



2026:DHC:4758-DB



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

Reserved on: 06th May, 2026
Date of Decision: 29th May, 2026
Uploaded on: 29th May, 2026

+ **CRL.A. 859/2018**

THE STATE GOVT OF NCT OF DELHIAppellant

Through: Ms. Ashneet Singh, APP.

versus

DHEERAJ KUMAR & ORSRespondents

Through: Mr. Dinesh Garg, Adv along with
Respondent No. 1 present in person.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

BACKGROUND:

1. The present appeal has been filed under Section 378 of Code of Criminal Procedure, 1973 (*hereinafter 'Cr.P.C.'*) assailing the impugned judgment dated 3rd October, 2017 passed by Ld. ASJ-FTC, (Shahdara), Karkardooma Court, Delhi whereby, the Respondents herein have been acquitted in *Session Case No. 42/2014* arising out of *FIR No. 165/2014* registered at Police Station M.S. Park, for offences punishable under Sections 498A/304B/34 of the Indian Penal Code, 1860 (*hereinafter 'IPC'*).

BRIEF FACTS:

2. The present FIR was registered on 23rd March, 2014, on the statement of Mahender Singh (PW-1), father of the deceased Rajni. As per the



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complaint, deceased Rajni was married to Respondent-1, Dheeraj on 29th April, 2013. After marriage, his daughter stated that her husband and in-laws started harassing and beating her on account of the demand for a car. Moreover, the deceased gave birth to a child on 27th February, 2014, and after the delivery of the child, she complained that her husband was not coming to her room and that her mother-in-law was harassing her.

3. It is the prosecution case that the deceased asked PW-1 to fulfil the demand of her in-laws with regard to a car, failing which they would kill her, and therefore, on 22nd March, 2014, PW-1 went to the house of the Respondents and gave Rs.25,000/- to Respondent-4, Asha Rani for purchasing the car.

4. *Vide* DD No. 10A dated 23rd March, 2014 (Ex. PW-15/A), which was received at PS M.S. Park regarding the commission of suicide by the wife of the Respondent 1, pursuant to which SI Gaurav Singh (PW-15), along with Ct. Krishan (PW-12) reached the spot, i.e. Ram Nagar Extension, where the dead body of a female was found lying on the bed. Based on the statement of Sh. Mahender Singh (PW-1), father of the deceased present case FIR was registered and the Respondents/Accused(s) were subsequently arrested.

5. On the basis of the said information and statement, a case under Sections 498A/304B/34 IPC and in alternate under Section 302 IPC was registered against all the four accused (Respondents herein) Dheeraj Kumar, Respondent No.1 (husband of the deceased), Vinay @ Mannu, Respondent No.2 (Brother in-law of the deceased), Kewal Krishan, Respondent No.3 (Father in-law of the deceased) and Asha Rani, Respondent No.4 (Mother in-law of the deceased). Upon appearance, the Respondents pleaded not guilty and claimed trial.



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6. After compliance with the provisions of Section 207 Cr.P.C., the case was committed to the Court of Sessions for trial.

7. The prosecution examined seventeen (17) witnesses in support of its case to establish the charges against the Respondents. They are Mahender Singh (PW-1), Dr. Neha Gupta (PW-2), HC Sonu Kaushik (PW-3), Ct. Ajeet Singh (PW-4), W/HC Bandana(PW-5), Raghuvir(PW-6), SI E.S. Yadav(PW-7), HC Ram Prakash(PW-8), GS Pandey(PW-9), T.R. Saini(PW-10), Smt. Sudesh(PW-11), Ct. Krishan(PW-12), W/HC Geeta(PW-13), Ct. Sahender (PW-14), SI Gaurav Singh(PW 15), W/Ct. Sangeeta(PW-16) and Inspector Jai Bhagwan(PW-17). The Id. Trial Court, in the impugned judgment, discussed them as under:

“6. PW-1 Sh. Mahender Singh is the complainant and father of deceased. He deposed that he is a Halwai and that on 29.04.2013, her deceased daughter Rajni was married with accused Dheeraj. He deposed that accused Asha Rani & Kewal Krishan are mother in-law and father-in-law and accused Vinay @ Mannu is devar of deceased. He deposed that after marriage, all the four accused started harassing and beating his daughter Rajni on account of demand of Car, which fact was told to him by deceased Rajni. He deposed that Rajni gave birth to a child on 27.02.2014 and after delivery of child, she complained that her husband was not coming to her room and that her mother in-law was harassing her. His daughter Rajni asked him to fulfill the demand of her in-laws with regard to Car, failing which they would kill her and therefore, on 22.03.2014, he went to the house of accused persons and gave Rs.25,000/- to accused Asha Rani for purchasing the Car and promised them to given more money next day for the purchase of Car. He further deposed that on 23.03.2014, he received a telephone call from accused Asha Rani that his



daughter has hanged herself. He then rushed to their house and found that the body of his daughter was lying on the bed. Police was already present there. SDM came at the spot and recorded his statement Ex.PW1/A. He deposed that the said statement was recorded in the handwriting of police official under his dictation as per the instruction of SDM. He deposed that body was sent for postmortem and on next day after postmortem handed over to him and his statement regarding identification of dead body Ex.PW1/B was recorded. He deposed that prior to the incident, he made no complaint to police against accused so that family life of her daughter may not be spoiled.

In response to leading question put by Ld. Addl. PP, he admitted that when his son Raghuvir went to the house of accused persons and gave a mobile phone to his daughter, accused Vinay @ Monu asked him why he had given only a mobile phone and not a four-wheeler.

In his cross-examination by Ld. Defence Counsel, he was confronted with his statement given to SDM, wherein he had not stated that all the four accused persons used to harass his daughter for demand of Car. He was confronted with major portion of his testimony. He admitted that he had not stated to the SDM that deceased Rajni asked him to fulfill the demand of her in-laws with regard to Car, failing which they would be kill her or that on 22.03.2014 he went to the house of accused and gave Rs.25,000/- to accused Asha Rani for purchase of Car or that after marriage, all the four accused persons used to harass and give beatings to Rajni on account of demand of Car. He admitted that there was no demand from accused side before or at the time of marriage. He admitted that he did not lodge any complaint with police or any other authority prior to the incident against accused persons for harassing and troubling his daughter for demand of Car. He further admitted that there was no demand



of Car before or at the time of marriage nor any such promise was made by him to give a Car subsequent thereto. He deposed that he had been to the house of accused persons 3-4 times after the marriage of his daughter. He deposed that he had discussed the factum of his visit to the house of accused persons on 22.03.2014 and handing over of Rs.25,000/- to accused Asha Rani, with other family members. He deposed that his daughter came to his home on 2-3 occasions on festivals.

He admitted that after the incident, son of his deceased daughter is with him. He further admitted that son of his deceased daughter was being taken care by his brother in-law Sh. T.R.Saini and that Sh. T.R.Saini is issueless Admitting that accused persons had booked Shyam Palace, Old Tejab Mill, Bhola Nath Nagar, Shahdara for 02.04.2014 for celebrating the birth of son of deceased Rajni, in next breath he stated that no such place was booked and Shyam Palace was booked for the purpose of Sagai Ceremony of Rajni.

