

**IN THE HIGH COURT AT CALCUTTA**  
**CRIMINAL APPELLATE JURISDICTION**  
**APPELLATE SIDE**

**Present:-**

**HON'BLE JUSTICE CHAITALI CHATTERJEE DAS.**

**CRA 124 OF 2014**

**JAGADISH MISHRA & ANR.**

**VS**

**THE STATE OF WEST BENGAL**

**For the Appellant** : **Dr. Achin Jana, Adv.**  
: **Mr. Prosenjit Ghosh, Adv.**  
: **Ms. Chetna Rustagi, Adv.**

**For the State** : **Mrs. Baisali Basu, Ld. Jr. Govt. Adv.**  
: **Mr. Sobhan Gani, Adv.**

**Last heard on** : **19.12.2025**

**Judgement on** : **22.01.2026**

**Uploaded on** : **22.01.2026**

**CHAITALI CHATTERJEE DAS:-**

1. This criminal appeal has been filed against an judgement and order of conviction dated January 9, 2014 passed by the learned Court of 7th Additional Sessions, Judge, Alipore in session trial no. 1(1) 03 for commission of offence punishable under Section 498A of the Indian Penal Code and sentenced the Appellant and his mother to suffer rigorous imprisonment for a

period of 3 years and to pay a fine of ₹2000 each in default to suffer simple imprisonment for six months for committing the offence punishable under Section 498A of the Indian Penal Code.

**Brief fact of the case**

**2.** A complaint was lodged before the officer in charge, Police Station Kasba by Sushil Kumar Sarkar on March 19, 2002 alleging that his youngest daughter got married with the present Appellant on March 6, 1997, according to Hindu rights and custom, and after marriage, they started living together in his residence at Eastend Park. Few months after the marriage, the husband along with the parents-in-law of his daughter and their sister-in-law started torturing upon his daughter, both physically and mentally on demand of more money and also expressed their dissatisfaction over the articles which were given at the time of marriage. On several occasion, his daughter informed him about the torture inflicted on her, but considering her future, the de-facto complainant did not lodge any complaint prior to the instant complaint. It was also alleged that the son-in-law and his parents also assaulted this complainant several times and they also instigated the son-in-law as a result he also assaulted the daughter of this de-facto complainant. It was further alleged that on April 15, 2002 at 4:30 hours, a local person namely Kashinath Saha came to his place and informed that his daughter was lying in burnt condition at her in-laws place. The de-facto complainant, and his younger brother, and others went to the matrimonial house of the daughter and found

her lying in burnt condition on the floor of the first floor and anguishing in pain. The family members did not arrange to take her to hospital and then the de-facto complainant and his brother took her to S.S.K.M Hospital and admitted her there, but within few hours, his daughter expired.

**3.** It is the further case of the de-facto complainant that his son-in-law and the parents-in-law conspired to kill his daughter and therefore set her on fire due to which his daughter died. Since he had to take his daughter to the hospital, he was late in lodging the complaint. On the strength of this complaint, Kasba P.S case no. 56 dated April 16, 02 under Section 498A/304B/420 B, I.P.C started and on completion of investigation, the charge-sheet was submitted under Section 498/304B/34 of the Indian penal code. The offences being exclusively triable by the Court of Session, the matter was committed to the learned session judge and the same was transferred before the learned Court of Additional Session, Judge, 7th Court, Alipore. The charge was framed by the learned Court against four accused persons for the offence committed under Section 498A/304-B read with Section 34 of the Indian Penal Code and the content of the same was read over and explained to the accused persons to which they pleaded, not guilty and claim to be tried. Hence the trial commenced.

**4.** In order to bring the charges the prosecution adduced seven witnesses and the learned court after considering the evidences as well as the submissions made before the learned Court by both the learned Advocates, passed the order of conviction against the present appellants under Section 498A of the Indian

Penal Code and acquitted all the accused persons from the charge of Section 304B read with Section 34 of the Indian Penal Code and also acquitted Geeta Majumdar from the charge under Section 498A of the Indian Penal Code. Hence, this Appeal is filed for setting aside the judgement and order of conviction .During pendency of the instant appeal the mother of the present appellant died, and hence, this appeal is pressed by the sole appellant.

