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

% *Date of decision: 15th April, 2025*

+ **CRL.A. 450/2008**

BRIJ BHUSHAN

.....Appellant

Through: Mr. Zeeshan Diwan (DHCLSC) and
Mr. Harsha, Advocates

versus

STATE OF N.C.T. OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, learned
APP for the State with Insp. Kuldeep
Kumar P.S. Sarai Rohilla

+ **CRL.A. 451/2008**

RAJESH KUMAR

.....Appellant

Through:

versus

STATE

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, learned
APP for the State

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The aforesaid two petitions have been filed by the Appellants under Sections 374 Cr.P.C. against the judgment dated 17.04.2008 whereby they



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all have been convicted under Section 498-A/34 and Section 306/34 IPC and sentenced vide Order of Sentence dated 19.04.2008, by the Learned ASJ.

2. **Briefly stated**, Rajesh Kumar (Appellant in CrI. A. No.451/2008) got married to Priyanka, daughter of Gopal Lal (PW-4) and Kanta (PW-6) on 11.12.1998 at Karnal Haryana. However, this unfortunate marriage did not last for even a year as on 01.12.1999, at around 1.30 pm, Priyanka committed suicide at Shakur Basti Railway bridge. *FIR No.129/99* under Section 306/498A/34 IPC was registered in PS Saria Rohilla, on the statement of Sunder Lal /PW-5, paternal uncle of the deceased.

3. On the next day i.e. 02.12.1999, Gopal Lal and Kanta, parents of the deceased, made statements before the Sub Division Magistrate wherein they alleged that their daughter has committed suicide due to the ill-treatment meted out to her by her in laws i.e. husband, parents in laws, Jeth and Jethani and that all were responsible for her suicide.

4. Investigations were carried out and statements of the witnesses were recorded. The postmortem of the deceased was done. On conclusion of investigations, Charge sheet under Section 173 Cr.P.C. was filed.

5. Learned ASJ framed *Charges under Section 498-A/34 IPC and Section 306/34 IPC* against the aforesaid Respondents to which they all pleaded not guilty.

6. Prosecution examined **15 Witnesses**, material witnesses being *PW-2 Jugal Kishore*, maternal uncle of the deceased. *PW-4 Gopal Lal* and *PW-6 Kanta*, who are the parents of the deceased. *PW-5 Sunder Lal*, *PW-8 Asha*



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Rani, Wife of Dayanand and *PW-9 Asha Rani*, wife of Sunder Lal, are the relatives who have all deposed that Priyanka committed suicide on account of dowry harassment. *PW-7 Dr. K. Goel*, CMO has provided the Postmortem Report of the deceased. *PW-12 SI Azad Singh* is the Investigating Officer.

7. Learned ASJ in the ***impugned judgment dated 17.04.2008***, held all the Appellants guilty for the offence under Section 498-A/34 and 306/34 IPC. They were sentenced vide Order dated 19.04.2008. Brij Bhushan, Kanta and Parvesh were sentenced to three years RI and fine of Rs.2,500/- in default of one month RI under 498-A/34 IPC. They were also convicted for three years RI and fined Rs.2,500/- in default one month RI under Section 306/34 IPC. The Appellant Rajesh (husband of the deceased) was awarded three years RI along with a fine of Rs 2,500/-under Section 498-A/34 IPC and six years RI along with fine of Rs.2,500/- in default one month RI under Section 306/34 IPC.

8. *Aggrieved by the conviction and the sentence, the aforesaid Appeals have been preferred.*

9. During the pendency of the Appeals, Brij Bhushan and Kanta, parents-in-law and Neelam (wife of Jeth) have died and the Appeal stands abated against them.

10. ***Learned counsel on behalf of the Appellants has argued*** and also submitted written arguments wherein it is asserted that from the testimony of PW-2 maternal uncle, PW-4 Gopal Lal, PW-6 Kanta and the other relatives namely PW-5 Sunder Lal (uncle), PW-8 Asha Rani and PW-9 Asha Rani,



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the Aunties, no allegations of dowry have been proved; in fact they all have admitted that there was no demand of dowry at the time of marriage.