7. PW-2 is Dr. Neha Gupta, who conducted the postmortem on the body of deceased. As per her, cause of death was asphyxia as a result of antemortem hanging. She proved her report as Ex.PW2/A. She had also examined the shawl allegedly used by deceased for committing suicide and opined that injury no. 1 mentioned in postmortem report was possible with that shawl.

8. PW-3 HC Sonu Kaushik is the draftsman, who had prepared scaled site plan Ex.PW3/A.

9. PW-4 Ct. Ajeet Singh is the photographer posted with Mobile Crime Team. He had taken 14 photographs of the spot from different angled and proved the same as Ex.PW4/A-1 to Ex.PW4/A-14 and negatives as Ex.PW4/A-15 to Ex.PW4/A-28.

10. PW-5 W/HC Bandana is the duty officer. She proved the registration of FIR as Ex.PW5/A and her endorsement as Ex.PW5/B.

11. PW-6 Sh. Raghuvir is the brother of deceased.



He deposed that after marriage of his deceased sister Rajni with accused Dheeraj on 29.04.2013, all the accused started harassing and torturing her. They started making dowry demand from deceased and demanded a four- wheeler. He deposed that whenever deceased met him, she used to tell him about the demand and torture, however, he does not remember the specific dates when she told him about the demand. He further deposed that perhaps in the month of August or September, he visited house of deceased Rajni at about 11 am, where all the accused persons were present. He deposed that he was having a mobile phone of Samsung and he tried to give the same to his sister, however, accused Vinay @ Monu threatened him and said in the presence of all accused persons that they do not want a mobile phone but a four wheeler vehicle should be arranged. When they did not allow him to hand over the mobile, he returned with his mobile. He deposed that on 23.03.2014, accused persons informed them that his sister had committed suicide. He alongwith his parents and maternal uncle reached the house of accused, where police was already present. SDM recorded his statement EX.PW6/A. He identified the dead body of his sister vide statement EX.PW6/B and after postmortem, body was handed over to them. He had also signed the unnatural death report Ex.PW6/C. He deposed that one day-prior to death of his sister, on 22.03.2014, his father went to the house of accused persons and perhaps gave an amount of Rs.20,000/- to 25,000/- to the accused persons. He deposed that three days prior to that, his father also received a telephonic call from his sister and she disclosed about the demand of four wheeler by the accused persons and she further told to his father that accused persons would kill her, if demand was not fulfilled. He deposed that this fact was told to them by his father on 14.05.2014.

12. PW-7 is SI E.S.Yadav, who on 23.03.2014 after



receiving the message from control room had reached the spot and after inspecting the same, prepared his report Ex.PW7/A.

13. PW-8 HC Ram Prakash is the MHC(M). He deposed about depositing of pullandas in the malkhana on 23.03.2014 vide entry Ex.PW8/A and also about sending of pullandas to GTB Hospital for opinion on 13.05.2014 vide RC Ex. PW8/B.

14. PW-9 is Sh. G.S.Pandey, who at the relevant time was posted as SDM. He deposed that on 23.03.2014, he received information from SI Ghetan Singh Meena that one Smt. Rajni have committed suicide at about 7.30 am. He reached the spot and found the dead body lying on double bed in a room at first floor. Sh. Mahender Singh, father of deceased identified the body, who alongwith other relatives was present there. He deposed that he asked all the persons related with the deceased if they have anything to say on the incident, however, the parents and brother of deceased informed that Sh. Mahender Singh, father of deceased will give a combined statement. He deposed that father of deceased stated that in-laws of Rajni informed them that she has committed suicide but they suspect that she has been murdered. He inspected the dead body and in view of the allegations of father of deceased, he directed to register the FIR and conduct further investigation. He proved the inquest report as Ex.PW9/A.

In his cross-examination, he stated that he cannot confirm as to who wrote statement of father of deceased Ex.PW1/A. He stated that he did not measure the height of the door of the kitchen. He stated that besides family members of deceased, other people were also present at the spot, however, he did not record their names and addresses during inquest proceedings.

15. PW-10 is Sh. T.R.Saini, maternal uncle (Mama) of deceased. He deposed that on 23.03.2014 he was present at his shop and received a call from his



nephew Raghuvir about death of Rajni by hanging, whereafter, he alongwith his wife Sushma, brother in-law Mahender Singh, sister Sudesh and nephew Raghuvir reached at the house of accused persons, where dead body of Rajni was lying on the bed. He deposed that nobody had seen her in hanging condition. Even police officials of PGR Van told them that Rajni was on the same bed itself when they had reached. SDM also reached the spot. He deposed that on the occasion of Raksha Bandhan on 20.08.2013, Rajni had visited his house and told him that accused Dheeraj used to harass her and further that accused Dheeraj used to beat her and family members of Dheeraj used to demand dowry from her. He deposed that deceased further told him that her mother in-law used to lock her in the room, whenever she (mother in-law) went outside. He deposed that prior to death of Rajni on 27.02.2014, she had given birth to a child and he was also told by Rajni that her mother in-law was not providing her food.

In his cross-examination by Ld. Defence Counsel, he deposed that his statement was recorded once on 23.03.2014 in the evening hours at PS, which is Ex.PW10/DA and that he had stated to the police that Dheeraj used to harass Rajni and further that accused Dheeraj used to beat Rajni and family members of Dheeraj used to demand dowry from her. He was confronted with his statement, wherein none of the above mentioned fact was mentioned. He did not mention the fact that mother in-law of Rajni used to lock her in the room, whenever she went outside. He deposed that his wife and sister were present on 20.08.2013 when deceased disclosed all these facts to her. He deposed that deceased came to her house on 20.08.2013 with his sister and admitted that he is issueless. He admitted that before 30.03.2015 child of deceased. Rajni was being taken care of by him and volunteered that he handed over the custody of child to his sister and



brother in-law on 30.03.2015.

16. PW-11 Smt. Sudesh is the mother of deceased. She deposed that after sometime of marriage, all the accused persons started harassing and beating her deceased daughter Rajni for not bringing four wheeler vehicle and they pressurised her to bring the four wheeler. She deposed that once her son Raghuvir went to the house of Rajni to give her mobile phone but her Dewar Vinay in the presence of all accused persons told him " Mobile kya deta hai, char pahiye ki gaadi de". He abused her son and pushed him out of the house. She deposed that Rajni delivered a baby boy and after five days of delivery, she went to her house and gave eatables but her mother in-law, did not allow her to take the same telling her that her B.P. was high. The husband of Rajni also stopped visiting her room. She deposed that her daughter informed her on telephone that if they would not give Car to the accused persons, they would kill her and that she was weeping on the phone. She deposed that one day prior to death of Rajni, her husband gave Rs.25,000/- to the accused persons. Next morning, they received telephone call from the mother in-law of Rajni informing them that Rajni had hanged herself.

In his cross-examination by Ld. Defence Counsel, she admitted that son of deceased was in the custody of her brother for eight months and the child was returned to them during the pendency of the case.

17. PW-12 is Ct. Krishan. He, on receipt of DD No. 10-A alongwith SI Gaurav had gone to spot, where body of a female was found lying on the double bed on the first floor of the room. He deposed that SI Gaurav called the crime team and informed the SDM. SDM recorded the Statement of father of deceased. Crime Team inspected the spot and took photographs. He deposed that the shawl with which the victim hanged herself was seized vide memo Ex.PW12/A and the stool lying in the room was also



seized vide memo EX.PW12/B.

