

IN THE COURT OF SUNIL KUMAR, SUB DIVISIONAL JUDICIAL
MAGISTRATE , TOSHAM (UID NO. HR0397).

HRBHD10017022022



CNR No.: **HRBHD10017022022**

CIS No.: **CHI/216/2022**

Date of Instt.: 14.10.2022

Date of Decision: 01.06.2026

State	Versus	(1)	Sumer son of Sunda Ram
		(2)	Vinod Kumar son of Sumer Singh
		(3)	Birma Devi wife of Sumer Singh,
			all residents of Rithoyo Ki Dhani,
			Surajgarh, District Jhunjhunu, Rajasthan.
			...Accused.

Case FIR No. 250 Dated 10.05.2022

Under Sections:498A,406/34 IPC.

Police Station: Tosham.

Present: Sh. Anand, APP for the State.
Accused Vinod, Sumer and Birma Devi on bail with
Shri Satpal Singh Sihag, Advocate.

JUDGMENT

The above named accused has been sent up by the SHO, Police
Station, Tosham to face trial for the commission of offences punishable
under Sections 498-A, 406, 34 of IPC.

2. In brief, the facts of the present case are that on 10.05.2022 one
complaint was received from SP Office Bhiwani vide Diary No.156-PG
dated 15.03.2022, which has been moved by complainant Sudesh
daughter of Subhash, resident of village Dhani Mahu who had alleged

therein she is permanent resident of village Kuloth Kalan, Tehsil Chirawa, District Jhunjhunu, Rajasthan and presently, she is working as Principal in Sant Roshan Lal College, Dhani Mahu. Her marriage was solemnized with Vinod on 30.11.2020 as per Hindu Rites and Ceremonies. At the time of marriage, sufficient dowry articles were given and her parents had spent money beyond their capacity in her marriage. Her husband and his family members were greedy type of persons and they started harassing and torturing her for bringing less dowry. Her husband demanded Rs.10,00,000/- cash and she disclosed everything to her in-laws, however, they also taunted her for bringing less dowry. Her brothers-in-law Karamveer and Billu tried to outrage her modesty and when she disclosed these things to her husband, then he also supported his brothers. She was beaten mercilessly by Vinod and his parents. She disclosed everything to her father. Her father tried to pacify accused and tried to make them understand for keeping the complainant with peace and harmony, but her in-laws demanded car, flat etc. Her husband used to snatch her salary every month. Panchayat were also convened in the matter, but of no use. Her husband Vinod is a criminal type of person and two cases have been registered against him at Indore. Randeep also threatened her and also posted against her on facebook. She prayed legal action against aforesaid culprits be taken and her dowry articles as mentioned in her application be got recovered.

3. On the basis of aforesaid application, case under Sections 323, 498A, 354, 406, 506, 34 was registered at P.S. Tosham. Investigation was carried out by L/ASI Raman. On 11.05.2022, complainant produced her wedding card and wedding photograph and same were taken into police possession. On 25.05.2022, further investigation was carried out by Manoj Kumar, DSP and Sections 323, 354 and 506, were deleted. Accused Vijender @ Billu, Karambir son of Sumer Singh and Randeep were found innocent and were put in column no.12. On 09.06.2022 accused Vinod, Brahma Devi and Sumer were arrested and their disclosure statements were recorded. Dowry articles were recovered. After completion of investigation, challan was submitted in the court.

4. Copies of challan were supplied to the accused free of cost as envisaged under Section 207 Cr.P.C. Having completed all the formalities accused were charge-sheeted for the commission of offence under Sections 498-A, 406 read with Section 34 of IPC. Accused pleaded not guilty, claimed trial and the case was fixed for the evidence of the prosecution.

