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

Date of reserving order: 14th September, 2026

Date of decision: 19th November, 2026

\# **CNR No. DLHC011549032009**

\+ CRL.A. 736/2009

SANDEEP & ORS. .....Appellants

Through: Mr. Devki Nandan and Mr. Rohit Sharma, Advs. with Appellant No. 1 in person.

versus

STATE .....Respondent

Through: Mr. Raj Kumar, APP for the State with SI Anil Kumar, PS Sultanpuri.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. The present appeal under Section 374 of the Code of Criminal Procedure, 1973 (hereinafter referred to as 'Cr.P.C.') assails the judgment dated 19.09.2009 and order on sentence dated 30.09.2009 passed by the learned Additional Sessions Judge/Special Judge (NDPS), Outer District, Rohini Courts, Delhi, in Sessions Case No. 69/2008, arising out of FIR No. 414/2008 registered at Police Station Sultan Puri under Sections 304-B/498A/34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'). By the impugned judgment, the three appellants herein, namely, Sandeep @ Kuldeep (husband, Appellant No. 1), Ram Poojan Yadav (father-in-law, Appellant No. 2) and Smt. Urmila (mother-in-law, Appellant No. 3), were

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convicted for offences punishable under Sections 498-A/34 and 304-B/34 IPC. Vide order on sentence dated 30.09.2009, each of the appellants was sentenced to undergo simple imprisonment for seven years for the offence under Section 304-B/34 IPC, while no separate sentence was awarded under Section 498-A IPC in light of the law laid down by the Hon'ble Supreme Court in ***Shanti v. State of Haryana***, (1991) 1 SCC 371. The benefit of set-off under Section 428 Cr.P.C. was extended to all three convicts.

2. Shorn of unnecessary details, the case of the prosecution is that on 20.04.2008 the marriage of the deceased, Smt. Anjana, was solemnized with Appellant No. 1, Sandeep @ Kuldeep, according to Hindu rites and ceremonies. The family of the deceased, belonging to Meerut, Uttar Pradesh, provided all household articles demanded by the matrimonial family commensurate with their economic status, however, the demand of the appellants for a motorcycle could not be met at the time of the marriage. As per the prosecution narrative, soon after the marriage the appellants began subjecting Anjana to harassment in connection with the unfulfilled demand for a motorcycle and a further demand for a cash sum of Rs.1.50 lakh. The deceased visited her parental home at New Nandpuri, Kankar Khera, Meerut on 27.04.2008 for the phera ceremony and remained there until 18.05.2008 during which period she narrated her plight to her father, Sh. Laxmi Narain (PW-1), and her brothers, Sh. Balram (PW-2) and Sh. Gaurav Yadav (PW-4), as her mother is no more. She was taken back to her matrimonial home on 18.05.2008 by Appellant No. 1 and 3. Thereafter, she called them on telephone and told them that she was not even permitted to make phone calls freely as she was constantly shadowed by the accused persons. On 17.06.2008, the deceased telephoned PW-4

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lamenting that her husband and in-laws were persistently harassing her for not bringing a motorcycle and Rs.1.50 lakh. Later the same evening, at around 8:30 pm, another telephonic conversation took place in which the same allegations were repeated.

3. Barely four days thereafter, on the morning of 21.06.2008, at about 10:48 AM, information was received at Police Station Sultan Puri vide DD No. 17A (Ex.PW8/A) that a lady had hanged herself at House No. A-4/386-87, Sultan Puri. ASI Rakesh Kumar (PW-6), along with Constable Ramesh, reached the spot and found the dead body of Anjana lying on the floor of a ground-floor room, while in a room on the upper floor a cut chunni (ligature material), measuring 2 feet 7 inches was found tied to the hook of the ceiling fan, the remaining cut portion, measuring 2 feet 9 inches, lying on the table. Both pieces of the chunni bore a knot. They were kept in a pullanda sealed with seal 'RK' and taken into police possession vide seizure memo Ex.PW6/A. The Executive Magistrate, Sh. Sukhbir Singh (PW-7), conducted inquest proceedings under Section 176 Cr.P.C. and recorded the statements of the deceased's father, Sh. Laxmi Narain (PW-1) (Ex.PW1/A), and brother, Sh. Balram (PW-2) (Ex.PW2/A), on the basis whereof FIR No. 414/2008 was registered.

4. Following completion of investigation by Inspector Samarjeet Singh (PW-18), a charge-sheet was submitted against the three appellants. Though four unmarried sisters of Appellant No. 1 (Pooja, Laxmi, Durga and Varsha) were also named by PW-1 in his statement before the SDM, three of them were found to be minors during investigation, while the fourth, Kumari Laxmi, was placed in Column No. 2 of the charge-sheet for want of specific allegations. Charges were framed against all three

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appellants under Sections 498-A/34 and 304-B/34 IPC, to which they pleaded not guilty and claimed trial.