18. PW-13 W/HC Geeta joined the investigation on 24.03.2014 and deposed about arrest of accused Asha vide memo Ex.PW 13/A.

19. PW-14 Ct. Sahender had delivered the copy of FIR to Ilaka Magistrate, AGP and Addl. CP.

20. PW-15 SI Gaurav Singh deposed on the lines of PW-12 regarding receiving of DD No.1-A and thereafter proceedings conducted at the spot.

21. PW-16 W/Ct. Sangeeta deposed that on 23.03.2014, she was posted at PGR and had received a call at about 9.03 am regarding suicide by a lady. She proved the PCR form as Ex.PW16/A.

22. PW-17 is Inspector Jai Bhagwan to whom the further investigation was handed over after registration of FIR. He had prepared site plan Ex.PW15/DA at the instance of SI Gaurav. He deposed about arrest of accused persons. He recorded the statement of witnesses Raghbir Singh, Mahender Singh and Sudesh Rani. He collected the postmortem report from hospital and also collected the scene of crime report. He deposed that during investigation, he collected the photographs of deceased Ex.PW4/A1 to Ex.PW4/A-14 and of her marriage Ex.PW17/H & Ex.PW17/I. He also obtained the subsequent opinion Ex.PW2/B on shawl from department of forensic science and after completion of investigation, filed the charge-sheet in the court.”

8. Statements of Accused Persons/Respondents were recorded under Section 313 Cr.P.C. wherein they denied the case of prosecution as a false case and claimed themselves innocent and falsely implicated. They all stated that deceased Rajni wanted to give her first child in adoption to her Mama T.R.Saini, PW-10 and that they did not give their consent and for this reason, she used to remain irritated and aggressive and committed suicide.



9. The Respondents examined Sh. Ajay Kumar Ojha (DW-1), Sh. Manu Gautam (DW-2), Sh. Om Prakash (DW-3), Sh. Rajiv Kumar (DW-4), and Sh. Israr Babu (DW-5) in their defence. The Id. Trial court discussed them, in the impugned judgement, as under:

“24. DW-1 Sh. Ajay Kumar Ojha, who proved the report of ultrasound of deceased Rajni prepared by Dr. Navneeta Mittal of Newlife Ultrasound & Diagnostic Pvt. Ltd. as Ex.DW1/A. He deposed that patient was referred to SDN Hospital.

25. DW-2 Sh. Manu Gautam from SDN Hospital. He proved life admission slip and discharge card of Rajni, who was admitted in SDN hospital, as Ex.DW2/A (colly.)

26. DW-3 Sh. Om Prakash deposed that he joined Shyam Palace, Bhola Nath Nagar Road, Near Old Tejab Mill, Shahdara as Manager in the year 2012 and remained there as Manager till October 2014. He deposed that on 28.02.2014, Shyam Palace was booked by one Halwai in the name of Vinod for 02.04.2014. He proved the booking slip as Mark DW3/A.

27. DW-4 Sh. Rajiv Kumar is the owner of Om Imaging & Diagnostic Center, A-2, DDA Market, GTB Enclave, Dilshad Garden. He proved the ultrasound report of deceased Rajni dt. 16.01.2014 & 07.02.2014 signed by Dr. K.K.Phukon, who was earlier working with Om Imaging & Diagnostic Center, as Ex.DW-4/A & Ex.DW4/B.

28. DW-5 Sh. Israr Babu is the Nodal Officer, Vodafone Mobile Services Ltd. He brought the certified copy of CAP of mobile number 9716392989 along with ID Proof & supporting documents registered in the name of Dheeraj S/o. Kewal Kishan and proved the same as Ex.DW5/A. He also proved the CDR of abovesaid mobile number for the period from 19.02.2014. to 03.03.2014 as Ex.DW5/B (colly.) He also proved the



Cell ID Chart of Vodafone as Ex.DW5/C and certificate u/s. 65-B of the Indian Evidence Act as Ex.DW5/D.”

10. The Id. Trial Court, upon perusal of the material placed on record and after considering the submissions advanced on behalf of the parties, proceeded to hold as under:

“54.The ingredients of Section 304-B IPC – In order to hold an accused guilty of an offence under Section 304-B IPC, apart from the fact that the woman died on account of burn or bodily injury or otherwise than under normal circumstances within seven years of her marriage, it has also to be 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. Only then would such death be called a “dowry death” and such husband or relative shall be deemed to have caused the death of the woman concerned.

In the present case, though the first two ingredients were admitted, the third and main ingredient i.e., dowry demand soon before the death, could not be established. The prosecution failed to prove by leading believable evidence that there was any demand of dowry or any harassment caused due to unfulfilled demand of dowry. The case of the prosecution fails under Sections 498-A and 304-B IPC.

55. Now coming to the alternate charge framed under Section 302 IPC. In the present case, the prosecution witnesses have been inconsistent regarding dowry being the main cause of harassment of the deceased and have not been able to establish the case. The prosecution witnesses have stated in their evidence that the deceased was tortured by her in-laws and claimed that the harassment was on account of demand of a car.



It is alleged that there was some communication between the deceased and her mother 3–4 days prior to the incident, wherein the deceased made a telephonic call to her mother and asked them to fulfil the demand of her in-laws regarding a car, failing which they would kill her. Whereas, there is no mention of any such fact in the initial statement of the father of the deceased. The mother of the deceased, in her statement recorded under Section 161 Cr.P.C., stated that when after the birth of the grandson she went to the matrimonial home, she was told by the deceased that the accused persons were pressurising her for a car.

The brother of the deceased has come up with a different version. In his statement under Section 161 Cr.P.C., he stated that when on 22.03.2014 his father went to the matrimonial home of the deceased, she told him that her in-laws were harassing her for a car and that if the car was not given, they would kill her. If the facts were correct as per their versions, the three witnesses ought to have corroborated each other. However, there are contradictions in the statements of the witnesses with regard to the most vital part of the case.

The father of the deceased, who is the complainant, omitted to mention the most important aspect, which according to them was the root cause of all the harassment and murder of the deceased, in the first statement given by him to the SDM. The other two witnesses gave different versions of the incident.

The other incriminating circumstance asserted by all the prosecution witnesses is that the body of the deceased was lying on the bed and nobody saw her hanging, thereby raising a doubt regarding foul play on the part of the accused persons. However, no investigation from that angle was conducted. The medical evidence also does not support the version of the witnesses with regard to the charge under Section 302 IPC.



