



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 775 OF 2025

Shri. Gopinath Kachru Magare,
Age : 59 years, Occ : Labour,
R/o: At Post Devgaon, Taluka Badnapur,
District : Chh. Sambhajinagar.
At Present Lane No.5, Prakash Nagar,
Chh. Sambhajinagar.

... Applicant/Informant.

Versus

1. Shri. Satish Govind Bhole,
Age : 25 years, Occ : Agriculture,
R/o: Mahalpimpri,
Taluka and District Sambhajinagar.
2. Shri. Santosh Govind Bhole,
Age : 28 years, Occ : Agriculture,
R/o : Mahalpimpri,
Taluka and District Sambhajinagar.
3. Smt. Sulochana @ Sulabai Govind Bhole,
Age : 65 years, Occ : Agriculture,
R/o : Mahalpimpri,
Taluka and District Sambhajinagar.
4. Smt. Amrapali Santosh Bhole,
Age : 25 years, Occ : Agriculture,
R/o : Mahalpimpri,
Taluka and District Sambhajinagar.
5. The State of Maharashtra
Through Police Station Officer,
Chikalthana Police Station,
Sambhajinagar.

... Accused/Respondents

.....
Mr. S. P. Ingle h/f Mr. Rahul M. Jade, Advocate for the Appellant.
Mr. Imran Khan Guffar Khan Durrani, Advocate for Respondent Nos.
1 to 4.
Mr. S. G. Sangle, APP for Respondent No.5-State.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 09.02.2026

Pronounced on : 11.02.2026

JUDGMENT :

1. By invoking Section 372 of Cr.P.C., original complainant, on whose report crime was registered for commission of offence under Sections 498-A, 306, 304-B r/w 34 of IPC, is hereby assailing the judgment and order of acquittal passed by learned Additional Sessions Judge, Chhatrapati Sambhajinagar in Sessions Case No. 91 of 2017.

2. In short, prosecution story in trial court is that, informant's daughter, namely Neeta, was married to present respondent no.1 on 21.02.2011. There was proper treatment to Neeta for initial period of one year, however, after delivery of girl child she was subjected to ill-treatment. After birth of second girl child, ill-treatment was aggravated. That, there was demand of Rs.50,000/- for construction of house. Getting fed up of said ill-treatment, on 01.10.2016 Neeta consumed poison and succumbed, followed by lodgment of complaint by PW1 father resulting into registration of above crime for above offence, and after chargesheet and trying accused, learned Additional

Sessions Judge, by its judgment dated 30.08.2025, recorded a finding that prosecution failed to bring home the charges and acquitted the accused.

Original informant is the appellant herein, who questions the legality and sustainability of the above judgment.

3. Learned counsel for the appellant would point out that, there was mental and physical cruelty on two counts, i.e. firstly, for delivering girl children on both occasions. That, accused desired male child. Secondly, after one year, there was demand of Rs.50,000/- for construction of house. That, on both above counts, all accused persons who are husband and in-laws, ill-treated deceased Neeta. That, her suicide being within seven years of marriage, there were charges of 304-B of IPC. That, prosecution had rested its case on the evidence of four witnesses. However, said evidence has not been correctly appreciated by the trial court even when the essential ingredients for attracting the charges were available. Consequently, he prays to set aside the impugned judgment by allowing the appeal.

4. Per contra, learned counsel for original accused-respondent herein would support the judgment of acquittal on the ground that,

allegations being vague, omnibus and general in nature and there being no independent corroboration to the version of informant and further, as none of the ingredients for attracting Section 498-A were available, learned trial court held the said charge to be not proved. He further pointed out that, only allegation was of demand of Rs.50,000/- for house, however informant himself has admitted in his cross that accused had both, agricultural land as well as a house, and therefore finding above allegations baseless and there being nothing on record to show that there was abetment, according to him, learned trial court further committed no error in acquitting the accused. Resultantly, for want of merits, he prays to dismiss the appeal.

5. Re-analyzed and re-appreciated the evidence. As pointed out, case of prosecution is rested on the testimonies of four witnesses i.e. PW1 informant-father, PW2 informant's wife, PW3 pancha who has not supported prosecution and PW4 Investigating Officer. The crucial evidence is of PW1 and PW2. The sum and substance of their evidence is as under :

PW1 deposed about marriage of his daughter with accused no.1 on 21.02.2011. According to him, for a period of one year, there was good treatment to his daughter. Further according to him,

after delivery of girl child, accused persons gave ill-treatment to his daughter. After delivery of second girl child, on same reason there was torture. Then he stated that there was demand by accused to the tune of Rs.50,000/- for construction of house. Whenever his daughter visited, she reported above conduct. On 01.10.2016, news of admission of his daughter and her two daughters was received and doctor had declared all three dead. He stated that, there were burn injuries to his daughter as well as on the person of her two daughters and therefore he lodged complaint.

While under cross, as pointed out, he has admitted that, accused persons were having their own agricultural land as well as house. He admitted that he did not file complaint anywhere earlier. He admitted that, his daughter never called on mobile phone. Rest is all denial.

PW2 Wife of PW1, also in her evidence at Exhibit 50 deposed that good treatment was meted out for only two to three months of marriage. According to her, after birth of second girl child ill-treatment commenced i.e. by raising demand of Rs.50,000/- for house and that her daughter, whenever came to the house for festivals, reported above the ill-treatment, and she finally deposed about getting the news on 01.10.2016 regarding hospitalization of her daughter and grand-daughters and they succumbing to the same.