5. To prove its case prosecution has examined following witnesses:-

- PW1, L/ASI Bimla
- PW2, L/HC Sunita
- PW3, Sudesh (complainant)
- PW4, ASI Raman

- PW5, ASI Ravikant
- PW6, Subhash Chander
- PW7, DSP Manoj Kumar

6. Before proceeding further in brief the prosecution evidence is discussed below-

- **PW1 L/ASI Bimla** appeared and has deposed that on 16.03.2022, she was posted in Women Cell Bhiwani and on that day, one complaint (Ex.PW1/A) bearing diary No.156/PG dated 15.03.2022 was received from SP Office, Bhiwani. On that notices(ExPW1/B) were issued to the parties and statement(Ex.PW1/C) of complainant was recorded and report (Ex.PW1/D) was sent to ADR, Centre, Bhiwani. She deposed that on 03.05.2022, report (Ex.PW1/E) was prepared for registration of FIR as the matter was not compromised at ADR Centre.
- **L/HC Sunita** appeared as **PW2** and she deposed that card of marriage(Ex.PW1) and photograph (Ex.PW2) were taken into possession vide memo Ex.PW2/A, which bears her signature at Point-A and in this regard, her statement was recorded by IO.
- **Complainant Sudesh** herself appeared as **PW3** and she reiterated the entire averments of her complaint (Ex.PW1/A) moved before Police. She proved on file

recovery memos Ex.PW3/A and Ex. PW3/B.

- **L/ASI Raman** appeared as **PW4**. She was the Investigating Officer of the case and she deposed regarding formal investigation conducted by her and she proved on file recovery memo Ex.PW2/A of photograph and marriage card, investigation joining forms of accused as Ex.PW4/A to Ex.PW4/C, Identification memo Ex.PW3/A and recovery memo Ex.PW3/B. She deposed that after completion of investigation, challan was prepared by Inspector/SHO Sukhbir and filed in the Court.
- **PW5 ASI Ravi Kant** appeared and he proved on file Tehrir Ex.PW5/A and endorsement Ex.PW5/B. He was involved in the investigation of this case with L/ASI Raman and he deposed that investigation joining memos Ex.PW4/A to Ex.PW4/C and disclosure statements Ex.PW5/C to Ex.PW5/E of accused bears his signature as witness. He deposed that memo Ex.PW3/B also bears his signature as witness.
- **PW6 Subhash Chander** i.e. father of complainant appeared and he deposed on similar lines as deposed by PW3.

- **PW7 Dsp Manoj Kumar** appeared and deposed that he conducted investigation of this case and during investigation, Karambir, Sumer and Randeep were found innocent and they were kept in column no.12.

7. No other witness was examined. Thereafter, prosecution evidence was closed by the statement of learned APP.

8. Statements of accused under Section 313 of Cr.P.C. were recorded in which accused pleaded innocence and false implication in the present case. No evidence in defence was led.

9. Learned APP for the State have argued that through the testimony of prosecution witnesses, the case of the prosecution has been duly proved and the accused should be convicted. On the other hand, learned counsel for the accused has argued that accused have been falsely implicated in this case and prosecution has poorly failed to prove the guilt of the accused. Therefore, accused should be acquitted of the charges levelled against them.

10. I have heard Shri Anand, learned Public Prosecutor and Shri Satpal Singh Sihag, learned defence counsel and have gone through the case file very carefully.

11. Before proceedings further, Section 498-A of the Indian Penal Code is reproduced here to facilitate the reference: 498-A Husband or relative of husband of a woman subjecting her to cruelty:

Whoever, being the husband or the relative of husband of a woman, subjects such woman, to cruelty shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation:-For the purpose of this section “Cruelty” means-

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman;

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

12. The expression “Cruelty” has been defined for the purpose of section 498-A of the IPC. It is in two parts. The first part envisages the willful conduct on the part of husband or his relatives towards the woman, which may likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical). The expression “Willful conduct”, therefore, requires to be understood in conjunction with the other requirement viz., the consequence of such a conduct on the wife. The second part contemplates the harassment of the woman, which harassment shall be with a view to coerce the woman or any person relates to her to meet any unlawful demand for any property or valuable security or is on account of their failure to meet such demand. Therefore, harassment must be accompanied by unlawful demand for

property or valuable security.