PW-2 Dr. Neha Gupta, who conducted the postmortem on the body of the deceased, deposed that the cause of death was asphyxia as a result of ante-mortem hanging and that injury No.1 mentioned in the postmortem report was possible with the shawl recovered from the spot. No external injury was found on the body of the deceased and no subsequent opinion from Dr. Neha Gupta was sought to rule out the possibility of suicide. Thus, the prosecution has not been able to bring anything substantial on record with regard to the charge under Section 302 IPC against the accused persons. In this regard, Ld. Defence Counsel has placed reliance upon the judgment of the Hon'ble Delhi High Court reported as 2012 (2) JCC 1319 titled Sandhya Tripathi & Ors. vs. State (NCT of Delhi), wherein it was held that:

“10. In the present case the death was caused due to hanging and thus no alternative charge for offence under Section 302 IPC read with Section 34 IPC could be framed against the petitioners. Undoubtedly, the Hon'ble Supreme Court in Rajbir & Raju and another vs. State of Haryana in SLP (Crl.) No. 9507 of 2010 directed that all trial courts in India should ordinarily add Section 302 IPC to the charge of Section 304-B IPC, so that death sentences can be imposed in such heinous and barbaric crimes against women, however, the said charge cannot be framed in a case of suicide.”

56. Ld. Counsel for the accused persons has also pointed out the lacunas in the investigation. Ld. Defence Counsel argued that neither the SDM nor the Investigating Officer made any inquiry regarding the call details; they did not conduct any local inquiry to find out the real cause of death and no neighbours were examined to ascertain the exact relationship of the deceased with her in-laws.

These are the technical flaws in the investigation, the benefit of which is to be given to the accused persons in light of the judgment of the Hon'ble



Supreme Court reported as 2012 (1) LRCS 1 (SC), Kailash Gaur & Ors. vs. State of Assam. The Hon'ble Supreme Court in the aforesaid matter observed that benefit arising from faulty investigation by the police ought to go to the accused and not to the prosecution.”

11. In view of the technical faults and inconsistencies in the prosecution evidence, *vide* judgement dated 3rd October, 2017, the Id. Trial Court acquitted the Respondents by extending benefit of doubt. The relevant portion of the Judgement is reproduced hereinbelow:

“57. The prosecution thus, fails to prove that deceased was harassed for dowry and because of that reason she committed suicide or was murdered by accused persons. In view of the aforesaid discussion, I am of the considered opinion that prosecution has failed to prove its case against all the accused persons beyond reasonable doubt. On the contrary, the version of the defence seems more believable. Accordingly, all the accused are given benefit of doubt and thus acquitted of all the charges framed against them. However, accused are directed to furnish personal bonds u/s. 437-A Cr.P.C. for a period of six months in the sum of Rs. 10,000/- with one surety each in the like amount each. After furnishing the bail bonds, file be consigned to record room.”

12. The State has challenged the impugned judgment only to the extent whereby the accused persons/respondents were acquitted of the offences punishable under Sections 498-A/304-B/34 IPC. The acquittal of the accused persons/respondents under Section 302 IPC has not been challenged.



13. *Vide* order dated 23rd August, 2018, this Court was pleased to grant leave in CRL.L.P. **90/2018** and directed its registration as ***Criminal Appeal No. 859/2018***. Pursuant thereto, the present appeal was admitted.

14. The aforesaid impugned judgment dated 3rd October, 2017 is under challenge in the present appeal.

SUBMISSIONS ON THE BEHALF OF THE STATE/ APPELLANT

15. At the outset, the Ld. APP for the State submitted that PW-1, PW-6, PW-10 and PW-11 are the material witnesses in the present case. It is contended that PW-1, being the father of the deceased, categorically deposed that his daughter was subjected to harassment, physical beatings and persistent demands for a car by the Respondents. It is further submitted that the deceased had informed PW-1 about such harassment over phone calls.

16. Ld. APP further submits that PW-1 also deposed regarding payment of Rs. 25,000/- to the accused persons, and the said fact has been corroborated by the testimonies of the mother and brother of the deceased. It is contended that the testimonies of the prosecution witnesses consistently establish the demand of dowry and cruelty meted out to the deceased.

17. It is further submitted that PW-11, who is the mother of the deceased, also supported the prosecution case in material particulars and categorically stated in her testimony that the accused persons used to harass the deceased in connection with dowry demands. It is contended that there are no material contradictions in the testimonies of the family members of the deceased.

18. Ld. APP further contends that the death of the deceased occurred within one year of marriage and all the essential ingredients constituting the offence under Section 304-B IPC are duly satisfied. It is therefore submitted that the acquittal recorded by the Ld. Trial Court is erroneous and unsustainable in law.



SUBMISSIONS ON THE BEHALF OF THE ACCUSED PERSONS
RESPONDENTS ACCUSED PERSONS

19. *Per contra*, Ld. Counsel for the Respondents submits that the deceased was desirous of giving her child to her maternal uncle, PW-10('mama'); however, the family members refused the same, owing to which the deceased became disturbed and, in a state of frustration, allegedly committed suicide.

20. Ld. Counsel for the Respondents further contends that an MoU dated 20th May, 2022 was executed between the husband of the deceased and the father of the deceased, which has also been placed on record by the Respondents. It is further contended that, as per the said MoU, the child namely [REDACTED] was given in adoption by the biological father, Respondent -1 to Sh. Thuru Ram, PW-10 and his wife Smt. Shushma Saini with the consent of the parties.

21. Ld. Counsel for the Respondents further contends that there is no cogent evidence on record to substantiate the allegation that an amount of Rs. 25,000/- was paid to the accused persons towards any alleged dowry demand.

22. It is also contended that no witness had actually seen the deceased hanging, though certain marks were found on the body. It is further submitted that the prosecution case under Section 302 IPC already stands rejected, as the Ld. Trial Court acquitted the accused persons of the said offence and the State has not challenged the said acquittal.

23. Ld. Counsel for the Respondents further submits that the allegations levelled by the complainant are vague and general in nature without any specific instances of cruelty or dowry demand attributable to the accused persons.

24. It is further contended that PW-1, in his testimony, stated that limited gifts were given by the family to the accused persons and that after the



delivery of the child, the husband did not visit the room of the deceased. It is submitted that the same was merely a customary ritual being followed by the family and cannot be construed as an act of cruelty.

FINDINGS AND ANALYSIS

25. This Court has heard both the parties.

26. The principal issue that arises for consideration before this Court is whether the prosecution has been able to establish beyond reasonable doubt that the deceased Rajni was subjected to cruelty or harassment by the Respondents in connection with demand of dowry soon before her death so as to attract the offences punishable under Sections 498-A and 304-B IPC, and whether the judgment of acquittal dated 3rd October, 2017 passed by the Id. Trial Court suffers from perversity warranting interference by this Court in appellate jurisdiction.

27. At the outset, it is pertinent to note that upon perusal of the postmortem report and the testimony of PW-2 Dr. Neha Gupta, the cause of death of the deceased has been opined as '*asphyxia as a result of antemortem hanging.*' PW-2 further deposed that the ligature injury mentioned in the postmortem report was possible by the shawl recovered from the spot. It has also come on record that no external injury was found on the body of the deceased. Thus, the medical evidence clearly indicates that the death was suicidal in nature by hanging. The relevant part of the postmortem report and the testimony of PW-2 are extracted hereinbelow:

Postmortem Report

“External Antemortem Injuries

Dry, hard, reddish brown abraded parchmented ligature mark present obliquely and incompletely around the neck above the thyroid cartilage. The mark in midline is six cm below chin and 4 cm wide.



On left side, the mark is 3 cm below angle of mandible and is 2.5 cm wide. The mark further goes obliquely upwards and merges with the head line just behind the mastoid process. On right side, mark goes obliquely upwards and is 2 cm below angle of mandible and is 2.7 cm wide. The mark goes further obliquely upward and merges with the hair line just behind the right ear. The mark is absent posteriorly for a distance of 18 cms. Neck circumference is 31 cm.

