

WBEM010048812024



Form A

IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
4th COURT, PURBA MEDINIPUR AT TAMLUK

Present: ANNADA SANKAR MUKHOPADHYAY
(JO Code-WB 00863)
Additional Sessions Judge,
4th Court, Purba Medinipur at Tamluk

Date of Judgement: Tuesday, the 21st July, 2026

Sessions Trial Case No. 171/2024
Sessions Case No. 221/2024
CNR No. – WBEM 0100-4881-2024

Under Sections 498A/304B/34 of the Indian Penal Code and section 4 of D.P.Act.

Complainant- State of West Bengal

Represented by- Sri. Satrughna Jana, Ld Panel Prosecutor

Accused-
1. Prasanta Chanak
2. Sabita Chanak
3. Ratan Chanak
4. Ajit Chanak
5. Baby Chanak

Represented by- Sri. Sukdeb Samanta
..... Ld. Advocate for the Accused

FORM B

Date of Offence	04.01.2020
Date of FIR	07.01.2020
Date of Charge-sheet	02.04.2020
Date of framing charges	20.09.2024

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Date of Commencement of Evidence	02.05.2025
Date on which Judgement is reserved	25.06.2026
Date of the Judgement	21.07.2026
Date of the Sentencing Order, if any	Nil

Accused detail:

Rank of the accused	Name of Accused	Date of arrest	Date of release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of Detention Undergone during Trial for purpose of Section 428, Cr.P.C.
1	Prasanta Chanak	09.01.2020	06.03.20	Ss. 498A/304B/34 of IPC and section 4 D.P.Act	Acquitted	N.A	Nil
2	Sabita Chanak	Got an anticipatory bail from the Hon’ble High Court vide CRM no. 1865 of 2020 dt. 21.02.20	03.03.20	Ss. 498A/304B/34 of IPC and section 4 D.P.Act	Acquitted	N.A	Nil
3	Ratan Chanak	Got an anticipatory bail from Ld. Sessions Judge, Purba Medinipur vide order dt.	10.02.20	Ss. 498A/304B/34 of IPC and section 4 D.P.Act	Acquitted	N.A	Nil

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		10.02.2020					
4	Ajit Chanak	Got an anticipatory bail from Ld. Sessions Judge, Purba Medinipur vide order dt. 10.02.2020	12.02.20	Ss. 498A/304B/34 of IPC and section 4 D.P.Act	Acquitted	N.A	Nil
5	Baby @ Bebi Chanak	Got an anticipatory bail from Ld. Sessions Judge, Purba Medinipur vide order dt. 10.02.2020	12.02.20	Ss. 498A/304B/34 of IPC and section 4 D.P.Act	Acquitted	N.A	Nil

FORM C

LIST OF PROSECUTION/DEFENCE/COURT WITNESS

A. Prosecution:

Having the burden of proof upon the prosecution, the Public Prosecutor initiating the case adduced a total **eleven-11** witnesses as detailed hereunder:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
P.W. 1	Mahadeb Barik	Defacto complainant
P.W. 2	Sujoy Ghosh	Relative of defacto complainant
P.W. 3	Kakoli Barik	Wife of defacto complainant
P.W. 4	Shampa Das	Sister-in-law of defacto complainant
P.W. 5	Saraswati @ Kuheli Ghosh	Sister-in-law of defacto complainant
P.W. 6	Mrinal Kanti Ghosh	Independent witness

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P.W. 7	Rabin Ghosh	Brother-in-law of defacto complainant
P.W. 8	Pintu Pal	Independent witness
P.W. 9	Laxmikanta Chakraborty	Independent witness
P.W. 10	Jitendranath Manna	Independent witness
P.W.11	Anup Kr. Raj	Investigating Officer, now retired

B. Defence witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	Nil	
	Nil	

C. Court witnesses, if any:

Rank	Name	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
	Nil	
	Nil	

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution:

Sr. No.	Exhibit Number	Description
01	Exbt P-1/PW-1	Written complaint
02	Exbt P-2/PW-7	Certificate issued by Pradhan of Gopalnagore G.P in favour of PW-7