5. The prosecution examined eighteen witnesses. The principal witnesses on the question of dowry demand and harassment were PW-1 Laxmi Narain (father), PW-2 Balram (brother) and PW-4 Gaurav Yadav (brother). PW-13 Kamruddin Saifi, a neighbour of the appellants, was examined regarding the events immediately following the death. Medical and forensic evidence was proved through PW-17 Dr. Vijay Kumar Jha (post-mortem doctor) and the FSL reports, while the telephonic call details were proved through the nodal officers PW-14 Sanjeev Lakra (Reliance Communications) and PW-16 Gaganjeet Singh (Tata Tele Services). In their statements under Section 313 Cr.P.C., the appellants denied all incriminating evidence. Appellant No. 1 Sandeep asserted that Anjana was introvert and remained sad and silent *(akeli gumsum baithi rehti thi)* and that on the fateful day she had bolted her room from inside and committed suicide by hanging through a jangala. The defence examined three witnesses namely, DW-1 Vijender and DW-2 Kamlesh Kumar, neighbours who deposed regarding the forcible opening of the bolted room and the bringing down of the deceased's body and DW-3 Jeet Pal, maternal uncle of the deceased, who had also acted as '*bicholia'*(mediator) in bringing about the marriage and who, by reason of the earlier marriages of two of his sons to two sisters of Appellant No. 1 also stood in the relationship of '*samdhi'* to Appellant No. 2 and 3.

6. Assailing the conviction, learned counsel for the appellants first submits that the principal prosecution witnesses have vastly improved upon their earliest versions. As regards PW-1 Laxmi Narain, it is urged that Ex.PW1/A, his statement before the Executive Magistrate on the evening

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of 21.06.2008, speaks only of a demand of Rs.1.50 lakh *"to set up a factory"* and makes no mention of a motorcycle. As regards PW-2 Balram, it is submitted that his deposition introduces, for the first time, a direct telephonic conversation between him and the deceased about the dowry demand, his claim that PW-4 Gaurav had told him of the demand of Rs.1.50 lakh and a motorcycle and his claim that the family of the deceased had agreed to give a motorcycle later but could not do so *"for some reasons".* None of this appears in Ex.PW2/A and counsel urges that these are embellishments and not omissions of peripheral detail.

7. As regards PW-4 Gaurav, upon whose telephonic conversation of 17.06.2008 the prosecution places considerable reliance, learned counsel draws attention to his assertion in cross-examination that *"my statement was recorded before SDM only once and I did not make any other statement before anyone".* It is submitted that this assertion cannot be reconciled with the prosecution's own case since no statement of PW-4 before the Executive Magistrate has been placed on record whereas statements recorded by the SDM are those of PW-1 (Ex.PW1/A) and PW-2 (Ex.PW2/A). If PW-4's assertion is to be believed, the vital conversation of 17.06.2008 was reduced to writing for the first time in his Section 161 Cr.P.C. statement, the timing and circumstances of which remain unexplained. It is further submitted that the mobile number 9358636772, said to have been used by PW-4 to receive the distress call stood registered in the name of one Sanjay Yadav, resident of Meerut, whom the prosecution neither examined nor otherwise connected with PW-4.

8. Reliance is also placed on the deposition of PW-13 Kamruddin Saifi, a neighbour of the appellants and a local leader of Lok Janshakti Party, who deposed that he met the accused family daily, had attended the

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marriage of Appellant No. 1 and that the deceased never complained to him of any beating or of any demand of dowry, cash or motorcycle. It is submitted that his testimony was not given equal weightage by the learned Trial Court.

9. Reliance is further placed on the testimony of DW-3 Jeet Pal, maternal uncle of the deceased, who deposed that there was never any demand of dowry from the side of the appellants, that he visited the matrimonial home frequently both before and after the marriage and always found the deceased *"alright",* that a day prior to the incident the deceased served him tea and did not appear *"upset and tensed"* and that neither the deceased nor her father or brother ever complained to him of any harassment. Lastly, it is urged that the presence of 55.5 mg/100 ml ethyl alcohol in the blood of the deceased was insignificant and had no connection with the death, yet the appellants were asked to give a cogent explanation merely because the deceased had died in their house.

10. Conversely, the learned Additional Public Prosecutor for the State submits that on a cumulative reading of the evidence, all five ingredients of Section 304-B IPC stand established beyond reasonable doubt. The deceased died an unnatural death by hanging which was corroborated by the post-mortem findings, at her matrimonial home about two months after her marriage. As regards cruelty and harassment for dowry, the State places primary reliance on the consistent testimonies and statements of PW-1 (father), PW-2 (brother) and PW-4 (brother), to whom the deceased disclosed on 27.04.2008 and thereafter that she was being tortured for a motorcycle and a sum of Rs.1.50 Lakh and that she was not even permitted to make telephone calls freely as someone or the other from the accused family would constantly stand near to overhear her. Crucially, on