XXX

Time Since Death – About one day.

Cause of Death – Asphyxia as a result of antemortem hanging.

PW-2, Dr. Neha Gupta

“On 13.05.2014, Insp. Jai Bhagwan produced before me one sealed parcel duly sealed with the seal of GS and opening the parcel it was found containing one single red and yellow colour printed cotton cloth (shawl) which was been cut into two pieces. The larger piece measure 169x99 cms and the small piece measure 99x31 cms. No tears present. Wrinkling present. No knot was present in either of the pieces. The print was present on one surface of the cloth. After examination of the ligature material, I am of the opinion that injury no.1 mentioned in the postmortem report no. 338/14 was possible from the shawl produced before me. My subsequent opinion is Ex.PW2/B which bears my signature at point A. After examination, the exhibit was sealed by me with the seal of NG and handed over the same to Chetan Singh of PS M.S. Park against receipt at point B.”

28. The prosecution case primarily rests upon the testimonies of PW-1 Mahender Singh (father of the deceased), PW-6 Raghuvir (brother of the deceased) and PW-11 Smt. Sudesh (mother of the deceased), all of whom



sought to establish that the deceased was subjected to cruelty and harassment in connection with demand of a four-wheeler vehicle soon before her death.

29. At the outset, it is important to examine the statement of PW-1, father of the deceased, recorded before the SDM vide Ex.PW1/A on 23rd March, 2014. The relevant extract thereof is reproduced below:

मैं हलवाई का काम करता हूँ। मैंने अपनी लड़की रजनी, उम्र लगभग 22 वर्ष, की शादी दिनांक 29.04.2013 को धीरज के साथ हिन्दू रीति-रिवाज से करवाई थी। शादी के बाद मेरी लड़की ने बताया कि उसके पति तथा ससुराल वाले उसे फोन पर बात नहीं करने देते थे और उसे परेशान करते थे। करीब पाँच महीने पहले मेरा लड़का रघुवीर मेरी लड़की के ससुराल नया मोबाइल फोन देने गया था, तो मेरी लड़की के देवर मोनू ने मेरे लड़के को धमकाया और कहा, “मोबाइल क्या देता है, चार पहियों की गाड़ी दे।” इस कारण मेरी लड़की हमेशा परेशान रहती थी।

मेरी लड़की जब भी घर आती थी, तब वह कहती थी कि धीरज उसे परेशान करता है तथा ससुराल वाले भी उसे परेशान करते हैं। मेरी लड़की रजनी को दिनांक 27.02.2014 को एक लड़का हुआ। लड़का होने के बाद रजनी को उसके पति तथा ससुराल वालों द्वारा खाने को भी नहीं दिया जाता था, जिससे वह हमेशा परेशान रहती थी। जो मेरी लड़की रजनी से तीन दिन पहले फोन पर मेरी पत्नी को बतलाया कि जब से उसे लड़का हुआ है उसका पति कमरे में नहीं आता है और उसकी सास आती है उससे वह परेशान है।

30. Upon perusal of the aforesaid statement, it can be seen that only general allegations were made to the effect that the deceased was not being properly treated by her in-laws and that she used to remain disturbed and tense. There is no mention of any specific incident of cruelty, demand of car, alleged threats, or payment of money to the accused persons.



31. This Court shall now examine the deposition of PW-1 Mahender Singh (father of the deceased) before the Court. The relevant extracts of the said deposition are reproduced hereinbelow:

<u>PW-1 Mahender Singh (father of the deceased)</u>	
Examination-In-Chief	Cross-Examination
<p><i>After her marriage, all the four accused started harassing and beating Rajni on account of demand of car. This fact was told to me by my daughter.</i></p> <p style="text-align: center;">XXX</p> <p><u>After the delivery of the child, my daughter complained that her husband was not coming to her room and that her mother-in-law was harassing her.</u></p> <p><u>My daughter asked me to fulfill the demand of her in-laws with regard to the car, failing which they would kill her and therefore, on 22.03.14, I went to the house of the accused and gave Rs.25,000/- to accused Asha Rani for purchasing the car and promised that I would give more money next day for the purchase of the car.</u></p> <p><u>On 23.03.14 morning, I received a telephone call from accused Asha Rani</u></p>	<p><i>It is correct that when my son Raghuvir went to the house of the accused persons and gave a mobile phone to my daughter, accused Vinay @ Monu asked him why we had given only a mobile phone and not a four-wheeler. It is correct that after marriage, my daughter informed me on telephone that accused Keval Krishan, Asha Rani, Dheeraj and Vinay @ Monu used to harass her for fulfillment of demand of car.</i></p> <p style="text-align: center;">XXX</p> <p><u>It is correct that my first statement was recorded by the SDM. I had stated to the SDM in my statement that all the four accused persons used to harass my daughter for demand of car, confronted with Ex.PW1/A where such harassment for demand of car is not mentioned, rather harassment is mentioned. I had not stated to the SDM in my statement that my daughter asked me to fulfill the demand of her in-laws with regard to car, failing which they would kill her or that on 22.03.14</u></p> <p style="text-align: center;">XXX</p> <p><i>I have stated about these facts in my subsequent statement to the police. I did not tell the SDM in my statement Ex.PW1/A that prior to the incident I made no complaint to the police against</i></p>



that my daughter had hanged herself.

the accused so that her family life may not be spoiled. It is incorrect to suggest that I have made deliberate improvements in my statement before the Court than to my statement Ex.PW1/A.

XXX

I had stated to the police in my statement dated 24.03.14 that my daughter asked me to fulfill the demand of her in-laws with regard to car, failing which they would kill her or that on 22.03.14

XXX

I went to the house of the accused and gave Rs.25,000/- to accused Asha Rani for purchasing the car and promised that I would give more money next day for the purchase of the car, confronted with statement Ex.PW1/DA dated 24.03.14 where it is not so recorded. It is incorrect to suggest that no such facts were ever stated by me to the police on 24.03.14.

XXX

It is correct that there was no demand from accused side before or at the time of marriage. It is correct that marriage was solemnized by me and money spent was as per the prevailing custom and traditions. It is correct that I have satisfied myself before marriage that accused Dheeraj was a suitable match for my daughter. I did not lodge any complaint with police or any other authority prior to the incident against accused persons for harassing and troubling my daughter or demand of car. Vol. I did not lodge any complaint as I did not want to spoil matrimonial life of my daughter. It is incorrect to suggest that I am giving false explanation for not



	<p><i>lodging any complaint against the accused persons or that I did not lodge any complaint against them as there was no cause with me.</i></p> <p style="text-align: center;"><i>XXX</i></p> <p><i>While giving my statement to the SDM, I gave reply to the queries put by the SDM and did not give statement from my own side. I signed my statement at the instance of the SDM without reading the same. I can read Hindi language. It is correct that it is mentioned at point DA on statement Ex.PW1/A that SDM recorded my statement at the spot which was read by me and found correct. My statement was recorded by the SDM in his own handwriting. My statement was recorded by the SDM at about 9.00/9.15 am on 23.03.14.</i></p> <p style="text-align: center;"><i>XXX</i></p> <p><u><i>It is correct that a lady is generally observing 40 days rest after delivery of a child. It is correct that usually the elderly ladies in the house are taking care of the woman during those 40 days for her every need. It is correct that during those 40 days even the said lady is not advised to have co-habitation with her husband.</i></u></p>
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32. A bare perusal of both the statements shows that in the statement given to the SDM, PW-1 did not specifically allege any demand of a car and did not even whisper about the fact that his daughter Rajni-deceased had asked him to fulfil the demand of her in-laws with regard to a car, failing which they would kill her. He also did not state anything regarding his visit to the house of the accused persons on 22nd March, 2014 or about allegedly giving



Rs.25,000/- to them for purchase of a car. Such an event, namely visiting one's daughter a day before her death and allegedly paying a substantial amount towards fulfilment of dowry demand, is undoubtedly a material and foundational circumstance forming the very basis of the prosecution case.