11. It is further submitted that there are material contradictions in the statement of public witnesses in regard to demand of any dowry even in respect of Rs.50,000/- which was claimed to have been demanded two days before her demise. It is submitted that the Learned ASJ has failed to consider the testimony of *PW-9 Asha Rani*, wife of *PW-5 Sunder Lal* who deposed that the deceased never made any complaint about harassment on account of dowry to her. The entire evidence of the prosecution witnesses fails to prove any kind of *dowry demand or harassment of the deceased*. There being no demand, no offence under Section 498-A IPC is made out.

12. It is further contended that *even the offence under Section 306 IPC*, is not made out. A mere allegation of harassment of the deceased by another person would not be sufficient to constitute offence under Section 306 IPC unless it is proved that some action of the accused had compelled the person to commit suicide. Moreover, such an offending action ought to have proximity with the time of occurrence and should be suggestive of the Appellants intending by way of such an act, to instigate the deceased to commit suicide.

13. Ld. Counsel has further submitted that the injuries sustained by the deceased as per the Post-Mortem Report, proved by *PW-7 Dr. K. Goel* and the Inquest Report Ex.PW14/A, suggest that it was an accidental death. Prosecution has not been able to prove that the death was suicidal and not accidental. None of the prosecution witnesses had any knowledge as to



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whether the deceased had jumped in front of the train or had accidentally slipped in front of the train. Furthermore, no independent witness who were either travelling in the train or were present on the Railway Station, have been examined. The statement of the Train Driver has also not been examined.

14. Reliance is placed on *Kashibai & Ors. v. State of Karnataka* MANU/SC/0187/2023 wherein the Apex court observed that to prove the charge under Section 306 IPC, there has to be evidence with regard to positive act on the part of the accused to instigate or aid the person to commit suicide. Therefore, even if it is presumed that the deceased committed suicide, there must be clear evidence that she was instigated or aided to commit suicide.

15. In the end, it is submitted that no presumptions under Section 113-A Indian Evidence Act could have been drawn. The Learned ASJ has gravely erred in assuming that the presumption of abetment of suicide by a married woman under Section 113-A of the Indian Evidence Act, is mandatory. Reliance has been placed on *Ramesh Kumar v. State of Chhattisgarh* (2001) 9 SCC 618 and *Karan Singh v. State of Haryana* 2025 INSC 133 in this regard.

16. Reliance has been placed on *M. Arjunan v. State* (2019) 3 SCC 315; *Mariano Anto Bruno and Ors. vs. The Inspector of Police*, 2022 SCC Online SC 1387; *Amalendu Pal v. State of W.B.* (2010) 1 SCC 707; *Mahendra Awase v. State of M.P.* 2025 SCC OnLine SC 107; *Ayyub & Ors. v. State of*



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Uttar Pradesh &Anr. 2025 INSC 168 and Kamlesh Ghanshyam Lohia v. State of Maharashtra 2019 SCC Online Bom 1762.

17. It is submitted that the prosecution had miserably failed to prove its case against the appellants who are entitled to be acquitted.

18. ***The Learned Addl. Public Prosecutor*** has submitted that all the family members who were examined by the prosecution, have cogently deposed that the deceased was being harassed on account of dowry. In fact, two days prior to her demise, there was a demand of Rs.50,000/- in lieu of jewellery which drove her to commit suicide. The Learned ASJ has rightly appreciated the evidence to convict the Appellants. There is no merit in the present Appeals, which are liable to be dismissed.

19. **Submissions heard and record perused.**

20. In the 1990s, the atrocities towards women, especially the daughters-in-law, emerged in its most distorted and dangerous form of bride burning for dowry. Such was the rampant commission of atrocities, that the Legislature was compelled to introduce Section 498-A IPC in the statute with the laudable object of punishing cruelty at the hands of husband or his relatives against a wife, particularly when such cruelty had potential of either resulting in death or murder of a woman, as mentioned in the *statement of Objects and Reasons of the Act 46 of 1983*. The expression '*cruelty*' in Section 498A was given a wider connotation to include not only *harassment* on account of dowry but also the *cruelty* which may drive a



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woman to commit suicide or cause grave injury (mental or physical) or danger to her life.

