

**IN THE COURT OF ADDL. SESSIONS JUDGE-II, Katihar**

Present:- Astonish Ray, Addl. Sessions Judge-II, Katihar

[Date of judgment- 10 August 2026]

[ S. Trial No. 443/2023]

*Rail Thana Kishanganj P.S. case No. 13/2023 F.I.R. U/S- 304(B)/34, 120B of the I.P.C.*

|                       |                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Complainant/Informant | State of Bihar through informant namely Mamata Devi W/O- Panudhar Chakrawarti, R/O-Vill-Dheksara, P.S.- Rail Thana Kishanganj Distt.-Kishanganj                                                                                                                                                                                                                                          |
| Represented By        | Sri Md. Ezaj Alam Id. A.P.P.                                                                                                                                                                                                                                                                                                                                                             |
| Accused               | 1. Pritam Mahto S/o- late Shibu Mahto, aged about 29 years,<br>2. Uttam Kumar Mahto, S/o- late Shibu Mahto, aged about 30 years,<br>3. Raja Devi, W/o- late Shibu Mahto, aged about 50 years,<br>4. Babi Devi W/o- Uttam Mahto, aged about 28 years &<br>5. Sheela Devi, W/o- Gautam Mahto, All are R/O-Vill- Railway Colony, Kishanganj, P.S.-Rail Thana Kishanganj. Distt.-Kishanganj. |
| Represented By        | For defense : Sri R. K. Keshari, Id. Advocate                                                                                                                                                                                                                                                                                                                                            |

|                                    |                          |
|------------------------------------|--------------------------|
| Date of Offence                    | 10.03.2023               |
| Date of F.I.R.                     | 10.03.2023               |
| Date of Charge-sheet               | 31.05.2023 / 04-06-2023  |
| Date of Framing of Charge          | 21/-09-2023 / 07-07-2026 |
| Date of Commencement of evidence   | 07-12-2023               |
| Date of which judgment is reserved | 27-07-2026               |
| Date of Judgment                   | 10-08-2026               |
| Date of Sentencing Order, if any   | N/A                      |

**Accused Details**

| Ran k of the | Name of Accused | Date of Arrest/ Surrender | Date of Release on Bail | Date of Offences Charged with | Whether Acquitted or | Sentence Imposed | Period of Detention Undergone |
|--------------|-----------------|---------------------------|-------------------------|-------------------------------|----------------------|------------------|-------------------------------|
|--------------|-----------------|---------------------------|-------------------------|-------------------------------|----------------------|------------------|-------------------------------|

| Accused |                   |            |          |                                                    | Convicted |     | during Trial for purpose of section 428 of Cr.P.C. |
|---------|-------------------|------------|----------|----------------------------------------------------|-----------|-----|----------------------------------------------------|
| 01      | Pritam Mahto      | 11-03-23   | N/A      | U/s- 304(B)/34, 120(B)/34 and 302/34 of the I.P.C. | Acquitted | N/A | N/A                                                |
| 02      | Uttam Kumar Mahto | 11-03-23   | 20-10-23 | DO                                                 | DO        | DO  | DO                                                 |
| 03      | Raja Devi         | 11-03-223  | 20-10-23 | DO                                                 | DO        | DO  | DO                                                 |
| 04      | Babi Devi         | 11-03-23   | 20-10-23 | DO                                                 | DO        | DO  | DO                                                 |
| 05      | Sheela Devi       | 11-03-2023 | 20-10-23 |                                                    |           |     |                                                    |

### **JUDGMENT**

1. The accused persons namely Pritam Mahto, Uttam Kumar Mahto, Raja Devi and Babi Devi & Sheela Devi stand charged for the offences punishable u/s 304(B)/34, 120(B)/34 and 302/34 of the I.P.C. as leveled against them.

### **CASE OF PROSECUTION/BRIEF FACTS**

2. As per Fard-e-beyan of informant namely Mamata Devi prosecution case in brief is that said first marriage of her daughter namely Kavita Kumari was solemnized 09 years ago with one Sanjay Kumar Jaiswal and with wedlock of Sanjay Kumar Jaiswal her daughter gave birth one child. Informant has further alleged that accused namely Pritam Kumar used to visit the in-laws house of Kavita Kumari due to which in-laws family of her daughter got angry and due to that very reason divorced took place with Sanjay Kumar Jaiswal. After that Pritam Kumar Mahto married with her daughter namely Kavita Kumari in the year 2018.

Informant has further alleged that marriage of her daughter namely Kavita Kumari was solemnized 05 years ago with Pritam Kumar Mahto as per Hindu rites and rituals and by leading conjugal life she was blessed one child namely Prince Kumar aged about 2.50 years. Informant has further alleged that at the time of marriage as per her culpability she gave articles worth about 01 Lakh rupees. Informant has further alleged that last one year her son-in-law namely Pritam Kumar Mahto and mother-in-law namely Raja Devi, Bhainsur Gautam Mahto, Uttam Mahto, Santosh Mahto, Gotani Sheela Devi and Baby Devi and Nanad Savitri Devi who live together as a joint family in Railway Colony Quarter No.- E-138/B, P.S.- Rail Thana Kishanganj, Distt.-Kishanganj were committing torture to her daughter for dowry and they used to tell that the boy is in Government Service but getting him fallen into love and only by giving articles of one lakh rupees she has married. Informant has further alleged that whenever she used to visit to see his daughter then aforesaid all person used to say that your daughter may live in theirs house when she will give Rs. 5,00,000/- (Five Lakhs Rupees) and one motorcycle otherwise they will solemnized second marriage of Pritam Kumar Mahto and they will keep to the Kavita Kumari as a house maid. Informant has further stated that aforesaid accused persons used to commit assault to her daughter. But her daughter was bearing all the torture keeping in her mind the prestige of her Mayka and Sasural. But from last one year Pritam Kumar Mahto with view to solemnize his second marriage he subjected to her daughter for torture inhuman manner and used to demand dowry. Informant has further stated that today i.e. 10-03-2023 in between 3:00 to 03:30 O'clock Pritam Kumar made a telephonic call to her and told that her daughter has committed suicide by way of hanging.

Informant has further firmly stated that aforesaid all accused persons together committed murder to her daughter by assaulting her due to non-fulfillment of dowry demand.

#### **INSTITUTION OF CASE/ INVESTIGATION/ INQUIRY**

3. On the basis of Fard-e-beyan of informant Mamata Devi formal F.I.R. bearing Rail Thana Kishanganj P.S. case No. 13/2023 F.I.R. U/S-

304(B)/, 120(B)/34 of the I.P.C. was instituted against the accused namely Pritam Mahto, Raja Devi, Gautam Mahto, Uttam Kumar Mahto, Santosh Mahto, Sheela Devi, Babi Devi & Savitri Devi. Further after investigation police submitted charge-sheet no. 26/2023 u/s- 304 (B), 120B/34 of the I.P.C. against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi. While, the further investigation was shown to be pending against the accused namely Gautam Mahto, Savitri Devi and Santosh Mahto.

4. On receipt charge-sheet *Ld. J.M.-1st Class, Railway, Katihar* took cognizance of the offence U/S- 304(B), 120B/34 of the I.P.C. against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi. Further having seen that the section 304(B) of the I.P.C. as leveled against the aforesaid accused persons is exclusively triable by the court of sessions, aforesaid *Ld. Court* supplied the Xe-rox copy of police papers as per requirement of section 207 of the Cr.P.C. to the aforesaid accused persons and *Ld. court* committed the case record to the court of Sessions for further trial. Later on, as per order of the P. District and Sessions Judge, Katihar case record came to the file of my court for further trial and disposal.

#### **CHARGES AGAINST ACCUSED PERSONS**

5. Later on, after completion of the appearance of the aforesaid accused persons namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi before the court and after considering the materials available on record and on hearing the *Ld. A.P.P. for State* as well as *Ld. counsel for the aforesaid all accused persons*, my *Ld. Predecessor court* framed the charges u/s- 304(B), 120B/34 of the I.P.C. in written against the aforesaid aforesaid accused persons and the contents of the same were read over and explained to the aforesaid accused persons in hindi to which they denied and pleaded to be not guilty and claimed to be tried. Hence the trial.

