



2026 :DHC :1334-DB



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

Date of decision: 17th February, 2026

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CRL.A. 561/2016

STATE (GOVT OF NCT OF DELHI)Appellant

Through: Mr. Ritesh Kumar Bahri, APP with Ms. Divya Yadav & Mr. Lalit Luthra, Advs. with SI Sagar Navdeep M, PS Gokul Puri.

versus

AFTAB & ANRRespondents

Through: Mr. R. K. Tarun, Mr. Reyazul Haque, Ms. Capt. Subedita Rani, Ms. Aditi Shivadhatri (through VC), Ms. Khushi Gupta and Mr. Hemant Jain, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been filed under Section 378 of the Code of Criminal Procedure, 1973 (hereinafter, 'CrPC') challenging the impugned judgment dated 15th December, 2024 passed by the 1st Additional Sessions Judge, Shahdara District, Karkardooma Courts, Delhi, whereby the 1st Trial Court acquitted the Respondent Nos. 1 and 2 with the following observations:



“40. After, analyzing the evidence on the record (as discussed herein before) on the parameters of aforesaid case laws, I do find that prosecution has failed to prove charge of offence under Section 498- A/304-B IPC against the accused persons because there is no reliable evidence on the record even to suggest that any sort of harassment was being caused to deceased Ruby for any kind of demand.

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42. In this case, a charge for offence under Section 302/34 IPC was also framed against both the accused persons. However, there is no evidence to such effect to even raise a suspicion that it was a case of culpable homicide. Rather, the medical evidence coming through PW-14 and PW-27 give a total clean chit to the accused persons for the allegations of culpable homicide. These two witnesses were doctor/forensic experts. Both had conducted postmortem examination and their common opinion was that it was a case of suicide, rather than strangulation. Therefore, charge of Section 302 IPC also does not hold ground.

43. In view of my aforesaid findings, accused persons namely Aftab and Zareena are acquitted of all the charges against them. File be consigned to record room, as per rules.”

BRIEF FACTS:

2. The brief facts of the case are that on 23.12.2010, information was received at Police Station Gokalpuri *vide* DD No. 60-B at about 7:25 PM to the effect that a lady, namely Ruby, had been taken to GTB Hospital by her husband in an unconscious condition, where she was declared “brought dead” by the attending doctors. Upon receipt of the said information, ASI Dev Raj



reached GTB Hospital and collected the MLC of the deceased. It further transpired that the deceased had been married to Respondent no.1 approximately seven months prior to the incident. The MLC of the deceased is reproduced hereinbelow:

3. ASI Dev Raj informed the concerned Sub-Divisional Magistrate, whereupon Sh. A.K. Sharma, SDM, reached GTB Hospital and recorded the



statement of the mother of the deceased, namely Smt. Ruksana (PW-1). In her statement, she alleged that her daughter Ruby was married to accused Aftab on 30.05.2010 and that on 23.12.2010 at about 5:00 PM, accused Aftab informed her that Ruby was not feeling well and that he was taking her to the hospital. The relevant statement of PW-1 dated 23.12.2010 before the SDM is reproduced hereinunder:



4. Thereafter, PW-1 reached a hospital at Yamuna Vihar, where the accused Aftab was present with Ruby, and the doctors there advised that Ruby be taken to GTB Hospital, where she was declared brought dead.

5. On the basis of the said statement, FIR No. 379/2010 was registered initially under Sections 304-B/34 IPC at PS Gokalpuri. After completion of investigation, a charge-sheet dated 23.03.2011 under Sections 498-A/304-B/34 IPC was filed against accused persons namely Aftab (Husband), Zareena (Mother-in-law), Farukh (Uncle of Aftab) and Naushad Ali (Maternal Uncle).

6. *Vide* order dated 06.08.2011, the 1d. Trial Court passed an order on charge, whereby accused Farukh and Naushad were discharged, and accused Aftab and Zareena were directed to be charged for offences punishable under Sections 498A/34 IPC, 304B/34 IPC and, in the alternative, under Section 302/34 IPC. Accordingly, charges were framed on 09.08.2011, to which the accused persons pleaded not guilty and claimed trial.

PROCEEDINGS BEFORE THE TRIAL COURT:

7. During the course of trial, the prosecution examined a total of 32 witnesses. The principal witnesses relied upon by the prosecution are the mother (PW-1), father (PW-2) and maternal grandfather (PW-3) of the deceased, who sought to support the prosecution case regarding alleged dowry demands and harassment. However, the 1d. Trial Court, upon a detailed appreciation of their testimonies, found the same to be unreliable and unworthy of credence, and while rejecting their evidence, observed as under:

“33. The star witnesses of the prosecution in respect of demand of dowry and consequential cruelty and harassment to the deceased are PW-1