21. The impact of this Amendment, over a period of time was felt, inasmuch as the crime did come under control, but with it emerged the propensity of its misuse by those very people for whose protection it was inserted. The Courts are now flooded with cases of misuse, wherein to settle matrimonial disputes having their roots in other myriad reasons, are sought to be sorted out by using the S.498A as an arm-twisting tool to settle other disputes. While one may hasten to state that its misuse in some cases, does not take away its efficacy, but the responsibility fell on the Court to be vigilant to ensure that the innocent is not unnecessarily roped in and gets prompt succor and relief in the appropriate situations either by grant of bail or by quashing the FIRs. Over a period of time, other measures have also emerged like on receiving a Complaint, an endeavour to be mandatorily be made to get the matter settled and only if the things do not work out, the FIR may be registered.

22. This unfortunate misuse was noted by the Apex Court in the case of Arnesh Kumar vs. State of Bihar & Anr. (2014) 8 SCC 273 wherein in the context of Section 498A IPC, it was observed that this Section has found a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives and the simplest way to harass is to get the husband and his relatives arrested under this provision.

23. Observations were also made in the case of Rajesh Sharma and Ors. Vs. State of U.P. & Anr. (2018) 10 SCC 472 wherein the Apex Court



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observed that it is a matter of serious concern that a large number of cases continue to be filed under 498-A alleging harassment of a married woman. Many of the complaints have not been found to be bona fide. At the time of filing of the complaint, implications and consequences are not visualized. At times, such complaints lead to uncalled harassment, not only of the accused persons but even the complainant.

24. The present case is one such unfortunate incident where a young girl, barely within eleven months of her marriage, lost her life due of suicide. The helpless parents, of course who could not reconcile to such a great loss of their young daughter, were driven to make statements before the SDM wherein they alleged dowry harassment of their daughter. *The statement of PW-5 Sunderlal*, paternal uncle dated 20.01.2004 led to the registration of the present FIR, which eventually concluded in conviction of the Petitioners.

25. To appreciate the prosecution evidence to support the allegation of inflicting '***Cruelty***' upon the Victim and thereby committing an Offence under Section 498A, it would be pertinent to refer to S.498A which reads as under:

“S.498A. Husband or relative of husband of a woman subjecting her to cruelty.- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purposes of this section, “cruelty” means—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave



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injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

26. The act of ‘**cruelty**’ by a husband or his relative towards a woman, has been defined in the *Explanation* appended thereto, which provides that the *cruelty punishable under Section 498A* may be of two kinds;

- (i) *Firstly, such conduct which is likely to drive a woman to commit suicide or to cause grave injury to herself; or*
- (ii) *harassment to coerce her or any person related to her to meet any unlawful demand for any property or valuable security.*

27. This aspect of cruelty being of two kinds as stated above, was endorsed by the Supreme Court in the case of Digambar and Another vs. The State of Maharashtra and Another, 2024 INSC 1019 and in Jayedeesinh Pravinsinh Chavda and Others vs. State of Gujarat 2024 SCC OnLine SC 3679.

28. In this context, the evidence of the prosecution witnesses to support the allegation *of cruelty*, may be considered first to ascertain whether the offence is established under Section 498A IPC.

29. The first incident as stated by PW-4, Gopal Lal, and his wife PW-5 Kanta which according to them constituted cruelty and harassment, *was that their daughter was not allowed to visit to do Phera to her maternal home*



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after ten days of marriage, as is customary. It was deposed that she was allowed to visit their house only after one and a half months for *Phera*.

30. However, it is the defense of the Appellants that it was the month of *Poh* in which no auspicious celebration was carried out and consequently the deceased was unable to visit her parental home for *Phera* for about a month and a half.

31. This defense is corroborated by the admissions of PW-4 in the cross-examination wherein he admitted that it was the month of *Poh*, but was evasive in stating that he was not aware if in the month of *Poh* no celebrations/occasions are carried out. He admitted that his daughter along with her husband Appellant Rajesh, had gone for honeymoon to Kullu Manali, but he denied the suggestion that on their way back, they had got down at Karnal and had gone to the house of her friend because it was the month of *Poh* when they could not have had the auspicious occasion of their daughter visiting them for the first time after marriage. He also denied that both PW-4 Gopal Lal and PW-5 Kanta, went to meet her. However, *PW-4 Gopal Lal* in his cross-examination admitted that their daughter along with her husband, visited them after about a month and a half of marriage. Pertinently, none went to bring the daughter to their house and they came on their own.