33. In the ordinary course of human conduct, it appears highly improbable that such a significant fact would be omitted while giving the very first statement before the SDM immediately after the incident. The omission of such a crucial fact from the earliest version casts a serious doubt on the subsequent improvements made during deposition before the Court.

34. The material on record reflects that PW-1 further admitted that there was no demand of dowry before or at the time of marriage and that no promise regarding giving of a car was ever made by him. He also admitted that no complaint was ever lodged with the police or any authority prior to the incident despite the alleged continuous harassment. Though PW-1 attempted to explain that he refrained from lodging any complaint to avoid spoiling the matrimonial life of his daughter, the absence of any contemporaneous complaint weakens the prosecution case, particularly when the allegations pertain to persistent cruelty and dowry demand. The relevant extracts are reproduced hereinbelow:

“It is correct that there was no demand from accused side before or at the time of marriage. It is correct that marriage was solemnized by me and money spent was as per the prevailing custom and traditions. It is correct that I have satisfied myself before marriage that accused Dheeraj was a suitable match for my daughter. I did not lodge any complaint with police or any other authority prior to the incident against accused persons for harassing and troubling my daughter or demand of car. Vol. I did not lodge any complaint as I did not



want to spoil matrimonial life of my daughter. It is incorrect to suggest that I am giving false explanation for not lodging any complaint against the accused persons or that I did not lodge any complaint against them as there was no cause with me.”

35. Another important aspect emerging from the testimony of PW-1 relates to the post-delivery conduct alleged against the husband. PW-1 stated that after the delivery of the child, the husband was not visiting the room of the deceased. However, during cross-examination, he admitted that as per customary practice, a woman generally observes rest for about forty days after delivery and cohabitation with the husband is ordinarily avoided during that period. This admission supports the defence contention that the said circumstance was misconstrued as cruelty, though it may have been part of a customary post-natal practice. The relevant extracts are reproduced hereinbelow:

“It is correct that a lady is generally observing 40 days rest after delivery of a child. It is correct that usually the elderly ladies in the house are taking care of the woman during those 40 days for her every need. It is correct that during those 40 days even the said lady is not advised to have co-habitation with her husband.”

36. This Court cannot lose sight of the fact that when PW-1 was confronted with the material omissions and additions appearing between his statement Ex.PW1/A recorded before the SDM and his subsequent deposition before the Court, PW-1 gave vague explanations and attempted to rely upon subsequent statements allegedly made to the police. However, even in his subsequent statement Ex.PW1/DA dated 24th March, 2014, there was no mention



regarding the alleged demand of car, threats extended to the deceased or payment to accused Asha Rani (Respondent-4) on 22nd March, 2014. This assumes significance while appreciating the credibility and consistency of his testimony. The relevant extract of the cross-examination of PW-1 is reproduced hereinbelow:

*“It is correct that my first statement was recorded by the SDM. I had stated to the SDM in my statement that all the four accused persons used to harass my daughter for demand of car, **confronted with Ex.PW1/A where such harassment for demand of car is not mentioned rather harassment is mentioned. I had not stated to the SDM in my statement that my daughter asked me to fulfill the demand of her in-laws with regard to car failing which they would kill her or that on 22.03.14, I went to the house of accused and gave Rs.25,000/- to accused Asha Rani for purchasing the car. I have stated about these facts in my subsequent statement to the police. I did not tell the SDM in my statement Ex.PW1/A that prior to the incident I made no complaint to the police against the accused so that her family life may not be spoiled. It is incorrect to suggest that I have made deliberate improvements in my statement before the court then to my statement Ex.PW1/A.***

*My statement was recorded by the police on 23.03.14. My another statement was recorded on 24.03.14 in the hospital regarding identification of dead body. No other statement was recorded by the police. I had stated to the police in my statement dated 24.03.14 that my daughter asked me to fulfill the demand of her in laws with regard to car failing which they would kill her or that on 22.03.14 I went to the house of accused and gave Rs.25,000/- to accused Asha Rani for purchasing the car and promised that I would give more money next day for the purchase of the car, **confronted with statement***



Ex.PW1/DA dated 24.03.14 where it is not so recorded. It is incorrect to suggest that no such facts were ever stated by me to the police on 24.03.14.”

37. This Court now turns to the statements recorded under Section 161 Cr.P.C. and the Court depositions of PW-11 Smt. Sudesh, mother of the deceased, and PW-6 Raghuvir, brother of the deceased. This Court finds a similar pattern in their depositions as observed in the testimony of PW-1. Both PW-11 and PW-6 made material improvements and additions during their depositions before the Court which were absent in their earlier statements recorded under Section 161 Cr.P.C. The relevant extracts are reproduced hereinbelow:

<i>PW-11 Smt. Sudesh, Mother of the deceased</i>	
<i>Statement under 161 CrPC</i>	<i>Deposition before the Court.</i>
<p>उसने बताया कि उसका पति, सास तथा देवर उसको फोन नहीं करने देते थे और कमरे में ही बंद रखते थे। रघुवीर मेरी लड़की को फोन देना चाहता था, लेकिन देवर विनय ने धमकाते हुए कहा, “मोबाइल क्या देता है, चार पहियों की गाड़ी दे।” उस समय मेरी लड़की का पति, सास तथा ससुर वहीं मौजूद थे।</p> <p>मेरी लड़की हमेशा परेशान रहती थी। जब हमने इस बारे में उसके पति धीरज तथा ससुर से बात की, तो उन्होंने भी कहा कि बच्चों की पसंद का तो ध्यान रखना ही पड़ता है। जब मेरी लड़की को एक लड़का हुआ, तब उसे खाना भी नहीं दिया जाता था। उसका पति भी उसके कमरे में नहीं आता था।</p>	<p><i>My daughter informed me over the telephone that if we did not give a car to the accused persons, they would kill her. She was weeping on the phone. One day prior to her death, my husband gave Rs.25,000/- to the accused persons. The next morning, I received a telephone call from Rajni’s mother-in-law informing me that Rajni had hanged herself.</i></p> <p>XXX</p> <p><i>I had stated to the police in my first statement that one day prior to the death of my daughter, my husband had given Rs.25,000/- to the</i></p>