13. It is not unknown that there may be bickering in the martial life between the husband and wife and consequential outbursts either by the husband or by the wife. The bickering in between the husband and wife may be on account of the husband giving to bad ways and becoming an addict to vices like woman and wine. The bickering may also occur on account of the husband becoming spendthrift and squandering the properties. Such bickering between the spouses might lead to disharmony in the family life. This disharmony may be on account of the husband giving to bad ways or in sequel to his conduct towards his wife on account of such bad vices. Undoubtedly, therefore, the husband developing vices ipso facto would not tantamount to cruelty. Therefore, the conduct on the part of the husband must be something more than the husband addicting to vices. That is the reason why the expression 'willful conduct' has been aptly used by the Legislature. The conduct on the part of the husband alone is not sufficient, but it should be accompanied by the necessary intention on the part of the husband. In that view of the matter, the word 'willful' gains much significance in the context. Therefore, the willful conduct must be other than mere desertion of the wife or the children by the husband. Otherwise, every act of the husband in a family bickering between the spouses should have to be considered as willful conduct on his part attracting the offence of cruelty punishable under

section 498-A of the Indian Penal Code.

14. In the present case, the version of the complainant is that she got married with accused in year 2020 and sufficient dowry articles were given by her parents at the time of marriage. To prove the case of the prosecution, complainant herself appeared as PW3 and she has reiterated the entire assertions as made in the complaint. From the testimony of complainant, it cannot be inferred that she was harassed and tortured for dowry. In her cross-examination, she(PW3) deposed that no demand of dowry was made at the time of marriage and her father had given everything by his own consent. Further, another witness i.e. PW6 Subhash Chander(father of complainant) deposed on similar lines as deposed by complainant. There are contradictions in their testimonies and in their testimonies general allegations have been levelled against the accused regarding demand of dowry and cruelty, etc. No specific allegations regarding cruelty or any act of cruelty have been levelled. Only vague and general allegations have been levelled which raises major doubt upon the whole case of the prosecution and credibility of the prosecution witnesses. The cruelty in terms of Section 498-A IPC cannot be presumed without reference to time, place and manner of inflicting injury and it cannot be on the basis of trivial issues even though it has not been specifically defined anywhere. The allegations of cruelty cannot be presumed, if no complaint was ever lodged during the intervening period of commission of alleged

cruelty till the date of filing of FIR. Lastly taunting for not bringing sufficient dowry is distinct from a demand of dowry. Moreover, in police investigation also, no evidence of demand of dowry has come out. PW4 ASI Raman(IO) had deposed that in the investigation, no evidence of demand of dowry was found.

15. A perusal of the testimony of the complainant shows that she has stated that she was given beatings by the accused on number of occasions and each time she received injuries. However, to the surprise of this Court, the complainant despite all these cruelties by the accused never got herself medically examined. Further to the surprise of this Court the family members of the complainant never bothered to take any action against the accused despite the fact that they gave severe beatings to the complainant. For these reasons, in the considered opinion of this Court, the complainant has made only vague allegations that the accused used to give her sever beatings in connection with the demand of dowry. However, to prove the offence punishable under Section 498-A IPC it is always desirable that the allegations made against the accused should not be vague allegations. It is very necessary that all the allegations made against the accused must be specific in nature and in the absence of any specific allegation, the accused can not be convicted for the offence punishable under Section 498 A.

16. So far as the criminal breach of trust is concerned, neither

complainant nor any other witness has specifically stated that which dowry article was entrusted to which of the accused and when the complainant asked for its return. In the absence of any evidence showing the demand and refusal to return the dowry articles, the offence under Section 406 I.P.C. is not proved.

17. In this case, all the allegations of demand of dowry are general in nature without any evidence showing the receipt of physical cruelty by the complainant in the shape of medical evidence and therefore, in view of the above discussion, it is clear that prosecution has miserably failed to bring home the guilt of the accused beyond shadow of reasonable doubt. Hence, giving benefit of doubt to the accused, this Court feels unconvinced to hold the accused person guilty and hence, all three accused are hereby acquitted from the charges levelled against them. Bonds furnished on behalf of accused are hereby extended for further six months for the purpose of Section 437A Cr.P.C./481 BNSS. Case property, if any, be disposed of as per rules. File be consigned to records after due compliance.

Pronounced in open Court, (Sunil Kumar),
Dated:01.06.2026. Sub Divisional Judicial Magistrate
Tosham (UID No. HR0397)

Note: All pages of this judgment have been duly checked and signed by me.

Dated:01.06.2026. (Sunil Kumar),
Sub Divisional Judicial Magistrate
Tosham (UID No. HR0397)

Himanshu, SG-II.

(Sunil Kumar),
SDJM, Tosham
UID No.HR0397.