32. *PW-6 Kanta* in her cross-examination also was evasive about the month of *Poh*. She however, stated that she and her husband did not visit the house of their daughter during this period of one and a half month thereby



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lending some support that the *Phera* ceremony could not be done for a month and a half on account of the month of *Poh*.

33. PW-8 Asha Rani, wife of PW5 Sunder Lal) admitted that immediately after the marriage, month of *Poh* commenced, and also admitted that after one month and a half, the deceased and her husband came for their *Phera* ceremony.

34. From the aforesaid discussion of the testimony of the prosecution witnesses, it is evident that the deceased did not do a *Phera* ceremony soon after the marriage, on account of inauspicious days of the month of *Poh* which is brought forth in the admissions of the aforesaid witnesses in their cross-examination. Rather, it is established that the deceased on her way back from her honeymoon, had stopped at Karnal, but had not gone to the house of the parents because of the inauspicious days, who in turn had visited her in Karnal at the residence of her friend.

35. The parents of the deceased and her maternal uncle Jugal Kishore had vehemently relied on this incident of delayed *Phera* ceremony to allege it to be a case of dowry harrasment. However as discussed above, the delay in *Phera* ceremony was not on account of any cruelty or dowry harassment inflicted upon her, but was due to inauspicious days on account of it being the month of *Poh*.

36. To further prove the allegations **of dowry harassment**, PW-4 Gopal Lal/father had deposed that when his daughter had come to their house for *Phera* ceremony, she had informed him that the accused persons were



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harassing her for bringing dowry. She was not even allowed to talk to them on telephone from their house by the Appellants and she used to make the telephone call from outside; she used to name all the accused persons for harassing her for bringing less dowry. Pertinently, these are all omnibus averments wherein neither the dates or specifics are given nor the specific role of the Appellants mentioned.

37. *PW-4 Gopal Lal/father* further deposed that he went to the house of the accused persons to talk to them, but they created a scene before him as if everything was all right. He gave Rs.5,000/- to his daughter to be handed over to some of the accused persons. He also gave some clothes and fruits etc. and returned back to his house. In his cross-examination he explained that he had visited his daughter's matrimonial home at Diwali time. He denied that Rs.5,000/- had not been given by him to the daughter. Pertinently, PW-4 in his cross-examination had clarified that he had visited his daughter only on one occasion during this period of her marriage.

38. In this context, it is pertinent to refer to the testimony of *PW-6 Kanta*, the mother who in her cross examination deposed that she had visited her daughter's house about two to three times, though she did not remember the dates. However, on two occasions they had given Rs.10,000/- and once they had given Rs.5,000/- to the daughter.

39. It is quite evident from the testimony of the parents that they had visited their deceased daughter in-law's house on the occasion of Diwali when the father had given Rs.5,000/- and also sweets, etc. which is customary on the occasion of Diwali. His admissions in the cross



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examination establish that Rs.5,000/- which the father had given were on account of the occasion of Diwali and not on account of any dowry demand. PW-4 Gopal Lal, the father has not narrated any other specific incident of dowry demand.

40. Likewise, **PW-6 Kanta** had deposed that when she visited her daughter after about a month and a half of marriage, she had been told by their daughter that she was being harassed and taunted for not having brought sufficient dowry. Their daughter made a phone call on two to three occasions before her death and said that she was being subjected to utmost cruelty and that a demand of Rs.50,000/- was being made. She also told that she was being threatened that their demands must be honored or else they would not see her face.

41. Similarly, **PW-2 Jugal Kishore** had deposed that after 5-6 months of marriage he had received a call from the deceased Priyanka that her in-laws were harassing her for not having brought sufficient dowry. However, his testimony also is vague and does not give any specifics. He had also deposed about talking to the Appellant Brij Bhushan/father-in-law of the deceased and had also visited his house and told him that PW-4 Gopal Lal had given sufficient dowry according to his status and that he was not capable of giving anymore dowry. Brij Bhushan had assured that there would be no further harassment. His entire deposition is essentially in regard to demand of Rs.50,000/- in lieu of jewellery on 30.11.2019, which shall be considered subsequently.



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42. *PW-5 Sunder Lal*, who is the elder brother of the father of the deceased, has deposed that he was informed that when the deceased came to her parental home for *Phera*, she stated that she was not being treated well for having brought less dowry. They used to taunt her by saying that she belongs to a “*Bhooka Nanga Family*”. The family members however, pacified her and sent her back to the matrimonial home though the Appellants did not stop harassing her. His testimony is purely hearsay.