While under cross, even this witness like her husband has admitted that accused had their own agricultural land and their

own house and that their economical condition was sound. Rest is all denial

6. Before proceeding to analyze the above evidence, it would be fruitful to refer to the settled legal position as regards to Section 498-A of IPC. The Hon'ble Apex Court, in the case of ***Manju Ram Kalita v. State of Assam***, reported in (2009) 13 SCC 330, has clarified as to what is meant by "cruelty" which is contemplated under Section 498-A of IPC. It is held that, cruelty must be assessed contextually which is distinct from its usage in other statutes. The germane of the accusation which is expected to be established is that, the woman was subjected to cruelty "continuously" or "persistently" or at least in close proximity to the time of lodging complaint. There has to be willful conduct to drive the woman to commit suicide or to cause grave injury to her life, limb or health (mental and physical). It has to be demonstrated that there was harassment with the view to coercing her or her relatives to meet any unlawful demand and harassment was on account of failure to meet the same. The above propositions are also echoed and reiterated in the recent judgment of the Hon'ble Apex Court in the case of ***Smt. Bhagwati Devi v. State of Uttarakhand*** reported in 2025 INSC 1051.

7. Here, from above substantive evidence of informant and his wife, it is emerging that allegations of ill-treatment are attributed to all four accused without specifying their roles or the form of ill-treatment and what happened when. They have merely stated that, after delivery of girl child accused gave ill-treatment. But what was the form of ill-treatment and by which of the accused, is apparently not stated by them. As regards to allegation of demand of Rs.50,000/- for construction of house, while under cross, they both have admitted that accused to be already having agricultural land as well as their own house. Therefore, as regards to cruelty is concerned, above is the only evidence which is apparently vague and general.

8. So far as charge under Section 306 is concerned, for attracting the same, it was incumbent upon prosecution to show that accused abetted or induced the commission of suicide. Law to that extent is repeatedly reiterated by the Hon'ble Apex Court in numerous cases, and the few cases which can be named are *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618, *S. S. Chheena v. Vijay Kumar Mahajan and Others* (2010) 12 SCC 190 as well as *M. Mohan v. The State represented by The Deputy Superintendent of Police* MANU/SC/0161/2011, wherein standard of "instigation" is elaborately dealt and discussed.

Even, recently in the case of ***Abhinav Mohan Delkar v. State of Maharashtra and others***, MANU/SC/1103/2025 the Hon'ble Apex Court has reinforced "proximate trigger" doctrine emphasizing that there has to be close temporal and casual connection between the conduct of accused and the alleged suicide. Continuous harassment, without recent instigation, is held to be not sufficient to sustain the charge.

In the case in hand, marriage is shown to be of February 2011. Suicide is shown to be committed in October 2016 i.e. after five years of marriage. However, though unnatural death is within seven years of marriage, there is no evidence to show that accused persons abetted the said suicide. There is nothing in this direction.

9. As regards to offence of Section 304-B IPC is concerned, law is fairly settled that, it is duty of prosecution to substantiate that soon before the death, there was harassment or ill-treatment with regard to dowry demand.

In ***Bansi Lal v. State of Haryana***, (2011) 11 SCC 359, the Hon'ble Apex Court has held that, while considering case under Section 304-B, **cruelty has to be proved during close proximity of time**

of death and it should be continuous and such continuous harassment, physical or mental, by accused, should make life of deceased miserable, which may force her to commit suicide.

In *State of Rajasthan v. Girdhari Lal*, (2013) 15 SCC 269, the Hon'ble Apex court has observed that the period which can come within the term "soon before" cannot be put within the four corners of time-frame. It is left to the court for its determination depending upon the facts and circumstances of each case. On facts, though in the past there was cruelty and harassment in connection with dowry demand, yet there was no evidence on record to come to a definite conclusion that soon before her death the cruelty and harassment which the deceased suffered was for or in connection with any demand of dowry, in such situation the presumption under Section 113-B of the Evidence Act also cannot be drawn.

Likewise, in *Manohar Lal v. State of Haryana*, (2014) 9 SCC 645, the Hon'ble Apex Court has observed that, as per definition of "dowry death" in S. 304-B IPC and wording in presumptive S.113-B, Evidence Act, one of the essential ingredients, amongst others, in both the provisions is that the woman concerned must have been "soon before her death" subjected to cruelty or harassment "for or in

connection with the demand of dowry”. The Hon’ble Apex Court further observed that the proximity test has to be applied keeping in view the facts and circumstances of each case and the facts must show existence of a proximate live link between effect of cruelty based on dowry demand and death of the victim.

Similarly, in ***Sher Singh v. State of Haryana***, (2015) 3 SCC 724, the Hon’ble Apex Court held that there must be live link and proximity between cruelty emanating from dowry demand and death of woman. The words “soon before her death” indicate that there must be a live link between the cruelty emanating from a dowry demand and the death of a young married woman, as is sought to be indicated by the words “soon before her death”, to bring Section 304-B into operation; the live link will obviously be broken if the said cruelty does not persist in proximity to the untimely and abnormal death. It cannot be confined in terms of time. The demand for dowry should not be stale or an aberration of the past, but should be the continuing cause for the death under Section 304-B or the suicide under Section 306 IPC.

10. The germane of above provision is that soon before death, i.e. in close proximity, deceased must have been shown to be subjected to

cruelty in the backdrop of dowry demand and consequently, death must have been unnatural one. In the present case, evidence to that extent is also missing and therefore, both offences of Sections 306 and 304-B of IPC fail.

11. Perused the impugned judgment. There is no corroboration to the testimony of informant. No independent witness has been examined except informant and his wife. Their evidence is also full of general and vague allegations on the point of ill-treatment and demand. Consequently, there is no fault on the part of the trial court in acquitting the accused. No case being made out on merits, following order is passed :

ORDER

The Criminal Appeal is dismissed.

[ABHAY S. WAGHWASE, J.]