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03	Exbt P-3/1/PW-7	Signature of PW-7 on seizure list dt. 09.01.20
04	Exbt P-3/2/PW-8	Signature of PW-8 on the seizure list dt. 09.01.20
05	Exbt P-4/PW-11	Statement of deceased
06	Exbt P-5/PW-11	Post mortem report
07	Exbt P-6/PW-11	Death Certificate
08	Exbt P-7/PW-11	Death report of the doctor of NRS Medical College and Hospital
09	Exbt P-8/PW-11 collectively	The photocopies of Medical Papers attested by Medical Officer of NRS Medical College and Hospital
10	Exbt P-9 & 9/1/PW-11	Sketch map with index of PO
11	Exbt P-10/PW-11	Formal FIR
12	Exbt P-3/PW-11	Seizure list dt. 09.01.20
13	Exbt P-1/1/PW-11	Endorsement of the then OC in the written complaint

B. Defence witnesses, if any:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

C. Court Exhibits:

Sr. No.	Exhibit Number	Description
1	Nil	Nil

D. Material Objects:

In the course of the prosecution evidence, the following materials were formally proved before this Court and marked as exhibits (Materials Exhibits and Defence Exhibits) in favour of the respective parties.

Sr.	Exhibit Number	Description
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No.		
1	Nil	Nil

JUDGMENT

Facts in brief:

1. The short facts of the prosecution case is that one Mahadeb Barik, S/o- Lt. Prafulla Barik of village-Brindabanpur under Panskura PS lodged a complaint before the In-charge of Kolaghat Beat House of Kolaghat PS on 07.01.2020 alleging that his daughter Moumita Chanak (Barik) got married with one Prasanta Chanak of Gopalnagore village on 27th Falgoun 1425 BS under Hindu Rites and Customs, died in her matrimonial home on suspicious condition. It is further alleged that during her marriage, he gave all demands of the bridegroom side by paying six bhoris gold ornaments, other utensils and cash of Rs. 35000/- and thereafter, his daughter went to her matrimonial home and after few days of their marriage, his son-in-law Prasanta Chanak and his family members started physical and mental tortured upon his daughter and they also did not care about her foods and medicinal needs and also started avoiding her and started pressurizing her to bring further money from her paternal house on several occasions. His daughter informed this fact to him as well as family members, then the complainant and his family members went to her matrimonial house and tried to convince the bridegroom and his family members relating to such demand so that his daughter can live there peacefully with due regards and respect and also tried to convince his daughter. It is further alleged that on 04.01.2020 at about 07.00 p.m. the complainant came to know from a telephonic conversation that his daughter sustained burn injury at her matrimonial house. Hearing the same, he along with his family members rushed towards the matrimonial home of his daughter and found his daughter in burned condition, took her at first at Uluberia Hospital and thereafter, when her condition got deteriorated, the doctor advised her to be referred immediately at Kolkata Medical College and Hospital but there was no availability of bed for which his daughter was admitted at N.R.S Medical College and Hospital and after three days the condition of her daughter got further deteriorated and on 07.01.2020 at about 06.30 a.m. his daughter breath her last at the said hospital. He alleged that due to torture upon her daughter by the FIR named accused, his daughter died.

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2. On receipt of the said written complaint, O.C of Kolaghat PS started said PS case no. 06/2020 dated 07.01.2020 for an offence punishable under sections 498A/304B/34 of Indian Penal Code and section 4 D.P.Act against FIR named accused persons and after filing up the formal FIR, he endorsed the case to SI of Police, Anup Kr. Raj, now retired to investigate the case (hereinafter called as I.O.)

3. Taking up the investigation, the I.O. visited the Place of Occurrence (in short 'P.O'), so identified by the complainant and other witnesses, took four photographs of the PO, prepared a rough sketch map with an index of the P.O, examined available witnesses and recorded their statements, collected injury report, bed head ticket of the deceased from NRS Medical College and Hospital, held raid on several occasion and arrested principal accused on 09.01.20 and forwarded him before Ld. CJM, Purba Medinipur and took remand for three days. He also collected Magisterial Inquest report from Entally PS, Kolkata and seized some cloths and wearing apparel of the deceased under preparation of seizure list in presence of the witnesses, collected PM report of the deceased from Entally PS and perused the same wherein Dr. Suparna Dutta opined that the death due to effect of burning injury, ante mortem in nature. The FIR named accused person surrender before the Hon'ble Court, except Prabhat Chank who expired on 04.03.20 at Uluberia Hospital and the collected death certificate of the deceased. During investigation, he examined Dr. Sakshi Gopal Saha, NRS Medical College and Hospital in front of Moumita Chanak, deceased stated that when she was lighting the lamp at evening, a pot of kerosene oil, fell on her body and caught fire all over her body. During investigation, he found no such place for keeping pot of kerosene and the principal accused Prasanta Chanak was present in his house. He sent seized articles to FSL for chemical examination with certain questionnaires and received the same. During investigation, a prima facie charge has been well established to the satisfaction of the I.O. and he has submitted charge sheet against the accused persons for offence punishable under sections 498A/304B/34 of IPC and section 4 of D.P.Act, except Pravat Chanak.