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17.06.2008, four days before her death, she called PW-4 weeping inconsolably and stated that she was being tortured by her husband and in-laws for a dowry demand of Rs.1.50 lakh and a motorcycle. PW-4 conveyed this to PW-1, leading to a further distress call the same evening. Reliance is placed on ***Ashok Kumar v. State of Haryana***, AIR 2010 SC 2839, ***Devender Singh v. State of Punjab*** (2008) 12 SCC 586, ***Tarsem Singh v. State of Punjab***, AIR 2009 SC 1454, ***Yashoda v. State of Madhya Pradesh***, (2004) 3 SCC 98 and ***KaliyaPerumal v. State of Tamil Nadu***, AIR 2003 SC 3828, in support of the proposition that the statutory presumption under Section 113-B of the Evidence Act stands attracted and has not been rebutted by the appellants.

11. To sustain a conviction under Section 304-B IPC, the prosecution must establish five essential ingredients beyond reasonable doubt: (i) the death of a woman must have been caused by burns, bodily injury, or occurred otherwise than under normal circumstances; (ii) such death must have occurred within seven years of her marriage; (iii) the deceased must have been subjected to cruelty or harassment by her husband or any relative of her husband; (iv) such cruelty or harassment must be for, or in connection with, any demand for dowry; and (v) such cruelty or harassment must have been inflicted *"soon before her death".*

12. Adverting to the case in hand, insofar as the first two ingredients are concerned, it is the undisputed case of the parties that Anjana married Appellant No. 1 Sandeep on 20.04.2008 and died on 21.06.2008, 62 days after the marriage, and thus within seven years of the marriage. The post-mortem report (Ex.PW17/A), proved by Dr. Vijay Kumar Jha (PW-17), confirms that the cause of death was asphyxia as a result of ligature pressure over the neck structures produced by ante-mortem hanging. A

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suicidal death by hanging within two months of marriage undeniably falls within the expression *"otherwise than under normal circumstances".*

13. It is now to be seen whether Anjana was subjected to cruelty or harassment by the appellants and whether the same was in connection with a demand of dowry soon before her death. To examine these ingredients, this Court proceeds principally on the evidence of PW-1 Laxmi Narain, PW-2 Balram and PW-4 Gaurav, on the evidence of PW-13 Kamruddin Saifi, an independent neighbour and on the defence evidence of DW-1, DW-2 and DW-3. Each requires separate and careful examination, since the appellants' principal challenge is built upon the asserted variance between the earliest versions and the depositions before the Court.

14. PW-1 Laxmi Narain, in his statement Ex.PW1/A recorded before the SDM on the evening of 21.06.2008, the very day of Anjana's death stated that in the period of about two months since the marriage the deceased had told them that her mother-in-law, father-in-law, husband and the four unmarried sisters of Appellant No. 1 used to harass her. He also spoke of a telephonic conversation of 19.06.2008,

> *"On 19.06.2008, my son Gaurav telephoned Anjana from Meerut and enquired about her well-being. She told him while crying that, "When are you coming to take me? The aforesaid persons are harassing me at my matrimonial house. They are saying that I should bring 1.50 lakh from my parental home, as they want to set up a factory."*

On the same evening, his statement was recorded by the police under Section 161 Cr.P.C. He stated therein that being in a state of shock at Anjana's death they had been unable to narrate the entire facts before the Magistrate and had told him only of what had taken place three to four days earlier and even that not in its entirety. He added that at the time of the marriage the appellants had asked for a motorcycle which he could not

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provide though the household articles were given. Thereafter the appellants constantly harassed her and abused her family saying that *"From which poor family have you come, that you could not even bring a motorcycle from your parental home? You should have gone to a poor household."* Further, the three appellants demanded the motorcycle every day and each of the four sisters made one remark or another against her and that, in the telephonic call of 17.06.2008, the appellants were demanding a motorcycle and Rs.1.5 lakh as they wished to establish a factory. They thought that the situation would gradually normalise with time but she lost her life instead. In his deposition before the Court, PW-1 remained firm on the demand of a motorcycle and Rs.1.5 lakh. He deposed that on 27.04.2008 when the deceased was brought home for the *"phera ceremony",* she narrated her ordeals and that after she was taken back, she was shadowed by the appellants and could not narrate her plight in detail. He also spoke of the calls of 17.06.2008, the details of which were conveyed to him by PW-4 and of the call on 21.06.2008, informing the family of her death.

