

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.1461 of 2024

Arising Out of PS. Case No.-173 Year-2022 Thana- KHANPURA District- Samastipur

Bipin Bihari S/o Late Yogendra Pathak R/o vill and Post - Lagunia
Raghukanth, P.S. - Muffasil, Ward No. 46, Samastipur, Bihar

... .. Appellant

Versus

1. The State of Bihar
2. Ashish Kumar Jha S/o Late Amar Shankar Jha R/o vill - Nathudwar, P.s. -
Khanpur, Distt.- Samastipur
3. Abhishek Kumar Jha S/o Late Amar Shankar Jha R/o vill - Nathudwar, P.s. -
Khanpur, Distt.- Samastipur
4. Pushp Gandha Devi W/o Late Amar Shankar Jha R/o vill - Nathudwar, P.s. -
Khanpur, Distt.- Samastipur
5. Kanchan Kumari D/o Late Amar Shankar Jha R/o vill - Nathudwar, P.s. -
Khanpur, Distt.- Samastipur

... .. Respondents

Appearance :

For the Appellant/s	:	Mr. Piyush Kumar Pandey, Advocate Ms. Aditi Shahi, Advocate
For the Respondent/s	:	Ms. Shashi Bala Verma, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 18-04-2026

Heard learned counsel for the appellant and learned
Additional Public Prosecutor for the State.

2. The present appeal has been preferred for setting
aside the judgment of acquittal dated 11.09.2024 (hereinafter
referred to as the ‘impugned judgment’) passed by the learned 1st
Additional Sessions Judge, Samastipur (hereinafter referred to as



the 'learned trial court') in Sessions Trial No. 60 of 2024 arising out of Khanpur P.S. Case No. 173 of 2022. By the impugned judgment, the respondent nos. 2 and 5 have been acquitted of the charges punishable under Sections 498A, 304B/34, 201, 364/34 of the Indian Penal Code (in short 'IPC') and Section 3/4 of the Dowry Prohibition Act.

Prosecution Case

3. The prosecution case is based on the written application of the informant/appellant (PW-1). In his written application, he has stated that marriage of his daughter was solemnised with Ashish Kumar Jha (respondent no.2) on 11th December, 2019. At the time of marriage, the informant had gifted cash, ornaments, clothes and many other items to his in-law. Four days after the marriage, informant's daughter went to her sasural where her in-laws started demanding bullet motorcycle and on protest they started torturing her. This was informed to the informant by her daughter on which the informant and his son used to go there but due to shortage of fund, he was not able to fulfill the demand of bullet motorcycle. Her daughter spent three months in her in-laws house anyhow and she used to ask the informant to take her from in-laws house otherwise they can kill her. The informant brought his daughter to his house for some days



thereafter her daughter again went to her in-laws house but their behaviour remained the same. Due to cruel behaviour of her in-laws, the informant brought her daughter to his house on 1st July, 2022 and her daughter disclosed her that her in-laws many times attempted to kill her but she was saved by the neighbours on which the informant called his son-in-law Ashish Kumar Jha who came to his house on 03.07.2022 where he accepted his mistake and assured that no untoward occurrence would occur in future with his daughter and also assured to take informant's daughter to his house after persuading his mother and brother. Then the informant asked his son-in-law to keep his daughter in the room provided in his office on which his son-in-law went from there. On 05.07.2022, in conspiracy with his mother, brother and sister informant's son-in-law came to his house on bullet motorcycle and asked his daughter to come with him which was informed to the informant then he arrived at his house and after much persuasion informant allowed his son-in-law to take his daughter to his house. At the time of leaving the house, informant's daughter was wearing some ornaments and was having a mobile of SIM No. 7070605432. After one hour, informant's wife made a call on her daughter's mobile on which she replied that she was brought to the residence at Madhuri Chowk and from there she was being asked



to go to Korbaddha whereafter mobile of his daughter became switched off. Thereafter, the informant along with his son went to his son-in-laws quarter at Madhuri Chowk where he was informed that he is not living in the room for last one month and thereafter he came to know that his son-in-law and daughter were seen at Angar Ghat Chowk going towards Nathudwar on bullet motorcycle. The informant and his son went there but no one was there in the house, the informant made a call to his son-in-law but he did not reply satisfactorily and since then informant was searching his daughter but no trace of his daughter could be found and now his son-in-law is also not responding to his phone calls. The informant inquired from neighbours at Nathudwar where he came to know that in the night of 05.07.2022, his daughter was killed by her in-laws and disappeared the dead body with an intention to conceal the evidence. The informant raised suspicion that due to non-fulfilling the demand of bullet motorcycle, his daughter was killed by his son-in-law and in-laws under a conspiracy and disappeared the dead body.