4. On submission of the charge sheets, Ld. CJM, Purba Medinipur took cognizance of the offence on 26.05.2020. After cognizance has been taken Ld. CJM, Purba Medinipur served copies to the accused persons and committed the case to the Court of the learned Sessions Judge, Purba Medinipur on 14.03.24.

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5. On receipt of the case record, Ld. Sessions Judge, Purba Medinipur transferred the same to this court for disposal.

6. After receipt of the case record by this court, accused persons on bail appeared and a charge was framed against **Prasanta Chanak, Sabita Chanak, Ratan Chanak, Ajit Chanak and Baby Chanak** for the offence punishable under sections 498A/304B/34 of IPC and section 4 of D.P.Act. The contents of the charge, so framed, were read over and explained to the accused persons to which they pleaded not guilty, claiming them innocent and praying for trial.

7. The prosecution having the burden of proof to establish the case and allegation against the accused persons beyond all reasonable doubts, adduced and examined a total of **eleven-11** witnesses, details of which are already explained above in this judgment.

8. After examination and cross-examination of all the witnesses of the prosecution, the case record was taken up for examination of the accused persons under section 313 of CrPC. The brief of incriminating material and evidence brought against the accused persons by the prosecution was narrated in brief to the accused to which they denied everything as true, claimed themselves innocent and declined to adduce any evidence on their behalf; therefore, the defence evidence was also closed. Heard the argument of both sides thereafter.

Arguments:

9. During the course of argument, the learned Public Prosecutor submitted that PW-1 stated in the complaint about the marriage and give articles and there was further demand of dowry after few days of marriage which deceased narrated to her parents. He discussed the evidence of PW-3 who stated that Rs. 1,00,000/- was demanded as well as a scooty was demanded by husband and in-laws. He has argued that on 04.01.20 there was burnt injury on the victim and she was taken to Uluberia Hospital wherefrom she was taken to NRS Medical College and Hospital where she died. He referred several documents as exhibited through the eleven witnesses and also drew attention of the Court that the witnesses stated that the victim was tortured on demand of dowry and for non-payment of dowry, she was murdered by pouring kerosene oil upon her. He discussed the evidence of PW-2 who supported the evidence of PW-1 and evidence of PW-3 who stated that Rs. 20000/- was paid to the son-in-law. He also discussed the evidence of PW-4 and evidence of PW-6. He drew attention of the evidence of PW-7 and PW-8 who gave

details of the incident and supported the prosecution case. According to the prosecution, he is able to prove the case against the accused persons beyond reasonable doubts and submitted for proper sentence of the accused persons.

10. Per contra, learned Defence Counsel submitted that doctors have not been examined but documents were exhibited on consent. He has stated that no allegation of dowry is made in the FIR. He argued that the witness may lie but circumstance can never lie. He discussed on the ingredient of offence under section 304B of IPC on which charge has been framed and submitted that there is no evidence against the accused regarding perpetration of any torture or demand sooner before the death and there is no document of dowry which are the essential ingredient of the offence under section 304B of IPC and there is no proof of charge on the said provision of law against the accused persons. He also discussed the provision of section 113B of the Evidence Act regarding presumption and has submitted that the prosecution has to prove in a dowry death that sooner before the death there was any such demand of dowry which is absent in this case. He has submitted that PW-1 brought new story during evidence which is not stated in the FIR and the allegation of further demand of dowry of Rs. 100000/- was alleged for the first time before the Court but not in the FIR. He also referred the evidence of PW-2 and PW-3 regarding the allegation of further dowry and submitted that PW-3 did not support the evidence of PW-1. He has submitted that PW-4 brought new facts during evidence regarding purchase of scooty and construction of home by the accused persons which was not stated by PW-1. He also discussed the evidence of PW-5 and PW-6 who brought new story during evidence and according to him, those are nothing but embellishment of facts. He also discussed the evidence of PW-7 and submitted that in paragraph no. 5 of evidence in-chief, he brought few new story which was not stated before the I.O. He has submitted that there are lots of contradictions in the evidence of prosecution and most of the witnesses including PW-8 brought new story and there is development of the case in trial stage. He has submitted that PW-11 confronted all the evidence of other prosecution witnesses and the evidence of prosecution is contradicted to the facts of the prosecution case stated in the FIR. In support of argument, he has referred the following decisions;

a) 1971 SCC (Crl.) 684.

