

(1)
In the Court of Sri Kumar Amit Manu
A.S.J-I, Banka
District- Banka(Bihar)
S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

FORM A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I, BANKA Present:- Sri Kumar Amit Manu, Additional Sessions Judge-I, Banka [Date of Judgment:- 12-05-2026] [S.T. Case No. -996/2013] F.I.R. No.:- 69/2009 Crime:- Under Sections 304(B)/34, 302/34, 201, 498(A)/34 of IPC Police Station:-Shambhuganj, Banka	
INFORMANT	Naresh Sharma, s/o- Late Sona Sharma, vill-Chhatakurum, P.S-Katoriya, Dist.- Banka
REPRESENTED BY	Sri Rajkishore Singh (Ld. Adl. P.P.)
ACCUSED	1. Bikash Sharma, s/o-Hari Sharma, village- Chhatrahar P.S.- Shambhuganj, Dist- Banka, aged about 35 years. (Hereinafter he will be referred as A-1) 2. Sanjay Sharma, s/o-Hari Sharma, village- Chhatrahar P.S.- Shambhuganj, Dist- Banka, aged about 53 years. (Hereinafter he will be referred as A-2) 3. Rudal Sharma, s/o-Hari Sharma, village- Chhatrahar P.S.- Shambhuganj, Dist- Banka, aged about 37 years. (Hereinafter he will be referred as A-3)
REPRESENTED BY	Sri Kamal Kishore Jha, (Ld. Adv.)

FORM B

Date of Offence	23.06.2009
Date of F.I.R.	03.07.2009
Date of Chargesheet	30.06.2013
Date of Framing of Charges	19.12.2013
Date of commencement of evidence	07.02.2015
Date on which judgment is reserve	30.04.2026
Date of the Judgment	12.05.2026
Date of the Sentencing Order, if any	

(2)
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Accused Details

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428 Cr.P.C.
1	Bikash Sharma	N.A	10.06.13	304(B)/34, 302/34, 201, 498(A)/ 34 of IPC	Acquitted	N.A	N.A
2	Sanjay Sharma	N.A	10.06.13	304(B)/34, 302/34, 201, 498(A)/ 34 of IPC	Acquitted	N.A	N.A
3	Rudal Sharma	N.A	10.06.13	304(B)/34, 302/34, 201, 498(A)/ 34 of IPC	Acquitted	N.A	N.A

FORM C
LIST OF PROSECUTION/DEFENCE/COURT WITNESS
A. Prosecution

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW 1	Naresh Sharma	Informant
PW 2	Manoj Rajak	Hostile witness
PW 3	Bindeshwari Rajak	Hostile witness
PW 4	Murari Rajak	Hostile witness
PW 5	Manoj Kumar Mishr	Hearsay witness
PW 6	Parmanand Sharma @ Prasadi Sharma	Hostile witness
PW 7	Lal Mohan Sharma	Hostile witness

B. Defene Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
NIL	Nil	

(3)
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A.S.J-I, Banka
District- Banka(Bihar)
S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

C. Court Witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS
Nil	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1	Ext.-1	Written statement

B. Defence:

Sr. No.	Exhibit Number	Description
1	Nil	

C. Court Exhibits

Sr. No.	Exhibit Number	Description
1	Nil	

D. Material Objects

Sr. No.	Material Object Number	Description
1	Nil	

J U D G M E N T

1. The accused persons namely Bikash Sharma, Sanjay Sharma and Rudal Sharma stands charge under sections 304(B)/34, 302/34, 201, 498(A)/34 of IPC.

2. The FIR was instituted on the basis of a written report submitted by Naresh Sharma, in which he has stated that he married her daughter namely Kanchan Devi with Bikash Sharma on dated 20.05.2009 and at the time of marriage he gave gift and articles according to his capacity. After some time of marriage the husband and in-laws of her daughter started demanding motorcyle

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S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

and Rs.50,000/-as dowry, when the informant showed his inability to fulfill their demands then the accused persons started to abuse and torture her daughter physically as well as mentally. On 22.06.2009 when the informant along with his brother went there to pacify the matter then accused persons humiliated and abused him. On 30.06.2009 when the informant went to bring her daughter, then villagers told him that on 23.06.2009 the accused persons have killed her daughter by burning her due to non-fulfillment of dowry. Thereafter, when the informant asked from the accused persons, then they started abusing and threatened them.