<p style="text-align: center;">XXX</p> <p>जो मैं अपनी लड़की को सामान देने उसके ससुराल आई तो लड़की ने बताया कि उसके पति, सास व देवर कार के लिए दबाव बनाते हैं व परेशान रखते हैं जब मैंने धीरज व उसके परिवार वालों को बतलाया कि अभी हमारी गुंजाइश नहीं है। जो कल दिनांक 23.3.14 को समय करीब 10 बजे सुबह मेरी लड़की रजनी की सास ने फोन से बतलाया कि रजनी ने फांसी लगा ली है। जो हम वहाँ आए तो मेरी लड़की Bed पर पड़ी हुई थी। मुझे शक है कि मेरी लड़की रजनी को उसके पति, सास, ससुर व देवर ने मारा है। जो आपने मेरा बयान GATB मोर्चरी में लिखा है। पढ़कर सुनाया है जो ठीक है।</p>	<p><i>accused persons (confronted with statement Ex.PW11/DA where it is not so recorded). It is wrong to suggest that we subsequently concocted the false story regarding the visit of my husband to the house of the accused persons and payment of Rs.25,000/- to them one day prior to the incident</i></p>
<i>PW-6 Raghuvir, Brother of the Deceased</i>	
<i>Statement under 161 CrPC</i>	<i>Deposition before the Court.</i>
<p>बयान किया कि मैं पता उपरोक्त पर साथ परिवार रहता हूँ और प्राइवेट काम करता था मेरी बहिन रजनी की शादी हमने 29/04/13 को Dheeraj S/o Sh Kewal Krishan R/o H.No.-1/3538 A, Ram Nagar ext, Shd Del. से की थी। शादी के बाद ही मेरी बहिन अपनी ससुराल में बहुत परेशान रहती थी और हमें बताती थी कि उसका पति धीरज व ससुराल वाले उसे परेशान करते हैं और किसी फोन पर बात नहीं करने देते थे करीब 5 माह पहले मैं अपनी बहिन के यहाँ उसे मोबाईल फोन देने गया था कि उसके देवर ने कहा कि मोबाईल क्या देता है चार पहिये की गाड़ी दो और मुझे धमकाया। जो मेरी बहिन को 27 Feb 2014 को एक लड़का हुआ था जो लड़के होने के बाद मेरी बहिन को उसका</p>	<p><i>One day prior to the death of my sister, on 22.03.14, my father went to the house of the accused persons and perhaps gave an amount of Rs.20-25,000/- to the accused persons (objected to by Ld. Defence Counsel). Prior to that, my father also received a telephonic call from my sister and she disclosed about the demand of a four-wheeler by the accused persons. This phone call was received three days prior to the present incident (objected to by Ld. Defence Counsel). She further told my father that the accused</i></p>



पति व ससुराल वाले फोन से नहीं देते थे और तीन दिन पहले मेरी बहिन ने फोन करके मेरी माँ को बतलाया कि उसका पति उसे कमरे में नहीं आने देता है और वह परेशान है। आज रजनी की सास ने फोन करके बतलाया कि रजनी ने फाँसी लगा ली है। तो हम मौका पर पहुँचे जब हम मौका पर पहुँचे तो मेरी बहिन बेड पर पड़ी हुई मिली। जो मुझे शक है कि मेरी बहिन को उसके पति, सास, ससुर व देवर ने मारा है। मेरी बहिन ने खुदकुशी नहीं की है। उनके खिलाफ उचित कानूनी कार्यवाही की जाये। आपने मेरा बयान लिया जो पढ़ लिया ठीक है।

persons would kill her if the demand was not fulfilled (objected to by Ld. Defence Counsel). This fact was told to us by my father on 14.05.14

38. A perusal of the aforesaid statements reveals that the principal allegation regarding PW-1 visiting the matrimonial home one day prior to the incident and allegedly handing money to the Respondents, though deposed before the Court, finds no mention in the statements recorded under Section 161 Cr.P.C. The same pattern of improvements and additions, as observed in the testimony of PW-1, is also visible in the testimonies of PW-11 and PW-6.

39. The material on record clearly reflects, and this Court finds, that the allegations regarding dowry demand made by PW-1, PW-11 and PW-6 are vague and general in nature and lack specific particulars. This Court further finds that material variations are apparent between the statements recorded under Section 161 Cr.P.C. and the subsequent depositions made before the Court, wherein several material allegations appear to have been introduced by way of improvements during testimony.

40. The Supreme Court *in State of Uttarakhand v. Sanjay Ram Tamta, (2025) 3 SCC 433* held that material omissions in the statements recorded under Section 161 Cr.P.C., which subsequently emerge as improvements



during deposition before the Court, materially affect the credibility of the prosecution case and such improved versions cannot be safely relied upon.

The relevant extract is reproduced below:

“15. On a reading of the evidence recorded at the trial, we are of the considered opinion that the demand of dowry was not proved by the prosecution. The omissions in the statements under Section 161 CrPC which are deemed to be material contradictions put to peril the prosecution story of demand of dowry. A three-Judge Bench of this Court on such omissions held so in Darshan Singh v. State of Punjab, in para 31 : (SCC p. 176)
“31. If the PWs had failed to mention in their statements under Section 161 CrPC about the involvement of an accused, their subsequent statement before court during trial regarding involvement of that particular accused cannot be relied upon. Prosecution cannot seek to prove a fact during trial through a witness which such witness had not stated to police during investigation. The evidence of that witness regarding the said improved fact is of no significance. [See : (i) Rohtash v. State of Haryana⁵, (ii) Sunil Kumar Sambhudayal Gupta v. State of Maharashtra, (iii) Rudrappa Ramappa Jainpur v. State of Karnataka, and (iv) Vimal Suresh Kamble v. Chaluverapinake Apal S.P.]”

16. Both PWs 1 and 2 admitted in their deposition that they had not personally witnessed any physical violence on the wife and PW 2 the father also deposed that the son-in-law was quite aware of his financial condition; which would not have enabled him to raise Rs 4,00,000 or purchase a plot for construction of a house. It was his specific statement that the son-in-law and his family was apprised of this fact at the time of marriage and



they had agreed to accept his daughter, as such. The essential ingredient of a demand of dowry being absent under Section 304-B IPC, we cannot find the suicidal death; though, categorised as an unnatural one, as one akin to murder inviting a punishment under Section 304-B IPC.

17. We, hence, reject the appeal, confirming the order of acquittal of the High Court; but for the different reasons, stated hereinabove. The parties to bear their own costs.”

41. To constitute a “dowry death” punishable under Section 304-B IPC, the prosecution is required to establish the following essential ingredients:

- (i) the death of a woman must have been caused by burns, bodily injury or otherwise than under normal circumstances;
- (ii) such death must have occurred within seven years of marriage;
- (iii) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or his relatives; and
- (iv) such cruelty or harassment must have been in connection with demand of dowry.

42. The expression ‘otherwise than under normal circumstances’ is wide enough to include a suicidal death. Once the aforesaid ingredients are established, the presumption under Section 113-B of the Indian Evidence Act would arise against the accused persons. However, such presumption can be invoked only after the prosecution first proves, beyond reasonable doubt, the foundational facts constituting the offence under Section 304-B IPC. The burden initially remains upon the prosecution to establish that the deceased was subjected to cruelty or harassment soon before her death in connection with dowry demand.