b) 2024(4) AICLR 860 (SC).

c) (2018) 2 CCrLR (Cal) 555,

d) (2008) 2 CcrLR (Cal) 115

11. He has further submitted that there is no reliable or believable evidence in the prosecution case and evidence of PW-3 and PW-4 disclosed about cordial relationship between the accused persons and the complainant and his family members admitted by PW-1 and from the evidence of PW-11 it will be evident that accused Prasanta Chanak sustained burn injury which is a proof that he tried to save his wife. He also drew attention to the paragraph no. 1 of the cross-examination of PW-4 wherefrom it will be evident that husband was present when the dead body was brought. Regarding the offence under section 498A of IPC, he has submitted that there is no such circumstance which compels the victim to commit suicide and there is no proof of unlawful demand being made by the accused persons from the complainant or his family members and therefore, the essential ingredient of the offence under section 498A of IPC is not proved by the prosecution. He has concluded his argument submitting that prosecution has failed to prove the case beyond a shadow of a doubt and accused are entitled to be acquitted.

Points for determination:

- Whether the accused persons, being the son-in-law and his family members practiced cruelty upon his daughter on demand of dowry ?
- Whether the accused persons in furtherance of common intention caused the dowry death of the victim woman within seven years of her marriage due to failure to meet such demand of dowry?
- Whether the accused persons demanded dowry directly or indirectly from the parents of victim, concerning her marriage?

Decision with reason

Evidence:

12. All the aforesaid points for determination are taken up together for discussion, to reach to a meaningful and logical conclusion since all these are interlinked and are chain actions of the same offence. Charge was framed against

the accused persons for the offence under sections 498A/304B/34 of the I.P.C and section 4 of D.P.Act.

13. The evidence of PW-1 who is the defacto complainant of this case goes to say that after 1 ½ months of marriage of his daughter, a family dispute cropped up at her matrimonial home on allegation that the furniture, so given on the marriage were of poor quality and since then, the accused persons started torturing upon his daughter. He has corroborated the contention in this complaint which is avoided here in discussion for the reason of repetition. He further stated that accused persons demanded cash of Rs. 100000/- as further dowry from his daughter and he met part of such demand and since he failed to meet all demands in full, his daughter was assaulted and she lost consciousness and thereafter, in connivance with all the accused persons, his daughter was set on fire. He further added that his brother-in-law Rabin Ghosh (PW-7) who was a local person of the accused persons informed him that the accused persons set his daughter on fire and he asked him to go there immediately and accordingly he rushed there and saw her burnt daughter who is caring on pain in a side and his neighbours also accompanied him in that place. He added that he along with his said brother-in-law and local person took the burnt daughter to Uluberia Hospital wherefrom she was referred to Calcutta Medical College and Hospital but there is no bed for which she was taken to NRS Medical College and Hospital where she died. During cross-examination, he replied that he did not hand over any paper to the I.O. showing the articles are being given to the accused persons in the marriage. His cross-examination further goes to say that he has visited the matrimonial home of his daughter at 8-10 times and stated that on December 2019 his daughter and her husband lastly visited their house and the incident occurred on 04.01.20. He replied that he did not know that his daughter's father-in-law was in ICU at Uluberia Hospital but he replied that he went to see him at Uluberia Hospital. He also admitted that in the year of death, his daughter and husband visited their house on 'Jamaisasthi' and they also attended social gathering of both sides and have visiting terms. He also admitted that his son-in-law accompanied his burned daughter at Uluberia Hospital and NRS Hospital and his wife also visited the NRS Hospital when his daughter was admitted there. He admitted that he did not write in his complaint that after 1 ½ months of daughter's marriage, the dispute cropped up at her matrimonial home on the allegation that furniture given on the

marriage were poor quality and they demanded Rs. 100000/- as further dowry from his daughter and he met part of the demand and since he failed to meet such demand in full, his daughter was assaulted for which she lost consciousness and in connivance of all the accused persons, his daughter was set on fire. He also admitted that he did not write in his complaint that he used to make some payments at the time of marriage.

