



2026:DHC:3059



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment Reserved on: 06.04.2026**
Judgment pronounced on: 15.04.2026

+ **CRL.A. 296/2017**
DANVIR TOMER

.....Appellant

Through: Mr. S.S. Ahluwalia, Advocate with
Ms. Saniya Zehra, Advocate along
with the appellant in person.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the
State with SI Mitthan Lal, P.S. Sarita
Vihar.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA
JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374(2) of the Code of Criminal Procedure, 1973 (the Cr.PC.), the first accused (A1), in Sessions Case No. 1852/2016 on the file of the Additional Sessions Judge, South-East, Saket Courts, New Delhi assails the judgment dated 15.02.2017 and order on sentence dated 27.07.2017 as per which he has been convicted and sentenced for the offences punishable under Section 498A and 304B read with 34 of the Indian Penal Code, 1860 (the IPC).



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2. The prosecution case, in brief, is that, Julie, the daughter of PW2 was married to A1 on 21.05.2013 as per the rites and customs of the community to which they belong. Pursuant to the marriage, A1, her husband and her in-laws, namely, the second accused (A2), the father of A1 and the third accused (A3), the brother of A1 in furtherance of their common intention subjected Julie to cruelty during her stay in the matrimonial home for the period from 21.05.2013 to 29.07.2013 demanding more dowry due to which she committed suicide on 29.07.2013 by hanging herself. Hence, as per the final report/charge-sheet, the accused persons were alleged to have committed offences punishable under Sections 498A, 304B read with Section 34 IPC.

3. On the basis of Ext. PW2/B FIS/FIR of PW2, father of the deceased, given on 30.07.2013, Crime No. 283/2013, Sarita Vihar Police Station, i.e., Ex. PW7/A, FIR was registered by PW7, Head Constable (HC). PW15 conducted investigation into the crime and on completion of the same, filed the charge-



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sheet/final report dated 12.11.2013 and a Supplementary charge-sheet dated 05.04.2014 alleging commission of the offences punishable under the aforementioned sections.

4. On appearance of the accused persons before the jurisdictional magistrate pursuant to receipt of summons, copies of all the prosecution reports were furnished to them as contemplated under Section 207 Cr.P.C. Thereafter, in compliance of Section 209 Cr.P.C, the case was committed to the Court of Session concerned.

5. When the accused persons appeared before the trial court, as per orders dated 10.01.2014 and 25.04.2014, Charge under Sections 498A and 304B read with Section 34IPC was framed, read over and explained to the accused persons, to which they pleaded not guilty.

6. On behalf of the prosecution, PWs.1 to 15 were examined and Ext. PW 1/A, Ext. PW 1/A1-A5, Ext. PW 2/A-C, Ext. PW 2/D1-4, Ext. PW2/E, Ext. PW 3/A, Ext. PW4/A-F, Ext.



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PW5/A, Ext. PW 6/A-B, Ext. PW 7/A-B, Ext. PW 8/A, Ext. PW 11/A-F, Ext. PW 12/A, Ext. PW 15/A, Ext. PW 15/B-1 to 7, Ext. PW15/C-1-11 were marked in support of the case.

7. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.P.C., with regard to the incriminating circumstances appearing against them in the evidence of the prosecution. The accused persons denied all those circumstances and maintained their innocence. They submitted that they have been falsely implicated in the case and denied demanding any dowry.

8. After questioning the accused under Section 313(1)(b) Cr.P.C., compliance of Section 232 Cr.P.C., was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C., is seen done by the trial court. However, non-compliance of the said provision does not *ipso facto* vitiate the proceedings unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See



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Moidu K. Vs. State of Kerala, 2009 (3) KHC 89; 2009 SCC OnLine Ker 2888). In the case on hand, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

9. On behalf of the accused persons, DW1 to DW3 were examined. No documentary evidence was adduced by the accused persons.