### **Submissions**

5. The argument advanced on behalf of the appellant that there was love affair between the appellant and the deceased which was not well accepted by the families and they had a registered marriage only. During registration, only the mother of the accused was present and after marriage the appellant was residing separately with the deceased in a rented accommodation when his parents were residing at Raniganj. Therefore, there cannot be any demand of dowry since their marriage was not accepted by the respective families and hence they did not participate in the registered marriage, and there was no social marriage. The complaint is totally silent about giving any details of articles or the demand of such article and nothing revealed in course of his evidence.

6. The learned advocate further argued that under the provisions of Dowry Prohibition Act, the dowry means property or valuable security, given or agreed to be given either directly or indirectly by any party to the marriage to another party to the marriage by the parents of either party to a marriage or by other

person to either party to the marriage or to any other person at or before or at any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim personal law applies.

7. Therefore, the question arises whether articles of any kind or valuable security given at the time of marriage or at any time thereafter will attract the definition of dowry. The learned Advocate relied upon the decision reported in **Reema Agarwal versus Anupam and ors<sup>1</sup>**. where in it has been held by the Hon'ble Court, that." any demand of money, property or valuable security made from the bride or her parents or relatives by bridegroom or his parents or other relatives or vice versa would not fall within the mischief of Dowry under the Dowry Prohibition Act. It was also observed that dowry as a quid pro quo for marriage is prohibited and the giving of traditional present to the bride or the bride groom by friends and relatives. Thus voluntary presents as the case maybe of a traditional nature, which are not given as a consideration of marriage, but out of love, affection or regard, would not fall within the mischief of the expression dowry made punishable under the Dowry Act. It was further argued that the complaint was lodged on March 19, 2003. The incident happened on April 15, 2002, that is almost 1 year one month after the date of incident without giving any plausible explanation to the prolong delay . It is clearly an afterthought, and only in order to harass the present appellant and his family members arraigned them as accused persons.

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<sup>1</sup> 2004. S.C 1418

8. That apart the learned Court though framed the charge under Section 498A/304B/34 of the Indian Penal Code but passed the order of acquittal of all the accused persons in respect of the charge under Section 304B/34, in absence of any Evidence to that extent. The learned Advocate further argued the deceased committed suicide as she was not satisfied about her husband coming late at night, when his livelihood was dependent on tuition and for that reason he could not return within time, which often created problem between them and that ipso facto cannot be the ground for taking him behind the bar.
9. The learned prosecution on the other hand submits that the prosecution has proved the case beyond the shadow of reasonable doubt by citing the prosecution witnesses and also by proving the documents. Therefore, the learned court after considering all the materials and assessing the evidence arrived at finding and no illegality is found for which any interference is required. Accordingly prayed for dismissal of the appeal.

### **Analysis**

10. Heard the submissions. The moot question now falls for consideration is as to whether the learned Court was right in passing such order of conviction against the present Appellants when the other accused were acquitted from all the charges. The charge was framed under Section 498A /304B/34 of the Indian Penal Code against all the accused persons, but the Learned Court not passed the order of conviction for the offence committed only under Section 498A IPC against the Appellant and his mother as there was lack of evidence to

prove the said charges. During pendency of the appeal the mother being the Appellant no. 2 died. Hence the appeal stands abated so far the appellant no. 2 is concerned.

**11.** The de-facto complainant is examined as P.W1. His testimony disclosed that since marriage, his daughter used to live in her matrimonial house where Jagadish Mishra used to live as tenant but subsequently shifted at their own house at 14 B. East end park. During his cross examination he stated that he gave a cash of ₹10,000 for Bangle , Khat, dressing table, steel, Almirah, harmonium, Titan watch and also gave cash of ₹11,000 for purchasing motor motorcycle to the accused as per his further demand. It can be found from his testimony that his daughter was at class XI at the time of marriage and the present appellant was her private tutor since class IX. He also deposed that they learnt about the love affair of his daughter and the present Appellant. He also admitted that father of Jagadish did not come at the time of marriage registration and subsequently there was marriage at Kalighat when also his parents did not attend. He also admitted that they lived in his house for some days during the transit period when they shifted from rented house to another house.