15. The appellants raise two points in this regard. The first is that Ex.PW1/A makes no mention of a demand for a motorcycle and that PW-1 when confronted in cross-examination with his assertion that he had told the SDM of harassment for not bringing a motorcycle, was shown Ex.PW1/A, where no such statement is recorded. The second concerns the *'factory'* explanation. As far as the latter is concern the position is, if anything, the reverse of what the appellants suggest. PW-1 denied in cross-examination having told the SDM that the amount was demanded for setting up a factory and was then confronted with Ex.PW1/A which records that very explanation. Both discrepancies must be read against the state in which PW-1 made the statement Ex.PW1/A. He has studied only up to the

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fifth standard and he admittedly gave the statement in a *'disturbed state'* within hours of learning of his young daughter's death. That state accounts for the absence of the motorcycle demand from Ex.PW1/A which cannot be said to be an omission of a material fact since later the same day when his statement under Section 161 Cr.P.C. was recorded by the police, he mentioned the demand for a motorcycle and has stated it consistently since both in that statement and in his examination-in-chief and cross-examination. The same explains the *'factory'* discrepancy. This is not a case of the witness improving upon his earlier version but at worst of a witness imperfectly recollecting, some seven months later, the precise words spoken by him in a document recorded by another. Such a discrepancy going to the witness's recollection of the phraseology of his own earlier statement rather than to the underlying demand is of the kind arising from lapse of memory in respect of which the Hon'ble Supreme Court in ***Bharwada Bhoginbhai Hirjibhai v. State of Gujarat***, (1983) 3 SCC 217, held that a witness *"cannot be expected to be a human tape-recorder"* and can ordinarily recall only *"the main purport of the conversation"* rather than the very words used and that a wholly truthful witness may, out of nervousness of the court's atmosphere, get confused or mix up facts. The discrepancy, therefore, does not affect the consistent core of PW-1's allegation, namely, that Anjana was harassed for a specific demand of a motorcycle and Rs.1.5 lakh.

16. The position regarding PW-2 Balram is largely consistent with that of PW-1. His statement Ex.PW2/A speaks of harassment of the deceased by her matrimonial family, immediately after the marriage, on account of the unfulfilled demand of Rs.1.5 lakh to set up a factory and of a telephonic call made two to three days before her death. It states that all the appellants

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along with the four unmarried sisters used to harass and torture her. His statement under Section 161 Cr.P.C. adds the demand for a motorcycle and Rs.1.5 lakh, the abuse of belonging to a poor family and having to remain in a poor household and the telephonic call of 17.06.2008 between PW-4 and the deceased. It may be noticed, however, that PW-2 stated in cross-examination that his statement was not recorded by the police, although PW-18 deposed that he recorded the statements of PW-2 and PW-4 on 22.06.2008. In his deposition before the Court, however, PW-2 went further asserting that he had personally spoken to Anjana on the telephone, that she had told him of the dowry demand directly and that Gaurav had specifically conveyed the demand to him, none of which finds mention in Ex.PW2/A. These are not, in this Court's assessment, omissions attributable merely to shock or brevity of recording. They introduce for the first time in the witness box a conversation between PW-2 and the deceased which his earliest statement does not disclose. This Court accordingly declines to treat his account of a direct conversation with the deceased as an additional pillar of the prosecution case. It does not, however, follow that PW-2's evidence is to be discarded in its entirety. What Ex.PW2/A, Section 161 Cr.P.C. statement and the deposition have in common without variance is the core allegation of a demand of Rs.1.5 lakh and continued harassment for its non-fulfilment alongside a consistent account of the motorcycle demand in Section 161 statement and the deposition. That core finds independent support in Ex.PW1/A, in PW-1's Section 161 Cr.P.C. statement and in the telephone records discussed below. The law does not require prosecution witnesses to depose with the precision of a stopwatch but giving due weight to the specific nature of the improvements in PW-2's account, this Court is of the view that his testimony may safely be relied

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upon only to the extent that it is corroborated by the independent evidence of PW-1 and the telephonic records and not as a free-standing assertion of a direct conversation between himself and the deceased.

17. PW-4 Gaurav Yadav's testimony forms the fulcrum of the prosecution's case on proximity since it is to him that the deceased is said to have spoken four days before her death. In his statement under Section 161 Cr.P.C., he spoke of the demand for a motorcycle at the time of the marriage of the deceased being harassed and troubled by all her in-laws within two to three days of the marriage, of her being told that she belonged to a poor family and should have married into one, of her unhappiness and mental stress and of the consolation offered to her. He also spoke of the telephonic call of 17.06.2008 and of a further call at 8.30 p.m. the same day, in which he stated that the appellants were asking her to bring Rs.1.5 lakh and a motorcycle as they wished to establish a new factory. In his examination-in-chief, he deposed that Anjana called him on his mobile number 9358636772 on 17.06.2008, weeping and complained that the appellants were again torturing her demanding a motorcycle and Rs.1.5 lakh, that he conveyed this to his father in the evening and that both his father and brother then spoke to Anjana on the telephone and she repeated the same allegations.