Smt. Ruksana, PW-2 Sh. Rizwan and PW-3 Sh. Umed Ali. PW-1 is mother of the deceased, PW-2 is father of the deceased and PW-3 is maternal grandfather of the deceased. PW-1 was the complainant in this case. In her complaint Ex.PWI/A, she simply alleged that accused Aftab, Zareena along with Farukh and Naushad used to harass her daughter Ruby for dowry. She had given a motorcycle, but they used to demand a car and cash amount. Therefore, she had suspicion that in-laws of her daughter were responsible for her death. So much of statement given by PW-1, at first instance after declaration of death of Ruby, is a typical allegation being made by a mother of deceased daughter. This complaint was apparently devoid of minute particulars regarding the instances of dowry demand or harassment and was more or less based on the suspicion/presumption of the witness. This statement was given by PW-1 before SDM (PW-8) on 23.12.2010 i.e. on the date of death itself. On the next day, this witness was again examined under Section 161 Cr.P.C. by the IO. However, even in that statement this witness did not come up with any account of specific instance of the demand of dowry or harassment caused by the accused persons. It was for the first time that this witness deposed before the Court that in the marriage taken place on 30.05.2010, accused Aftab and his mother accused Zareena along with Farukh and Naushad had quarreled with them on account of lesser dowry given in the marriage as they were demanding a car. However, such allegation made by PW-1 is not supported by other PWs i.e. PW-2 and PW-3. PW-2 did not make any such allegation in his statement, rather he deposed that at the time of engagement, there was no demand from the accused persons. He further



deposed that the marriage was also solemnized satisfactorily and 'bidai' was also performed peacefully. PW-3 Sh. Umed Ali also did not make any such allegation in his statement. Thus, it is well apparent that such allegations were made by PW-1 artificially. Besides these three witnesses, there are other PWs i.e. PW-13 and PW-20, who also deposed that they had attended the marriage of Aftab and Ruby and they did not witness any kind of dispute and quarrel between the parties.

34. The next allegation made by PW-1 in her testimony given before the Court was that after marriage whenever Ruby came to her parental house, she shared instances of harassment caused by her husband Aftab, Zareena (mother-in-law) and maternal uncles Farukh and Naushad with this witness. PW-1 alleged that Ruby told her about demand of car or money to purchase the car and she also told her that accused persons used to beat her for such reasons. However, PW-1 did not cite any particular date when Ruby had visited her and had shared such information of harassment caused to her. Such statement of PW-1 has remained in the nature of general and vague allegation and same is the condition of PW-2 as well as PW-3. It is worth to mention here that in this case only these three witnesses have made certain allegations of demand of dowry against the accused persons and they were family members of deceased Ruby. It is admitted case that no complaint whatsoever was lodged either by Ruby or by PW-1, PW-2 and PW-3 in respect of any instance of beating to Ruby or any instance of demand of dowry raised by accused persons. These three witnesses alleged that Aftab was given a motorcycle make and model Discover. However, he demanded Pulsar and for that



purpose, he was given Rs. 70,000/- by PW-1 and PW-2 and Discover motorcycle was returned back. They have also alleged about demand of car and money in lieu of car. When PW-2 and PW-1 were suggested that accused Aftab had already a car with him at the time of his marriage, they denied such suggestion. However, PW-3 in his cross-examination admitted that they had visited the house of Aftab before marriage and he had seen his property/house, which was not having any garage on the ground and accused Aftab used to park his car outside his house. Probably, this witness was no so smart as PW-2 and PW-1 were, to show ignorance of such fact, in order to make a denial. Such fact was also supported by PW-13 and PW-20. Thus, once again the allegation raised by prosecution comes under shadow of doubt, because if accused already had a car with him, then it did not make any sense for him to demand another car from parents of the deceased. It is also worth noting here that such kind of demand is always forwarded with specifications regarding model and make of particular car. However, none of these witnesses have mentioned any particular model of the car, which was ever demanded by the accused persons. They have not cited any particular date, when accused persons made such demand to them or when such demand was allegedly made with deceased Ruby or when deceased Ruby shared information regarding such demand with them. The only date mentioned pertains to 19/20.12.2010, which has appeared in the testimony of PW-2. PW-2 deposed that on this date, he was present at Balrampur and her daughter Ruby had made a call to him on 19/20.12.2010, thereby informing him that her in-laws were not good persons and they used to harass her and demand car and money and



if their demand is not fulfilled, they would kill her or leave her. According to this witness, Ruby also asked him to talk to accused persons at the earliest. However, admittedly this witness did not talk to accused persons either directly or through telephone thereafter. He gave the reasons that since he was out of Delhi, therefore, he could not talk to them. However, during his cross-examination, he further deposed that he had instructed his wife i.e. PW1 to visit matrimonial house of Ruby, but even PW-1 could not go there. On the other hand, PW-1 did not mention about any such call received by her from her husband i.e. PW-2 or any such instructions given to her by PW-2. Apparently, in absence of any whisper about such call, PW-1 did not cite any specific reason not to visit matrimonial house of Ruby, in order to have a talk with the accused persons or to have a talk with Ruby regarding her well being. Thus, I do find that these witnesses have raised allegations in very casual manner and such allegations cannot be relied upon. If actually any such instance would have taken place, thereby causing pain to Ruby by way of her beating or threat to her life, as alleged by PWs, then in normal course of action PW-1, PW-2 and PW-3 would have made contact with accused persons on urgent basis and they would have also involved the mediators, who were instrumental in arranging this marriage. According to PW-1, the marriage was arranged by one Mehrool, Farukh and her father. Her father i.e. PW-3 claimed that he was so told by Ruby itself about all the tortures/harassment caused to her on account of demand of dowry, but he also remained very silent in respect of specific instances of such harassment and the specific time period/occasion when such information was shared with him. His statement



was also a very general and vague statement that Ruby used to make complaint to him as well as to her mother about demand of car being raised by the accused persons. This witness did not state about any particular step taken by him, even to talk with the accused persons on any particular day regarding such issues. Therefore, his testimony do not inspire confidence. On the other hand, the testimony of other PWs i.e. PW-13, PW-20 and for that matter, DW-1 and DW-2, who claimed to be residing with accused persons and deceased, did not make any kind of allegation regarding any harassment being caused to the deceased by the accused persons. DW-2 claimed to be a middleman to arrange this marriage and this fact was not challenged successfully by the prosecution/complainant. He deposed that there was no demand from the side of accused persons at the time of marriage.”