43. To the similar effect, are the testimony of *PW8 Asha Rani (wife of Sunder Lal)* and *PW9 Asha Rani (wife of Sunder Lal)* who have also stated that she was being harassed for having brought insufficient dowry.

44. The testimony of all these witnesses only reflect vague allegations against the Respondents for having harassed the deceased for dowry. Admittedly, no dowry demand was made before the marriage and to suddenly assert that the in-laws were not satisfied with the dowry or that making dowry demands on the demise of their daughter, are only vague assertions which do not inspire any confidence. There are **neither any specific incidents nor dates or the time of demands that were being made allegedly by the deceased. Such vague allegations without there being any specific allegations, do not prove that there was any dowry harassment meted out to the deceased which is sufficient to constitute an offence under Second part of Section 498A.**

45. In the case of *Kahkashan Kausar Vs. State of Bihar and others* (2022) 6 SCC 599, the Apex Court had made a reference to *Preeti Gupta & Anr vs State of Jharkhand & Anr* (2010) 7 SCC 667 wherein it was observed that



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making general allegations with no distinct details, defining specific role of each of the Appellant, would not be sufficient to constitute the offence under 498A. The allegations which are general and omnibus, can at best be said to have been made out on account of small skirmishes.

46. In the present case, in this short span of marriage of 11 months, there is not a single incident of dowry harassment which has been brought out. The general, non-specific allegations of dowry demand and that too, by all the in-laws without specifying the particular accused or their respective role, cannot be held to be sufficient to prove the offence under Section 498-A by the prosecution.

47. It is no doubt, an unfortunate and painful incident for the parents, but unfortunately, they have tried to bring it under Section 498-A by alleging dowry harassment, when the evidence proves otherwise. *It is held that the prosecution has miserably failed to prove the harassment of the deceased on account of dowry, in terms of clause (b) of Explanation to S.498A IPC .*

48. *The next big question which now arises is whether she was subjected to such 'Cruelty' as defined in Clause (a) of Explanation to Section 498A, which had driven Priyanka to end her life pre-maturely by committing suicide?*

49. To ascertain this aspect, it would be pertinent to refer to what transpired in the night of 30.11.1999 to the deceased, after she left her matrimonial home.



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50. The first material witness in this regard is *PW-4 Gopal Lal, the father* who had deposed that there was a marriage on 26.11.1999 of his sister's daughter and he had called the Appellants to join the occasion. His daughter Priyanka along with her husband Rajesh, came to attend the wedding. Priyanka had brought with her jewellery for the occasion. When she was packing to return to her matrimonial home, he requested his son-in-law/Rajesh to check all the jewellery, etc. which was put in the attaché case and the key of the attaché case was with Appellant Rajesh. He further deposed that on 30.11.1999 in the evening, his daughter called him to inform that the jewellery has been left behind in the house of the father, on which he told her that he himself had ensured that the jewellery was kept in the attachee case which they had taken with them in his presence and even that they had also confirmed about keeping the jewellery in the attaché case. He told her that the jewellery was not in their house. He was then informed by Priyanka that she had been harassed by the Appellants throughout the night for the jewellery claiming that she had intentionally left it at her parental home. He then called up his brother-in-law Jugal Kishore to go to the house of the daughter to sort the matter out. Jugal Kishore along with his wife, went to the house of the Appellants and they were assured by the accused that they would not harass the deceased for the jewellery, but they demanded Rs.50,000/- in lieu of the jewellery and asked him to tell his brother-in-law (PW-4) to send the money by next day.

51. *PW-2 Jugal Kishore*, the maternal uncle also corroborated that on 30.11.1999, he received a call from Gopal Lal that the Appellants were



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levelling the allegations on Priyanka having left the jewellery worth Rs.50,000/- in his house and were demanding money in lieu thereof. He also informed that the in-laws were threatening to search his house (in Karnal) for the purpose. He then had talked to the Appellants and convinced them not to go to the house of Gopal Lal in Karnal to search for the deceased. He informed them that he would call Gopal Lal (PW-4) and all would sit together and sort out the matter, to which they agreed. He also called Gopal Lal to come to Delhi.