10. On consideration of the oral and documentary evidence and after hearing both sides, the trial court, *vide* the impugned judgment dated 15.02.2017 found A1 guilty of the offences punishable under Sections 498A and 304B read with Section 34 IPC. Accordingly, *vide* order on sentence dated 22.02.2017, sentenced him to undergo rigorous imprisonment for a period of 7 years and to pay a fine of ₹5,000/- for the offence punishable under Section 304B IPC, and in default of payment of fine, to undergo simple imprisonment for 6 months and to undergo rigorous imprisonment for a period of 2 years and to pay



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a fine of ₹1,500/- for the offence punishable under Section 498A IPC, and in default of payment of fine, to undergo simple imprisonment for 3 months. The sentences have been directed to run concurrently. The trial court, however, held that the prosecution had failed to prove the case against A2 and A3 beyond reasonable doubt and so acquitted them under Section 235(2) Cr.P.C. of the offences punishable under Sections 498A, 304B read with Section 34 IPC. Aggrieved, A1 has preferred this present appeal.

10.1. It was submitted by the learned counsel for the appellant/A1 that the prosecution has failed to establish the essential ingredients of Sections 304B and 498A IPC, in view of the material inconsistencies in the testimonies of key witnesses. These inconsistencies, according to the learned counsel for the accused, cast serious doubt on the prosecution case. It was also submitted that there is no cogent or reliable evidence on record, such as any prior police complaint or communication from the



deceased, to establish that she was unhappy, subjected to harassment, or treated with cruelty soon before her death, thereby failing to satisfy the essential requirement under the law. The evidence on record is unsatisfactory and hence the trial court went wrong in convicting the appellant/ A1, goes the argument.

11. *Per Contra*, the learned Additional Public Prosecutor for the State submitted that the impugned judgment does not suffer from any infirmity warranting interference by this court as the trial court has duly considered each and every ground raised in the present appeal and, upon an overall appreciation of the materials on record, adjudicated the matter on merits.

12. Heard both sides and perused the materials on record.

13. The only point that arises for consideration in this appeal is whether the conviction entered and sentence passed against the appellant/A1 by the trial court are sustainable or not.

14. Section 304B IPC provides that where the death of a woman is caused by 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 his relatives in connection with any demand for dowry, such death shall be termed as a “dowry death”, and the husband or such relative shall be deemed to have caused her death. Explanation to the Section says that the term “dowry” shall have the same meaning as assigned under Section 2 of the Dowry Prohibition Act, 1961, which defines it as any property or valuable security given or agreed to be given, directly or indirectly, by one party to the marriage to the other party, or by the parents or any other person, at or before or any time after the marriage, in connection with the marriage of the said parties. Therefore, in order to seek conviction of a person for the offence of dowry death under Section 304B IPC, the prosecution is obliged to prove that - (i) the death of the woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances; (ii) such death



should have occurred within 7 years of her marriage; (iii) the deceased was subjected to cruelty or harassment by her husband or by any relative of her husband; (iv) such cruelty or harassment should be for or in connection with the demand of dowry; and (v) to such cruelty or harassment, the deceased should have been subjected to soon before her death.

15. In the case on hand, the factum of death of Julie by hanging has not been disputed by the accused. Ext. PW5/A post mortem report proved through PW5, the doctor who conducted the post mortem shows that Julie died due to asphyxia caused by ante mortem hanging. It is also no doubt true that the death fell within the prescribed period of seven years, as A1 and Julie got married on 21.05.2013 and she committed suicide on 28.07.2013, which is within a short span of about two months from the date of marriage. Therefore, ingredients (i) and (ii) of Section 304B IPC stands established. What remains is ingredients (iii), (iv) and (v). The prosecution relies on the testimony of PW2, PW9, PW10 and



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PW14 to establish the same. Hence, I will make a brief reference to the same.