**12.** It can be seen further from the evidence of the de-facto complainant that accused Mahamaya used to visit the house of Jagadish occasionally when she lived at Raiganj as the accused Jagadish Mishra was an employee in the cold field at Raiganj and they used to reside with members of his family at that place. After marriage, they lived in a rented house at Mukundapur, where the

de-facto complainant and his wife visited once. The witness also deposed that since Jagadish was a private tutor, he used to attend private tuition at different places and used to come to residence during late hours of night and this was not liked by the deceased and she reported that over the issue there was dispute between husband and wife. The submission of the Learned Advocate of the appellant about their strange relationship between the family members of both appellant and the deceased cannot be found from the evidence of P.W1 when he said that they were not invited at the marriage of the sister of Jagadish and over the same, the bitterness of relationship between diseased and husband and mother-in-law aggravated after marriage of accused Geeta. However they were also blessed with a child.

- 13.** P.W.2 Subodh Sarkar deposed that the deceased was the daughter of his elder brother and was given marriage on March 6, 1997. He also deposed that at the time of marriage, Almirah, and utensils were given and subsequently cash of ₹10,000 for purchasing bangle and cash of ₹11,000 was given for purchasing a vehicle. This witness said that after marriage, they lived in a rented house and subsequently started living in the house of the father of Jagadish at South Purva Hospital Road, which is also known as 14 B. Eastend Park, where the parents of Jagadish and younger sister used to live. He along with his elder brother went to the house of Jagadish after Kashinath Shah informed on April 15, 2002 at about 4:30 PM that Uma was lying in burn condition.

**14.** The witness said that when they reached there, they found Uma lying in the ground floor of their house and also found Jagadish weeping and the accused persons lying on the ground floor of their house. Thereafter, they shifted Uma to P.G Hospital when at 11.30 5 PM she died. According to the witness, Uma used to report him about the physical torture by the accused persons inflicted upon her. This witness was not present at the time of marriage and there was no Boubhat ceremony, and he also could not say anything about reception. He never invited the newly married couple to his house and the appellant had no occasion to visit his house. The witness also never visited the rented house of the accused Jagadish, only attended the Griha Pravesh ceremony. The witness did not keep any information about the deceased and her husband since after such ceremony. He could not say what happened before he went to hospital, but he found burn injuries on the hands of accused person. On the date of alleged incident, this witness went to the house of Jagadish and found all the family members present and weeping. The testimony of the witness reveals that the relation between the deceased and appellants were more or less good.

**15.** P.W.3, the sister of the deceased deposed that the marriage was solemnized on March 6, 1997 and ornaments utensils, etc were given during their marriage and subsequently as per demand, dressing table, Court, Almira, and an amount of ₹10,000 for purchasing bangles was also given to the in-laws. After that, the accused persons physically and mentally tortured Uma that more dowries would have been obtained by Jagadish if his marriage was

solemnized elsewhere. This witness was a student of class VIII/IX when the appellant was engaged as a private tutor of her sister and he was also her English tutor. This witness admitted that there was a love marriage and they had no residential house at the time of marriage. She also said about the return of Jagadish late at night after attending his private coaching which was not liked by her sister. She last visited to the house of accused 3 months prior to the death of her sister and probably her sister last visited to her house, six months prior to death.

**16.P.W.4** Sandhya Sarkar, the deposed that her daughter was given during marriage the khat , ,gold jewelries of 3 and half /4 bhories and cash of ₹10,000 for Bangle were given. Later on one harmonium and cash of ₹11,000 for purchasing vehicle was given to the accused. She also said that her daughter was subject to cruelty by the parents, law, sister-in-law, and the husband and she reported to her when she came to their house. It was her evidence that she paid ₹11,000 to accused Jagadish for purchasing one motorcycle but could not fulfil the demand for the entire amount. As a result, her daughter was subject to torture. Jagadish was a private tutor and from such wed lock a male child was born. From her evidence, it can be found that the relation between her son and daughter with Jagadish was good and he sometimes used to help her son as a tutor. She could not say anything about burn injuries sustained by Jagadish.

