



2026:DHC:947



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 06th November, 2025
Pronounced on: 05th February, 2026*

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CRL.A.1563/2025

STATE

Through Secretary,
GNCT of Delhi

.....Appellant

Through: Mr. Utkarsh, APP for the State.

versus

RITU RAJ THAKUR

S/o Sh. Anand Thakur,
R/o Flat No. 655, Pocket-5,
Mayur Vihar, Phase-1,
New Delhi-110091

.....Respondent

Through: Mr. Tanveer Ahmed Mir, Senior
Advocate with Mr. Chandra Shekhar
Anand and Mr. Daksh Sachdeva,
Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Appeal under Section 378 (1) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C'*), has been filed on behalf of the **Appellant/State** against the **Order dated 10.02.2017** of learned ASJ-04, Delhi whereby the **Respondent/Ritu Raj Thakur, has been acquitted under Section 498A/306 of the Indian Penal Code, 1860** (*hereinafter referred to as 'IPC'*) in FIR No. 36/2011, registered at Police Station Pandav Nagar.



2. The **brief facts** are that *Ms. Sharmistha* and *Accused, Ritu Raj Thakur*, got married on 06.03.2010, according to Hindu Rites and Rituals. *Ms. Sharmistha* committed suicide on 01.02.2011 by hanging herself with a bed sheet with the ceiling fan at her matrimonial home/rented accommodation at *H. No. 655, Pocket-V, Mayur Vihar, Phase-I, Delhi*, leaving a suicide note in her diary.

3. The incident was recorded *vide* DD No. 32A dated 01.02.2011 at 22:50 hours in the Police Station Pandav Nagar, on receipt of telephone call from LBS Hospital wherein it was recorded that she was brought dead due to strangulation by her husband for which MLC No. 1025/11 was prepared. The investigations were taken over by SI Sehdev Singh, who collected the MLC from the Hospital. The proceedings under Section 176 Cr.P.C were conducted by SDM, Preet Vihar, who tried to contact *Ms. Ranjeeta Sharma* and *Ms. Sharbani Kaushik*, sister and mother of the deceased on their telephones but they did not respond. The Crime Team also visited the spot and conducted the investigations. *Mr. Hukam Singh*, the SDM, Preet Vihar reached the spot on 02.02.2011, on receiving information from SI Sehdev Singh.

4. IO/SI Sehdev Singh conducted investigations and made enquiry from the neighbours, seized the exhibits from the spot and also the diary containing suicide note, mobile phone, dry blood and also earth control from the spot. On 03.02.2011, the mother, sister and other family members of the deceased, came to Delhi. Statement of *Ms. Ranjeeta Sharma*, the mother was recorded and on the basis of which, FIR No. 36/2011, Police Station Pandav Nagar, was registered.



5. After completion of investigations, the **Charge-Sheet** was filed in the Court on 26.04.2011 for the offence under Section 498A/304B IPC.
6. The **Charges** were framed on 19.11.2011 under Section 498A/304B/306 IPC.
7. The Criminal Revision Petition No. 135/2012 was preferred before this Court whereby the offence under Section 304B IPC, was set-aside. *The Respondent/Accused faced the trial for the offence under Section 498A/306 IPC.*
8. The Prosecution in support of its case, examined **21 Prosecution witnesses.**
9. **PW-1, Ms. Sharbani Kaushik** and **PW-4, Ms. Ranjeeta Sharma**, sister and mother of the deceased, deposed that she had been subjected to physical and mental harassment by her husband and in-laws for dowry demands and expressed their suspicion against the Respondent. They also proved the note book, Ex.PW-1/B containing handwriting of the deceased and the diary, Ex.PW-1/C in which, the deceased had written a suicide note.
10. **PW-3, Hukam Singh**, SDM, Preet Vihar, deposed that he had conducted the enquiry from the neighbours as no family member was available at the spot on 02.02.2011. He deposed about the articles as were found lying on the spot, which were seized by the Police. He conducted the inquest proceedings Ex.PW-3/B. In addition, he recorded the Statement of Ms. Ranjeeta Sharma, Mr. Anang Bhattacharya, Ms. Namita Dutta and also of the Accused/Respondent, Ritu Raj Thakur.
11. **PW-5, Rajeev Lochan Sharma**, maternal uncle of the deceased, corroborated and supported the allegations of harassment by the Respondent of the deceased.



12. **PW-9, Probindra Nath Sharma**, paternal uncle of the deceased also corroborated the allegations of harassment of the deceased by the Respondent.

13. **PW-6, HC Ram Divya** registered FIR No. 36/2011, Ex.PW-PW-6/A. **PW-7, Constable Satbir** remained associated with the IO from 01.02.2011 till 03.02.2011 with **PW-16, SI Sehdev**, IO, for the investigations. **PW-8 Constable Vinod Kumar** took the exhibits from the Police Station and deposited them with the FSL Rohini.

14. **PW-10, SI Vinod Kumar** seized the Complaint dated 10.11.2010 in the handwriting of the deceased against her husband in addition to treatment papers, receipt of dowry articles, printout of SMS etc. **PW-11, Constable Jagbir Singh** was a photographer, who took the photographs of the scene of crime, which are Ex.PW-11/A1 to Ex.PW-11/A6 and the negatives are Ex.PW-11/A7 to Ex.PW-11/A11.

15. **PW-12, Johnson**, Assistant, SBI Bank, Mayur Vihar Branch, identified the entries of Bank Account No. 31533119953 maintained by the deceased with State Bank of India, which is Ex.PW-12/A.

16. **PW-13, Mahesh Kumar** was a Draftsman, who has prepared the scaled Site Plan, Ex.PW-13/A.