14. PW-2 stated that about 5-6 years ago in the evening she saw fire at the house of Moumita which is visible from her house situated at a distance requiring one minute walking and he rushed there and saw Moumita was lying on floor with complete burnt and he found some smell of kerosene oil from the room of Moumita. He also saw Prasanta Chanak, husband of Moumita standing near her and he enquired from him about the cause of burn but he could not reply. He then came out from the house and informed local persons and he was advised by him to take Moumita by his vehicle to hospital and accordingly, he brought his Maruti van and took Moumita to Uluberia Hospital accompanied by Prasanta Chanak and Milan Kanti Ghosh in his vehicle and after admitting her he left the place. During cross-examination, he replied that Ratan Chanak and Ajit Chanak are residing separately. He also admitted that father and mother of Moumita are his relatives.

15. PW-3 was the mother of deceased or wife of defacto complainant stated that on the marriage of his daughter with Prasanta Chanak, she gave Rs. 35000/-, furniture, utensils and six 'bhoris' of gold ornaments and after few months of marriage of her daughter, there was regular dispute at the matrimonial home on his daughter on the allegation that the furniture, utensils were not to their satisfaction and her son-in-law demanded further dowry and they paid Rs. 20,000/- to her son-in-law but her son-in-law assaulted her daughter over payment of lesser amount which was informed to her by her daughter over phone and her son-in-law also called her over phone and she asked him to return her daughter but they did not return. She added that on 4th January, 2020 her daughter was assaulted by Prasanta Chanak and family members and they set her into fire. She got information from his brother Rabin Ghosh and she along with her husband, brother-in-law and local persons went to matrimonial home of her daughter and saw that her daughter was lying at verandah on burnt condition and her husband, Mrinal Ghosh, brother Rabindranath Ghosh and 3-4 other persons of the locality of

her daughter's matrimonial home took her daughter to Uluberia Hospital wherefrom she was referred to Kolkata Medical College and Hospital but she was not admitted there and she was taken to NRS Hospital and after three days on 07.01.20 at 06.30 a.m. she died there. She admitted that Rabindranath Ghosh is her cousin (uncle's son). She also admitted that on the year of marriage, her daughter and son-in-law attended 'Jamaisasthi' and her son Sourav was attended 'bhaiphonta' at the matrimonial home of her daughter. She also admitted that at the evening of Bijaya Dasami of Durga Puja of the year of marriage, her daughter and son-in-law came to offer their respect to them and had food together. She admitted that she has visited Balaji Nursing Home to see father-in-law of her daughter but did not visit Uluberia Hospital. She also went to NRS Medical College and Hospital with her daughter when doctor attended her daughter and she put her signature in a paper regarding to surgery of her daughter at NRS Hospital and her son-in-law accompanied them till NRS Hospital but did not see that her son-in-law sustained injuries on both of his palms in the said incident. She stated that she made statement to I.O. stating all during marriage, they gave cash of Rs. 35000/-, six bhoris of gold ornaments, furniture and utensils and also stated that her daughter informed her over phone that she was assaulted by her husband and subsequently her son-in-law also called her and she told him to send her daughter back but denied to make any statement to I.O. stating that on the date of incident, except son-in-law, none of his relatives were present at the matrimonial home of her daughter. She also stated that she made statement to I.O. that on 4th January, 2020 her daughter was assaulted by Prasanta Chanak and his family members and set her into fire and her brother Rabindranath Ghosh informed this fact to her. She admitted that about 20-22 days before the death of her daughter, her daughter and her son-in-law visited their house for the last time and she also visit the matrimonial home of her daughter lastly before Durga Puja. She failed to state exact date of torture upon her daughter and also replied that during lifetime of her daughter she and her husband did not lodge any complaint with administration including police regarding alleged torture of her daughter.

16. PW-4/Shampa Das stated that she heard from her elder sister that her daughter had regular dispute with her husband and accused persons demanded money from her on different pretext including construction of house and purchased of scooty and Rs. 20000/- was given to him by father of his sister's daughter as he