**17.P.W 6** Tapash Sarkar, being the brother-in-law of the deceased deposed, mostly iterating statement made by other family members. He also however,

admitted that the appellant used to return home late night and the deceased reported to him about her on happiness with this late night return of her husband. He put his signature in the seizure list, whereby the registration certificate of marriage along with the application were seized. This witness in his cross-examination deposed that he attended the marriage ceremony of his sister-in-law, but no direct knowledge about the payment of cash of ₹10,000.

**18.** P.W.7 Tapas Das, who knew the accused persons stated before the court that his house is situated one minute walk from the house of accused persons. On the date of occurrence, he came to know that there was a dispute between Uma and Jagadish and Uma died of burning on April 15, 2002. Police says one polythene jar, burnt, burnt hair, and leaves of a diary of the deceased were seized by a seizure list where he signed. P.W.8, Subhash Sarkar, being the uncle of the deceased also corroborated the fact of giving the various items including cash of ₹8000-10,000 to accused for purchasing motorbike. He never had any talk with Uma about torture upon her, but he received the information of death from village people, and thereafter he along with his family members rushed to the house of the accused person. This witness deposed further that few days prior to the occurrence, Uma reported about torture on her to her father and once or twice, he had occasion to meet Uma on the way, and on query, she reported that she was going to meet her father to report about the in between herself and her husband, mother-in-law, and husbands, sister. This witness was not examined by police and the statement made before the court was first time when this witness said something about the death of Uma.

**19.** P.W.9, Mintu Das being a neighbour of the de-facto complainant say anything about the conjugal life of Jagadish. On receiving information, she rushed to the house of accused and found Uma lying on the floor on the first floor with burn injuries and asking for taking her to hospital. She did not notice if accused persons were present there or not. From her evidence, it can be gathered that there are six houses intervening her house and the house of accused Jagadish and about 50 Parsons assembled at the place of occurs when she reached at the spot.

**20.** P.W. 10 Dr. PK Sinha deposed that he is a professor and head of the department of plastic surgery, R.G Kar medical College and Hospital. In April 2002 he was posted in S.S.K.M Hospital and on April 15, 02. Uma Mishra was admitted there under him with hundred percent burn injuries. He has no independent recollection about the patient.

**21.** PW 11, the retired deputy magistrate-deputy collector, Arun Chandra Das was posted on April 16, 2002 at the office of the district magistrate at Alipore when he did inquest over the dead body of one Uma Mishra and prepared the report under his handwriting and signature. He held the inquest in presence of Sushil Kumar Sarkar, Subrata Sarkar and Tapas Kumar Sarkar.

**22.** Dr P.B Das presently retired medical officer was posted as A.C.M.O.H (medical legal.) South 24 Parganas, on April 16, 2002 when he held post-mortem examination over the dead body. After superficial examination and dissection, he found the injuries, i.e extensive 1st and 2nd degree burn over scalp hair with evidence of singeing of years, over forehead, over eyelashes,