8. In addition, the prosecution examined PW-21 Mohd. Muqeem, who is the *tauji* (paternal uncle) of the former wife of accused Aftab; PW-24 Sh. Matloob, the cousin brother of the said former wife; and PW-25 Smt. Gulshana, the ex-wife of accused Aftab. The Id. Trial Court, while disbelieving and discarding their testimonies, dealt with the same as under:

“23. PW-21 Mohd. Muqeem, PW-24 Sh. Matloob and PW-25 Smt. Gulshana were examined by the prosecution to allege that accused Aftab was married to PW-25, but both accused persons used to torture PW-25 also on account of demand of dowry. However, these witnesses do not have any direct relevance to the facts of this case and their testimony is at the most to show the past conduct of the accused persons.”



9. The doctors who conducted the post-mortem were examined as PW-14 and PW-27, namely Dr. Arun Kumar and Dr. Juthika Debbarma. The cause of death as per the post-mortem report, was suicide and in the cross-examination, both these doctors have distinguished between suicide and strangulation in their deposition as under:

“Dr. Arun Kumar S, Jr. Resident

Cause of death:-

Asphyxia as a result of antemortem hanging. However, the viscera has been preserved as requested by the IO. The time since death was about 3/4th of a day.

The detailed P.M. report is Ex.PW14/A which bears my signatures at point A and signatures of Dr. Juthika Debbarma are at point B.

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Dr. Juthika Debbarma

Court question: How do you make a distinction between the case of strangulation and case of hanging.

Ans. Firstly, in cases of hanging there is presence of salivary stains from the mouth. Secondly, there is difference in the situation of the ligature mark and other internal findings of the neck. In cases of hanging the ligature mark is oblique incomplete and situated higher up on the neck and in cases of strangulation usually the ligature mark is horizontal, complete and situated either on the thyroid cartilage or below that on the neck. On the



internal findings in cases of hanging the subcutaneous tissues are pale, dry and glistening and there is no bruising in the soft tissues and muscles of the neck. In cases of strangulation, the subcutaneous tissue, soft tissues and muscles of the neck show bruising and usually there is associated fracture of the thyroid and hyoid bone.”

10. Upon a comprehensive appreciation of the oral and documentary evidence, the ld. Trial Court concluded that the prosecution had failed to establish any specific, credible or proximate evidence of dowry demand or cruelty “soon before death”, which is a *sine qua non* for attracting the presumption under Section 113-B of the Indian Evidence Act. The ld. Trial Court further held that the allegations were purely general in nature and did not meet the threshold of proof required in criminal trials. Consequently, the ld. Trial Court, on the basis of the aforesaid findings, acquitted the accused persons *vide* the impugned judgment.

SUBMISSIONS ON BEHALF OF THE APPELLANT

11. Mr Bahri, ld. APP appearing for the State has taken the Court through the testimonies of PW-1, PW- 2, PW- 3, PW- 21 and PW- 25. It is his submission that the facts which have emerged clearly establish that this is a typical case of dowry death. He contends that even if the medical evidence indicates suicide as the cause of death, the same would not dilute the applicability of Section 304-B IPC, since the death occurred within seven years of the marriage, thereby mandating the statutory presumption under Section 113-B of the Indian Evidence Act.



12. He further submits that the ld. Trial Court has completely erred in holding that there were no particulars of demands of dowry. According to him, the testimonies of PW-1, PW- 2 and PW-3 corroborate each other with respect to the demand for a motorcycle, a car, and payment of cash. He also places reliance on the testimony of PW-2 (father of the deceased), who deposed that on 20th December, 2010, he received a telephonic call from his daughter informing him about a renewed demand for dowry and money made once again by the accused and his family members. This according to Mr. Bahri constitutes a live link between the demand of dowry and the death of the deceased, which occurred by way of suicide. It is, therefore, his submission that the acquittal in this case is completely unjustified and untenable.

13. Mr. Bahri further reiterates the following facts:

- i. The date of marriage is not disputed;
- ii. The date of death is not disputed;
- iii. Soon before the death, the PW-2 (Father) received a telephonic call relating to the demand of dowry i.e. three days before the suicide;
- iv. The death occurred within Seven months of the marriage;
- v. The past conduct of the accused is also tainted as it is evident from the testimonies of PW-21 and PW-25.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

14. On the other hand, Mr. R.K. Tarun, ld. Counsel appearing for both the accused i.e., R-1 and R-2 submits that the presumption under Section 113-B of the Indian Evidence Act though a deemed presumption is still a rebuttable presumption. He contends that the plain language of the provision makes it



abundantly clear that there must exist cogent evidence to establish that the death of the woman was caused by or was in connection with a demand for dowry.