6. Later on, prosecution filed a petition u/s- 216 of the Cr.P.C. for framing alternative charge u/s- 302 of the I.P.C. against all accused

persons and after hearing the both parties same petition was allowed and accordingly charge u/s- 302/34 of the I.P.C. in written was framed against the aforesaid all five accused persons namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi and the contents of the same were read over and explained to the aforesaid accused persons in hindi to which they denied and pleaded to be not guilty and claimed to be tried. Hence the trial. It would be pertinent to mention here that Id. A.P.P. has orally submitted that prosecution does not want to produce further evidence after framing of additional charge, while other side Id. defense side has submitted that defense side does not want to re-cross-examine to the prosecution witnesses after framing of additional charge

#### **PROSECUTION EVIDENCE**

7. In order to substantiate its case prosecution side has examined altogether (10) witnesses in the support of its case. They is:-

| <b>Sr. no.</b> | <b>Pws. Number</b>           | <b>Description</b>                                    |
|----------------|------------------------------|-------------------------------------------------------|
| 01             | P.W.-01-Shobha Devi          | Other witness                                         |
| 02             | P.W.-02-Panudhar Chakrawarti | Father of deceased to this case namely Kavita Kumari  |
| 03             | P.W.-03-Mithun Chakrawarti   | Brother of deceased to this case namely Kavita Kumari |
| 04             | P.W-04-Manoj Kumar Singh     | Other witness                                         |
| 05             | P.W.-05-Sarita Devi          | Other witness                                         |
| 06             | P.W.-06-Mamata Devi          | Informant to this case                                |
| 07             | P.W.07-Fulan Devi            | Hostile witness                                       |
| 08             | P.W.-08-Nitesh Kumar         | Formal witness                                        |
| 09             | P.W.-09-Dr. Mukesh Jaisawal  | Expert witness                                        |
| 10             | P.W.-10 Rambachan Singh      | Formal witness                                        |

8. Prosecution side has also adduce following documentary evidences on the record in the support of its case:-

| <b>Sr. no.</b> | <b>Exhibit Number</b> | <b>Description</b>                                                                           |
|----------------|-----------------------|----------------------------------------------------------------------------------------------|
| 01             | P-1/PW-8              | Signature of P.W.-08 namely Nitesh Kumar the then SHO, Rail P.S. Kishanganj on formal F.I.R. |

|                         |             |                                                                                               |
|-------------------------|-------------|-----------------------------------------------------------------------------------------------|
| 02                      | P-2/PW-8    | Signature of P.W.-08 namely Nitesh Kumar the then SHO, Rail P.S. Kishanganj over endorsement. |
| 03                      | P-3/PW-8    | Writing and signature of endorsement                                                          |
| 04                      | P-4/PW-9    | Postmortem report                                                                             |
| <b>Material Exhibit</b> |             |                                                                                               |
| 01                      | M-1/PW-10   | One piece of Black colour dupatta                                                             |
| 02                      | M-1/1/PW-10 | Second piece of Black colour dupatta                                                          |
| 03                      | M-2/PW-10   | One Mobile of Vivo company                                                                    |
| 04                      | M-3/PW10    | One paper containing some substance just like tobacco.                                        |

### **STATEMENT OF ACCUSED PERSONS**

9. After conclusion of the prosecution evidence, the statement of the accused person namely Pritam Mahto, Uttam Kumar Mahto, Raja Devi and Babi Devi & Sheela Devi were recorded under section 313 of the Cr.P.C. and all incriminating facts were put to them but they denied veracity of prosecution evidences with the contentions that they innocent and has falsely been implicated in this case.

10. On the behalf of the defense total 05 witnesses were examined. They were:-

- (i) D.W.-01-Usha Devi
- (ii) D.W.-02 Gautam Kumar Jha
- (iii) D.W.-03-Mukesh Chaudhary
- (iv) D.W.-04- Sumintra Devi
- (v) D.W.-05 Madan Mohan Jha

11. But on the behalf of the defense side documentary evidence was not adduced on record.

12. Now, the point for consideration is whether the prosecution has been able to prove the charges as leveled against the accused persons, beyond the shadow of all reasonable doubts ?

### FINDINGS

13. From perusal of the record it is evident that in order to substantiate its case prosecution has examined altogether 10 witnesses and has also adduced some documentary evidences on record. Out of total 10 witnesses, P.W.-06 Mamata Devi who is not else but informant to this case as well as mother of deceased to this case namely Kavita Kumari has stated in her examination-in-chief that the deceased to this case namely Kavita Kumari was her daughter. She married her to Sanjay Jaiswal in Thakurganj, 12 years ago. After the wedding, she went to her in-laws' home, but she never had a child. Pritam Mahto began visiting the girl's in-laws' house. He visited her house several times. The deceased told her about this. The deceased had told her that due to Pritam's visits her home could be break up. When she went to Pritam's house to tell him about Pritam's frequent visits to her daughter's house, then having ties hand and leg Pritam's parents beaten him. After a month, he again started to commit his previous activities and began visiting her daughter's house. After that her daughter came to her house situated at Kishanganj with her father-in-law. Her father-in-law went away assuring her that he would come and take her back, but he never came again. Pritam used to come to his house, so they did not want to take the girl away. After that my daughter got divorced from Sanjay Jaiswal. After that, she married of her daughter to Pritam Mahto. It must have been about five years since the wedding. After marriage the girl went to Pritam Mahto's house. Her daughter had two children with Pritam Mahto. She had two boys. The elder boy's name is Ansh Kumar, aged about 12 years and the younger boy's name is Prince Kumar, aged about 05 years. The elder son is with her and the younger one is with grandmother. It is going to be one year and three months since the incident. She received information about the incident at about 3:00 O'clock in afternoon. It was Friday. Pritam Mahto called and told her that her daughter has died after hanging her self. She went to her daughter's house. She called her sons. She went there with all. Her villagers also went there with her. There she saw that her daughter was lying there, she was wearing a nightie. At that time Pritam's family

members were inside the house. P.W.-06 has further stated that this incident occurred due to dowry demands. At the time of marriage she had given locket, Gold ring and other articles. He used to demand five lakh rupees from her as dowry, and when she refused to give it, he used to commit assault to her daughter and since dowry was not given due that her daughter was murdered. P.W.-06 has further stated that when she saw the the girl's body, she found scratches on her body and her saree was also torn. There was a mark on her hand. Her daughter was taken for postmortem by the police in front of her. She gave her fard-e-beyan at the police station, and she had put her thumb impression on it. Her eldest son, Mithun, signed on the Fard-e-beyan as a witness. P.W.-06 has further recognized to the accused namely Pritam Mahto and his mother who were present before court and she has further claimed to identify other accused persons after seeing them

During the cross-examination P.W.-06 has stated that first marriage of her daughter was with Sanjay Jaiswal in Thakurganj. It's been 12 years since the wedding, but she don't remember the exact year. The wedding was conducted according to Hindu rituals. Dowry had not been given to the Sanjay Jaiswal . She lived well with Sanjay Jaiswal for four or five months. After that, she stayed at my house. P.W.-06 has further stated that divorce has already taken place in between Kavita Kumari and Sanjay Jaiswal. Her daughter filed the case. She cannot provide the case number. She will submit the divorce papers on the next date. Before marrying Pritam Kumar, he had no relationship with Kavita Kumari. Kavita Kumari was married to Pritam at Kali Mandir, P.S.-Odhra, Dist.-Kishanganj. After marriage, her daughter went to Pritam's house in Railway Colony, Kishanganj. She lived here well for four or five months, then lived in a rented house for three years. She doesn't know her landlord's name. She lived in a rented house opposite Oriental Bank. P.W.-06 has further stated that She (Kavita Kumari) had no children with Sanjay Jaiswal. The elder child would be about 12 years old and the younger child would be about 05 years old. She does not remember the date when Pritam's family demanded dowry. She did not see the incident with her own eyes. The police did not take her statement

at the place of occurrence. Police had recorded her statement at police station at the same day. After that, a police officer came to her house and the S.P. took her statement. No statement was recorded after that. After that she is giving her statement today.