52. From the testimony of PW-2 & PW-4 it thus, emerges that the actual incident which happened on 30.11.1999 was that the jewellery which deceased had carried with her for attending the marriage at her parental home on 26.11.1999, unfortunately went missing from her suitcase when she returned to her matrimonial home. The Appellants were upset about the jewellery worth Rs.50,000/- apparently having gone missing, for which they were questioning the deceased and also wanted her to compensate by paying Rs.50,000/-. It is this missing jewellery which in fact precipitated the entire event which followed thereafter.

53. *From the entire evidence as led by the Prosecution as discussed above, especially **PW-2 Jugal Kishore**, the maternal uncle that he had talked and pacified the in-laws and it was agreed that they all would meet and sort out the matter on the next day, establishes that the demand of Rs. 50,000/- was not on account of dowry but on account of missing jewellery.*

54. The incident however, did not end there. The deceased apparently felt humiliated and left the matrimonial home. According to the testimony of



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PW4 Gopal Lal father, he received a call from the deceased on 01.12.1999 who informed him that she has been turned out of her matrimonial home by the accused persons after taking away her entire jewelry and articles. She informed that she was speaking from STD Booth from New Delhi Railway Station. She also stated that she would not come back to them, since they would send her back to the matrimonial home. She was not inclined to go to the matrimonial home as they would kill her. He then sent his son and other relatives in search of her. Her body was recovered from the grass near Sarai Rohilla Railway Station. He gave his statement Ex.PW4/A to the SDM on 02.12.1999.

55. *Similar is the testimony of PW-2 Jugal Kishore, maternal uncle of the deceased.* While deposing about the conversation he had with the parents of the deceased on 30.11.1999, he further stated that on 01.12.1999 when he returned at around 09:30 A.M. from his duty, he was informed by his children about a call been made by the deceased who told that she was being harassed throughout the night and had been thrown out of the matrimonial home by the accused person. He along with his brother-in-law Gopal Lal, sister and Surender Lal, brother of the brother-in-law and younger brother of Gopal Lal, went in search of the deceased. They received a phone call at about 01:20 P.M about the demise of her niece. He along with 2-3 persons went to the spot, where the deceased was found dead. He, therefore, also corroborated about the demise of the Priyanka but nothing more could be elicited, especially when he admitted that the phone call had been received by his family members and not by him.



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56. The other material witness is PW-5 Surender Lal, uncle of Priyanka and had deposed that on 01.12.1999 Priyanka telephoned them from New Delhi Railway Station and informed that she would not go to Karnal and would die in Delhi as she might have been turned out by the accused persons from her matrimonial home. They rushed to the New Delhi Railway Station and searched for her till noon, when they received a telephonic information that she has committed suicide and was found lying near Sarai Rohilla Railway Station near Railway Line Shakur Basti Bridge.

57. Similar is the testimony of PW-6 Smt. Kanta, the mother who also deposed that on 01.12.1999 at about 07:45 A.M they had received a call from Priyanka informing that she was at New Delhi Railway Station and would never show her face to them again and if she was sent back to her matrimonial home, they would kill her. She was later found dead.

58. PW-8 Smt. Asha Rani W/o Dayanand deposed on similar lines about being informed by the deceased on the fateful day i.e. 01.12.1999 that she would not survive any more. PW-9 Smt. Asha Rani w/o Sunder Lal also deposed that she had been informed by PW-8 Smt. Asha Rani that Priyanka had called to say that she would die.

59. *From the testimony of all these witnesses, what emerges is that the deceased was unable to trace the jewelry which had gone missing and was also not able to handle the demand of Rs.50,000/- to compensate for the missing jewellery, by the respondents. Consequently, she felt cornered as she felt that she would not be supported by her paternal family, who would push her to return to the matrimonial home where she did not want to go.*



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With no apparent solution to her problem in her assessment, she committed suicide by jumping from the Railway Bridge. She was found lying dead near Shakur Basti Bridge.

60. This is corroborated by the *Post Mortem Report Ex.PW7/A* which mentions that there were multiple fractures of Nasal bone right femur and multiple abrasions. Further, the internal injuries included sub-scalp haematoma with bruising over the frontal region. Depressed comminuted fracture of frontal bone with fissure fracture extending to right temporal bone. Meninges were torn at the frontal area. Frontal lobe was lacerated. Defused sub arachnoid hemorrhage over occipital lobe and cerebellum. As per the testimony of PW7 Dr. K. Goyal, CMO, Mortuary, Subzi Mandi, the cause of death was opined as ***“blunt force impact possible with train accident as alleged”***. The nature of injuries also leads to the inference of the deceased having jumped from the bridge and had died on account of the injuries sustained by her.