15. The 1d. Counsel submits that the first and foremost fact operating in favour of the accused is that the accused Aftab himself was present at the time of the incident. He immediately informed the mother of the deceased and was also responsible for taking the deceased to the hospital. This conduct, according to the 1d. counsel, is wholly inconsistent with any guilty mind and clearly demonstrates *bona fide* conduct on the part of the accused in discharging his marital obligations. Reliance in this regard is placed on the judgment of the Supreme Court in ***Dashrath v State of M.P., 2010(12) SCC 198.***

16. The 1d. Counsel further submits that the initial version of the complainant merely casts a vague suspicion upon the accused and does not disclose any *prima facie* offence. In support thereof, reliance is placed upon the judgment of this Court in W.P.(Crl) 825/2001 dated 1.11.2004 titled ***Deepa Bajwa v. State & Ors.***, wherein it has been held as under:

“ After considering the submissions made by learned counsel for the parties, this Court is of the considered view that a complaint, on the basis of which the complainant seeks registration of an F.I.R., must disclose essential ingredients of the offence and in case a complaint lacks or is wanting in any of the essential ingredients, the lacuna or deficiency cannot be filled up by obtaining additional complaint or supplementary statement and thereafter proceed to register the F.I.R. If such a course is permitted, it would give undue latitude as well as opportunity to unscrupulous



complainants to nail others by hook or by crook in spite of the fact that their initial complaint does not make out the offence complained of. Such a course would be utter abuse of the process of law. First version as disclosed in a complaint is always important for adjudicating as to whether an accused has committed or not an offence.”

17. He further places reliance upon the decision of the Supreme Court in ***Narendra Singh v. State (NCT of Delhi) (2012) 7 SCC 171*** to contend that notwithstanding any statutory presumption, the fundamental principle of criminal jurisprudence, namely, the presumption of innocence, always operates in favour of the accused.

18. He submits that the most important evidence is the medical testimony of PW-14 and PW-27, both of whom have categorically opined that the cause of death was suicide by hanging and not asphyxiation by any other means. The distinction drawn by the medical experts between hanging and strangulation, based on both external and internal findings, leaves no manner of doubt that the deceased had committed suicide.

19. With regard to the testimonies of PW-21, PW-24 and PW-25, ld. counsel submits, that the former wife of the accused was admittedly known to the family of the deceased and has been deliberately introduced by the prosecution only to portray the accused in an adverse light by referring to alleged past conduct. It is contended that once the medical evidence conclusively establishes the case as one of suicide by hanging, the burden squarely shifts upon the prosecution to establish a proximate and live link between the alleged dowry demand and the act of suicide. According to the ld. counsel, no such nexus has been established on record.



20. The Ld. Counsel further submits that even in the initial statement of PW-1, recorded at digital page 272, it is clearly admitted that the accused himself informed the mother of the deceased and took the deceased to the hospital. The said statement merely expresses a suspicion regarding dowry and does not disclose any specific allegation. However, subsequent testimonies of the complainant are materially improved and embellished, thereby revealing glaring contradictions between the first version and the later deposition before the Court, which renders the prosecution case inherently unreliable.

FINDINGS AND ANALYSIS

21. We have considered the submissions advanced by the ld. counsels for the parties and perused the material on record.

22. The issue that arises for consideration is whether the ld. Trial Court committed any perversity or manifest error in acquitting the respondents of the offences under Sections 498-A and 304-B IPC and in not returning a finding of guilt on the alternative charge under Section 302 IPC so as to warrant interference by this Court in exercise of appellate jurisdiction under Section 378 of the CrPC, particularly in the context of the statutory presumption contained in Section 113-B of the Indian Evidence Act.

23. It is well settled that an order of acquittal reinforces the presumption of innocence in favour of the accused. Though an appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded, interference is warranted only where the view taken by the ld. trial court is perverse, manifestly illegal or wholly unreasonable. If two



reasonable conclusions are possible on the basis of the evidence on record, the appellate court ought not to disturb the finding of acquittal recorded by the trial court, as held by the Supreme Court in *Chandrappa v. State of Karnataka, (2007) 4 SCC 415*, para 42.

24. In the present case, the medical evidence is clear and unequivocal. PW-14 Dr. Arun Kumar and PW-27 Dr. Juthika Debbarma, who conducted the post-mortem examination, have categorically opined that the cause of death was asphyxia as a result of antemortem hanging. Both experts explained the forensic distinctions between hanging and strangulation and stated that in cases of hanging the ligature mark is oblique and situated high up on the neck, with pale and glistening subcutaneous tissues and without bruising of the neck muscles or fractures of the hyoid or thyroid cartilage. Several of these features were present in the deceased, while some internal findings were not classically consistent with a typical case of hanging. However, the final medical opinion of both experts remains unequivocal in favour of suicide by hanging. Any atypical internal findings were considered by the experts and did not detract from their final opinion. There is thus no medical basis to suspect homicidal strangulation, and the charge under Section 302 IPC was rightly rejected by the ld. Trial Court. The relevant testimonies of PW-14 and PW-27 is reproduced hereinbelow:

“PW-14

Dr. Arun Kumar S, Jr. Resident, Forensic Medicine Department, GTB Hospital, Delhi.

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On 24.12.2010, I was posted as Jr. Resident in Forensic Medicine Department, GTB Hospital. On that day, at about 12.40 p.m., I alongwith Dr. Juthika Debbarama had conducted the postmortem upon the dead body of deceased Ruby vide P.M. Report No.1748/2010. Dr. Juthika Debbarama has now left the services of the hospital. General Observation: Dead body of an adult female of average built wearing pink coloured half sleeve embroidered kameez, green coloured half sleeve T shirt, orange coloured brassier, brown coloured salwar with pink patch on the hip area and a purple and green coloured printed dupatta (synthetic) were lying beside the body. All the clothes were intact. The inner surface of the salwar was soiled with fecal matter. Dried salivary stains were present on the left angle of mouth. Eyes and mouth were closed. Rigor mortis was presented well developed stage. Postmortem staining was present on the back and fixed. No signs of decomposition seen.

