villager of the appellant, was also declared hostile. In his examination-in-chief, he stated that the deceased died on account of bricks falling upon her. He further stated that his statement had not been recorded by the police. In his cross-examination, he stated that the facts deposed by him were those which had been told to him by his Munshi Ji.

19. PW-4, an uncle of the deceased, deposed in his examination-in-chief substantially on the same lines as PW-1 and stated that he had also participated in the Panchayat meeting. In his cross-examination, he stated that the appellant's house was constructed of bricks and in connection with the alleged demand of Rs. 80,000/- by the accused, neither he nor any other person had given any Sanha (information) regarding the same. He further stated that only about ten months had elapsed since the marriage of the deceased, during that period she had stayed at her naihar for about one month and during the remaining period she had resided at her sasural. He further

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stated that whenever he went to the house of the appellant, he was welcomed there. With regard to the incident of marpit, he stated that he had disclosed the same at that time, but had not taken any action in respect thereof, as such incidents were considered to be normal occurrences in every household. He denied the suggestion that bricks had fallen upon the body of the deceased. According to this witness, they (accused) threw a slab of the septic tank/toilet tank upon the chest of the deceased, as a result of which she died.

20. PW-5, the Investigating Officer, proved the written report of the informant, on the basis of which the formal FIR was registered, and the same were marked as Exhibits-1 and 2 respectively. In his examination-in-chief, he stated that he had inspected the place of occurrence and had given a description of its boundaries, including the house of the appellant and the materials used in its construction. However, he did not state anything regarding any amount of bricks having fallen or lying at the place of occurrence at the time of inspection. In his cross-examination, he stated that the written application (Exhibit-1) had been written by one Pradeep Rai, but during the course of investigation, he did not record the statement of the said person who had written the application. He

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further stated that the written report was received by him at 7:00 p.m., whereas the inquest report had been prepared at 5:00 p.m. by one Shri Ram Dubey, whose statement was also not recorded by him during the course of investigation. He further stated in his cross-examination that bricks were lying near the place of occurrence.

21. PW-6 the informant and father of the deceased, stated in his examination-in-chief that his daughter (the deceased) used to reside at her matrimonial home, where her in-laws used to demand a motorcycle and Rs. 80,000/- from her. He stated that, in order to fulfill the said demand, an old motorcycle was given to them, but the same was returned by the in-laws of the deceased, as they were insisting upon a new motorcycle, which he could not provide on account of being a poor person. He further stated that, on account of non-fulfilment of the said demand, the appellant, his parents and his sisters used to assault his daughter. He further stated that, on account of the assault upon his daughter, a Panchayat meeting was convened at Gram Panchayat Jaan Mohammadpur on 01.04.2021, in which he, his son, his nephew, namely, Balram and one Nawal Rai participated. He stated that during the Panchayat, the accused assured that his daughter (the deceased)

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would be sent to her parental home (Bidagri) on 10.04.2021. However, on the same day, Nawal Rai telephoned him and informed him that his daughter had been killed. Upon receiving the said information, he along with others, went to the matrimonial house of his daughter, where he found her lying dead. He stated that she had been killed by placing a slab upon her body and all the accused including the appellant were not present there and had fled away. He further stated that the written application submitted by him at the police station had been scribed by one Pradeep Rai. After the contents thereof were read over and explained to him by the scribe, he put his signature thereon. He identified his signature on the written application, which was marked as Exhibit-1/1. In his cross-examination, he stated that the appellant's house was constructed of bricks. He further stated that after marriage, his daughter had resided at her matrimonial home for about three months, during that period she was assaulted. He further stated that when he went to the matrimonial home of his daughter, he was served Dal and Bhat, but the Dal served to him was meant for animals. On that occasion, he requested the accused to allow him to meet his daughter, but he was not permitted to do so and was threatened that he would be killed if he did not leave.

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Consequently, he returned home. He further stated that thereafter, the accused persons again assured him that his daughter would be allowed to return on the day of 'Sammat', but instead of being sent to her parental home, she was killed.

22. PW-7, a co-villager of the appellant, was declared hostile. In his examination-in-chief, he stated that a brick wall had fallen upon the body of the deceased while she was sleeping, resulting in her death. He further stated that his statement had not been recorded by the police.