eyebrow, eyelids with singeing of hair, nose, lips, chin, cheeks both ears and all other parts of the face neck as a whole , chest wall as a whole with both breast and nipple, and both axillary abdominal wall as a while, including draws with singing pubic hair, lower extremities as a whole back, from the neck of nap to down both buttocks, upper extremely as a whole. He further deposed that all the burn injuries having lining of redness, Vescicle formation, black scheme, bruises found over middle of sternum measuring 2"x 2", bruises over dorsum of right and measuring 2"x2", bruises over atone abdominal muscles close to iliac region right side measuring 4" X 2½ " bruises over front of right thigh measuring 2"x2" bruises, over right elbow, measuring 1"x1", bruises over forehead on the left side 3"x2" , Louis is over back of neck on the right side, close to occipital region measuring 2"x2" , bruises over back of left arm, middle portion 2½" X 1½" . He also said that bruises are all deep in red colour, one small lacerated injury over inner side of lower limb right side measuring 1 and ½" X ¾". Muscle deep with evidence of blood clot. According to his opinion, death was due to the effect of extensive burn injuries associated with other injuries stated above are all anti mortem in nature. He further deposed that bruises and lacerated injuries could have happened due to the assault by any hard /blunt substance. During his cross-examination, he deposed that bruise might have been caused due to the manhandling and during transport of the body of the victim. Lacerated injuries on the lip might have caused due to the impact of hard and blunt substance. If the victim falls on the ground, after

there was fire in her body, such injury could not have caused at a single place.

There ought to have been other injuries at different places of the face.

**23.** In this case, only independent witness is the P.W.5 Dhiman Das, who resided at 14 A, East End Park, North end Road and he knew the accused persons appears to be hearsay witness as on many occasions, he heard hue and cry coming from the house of accused and also said that accused persons used to assault the deceased. He also said that the accused person was his close neighbours and their house was at an audible distance from their house. He admitted that Jagadish used to return home late night in his motorcycle. On first day of Baishakh at about 3.30 to 3:45 PM while he was preparing for his examination, sitting at the side of the window of their house, he heard crying sound coming from the house of accused persons. He came out and rushed to the house of accused persons when he found a crowd in front of the house of the accused persons. He entered and found deceased with severe burn injuries. He also found accused Jagadish got hold of her two arms and subsequently the parents and other relatives of the deceased came. They removed her to Hospital. Police seized kerosene, oil, container, burn, clothing, hair of deceased, and a page of diary under seizure list, where he put his signature.

**24.** The accused was examined under Section 313 of the Code of Criminal Procedure when incriminating materials were put before him, and he admitted that he was residing with his wife and parents and sister in the same house. He also admitted that he used to come late on some occasion as he was a private tutor. In respect of the letter wrote to him by his wife marked with

exhibit 5 when placed before him, he specifically stated that there is nothing about torture, but only she did not like his father speaking Hindi. He also admitted that the family members of the victim took her to hospital as he himself was injured. From the examination of the co-accused, mother-in-law since deceased it can be found that she also said that they were not present at the time of marriage and the victim did not like her father-in-law speaking in Hindi. She also said that the victim was taken to hospital by the parents and she was with her son who also burnt. He admitted that there was a dispute over boundary wall with PW5 Dhiman Das.

**25.** The learned Court after scanning the evidences was of the view that there was a trouble between the accused Jagadish and diseased Uma but no evidence was adduced by the defence in support of the case that the trouble was over the transfer of the property. No evidence as to that extent that the deceased insisted the accused Jagadish to get the property transferred in his name. But the court also considered that whether a wife only for the reason that her husband refused to get the property transferred in his name, would commit suicide when they had a child.

**26.** The Learned Court also considered the letter marked exhibit 5, where she categorically mentioned that she would have committed suicide, but for her son, she wanted to live. The letter was written four months before her death, and from such letter, it was apparent that she was not happy and was struggling in that house.

**27.** On careful perusal of the said letter and the contents thereof nowhere anything can be found regarding any physical torture inflicted upon her either by the present appellant/husband, or his parents or sister-in-law. However, it expressed about her mental condition of unhappiness arising out of the issues like giving importance by her father-in-law to his daughter Geeta when the victim was never been appreciated. The letter further revealed that there was a continuous mental disturbance in the conjugal life, either because of negligence by the husband in taking proper care of her and by her in-laws in giving proper respect to her. The dissatisfaction of the victim about the return of home lately by the husband was very much apparent from the version of different witnesses, including that of the elder sister of the victim, the father as well as from P.W.5. The learned court passed the order of acquittal so far the charge of Section 304B of the Indian Penal Code is concerned in absence of any such cogent evidence regarding demand of dowry and torture on account of such demand and also death on account of not giving dowry as per demand. The prosecution has not challenged the said order.