(1) External Antemortem Injuries:

Reddish-brown colour, dry, hard, parchment like ligature mark was present incomplete and obliquely around the neck above the thyroid cartilage. The neck circumference is 35 cm. In the midline on the anterior aspect of the neck, the mark was 3 cm in length and 1.5 cm wide, 3.5 cm below chin and 14 cm above the suprasternal notch. It was then absent for a distance of 10 cm on left side of neck. It then reappears 6.5 cm below and 3 cm behind the tip of mastoid process (left side) where it was 1.5 cm wide and was continuous on the back of the neck, in the midline. On the back of the neck, the mark was 1.5 cm wide and 10 cm below the occipital protuberance. On the back of neck, the



ligature mark was faint. On right side the mark was 1.5 cm wide and 4.5 cm below the tip of right mastoid process. Further the mark was absent for a distance of 8 cm on the front of right side of neck.

(2) Internal examination:-

Head and neck:

Scalp: NAD, Skull: NAD, Brain: 1154 gms, congested.

Neck: Extravasation of blood present in the soft tissue and muscles of neck. Bruising present on carotid sheath on left side. Hyoid bone and thyroid cartilage were intact.

Chest: Ribcage: NAD, Lungs: left lung 330 gms and right lung 476 gms, congested and edematous. Left lung was adherent to the chest wall and pleura was thickened. Multiple petechial haemorrhages present on the right lung and inter lobar surface of left lung.

Heart: 202 gms, coronaries: NAD.

Abdomen & Ors.:

Stomach: Empty, walls congested. Intestines: Distended with gases of decomposition and contains fecal matter, walls congested. Liver: 1208 gms. Congested, Spleen: 177 grams, congested and enlarged. Kidneys: left 167 gms, congested, right missing from the anatomical site. Bladder: Empty walls NAD, Uterus: Empty Bicornuate uterus, with two separate cavity and cervical opening into the vagina. Bilateral fallopian tubes were dilated and filled with clean fluid. Ovaries on both the sides



were thickened and multiple clear fluid filled cyst seen on cutsection of ovaries.

(3) Viscera preserved for chemical analysis during autopsy under the seal of JD, as requested by the IO. The clothes of the deceased were also seized and sealed in a parcel with the seal of JD. The said pullandas and sample seal of JD were handed over to the IO.

Cause of death:

Asphyxia as a result of antemortem hanging.
However, the viscera has been preserved as requested by the IO. The time since death was about 3/4th of a day.

The detailed P.M. report is Ex.PW14/A which bears my signatures at point A and signatures of Dr. Juthika Debbarma are at point B.

*Further examination in chief of the witness is deferred
for want of FSL (viscera) report."*

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PW-27: *Dr. Juthika Debbarma, Assistant Professor, Agartala Govt. Medical College, Tripura.*
On S.A.

On 24.12.2010, I was working as Sr. Demonstrator at GTB hospital. On that day, I along with Dr. Arun Kumar S. conducted the post mortem examination on the body of the deceased namely Ruby, aged 19 years, female, W/o. Aftab.



On examination following external injuries were found on the body of deceased Ruby :-

Reddish brown colour, dry, hard, parchment like ligature mark was present incompletely and obliquely around the neck, above the thyroid cartilage. The neck circumference was 35 cm. In the mid line, on the anterior aspect of the neck the mark was 3cm in length and 1.5 cm wide, 3.5 cm below chin and 14 cm above the suprasternal notch. It was then 3.5 cm below chin and 14 cm above the suprasternal notch. It was then absent for a distance of 10 cm on left side of neck. It then reappeared 6.5 cm below and 3 cm behind the tip of left mastoid process, where it was 1.5 cm wide and was continuous on the back of the neck in the mid line. On the back of the neck the mark was 1.5 cm wide and 10 cm below the occipital protuberance. On the back of the neck, the ligature mark was faint. On right side the mark was 1.5 cm wide and 4.5 cm below the tip of right mastoid process. Further, the mark was absent for a distance of 8 cm on the front of right side of neck.

Opinion: Cause of death in this case was asphyxia as a result of antemortem hanging. However the viscera was preserved as requested by the IO. I handed over viscera to the IO. My PM report is placed on the record, which bears my signature at point B. This report is already exhibited as Ex.PW-14/A."7

The clothes of the deceased were handed over to IO by me. I had signed those clothes before handing over to IO and I can identify the clothes of the deceased with the help of my initials/signature.



At this stage, Ct. Brijesh on behalf of MHC(M) has produced one green coloured T-shirt and pink coloured half sleeves Kurti, brown coloured Salwar, orange coloured brassiere and one purple and green coloured printed dupatta in unsealed condition. Same is shown to the witness, who correctly identified her signature on above said clothes. All clothes are already exhibited as Ex.PW-1/Article-2. The pullanda be sealed with seal of this Court i.e. 'PP'.

XXXXXXXXXX by Sh. R.K. Tarun, ld. counsel for both accused persons.

The PM report was prepared by me. It is not always possible that in all cases of suicide by hanging, the cause of death remains as asphyxia. Vol. the other reasons may be due to fracture dislocation of cervical vertebra. It is correct that this is not a case of strangulation.

Court question : How do you make a distinction between the case of strangulation and case of hanging.

Ans. Firstly, in cases of hanging there is presence of salivary stains from the mouth. Secondly, there is difference in the situation of the ligature mark and other internal findings of the neck. In cases of hanging the ligature mark is oblique incomplete and situated higher up on the neck and in cases of strangulation usually the ligature mark is horizontal, complete and situated either on the thyroid cartilage or below that on the neck. On the internal findings in cases of hanging the subcutaneous tissues are pale, dry and glistening and there is no bruising in the soft tissues and



muscles of the neck. In cases of strangulation, the subcutaneous tissue, soft tissues and muscles of the neck show bruising and usually there is associated fracture of the thyroid and hyoid bone.