17. **PW-14, Constable Amit Gulia** had joined the investigations with the IO on 04.02.2011 when the Respondent was arrested *vide* Arrest Memo, Ex.PW-14/A and his personal search memo is Ex.PW-14/B. **PW-15, Chander Shekhar**, Nodal Officer, Bharti Airtel, proved the Customer Application Forms, Ex.PW-15/A and Ex.PW-15/B in respect of Telephone Nos. 9810507214 and 9810407414 in the name of the Accused/Respondent and also the CDR Records between 01.08.2010 to 01.02.2011.



18. **PW-16, SI Sehdev Singh** was the Investigating Officer, who deposed about the investigations conducted by him.
19. **PW-17, Dr. Rajni Lohia**, LBS Hospital, had examined the deceased when she was brought to the Police Station and prepared the MLC, Ex.PW-17/A and also proved the Death Certificate, Ex.PW-17/B, which was issued.
20. **PW-18, Ms. Farzi Ahmed** deposed that he and the deceased had studied in the same school and he had attended her marriage. She had remained in contact with her and she had observed marks of beatings on her body, on account of demand of money by the Respondent. She also disclosed about the disturbing features at matrimonial home during her lifetime as per disclosed to her by the mother of the deceased.
21. **PW-19, Ms. Prachi** was together with the deceased in the Hostel in Mumbai while they were pursuing MBA course and she also narrated about the facts as per her knowledge about the deceased and also about her life after marriage. She also had attended her wedding and had remained in contact with her.
22. **PW-20, HC Rajinder Kumar** was working as Malkhana Muharir, who proved the Register No.19 as Ex.PW-20/B. **PW-21, Inspector Bharat Meena** took over the inspection from PW-16, SI Sehdev Singh and on completion of investigation, filed the Charge-Sheet in the Court.
23. The **Statement of the Respondent under Section 313 Cr.P.C** was recorded wherein he denied all the incriminating evidence. He stated that it was a dowry less marriage. He asserted that they used to go for outing and everything was fine except that she often remained lost. Initially, the Respondent felt that it was on account of the marriage and things would normalise in due course of time. However, in around May-June, 2010, he



found some photographs and video clips stored in the laptop of Ms. Sharmistha wherein she was seen in the company of a person in a room, whose name was disclosed as *Jitender Bhandare* with whom she was in contact and she wanted to marry and she had an affair with him prior to marriage. When these facts were brought to the notice of Ms. Ranjeeta Sharma and Ms. Sharbani, the mother and sister of the deceased, they hesitated to accept but later, they admitted these facts and the relationship turned sour. He tried to convince the deceased to forget the past and to change her mindset but to no result. He was in Assam from 22.01.2011 to 30.01.2011 and during this period, Ms. Mompy Sharma @ Monu stayed with her. On 30.01.2011, on the eve of her birthday, they went out for dinner to *TGIF, Great India Palace Mart, Noida*. Unfortunately, she committed suicide on 01.02.2011 out of sheer depression as she could not forget her past with Mr. Jitender Bhadare, with whom she wanted to live and was still in love.

24. The Respondent examined **DW-1, Mr. Dipak Mitra**, Deputy Manager, State Bank of Travancore, R.K. Puram Branch, New Delhi, who proved his Bank Account Statement, Ex.DW-1/2 for the period from 01.01.2010 to 31.03.2011 in regard to various transactions.

25. **DW-2, Ms. Mompy Sharma**, wife of Mr. Ankur Phukkan deposed that her husband, Ankur Phukkan and the Respondent were friends and they had family relationships. She further deposed that while the Respondent was away from 22.01.2011 to 30.01.2011, she stayed with the deceased at her house in Mayur Vihar and Ms. Sharmistha had disclosed to her about her past prior to her marriage and her affair with Mr. Jitender Bhandare besides



that she got married because of her mother and sister and that she was leading a dual life.

26. DW-3, Mr. Rajdeep Saxena, Deputy General Manager, M/s Ajnara India Ltd., proved the allotment letter dated 05.10.2010, Ex.PW-3/A in respect of *Flat No. G-603. Plot No. GH-03, Sector-16B, Greater Noida, District Gautam Budh Nagar, U.P.*, in the joint name of the deceased and the Respondent, which had been booked by them on the eve of demise of Ms. Sharmistha, another supplementary letter dated 10.05.2013, Ex.PW-3/2 was issued to the Respondent.

27. DW-4, Mr. Ananga Bhattacharya, who was also living in the Mayur Vihar, Phase-1, deposed that the Accused was the real brother of his wife and deposed about the cordial relationship between the deceased and her husband.

28. Learned ASJ after appreciation of the entire evidence as produced on the record, acquitted the Respondent vide Judgment dated 10.02.2017.

29. Aggrieved by the Judgment of acquittal, the Appeal has been preferred by the State. The grounds of challenge are that the consistent testimony of the public witnesses in regard to the cruelty inflicted upon the deceased by the Respondent, which drove her to suicide, has not been considered by the learned ASJ in the right perspective.

30. It has not been appreciated that the testimony of all these witnesses, was consistent. The minor contradiction and improvement did not affect the prosecution Case and should not have been made a ground for acquittal. If there was any contradiction, it was a simple natural variation, which is bound to occur. Also, the contradictions highlighted by the learned ASJ in the Judgment of acquittal, did not go to the root of the Prosecution Case so



as to render it, not believable. Reliance is placed on Mohd. Shahid vs. State, (2002) 7 AD (Delhi) 27.