14. P.W.-01 Shobha Devi has stated in her examination-in-chief that she knows the deceased in this case, Kavita Kumari. She was married to Pritam Mahto. After marriage, Kavita went to her in-laws' house and lived there for about four years. She visited her parents' home twice with her husband. After that, Kavita started living in a rented house with her husband, who worked for the railways. On Holi in 2022, the day of the incident, the deceased's mother received a call about the death of her daughter. When her mother began weeping, neighbors asked why she was weeping. She told them that her daughter had been killed and thrown away. Afterward, the deceased's mother and she went to the girl's in-laws' house and found the girl dead. She was wearing a maxi and she had discharged stool. And there were scratches on her breast and there was scar on her arm. P.W.-1 has further stated that the deceased had earlier also told her mother that she was being harassed due to dowry. Pritam, Pritam's mother and her two brothers-in-law killed Kavita Kumari for dowry. She told all this to the police also. P.W.-01 has further claim to identify all accused person after seeing them.

During the Cross-examination P.W.-01 has stated that her house is about 10 kos away from the place of occurrence. She came to know about the incident by phone. She did not see it happen with her own eyes.

15. P.W.-2 Panudhar Chakrawarty has stated in his examination-in-chief that this incident took place at about 10 months ago. Kavita Kumari was his daughter. Kavita Kumari was married to Jaiswal in Thakurganj. After the marriage, Pritam Mahto began visiting his daughter's in-laws' house and used to tell her to come to his house. After that, he brought his daughter home and her in-laws filed a case against them. His daughter was subsequently divorced from her first husband, Jaiswal, by the

Kishanganj court. After the divorce, he married his daughter to Pritam Mahto. After the marriage, his daughter began living with Pritam in the railway quarters. For five to six months, his daughter lived with Pritam in a rented house. His daughter had a son with Pritam. Then, after Saraswati Puja, Pritam left his daughter at a rented house and brought her to his quarters. Her husband Pritam then began harassing her for dowry and started demanding 5 lakh rupees in dowry and told that if her will give 5 lakh rupees, he will treat her like a queen, otherwise he will treat her like a maid. P.W.-02 has further stated that besides Pritam, his daughter's three brothers-in-law, their families and Pritam's mother, also harassed his daughter for dowry. His daughter has informed them about the dowry demand, after that they did not do anything. After that, Pritam Mahto called his family and informed them that his daughter had hanged herself. His family and his son then went to his daughter's in-laws' house and found his daughter lying naked and dead in the street next to her in-laws' house. P.W.-02 has further stated that he believes that all the people caught his daughter and killed her by hanging her with a dupatta and this is the reason for her death.

During the Cross-examination P.W.-02 has stated that his wife told him about dowry demands, the accused did not demand dowry from him. He did not give his daughter any dowry at her second wedding. He voluntarily said that he gave her a gold chain, earrings and a nose ring. After her second marriage, his daughter stayed at his house for three-four days. He did not see the incident with his own eyes. He heard about the incident. P.W.-02 has further stated that the police did not take his statement. He reiterated that the police had asked him. His daughter has two children. One is three years old and other is ten years old. His daughter's first marriage was divorced in Kishanganj, He doesn't know the number of that case.

16. P.W.-03 Mithun Chakrawarty has stated in his examination-in-chief that this incident took place on 09-03-2023. His sister, Kavita Kumari, was first married to Sajan Jaiswal. After the marriage, she went to her in-laws' home in Thakurganj. Pritam Kumar Mahto had been pursuing

his sister for a long time. He began visiting her in-laws' home frequently. When they came to know Sanjay's family that this boy, Pritam Mahto used to visit Sajan's home frequently due to which divorce took place in between them. After that, his sister married Pritam Kumar. Kavita Kumari then went to her in-laws' house and lived there. His sister has two children with Pritam, both boys are Pritam's children. P.W.-03 has further stated that till for one and half year relationship in between Kavita Kumari and Pritam remained cordial. After that, conflicts began to arise at home and no one wanted to see his sister there. Due to which his sister lived in a rented house for two years. While living there, she was not subjected to any mistreatment. When Pritam used to bring his sister to the quarter, then fights and troubles would start, she would be beaten and told to bring five lakh rupees, these people used to demand 5 lakhs as dowry which they had accepted. Pritam Kumar used to demand dowry money from his sister. When they did not give the dowry amount, she was killed. They received news of his sister's death at 3:0 P.M. on the 10th. He went to the place of occurrence along with his wife and other people of locality. He found his sister lying dead in the street. Her nighty was torn and there were scratches. P.W.-03 has further stated that before the incident, his sister used to tell her mother everything and her mother used to tell him. Before the incident, Pritam had demanded a bike which they were unable to provide. His sister has been murdered for dowry. His statement was taken by the police.

During the cross-examination P.W.-03 has stated that he cannot say the boundary of place of occurrence. His house is three kilometers away from the place of occurrence. He did not see this incident happening with his own eyes.

17. P.W.-04 Manoj Kumar Singh has stated in his examination-in-chief that deceased Kavita Kumari was married to Pritam Kumar four years ago at Odra Kali Mandir, P.S.-Kishanganj. After marriage she lived in her in-laws' house. After one year, there was a dispute between the two regarding dowry. Being the Ward-member, he used to go to the to settle the matter. On 10-03-2023 at 3;00 O'clock, he came to know that her

mother was crying and saying that Kavita had died. Later, when he also went there, the dead body was lying in the street in front of the door, on which mosquitoes were buzzing. From her mother it came to know that that her son-in-law Pritam Kumar had killed her for dowry. The police came to the place of occurrence. They inquired him and went to perform an autopsy of the body. P.W.-04 has further recognized to the mother of Pritam who was present in the court, and he has further recognized an another accused who was in custody.

During the cross-examination P.W.-04 has stated that he don't know how much dowry was given. Kavita Kumari was earlier married in Thakurganj, he does not know the name of that boy. He does not know when the deceased was first married. He doesn't know whether Kavita Kumari had divorced the boy she was previously married to or not. He has not seen the incident with our eyes.

18. P.W.-05 Sarita Devi has stated in her examination-in-chief that he knew to the deceased namely Kavita Kumari. Her marriage was solemnized with Pritam Mahto four years ago of incident in Kishanganj Railway Colony. After her marriage Kavita lived in-her-laws house. She did resides next door to her in-laws house, but Kavita's mother always told her that her in-laws were constantly fighting with her. They used to fight over dowry. They used to demand 5 lakh rupees, a vehicle, etc. On the day of the incident, Kavita's mother told her that Kavita has died, you should go. As soon as everyone got the news, they ran to see Kavita. She also went to see Kavita. She saw that Kavita's dead body was lying in the room. There was a mark on her neck and flies were buzzing around her. Police had come there. The police inquired after 12 days of the incident. P.W.-05 has further recognized to the accused persons as Kavita ki sas and Kavita Ki gotini and has further claimed to identify to the accused namely Pritam Mahto.

During her cross-examination P.W.-05 has stated that this case has been filed by Mamata Devi. Mamata is her daughter's mother-in-law, and she is her sister-in-law. Her sister-in-law told her about the incident. She saw it happen with her own eyes. P.W.-05 has further stated that the

accused never demanded dowry from her nor did he ask for money or motorcycle before her. She had not seen the incident with her own eyes. She had told the police that she did not see the incident taking place. Before marrying Pritam, Kavita was married to someone else, she does not know whom and she also does not know whether Kavita had divorced her ex-husband or not.

19. P.W.-07 Fulan Devi has stated in her examination-in-chief that she doesn't know anything about the incident. The police did not take her statement.

It would be pertinent to mention here that on the prayer of the Id A.P.P. P.W.-07 was declared to be hostile by the court. After that prosecution cross-examined to the P.W.-07. But in her cross-examination done by the prosecution side P.W.-07 has stated that it is not true that she had given her statement to the police that there was always a quarrel between the deceased and her husband and family members. This morning, there was also a fight over plucking flowers. She was in my quarters when, around 3:00 A.M., she woke up on commotion and saw people talking that Pritam Kumar's wife has died. Out of fear, she stayed home with her husband. P.W.-07 has further refused to identify to the accused namely Pritam Kumar. P.W.-07 has further stated that it is not the case that having gone into favour of the accused, she is concealing the truth from the court and giving false testimony.

During the cross-examination on behalf of the defense side P.W.-07 has stated that today she is giving testimony voluntarily without any pressure, fear or greed.