4. On the basis of this written application, FIR being Khanpur P.S. Case No. 173 of 2022 dated 11.07.2022 was registered under Sections 304(B), 201, 498(A)/34 IPC and Section 3/4 of the Dowry Prohibition Act against accused persons, namely,



(1) Pushpgandha Devi, (2) Kanchan Kumari, (3) Ashish Kumar and (4) Abhishek Kumar. After investigation, police submitted chargesheet bearing Chargesheet No. 218 of 2023 dated 26.07.2023 under Sections 498(A), 364/34 IPC and Section 3/4 of the Dowry Prohibition Act against (1) Ashish Kumar (husband), (2) Abhishek Kumar (brother-in-law), (3) Kanchan Kumari (sister-in-law) and (4) Pushpgandha Devi (mother-in-law).

5. Learned Judicial Magistrate, 1st Class, Samastipur vide order dated 08.08.2023 took cognizance of the offences punishable under above-mentioned Sections against Respondent Nos. 2 to 5. Upon finding that the offences are triable in the court of Sessions, learned Judicial Magistrate vide order dated 30.01.2024 committed the records to the court of Sessions.

6. Charges were read over in Hindi and explained to Respondent Nos. 2 to 5 to which they denied and claimed to be tried, accordingly, vide order dated 28.03.2024, charges were framed under Sections 498(A), 304(B)/34, 201, 364/34 IPC and Section 3, 4 of the Dowry Prohibition Act against Respondent Nos. 2 to 5.

7. In course of trial, the prosecution has examined altogether seven witnesses and exhibited several documentary



evidences. The description of the prosecution witnesses and the exhibits are given hereunder in tabular form:-

List of Prosecution Witnesses

Prosecution Witness No.	Name of the Witness	Description of the Witness
PW-1	Vipin Bihari	Informant
PW-2	Hari Mohan Chaudhary	Teacher in the School
PW-3	Sumant Pathak	Co-sharer of the informant
PW-4	Ranjit Kumar Chaudhary	Brother-in-law of the informant
PW-5	Pinki Devi	Mother of the Victim
PW-6	Arvind Kumar Singh	Second I.O.
PW-7	Ramesh Kumar Sharma	First I.O.

List of Exhibits on behalf of Prosecution

Exhibit No.	Description of the Exhibit	Proved by/ Attested by
'1'	Typed written Application	PW-1
'X'	Bank Statement	PW-1
'2'	writing of pagination and signature	PW-7
'3'	Signature of Station House Officer on the first page of the formal FIR	PW-7
'3/1'	Signature of Station House Officer on the second page of the formal FIR	PW-7
'3/2'	Signature of Station House Officer on the third page of the formal FIR	PW-7

8. Thereafter, the statements of Respondent Nos. 2 to 5 were recorded under Section 313 of the Code of Criminal Procedure (in short ‘CrPC’). In their 313 Statements, they denied the allegations and pleaded innocence.



9. The defence has brought two witnesses and exhibited two documentary evidences which are being produced hereunder in tabular form.

List of Defence Witnesses

Defence Witness No.	Name of the Witness	Description of the Witness
DW-1	Vinit Kumar Singh	Employee at Senior Section Engineer, Works South, Railway, Samastipur
DW-2	Sadhan Kumar Dey	Chaukidar of Senior Section Engineer, Works South, Railway, Samastipur

List of Exhibits on behalf of Defence

Exhibit No.	Description of the Exhibit	Proved by/ Attested by
'A'	Attendance Register	DW-1
'B'	Note and Signature on Attendance Register	DW-1

