IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (DB) No. 245 of 2019
[Against the Judgment of conviction dated 06.02.2019 and order of sentence dated 08.02.2019 passed by the learned Addl. Sessions Judge-II, West Singhbhum at Chaibasa in Sessions Trial Case No. 94 of 2016].

Abdul Rashid, son of Alijan Hussain, resident of village Jivanwadi Chattani, P.O and P.S. Chakradharpur, District- Singhbhum West.
.....APPELLANT

Versus

The State of Jharkhand ……RESPONDENT

……

For the Appellant : Mr. Sanjeev Thakur, Advocate.
For the State : Mr. Pankaj Kumar, P.P.

……

P R E S E N T

SRI ANANDA SEN, J.
SRI PRADEEP KUMAR SRIVASTAVA, J.

J U D G M E N T

Dated: 27.10.2026
By Court:

This criminal appeal is directed against the Judgment of conviction dated 06.02.2019 and order of sentence dated 08.02.2019 passed by the learned Addl. Sessions Judge-II, West Singhbhum at Chaibasa in Sessions Trial Case No. 94 of 2016, whereby the appellant was found guilty of the charge under Section 304B of the Indian Penal Code and convicted and sentenced to undergo imprisonment for life.

2. The learned counsel for the appellant submits that the impugned judgment of conviction and sentence has been passed mechanically and without appreciating the evidence available on record. He further submits that the witnesses who supported the prosecution case are interested witnesses; thus, their evidence cannot be relied upon without corroboration. He contends that there is no eyewitness to the occurrence and that the essential ingredient of Section 304(B) IPC is missing in this case. He also submits that there are no external injuries

on the body of the deceased, which suggests that there was no application of any force or assault to the deceased. He also submits that there are contradictions in the depositions of the prosecution witnesses; thus, the prosecution has not been able to prove its case beyond a reasonable doubt. On these grounds, he prays for acquittal of the appellant.

3. Learned counsel appearing on behalf of the State, opposing the prayer of the appellant, submits that the prosecution witnesses have supported the case of the prosecution and there are other corroborating materials to establish the charge levelled against the accused person. It is his further contention that the prosecution has proved its case against the appellant beyond a shadow of a doubt by leading oral evidence that supported the prosecution case. He also adds that the prosecution has been able to prove its case against the accused person as soon before this occurrence, a *panchayat was held; thereafter, the deceased was brought to her in-laws' house and within 10 days of her Vidai, she was found dead at her in-laws'* house. On the aforesaid grounds, he submits that the impugned judgment of conviction and order of sentence passed by the learned court is justified and should not be interfered with.

4. The FIR is at the instance of P.W.5 (Md. Allauddin), who is the father of the deceased, in which he stated that the marriage of his daughter, Tawasum Parveen (the deceased), was solemnised six years ago with Abdul Rashid (the appellant). After some days of her marriage, her in-laws asked her to bring Rs.1,00,000/-. They also threatened to kill his daughter if she did not ask for money from him and started beating her. Two years ago, he had given Rs.50,000/-. Further, they also asked him for Rs.50,000/-. They threatened to kill his daughter if he did not fulfil their demand. On 3.9.2015 at 6:30 p.m., his relative, Md. Mokim informed the informant that his daughter had died. The informant, along with his family members, reached his daughter’s in-law's house, where he found that his daughter was dead. He asked his son-in-law about the death of his daughter, who told him that she had committed suicide, but he did not find any rope from which his daughter had committed suicide.

On the basis of the aforesaid *fardbeyan*, FIR being Chakradharpur P.S. Case No. 115 of 2015 dated 4.9.2015 was registered. After investigation, the police submitted a chargesheet under Section 304B IPC against the appellant. Accordingly, cognisance of the offence was taken, and the case was committed to the Court of Sessions, where charges were framed under Sections 304B and 302 IPC against the appellant; as the appellant pleaded not guilty, he was put on trial.

5. In order to prove the charges against the appellant, the prosecution had examined altogether ten witnesses, who are as follows:-

P.W.1- Chhota Jamal,
P.W.2- Md. Alam,
P.W.3- Md. Azharuddin,
P.W.4- Samiran Nisha,
P.W.5- Shekh Mohammad Alauddin (the informant),
P.W.6- Dr. Mahabir Prasad Gopalika,
P.W.7- Manir Ahmad,
P.W.8- Md. Samsher,
P.W.9- Md. Mokim,
P.W.10- Abdul Majid @ Md. Majid Ansari,
P.W.11- Yogendra Mishra (I.O of this case), and
P.W.12- Ashirunisa.