20. P.W.-08 Nitesh Kumar has stated in his examination-in-chief that on dt. 10-03-23 he was posted as SHO at Kishanganj Railway Police Station. On that date, he recorded Mamata Devi's statement, which bears her thumb impression, upon which there are the name of names of Mithun Chakrawarty, Panudhar Chakrawarty, and Dheksara Chakrawarty as witnesses. P.W.-08 has further proved his signature over Formal F.I.R. and same was marked as Ext-P-1/PW-8. P.W.-08 has

further proved his signature over endorsement and same was marked as Ext-P-2/PW-8. P.W.-08 has further proved the endorsement and accordingly same was marked as Ext-P-3/PW-8. P.W.-08 has further stated that he personally assumed charge of investigation of this case. After taking charge, he recorded the F.I.R. in the case diary. He recorded the Death Inquest Report of the deceased, Kavita Kumari, in the case diary on March 10, 2023. P.W.-08 has further stated that after reaching at the place of occurrence, the statement of informant was recorded again and inspected the place of occurrence. P.W.-08 has further stated the boundry of the place of occurrence as :- North-metalled road running from east to west, South- Drain and after that vacant railway land. East- quarter no. E 138A which has been allotted in the name of Manoj Yadav and West-139A which has been allotted in the name of Arjun Mandal. P.W.-08 has further stated that on dt. 10-03-2023, a black scarf, torn into two pieces, and one mobile phone were seized from the deceased's room. A seizure list was prepared for this. The seizure list is in his handwriting and signature. It also bears the signature of accused Pritam Kumar, whom he recognizes. The statements of witnesses Panudhar Chakrawarty, Mithun Kumar Chakrawarty, Lakshmi Devi, Fulan Devi, and Mukesh Chaudhary were recorded. All witnesses supported the incident. P.W.-08 has further stated that he sent report to the Forensic Science Laboratory for F.S.L. enquiry. On dt. 12-03-2023, the F.S.L. team inspected the spot and submitted a report, which was received and recorded in the case diary. On 13-03-2023, the postmortem report was received and recorded in the case diary. On dt. 18-03-2023, the statements of witnesses Laxmi Devi, Fulan Devi, Mukesh Chaudhary, Usha Devi, Umakant Rai were recorded. On. 23-03-23 the statements of Shobha Devi, Sarita Devi, Manoj Kumar Singh, Chandar Paswan were recorded. Further, the statement of Kishanganj Railway Manager Dilip Thakur's statement was recorded. The station master's attendance register was obtained and the same was recorded in the diary. P.W.-08 has further stated that as per order of senior officer he submitted charge-sheet against the accused namely Pritam Kumar Mahto, Raja Devi, Baby Devi, Sheela Devi under sections 304B, 120B/34

I.P.C. During the cross-examination P.W.-08 has stated that all the witnesses have stated in their statements that they did not see the incident happening with their own eyes. All the witnesses have recorded their statements based on hearsay. The fact as to where the deceased Kavita Kumari, w/o- Pritam Kumar, was first married has not been mentioned in the case diary.

21. P.W.-09 Dr. Mukesh Jaisawal is the expert witness who has proved the Ext-P-4. PW-9 Postmortem report of deadbody of deceased namely Kavita Kumari. P.W.-09 has further stated that he was posted as S.M.O (Surgeon), at Sadar Hospital, Kishanganj on that day he conducted Postmortem dead body of Kavita Kumari and have found following ante-mortem findings-

She had fair complexion, Eye hair black. Average built. Eye, Mouth Closed. Rigger mortise present. Body not decomposed. On P.M. Examination found following ante-mortem findings are found on the body of deceased. No any external injury found except Ligature mark on neck. Ligature Mark 1 inch wide in dark colour in between chin and thyroid cartilage. Running obliquely upward and backwards interrupted at back of neck. Further desection of ligature mark white and glistening subcutaneous tissue found. On desection of neck- Mucosa of larynx and trachea found congested. Cause of injury a ligature. Time passed since death within 24 Hrs. In our opinion the cause of death is due to asphyxia and shock as a result of hanging.

During the cross examination P.W.-09 has stated that he has mentioned that there was semi digested food articles with liquid in her stomach. He has not mentioned about the smelling and non-smelling of the food articles. Larynx and trachea a was not found broken. No act of violence was detected on the body of victim. Death of deceased was due to hanging. No sign of homicide was detected on the person of decease.

22. P.W.-10 Rambachan Singh (formal witness) has proved the two pieces of Duppta and same were marked as M-1/PW10 and M-1/1/PW10. P.W.-10 has further proved one Vivo company android mobile and same

was marked as M-2/PW10. P.W.-10 has further proved Pudiya containing Some substance just like tobacco and same was marked as M-3/PW10.

During his cross-examination P.W.10 has stated that at present he is in-charge of Malkhana, but I have not produced in written.

23. While other side, in their respective statement recorded u/s 313 of the Cr.P.C. all 05 accused persons have denied the veracity of the prosecution case and have claimed to be innocent. While in their defense, accused persons has examined altogether 05 defense witnesses , out of them D.W.-01 Usha Devi has stated in her examination-in-chief that she recognizes all the accused persons of this case. Sheela Devi, Baby Devi, Raja Devi, and Uttam Mahto live in a separate house from the accused Pritam Mahto. They have no concern with Pritam Mahto. The accused never demanded dowry from the deceased Kavita Kumari. Pritam Mahto works as a stone picker in the Railways. Kavita Kumari had been married three times before Pritam Mahto. One to Thakurganj, one to Bagdogra, one to Katihar and the fourth to Pritam Mahto. Kavita Kumari often asked her parents to get her a divorce from Pritam Mahto. When father-mother did not agree for divorced then Kavita Kumari hanged herself. Kavita Kumari used to take injections of drugs. Her quarters are next to Pritam's quarter. She used to visit his house often. Accused has no hand in killing of Kavita Kumari.

During her cross-examination D.W.-01 has stated that accused Pritam Mahto had not demanded any dowry from Kavita Kumari.

24. D.W.02 Gautam Kumar Jha has stated in his examination-in-chief that he knew both parties of this case. Raja Devi, Sheela Devi, Baby Devi, and Uttam Mahto lived in a separate house from Pritam Mahto and had no concern with his business. Pritam Mahto had not married at their insistence but had married Kavita Kumari of his own free will. Kavita Kumari had been married four times before marrying Pritam Mahto. D.W.-02 has further stated that Raja Devi, Sheela Devi, Baby Devi, and Uttam Mahto never demanded dowry. His house was located only five

steps away from Pritam Mahto's house. Pritam Mahto's work as a stone picker in the railways, which Kavita Kumari disliked. Kavita Kumari wanted to leave Pritam Mahto and marry someone else, but her parents were not ready due to which being in anger she committed suicide by hanging herself. D.W.-02 has further stated that Pritam Mahto was not there on the night of hanging, he came in the morning. Pritam Mahto made telephonic call to the parents of the deceased about the hanging and then her parents came. He remained sitting near the dead body till then. All of them are completely innocent in this case. He knows them well. Raja Devi, Sheela Devi, Baby Devi, and Uttam Mahto are not of criminal nature.

During the cross-examination by the prosecution D.W.-02 has stated that it is not so that having gone into favour of the accused persons he has come to testify falsely

25. D.W.-03 Mukesh Chaudhary has stated in his examination-in-chief that he know Pitam Mahto, Raja Devi, Uttam Mahto, Sheela Devi, and Beni Devi. His house is next door to theirs. Raja Devi, Uttam Mahto, Sheela Devi, and Baby Devi all live in separate houses from the Pitam Mahto. They have no concern with the business of Pritam Mahto. He lives on his own earnings. The deceased, Kavita Kumari, had been married four times. Pritam Mahto worked as a stone picker in the railways, which Kavita Kumari did not like. He repeatedly asked his parents to arrange a second marriage, which her parents were not ready for. That's why she committed suicide by hanging herself. Raja Devi Uttam Mahto, Sheela Devi and Baby Devi, all of them never demanded dowry from Kavita Kumari's parents. Mamata Devi has filed a false case. All of them are completely innocent.