16. PW2, father of Julie, when examined before the trial court deposed that after Julie's marriage to A1 on 21.05.2013, she started residing in her matrimonial home. Prior to the marriage, A2, the father of A1 demanded a sum of ₹6,00,000/- out of which ₹5,50,000/- was paid in cash at the time of lagan, apart from jewellery worth approximately ₹4,00,000/-. According to PW2, he spent about ₹10,00,000/- for the marriage. After about ten days of the marriage, when Julie visited her parental home, she informed them that she was being taunted by the accused persons, namely, A1, A2 and A3 for not bringing the remaining amount of ₹50,000/- and that she was also beaten by her husband on that account. Thereafter, Julie was taken back to her matrimonial home by the accused, and after about 12 to 13 days she again returned to her parental house and reiterated the aforesaid allegations. PW2 deposed that he tried to pacify the accused and



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undertook to pay the remaining amount of ₹50,000/- on the occasion of Rakshabandhan, pursuant to which Julie was again sent to her matrimonial home.

16.1. PW2 in his cross examination deposed that he is a farmer by profession, belongs to a semi-literate family. He deposed that he was hardly able to save anything and had arranged funds for the marriage through financial assistance received from his two sons including PW10 and his nephew who used to send him money in cash, but could not recollect the details of the amount given by them. He further deposed that Julie had informed them about the harassment for dowry even prior to 31.05.2013. On 28.07.2013, A1 had called him on phone. PW2 further deposed that the marriage was arranged through a mediator, PW14, who knew both the families. PW2 reiterated that the accused persons had demanded ₹6,00,000/- in cash apart from other articles, and that they had undertaken to pay ₹ 50,000 at the time of Rakshabandhan. However, he admitted that the said



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amount was not demanded before Rakshabandhan either by the accused persons or through the mediator. He further deposed that Julie had initially praised her husband and in laws when she first visited after marriage, but according to him, she had also reminded them about the demand of ₹ 50,000/-.

17. PW9, the mother of Julie, when examined, deposed that Julie, one day prior to her death, had called her on the telephone and informed that A1 was demanding a sum of ₹50,000/- and had threatened her with dire consequences in case the said amount was not paid. PW9, in her cross examination, deposed that neither A1 nor his father A2 had ever called her on phone or demanded anything. According to her, they used to call her another son-in-law which also, admittedly, had never been done in her presence.

18. PW10, brother of Julie, when examined, deposed that one day in July 2013, he visited the matrimonial house of Julie, on which day she did not made any complaint against the accused as she was not permitted to remain alone with him. He further



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deposed that A3 demanded a sum of ₹ 50,000/- stating that the said amount remained unpaid at the time of marriage, and that A2 also complained about the delay in payment of the said amount for which he assured them that the amount would be paid on the occasion of Rakshabandhan.

19. PW10 in his cross examination, however, deposed that his parents PW2 and PW9 had never consulted him regarding the dowry to be given in the marriage of Julie and that he had no knowledge of what dowry had been given. He further deposed that during Julie's stay at their parental home, she had not made any complaint against the accused to him. He further admitted that A3 was not present on the day when he had visited the house of the accused. He denied the suggestion that A3 had ever demanded ₹50,000/- from him. PW10 further deposed that he had never spoken to A1 in connection with the demand for dowry. He further admitted that Julie had never made any complaint to him against A1 or his father.



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20. PW14, the mediator to the marriage, deposed that after the marriage, A3 had telephonically demanded a sum of ₹ 50,000/- from him, stating that the same was the balance amount of dowry. PW14 refused to make any payment and advised A3 to speak to his father in that regard. He further deposed that on the night of 25.07.2013, Julie had called him on telephone and informed that she was being threatened by her-in-laws in connection with the payment of ₹50,000/-. He consoled her and assured that he would ask her father to visit her matrimonial home.

20.1. PW14 in his cross examination deposed that he had acted as a mediator in the marriage of Julie to A1 and that he had no knowledge regarding the dowry articles or amount given in the said marriage. He further deposed that he had spoken to Julie only once after her marriage, which was on 25.07.2013, when she had asked for payment of some remaining amount to the accused. As



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the call got disconnected, he could not clearly hear or ascertain the exact amount being referred to.