31. The Trial Court has heavily relied on the *Suicide Note*, but has ignored the testimony of the witnesses and other material on record including the Complaint dated 10.11.2010 of Domestic Violence, Ex.PW4/A. The defence of the Accused that the deceased was in relationship with Mr. Jitendra Bharendare and he had seen the Lavasa photographs and video of the deceased, was not substantiated by him as he failed to produce any video clips or photographs in his defence, though they were in his possession.

32. The testimony of PW-4/Complainant, Ms. Ranjeeta Sharma had coherently deposed about how the deceased was beaten and mentally tortured by the deceased, which was consistent with her Statement, Ex.PW-4/A made to the SDM, which has not been considered. The learned Trial Court fell in error in not appreciating the testimony of PW-1, sister of the deceased, who had deposed about the exchange of messages showing that the Respondent used to advise her sister to take high dosage of *Episonin* and sleeping tablets and also that respondent used to beat her regularly.

33. Likewise, testimony of PW-5, PW-9, PW-18 and PW-19, who have all deposed about the acts of cruelty committed by the Respondent on the deceased, were not considered. It is submitted that there was overwhelming evidence to establish that the deceased had been subjected to cruelty during her married life.

34. On the aspect of the offence under Section 306 IPC, it is submitted that from the evidence on record, it is clearly evident that she had been instigated to commit suicide.



35. *The Impugned Judgment is bad in law and is liable to be set-aside.*

36. **Written Submissions have been filed on behalf of the Respondent,** who has controverted all the assertions made in the Appeal.

37. He has referred to Section 498A IPC and the testimony of the respective witnesses, to argue that no offence of harassment and cruelty under Section 498A, was established. The learned ASJ had rightly noted the inconsistencies in the Statement of PW-4/Smt. Ranjeeta Sharma. The demand of dowry *viz-a-viz* receipts of purchase of articles, were not proved. The allegations of transfer of Rs.1,40,000/- to the deceased by PW-4, was never proved as the Statement of Account, Ex.PW-12/A did not show any entry of Rs.1,40,000/-. The allegations of beating were without any specific instances.

38. The two Suicide Notes exonerated the Applicant. There is no evidence to establish any act of the Respondent, which could amount to abatement or instigation to commit suicide. No witness stated that the incident of December, 2010 reflected any *intention or instigation*.

39. It is further stated that the scope of interference in a Judgment of acquittal is limited and it is not to be interfered except under substantial and compelling circumstances.

40. Reliance is placed on Chandrappa vs. State of Karnataka, (2007) 4 SCC 415; State vs. Sanjay & Ors., 2011 SCC OnLine Del 2781; State vs. Vinod Kumar Yadav, 2015 SCC OnLine Del 9960; Ghurey Lal vs. State of Uttar Pradesh, (2008) 10 SCC 450; Umedbhai Jadavbhai vs. State of Gujrata, 1978 1 SCC 228 and Smt. Habiba vs. State of U.P., Application under Section 378 No. 54/2017.

Submissions heard and the record perused.



41. It is quite an unfortunate case where a young girl lost her life to suicide on 01.02.2011. On the Complaint of hapless and distraught mother, the Respondent/Ritu Raj Thakur, husband of the deceased had been charged with the offences under **Section 498A/306 IPC** on account of alleged dowry harassment and abetting his wife to commit suicide.

Allegations under Section 498A IPC:

42. To prove an offence under Section 498A IPC, the Prosecution must establish:

- (i) that the woman was subjected to cruelty or harassment by her husband or his relatives;
- (ii) such cruelty must either be with a view to coerce her to meet unlawful demands for property, or on account of failure to meet such demands; or
- (iii) such cruelty must be of a nature that is likely to drive the woman to commit suicide or cause grave injury to her life, limb or health.

Inherent Contradictions and Improvements in the statements of PWs:

43. The Prosecution relied primarily on the testimony of *PW4/Smt. Ranjeeta Sharma (mother)*, *PW1/Ms. Sharbani (sister)*, *PW5/Mr. Rajeev Lochan Sharma (uncle)*, to *PW18/Ms. Farzi Ahmad (friend)*, and *PW19/Ms. Prachi Khangde (friend)*.

44. To prove cruelty or harassment, the most material witness examined by the Prosecution is **PW4/Smt. Ranjeeta Sharma, mother of the deceased** who deposed that Sharmistha Kaushik her daughter, got married to the Respondent on 06.03.2010 at Tinsikia, as per Hindu rites and ceremonies. After the marriage, they both stayed for 24-28 days at the house of their in-



laws at Jorhat, Assam and thereafter, they went to Delhi and started residing at Mayur Vihar.

45. After about **two months**, Respondent started *torturing her daughter, as he was of suspecting nature*. In the month of **May, 2010** the daughter telephonically informed that she was badly beaten up by the Respondent, after questioning her about *one Jinendra*. She tried to talk to the Respondent, but he got agitated and stopped talking to her. She was not allowed to even talk to her daughter, by the Respondent. She came to Delhi on **03.07.2010** to meet her daughter without informing anyone and stayed at Assam House.

46. On the next day i.e. **04.07.2010** she went to the house of the Respondent at Mayur Vihar. After a long while, her daughter came out and she saw the swelling on her lip and black marks on her cheeks. There was a swelling on two fingers on her left hand which had got blackish. At that time, one of her colleagues was also present with her. Therefore, the deceased did not tell her anything except that she had received injuries due to fall. After taking dinner, while she was resting with her daughter in her room, she again enquired as to what had happened and how she had received the injuries. She broke down and told her that on the previous night she was badly beaten up by the Respondent by confronting her with the Telephone Bill of August, September and October, 2009 wherein a lot of calls had been made on a particular number. She took the daughter back to Assam on 07.07.2010 and got her treated in Assam. She got the X-ray of her fingers also done.