During his cross-examination D.W.-03 has stated that her house is just next door to Kavita Kumari's in-laws' house, about 25 feet away. Pritam is his nephew as he is his neighbour. wife and I gave statements to the police. When he went to Kavita Kumari's house, she hanged herself from the fan with her shawl. It is not that he is giving false testimony with the intention of saving the accused persons

26. D.W.-04 Sumintra Devi has stated in her examination-in-chief that Pritam Kumar, Raja Devi, Sheela Devi, Baby Devi, Uttam Mahto, and Gautam Mahto live together, and Pritam Mahto works as a stone picker. Kavita Kumari disliked this, and she even used to say her parents for a divorce, which they didn't like. D.W.-04 has further stated that Sheela Devi, Baby Devi, Raja Devi, and Uttam Mahto all lived in separate homes away from Pritam Mahto. They had no concern with business of Pritam Mahto. They never asked for dowry. Kavita Kumari deliberately hanged herself to death. Kavita Kumari had been married twice before Pritam Mahto; this was her third marriage. They are completely innocent.

During his cross-examination by the prosecution D.W.-04 has stated that he don't know how Kavita Kumari died. She heard she committed suicide by hanging herself. When she heard the commotion, she went to find her dead. She doesn't know why. It is not that she has come with the accused and hence she is hiding the matter.

27. D.W.-05 Madan Mohan Jha has stated in his examination in chief that he recognizes Raja Devi, Pritam Mahto, Sheela Devi, Uttam Mahto, and Baby Devi. He knows deceased to this case namely Kavita Kumari. Raja Devi, Uttam Mahto, Sheela Devi, and Baby Devi all live in their village homes, separate from Pritam Mahto. Kavita Kumari had been married three times before. Her first marriage was in Thakurganj, her second in Purnia, her third in Kishanganj's Khagra Mohalla, and her fourth marriage was with Pritam. Kavita Kumari's fourth marriage was with Pritam Mahto, who worked as a stone picker in the railway. Kavita Kumari disliked Pritam Mahto's work. They had a minor disagreement, and Kavita Kumari hanged herself from an electric fan. The accused are completely innocent in this case. The charges against them are false.

During his cross-examination by the prosecution D.W.-05 has stated that he is Pritam Mahto's uncle in the relation of village. He cannot tell who Kavita Kumari was married to first. The room where Kavita Kumari

hanged herself was located on the north side of his house. He doesn't know when he visited the place of occurrence.

28. While at the time of final argument Id. A.P.P. for the state has submitted that from perusal of the entire case record in entirety it is evident that deceased to this case namely Kavita Kumari faced unnatural death in her in-laws house within seven years of her marriage and prosecution witnesses have clearly stated that Kavita Kumari was being beaten and harassed by the accused namely Pritam Kumar Mahto and his other family members due to non fulfillment of dowry demand. Further postmortem report is also in the support of prosecution case. So accused persons may be held guilty for the offence punishable u/s 304B/34 either 302/34 and 120B/34 of the I.P.C. as leveled against them.

29. While Id. counsel for the defense has argued before this court as follows:-

(i) From perusal of the oral evidences of the all material prosecution witnesses it is evident that prosecution has not examined any eye witness either on the point of demand of dowry or on the point of alleged assaulting. Any prosecution witness

(ii) Ld. counsel for the defense has further submitted that all the material prosecution witnesses are the hearsay witness and they have never stated that before him accused persons demanded dowry either from deceased or from her parents.

(iii) Further prosecution was under obligation to prove that the alleged marriage of Kavita Kumari and Pritam Mahto was solemnized within seven years of alleged incident. But P.W.-03 has clearly testified that his sister namely Kavita Kumari had two sons and both sons are from Pritam Mhato. P.W.-06 Mamata Dvei has clearly stated that with wedlock of her husband namely Pritam Mahto, her daughter was blessed two children and the age of elder son is near about 12 years. So this facts goes to show that marriage in between Pritam Mahto and Kavita Kumari took place at least more than 11 years ago from the alleged date of occurrence. While for proving the charge u/s 304B of the I.P.C it must

for the prosecution that marriage of deceased was solemnized within seven years of this alleged occurred.

(iv) Ld. counsel has further submitted that prosecution has miserably failed to prove that soon before her death, Kavita Kumari was subjected to physical and mental torture for non fulfillment of dowry demand.

(v) Further P.W.-02 Panudhar Chakrawarti who is non else but the father of the deceased to this case, has clearly admitted that the accused did not demand dowry from him and he did not give any dowry at the second marriage. Further, P.W.-03 who is own brother of deceased has stated that accused namely Pritam used to demand some amount and Bike in dowry and when they did not fulfill the said demand then they caused murder to his sister. But P.W.-03 has never stated that accused persons demanded dowry from him or her sister told to him about dowry demand. While P.W.-06 who is own mother of the deceased has stated that Dowry was being demanded. Total Rs. 50,0000/- five lakh was being demanded in dowry. But she has never stated that accused persons demanded said dowry from her. Furthermore, P.W.-06 has never stated that her daughter informed her about alleged dowry demand by the accused person. While P.W.-01 has stated that deceased used to tell her mother that she was being tortured for dowry. But P.W.-06 never stated that her daughter told her that she was being subjected for cruelty. P.W.-04 has stated that from mother of deceased it came to know that her son-in-law has committed murder due to non fulfillment of dowry demand. But when and where deceased mother told the said fact to her, it has not been made clear by the P.W.-04. Further P.W.-05 Sarita Devi has admitted that mother of deceased told her that in-laws of her daughter always fighting with Kavita Kumari for dowry. They were demanding 05 lakh rupees and vehicle. But she never stated that Kavita Kumari told her about the demand of dowry. So, it is evident that on the point of demand of dowry prosecution has not given constant and reliable oral evidence.

(vi) Ld. counsel has further submitted that there is no eye witness of this alleged murder of the Kavita Kumari. While P.W.-09 Dr. Mukesh Jaisawal has clearly stated that no sign of homicide was detected. The cause of death was due to hanging. While the defense witnesses D.W.-01

to D.W.-05 have consistently stated that the accused persons are innocent and have been falsely implicated. They have stated that the deceased had been married multiple times before and she did not like Pritam Mahto's work as a stone picker and wanted a divorce, and when her parents did not agree, she committed suicide by hanging herself. They have also stated that the other accused persons namely Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi lived in separate houses and had no concern with Pritam Mahto. There is no evidence on record to show that soon before her death the deceased was subjected to physical assault. There is nothing on record to show that any specific dowry demand was made by the accused persons or any specific articles or money was demanded. Further there is no evidence on record to show that after hatching up conspiracy accused persons committed murder to the Kavita Kumari. Hence, the prosecution has miserably failed to prove the charges u/s 304B/34, 302/34 and 120B/34 of the I.P.C. as leveled against the accused persons. So, all the accused persons may be acquitted from the charges u/s 304B/34, 302/34 and 120B/34 of the I.P.C. as leveled against them.

30. Now, the first question before this court as to whether prosecution has succeeded to prove the charge u/s 304B,/34 of the I.P.C. as leveled against the accused all aforesaid five accused persons . Before coming on the merit of this case it would be expedient to observe the provision of section 304B of the I.P.C. as well as section 113B of the Evidence Act. Section 304B of the I.P.C. provides as:- Sec. 304B. Dowry death. -- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

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

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

Further, section 113B of the Evidence act provides as :-113B. Presumption as to dowry death. -- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death. Explanation. For the purposes of this section, dowry death shall have the same meaning as in section 304B of the Indian Penal Code.

So, from the provision of the section 304B of the I.P.C. as well as from the provision of section 113B of the Evidence Act it is quite clear that prosecution is under obligation to prove the following facts:-(1) that the death of the woman was caused by any burns or bodily injury or in some circumstances which were not normal; (2) such death occurs within 7 years from the date of her marriage ; (3) that the victim was subjected to cruelty or harassment by her husband or any relative of her husband; (4) such cruelty or harassment should be for or in connection with the demand of dowry ; and (5) it is established that such cruelty and harassment was made soon before her death. Then court shall presume that such person had caused the dowry death.