In this case, the tongue was inside the mouth and mouth was closed.”

25. In the absence of forensic evidence, the prosecution based its case on Section 304-B IPC read with the presumption under Section 113-B of the Evidence Act. Section 304-B IPC deals with dowry death, which reads as follows:

“304B. Dowry death - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation- For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

26. Section 113-B of the Indian Evidence Act, 1872 reads as follows:



“113B. Presumption as to dowry death. —When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.

Explanation. — For the purposes of this section, “dowry death” shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860).]

27. The Supreme Court has consistently held that the statutory presumption of dowry death under Section 113-B of the Evidence Act is not to be applied mechanically, but only upon proof of the foundational facts contemplated by the statute. In ***Karan Singh v. State of Haryana 2025 INSC 133***, the Supreme Court has held as under:

“8. In this case, there is no dispute that the death of the appellant's wife occurred within seven years of the marriage. Section 113-B of the Evidence Act reads thus:

“113-B. Presumption as to dowry death. —When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.



Explanation.-For the purposes of this section, "dowry death" shall have the same meaning as in Section 304-B of Indian Penal Code (45 of 1860)."

The presumption under Section 113-B will apply when it is established that soon before her death, the woman has been subjected by the accused to cruelty or harassment for, or in connection with, any demand for dowry. Therefore, even for attracting Section 113-B, the prosecution must establish that the deceased was subjected by the appellant to cruelty or harassment for or in connection with any demand of dowry soon before her death. Unless these facts are proved, the presumptions under Section 113-B of the Evidence Act cannot be invoked."

28. Similarly, in *M. Srinivasulu v. State of A.P.* (2007) 12 SCC 443, the Supreme Court has authoritatively held as under:

"5. A conjoint reading of Section 113-B of the Evidence Act and Section 304-B IPC shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. The prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances'. The expression 'soon before' is very relevant where Section 113-B of the Evidence Act and Section 304-B IPC are pressed into service. The prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence in that regard has to be led in by the prosecution. 'Soon before' is a relative



term and it would depend upon the circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113-B of the Evidence Act. The expression 'soon before her death' used in the substantive Section 304-B IPC and Section 113-B of the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression 'soon before' is not defined. A reference to the expression 'soon before' used in Section 114 Illustration (a) of the Evidence Act is relevant. It lays down that a court may presume that a man who is in the possession of goods soon after the theft, is either the thief who has received the goods knowing them to be stolen, unless he can account for his possession. The determination of the period which can come within the term 'soon before' is left to be determined by the courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression 'soon before' would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence."

29. In the present case, although the death occurred within seven months of marriage and was an unnatural death, the prosecution has failed to establish



the foundational facts necessary to trigger the statutory presumption. The testimony of PW-1, the mother of the deceased, when examined in its earliest form on 23.12.2010 before the SDM on the date of death, contains general allegations without particulars or incidents of any demand of dowry or acts of harassment. The said statement dated 23.12.2010 is reproduced hereinbelow:

“मैं रुकसाना पत्नी श्री रिज्वान पाशा निवासी म. नं. 895, गली नं. 1, लोनी गोकलपुरी दिल्ली, आज दिनांक 23/12/2010, रात 11.30 बजे, SDM सीलमपुर के सामने बयान करती हूँ कि मेरी लड़की रुबी उम्र 19 वर्ष की शादी दिनांक 31/05/2010 को आफताब पुत्र अरशद अली निवासी मकान नं. 320, गली नं. 16, पुराना मुस्तफाबाद के साथ हुई थी। आज शाम करीब 5 बजे मेरे दामाद आफताब ने बताया कि रुबी की तबियत खराब है और मैं उसे अस्पताल ले जा रहा हूँ और आप आ जाओ। मैं तुरन्त अपने पड़ोस के लड़के राहुल के साथ आई तो आफताब मेरी बेटी रुबी के साथ यमुना विहार में एक अस्पताल में खड़ा था जहाँ डॉक्टर ने उसे GTB Hospital ले जाने को कहा। उसे वह GTB Hospital ले गया, जहाँ डॉक्टरों ने उसे देखने के बाद मृत घोषित कर दिया।

मेरा दामाद आफताब, उसकी माँ ज़रीना व मामा फारुख नौशाद उसे बहुत तंग करते थे। आफताब व उसकी माँ दहेज के लिए रुबी को बहुत तंग करते थे। मैंने शादी पर Motor Cycle दी थी परन्तु वह कार और पैसे की मांग करते थे जो मेरी हैसियत में नहीं था। मुझे पूरा शक है कि मेरी बेटी की मौत के लिए उपरोक्त सभी ससुराल वाले जिम्मेदार हैं। बयान सुन लिया ठीक है। यह बयान मैं अपने होश-ओ-हवास में बिना किसी दबाव के दे रही हूँ।”



30. Even the statement of PW-1 recorded before the court on 21.01.2012, though containing expanded allegations regarding demand of a car, harassment, beatings, denial of food and payment of Rs. 70,000/-, does not disclose any specific incident, date or proximate act of cruelty relatable to the period immediately preceding the death. The allegations remain general and unparticularised in material respects and are unsupported by independent corroboration, thereby limiting their evidentiary weight for establishing cruelty "soon before death". The relevant statement is reproduced hereinbelow:

"Deceased Ruby was my daughter. She was married with accused Aftab on 30.05.2010. In the marriage, accused Aftab, his maternal uncles Farukhi and Naushad and his mother Zarina had quarreled with us on account of less dowry given in the marriage as they were demanding car. After marriage, when my daughter came to my house, she told me that her husband, mother in law and abovesaid maternal uncles used to harass her and demand dowry and ask her to bring car or money to purchase the car from us. They also used to beat her for the same. My daughter Ruby had also made complaint to me that she was not being given food. I had given motorcycle make 'Discover' in the marriage of my daughter to accused Aftab but he was not satisfied with the motorcycle but accused Aftab had demanded the motorcycle make 'Pulsur'. Hence, I gave him cash Rs. 70,000/- to purchase the motorcycle make Pulsur and he returned back motorcycle make Discover to us. The all said accused persons i.e. Aftab, husband of my daughter, Zarina, mother in law of my daughter and Naushad and Farukh had killed my daughter



as they were not satisfied with the dowry articles given in the marriage.

On 23.12.2010, I received a telephonic message from Aftab that Ruby is ill and he called me to come to his house. Therefore, I alongwith Rahul who is residing in my neighborhood left for matrimonial house of my daughter at Mustafabad on the motorcycle of Rahul. Aftab met us on the way sitting in TSR near Yamuna Vihar near the nursing home whose name I do not remember and I found that my daughter Ruby was lying in the TSR on the lap of one lady and the Aftab. My daughter was in unconscious condition and on seeing her, I started weeping. In the meantime, public persons gathered there and they advise us to take her to GTB hospital. Therefore, we took my daughter to GTB hospital where after examining her, doctor declared her brought dead. Rahul had informed my family members and relatives and they reached at GTB hospital. Accused Aftab and his maternal uncles Naushad and Farukh tried to run away but my relatives and family members apprehended the accused Aftab whereas Naushad and Farukh ran away. We informed the police and police of PS Gokalpuri reached there and we alongwith accused Aftab were taken to PS Gokalpuri. Police officials had called SDM concerned. Accordingly, SDM reached at PS Gokalpuri and in a separate room he made inquiries from me and recorded my statement Ex. PW1/A which bears my signatures at point A. I narrated entire facts to the SDM. I was crying before the SDM.

On the next day, postmortem on the dead body of my daughter Ruby was conducted. I had identified her dead body at Mortuary, GTB hospital and my statement in this regard was recorded by IO which



is Ex. PW1/B which bears my signatures at point A. After the postmortem, I received dead body of my daughter for last rites vide Ex. PW1/C.

All the four accused persons i.e. Aftab, Zarina, Naushad and Farukh had killed my daughter Ruby as we could not fulfill their demand of car and for the same, they used to harass and give beatings to my daughter. Accused persons Aftab and Zarina are present in the court today.

Accused Farukh had given me threat to on my mobile phone from his mobile phone to withdraw the case otherwise they will kill my another daughter in the same way. I had noted the said mobile number of Farukh and gave the same to the IO of this case. Now I do not remember the said mobile number.

Accused Aftab was already married with Gulshana and this fact was concealed from us. We met with Gulshana who told us that accused Aftab alongwith his both the abovesaid maternal uncles had also harassed her for illegal demands of dowry. The brother and uncle of Gulshana had also told this fact to me. Gulshana had also given me CD and photographs of her marriage with accused which I had handed over to IO of this case.”

31. A comparative reading of the two statements of PW-1 indicates significant elaboration in the later version which was absent in the earliest account recorded by the SDM on 23.12.2010. While the initial statement contains general allegations of harassment and dowry-related demands, it does not disclose any specific incidents, particulars or proximate acts of cruelty. In contrast, the subsequent statement under Section 161 CrPC



introduces detailed assertions relating to beatings, denial of food, payment of Rs. 70,000/-, threats by co-accused and the alleged prior marriage of the accused. These constitute material improvements over the contemporaneous version and, in the absence of independent corroboration, diminish the evidentiary weight of the later narrative. Viewed cumulatively, although allegations of dowry-related harassment are brought on record, the evidence suffers from material improvements, lack of particulars and absence of proof of any proximate act of cruelty preceding the death. The prosecution has therefore failed to establish the foundational facts necessary to attract the presumption under Section 113-B of the Evidence Act. In the absence of such presumption, and the evidence being insufficient to independently sustain guilt, the accused are entitled to the benefit of doubt.

32. Sh. Rizwan (PW-2) i.e. the father of the deceased similarly made general and omnibus allegations without disclosing dates, occasions or specific acts. The relevant statement of PW-2 is reproduced hereinbelow:

“Deceased Ruby was my daughter. She was married with accused Aftab on 30.05.2010. According to my position, I had given motorcycle make Discover and other dowry articles in the marriage of my daughter to the accused persons. The accused Aftab had returned the motorcycle by stating that it was not a motorcycle of his choice and he demanded the motorcycle make Pulsur. Hence, I gave Rs. 70,000/- to him to purchase the motorcycle make Pulsur and he returned back the motorcycle make Discover to me.

On 19/20.12.2010, I received telephone call from my daughter at Balrampur, where I was present for



the job work. She told me that her in-laws are not good persons and that accused Aftab-her husband, Zarina - her mother in law and Naushad and Farukh-maternal uncles used to harass her and demand car and money from her. She also told me that if their demand is not fulfilled, they will kill her or leave (ghar se nikal denge) her. She called me at earliest to speak with the accused persons. I could not come back early due to financial problem and on 23.12.2010, I received a telephone call from Rahul my neighbor informing that my daughter had already died and was at GTB hospital. On next day, I came back to my residence, and by that time my daughter was brought at my residence after postmortem was conducted on her body at the hospital. My wife Ruksana, one Smt. Munni-my neighbor and Rahul-my neighbor told me that in-laws of my daughter had killed her. The accused Aftab had telephonically informed my wife on phone that my daughter was ill and my wife should reach there at her matrimonial home at earliest. My wife accompanying Rahul reached near Yamuna Vihar where they saw my daughter motionless in a TSR and accused Aftab and one lady were sitting in the said TSR from there my daughter was taken to GTB hospital where doctor declared my daughter brought dead."