47. **PW-1/Ms. Sharbani, sister of the deceased** has deposed on similar lines, but has admitted that all this was told to her by the mother.



48. From the comprehensive reading of the testimony of the two witnesses, what emerges is that the deceased had started complaining about torture at the hands of the Respondent, because he was of suspecting nature. A significant aspect which has come forth in the testimony of PW-4 is that in May, 2010 she was told by the deceased that she was confronted by the Respondent with the Telephone Bills of August, September and October, wherein calls were repeatedly made on a particular number, which was of one Jinender, and she was beaten on this account. The mother tried to counsel, but thereafter she was not allowed to talk to the daughter.

49. Again, there is no cogent evidence in this regard about the Respondent torturing the daughter in relation to the boy, Jinender. Even if it was to be accepted, it reflects that there was some unease on account of frequent calls to the deceased, by one Jinender. The Respondent may have confronted the deceased about it, but that in itself cannot be termed as an act of cruelty.

50. To further claim that deceased was being tortured, **PW4, Smt. Ranjeeta Sharma** has relied on the incident of 04.07.2010, when she had found her daughter with injury marks and had taken her back to Johrat for her treatment. Pertinently, aside from the bald assertions, there is no specific details in regard to any of these incidents. There is neither any Medical record or any other cogent evidence, to support the assertion that the deceased was being physically tortured by the husband. She and the deceased alone were living in the Mayur Vihar house and there is no cogent evidence to show that she was being harassed by the Respondent.

51. **PW4/Smt. Ranjeeta Sharma** further deposed that while the deceased was with her in Johrat, the Respondent then started calling her daughter and



pleaded guilty and swore that he would not commit the mistake again. He pressurized her daughter to accompany him to his parent's house in Jorhat. She was further told by the daughter that at times, *the Respondent used to become ferocious*. She requested the parents of the Respondent to counsel him. She further deposed that her daughter was ill-treated at her matrimonial home and was made to work like a servant. She returned to Delhi on 28/29.07.2010, after the Respondent was counselled by his parents. After a few days, he again started physically and mentally troubling her daughter, as was told to her by the daughter on the telephone. Her younger daughter, Sharbani informed her in August, 2010 that the Respondent had sent a slang message to her.

52. Admittedly, the PW4 had come to Delhi on 03.07.2010 and she claimed that when she went to the house of the Respondent on 04.07.2010, she found the injury marks on the face and fingers of the daughter and had told her initially that she had suffered a fall. She brought her back to Assam on 07.07.2010 for her treatment and the daughter had told that she was badly beaten by the Respondent and she had got her treatment done and also the finger X-rayed. However, no medical record has been placed on record to corroborate that the deceased was beaten or that her mother had got her treated in Assam.

53. PW4, the mother (as well as PW-1, the sister) further deposed that in **October, 2010** the Respondent took her daughter to his parents house at Jorhat, but she was not allowed to visit her house on the death anniversary of her husband, on 21.10.2010. The parents of Respondent asked her deceased daughter to take an oath in a temple that she would not keep any relation with the mother and with her family members. They did not allow her to talk



to the mother. The daughter was physically and mentally tortured at Jorhat, by the Respondent and his parents. They both returned to Delhi.

54. Again, aside from bald assertions, there is nothing to corroborate that such acts tantamount to cruelty, of the kind, envisaged in Section 498A IPC. Rather, it may reflect some difference of opinion, *inter se* the families and some adjustment issues, but cannot be termed as acts of cruelty.

55. **PW4, Smt. Ranjeeta Sharma**, further deposed that the Respondent had asked her daughter, to bring money for the purchase of furniture. ***She deposited about Rs.1.40 lacs on different occasions, in the account of the daughter, for the purchase of furniture or for meeting other requirements.*** He did not give any money to her daughter for her maintenance, as was told to her by her daughter on telephone. She had borne the expenses of learning French language, by her daughter.

56. Her testimony that she had given money for purchase of furniture to the deceased or that she had been told about it by her daughter, did not find mention in the two Statements, recorded by SDM/Police. The PW-4, in her cross-examination, was unable to give the exact amount that was paid by her.

57. There is no Bank statement or any other document produced to show that she had given in all Rs.1.40 lacs, on different occasions. Even if it is accepted that she had been giving money from time to time to her daughter, there is nothing to show that it was at the behest of the accused or there were any kind of demands or that she was being harassed by the Respondent to bring the money. It cannot be over looked that the Respondent and the deceased were living independently in Mayur Vihar and even if it is accepted, though not proved, that the mother had given some money from



time to time to her daughter, there is no evidence to relate it to the demands or harassment of the deceased on this account.

58. She deposed that in **November, 2010**, the daughter also sent a SMS to Respondent by claiming that he had married her only for financial support. However, she admitted not having told about the SMS written by the daughter to the Respondent in November, 2010 about him having married her only for financial support, in her statements to the police/SDM.

59. Further, on **2nd and 4th November, 2010** the daughter sent an SMS requesting to take her back, as she was not able to suffer the torture or else something may happen to her. She, then along with her younger daughter, Sharbani came to Delhi on **08.11.2010**, to take back the deceased and stayed at a lodge. She gave telephonic information about their coming to Delhi, to the daughter. The Respondent was not letting the daughter to meet them.

60. On **09.11.2010**, the deceased had to appear in French language examination. She and the younger daughter went to the examination venue, where they met the deceased. When she returned to the house, she informed the Respondent on the telephone, while he was in his office that she had met the daughter. The Respondent warned her daughter to choose between him and her mother. The deceased tried to counsel the Respondent, but he told her to leave the house, before he returned.