6. Several documents were also exhibited, which are as follows:-

Ext.-1: Postmortem Report,.
Ext.-2: Signature of P.W.7 on the seizure list.
Ext.-2/1: Signature of P.W. 8 on seizure list.
Ext.-2/2: Seizure list.
Ext.-3: Fardbeyan.
Ext.-3/1: Registration of fardbeyan.
Ext.-4: Formal F.I.R.
Ext.-5: Inquest report.

7. **P.W. 1- Chhota Jamal,** has deposed during examination-in-Chief that after the marriage, the deceased had gone to her in-laws' house, where she was blessed with a daughter. He deposed that the deceased's in-laws used to ask her for money and, on one occasion, she gave them Rs.50,000/- for business. Further, they asked the deceased for money. Thereafter, the deceased was taken to her parental house. After 2-3 months, she was taken to her in-laws' house, and after a week of the Vidai, he had gone to meet her, where he came to know that his granddaughter had committed suicide.

P.W.2- Md. Alam has deposed during examination-in-chief that Tawasum Parveen was his cousin. Her marriage was solemnised with Abdul Rashid, and after the marriage, she had gone to her in-laws' house and gave birth to a female child. Thereafter, her husband and in-laws started demanding dowry money from her, whereupon she gave them Rs.50,000/-. He further deposed that they began quarrelling with Tawasum Parveen, asked her for money, and left his cousin at her parental house. After about six months, she went to her in-laws' house, but after one week of the *Vidai*, Chhota Jamal informed him that Tawasum Parveen had committed suicide. Thereafter, they went to the house of his cousin, where he saw that she was lying dead.

P.W.3- Md. Azharuddin has deposed the same as stated by P.W.2.

P.W.4- Samiran Nisha (the mother of the deceased) deposed that her daughter's marriage was solemnised with Abdul Rashid on 13th April, 2010, as per Islamic rituals, and after the marriage she went to her in-laws' house, where she was blessed with a daughter. Thereafter, her in-laws demanded money from her. They gave Rs.50,000/- to her son-in-law. After six months, her in-laws again asked for money from his daughter, and they sent her daughter to her house. Thereafter, a *panchayat was held, the matter was resolved, and her daughter's in-laws took* her with them. After 5th days of *the vidai,* information was received about the occurrence. Thereafter, she and her family members went to her daughter’s house, where they found that her daughter was lying dead on her veranda. She saw marks on the arms and neck of the deceased.

P.W.5- Shekh Mohammad Alauddin (Informant) has deposed during examination-in-chief that Tawasum Parveen was his daughter. Her marriage was solemnised with Abdul Rashid in April 2010. One year after the marriage, she was blessed with a daughter. Thereafter, her in-laws demanded money from her. She had given Rs. 50,000/- to her son-in-law. After six months, her in-laws again asked for money from his daughter, and they sent her to his house. Thereafter, a *panchayat was held,* and the matter was resolved. He further deposed

that his daughter's in-laws had taken her with them. After 4-5 days of *the panchayati, information was received that his daughter had* died. Thereafter, he and his family members went to his daughter's house, where they found that his daughter was lying dead in her veranda. He saw marks on both arms and the neck of the deceased.

The doctor is **P.W. 6 (Dr. Mahabir Prasad Gopalika)**, who conducted the postmortem of the deceased. He found the following external and internal injuries on the person of the deceased;

> ***External Injuries:-***
> *(I) Thumb and fingers tips found on either side of wind pipe, marks looked brown dry bruise at the down of the neck. Face congested and swollen, eyes open lips bluish, mouth closed small bruise near elbows joint of right and left hand.*
> ***On dissection***
> *Hyoid bone featured haemorrhagic point seen in tissue. Larynx and trachea congested, lungs congested, heart right full of blood, left empty, liver, spleen, kidney- congested, bladder empty. Stomach semi digested brownish in colour food present, uterus congested. No foetus brain congested.*

He stated that the cause of death was asphyxia due to strangulation (throttling); further opinion on FSLT Report. And the time since death is within 18 hours. He has proved the postmortem report (Ext.1).

P.W. 7 (Manir Ahmad) and **P.W. 12 (Ashirunisa)** have deposed that they reached the matrimonial home of the deceased on hearing an alarm and saw the deceased hanging with a rope. Thereafter, they opened the rope and tried to save her. At that time, she was still breathing slowly. After some time, Abdul Rashid came and took her to the hospital, but she died on the way.