Now on coming on the merit of this case court finds that in her fard-e-beyan informant namely Mamata Devi has alleged inter alia that that said first marriage of her daughter namely Kavita Kumari was solemnized 09 years ago with one Sanjay Kumar Jaiswal and with wedlock of Sanjay Kumar Jaiswal her daughter gave birth one child. But in her oral deposition as P.W.-06 has stated that with bed-lock of Pritam Mahto her daughter had two sons one is 12 years old. So, it is clear that P.W.-06 has given very self contradictory on the point as to when alleged marriage of Kavita Kumari was solemnized with Pritam Mahto. Informant has further stated in her fard-e-beyan that accused namely Pritam Kumar used to visit the in-laws house of Kavita Kumari due to which in-laws family of her daughter got angry and due to that very

reason divorced took place with Sanjay Kumar Jaiswal. After that Pritam Kumar Mahto married with her daughter namely Kavita Kumari in the year 2018. But informant has not adduced any evidence to prove that said marriage took place in 2018. Informant has further alleged that at the time of marriage as per her capability she gave articles worth about 01 Lakh rupees. While P.W.-02 who is father of deceased has clearly stated that he did not give any dowry in second marriage of his daughter. Informant has further alleged in her fard-beyan that last one year her son-in-law namely Pritam Kumar Mahto and mother-in-law namely Raja Devi, Bhainsur Gautam Mahto, Uttam Mahto, Santosh Mahto, Gotani Sheela Devi and Baby Devi and Nanad Savitri Devi who live together as a joint family in Railway Colony Quarter No.- E-138/B, P.S.- Rail Thana Kishanganj, Distt.-Kishanganj were committing torture to her daughter for dowry and they used to tell that the boy is in Government Service but getting him fallen into love and only by giving articles of one lakh rupees she has married. Informant has further alleged that whenever she used to visit to see his daughter then aforesaid all person used to say that your daughter may live in theirs house when she will give Rs. 5,00,000/- (Five Lakhs Rupees) and one motorcycle otherwise they will solemnized second marriage of Pritam Kumar Mahto and they will keep to the Kavita Kumari as a house maid. But as P.W.-06 she has never stated that she visited in-law's house of her daughter then her daughter told about dowry demand. . Informant has further alleged in her fard-e-beyan that from last one year Pritam Kumar Mahto with view to solemnize his second marriage he subjected to her daughter for torture inhuman manner and used to demand dowry. Informant has further stated that today i.e. 10-03-2023 in between 3:00 to 03:30 O'clock Pritam Kumar made a telephonic call to her and told that her daughter has committed suicide by way of hanging. While coming on the oral evidences of P.W.-06 Mamata Devi court finds that she has deposed before court that Kavita Kumari was her daughter. She married her to Sanjay Jaiswal in Thakurganj, 12 years ago. After the wedding, she went to her in-laws' home, but she never had a child. Pritam Mahto began visiting the girl's in-laws' house. He visited her house several times. The deceased told her

about this. The deceased had told her that due to Pritam's visits her home could be break up . When she went to Pritam's house to tell him about Pritam's frequent visits to her daughter's house, then having ties hand and leg Pritam's parents beaten him. After a month, he again started to commit his his previous activities and began visiting her daughter's house. After that her daughter came to her house situated at Kishanganj with her father-in-law. Her father-in-law went away assuring her that he would come and take her back, but he never came again. Pritam used to come to his house, so they did not want to take the girl away. After that my daughter got divorced from Sanjay Jaiswal. After that, she married of her daughter to Pritam Mahto. It must have been about five years since the wedding. After marriage the girl went to Pritam Mahto's house. Her daughter had two children with Pritam Mahto. She had two boys. The elder boy's name is Ansh Kumar, aged about 12 years and the younger boy's name is Prince Kumar, aged about 05 years. But P.W.-06 has never stated that before her marriage with Pritam Mahto, Kavita Kumari gave birth one child by making physical relation with Pritam Mahto, before the alleged marriage with Pritam Mahto. While from the oral testimony it appears that marriage in between Kavita Kumari and Pritam Mahto took place at least more than 07 years before. Further P.W.-06 has stated that She received information about the incident at about 3:00 O'clock in afternoon. It was Friday. Pritam Mahto called and told her that her daughter has died after hanging her self. She went to her daughter's house. She called her sons. She went there with all. Her villagers also went there with her. There she saw that her daughter was lying there, she was wearing a nightie. At that time Pritam's family members were inside the house. P.W.-06 has further stated that this incident occurred due to dowry demands. He (Pritam Mahto) used to demand five lakh rupees from her as dowry, and when she refused to give it, he used to commit assault to her daughter and since dowry was not given due that her daughter was murdered. But P.W.-06 never made clear as to how she came into knowledge that dowry is being demand by the accused namely Pritam Mahto . P.W.-06 has further stated that when she saw the the girl's body, she found scratches on her body and her saree was also torn.

But from perusal of the Ext-P-4/PW9-Postmortem report it is evident that there was no scratch mark on the body of the Kavita Kumari. Further In her cross-examination P.W.-06 has further stated that She (Kavita Kumari) had no children with Sanjay Jaiswal. The elder child would be about 12 years old and the younger child would be about 05 years old. So as stated above it is clear that marriage in between both took place more than 07 years ago from the alleged date of incident. P.W.-06 has further stated that she did not see the incident with her own eyes. So, it is evident that P.W.-06 is not the eye witness of this alleged occurrence.

31. Further P.W.-02 Panudhar Chakrawarti who is non else but the father of the deceased to this case is admittedly not the eye witness of this alleged incident. But he has stated that his daughter was murdered due to non fulfillment of dowry demand. But from his oral deposition it is clear that he has clearly admitted that the accused did not demand dowry from him and he did not give any dowry at the second marriage. Further he has not never stated that as to how he came into knowledge that dowry is being demanded by the accused persons. Further, P.W.-03 who is own brother of deceased has stated that accused namely Pritam used to demand some amount and Bike in dowry and when they did not fulfill the said demand then they caused murder to his sister. But P.W.-03 has never stated that accused persons demanded dowry from him or her sister told to him about dowry demand. Though P.W.-03 has stated that before the incident his sister used to tell all matters to her mother and his mother used to tell him. So it is evident that on this point P.W.-03 is only hearsay witness. Further P.W.-01 has stated that deceased used to tell her mother that she was being tortured for dowry. But P.W.-06 never stated that she disclosed the matter of dowry demand and alleged cruelty to other witnesses of this case. So it is evident that on the point of demand of dowry and alleged torture of Kavita Kumari P.W.-01 is only hearsay witness. Further P.W.-04 Manoj Kumar Singh has deposed before court that after one year of the marriage altercation used to take place in between both for dowry and being the ward member he used to go to settle the matter. But he has not made clear that when and where he went

to settle the matter. P.W.-05 has further stated that from mother of deceased it came to know that her son-in-law has committed murder due to non fulfillment of dowry demand. But when and where deceased mother told the said fact to him, it has not been made clear by the P.W.-04. Further P.W.-05 Sarita Devi has admitted that mother of deceased told her that in-laws of her daughter always fighting with Kavita Kumari for dowry. They were demanding 05 lakh rupees and vehicle. But she never stated that Kavita Kumari told her about the demand of dowry. So, it is evident that on the point of demand of dowry prosecution has not given constant and reliable oral evidence. Further P.W.-08 Nitesh Kumar has (I.O.) to this case has proved his investigation as well as place of occurrence. But in his cross-examination P.W.-08 has stated that all the witnesses have stated in their statements that they did not see the incident happening with their own eyes. All the witnesses have recorded their statements based on hearsay. So, it is evident that during investigation P.W.-08 did not recorded statement of any eye witness. While from perusal of the oral testimony of P.W.-09 Dr. Mukesh Jaisawal it is evident that he has clearly stated that no any external injury found except Ligature mark. He has further stated that cause of death is due to asphyxia and shock as a result of hanging. But in his cross-examination P.W.-09 has clearly stated that no act of violence was detected on the body of victim. No sign of homicide was detected on the person of deceased. No doubt that the cause of death of Kavita Kumari was due to hanging. While P.W.-7 has turned to be hostile and P.W.-10 is formal witness. So from the discussion as made above it is quite clear that prosecution has not succeeded to prove that soon before her death Kavita Kumari was subjected to physical and mental torture due to non fulfillment of dowry demand and due to that very reasons accused persons either committed murder to the Kavita Kumari. While other side D.W.-01 to D.W.-05 have consistently stated that the accused persons are innocent and have been falsely implicated. They have stated that the deceased had been married multiple times before and she did not like Pritam Mahto's work as a stone picker and wanted a divorce, and when her parents did not agree, she committed suicide by hanging herself.

They have also stated that the other accused persons namely Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi lived in separate houses and had no concern with Pritam Mahto. There is no evidence on record to show that soon before her death the deceased was subjected to physical assault. There is no cogent and reliable evidence on record to show that any specific articles or money was demanded by the accused persons.