18. In cross-examination, PW-4 asserted that "*My statement was recorded before SDM only once and I did not make any other statement before anyone… I had told about the demand of motorcycle to the SDM also."* Taken literally, this assertion sits uneasily with his examination-in-chief and with the prosecution's case since no statement of PW-4 before the Executive Magistrate has been exhibited, the statements recorded by SDM being confined to Ex.PW1/A and Ex.PW2/A and his account of the

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conversation of 17.06.2008 was, in substance, first reduced to writing in his statement under Section 161 Cr.P.C. This Court is, however, unable to accept that this circumstance renders his account of the conversation itself unreliable. Read as a whole, his cross-examination reveals not a deliberate falsehood but a witness's confusion, several months after the event, as to which of the two authorities, the police or the Executive Magistrate, both engaged in recording statements at the same police station on the same evening had recorded his statement. The same confusion more plausibly explains his belief that he had told the *'SDM'* of the motorcycle demand. Such a lapse as to the identity of the recording authority as opposed to the substance of what was recorded does not detract from the core of his testimony particularly where that testimony finds objective corroboration as discussed below. As regards the mobile number 9358636772 standing registered in the name of Sanjay Yadav and not PW-4, PW-4 categorically deposed that he was, in fact, using that number and this assertion was not effectively dislodged in cross-examination. The same number is recorded as the contact number of the family in Ex.PW1/A, the statement of PW-1 recorded on the evening of the death. A prepaid connection registered in another's name is a commonplace occurrence and without more, furnishes no basis to doubt that PW-4 was its user. It also cannot be ignored that PW-4 has studied only up to the fourth class.

19. PW-14 Sanjeev Lakra, Nodal Officer of Reliance Communications, proved the ownership details of the number 9358636772 (Ex.PW14/A), which stood in the name of Sanjay Yadav and produced the call record running into nine pages (Ex.PW14/B), which discloses, on its 8th page, a call from 9250087268 to 9358636772 on 17.06.2008 at 11:18 a.m. and a return call from 9358636772 to 9250087268 the same day at 8:37 p.m.

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(20:37 hours), being points A and B on that page. PW-16 Gaganjeet Singh, Nodal Officer of Tata Tele Services, proved that the number 9250087268 stood in the name of Appellant No. 3 Urmila and produced its call record (Ex.PW16/B). He also produced the record of the Tata Walky number 011-64153996 (Ex.PW16/A), which stood in the name of one Satya Narayan. In their statements under Section 313 Cr.P.C., each of the appellants admitted that both these phones were theirs. These records establish by means wholly independent of the fallibility of human recollection that telephonic contact did in fact took place between the mobile number used by PW-4 and the appellants family on the very date spoken to by PW-1, PW-2 and PW-4 as the occasion of the deceased's last recorded cry of distress, four days before her death. It is this objective corroboration, rather than any one witness's account taken in isolation, that principally satisfies this Court that the deceased did, in fact, had a conversation with her natal family on 17.06.2008.

20. The testimony of PW-13 Kamruddin Saifi requires to be weighed with some circumspection. He is, no doubt, unrelated by blood or marriage to either family and his testimony that the deceased never complained to him of any beating or dowry demand is, on its face, that of a disinterested neighbour. This Court, however, cannot lose sight of two circumstances borne out by his own testimony. First, a newly married woman would not ordinarily confide the strains of her matrimonial life to persons outside the immediate family and more particularly to a neighbour, who by his own admission, met the accused family on a daily basis and attended the marriage as a guest of that side. The absence of a complaint to such a person is accordingly of limited value. Secondly, and more significantly, his conduct immediately after the death, going to the extent of telling both

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the deceased's family and the police, within hours of the occurrence, that *"there was no problem in the family of Anjana and no useful purpose would be served by making any case against the accused persons"*, is not the conduct of a mere passive witness. Such intervention, by his own volition discloses an inclination in favour of the accused household that this Court is bound to take into account in assessing the weight of his evidence. That his intervention failed to dissuade Anjana's family who remained *"adamant"* that they would *"not spare the accused persons",* does not detract from the fact that PW-13 had, of his own volition, attempted to have the matter closed at the very threshold. In these circumstances, his testimony cannot be permitted to outweigh the direct evidence of the deceased's own family which stands corroborated by the telephone records discussed above.

21. The defence evidence of DW-1 Vijender and DW-2 Kamlesh Kumar, both neighbours of the appellants establishes that the room on the upper floor was found bolted from inside on the morning of 21.06.2008 and that the window, which was also closed, had to be forced open, DW-1 being lifted up by two other persons to reach it whereupon he entered the room and opened the main door from inside. Even if accepted in its entirety, this evidence establishes only the physical circumstances in which the body was discovered. That part of the evidence says nothing of the antecedent history of cruelty or harassment which rests on altogether different evidence and is, at its highest, neutral on the question that matters, namely, whether the deceased had, in the weeks preceding her death, been subjected to cruelty in connection with a demand for dowry, it cannot, without more, rebut the presumption that would otherwise arise.