61. PW4 went to the house of the Respondent on **10.11.2010**, to take back Sharmistha with her to Assam. At that time, brother of the Respondent was also present in the house. The deceased told the brother of Respondent that Respondent consumes too much liquor everyday and used to come home late in the night. The deceased requested the brother of the Respondent, to not allow the Respondent to do so and to counsel him. *She then took the*



daughter to her house, in Assam. She took the mobile phone of her daughter, because of tension in the family. She also asked the daughter to end the relationship with Respondent, if she was not finding it comfortable.

62. PW1, the sister also corroborated in her evidence, that in **November, 2010**, the deceased had complained to the mother on telephone, about physical and mental torture meted out to her and requested the mother to take her back. Accordingly, she and the mother came to Delhi and stayed in the Guest House. During the night, the deceased wanted to stay with them, but the Respondent told her that if she went to stay with the mother and the sister, she would have to leave the matrimonial home. On the next day, they took her back to Assam.

63. PW4 further deposed that on **25.11.2010**, Respondent telephoned the daughter, to tell her that the jewellery was not at home. Hearing this, the daughter became upset and started crying. The Respondent asked the daughter to come back to Delhi and search for the jewellery. The daughter prepared a Complaint about the loss of jewellery and came to Delhi. She informed the mother on telephone that on seeing the Complaint wherein it was mentioned that she had left the house while the brother of the Respondent was present at the house, Respondent told her that he was having her jewellery with him.

64. Again, aside from making generalized and vague allegations of the deceased having been subjected to physical and mental torture, there are ***no specific incidents*** which have been narrated to corroborate these assertions. Moreover, ***no independent and cogent evidence*** has been led to support these assertions. All the acts deposed above by PW4, again are not of the kind that can be termed as cruelty of harassment, under Section 498A IPC.



65. PW4 further deposed that the daughter got a job in Delhi in the Company Impact in December, 2010. She was hopeful that the things would get sorted out, but the situation did not improve. She was informed on telephone by the daughter “*theek hai theek hai tum tension mat lo*”, but she noted that her daughter was not in a jolly mood. The Respondent had gone to Jorhat on 22.01.2011, leaving the deceased alone in the house. He returned back to Delhi on 30.01.2011. In the absence of the Respondent, *she found the daughter alright, whenever she contacted her on telephone.*

66. On **01.02.2011**, while she called her daughter, she was alright and was going to her office. She called her again at lunch time and was told that the daughter was busy, as the two colleagues were on leave on that day and she was looking after their work as well. She asked the mother to call at around 6 P.M. The mother called her at 7 P.M. while she was in Metro. At about 08:00/08:10 P.M when she again called her by which time she had already reached her house, she started crying and told that she has got injured. She said that she was not in a mood to talk and would call later. Again, she called her daughter at 9 P.M, but none picked up the phone. At about 10 P.M when she gave a call to her, her phone was switched off. Next day, on 02.02.2011 at about 07:30 A.M she gave a call to the Respondent to enquire why the mobile phone of the daughter was switched off, on which he informed her that she has committed suicide. Her brother and brother-in-law came from Duliajan to Delhi, by Air. On 03.02.2011 she gave a statement to the Police which is Ex.PW4/A (earlier marked as Mark PW3/PA).

67. Pertinently, PW4 in her cross-examination stated that her statement was recorded twice, by the Police. She admitted that she did not tell to the SDM in her statement that *after about 2 months Accused/Respondent started*



torturing the daughter as he was of suspecting nature. She further admitted that she did not tell the SDM that in the month of May, 2010 her daughter had telephonically told her that she was beaten up by the Respondent after questioning her about a boy named, Jinender or that she tried to counsel him, but he got agitated and even stopped talking to her. She admittedly, had told not to the SDM as well as to the Police that on 04.07.2010 when she went to the house of the Respondent at Mayur Vihar, she saw her daughter with injuries on her face and two finger of left hand. In the statement under Section 161 Cr.P.C Ex.PW4/D1, where it was only recorded that she had noticed swelling on the face of the deceased due to beatings. She further admitted that she had no proof of her stay at Assam house or the tickets to prove her visit to Delhi on 03.07.2010. She reiterated that the daughter did not tell her anything as her colleague had accompanied her, except that she had received injuries in a fall, but again these facts are not mentioned in the two statements of the witness.

68. Her further statement that her daughter after the dinner while they were resting, informed her of being beaten badly by the Respondent by confronting her with the telephone Bills reflecting lot of calls been made on one number, but again these averments were missing from both the statements except that the daughter told the PW4 while weeping that her husband was torturing her very much.

69. This witness further admitted that in her two statements, it has not been recorded that she got the daughter treated in Assam or had got the X-ray of her finger done. Again, her testimony that the Respondent started calling the daughter or pleaded guilty and swearing in the name of the parents that he would not commit the mistake again, but the aspect of the



Respondent swearing in the name of his parents was not mentioned in the statement Mark PW4/D1.

70. She did not state that the name of the colleague of her daughter, was Sangeeta Burasagosain who had accompanied her to Delhi from Assam, but her presence was not recorded by the Police. She further admitted in her statement that the allegations that daughter was physically and mentally tortured at Jorhat by the Respondent and his parents, was not mentioned in her Statement under Section 161 Cr.P.C.

71. PW4 has tried to explain that she was unable to state so, as she was not in a fit condition at that time and was under pain and trauma, but she stated so in her statement recorded subsequently by the Police under Section 161 Cr.P.C. However, when she was confronted with the Statement under Section 161 Cr.P.C Ex.PW4/D1, these facts were not recorded therein, as well.