61. It may be thus, concluded that though the deceased may have felt harassed on account of being questioned about the missing jewelry, but *such conduct of the Appellants was not sufficient to qualify as ‘Cruelty’ leading the Complainant to commit suicide*, as envisaged under S.498A IPC.

62. Therefore, even if the entire evidence of the Prosecution is accepted, the cruelty as defined in clause(a) of Explanation to Section 498A is not established.



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63. To conclude, *the offence of S.498 A is not proved by the prosecution witnesses, for which Appellants are entitled to be acquitted.*

Offence under S.306 IPC:

64. The question which thus, arises is whether the circumstances as discussed above, would amount to *Abetment to suicide under S. 306 IPC* with which the Appellants were charged.

65. In order to convict a person for the offences Under Section 306 Indian Penal Code, the basic constituents of the offence namely *the abetment* is defined in Section 107 Indian Penal Code.

66. **Section 107 of IPC** reads as under:

“107. Abetment of a thing: - *A person abets the doing of a thing, who –*

First-Instigates any person to do that thing; or

Secondly-Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1- *A person who by wilful misrepresentation, or by willful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or*



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procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2- *Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”*

67. Thus, to constitute abetment, a person should have instigated, aided or conspired to do a particular act.

68. In the case of Kashibai (Supra), it was held that abetment involves a mental process of instigating a person or intentionally aiding a person in doing a thing. There must also be a positive act on the part of the accused to instigate or aid in committing suicide, without which conviction cannot be sustained. Intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person Under Section 306 IPC, there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.

69. The dictionary meaning of the term **‘Instigation’** means - *to goad, urge forward, provoke, incite or encourage to do 'an act'.*

70. However, to satisfy the requirement of instigation, though it is not necessary to prove the actual words must be used to constitute instigation, but it must specifically be suggestive of the consequence. A reasonable certainty to incite the consequence must be capable of being spelt out. A



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word uttered in the fit of anger or emotion without intending the consequences to actually follow, cannot be said to be an act of instigation, as observed in the case of Ramesh Kumar vs. State of Chhattisgarh (2001) 9 SCC 618 .

71. Thus, to constitute abetment, the most important ingredient is that should be *intention to provoke*, incite or encourage the doing of an act by the latter as also highlighted by the Apex Court in the case of Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi) (2009) 16 SCC 605.

72. *The next ingredient* for an offence under Section 107 IPC is *Conspiracy*. In Arnab Manoranjan Goswami v. State of Maharashtra, (2021) 2 SCC 427, for Section 107, the Apex Court has observed that *the second segment defines abetment with reference to engaging in a conspiracy with one or more other persons for the doing of a thing or an act or an illegal omission in pursuance of the conspiracy.*

73. In Shenbagavalli v. State, 2025 SCC OnLine SC 987, on conspiracy, the Apex Court has observed that the accused must have an engagement by himself or with any other person in any conspiracy. Therefore, for an offence of abetment under Section 107 (second clause) IPC, a conspiracy amongst the accused persons is must.

74. Similarly, in Rohini Sudarshan Gangurde v. State of Maharashtra, 2024 SCC OnLine SC 1701, the Apex Court has observed that for Section 306, it is important that the accused must have encouraged the person to



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commit suicide or must have engaged in conspiracy with others to encourage the person to commit suicide.

75. The *third essential ingredient* for Section 107 is the ***intentional aid by doing an act or illegal omission***. The Apex Court in *Gurcharan Singh v. State of Punjab*, (2020) 10 SCC 200, observed that *the definition quoted above makes it clear that whenever a person instigates or intentionally aids by any act or illegal omission, the doing of a thing, a person can be said to have abetted the doing that thing*. Therefore, for an offence of abetment under Section 107 IPC, it is essential that the accused must have intentionally aided the offence by doing an act or an illegal omission.

76. In Order to prove an offence under Section 306, the Apex court in *M. Arjunan* (*Supra*) has observed that the act of the accused, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the ingredients of instigation/abetment to commit suicide are satisfied, accused cannot be convicted under Section 306 I.P.C.