33. The alleged telephone call said to have been received by PW-2 three days prior to the death is not reflected in any contemporaneous document, including the earliest statement recorded before the SDM or in any prior version of PW-2 and was rightly treated with circumspection by the 1d. Trial Court. Even assuming the telephonic call of 19/20.12.2010, the same lacks corroboration, was never mentioned in the earliest version, and does not by



itself establish cruelty of such intensity as to constitute a proximate cause for suicide.

34. In *State v. Naresh & Ors. 2014:DHC:760-DB*, this Court cautioned that vague and general allegations, without particulars of dowry demand and cruelty, are insufficient to sustain a conviction under Section 304-B IPC. The relevant paragraph is reproduced hereinbelow:

*“25. It is trite that general and vague allegations of dowry demands and beatings given to the deceased without detailing specific instances, vague and inconsistent statements of interested witnesses such as parents, brothers and sisters of the deceased, bald statements made by prosecution witnesses which fall short of evidence to prove that the victim committed suicide on account of cruelty and harassment to which she was subjected just prior to her death, and improved versions of statements made by prosecution witnesses for the first time in Court disclosing things not disclosed during investigation, are liable to be viewed with suspicion and the presumption of dowry death cannot be raised therefrom, and the accused cannot be convicted on the strength of such statements [see *Jagdish & Ors. vs. State, 2010 (28.5.2005) JCC 943; Sunil Bajaj vs. State of M.P., AIR 2001 SC 3020; Nepal Singh vs. State of Haryana, AIR 2009 SC 2913 and Durga Prashad & Anr. vs. State of M.P., 2010 (3) JCC 1852*].”*

35. The complete absence of any contemporaneous complaint, message, or grievance by the deceased to her parents, relatives, or any authority prior to her death is a highly relevant circumstance. Where cruelty is of such gravity



as to drive a woman to suicide, some reflection of it would ordinarily surface in the form of a complaint or communication. The silence of the deceased and her family until after the death is a relevant circumstance which lends support to the finding of the 1st Trial Court that the possibility of the subsequent allegations being an afterthought cannot be ruled out. In such a case, a mere speculation that there could have been demands of dowry would not be sufficient to convict the accused.

36. The progressive embellishment in the testimony of PW-1 to PW-3, moving from vague suspicion in their earliest statements to specific allegations of dowry demand during trial, strikes at the root of the prosecution case. Improvements of such nature, going to the core of the statutory ingredients of Section 304-B IPC, render the evidence unsafe to rely upon.

37. Equally important is the absence of a proximate and live link between any alleged demand and the death. In *Hira Lal v. State (Govt. of NCT of Delhi) (2003) 8 SCC 80* and *M. Srinivasulu (supra)*, the Supreme Court has explained that the expression "*soon before her death*" requires that the cruelty or harassment must not be too remote in time and must have a direct nexus with the death. In the present case, there is no contemporaneous complaint, no independent corroboration and no specific incident close in time to the death which would suggest that the deceased was driven to commit suicide on account of dowry demands. On the contrary, it is an admitted fact that the husband himself took the deceased to the hospital and informed her family; such conduct, though not conclusive of innocence, is inconsistent with the theory of culpable dowry-related harassment.



38. Apart from the above deficiencies in establishing dowry-linked cruelty, the reliance placed by the prosecution on the testimony of PW-21 and PW-25 regarding alleged conduct of the accused in a previous marriage also does not advance its case. At best, it appears to disclose some prior matrimonial discord involving the accused in an earlier relationship, but such past conduct, unrelated to the deceased and unconnected in time, place or circumstance with her death, cannot substitute for proof of the statutory ingredients of Sections 498-A and 304-B IPC. The law requires proof that the deceased herself was subjected to cruelty or harassment for or in connection with dowry soon before her death. Evidence of alleged behaviour in a previous marriage, howsoever discreditable it may appear, does not establish a proximate or live link between any dowry-related cruelty and the death of the deceased. To rely upon such remote and collateral evidence would amount to permitting conviction on the basis of character or propensity, which would not be permissible in criminal law. The ld. Trial Court was therefore correct in holding that the testimony of PW-21 and PW-25 was legally irrelevant for establishing the offence of dowry death in the present case.

39. Having regard to the totality of the evidence, the view taken by the ld. Trial Court that the prosecution failed to establish the essential ingredients of Sections 498-A and 304-B IPC is a plausible and a legally sustainable view. It cannot be said that the findings suffer from perversity or that material evidence has been ignored or misread.



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CONCLUSION:

40. In these circumstances, the statutory presumption under Section 113-B of the Indian Evidence Act, 1872 does not arise, and the acquittal of the respondents does not call for any interference by this Court. The appeal is accordingly dismissed and the judgment of acquittal dated 15th December, 2024 is hereby affirmed. All pending applications, if any, stand disposed of. The personal bonds and surety furnished by the respondents, if any, shall stand discharged.

**MADHU JAIN
JUDGE**

**PRATIBHA M. SINGH,
JUDGE**

FEBRUARY 17, 2026/k