21. Now, the question is whether the aforesaid evidence is sufficient to prove ingredients (iii), (iv) and (v) of Section 304B IPC referred to earlier. Going by the prosecution case, as spoken by PW2 the demand for ₹6,00,000/- was made before the marriage, out of which, ₹5,50,000/- was paid at the time of lagan, which was apart from jewellery worth ₹4,00,000/-. PW2 admitted that he is a farmer by profession, belongs to a semi-literate background, and was hardly able to save any money. PW2 also deposed that the money for meeting the marriage expenses was received from his sons, namely, PW10 Sanjay and Govind as well as from his nephew. But PW10 Sanjay, when examined has no such case. In the cross-examination, PW10 deposed that his parents never consulted him about the dowry to be given and that he has no knowledge as to what dowry had been given. PW2 in his examination-in-chief deposed that he had spent ₹ 10,00,000/-



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for the marriage, but in his cross-examination claimed to have spent ₹ 11,00,000/-. But PW9, the mother, seems to have no such case. According to her, they spent ₹6,00,000/-. PW9 pleaded ignorance when she was asked whether ₹6,00,000/- included cost of jewellery also. Further, PW14 who is stated to have been the mediator to the marriage, admitted in the cross examination that he had no knowledge of what dowry had been given in the marriage. He also admitted that no demand was made by A3 and his family at the time of the marriage. He also admitted that no dowry had been given in his presence. PW14 claimed that he had spoken to A3 several times before the settlement of marriage. If that be so, he would certainly have known the demand(s) if any that had been made.

22. As held in **K. Prema S. Rao v. Yadla Srinivasa Rao, (2003) 1 SCC 217**, to attract the provisions of Section 304-B IPC, one of the main ingredients of the offence which is required to be established is that “soon before her death” she was subjected to



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cruelty and harassment “in connection with the demand for dowry”. (See also **Suresh Babu Vs State of Kerala, (2022 SCC OnLine Ker 5962 : 2022 KHC 954)**). In the case on hand, an overall reading of the testimony of PW2, PW9, PW10 and PW14 reveal that the prosecution has failed to establish a consistent and credible proof of demand of dowry. Hence, the prosecution case of demand of the remaining dowry amount ₹50,000/- is doubtful, thereby failing to prove beyond reasonable doubt that Julie was subjected to cruelty or harassment “for or in connection with” dowry demand, which is a sine qua non for establishing the offence under Section 304B IPC.

23. Coming to the offence under Section 498A IPC. As per this Section, if the husband or a relative of the husband, subjects the woman to cruelty, they are liable to be punished. Explanation to the Section defines “cruelty” to mean any wilful conduct of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health, whether



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mental or physical, or harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for property or valuable security, or on account of failure to meet such demand.

24. Here, again the testimony of PW2, PW9, PW10 and PW14, the close relatives and loyal prosecution witnesses, is relevant and important. PW2 deposed that Julie had informed them that she was being taunted by the accused persons, namely, A1, A2 and A3 for not bringing the remaining amount of ₹50,000/- and that she was also beaten by her husband A1 on account of non-payment of the said amount. PW2, in his cross examination, deposed that even prior to 31.05.2013, Julie had informed them that she was being harassed by her-in-laws in connection with demand of dowry. PW2 also admitted that when she visited her home, Julie had praised her husband and other family members; however, she had also reminded them about the demand of ₹50,000/- made by the accused. PW9, in her cross



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examination, admitted that except for two days after her marriage, Julie had never informed her on phone that she was being harassed by her-in-laws. PW9 further deposed that when Julie stayed at her parental house for about 11 to 12 days on her first visit post marriage, she did not make any such complaint, and even after returning to her matrimonial home, she never informed PW9 about any harassment by the accused. PW10, in his cross examination, also reiterated that when Julie visited her parental house after her marriage, she did not make any such complaint against A1.