72. These material improvements and omissions in PW4's testimony, are not minor discrepancies attributable to lapse of memory or natural variation in narration. They constitute the introduction of entirely new facts, specific incidents of violence, medical treatment, X-rays, demands for money, all of which were never mentioned to either the SDM or the police, during investigation, especially when the events were fresh in her mind. Such embellishments cast serious doubt on the veracity of her testimony.

73. The other material witness who has corroborated the testimony of PW4, the mother is **PW1/Ms. Sharbani sister of the deceased** who deposed on similar lines, that after **2-3 months of the marriage** of her sister to the Respondent, she started complaining about physical and mental harassment for dowry demands and suspicion by the Respondent and her in-



laws. She used to tell the mother to bring her back. They used to talk daily on telephone 2-3 times, but she used to be scared to talk during the presence of the Respondent at home. In **July, 2010**, her mother had gone to the house of the deceased and found bruises on her face and finger. She brought the daughter back. Later, she was informed that she was given beatings by the Respondent. Her sister used to complain on telephone that the Accused used to drink liquor, come late and abuse and beat her. She also used to inform that after taking liquor, he used to talk about her illicit affair with another girl. He was not contributing anything for the expenses of the family and all the expenses were borne by the mother. *The Respondent used to ask for a Sofa set, Dining set and other furniture articles from the mother. The mother used to transfer the money to the account of the deceased from which the Respondent had got the furniture.* He used to scold the deceased for watching TV and for this reason the deceased had stopped watching TV. Prior to the marriage the deceased was working in Mumbai, but after marriage, she came to Delhi. She has to leave her job. The deceased was not getting any salary and the Respondent purposely removed the maid from the house and the deceased was made to do the household work.

74. PW1 further deposed that the accused then contacted the sister on telephone and emotionally blackmailed her by apologizing and stating that he would be a reformed person and would stop drinking and abusing. On the assurance of the Respondent, her sister returned to Delhi in December, 2010. Even thereafter, she made Complaints that the Respondent had not reformed himself. On 02.02.2011, they received the information about the deceased having committed suicide.



75. The testimony of the sister of the deceased is essentially about the communication between the mother and the deceased. She had not been personally witness to the alleged demands, harassment or to such communications. Even if her testimony is accepted, it is only corroborating what has been deposed by the mother, which does not establish any harassment of the deceased by the Respondent or his parents or of she having been subjected to cruelty which would have driven her to commit suicide.

76. The other witness examined by the Prosecution is **PW18/Ms. Farzi Ahmad** who deposed that she knew the deceased as they both studied together in the same school. She attended the marriage of the deceased with the Respondent in March, 2009. The deceased was very excited about the marriage and had shown her the photographs of the Respondent. She had visited the house of the deceased in April or May and she looked happy. She again visited her house in **July**, when she had noticed marks on her face and she was told by the deceased that the Respondent had beaten her *because of demand of money*. She also told that the Respondent had broken her laptop, which was gifted to her by her father. Because of the family disturbance, the deceased went back to the parental home in Assam. She returned to her matrimonial home in December, 2010 with her mother and sister. The mother of the deceased had asked her in December, 2010 when she met her in Khan Market, if she knew about her problems on which she told her about her visit to the house of the Sharmistha and what she had told her. Later she came to know that deceased had passed away.

77. The testimony of PW18 is as vague as it can be; though she narrated that in July when she visited the house of the Respondent, she found some



marks on her face and was told that she was beaten by the Respondent because of demand for money. This aspect of testimony is contradictory to the testimony of PW1, PW4 who had narrated that she had been beaten up on account of some person Jinender. She further deposed that deceased came back because of family disturbances in Assam and returned in December, 2010. Again, she has given vague date of the visit of the deceased to her parental home and it does not establish any kind of harassment at the hands of the Respondent. The testimony of PW18, does not in any way proves that the deceased was physically or mentally harassed by the Respondent.

78. The next material witness of the Prosecution was **PW19/Ms. Prachi Khandge**, who deposed that she was knowing the deceased since 4-5 years prior to her death, as they stayed together in a hostel in Mumbai. At that time, the deceased was doing MBA while she was also working. She was not happy with her marriage with the Respondent. She had spoken to the deceased three times after marriage, but she did not tell her the reason for being unhappy. As and when she asked for a reason, she told that she would tell later.

79. Pertinently, **PW19, Ms. Prachi Khandge**, in her cross-examination admits that *after few months of marriage*, deceased had told her about the Respondent suspecting her character. She, however, denied that the deceased had told her that she was abused and beaten by the Respondent. She admitted that the deceased her told her that Respondent used to take liquor and abused her, but stated that she did not remember if she was ever told that Respondent used to beat her or that she ever stated this to the Police in her statement Mark PW19/A. She further denied that the deceased had



told her that Respondent refused to give her money for expenses or that she was getting money for her monthly mobile bills and her expenses from her mother. She further denied that the deceased was hold her that she was not allowed to meet her mother or sister, by the Respondent.

80. The testimony of PW19 also does not prove that the deceased was being harassed, abused or tortured or any money demands were being made by her.

81. The comprehensive reading of the evidence of all the Prosecution witnesses reveals that the Prosecution has miserably failed to prove that there was any cruelty committed on the deceased, which could have driver her to kill herself or was harassed, as contemplated under Section 498A IPC.

Inadmissibility of the SMSs retrieved by PW5:

82. The Prosecution heavily relied upon SMS messages allegedly exchanged between Sharmistha Kaushik and her mother, as well as messages between Sharmistha and the Respondent/accused, to establish a pattern of cruelty and harassment. These messages were retrieved and translated by *PW5/Rajeev Lochan Sharma on 04.02.2011, Ex.PW5/A, Ex.PW5/B, Ex.PW5/C, and Mark PW5/A1*. However, the entire foundation of this electronic evidence crumbles, upon scrutiny of its legal admissibility.