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43. In the present case, it is not disputed that the death of the deceased occurred otherwise than under normal circumstances and within seven years of marriage. However, the core issue which arises for consideration is whether the prosecution has been able to establish that the deceased was subjected to cruelty or harassment soon before her death in connection with demand of dowry.

44. The testimonies of PW-1, PW-6 and PW-11 do not reveal any specific demand of dowry made either prior to or at the time of marriage. Rather, the allegations regarding demand of car surfaced subsequently during deposition before the Court. Significantly, several material allegations, including the alleged demand of car, the alleged payment of Rs.25,000/- by PW-1 one day prior to the death, and the alleged threats extended to the deceased, are absent from the earliest statements recorded before the SDM and under Section 161 Cr.P.C.

45. The absence of these allegations and narration of such important events in the statements recorded under Section 161 Cr.P.C., coupled with their subsequent introduction during deposition before the Court, materially weakens the credibility of the witnesses and raises serious doubt upon the case of the prosecution. Though reliance has been placed upon the alleged statement “*Mobile kya deta hai, chaar pahiye ki gaadi de*”, the same appears to be an isolated allegation and is insufficient, by itself, to establish cruelty or harassment soon before death in connection with dowry demand.

46. Having regard to the material on record, this Court concurs with the finding of the Id. Trial Court that the ingredients of Sections 304-B IPC and 498-A IPC have not been established beyond reasonable doubt.

47. The Supreme Court in *Shoor Singh v. State of Uttarakhand*, (2025) 2 SCC 815 reiterated that for attracting the offence under Section 304-B IPC,



the prosecution is required to establish not merely an unnatural death within seven years of marriage, but also that soon before her death the deceased was subjected to cruelty or harassment in connection with demand of dowry. The relevant extract is reproduced below:

“17. In the instant case, it is not in dispute that the deceased died otherwise than under normal circumstances within seven years of her marriage. However, the issue between the parties is about her being subjected to cruelty or harassment by her husband or his relative, soon before her death, in connection with any demand for dowry.

18. The testimonies of PW 1, PW 2 and PW 3 do not indicate that any demand for dowry was made by the appellant-accused either before or at the time of marriage of the deceased with their son. Further, there is no evidence that the appellant-accused directly demanded a motorcycle or cash from any of the above witnesses. In fact, evidence is to the effect that the deceased had informed PW 1 and PW 2 on 4-1-2007 and 11-1-2007 about the demand for a motorcycle and cash. Further, from the deposition of PW 1 and PW 2, it appears that the aforesaid demand was not in connection with marriage but as a mark of celebration on birth of a male child.

19. No doubt testimonies of PW 1 and PW 2 would not be hit by the rule against hearsay evidence because it related to one of the circumstances of the transaction resulting in their daughter's unnatural death. However, a distinction must be drawn between admissibility and acceptability/reliability of a piece of evidence. Merely because a piece of evidence is admissible does not mean that it must be accepted. Before accepting the evidence to hold that



the fact in issue stands proved beyond reasonable doubt, the court must evaluate the same against the weight of surrounding circumstances and other facts proven on record.

20. In the instant case, the witnesses PW 1 and PW 2 were asked whether they took up the issue of motorcycle/cash demand with the accused. Their reply was that they did not, because they took it as a joke. We fail to understand how parents could treat their daughter's multiple reporting of apprehension to her life, on account of demand being not met, as a joke. This creates a serious doubt about the truthfulness of the allegation more so when there is no allegation that any such demand was ever raised either before or at the time of marriage.

21. This doubt gets fortified by change in stance of PW 1 from what was taken in FIR. Notably, in FIR it was alleged that the appellant-accused including their elder son, and his wife, had directly raised demand for a motorcycle and cash. This allegation was not supported by the deposition of both PW 1 and PW 2 while admitting that the appellant's elder son was a doctor serving in another district.

22. Thus, there appears to be a knee-jerk reaction to the unnatural death of their daughter to make out a case of dowry death. Besides that, no independent witness of the vicinity was examined. In our considered view, therefore, one of the essential ingredients of dowry death, namely, any demand for dowry, was not proved beyond reasonable doubt.

23. Indisputably, the accused have not been convicted for murder, and rightly so, because there was no worthwhile evidence to show that except for the burn injuries, which could be self-inflicted, the accused suffered any other ante-mortem injury.



Moreover, the presence of the accused in the house at the time of occurrence is not proved. In such circumstances, the death was most probably suicidal though this would not make a difference for commission of an offence punishable under Section 304-B IPC if all the other ingredients of dowry death stand proved. But, as noted above, here harassment/cruelty at the instance of the appellants in connection with any demand for dowry has not been proved beyond reasonable doubt.

24. As regards the reason to commit suicide, though it is not necessary for us to dwell upon, suffice it to say that husband of the deceased was in service and stayed away from the deceased. Suggestion was given to the prosecution witnesses, and statement was also made under Section 313 CrPC, that the deceased used to remain depressed for being unable to join her husband at the place of his posting due to lack of residential quarter. That apart, a photograph of the deceased (Ext. Kha-1), regarding which no dispute was raised by the prosecution witnesses, showing her alone with a male stranger had surfaced. In the statement under Section 313 CrPC a stand was taken that this photograph had shamed her.

25. Be that as it may, once all the necessary ingredients of dowry death have not been proved beyond reasonable doubt, the presumption under Section 113-B of the Evidence Act would not be available to the prosecution. Hence, in our considered view, the appellants are entitled to be acquitted of the charge of offences punishable under Sections 304-B and 498-A IPC.

26. The appeal is accordingly allowed. The order convicting and sentencing the appellants under Sections 304-B and 498-A IPC is set aside. The



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appellants are on bail. They need not surrender. Their bail bond(s) stand discharged.”

48. In view of the aforesaid discussion, this Court is of the considered opinion that the prosecution has failed to establish beyond reasonable doubt that the deceased was subjected to cruelty or harassment soon before her death in connection with demand of dowry. The testimonies of the material prosecution witness, namely PW-1, PW-6 and PW-11, suffer from material omissions, improvements and inconsistencies on vital aspects of the prosecution case, particularly regarding the alleged demand of car, alleged threats extended to the deceased and the alleged payment one day prior to the incident. The allegations are vague and general in nature and the evidence on record does not establish the essential ingredients of cruelty or harassment soon before death in connection with dowry demand as required under Section 304-B IPC. There are no medical records or independent credible witnesses on record to substantiate the allegations of cruelty or dowry-related harassment. Further, no specific overt act attributable to any of the accused persons has been established so as to attract the ingredients of Sections 498-A or 304-B IPC.

CONCLUSION

49. This Court further finds no perversity, illegality or misappreciation of evidence in the impugned judgment of acquittal passed by the Id. Trial Court warranting interference in appellate jurisdiction. The view taken by the Id. Trial Court is a plausible and reasonable view based upon appreciation of evidence on record.



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50. Accordingly, the present appeal stands dismissed. Pending applications, if any, also stand disposed of. The impugned judgment dated 3rd October, 2017 passed by the Id. Trial Court is hereby affirmed.

51. The Personal Bonds and Surety Bonds of the Respondents are cancelled.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH
JUDGE**

MAY 29, 2026/RM/YS