**28.**In the case of *Mange Ram vs State of Madhya Pradesh and another*<sup>2</sup> Hon'ble Supreme Court in the case of 498A and 34 of Indian Penal Code read with Section 3 and 4 of the Dowry Act relating to cruelty by the husband or his relatives discussed the various provisions and observed that Section 498A of the IPC prescribed punishment, where a woman is subjected to cruelty by her husband or his relatives. The offence is punishable with imprisonment for a

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<sup>2</sup> 2025 (AIR) (SC)3737

term which may extend to 3 years and also provides for fine. The explanation appended to the provision defines cruelty in two parts. Clause (a) reference to willful conduct, which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb, or health, whether mental or physical. Clause (b) expands the scope of the term to include harassment with a view to coercing the woman or relatives to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand. It is held by Supreme Court of India in catena of decisions putting much emphasis that mere emotional distress or a single fight doesn't constitute cruelty. The torture must be inflicted with intent to cause grave injury or drive the victim to suicide. It was further held that where the allegations are bereft of any specific particulars allowing the prosecution to proceed would amount to gross abuse of the process of law.

**29.** It can be further found from various judicial pronouncement where the allegations did not meet the legal definition of cruelty under Section 498A IPC and the complaint is devoid of specific instances that would justify the prosecution, the court must be satisfied about substantial evidence to support such claim of cruelty.

In this case prior to such complaint, no allegation was made against the appellant or any of the in-laws, despite being aware about the torture inflicted upon the victim. Prima face, there is no proof regarding social marriage, but at the time of the registration the father of the victim and the mother-in-law and the appellant were present. Admittedly immediately after marriage, they lived at

a rented accommodation as the family members of Jagadish used to live at Raiganj. Admittedly, the marriage was the outcome of the love affair between the victim and appellant which turned sour and the victim felt neglected and disrespected by her husband and in laws.

**30.** Therefore on close scrutiny no direct evidence of torture can be found which was inflicted upon the victim or any specific allegation of the mode and manner of torture. The evidence of uncle who tried to impress the Court about the torture inflicted upon the victim, neither present at the time of marriage nor invited her beloved niece and her husband after their marriage, nor developed such a relation that they would come voluntarily to his house. He could learn about the matrimonial discord from his niece on the way when she was coming to her father's place. After her marriage he was invited to attend the Griha Pravesh ceremony about two years back to the occurrence and thereafter, this witness went to the house of the accused persons on the date of incident and found the victim as well as the accused and his parents, present there and also found Jagadish weeping. This witness even said in his cross examination that the relation between the deceased and the accused was more or less good. Therefore his evidence fails to inspire any confidence regarding the torture upon the victim and cannot be relied upon for the purpose of corroboration. Most of the witnesses, family members or near relatives made omnibus allegations about the torture inflicted upon the victim by the husband and in-laws without giving any specific day or time or year and what steps they took after being aware about the same when the parties were continuing with the

marital relation about 5 years . The evidence of the sister on the other hand discloses that her visit to the house of the accused was three months prior to the death of her sister, and she only expressed about her dissatisfaction over the issue of coming late by the husband of the victim. This dissatisfaction of the victim can also be found from the evidence of the father and Dhiman Das. The accused also in his examination mentioned about this fact.

**31.** P.W.5 Dhiman Das the neighbour denied the suggestion that he encroached 1 acre of land and constructed the compound wall or there was Salish on many occasions regarding the alleged encroachment. But his evidence manifest that the compound wall is at a distance of about 4 ft from the building. When they constructed the compound wall, the adjacent land upon which the accused persons constructed their house, belong to other persons. Therefore from his evidence the possibility of the dispute over boundary wall between the accused and the P.W.5 cannot be ruled out. That apart he was aware about the torture being inflicted upon the victim regularly but he did not inform any authority or each the parent of the victim. This witnesses and the de-facto complainant mentioned about a burn injury sustained by the accused persons. The appellant and his mother since deceased during their examination under Section 313 of the Code of Criminal Procedure also mentioned about the injury sustained by them because of such incident of fire and for that reason, the accused husband could not take the victim to the hospital. The Learned Court considered the memo of arrest and found nothing to show that they also sustained burn injury. In absence of any medical paper of the accused persons,