83. PW5/Rajeev Lochan Sharma deposed that the SMS from the mobile of Sharmistha were retrieved by the police and reduced in physical form, which also bears his signature. He stated that he had translated some of the SMSs from Assamese to English.

84. At the outset, it is pertinent to refer to *Anvar P.V. vs. P.K. Basheer*, (2014) 10 SCC 473, wherein the Apex Court had clarified that electronic records cannot be proved through oral testimony alone and must be



accompanied by a Certificate meeting the stringent requirements of Section 65B(4) of the Evidence Act. This Certificate must identify the electronic record, describe the manner of its production, furnish particulars of the device used, confirm compliance with conditions under Section 65B(2), and bear the signature of a person occupying a responsible official position in relation to the operation of the relevant device.

85. In the present case, none of these requirements were satisfied. PW5, who retrieved the SMS data, was admittedly not a Forensic expert. No Certificate under Section 65B Evidence Act was produced at any stage. The mobile handset, from which the messages were allegedly retrieved, was released to the PW4/Complainant on 08.03.2011, a mere month after seizure, thereby destroying any chain of custody and eliminating any possibility of authenticating the contents, thereafter.

86. Moreover, **PW21, the IO** himself acknowledged that he knew the Data should have been sent to forensic expert, for analysis qua the authenticity of the contents of the deceased's phone, but inexplicably failed to do so. He deposed that he had no knowledge of the Assamese language. He did not take any assistance of any expert in the Assamese language, for the purpose of verification and correctness of the reproduced/translated messages, *Ex.PW5/A, PW5/B and PW-5/C*. He further stated since the mother of the deceased was well-educated, he reproduced the messages pursuant to translation/dictation given by her. He admitted that the mobile phone of the deceased was not produced, at the first juncture before him. It was produced and seized by the other SI and later on he had examined the mobile phone regarding its contents.



87. This conduct of PW21, IO was not merely a procedural oversight, but a fundamental abdication of investigative duty that renders the entire corpus of SMS evidence legally flawed and thus, inadmissible to assist the Prosecution case.

Inadmissibility of the Statement of Accounts:

88. Another aspect for the Prosecution's case is that the Respondent/accused made unlawful demands for money, claiming that the Complainant provided Rs.1,40,000/- to her daughter Sharmistha for furniture following demands from the accused and his family.

89. The Bank Account Statements of Sharmistha Kaushik, were produced by PW12/Sh. Johnson, Asstt. at SBI, Ex.PW12/A and Mark 10/C, the Complainant's account statement. PW12 deposed that the statement of accounts with respect to the deceased had been printed by using the system of the printer of the Branch. Admittedly, the Statement of Account of the deceased, Ex.PW12/A was certified merely by PW12, but does not bear the stamp of the bank on any page. Moreover, the period and date was also not mentioned.

90. The Statement of Accounts, produced by PW12, are the computer-generated electronic records, that were not proved in accordance with the mandatory requirements of Section 65B of the Evidence Act. The statement though produced through the SBI official, lacked any proper certificate under Section 65B. The Certificate notation written by PW2, stating it was "brought from SBI printer", is not as per the requirement under law.

91. Moreover, even if these Bank Statements may be read, they affirmatively failed to support the Prosecution's claims. The statement Ex.PW12/A does not show any transfer of Rs.1,40,000/- from the



Complainant to Sharmistha's Account, after the alleged demand for furniture in October, 2010.

Defence evidence:

92. The accused's own Bank Statement, Ex.DW1/2, while also technically deficient under Section 65B, was never effectively contradicted by the Prosecution and suggested that payments for the Flat came from the accused's own funds.

93. *DW3/Rajdeep Saxena*, Deputy General Manager of M/s Ajnara India Pvt. Ltd., deposed that one flat was purchased in October 2010, booked jointly in the names of both Sharmistha Kaushik (deceased) and Ritu Raj Thakur (accused), with both signing as allottees.

94. This arrangement is fundamentally inconsistent with the Prosecution's theory of dowry demand. If the accused were engaged in harassment and demands for money to purchase property, it defies common logic that he would ensure his wife's name appeared as joint owner with equal rights.

95. *The learned ASJ has rightly held that the offence under Section 498A IPC was not proved against the Respondent.*

Allegations under Section 306 IPC:

96. The second Charge against the Respondent is under *Section 306 IPC* for having abetted the deceased to commit suicide.

97. Section 306 IPC requires proof of abetment as defined in **Section 107 IPC**, which means the accused must have either:

- (i) instigated the suicide,
- (ii) conspired to cause it, or
- (iii) intentionally aided it.



98. The term “instigate” means to actively provoke, incite, or urge someone toward the act. Crucially, mere cruelty is insufficient, there must be proof of *mens rea* (guilty intention) and a direct connection between the accused’s conduct and the suicide.

99. The offence under **Section 306 IPC** deals with abetment of suicide. It provides that if any person abates the commission of suicide, he shall be punished with the imprisonment as provided therein. Therefore, the most essential ingredient required to be established for bringing home the offence under Section 306 IPC, is abetment.

100. The term ‘*abetment*’ is defined under **Section 107 IPC**, according to which, *a person would abate if he instigates, encourages or enters into a conspiracy for doing a thing or if he intentionally aids by any act or illegal omission for doing that thing.*

101. **Section 114 IPC** is an explanation or clarification to Section 107 IPC. It provides that whenever any person is absent but was present when the offence in consequence of abatement is committed, he shall be deemed to have committed such an act or offence and would be liable for punishment as an abetter.