23. PW-8, the medical expert who conducted the post-mortem examination on the body of the deceased, stated in his examination-in-chief that upon conducting the post-mortem examination, he found the following injuries:-

> **“ External Finding:-**
> 1- Rigor mortis present
> 2- Both eye open.
> 3- Mouth closed.
> 4- Blood clot present left side angle of mouth.
> 5- Multiple black bruise of Size- 3” X 2” present over left side back of thorax.
> **Internal Finding:-**
> 1- Head- i- scalp on reflextion blood extravasation of blood present over left parietal area.
> ii- Scalp- fracture of size 1” X 1” present over left side of parietal temporal bone.
> iii- Brain- Hemorrhage present over left side of brain matter.

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2- Chest- i- fracture of ribs 4, 5, 6 & 7.
ii- Lungs- lacerated of left lung.
Iii- Heart- congested
3. All viscera congested.
4. Time elapsed since death- within 36 hrs.
In our opinion cause of death due to hemorrhage and shock caused by above-mentioned injury and produced by hard and blunt substance.**"**

23.1. According to him, the cause of death of the deceased was haemorrhage and shock resulting from the aforesaid injuries, which were caused by hard and blunt substance. In his cross-examination, he stated that all the injuries found on the body of the deceased were on the left side of her body and that such injuries were possible if a large quantity of bricks had fallen upon the body of the deceased.

24. PW-9, a co-villager of the appellant, stated in his examination-in-chief that the deceased used to reside at her matrimonial home and that her husband, the appellant, used to assault her in connection with the demand for Rs. 80,000/- and a motorcycle, which could not be fulfilled by the father of the deceased. He further stated that the appellant told his father-in-law that the deceased would be killed if the aforesaid demands were not fulfilled within eight days.

24.1. As regards the independence of this witness

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and the credibility of his testimony, the appellant has sought to impeach his credibility on the ground that the relations between his family and the witness were not cordial and cases had also been instituted between them. In his cross-examination, the witness admitted that a case had been instituted between him and the family of the appellant.

25. The appellant, in his statement recorded under Section 313 of the Cr.P.C., denied all the material circumstances appearing against him from the evidences adduced by the prosecution, however, he said nothing regarding his defence of accidental death of the deceased and simply stated that he was innocent.

26. The appellant examined three witnesses in his defence, namely, DW-1 Ramnath Rai, DW-2 Ram Shreshth Rai and DW-3 Bhaiya Ram Sahni.

26.1 In their examination-in-chief, they stated that on 10.04.2021, bricks had fallen upon the body of the deceased. According to them, the bricks were removed from the body of the deceased by the persons who had gathered at the spot, whereafter the deceased was brought to the courtyard in an injured condition, but she succumbed to her injuries there.

27. From the foregoing analysis of the evidences

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adduced by both sides, I find that there are certain material aspects of the prosecution case which are not in dispute. First, the deceased died within one year of her marriage. Second, she died on 10.04.2021 on account of the injuries sustained by her. Third, her death occurred at the house of the appellant and was an unnatural death resulting from bodily injuries. The prosecution witnesses have remained consistent with regard to the demand of Rs. 80,000/- and a motorcycle by the appellant and his family members from the deceased and her parental family, as alleged by the informant in the written FIR. The informant and his son stated that in order to fulfill the said demand, an old motorcycle was given to the appellant, but the same was returned as the appellant was adamant to get a new motorcycle. Since the said demand could not be fulfilled by the deceased's father, the deceased was subjected to assault. The deceased died an unnatural death within a short span of her matrimonial life, which was only about ten months. From the testimonies of the prosecution witnesses, particularly PW-1, PW-4, PW-6 and PW-9, it does not appear that the demand made by the accused had ever ceased. Rather, their evidence indicates that the demand continued throughout the matrimonial life of the deceased and persisted till the occurrence resulting in