32. Further from perusal of oral testimonies of prosecution witnesses it appears that they have stated that dowry was being demanded from Kavita Kumari by the accused persons. But they have not made clear that as to how they came to know about the alleged demand of dowry. Further on the point of physical or mental torture all material prosecution witnesses appear to be hearsay witnesses. While in the case of *Devi Lal vs. State of Rajasthan AIR 2008 SC 332*, the hon'ble apex court has observed that the ingredients of provisions of section 304B of the I.P.C. is as follows:- (1) that the death of the woman was caused by any burns or bodily injury or in some circumstances which were not normal; (2) such death occurs within 7 years from the date of her marriage ; (3) that the victim was subjected to cruelty or harassment by her husband or any relative of her husband; (4) such cruelty or harassment should be for or in connection with the demand of dowry ; and (5) it is established that such cruelty and harassment was made soon before her death. It was further observed that before an accused is found guilty for commission of an offense, the Court must arrive at a finding that the ingredients thereof have been established. It was held that statement of a witness for the said purpose must be read in its entirety. It is not necessary for a witness to make a statement in consonance with the wording of the section of a statute. What is needed is to find out whether the evidences brought on record satisfy the ingredients thereof." Further in the case of *Vipin Jaiswal Vs. State of A.P. Rep. by Pub. Prosecutor, 2013 STPL 198 SC* hon'ble Apex court has observed that "the prosecution is required to prove beyond reasonable doubt that the deceased was subjected to cruelty or harassment by the accused." But from perusal of the the oral

evidences of the prosecution witnesses it is clear that all material prosecution witnesses are hearsay witness of this alleged occurrence and on the point of demand of dowry and physical assault by the accused persons they have made only general allegations. Prosecution has not brought any evidence on record relating to any specific acts of cruelty or harassment by the accused to the deceased namely Kavita Kumari. While it is well settled law that to hold an accused guilty for the offence under Sections 304B of the I.P.C., the prosecution is under obligation to prove beyond reasonable doubt that the deceased was subjected to cruelty or harassment by the accused due to non fulfillment of dowry demand. While after careful examination of the oral evidences of the prosecution witnesses, this court finds that all material witnesses of prosecution have made general allegations of physical assault to the Kavita Kumari by the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi but they have not brought in evidence any specific acts of cruelty or harassment by the aforesaid accused persons to the deceased to this case namely Kavita Kumari. Further from perusal of the oral testimonies of P.W.-01, P.W.-07 it is quite clear that theirs oral testimonies cast a reasonable doubt on the prosecution story that the deceased was subjected to harassment or cruelty in connection with demand of dowry because D.W.-01 to D.W.-05 have clearly stated that Kavita Kumari did not like the work of Pritam Mahto so due to which she wanted to divorce him, but when her parents did not agree she committed suicide herself by hanging.

33. Furthermore, as discussed above it is evident that the essential ingredients for an offense u/s 304B IPC are as follows:- (i) Death of a woman caused by burns, bodily injury, or under abnormal circumstances.

(ii) Death occurs within seven years of marriage. (iii) Woman was subjected to cruelty or harassment by her husband or his relatives. (iv) Such cruelty/harassment was for or in connection with any demand for dowry. (v) Such cruelty/harassment was soon before her death.

While, from the perusal of the prosecution evidence it is quite clear that prosecution has succeed to prove first ingredient (i) that deceased to this case faced unnatural death. But prosecution has not succeeded to prove second (ii) ingredient that deceased died with seven years of her marriage,. Further prosecution has not adduced any reliable and cogent evidence on record to prove the (iii), (iv) and (v) ingredients that deceased was subjected for physical or mental torture, cruelty or harassment , (iv) in connection with any demand of dowry. P.W.-01 to P.W.-06 have not given constant and reliable oral evidence on the demand of dowry as well as physical and mental torture to the Kavita Kumari by the accused persons. Furthermore, though from record it is evident that the deceased faced unnatural death by hanging. But thee is no cogent and reliable evidence on record that Kavita Kumari death occurred within seven years of her marriage with Pritam Kumar.. Prosecution has miserably failed to prove the most critical elements. The evidence presented regarding dowry demands and cruelty was weak and unreliable. The material witnesses of prosecution, including the mother (PW-6), father (PW-2), and brother (PW-3) of the deceased, have clearly admitted that they are not the eye witness of the alleged occurrence. Furthermore,P.W.-02 who is the father of the deceased has clearly admitted that the accused persons never demanded dowry from him. Further oral testimonies of all material prosecution witnesses (P.W.-01 to P.W.-07) are vague on the dates of dowry demand and as well as on specific demand of dowry as well as on the point or period of the alleged marriage of Kavita Kumari with Pritam Mahto. Hence, in the absence of cogent and reliable evidence on the point that this alleged marriage was solemnized within seven years of the alleged death of Kavita Kumari, the offence u/s 304B of the I.P.C. cannot be held to be proved beyond all reasonable doubt against the all five accused persons. Further the presumption under Section 113B of the Evidence Act cannot be invoked in the absence of proof of dowry-related cruelty soon before death. Since, it was onus on the prosecution to prove beyond reasonable doubt that the husband of the deceased or in-law's of deceased subjected to the deceased to cruelty for non fulfillment of dowry demand. But

prosecution has not succeeded to prove beyond reasonable doubt that deceased namely Kavita Kumari was subjected to cruelty due to non fulfillment of dowry demand and she died within seven years of her alleged marriage with Pritam Mahto. Further it is notable that any specific allegation has not been leveled against rest 04 accused persons namely Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi. Further, it goes without saying that the prosecution has to prove besides the demand of dowry, harassment or cruelty caused by the accused to the deceased soon before her death. Since the prosecution has not been able to prove beyond reasonable doubt essential ingredient of harassment or cruelty against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi. Hence the discussion as made above it is quite clear that the prosecution has failed to lead sufficient evidence to prove the guilt of the accused under u/s 304B of the I.P.C. The prosecution has failed to establish that after the marriage of the deceased, there were circumstances of harassment or cruelty that took place on account of demand of dowry which could connect with the death of the deceased. Hence, having consideration the above all discussed facts court finds that prosecution has miserably failed to prove the charges u/s 304B of the I.P.C. beyond the all shadows of reasonable doubt as leveled against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi, and Sheela Devi.

34. Now next question before this court as to whether prosecution has succeeded to prove the charge u/s 302/34 of the I.P.C. as leveled against the accused persons. From record it is evident that prosecution has alleged that due to non fulfillment of dowry demand accused persons committed murder to the Kavita Kumari. But from perusal of the case record it is evident that P.W.-01 to P.W.-06 who are the material witnesses of the prosecution are not the eye witness of the alleged occurrence. All material witnesses have stated that on the information went at the place of occurrence and saw the Kavita Kumari in dead condition. While P.W.-09 Dr. Mukesh Jaisawal has deposed before this court that at the time of examination of dead body of late Kavita Kumari

no any external injury found except Ligature mark. He has further stated that cause of death is due to asphyxia and shock as a result of hanging. Further in his cross-examination P.W.-09 has stated that no act of violence was detected on the body of victim. No sign of homicide was detected on the person of deceased. No doubt that the cause of death of Kavita Kumari was due to hanging but prosecution has not succeeded to prove that accused persons were involved in the alleged hanging of deceased namely Kavita Kumari, or they killed to the Kavita Kumari by way of hanging . While, P.W.-08 Nitesh Kumar has (I.O.) to this case has clearly stated that all the witnesses have stated in their statements that they did not see the incident happening with their own eyes. All the witnesses have recorded their statements based on hearsay. So, it is evident that during investigation P.W.-08 did not recorded statement of any eye witness. Further from perusal of the oral testimony of the P.W.-08 as well as entire case record including case dairy it is evident that P.W.-08 did not collect any such type evidence which may show the complicity of the accused persons in the alleged murder/death of late Kavita Kumari. While P.W.-07 has be turned to be hostile and P.W.-10 is formal witness. So from the discussion as made above it is evident that there is no direct evidence or any other circumstantial evidence on record to prove any type involvement of accused persons in the alleged crime. Since all the material prosecution witnesses had clearly admitted during cross-examination that they did not see the incident while taking place. Further, medical evidence, provided by the expert P.W.-09 was entirely inconsistent with the prosecution's theory of homicide. The Ext-P-4/PW9 postmortem report and the doctor's testimony (P.W.-09) clearly show that there was no external injuries, other than the ligature mark was found on the body. But any other sign of violence was not found on the body of the deceased. P.W.-09 has also clearly deposed that there was no sign of homicide. Though, the cause of death of Kavita Kumari was definitively opined as asphyxia resulting from hanging. So, by this way it appears that death of Kavita Kumari was not homicidal rather same prima facie appears to be suicidal. Further The oral testimonies of defense witnesses (D.W.-01 to D.W.-05) also support the medical

findings as they have clearly stated in their respective oral testimonies that deceased Kvita Kumari does not like the work of stone picker of his husband, so, she wanted to divorce her husband but when her parents did not agree then she committed suicide. Furthermore, there is nothing direct or circumstantial evidence on record to show the complicity of the accused persons in the unnatural death of late Kavita Kumari. Hence, having consideration the above all discussed facts court finds that prosecution has also miserably failed to prove the charges u/s 302,34 of the I.P.C. beyond the all shadows of reasonable doubt as leveled against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi.