Findings of the learned trial court

10. Learned trial court after scrutinizing the depositions of the informant (PW-1), Harimohan Choudhary (PW-2), Sumant Pathak (PW-3) the pattidar of the informant, brother-in-law of the informant (PW-4), wife of the informant (PW-5), the I.O (PW-6). and the other I.O. (PW-7) found that identification of the persons who disclosed the informant that informant's daughter Pratima was killed by the in-laws has not been brought on record during evidence and besides that the learned trial court found that the I.O.



deposed that he did not find any evidence regarding death. The I.O. stated that he deputed the spy but no evidence could be gathered. Learned trial court further found that as per the evidence that informant and his wife came to know about the occurrence of 06.07.2022 thereafter he lodged the FIR on 11.07.2022 and no explanation has been given to the I.O. regarding delayed information to the police.

11. Learned trial court found from the evidence of the I.O. that the informant did not get any CDR of the call details to establish the claim of PW-5, the wife of the informant that he had talked to his daughter after leaving her house.

12. Learned trial court found that informant in his evidence claimed that he went in search of his daughter with his son but informant's son has not been made a chargesheet witness in this case. Learned trial court found from the evidence of PW-7 (I.O.) that no quarter was found in the office at Madhuri Chowk. Referring to the evidence of PW-2 the learned trial court found that as per PW-2 he had seen the daughter of the informant at 5:30 PM going towards Nathudwar and after 5-7 minutes PW-1 informant had also gone towards Nathudwar which was situated at a distance of 8-10 kilometer and it takes 10-15 minutes in reaching there. Learned trial court found that within 10 minutes the



informant also reached Nathudwar and in the meantime, at 6 PM in the month of July the accused persons fled away after killing the informant's daughter. Learned trial court opined that in absence of evidence regarding killing if presumption can be made then evidence under Section 108 of BSA is required. Accordingly, presumption cannot be made.

13. Learned trial court found that the informant's son-in-law had a bullet in his possession therefore demand of bullet by the in-laws was found doubtful. Learned trial court did not find any material in the evidences to suggest that the informant's daughter was killed and his dead body was concealed.

14. Learned trial court opined that no evidence is available on the record regarding death of the informant's daughter and also not found any material to suggest screening of evidence. No witness has come to say that who had disclosed about the killing of the informant's daughter and the witnesses who had disclosed about it are the family members of the informant's daughter but they are not the eyewitness. They have deposed on the basis of hearsay.

15. Learned trial court found that the accused Ashish Kumar Jha is the husband of the informant's daughter and he had taken her with himself with the consent of her parents, therefore,



the prosecution has failed to bring this fact in the evidences that it is a case of consent and dissent. Accordingly, the learned trial court did not find it a case of kidnapping.

16. Regarding demand of dowry, the learned trial court found that except the family members no witness has stated that there was any dispute between the informant's daughter and her in-laws and no written or oral complaint was ever made. Learned trial court found from the evidences that the informant's daughter used to perform her religious work at her in-laws house. The learned trial court found that the informant alleged regarding demand of a bullet motorcycle but the word 'dowry' has not been used by the informant.

17. Accordingly, learned trial court after examining the evidences available on the record found that the prosecution has failed to prove the charges against the accused persons facing trial (respondent nos. 2 to 5 herein) and passed the impugned judgment.

Submissions on behalf of the informant-appellant

18. Learned counsel for the informant-appellant has assailed the impugned judgment on the ground that the judgment suffers from unusual and wrong appreciation of evidences. It is submitted that the learned trial court has failed to appreciate that despite having minor contradictions between the testimonies of the



witnesses, the witnesses were consistent on one fact that there was payment of dowry to the respondents which was well reflected by the bank statement which was marked as Exhibit 'X'.

19. Learned counsel for the appellant submits that there was a demand of dowry and this fact has been corroborated from the bank statements produced by the informant in the court showing that payments were made in the accounts of the respondent nos. 2 to 5. The trial court ought to have held that the deceased was accompanied by respondent no. 2 and based on the last seen theory itself and the statements of the witnesses corroborating the same, the respondent no. 2 was liable to be convicted.

20. Learned counsel for the appellant submits that the learned trial court has wrongly allowed the plea of alibi of respondent no. 2 and has misdirected itself in relying upon the testimonies of the defence witnesses.