102. The Apex Court in Ramesh Kumar vs. State of Chhattisgarh, (2001) 9 SCC 618, held that the term ‘*instigate*’ means to goad, urge, provoke, incite or encourage to do ‘an act’. For instigation, it is not required that the actual words must be used to that effect or the words should be specifically suggestive of the consequences. To satisfy the requirement of the ‘*instigation*’ it is important that the act/omission or by the continued course of conduct, a situation is created, where the deceased is left with no other option except to commit the suicide. A word uttered in a fit of anger or



emotion without intending the consequences to actually follow cannot be said to be ‘instigation’.

103. In Chitresh Kumar Chopra vs. State (NCT of Delhi), (2009) 16 SCC 605, relying upon Ramesh Kumar (supra), the Apex Court has held as under:

In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that:

(i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and

(ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of mens rea is the necessary concomitant of instigation.

104. In Amalendu Pal vs. State of W.B., (2010) 1 SCC 707, the Apex Court has observed that for an offence under Section 306 IPC, *it is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306 IPC is not sustainable.*

105. Similarly in Rajesh vs. State of Haryana, (2020) 15 SCC 359, the Apex Court has refused to convict an accused under Section 306 and 107 IPC *on the allegation of harassment without there*



being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit the suicide.

106. In the light of the aforesaid judgments, it is abundantly clear that to constitute abetment, there has to be ***instigation, encouragement*** or ***aid*** in committing of an act, which leads to commission of suicide.

107. *In the present case*, the Prosecution presented only general, vague allegations that the accused drank heavily, beat his wife, told her to take pills, and suspected her character. However, not one specific instance was proved with dates, details, or corroboration. No incident of December 2010 or January, 2011 (the crucial period before death) was established. These remain bald allegations without substance, insufficient to prove deliberate instigation.

108. Furthermore, there is no evidence that the accused intended or desired Sharmistha to commit suicide. As held in *Mahendra Singh vs. State of M.P.*, AIR 1998 SC 601, harsh words spoken in anger during marital disputes do not constitute *mens rea* for abetment. Without proof of wilful conduct designed to drive her to suicide, Section 306 cannot be sustained.

109. The chronology of events destroys the theory of *proximate causation*. The accused was in Assam from 22-30.01.2011, during which the deceased stayed with her friend ***DW2/Mompy Sharma***. The accused returned on 30.01.2011, and they celebrated the birthday of the deceased with dinner that evening. The suicide occurred on 01.02.2011.

110. Significantly, the preliminary **suicide note Q-1** ("*The worst part about this b'day - a day after it... I can't live anymore*") was written a day prior to the suicide, suggesting she had already decided to die, while the accused was absent or immediately after the birthday celebration. As rightly



noted by the learned ASJ, there is a time gap between the suicide note and the previous note, which appears to have been written when the accused was in Assam.

111. In Sanju vs. State, AIR 2002 SC 1998, it was held that when suicide occurs days after alleged incidents with intervening events, proximate connection fails. The week-long physical separation and the intervening event (birthday dinner) breaks any chain of causation between alleged prior conduct and the suicide.

112. *DW2/Mompy Sharma* also stated that during the aforesaid period when the deceased stayed at her house, the deceased seemed to her a bit lost and depressed, which was noticed by her on 22.01.2011 itself. Upon her persistent asking, the deceased disclosed about her past affair with Jinender Bhandare and ***expressed unhappiness*** about her marriage choice. The deceased had also told DW2 that all her family members were aware of this fact and had purposely asked her not to disclose the same to the accused. Furthermore, the deceased felt like she was living a dual life as she loved somebody else and got married to somebody else and was feeling guilty about it.

113. The **suicide note Q-2**, confirmed to be in Sharmistha's handwriting, states, "*No one is to be blamed for my death ... I am in great depression. ... No one - not a single person is to be blamed for my this action. ...*" She apologized to her husband, mother, and sister for not meeting their expectations.

114. In Gurucharan Kumar vs. State of Rajasthan, (2003) 2 SCC 698, the Supreme Court held that when a suicide note explicitly exonerates everyone



and attributes the act to the deceased's own will, it becomes nearly impossible to prove abetment unless other evidence is overwhelming.

115. Furthermore, the Prosecution's reliance on note Q-1 (*"he does not like when I am a human"*) fails, because it names no one. The pronoun "he" could refer to Jitender Bhandare (her past relationship with a married man, as disclosed to DW2/Mompy Sharma) or someone else, which is unclear. Such an ambiguity, cannot override the clarity of the final note.

116. Both sides agreed Sharmistha suffered depression they differed only on the cause. Section 113A Evidence Act permits (not mandates) a presumption of abetment when: (i) suicide occurs within seven years of marriage, and (ii) cruelty is proved. In the present case, while death occurred within one year of the marriage, cruelty itself was not proved beyond reasonable. Even if cruelty were assumed, the court must consider "*all other circumstances*", which here includes the suicide note, the timeline showing premeditation during the accused's absence, and alternative causes for depression of the deceased. These circumstances compel the court to refrain from drawing any presumption.

117. *To sum up*, the Prosecution failed to prove its case beyond reasonable doubt: (1) any specific act of instigation, (2) *mens rea* or intent to cause suicide, (3) proximate causation between alleged conduct and death, or (4) conduct going beyond ordinary marital discord.

118. *Thus, the accused has been rightly acquitted under Section 306 IPC.*

Conclusion:

119. In light of the above observations, the impugned Order dated 10.02.2017 acquitting the Respondent under Section 498A/306 IPC, is upheld.



2026:DHC:947



120. There is no merit in the present Appeal, which is accordingly **dismissed.**

121. Pending Applications(s), if any, are disposed of accordingly.

(NEENA BANSAL KRISHNA)
JUDGE

FEB RUARY 05, 2026/RS