77. Thus, ***to bring home the offence under S.306 IPC, the prosecution must be successful to prove not only instigation or conspiracy to abet, but it must also be underlined with the requisite mens rea to do such act.***

78. Before, considering the fact of the case, it is pertinent to note that *in the context of an offence of abetment of suicide, it remains a vexed one, involving multifaceted and complex attributes of human behavior and*



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responses/reactions, as observed in the case of *Ude Singh and Ors. vs. State of Haryana* (2019) 17 SCC 301. *The person's sociability pattern is different from the other. Each person has his own idea of self-esteem and self-respect. The human mind could be affected and could react in myriad ways; and the impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons and there is no specific theorem or yardstick to estimate or assess the same. Each case, therefore needs to be dealt with on its own facts and circumstances, as observed by the Apex Court in the case of Ramesh Kumar (supra) and Ude Singh (supra).*

79. Thus, while considering the offence of abetment to suicide punishable under Section 306 IPC, the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the Trial for the purpose of finding out whether the '*cruelty*' meted out to the victim which had in fact induced her to end the life by committing suicide, as observed by the Apex Court in the case of *State of West Bengal vs. Orilal Jaiswal* (1994) 1 SCC 73.

80. The facts of the present case may be thus considered to ascertain if there was any act committed by the Petitioners which could be termed as abetment to suicide.

81. It is the consistent case as brought forth from the testimony of the prosecution witnesses, that it was on account of missing jewellery that the deceased was being asked either to trace back the jewellery or to pay Rs.50,000/-. It is quite evident that such act of the Appellants cannot be



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termed as *provocation or instigation* of a kind wherein the deceased had no other option but to commit suicide. It can also not be said that the chain of events would lead to an inevitable and inescapable act of committing suicide. In fact, the deceased may have been asked to replenish the jewellery or the money, but she had the option of walking out or going back to her parental home till the situation was addressed.

82. Not only this, there was no intention or mens rea discernable from the facts as proved by the prosecution. It would be pertinent here to refer to the observations made by the Apex Court in the case of Jayedeeep Singh Pravinsinh Chavda and Others vs. State of Gujarat 2024 SCC OnLine SC 3679, wherein it was observed *that mere harassment by itself is not sufficient to find an accused guilty of abetting suicide*. The Prosecution must demonstrate an active or direct action by the accused that led the deceased to take his/her own life. The element of *mens rea* cannot be presumed or inferred; it must be evident and explicitly discernible. Without this foundational requirement for establishing abetment under the law, underscoring the necessity of a deliberate and conspicuous intent to provoke to contribute to the act of suicide, without which offence of abetment cannot be established.

83. As has emerged from the testimony of the Prosecution witnesses, the deceased may have felt harassed on this blame of jewellery being misplaced, but it would not suffice as such offending act can be termed as abetment. She may have felt hypersensitive and cornered on account of believing that her parents would not support her and would force her to go back to the



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matrimonial home. The action of the accused was otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, and it would not be safe to hold the Appellants guilty of abetment of suicide. There is no evidence to demonstrate that the Appellants intended to tarnish the self-esteem and self-respect of the victim, which could have driven the victim to commit suicide. The acts and deeds of the Appellants were prompted by their concern for loss of jewellery and it cannot be held that they had any intention to drive her to commit suicide.

84. In this regard, it is pertinent to refer to the testimony of *PW-2 Jugal Kishore*, the maternal uncle who had deposed that he had talked and pacified the in-laws and it was agreed that they all would meet and sort out the matter on the next day.

85. Unfortunate as this incident is, there is no cogent and convincing proof of the act/s of incitement to the commission of suicide and the acts of Appellants do not fall within the four corners of abetment which led her to cause harm to herself by committing suicide.

86. Learned ASJ has fallen into error to term the acts of the Respondents as an instigation or a provocation for the deceased to commit suicide. From the admitted facts, the offence under S. 306 IPC, is not proved.

Relief:

87. The impugned Judgment dated 17.04.2008 of learned ASJ convicting the Appellants under Section 498A/306 IPC and Order on Sentence dated



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19.04.2008, are hereby, set aside. The Appellants are acquitted and their Bail Bonds and Surety Bonds stand discharged.

88. The two Appeals along with pending Applications stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

APRIL 15, 2025

PP/va