Submissions on behalf of the State

21. On the other hand, learned Additional Public Prosecutor for the State would submit that the learned trial court has rightly appreciated the entire evidences available on the record. The trial court has found that the respondent no. 2, Ashish Kumar Jha, had got Bullet and Scooty from before, no witness has



controverted this. The respondent no. 2 had come to pick up his wife, Pratima Kumari, by Bullet. The informant side had never made any allegation either in oral or writing that there was demand of dowry, in these circumstances, the prosecution had failed to establish the charges under Section 3 and 4 of the Dowry Prohibition Act.

22. Learned Additional Public Prosecutor for the State would further submit that the learned trial court has recorded a correct finding that the charge under Section 364 IPC would not be made out. The respondent no. 2 is the husband of the deceased and it is the case of the prosecution witnesses that the respondent no. 2 had taken away the victim Pratima Kumari with the consent of her parents. The trial court has, therefore, rightly concluded that respondent no. 2 is the natural protector of the victim against whom the allegation of abduction is not proved.

23. As regards charge under Section 498A, 304B/34 and 201 IPC, it is submitted that the learned trial court has duly appreciated the evidences brought on the record. The informant and the other witnesses who claimed that on 5th July, 2022 the neighbours of the *sasural* of the victim had informed that the victim had been killed and her dead body has been made to disappear has not been duly proved. Nobody has disclosed the



name of those persons who told this and they have not been produced by the prosecution. The I.O. himself says that with regard to the death of the deceased, no evidence could be found. On these grounds, the appeal has been contested.

Consideration

24. Having heard learned counsel for the appellant, learned Additional Public Prosecutor for the State as also on perusal of the trial court's records, once again this Court finds that the marriage between the victim and respondent no.2 was solemnized on 11th December 2019 as per Hindu rites and customs. The respondent no. 2 was posted as Railway Chowkidar in the Office of the Senior Assistant Engineer at Madhuri Chowk, Samastipur. It is the case of the informant that four days after the marriage, his daughter had come back from *sasural*. It is alleged that a demand for Bullet motorcycle was made immediately after marriage which was being protested by the victim whereupon she was being tortured. The informant has stated that his daughter used to inform this over telephone and whenever he along with his son visited to her house. The informant was unable to provide a Bullet motorcycle due to financial constraints. His daughter/victim stayed in *sasural* for about three months only and thereafter on many occasions the informant came and took her to his house, but



according to the informant, the behaviour of the *sasural* people did not change. When the *sasural* people continued with the torture, ultimately, he brought his daughter to his house on 1st April 2022. This Court finds that since 11th December 2019 till 1st July 2022, neither any oral nor any written complaint was made before police or to any person in the society against the conduct of respondent nos. 2 to 5. The trial court finding on this point is correct.

25. This Court further finds that on 3rd July 2022, the respondent no. 2 is said to have come to the house of the informant where he was scolded by the informant and on this, he accepted the mistake of his family members and promised that in future such occurrence will not take place. The informant claimed that on 5th July 2022, at about 11 AM his son-in-law/respondent no.2 came with a bullet motorcycle and in absence of the informant, he asked the victim to come with him. It is stated that on the insistence by the respondent no. 2, mother of the victim informed the informant over phone, the informant came from the school taking permission for 10 minutes from the school Headmaster. The informant admits that he had permitted his daughter/victim to go with his son-in-law. The informant claims that she had gone with the respondent no. 2 on his motorcycle. This Court, therefore, finds that in the facts of the present case where the respondent no. 2 is the husband



of the deceased and the deceased had gone from her *mai*ke with the consent of her parents, the ingredients of the offences under Section 364 IPC is not made out. The learned trial court has, therefore, not committed any wrong in taking this view.

26. This Court further finds that the informant along with his son claims to have come to the quarter of his son-in-law at Madhuri Chowk but he came to know that his son-in-law was not residing in the said room for last one month. They were going towards Nathudwar, on way, he met Hari Mohan Choudhary (PW-2) who told that he had seen the son-in-law and daughter of the informant at about 5:30 PM at Angarghat Chowk going on a bullet motorcycle towards Nathudwar. Some more persons also told the informant to have seen his son-in-law going towards Nathudwar. The informant claimed to have made a phone call to his son-in-law but could not get a satisfactory response. From these statements of the informant (PW-1), it is crystal clear that on the same day i.e. on 05.07.2022 he had gone in search of his daughter/victim, he had also made phone call to his son-in-law, it is not the case of the informant that his son-in-law did not pick up the call. The informant says that his son-in-law could not give a satisfactory reply. If it is so, it is difficult to believe as to why the informant did not lodge any report of killing of his daughter in the police station.