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22. Two further circumstances bear upon the weight attaching to it. First, it was specifically suggested to DW-1 in cross-examination that consistent with Hindu funerary custom requiring a deceased body to be kept upon the ground, the body of Anjana had in fact been kept on the floor, where PW-6 and PW-15 found it and not made to lie on the bed as stated by him in his examination-in-chief. DW-1 denied the suggestion in its entirety without reiterating that the body had in truth been placed on a bed, leaving the point in some obscurity rather than clearly resolved in his favour. Secondly, DW-2's testimony that Appellant No. 1 Sandeep was *'taking tea'* at the material time sits uneasily with DW-1's own account that Sandeep had taken the deceased in his lap while DW-1 supported her from the side of her head and also with Appellant No. 1's own explanation of his conduct under Section 313 Cr.P.C. Further, DW-2 stated in his examination-in-chief that he *"never heard that wife of Sandeep was ever harassed or maltreated or that there was demand of dowry"* and in cross-examination that she "*used to look Okay and happy and there was no tension"*. This part of his testimony is not confined to the physical circumstances of the discovery and requires separate consideration. So far as it states that he never heard of any harassment or demand of dowry, it is a negative assertion which, for the reasons already noticed in respect of PW-13, carries limited weight, a neighbour not being ordinarily privy to the strains of a newly married woman's matrimonial life. So far as it states that the deceased looked *"okay and happy"* and that there was *"no tension",* it cannot be read in isolation from the statements of the appellants themselves under Section 313 Cr.P.C. Appellant No. 1 stated that the deceased remained introverted, sad and silent and gave no reply when he asked her why. Appellant No. 2 stated that she never spoke and remained silent. Appellant No. 3 herself stated

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that the deceased used to remain mum and never interacted with anyone and DW-3 admitted that Appellant No. 3 had told him that the deceased *"used to remain mum"*. This account coming from the appellants' own side cannot be reconciled with DW-2's assertion that the deceased appeared happy and that there was no tension. A person who, on the appellants' own showing, sat alone, silent and withdrawn after the marriage can hardly be said to have appeared free of tension. This inconsistency further diminishes the weight of DW-2's impression of the deceased's demeanour coupled with the inconsistent version between the witness and the accused, which in these circumstances, cannot displace the consistent and independent corroborated evidence of the Prosecution nor rebut the presumption under Section 113-B of the Evidence Act.

23. DW-3 Jeet Pal is not merely the *'bicholia'* who brought about the marriage. He is also the maternal uncle of the deceased and by reason of the marriages of two of his own sons to two sisters of Appellant No. 1, stands, notwithstanding his blood relationship with the deceased, in a position of continuing social and familial alliance with the appellants household that this Court cannot ignore. His testimony that a day before the incident the deceased had served him tea and appeared neither *'upset'* nor *'tensed'* must be read alongside his further admission that Appellant No. 3, the mother-in-law, had told him that the deceased *'used to remain mum'* and had asked him to counsel her. This admission, coming from within the appellants' own household, that something in the deceased's conduct or state of mind was, at the least, a matter of concern shortly before her death. His admission that the family of PW-1, which once lived in his father's house, was turned out of that house after his father's death, though he attributed this to his elder brother and denied being on inimical terms with

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PW-1 over ancestral property, it reinforces the caution with which his denial of any dowry demand or harassment must be approached.

24. It was further contended that the prosecution has failed to prove cruelty or harassment for, or in connection with, the demand of dowry. Having examined the statements of the witnesses, this Court is unable to concur. The evidence on record discloses a repetitive and persistent demand that was made soon after the marriage and thereafter kept alive. Its earliest reference can be traced to 27.04.2008, seven days after the marriage, when the deceased visited her parental home for the phera ceremony. The demand continued after she was taken back to her matrimonial home on 18.05.2008 and persisted until 17.06.2008, when, four days before her death, she narrated her ordeal to her family, a communication corroborated by the call detail records discussed above. The demand, for a motorcycle and a sum of Rs.1.5 lakh, was never met. It is also the prosecution's case, spoken to by PW-1 and PW-2 that the deceased was not permitted to make telephone calls freely after her return on 18.05.2008.

25. This Court is conscious that a demand for dowry does not, by the mere fact of its having been made, amount to cruelty or harassment in every case. The question is whether, on the facts, the demand was pressed with such persistence and was accompanied by such conduct that it caused mental agony to the woman concerned. On this aspect, the observation of this Court in ***Hans Raj Sharma & Ors. v. State Govt. of NCT of Delhi***, 2010 SCC OnLine Del 920, is apposite. The Court there acquitted the appellants for want of evidence of persistent demands of Rs.50,000/-, but observed:

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"When there is a demand made to a woman or someone related to her, the person to whom the demand is made, will either meet the demand in which case there would be no occasion for its repetition, or he may either express his inability to meet the demand or may promise to meet it, but may not be able to honour his promise. If, despite inability of the woman or his relative, as the case may be, to meet it, there is persistent repetition of the demand it is bound to cause mental agony and misery to the aggrieved woman and such persistent demands by themselves have the potential of driving the woman to cause injury to her life, limb or health."