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her death. So far as the defence of the appellant that the deceased sustained accidental injuries on account of a brick wall of the appellant's house having fallen upon her body is concerned, the same does not inspire confidence. There is no sufficient and reliable evidence to substantiate the said defence. Though some of the prosecution witnesses stated that bricks were lying near the dead body of the deceased but none of them stated that a large quantity of bricks were lying or a brick wall had fallen upon her. Furthermore, the Investigating Officer, who had inspected the place of occurrence soon after receiving information regarding the incident, did not state anything about the presence of a fallen brick wall either at the place of occurrence or near the dead body of the deceased. Significantly, no question in this regard appears to have been put to him in cross-examination on behalf of the appellant. The appellant also remained silent regarding the said defence in his statement recorded under Section 313 of the Cr.P.C. In these circumstances, the defence taken by the appellant does not inspire confidence and the trial court rightly rejected the same. Once the defence of accidental injuries on account of the falling of a brick wall is not established, the circumstances pertaining to allegation emerging from the evidence assume significance,

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such as, the continuous demand of Rs. 80,000/- and a motorcycle by the appellant and his family members from the deceased and her parental family, the several injuries including fracture injuries found on the body of the deceased and the absence of the appellant and his family members from the house when the persons claiming to have reached the place of occurrence after learning about the incident arrived there.

Conclusion:-

28. The aforesaid circumstances, when considered cumulatively, clearly indicate that the deceased was subjected to physical assault by the accused including the appellant soon before her death. The evidence of the defence witnesses does not inspire confidence. Firstly, they are co-villagers of the appellant and therefore, their evidence requires careful scrutiny. Secondly, their claim of having reached the place of occurrence immediately after the incident does not appear to be convincing, as from their own statements, they are not immediate neighbours of the appellant and their houses are situated at some distance from the house of the appellant. There is also no satisfactory explanation as to why none of the immediate neighbours of the appellant reached the place of occurrence immediately after the alleged incident. On the contrary, the

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evidence of the defence witnesses itself shows that neither the appellant nor his family members were present at the place of occurrence when they reached there as per their claim. If the deceased had sustained injuries accidentally on account of the falling of a brick wall, there appears to be no satisfactory explanation as to why the appellant and his family members would leave the house, leaving the deceased in an injured condition. Thus, the evidence of the defence witnesses does not assist the appellant, rather, their testimony, on material respects, goes against the appellant's defence. So far as the non-examination of Pradeep Rai, who had written FIR, and Nawal Rai, who had participated in the Panchayat meeting, is concerned, the same is not, in the facts and circumstances of the present case, fatal to the prosecution. The prosecution case is required to be assessed on the basis of the evidence actually brought on record. The testimony of the witnesses examined by the prosecution, if considered as a whole, sufficiently establishes the material circumstances relied upon by the trial court. The prosecution has thus succeeded in establishing the essential ingredients of the offence of dowry death. The deceased died an unnatural death on account of bodily injuries within seven years of her marriage, and the evidence on record

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establishes that she was subjected to cruelty and harassment in connection with the demand for dowry (Rs. 80,000/- and a motorcycle) soon before her death. Consequently, the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 is attracted, and the burden shifted upon the appellant to rebut the said presumption by establishing a probable defence. The appellant has failed to discharge the said burden either by adducing reliable and cogent evidence in support of his defence or by eliciting any material circumstance from the cross-examination of the prosecution witnesses. This Court is, therefore, of the considered opinion that the prosecution has succeeded in establishing the essential ingredients constituting the offence of dowry death. The evidence on record establishes that the deceased died of bodily injuries within seven years of her marriage and she had been subjected to cruelty and harassment in connection with the persistent demand for Rs. 80,000/- and a motorcycle, which continued till the occurrence resulting in her death. The defence of accidental death on account of the falling of a brick wall has not been established. Accordingly, the findings recorded by the trial court do not warrant any interference from this Court. I find no ground to differ from the conclusion arrived at by the trial court.

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Consequently, the impugned judgment dated 02.09.2024, whereby the appellant has been convicted for the offences punishable under Sections 304-B and 498-A of the IPC and the order of sentence dated 05.09.2024, whereby he has been sentenced for the said offences, are hereby affirmed and upheld. The present appeal, being devoid of merit, is accordingly dismissed.

29. The records of the learned trial court, along with a copy of this judgment, shall be transmitted forthwith to the concerned court for necessary compliance.

(Shailendra Singh, J)

maynaz/-

AFR/NAFR	AFR
CAV DATE	05.10.2026.
Uploading Date	30.10.2026
Transmission Date	30.10.2026

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