P.W. 8 (Md. Samsher), P.W.9 (Md. Mokim) and **P.W.10 (Abdul Majid @ Md. Majid Ansari)** deposed that after hearing that the wife of Abdul Rashid tried to commit suicide, they reached the house of Tawasum Parveen, where they found that she was lying on a cot and breathing slowly. After some time, Abdul Rashid reached there and took his wife to the hospital, but she died on the way.

P.W. 11 (Yogendra Mishra), is the Investigating Officer of this case, who during his examination-in-Chief stated that on 3.9.2015 he was

posted at Chakradharpur Police Station as S.I. and on that day, he received information on telephone that a woman had died at village Jivanbadi Chattani and on receiving the said information, he along with police force went to the place of occurrence, where he recorded the fardbeyan of the father of the deceased. After preparing the inquest report, he sent the dead body for postmortem to Sadar Hospital, Chaibasa. He recorded the informant's restatement at the place of occurrence and inspected the scene. During the course of the investigation, he seized a rope and an iron hook which were used to commit suicide. Thereafter, he prepared the seizure list (Ext.2/2). He arrested the accused and took his statement. He collected the postmortem report of the deceased. He also sent the viscera of the deceased for examination to SFSL.

8. After completion of prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. No evidence was adduced in defence by the appellant.

9. The Trial Court, thereafter hearing the parties and considering the evidence, had convicted the appellant for committing the offence under Section 304-B IPC and awarded sentence as aforesaid.

10. After considering the evidence and upon hearing the parties, we find that there are altogether 12 witnesses in this case. P.W. 6 is the Doctor, who proved the postmortem report of the deceased (Ext.-4). As per the opinion of the doctor, the cause of death was Asphyxia due to strangulation. Thus, from the medical evidence, it is clear that the death is homicidal.

11. Further, from the evidence of the witnesses as well as the evidence of the Investigating Officer, we find that the offence was committed inside the matrimonial house, where the deceased was residing along with her husband.

12. From the evidence of P.Ws. 7 and 12, we find that they have stated that when they reached the place of occurrence, they saw the deceased hanging by a rope and, with a view to saving her, they opened the rope. At that time, she (the deceased) was alive, but from the facts

of this case, we find that these witnesses are not reliable, as from the evidence of the doctor, it is clear that the deceased died due to asphyxia from strangulation, and there was an impression of thumb and finger tips found on the sides of the windpipe. Thus, it is clear that the deceased was throttled to death

13. It is an admitted fact that the deceased was the wife of Abudl Rashid (the appellant) and their marriage was performed on 13.4.2010, which is substantiated by the evidence of P.W. 5 (the informant and the father of the deceased) and P.W. 4, who is the mother of the deceased. The death of the deceased in this case took place on 3.9.2015, which is within seven years of the marriage.

14. Further, from the evidence of P.Ws. 1 to 5, it is evident that the deceased was subjected to ill-treatment by her in-laws due to non-fulfilment of dowry. This fact is also substantiated by the fact that a *panchayati* was also held a week before her death.

15. Further, the mother and father of the deceased have stated in their evidence that they saw marks on the hands and neck of the deceased, which is corroborated by the evidence of the Doctor (P.W.6), who has conducted the postmortem on the dead body of the deceased. He found marks of thumb and finger tips on the sides of the windpipe of the deceased and small bruises near the elbow joints of both hands.

16. Thus, all three ingredients necessary to draw the presumption of commission of the offence under Section 304B IPC have been proved and established by the prosecution against the accused-appellant. Thus, the prosecution has proved all the ingredients of Section 304B IPC. The accused did not discharge the onus of the reverse burden as per Section 113B of the Indian Evidence Act. Thus, the presumption of guilt against the accused/appellant goes unrebutted.

17. Under Section 304B IPC, the law sets a minimum sentence of seven years but allows courts the discretion to extend it to rigorous life imprisonment. However, judicial principles dictate that the maximum sentence of life imprisonment should never be awarded mechanically or as a matter of course. The appellant when he was sentenced to

maximum punishment of R.I for life was aged about 32 years. The Hon'ble Supreme Court in **Hem Chand v. State of Haryana** reported in **(1994) 6 SCC 727** has held that while imposing the sentence, awarding extreme punishment of imprisonment for life under Section 304B IPC should be in rare cases and not in every case. Paragraph No.7 of the Judgment is quoted as under:

> *"7. Now coming to the question of sentence, it can be seen that Section 304-B IPC lays down that:*
> *"Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."*
> *The point for consideration is whether the extreme punishment of imprisonment for life is warranted in the instant case. A reading of Section 304-B IPC would show that when a question arises whether a person has committed the offence of dowry death of a woman what all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death. It can therefore be seen that irrespective of the fact whether such person is directly responsible for the death of the deceased or not by virtue of the presumption, he is deemed to have committed the dowry death if there were such cruelty or harassment and that if the unnatural death has occurred within seven years from the date of marriage. Likewise there is a presumption under Section 113-B of the Evidence Act as to the dowry death. It lays down that the court shall presume that the person who has subjected the deceased wife to cruelty before her death caused the dowry death if it is shown that before her death, such woman had been subjected, by the accused, to cruelty or harassment in connection with any demand for dowry. Practically this is the presumption that has been incorporated in Section 304-B IPC also. It can therefore be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned above are satisfied. In the instant case no doubt the prosecution has proved that the deceased died an unnatural death namely due to strangulation, but there is no direct evidence connecting the accused. It is also important to note in this context that there is no charge under Section 302 IPC. The trial court also noted that there were two sets of medical evidence on the file in respect of the death of the deceased. Dr Usha Rani PW 6 and Dr Indu Lalit PW 7 gave one opinion. According to them no injury was found on the dead body and that the same was highly decomposed. On the other hand, Dr Dalbir Singh PW 13 who also examined the dead body and gave his opinion, deposed that he noticed some injuries at the time of re-post-mortem examination. Therefore at the most it can be said that the prosecution proved that it was an unnatural death in which case also Section 304-B IPC would be attracted. But this aspect has certainly to be taken into consideration in balancing the sentence to be awarded to the accused. As a matter of fact, the trial court only found*

that the death was unnatural and the aspect of cruelty has been established and therefore the offences punishable under Sections 304-B and 201 IPC have been established. The High Court in a very short judgment concluded that it was fully proved that the death of the deceased in her matrimonial home was a dowry death otherwise than in normal circumstances as a result of cruelty meted out to her and therefore an offence under Section 304-B IPC was made out. Coming to the sentence the High Court pointed out that the accused-appellant was a police employee and instead of checking the crime, he himself indulged therein and precipitated in it and that bride-killing cases are on the increase and therefore a serious view has to be taken. As mentioned above, Section 304-B IPC only raises presumption and lays down that minimum sentence should be seven years but it may extend to imprisonment for life. Therefore awarding extreme punishment of imprisonment for life should be in rare cases and not in every case."

18. Further, Hon'ble Supreme Court in **Kashmira Devi v. State of Uttarakhand** reported in **(2020) 11 SCC 343**, reiterated the principle laid down in Hem Chand (supra) and observed as under in paragraph No.24

"24. Having arrived at the above conclusion the quantum of sentence requires consideration. The High Court has awarded life imprisonment to the appellant on being convicted under Section 304-B IPC. The minimum sentence provided is seven years but it may extend to imprisonment for life. In fact, this Court in Hem Chand v. State of Haryana [Hem Chand v. State of Haryana, (1994) 6 SCC 727 : 1995 SCC (Cri) 36] has held that while imposing the sentence, awarding extreme punishment of imprisonment for life under Section 304-B IPC should be in rare cases and not in every case. Though the mitigating factor noticed in the said case was different, in the instant case keeping in view the age of the appellant and also the contribution that would be required by her to the family, while husband is also aged and further taking into consideration all other circumstances, the sentence as awarded by the High Court to the appellant herein is liable to be modified."

19. Considering the judgements and what has been held above, in the facts and circumstances of the case, the conviction of the appellant under Section(s) 304B of the Indian Penal Code vide judgment of conviction dated 06.02.2019 passed by learned Addl. Sessions Judge-II, West Singhbhum at Chaibasa in Sessions Trial Case No. 94 of 2016 stands upheld. However, the sentence awarded by the learned Trial Court vide order of sentence dated 08.02.2019 stands modified to the period already undergone, as the appellant has already served about eleven years of his sentence. Accordingly, this Criminal Appeal is **partly allowed**.

20. This Court directs the above-named appellant to be released forthwith from custody, if not required in any other case.

21. Pending interlocutory application, if any, also stands disposed of.

22. Let the Trial Court Records be sent back to the Court concerned forthwith, along with a copy of this judgment.

(**ANANDA SEN, J.)**

(PRADEEP KUMAR SRIVASTAVA, J.)

Jharkhand High Court, Ranchi.
Dated the 27th October, 2026.
Anu-Cp.-3.

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