26. The Hon'ble Supreme Court has consistently looked to whether the harassment connected with the demand continued up to a point close to the death. These decisions also show the nature of the evidence on which such harassment was held proved. In ***Kans Raj v. State of Punjab***, (2000) 5 SCC 207, the brother of the deceased deposed that soon after the marriage the husband demanded Rs.15,000/- for a scooter and a refrigerator, which was met by paying him Rs.20,000/-, that a colour television was also given on his demand and that the husband used to threaten the deceased that she would be done to death for bringing inadequate dowry. The father deposed that on persistent demands the deceased had withdrawn Rs.26,000/- from an account opened in her name. On this evidence the Supreme Court held that the prosecution had proved *"the persistent demand of dowry and continuous cruelty and harassment of the deceased by her husband"*, the harassment being shown to have continued till 21.09.1988, when the deceased last met her parents. The same evidence was held insufficient against the mother-in-law, brother-in-law and sister-in-law. The father had stated that they too used to taunt the deceased but the details of the taunting were not spelt out. The only thing stated was that she, being the daughter of

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a BJP leader who boasted of his financial position, had brought inadequate dowry. The Supreme Court upheld their acquittal and held that where such accusations are made against persons other than the husband, the overt acts attributed to them must be proved beyond reasonable doubt and cannot be inferred from their relationship with the husband. In ***Satbir Singh v. State of Haryana,*** (2021) 6 SCC 1, the deceased told her brother a month after the marriage that her husband and mother-in-law physically harassed her for bringing insufficient dowry and that they had demanded a scooter. She later told her father that the harassment continued and reiterated her plight to another brother a week before her death. The Court held that this *"chain of circumstances proves that there existed a live and proximate link between the instances of demand of dowry and the death of the deceased."*

27. Tested against these principles, the demand in the present case was not a single occurrence. As noticed above, it was pressed from the first week of the marriage, repeated after the deceased's return to the matrimonial home and still being pressed four days before her death without ever being met. On the deceased's part, this was a marriage of barely two months. A demand so persistent made against a young bride in the first weeks of her married life and left unfulfilled is bound to cause her mental agony. Nor is this a case of a bare assertion of harassment of the kind found insufficient against the relatives in Kans Raj. The witnesses have spoken of a particular demand, a motorcycle and Rs.1.5 lakh and have attributed it to each of the three appellants. They have also stated the occasions on which the deceased disclosed it, namely her stay at her parental home from 27.04.2008 to 18.05.2008 and the two calls of 17.06.2008, which stand corroborated by the call records. The allegations against the four unmarried sisters of Appellant No. 1, which were general

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in nature, were not acted upon. This is in keeping with the same principle. The statements of PW-1, PW-2 and PW-4 under Section 161 Cr.P.C. also attribute to the appellants a specific taunt, that the deceased had come from a poor family which could not even bring a motorcycle and that she ought to have gone to some poor household. All three witnesses referred to it in their statements to the police but none of them deposed to it before the Court. A statement under Section 161 Cr.P.C. is not substantive evidence. By reason of Section 162 Cr.P.C., it can be used only to contradict the witness and cannot be used to substitute what he did not say in the witness box. PW-2 has, moreover, denied that his statement was recorded by the police at all. This Court therefore does not treat the taunt as proved and does not rest its finding upon it. At the same time, the omission of this detail from the depositions does not detract from what the witnesses did prove. They are persons of limited schooling who deposed some seven months after the death and they confined themselves to the demand, the persons who made it and the occasions on which the deceased spoke of it. On these matters their evidence was not shaken in cross-examination. The finding of cruelty and harassment rests on that evidence.

28. The appellants' own account of the deceased's nature bears upon how the evidence of harassment is to be assessed. In his statement under Section 313 Cr.P.C., Appellant No. 1 stated that after the marriage the deceased remained introverted, sat alone and silent *(akeli gumsum baithi rehti thi)* and gave no reply when he asked her why. Appellant No. 2 stated that she never spoke and remained silent and that he learnt of her remaining “mum” from Appellant No. 1. Appellant No. 3 stated that the deceased used to remain mum and never interacted with anyone. DW-3's admission, noticed above, that Appellant No. 3 had described the deceased in the same terms

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also points the same way. On the appellants' own showing, therefore, the deceased was of a reserved disposition and did not readily speak of her difficulties. It would be unrealistic to expect such a person, in the first two months of a marriage, to give a detailed and particularized account of each act of harassment. That she nonetheless conveyed the persistent demand and her distress to her family, as best she could, is entirely consistent with the disposition the appellants themselves ascribe to her. This Court does not hold that her reticence proves the harassment. The harassment is proved by the evidence discussed above. Her reticence explains why the account of it is in general and not in minute terms. In these circumstances, this Court holds that the prosecution has established a persistent demand for dowry and a continuing course of harassment of the deceased by the appellants in connection with that demand, over the entire duration of the marriage.