The informant went to the police station on 11.07.2022 i.e. after 6 days of the occurrence. This conduct of the informant cannot be said to be natural and the delay of 6 days in lodging of the FIR despite knowledge that his daughter has been killed would create huge doubt on the prosecution story.

27. The learned trial court has analysed the prosecution evidence and found that the second I.O. (PW-6) has stated that he had taken charge of the investigation on 13.07.2023. PW-6 had taken statement of the accused and recorded the same in paragraph '135' of the case diary. In his cross-examination, he has stated that he had not taken statement of any witness, he had not inspected the place of occurrence, he had interrogated the respondent no. 2 but his statement was not recorded. He could not make a verification as to whether the victim was still alive or not. He had submitted charge-sheet in order to ensure that the accused does not get benefit of section 167 CrPC. The first I.O. (PW-7) had inspected the place of occurrence which is the *sasural* of the deceased at Nathudwar which falls under Khanpur police station. He had recorded the statement of Ranjit Kumar Choudhary, Sumant Pathak, Hari Mohan Choudhary and Pinki Devi. PW-7 had also visited the office of the Senior Section Engineer, East Central Railway, Samastipur where the accused was working. He could



not find any trace of the dead body. PW-7 has stated that in course of inspection of the place of occurrence, he had not found any mark of violence, no witness in the vicinity of the place of occurrence affirmed that the daughter of the informant/victim has been murdered in the night of 05.07.2022 and that the dead body of the victim has been made to disappear, therefore, in the supervision, Section 304B IPC was removed. This witness has stated that there is no CCTV camera at Angarghat and he had no talk with the officer-in-charge of the police station regarding the delay in lodging of the FIR. Hari Mohan Choudhary (PW-2) had not stated before PW-7 in his statement that in the night Bipin Bihari Choudhary and his brother-in-law Ranjit Choudhary had come to his house and had called him from the road and said that nobody was found and there was a lock at the door of the house. This witness had also not stated that on 06.07.2022, he had gone in search of the victim but no one had informed that in the night, the victim has been killed and the dead body has been made to disappear. PW-2 had not stated before the I.O. (PW-7) that the victim used to come to his school and say that her *sasural* people were doing *marpit* with her and they were demanding a bullet. PW-7 has also stated that Pinki Devi (PW-5) had not stated in her statement that at 3:54 PM, she had made a call to her daughter who



told her that she was afraid and was going from Madhuri Chowk to Korbaddha. She had also not said that the son-in-law talked for two minutes and then cut the call. This witness had also not said that on 1st July, the daughter had come to her house. The I.O. had not taken out the CDR of the mobile of the victim and her mother.

This Court finds that Vineet Kumar Singh (DW-1) is the Senior Section Engineer, Works South, Samastipur who has deposed in favour of the respondent no.2. He is said to have come with the original register and he proved that at item no.1 of the attendance register name of Ashish Kumar Jha is mentioned and on 05.07.2022 Ashish Kumar Jha was on duty from 6:00 AM to 6:00 PM. He has deposed that on the said day, Ashish Kumar Jha was on duty.

28. In ultimate analysis of the entire evidences available on the record, the learned trial court has taken a view that the charges levelled against respondent nos. 2 to 5 have not been duly proved.

29. We are dealing with an appeal against acquittal wherein it is settled principle that the Appellate Court should not interfere with any judgment of acquittal unless the Court comes to an irresistible conclusion that the findings of the learned trial court are perverse and there cannot be any other conclusion but to held



that the accused are guilty of committing the offence as alleged. In the present case, we are of the considered opinion that the learned trial court has not committed any error in appreciation of the evidences on the record. No interference is called for.

30. This appeal has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Soni Shrivastava, J)

Rishi/-

AFR/NAFR	
CAV DATE	
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