25. It is no doubt true that Sections 304B and 498A IPC deal with distinct offences, though “cruelty” constitutes a common essential ingredient in both and is required to be proved. The Explanation to Section 498A defines the term “cruelty”, whereas Section 304B does not contain a separate definition. However, having regard to the common object and background of these provisions, the expression “cruelty or harassment” under



Section 304B has to be understood in the same sense as explained under Section 498A. While cruelty by itself constitutes an independent offence punishable under Section 498A, Section 304B specifically deals with “dowry death”, which must have occurred within seven years of marriage. No such time limit is prescribed under Section 498A, and the husband or his relatives may be held liable for subjecting a woman to cruelty at any time after the marriage. However, the prosecution has to prove the fact that the victim was subjected to cruelty or harassment, and such cruelty should be one which comes within the Explanation to Section 498A which defines “cruelty” as held in **Sakatar Singh v. State of Haryana, (2004) 11 SCC 291.**

26. From the evidence on record, it is seen that the allegation of cruelty or harassment attributed to the accused A1 and his family members rests solely on the testimony of the parents of the deceased, namely, PW2 and PW9. However, as discussed before, a closer scrutiny of their depositions reveals that



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the same suffer from material inconsistencies and do not present a coherent or reliable case of any such cruelty. PW2 tried to establish a case of continuous harassment from shortly after the marriage, alleging demands of ₹50,000/- by taunts and physical assault by A1 and his family members. In contrast, PW9 admitted that when the deceased first returned to her parental home after marriage, she had no complaint against her in laws, and further stated that there were no consistent or repeated complaints thereafter. I have already found that the demand for dowry appears quite doubtful and has not been proved beyond reasonable doubt. In such circumstances, the allegation of subjecting Julie to cruelty claiming dowry will necessarily also have to fail in the light of the unsatisfactory evidence on record.

27. Another aspect to be noted is the testimony of DW3, the sister of A1, who has given an account of the events that transpired on 28.07.2013, that is, a day prior to the incident, DW3 deposed that Julie and her husband, A1, returned from a picnic in



Delhi at about 08:30 PM. Julie cooked food for the family, and that all of them had dinner together. At about 10:00 PM, when A1 intended to go out with his friends, Julie objected, but the former nevertheless left, after which all went and slept in their respective rooms. Julie went to sleep in her room. In the morning at about 06:00 A.M., they found Julie hanging in her room. According to DW3, Julie was a sensitive person who used to keep things to herself and never disclosed her problems. This part of the testimony of DW3 was never cross-examined, disproved or discredited. It has also come out in the testimony of the parents and the brother of Julie that one another sister of Julie also committed suicide. The defence version of Julie being a sensitive person has not ever been challenged by the prosecution. So was it because A1 left his newly married wife in the night to join his friends on the intervening night of 28.07.2013 and 29.07.2013, that hurt Julie prompting her to take the extreme step? There is no evidence as to when A1 returned in the night of 28.07.2013.



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Nobody has a case of any foul play by A1 in the death of Julie except that he had harassed her for dowry. Did any quarrel take place between Julie and A1 when he decided to go with his friends on the night of 28.07.2013 despite the former's objection? Did that lead to the suicide? Doubts arise in the mind of the Court. As held in **Assoo v. State of Madhya Pradesh, (2011) 14 SCC 448**, the standard of a reasonable and practical woman as compared to a headstrong or oversensitive one, has to be applied.

28. Therefore, in view of the above discussion, it is apparent from the materials on record, that the reasons given by the trial court are not quite satisfactory to hold A1 guilty for the offences punishable under Sections 304B and 498A IPC as the prosecution has failed to prove its case beyond the reasonable doubt. Conviction can only be made on the basis of cogent evidence and materials brought on record by the prosecution. Suspicion, however strong, cannot take the place of proof. In



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these circumstances, I find that the accused is entitled to the benefit of doubt.

29. In the result, the appeal is allowed, and the impugned judgment convicting and sentencing the appellant/A1 by the trial court is set aside. Appellant/A1 is acquitted under Section 235(1) Cr.P.C. of all the offences charged against him. He is set at liberty and his bail bond shall stand cancelled.

30. Application(s), if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

APRIL 15, 2026/rs