3. On the basis of written statement, Police investigated the case. After investigation, Investigating Officer submitted the charge-sheet under section 306 of IPC on 30.06.2013 against accused persons and subsequently cognizance of the offence was taken on 29.07.2013 and the accused persons were summoned to face the trial.

4. On 19.12.2013 Charges against accused persons namely Bikash Sharma, Sanjay Sharma and Rudal Sharma, was framed under section 304(B)/34, 302/34, 201, 498(A)/34 of IPC and was read over to the accused persons to which they pleaded not guilty and claimed to be tried.

5. On 24.04.2026 statement of accused persons has been recorded under section 313 of Cr.P.C in which he denied the case of the prosecution and claimed to be innocent.

6. Defence case in brief is denial of the entire occurrence and innocence of the accused person.

7. Now, The point for determination arises as to whether prosecution has been able to bring home the guilt of the accused person beyond the shadow of reasonable doubts?

In the Court of Sri Kumar Amit Manu
A.S.J-I, Banka
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S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

FINDINGS

8. In order to prove its case, the prosecution has examined seven witnesses in this case namely:-

PW-1 Naresh Sharma,

PW-2 Manoj Rajak,

PW-3 Bindeshwari Rajak,

PW-4 Murari Rajak,

PW-5 Manoj Kumar Mishr,

PW-6 Parmanand Sharma @ Prasadi Sharma,

PW-7 Lal Mohan Sharma.

Prosecution has also produced certain documents as documentary evidence, which are as follows:-

Ext.-1- written statement

9. The defence has not adduced any oral evidence nor any documentary evidence in this case.

10. Now, coming to the evidence of the prosecution witness:-

PW-1 Naresh Sharma, who is the informant as well as the father of the deceased, has deposed in his examination-in-chief that the occurrence took place on 23.06.2009 and that while he was at his house, he received information from villagers residing at the matrimonial village of his daughter that her in-laws had allegedly set her on fire, resulting in her death. He further stated that his daughter had been married to accused Vikash Sharma about one year prior to the occurrence and that after the marriage he had once visited her matrimonial home where everything appeared normal. The witness further alleged that accused Vikash Sharma had demanded Rs. 50,000/- and one motorcycle as dowry and, upon non-fulfilment of the said demand, his daughter was set on fire. Upon receiving information regarding her death, he went to the place of occurrence along with some acquaintance and found the burnt dead body of his daughter lying inside her matrimonial house, whereafter he submitted a written report to the police, which

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State of Bihar vs Bikash Sharma and ors.**

was scribed by Lalmohan Sharma and marked as Ext.-1. In his cross-examination, he stated that after seeing the dead body he himself went to the police station and lodged a written complaint and that the FIR was prepared by the Inspector. He denied the suggestions that he had assured the accused persons that no case would be instituted as the deceased had herself taken such a step, that the present case had been falsely instituted due to refusal of the accused persons to reimburse marriage expenses, that any compromise had taken place between the parties, or that no dowry demand had ever been made.

PW-2 Manoj Rajak, PW-3 Bindeshwari Rajak, PW-4 Murari Rajak, PW-6 Parmanand Sharma @ Prasadi Sharma, and PW-7 Lal Mohan Sharma, did not support the prosecution case and were accordingly declared hostile.

PW-5 is Manoj Kumar Mishr, in his examination-in-chief, deposed that the occurrence had taken place 14-15 years prior, in the evening. At the time of occurrence he was at Bhagalpur and on his returning at about 09-10 PM he came to know from Rudal Sharma that wife of Bikash Sharma has died. He suggested him to inform her parents. On getting information, her parents along with other 4-5 persons came and last rites were performed in their presence. After some time he came to know that a case has been lodged by her matrimonial side. He further deposed that he came to know that the deceased has consumed poison. He further stated that police has not taken his statement. He further identified the accused Rudal Sharma present in the court.

During his cross-examination, he deposed that at the time of occurrence he was Mukhiya and he knows the accused, because he is his co-villager and he has no complain with the accused.

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S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

ARGUMENTS

11. During the course of arguments, learned defence counsel, argued that the ingredients of section 304(B) IPC is not attracted in this case, all the witnesses except one, the informant has contested. However, the solitary evidence suffers from several loopholes and contradiction, therefore, his evidence is not reliable. Moreover, the Investigating Officer of this case has not been examined, which has caused prejudice to the accused.