29. As regards the contention that the presence of 55.5 mg/100 ml ethyl alcohol in the deceased's viscera was insignificant and had no connection with the cause of death, the Trial Court, in para 47 of the impugned judgment, noted that the FSL report is admissible per se under Section 293 Cr.P.C. and that the post-mortem found the deceased's stomach empty. It held that although PW-17 deposed in cross-examination that the alcohol was insignificant to the cause of death the appellants were bound to give a cogent explanation since the deceased died in their house and that they had failed to do so. This Court finds no infirmity in that approach. The surgeon's opinion that the alcohol had no bearing on asphyxia due to hanging does not answer how it came to be present in the body of a woman who died within two months of her marriage, inside her matrimonial home. That circumstance lay especially within the knowledge of the inmates of the house. Under Section 106 of the Evidence Act and ***Trimukh Maroti***

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Kirkan v. State of Maharashtra, 2006 AIR SCW 5300, approved in ***State of Rajasthan v. Jaggu Ram***, 2008 Cri.L.J. 1039 (SC), there is a corresponding burden on the inmates to offer a cogent explanation and the absence of any explanation is an additional link in the chain of circumstances. This does not relieve the prosecution of its burden, which it had already discharged on the independent evidence discussed above.

30. Weighing the evidence cumulatively, this Court is satisfied that the core allegation of the prosecution stands established, namely that the appellants demanded a motorcycle at the time of marriage and, upon its non-fulfillment, together with a further demand of Rs.1.5 lakh, subjected the deceased to continuing harassment. The demand of Rs.1.5 lakh finds mention in Ex.PW1/A and Ex.PW2/A, the earliest record, made within hours of the death. The motorcycle demand, though absent from those two statements, finds clear mention in the statement of PW-1 under Section 161 Cr.P.C. recorded the same evening and in the statements of PW-2 & PW-4 recorded on the next day and is spoken to consistently thereafter in their depositions. The telephonic conversation of 17.06.2008, the very fulcrum of the *'soon before death'* requirement, is proved not merely by the testimony of PW-1, PW-2 and PW-4 but by the call-detail records proved through PW-14 and PW-16. Against this, the appellants have been able to point only to omissions and elaborations in the manner in which individual witnesses came to narrate the demand and to the evidence of PW-13 and the defence witnesses, none of which speaks with any authority to what transpired within the matrimonial home over the preceding weeks. The Trial Court rightly observed that the contention that a demand of Rs.1.5 lakh for *'setting up a factory'* falls outside the definition of dowry is, in any event, unsustainable.

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31. The expression *'soon before her death'* occurring in Section 304-B IPC is not synonymous with '*immediately before'*. It imports a proximity test that varies with the facts of each case and requires that the cruelty or harassment be shown to have persisted without any intervening circumstance demonstrating its cessation up to a point reasonably close having proximity to the death. In the present case, the last recorded complaint of harassment communicated by the deceased to PW-4 on 17.06.2008 and repeated in a second call made from the mobile phone of PW-4, the same evening, all corroborated by the telephone records was made a bare four days before the deceased hanged herself on 21.06.2008. This interval is well within the *'live-link'* contemplated by the proximity test and clearly satisfies the requirement of *'soon before death'.*

32. The five ingredients of Section 304-B IPC having thus been established, the statutory presumption under Section 113-B of the Indian Evidence Act stands attracted and the Court is bound to presume that the appellants caused the dowry death of Anjana unless that presumption is displaced by cogent evidence to the contrary.

33. The appellants have failed to discharge the burden thereby cast upon them. Their defence evidence, as discussed above, is confined to the physical circumstances of the discovery of the body and to the general demeanour of the deceased on the occasions of DW-3's periodic visits. None of it addresses, still less rebuts, the specific and corroborated history of the motorcycle and cash demands. The contradictions in the defence evidence noticed above further undermine, rather than advance, the defence case. In these circumstances, the presumption under Section 113-B must be held to stand un-rebutted.

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34. In conclusion, the independent appreciation of the evidence by this Court confirms that the prosecution has proved its case against all three appellants beyond reasonable doubt. The Trial Court rightly convicted the appellants Sandeep @ Kuldeep, Ram Poojan Yadav and Smt. Urmila under Sections 498-A/34 and 304-B/34 IPC.

35. The appeal is accordingly dismissed. The impugned judgment dated 19.09.2009 and the impugned order on sentence dated 30.09.2009 passed by the learned Additional Sessions Judge/Special Judge (NDPS), are upheld.

36. The Appellants shall surrender before the Trial Court within two weeks to undergo the remaining sentence, failing which necessary steps shall be taken by learned Trial Court to get them arrested and to serve remainder part of their sentence. The Appellants shall be entitled to the benefits of set off under Section 428 Cr.P.C.

37. Trial court record be sent back along with a copy of this judgement for information and compliance.

VIMAL KUMAR YADAV, J.

NOVEMBER 19, 2026/*vs*

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