it is difficult to ascertain the extent of injuries, sustained but the evidence clearly speaks of the burn injury of the accused persons whom all the witnesses found lying along with the victim at the same place, on the relevant day when went to the house of the accused persons. The version of P.W.4 Sandhya Sarkar, the mother of victim who went to the house of the accused persons after being informed about the incident and found the accused lying on the floor in the first floor bedroom did not say about sustaining any burn injuries on the hands of the accused, can be presumed that she deliberately did not divulge the real condition of the accused since her daughter was found in such condition.

**32.** In this case, there were two investigating officers P.W. 13 and P.W. 14. P.W. 13, that on April 16, 2002, he was attached with Kasba Police Station and he identified his signature on the seizure list where by the page of a diary was seized. He could not identify the signature on the sketch map and index, and the same was marked as X for identification. He heard that the SI Hiralal Ghosh, who did the investigation, is dead. P.W. 14, Neil Kamal Mukherjee received the complaint on April 16 2002 and filled up the FIR. The case was endorsed for investigation to S.I Hiralal Ghosh. This witness identified the signature of Hiralal Ghosh on the sketch map and index, and also the seizure list. This witness submitted the charge-sheet.

**33.** In absence of the original investigating officer, it could not be ascertained regarding the treatment of the accused persons because of such burn injury. However, there remains no room left for not believing that the appellant did not

sustain any burn injury on the same date along with the victim in view of the evidence laid before the court on behalf of the prosecution witnesses. On cumulative assessment of the entire fact and circumstances, there remains no doubt that the prosecution failed to establish that any physical or mental torture was inflicted upon the victim to that extent for which she was compelled to commit suicide. The place of occurrence where the unfortunate incident took place is found not mentioned. After the incident, none of the F.I.R. named accused persons left the premises and each of the witnesses found present at the place. Not taking the victim to the hospital only cannot be the reason for raising doubt against the accused persons that they intentionally did not take her to hospital when the factum of sustaining injury to the husband also sustained injury. From the examination of the mother of the appellant, the co-accused that while removing the body of Uma to Hospital the injury was sustained in her legs, and this also corroborates with the version of the doctor. So there were no other injuries found in the body to establish any physical torture.

**34.** The page of the diary also discloses the emotional state of the mind of the victim who might have not received the due recognition from her parents-in-law and not even from her husband up to her expectation. However she did not intend to commit suicide considering her minor child, but despite that she committed suicide within 2 months, which is a very unfortunate incident. However on careful consideration of the entire facts and circumstances it is glaringly visible that the prosecution has failed to establish that there was

cruelty inflicted upon by the accused to that extent that the victim lady compelled to commit suicide.

**35.**In the case of ***Charan Singh vs State of Uttarakhand***<sup>3</sup> the Hon'ble Supreme court held that mere death of the deceased being unnatural in the matrimonial home within 7 years of marriage will not be sufficient to convict the accused under Section 304B and 498A IPC if the cruelty or harassment is not proved to be soon before the death.

**Conclusion**

**36.** Therefore this court concludes that on consideration of the testimonies of the witnesses the ingredients of section 498A has not been proved against the Appellant, by the prosecution beyond the shadow of all reasonable doubts.

**37.** Hence this Criminal appeal stands allowed. The judgement and order of conviction is hereby set aside. The Appellant is hereby acquitted. The appellant be released from the bail bond if any in terms of 481 of BNSS.

**38.** Let a copy of this judgement along with the T.C.R be sent down to the concerned court forthwith for necessary compliance.

**39.** Urgent certified copy if applied by any of the parties to be supplied subject to observance of all formalities.

**(CHAITALI CHATTERJEE DAS,J.)**

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<sup>3</sup> 2022 SCC online SC 162