Per contra, the learned prosecution submitted that the sole witness contested has fully supported the case and it is settled law that quality of evidence is more important than quantity of evidence and it is also settled that conviction can be made on the solitary evidence of the witness. Hence, the prosecution argued that the case is fully proved beyond all shadow of reasonable doubt.

DISCUSSIONS

12. However, upon careful scrutiny of the evidence on record, it appears that out of seven witnesses examined by the prosecution, only PW1 has supported the prosecution case, while the remaining witnesses have either turned hostile or are hearsay witnesses and none has corroborated the prosecution story. The evidence of PW1 suffers from material infirmities and inconsistencies which do not inspire confidence. Though the witness stated in paragraphs 5 and 6 of his cross-examination that he had immediately approached the police after seeing the dead body of his daughter, the written report was admittedly lodged on 03.07.2009, whereas the occurrence took place on 22/23.06.2009, and no satisfactory explanation has been furnished regarding the delay of about ten days in institution of the FIR. Further, although PW1 claimed to have seen the burnt dead body lying in the matrimonial house of the deceased, no immediate objection appears to have been raised before the performance of the last rites. Moreover, except for a bald allegation regarding demand of dowry, there is no cogent evidence to establish that the deceased was subjected to cruelty or harassment soon before her death in connection with

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A.S.J-I, Banka
District- Banka(Bihar)
S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

dowry demand, which is an essential ingredient for constituting an offence under Section 304-B of the IPC. The defence has also pointed out contradictions in the testimony of PW1 vis-à-vis his previous statement before the police, but the prosecution failed to examine the Investigating Officer, who was a material witness to such contradiction, whose non-examination has caused serious prejudice to the defence, as he alone could have clarified the alleged contradictions and omissions. Furthermore, there is no medical evidence on record to conclusively establish that the deceased died due to burn injuries, nor has any independent witness been examined to prove the circumstances of her death. The prosecution has sought to invoke Section 106 of the Indian Evidence Act on the ground that the accused persons failed to explain the circumstances in which the deceased died in her matrimonial house, however, it is well settled that Section 106 cannot be invoked to fill up lacunae in the prosecution case unless foundational facts are first established by reliable evidence. Honble Supreme court in **State of Madhya Pradesh vs Balveer Singh and others, 2025 INSC 261**, where it has been held that *"Section 106 cannot be invoked to make up the inability of the prosecution to produce evidence of circumstances pointing to the guilt of the accused. This section cannot be used to support a conviction unless the prosecution has discharged the onus by proving all the elements necessary to establish the offence. It does not absolve the prosecution from the duty of proving that a crime was committed even though it is a matter specifically within the knowledge of the accused and it does not throw the burden on the accused to show that no crime was committed. To infer the guilt of the accused from absence of reasonable explanation in a case where the other circumstances are not by themselves enough to call for his explanation is to relieve the prosecution of its legitimate burden. So, until a prima facie case is established by such evidence, the onus does not shift to the accused"*.

Therefore, considering the material infirmities in the testimony of the solitary supporting witness, non-support by other witnesses, non-examination of the Investigating Officer, absence of medical

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A.S.J-I, Banka
District- Banka(Bihar)
S.T. Case No.-996/2013
State of Bihar vs Bikash Sharma and ors.

and independent evidence, and failure of the prosecution to establish the essential ingredients of the offence, this Court is of the considered view that the prosecution has failed to prove the foundational facts against the accused beyond the shadow of reasonable doubt. Thus, the accused persons are found and held not guilty.

ORDER

In the light of above said discussion the accused **A-1, A-2 and A-3** namely **Bikash Sharma, Sanjay Sharma & Rudal Sharma**, are hereby acquitted from the charges leveled against him U/s 304(B)/34, 302/34, 201, 498(A)/34 of IPC. They are already on bail, hence they are also discharged from the liabilities of bail bonds.

Since, the death is itself shrouded in doubt as there is no medical evidence available on record, this court do not find it fit to award compensation.

File to be consigned to the record room.

(Dictated and after correction signed and then pronounced by me in the open court on this 12th May, 2026)

(Kumar Amit Manu)
Addl. Sessions Judge-I
Banka.
Dated-12.05.2026

(Kumar Amit Manu)
Addl. Sessions Judge-I
Banka
Dated-12.05.2026