35. Now the rest question before this court as to whether prosecution has succeeded to prove the charge u/s- 120B of the I.P.C. as leveled against accused persons. From record it is evident that prosecution has alleged that due to non fulfillment of dowry demand accused persons committed murder to the Kavita Kumari. No doubt that to prove the charge u/s 120B/34 of the I.P.C. prosecution was under obligation to prove that there was an agreement between the accused persons to commit the murder of Kavita Kumari. But from record it is evident that P.W.-01 to P.W.-06 has never stated about alleged criminal conspiracy among accused persons for omitting the murder of late Kavita Kumari. Further P.W-10 has also not stated about the alleged criminal conspiracy. Further from record it is evident that there is nothing on record to show that there was criminal conspiracy among accused persons to commit the murder of late Kavita Kumari. Moreover from perusal of the oral testimonies as well as entire case it is quite clear that there is no material to suggest that the accused persons had conspired together to kill the deceased to this case. While other side, from perusal of the oral testimonies of D.W.-01 to D.W.-05 it prima facie transpires that accused namely Uttam Mahto, Raja Devi, Baby Devi and Sheela Devi live in separate houses and they have concern with the affairs of Pritam Mahto. Moreover, prosecution has not succeeded to prove substantive offences of murder and dowry death, hence the ancillary charge of

criminal conspiracy u/s 120B of the I.P.C. as leveled against accused persons remains unproved. Hence, having consideration the above all discussed facts court finds that prosecution has also miserably failed to prove the charges u/s 120B of the I.P.C. beyond the all shadows of reasonable doubt as leveled against the accused namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi, and Sheela Devi.

36. So, having consideration the above facts and circumstances of this case as well as sagacious contentions raised by Id. Counsel for the defense, I find and hold that prosecution has miserably failed to prove the charges u/s- 304B, 302,/34 & 120B of the I.P.C. beyond the all shadows of reasonable doubt as leveled against aforesaid accused person namely Pritam Kumar Mahto, Uttam Mahto, Raja Devi, Baby Devi, and Sheela Devi. Hence, by granting the benefit of doubt the aforesaid all five accused persons are hereby acquitted from the offence punishable u/s 304B, 302,/34 & 120B of the I.P.C. Since, accused person persons namely Uttam Mahto, Raja Devi, Baby Devi, and Sheela Devi are on bail, so they and theirs bailors are hereby discharged from the liabilities of theirs respective bail bonds. Since accused namely Pritam Mahto is in Judicial custody, hence O/C is hereby directed to issue release order at once and jail authority is hereby directed to release the said accused at once, if he is not warranted in other case.

37. Compensation:- Now the question arises before this court as to whether family members or the legal heirs of deceased to this case namely Kavita Kumari are entitled for compensation or not? Now coming on this question, first of all, court finds that neither on behalf of prosecution nor on behalf of informant or any legal heirs of late Kavita Kumari has claimed for compensation. Though from perusal of the case record it is evident that Kavita Kumari faced unnatural death in her in-laws house. While from perusal of the case record it is evident that prosecution has miserably failed to prove its case. While Ext-P-4/PW9 goes to show that death of Kavita Kumari was not homicidal rather same was suicidal. So, having consideration the above facts and circumstances

of this present case and by taking the entire circumstances of this case in its entirety as discussed above this court is of this considered opinion that there is no need to award compensation in this instant case to anybody.

38. Office is directed to send a copy of judgment to the D.M., Katihar in compliance of section 365 of Cr.P.C.

Office is further directed to consign the case record to the D.R.R, Katihar after necessary compliance, if any.

Judgment was dictated and corrected by me and same was pronounced by me in open court.

(Asutosh Ray)  
Addl. Sessions Judge II  
Katihar  
10-08-2026

(Asutosh Ray)  
Addl. Sessions Judge II  
Katihar  
10-08-2026

**Appendix-A****IN THE COURT OF ADDL. SESSIONS JUDGE-II KATIHAR****Sessions Trial Case No.-443/2026****LIST OF PROSECUTION WITNESSES -**

| <b>Sr. no.</b> | <b>Pws. Number</b>           | <b>Description</b>                                    |
|----------------|------------------------------|-------------------------------------------------------|
| 01             | P.W.-01-Shobha Devi          | Other witness                                         |
| 02             | P.W.-02-Panudhar Chakrawarti | Father of deceased to this case namely Kavita Kumari  |
| 03             | P.W.-03-Mithun Chakrawarti   | Brother of deceased to this case namely Kavita Kumari |
| 04             | P.W-04-Manoj Kumar Singh     | Other witness                                         |
| 05             | P.W.-05-Sarita Devi          | Other witness                                         |
| 06             | P.W.-06-Mamata Devi          | Informant to this case                                |
| 07             | P.W.07-Fulan Devi            | Hostile witness                                       |
| 08             | P.W.-08-Nitesh Kumar         | Formal witness                                        |
| 09             | P.W.-09-Dr. Mukesh Jaisawal  | Expert witness                                        |
| 10             | P.W.-10 Rambachan Singh      | Formal witness                                        |

**LIST OF PROSECUTION EXHIBITS:--**

| <b>Sr. no.</b>          | <b>Exhibit Number</b> | <b>Description</b>                                                                            |
|-------------------------|-----------------------|-----------------------------------------------------------------------------------------------|
| 01                      | P-1/PW-8              | Signature of P.W.-08 namely Nitesh Kumar the then SHO, Rail P.S. Kishanganj on formal F.I.R.  |
| 02                      | P-2/PW-8              | Signature of P.W.-08 namely Nitesh Kumar the then SHO, Rail P.S. Kishanganj over endorsement. |
| 03                      | P-3/PW-8              | Writing and signature of endorsement                                                          |
| 04                      | P-4/PW-9              | Postmortem report                                                                             |
| <b>Material Exhibit</b> |                       |                                                                                               |
| 01                      | M-1/PW-10             | One piece of Black colour dupatta                                                             |
| 02                      | M-1/1/PW-10           | Second piece of Black colour dupatta                                                          |
| 03                      | M-2/PW-10             | One Mobile of Vivo company                                                                    |
| 04                      | M-3/PW10              | One paper containing some substance just like tobacco.                                        |

**LIST OF DEFENCE WITNESS**

| <i>RANK</i> | <i>NAME</i>                     | <i>NATURE OF EVIDENCE</i> |
|-------------|---------------------------------|---------------------------|
| <i>01</i>   | <i>D.W.-01-Usha Devi</i>        | <i>Other witness</i>      |
| <i>02</i>   | <i>D.W.-02 Gautam Kumar Jha</i> | <i>Other witness</i>      |
| <i>03</i>   | <i>D.W.-03-Mukesh Chaudhary</i> | <i>Other witness</i>      |
| <i>04</i>   | <i>D.W.-04- Sumintra Devi</i>   | <i>Other witness</i>      |
| <i>05</i>   | <i>D.W.-05 Madan Mohan Jha</i>  | <i>Other witness</i>      |

**LIST OF DEFENCE EXHIBITS**

| <i>Sr. Number</i> | <i>Exhibit Number</i> | <i>Description</i> |
|-------------------|-----------------------|--------------------|
| <i>1</i>          | <i>N/A</i>            | <i>N/A</i>         |

(Asutosh Ray)

*Addl. Sessions Judge-II , Katihar*

*10-08-2026*