was not financially sound. She further stated that on 04.01.20 she came to know from her elder sister Saraswati Ghosh that Moumita sustained burn injury at her matrimonial home and her elder brother Rabindranath took her to Uluberia Hospital and she accompanied them up to Uluberia and on 05.01.20 she went to NRS hospital and stayed there with injured Moumita till 10.30 p.m. She stated that Moumita told her on bed that she will never to back to her husband's house if she ever recovers from the injury and Moumita died due to burn injury on 07.01.20 and attended the matrimonial home of deceased till final burning which she informed to the IO. She admitted that when the dead body was brought at matrimonial home of Moumita she along with her husband, brothers and sisters were present there. She admitted that husband of Moumita also sustained burnt injury and was treated at hospital. She also confirmed in cross-examination that while she had interaction with Moumita at Hospital, she talked about the reason on burning which she has stated to I.O. during investigation. It reveals from her cross-examination that Moumita and her husband never visited their house as well as their Cuttack resident. She also confirmed regarding her statement before the I.O. that she heard from her elder sister Saraswati that Moumita had altercation with her husband over demand of money or construction of house or purchase of scooty or her father gave Rs. 20,000/- to her husband. She failed to state on which the date she heard about the fact as well as the incident of injury from her elder sister. It is revealed that there is cross-examination that Prasanta Chanak was senior to her in her class.

17. PW-5 Saraswati @ Kuheli Ghosh in her evidence stated that her sister's daughter got married with Prasanta Chanak in the year 2019 and during their wedlock, there was continuous dispute between them over demand of money. Since Moumita was living near her house, she used to inform the details of torture and demand of money but she does not know the actual reason behind such demand. She further stated that she heard from Moumita that her husband demanded her jewelry for mortgaging the same to collect money and over that issue, Moumita was burned. Hearing the hue and cry, she rushed towards the matrimonial home of Moumita and saw that she was lying in burnt condition. Her brother Rabin Ghosh (PW-7) and Bile Ghosh along with Prasanta Chanak took Moumita to Uluberia Hospital wherefrom she was admitted at NRS Medical College and Hospital and on the next morning the witness see her there and had a talk

with Moumita where she expressed her desire to the witness that she never returned back to her matrimonial home and asked her to inform this fact to her Mama and on 07.01.19 she died. During cross-examination she replied that she never enquired about place of employment of Prasanta Chanak before the marriage in which she was informed and she lastly visited the matrimonial home of Moumita about 10-12 days before the incident. Her evidence shows that Moumita and Prasanta Chanak jointly visited her house and she also invited them on the occasion in her house. She denied of not making any statement to the IO to the effect that accused demanded money from Moumita, Prasanta Chanak intended to mortgage the ornaments of Moumita in exchange of money, Moumita told her in hospital bed that she will never return to her matrimonial home. It appears that she never visited the house where last rites of Moumita were performed.

18. PW-6/Mrinal Kanti Ghosh supported the details of marriage between Moumita and Prasanta Chanak. He stated that after 3-4 months of marriage Prasanta and his family members started demanding further dowry from Moumita and when father of Prasanta Chanak was admitted at Uluberia Hospital, there was further pressure for demanding further dowry for which father of Moumita gave cash of Rs. 20,000/- to Prasanta Chanak for treatment of his father. He further stated that Moumita was further pressurized to bring more dowry. Since she failed to meet such demand, accused persons decided to sell gold of Moumita to which she disagreed and for that reason she was assaulted by accused persons and Prasanta Chanak set her on fire. He added that Rabin Ghosh (PW-7) called him over phone and he went to the matrimonial home of Moumita and saw Moumita was burned up to 90 percent and calling a local Maruti car. He along with local persons took her to Uluberia Hospital where from she was taken to Calcutta Medical College and Hospital and she died on 07.01.20 at NRS Hospital. His reply disclosed that he is friend of maternal uncle of Moumita and he got the information about burnt injury of Moumita in the evening of 04.01.20 he accompanied his friend Pintu Pal along with Prasanta Chanak went to Uluberia Hospital and up to NRS Hospital. He replied that he did not notice any burnt injury of Prasanta or whether Prasant got any medical treatment at NRS Hospital or not. He denied of making no statement after 10-15 days of death of Moumita to IO that husband and in-laws of Moumita demanded cash of Rs. 25000/-, six bhoris of gold ornaments, cot, furniture and bed-beddings and it was fulfilled by parents

of Moumita and after 3-4 months of marriage, Prasanta Chanak and his family members started demanding further dowry from Moumita and father of Prasanta Chanak was admitted at Uluberia Hospital and due to such pressure, father of Moumita gave cash of Rs. 20000/- more for treatment of his father but she was further pressurized to bring more dowry but when she failed to meet such demand, accused decided to sell her gold to which Moumita disagreed for which, she was assaulted by accused persons and Prasanta set Moumita into fire. He also denied to not making any statement to the IO to that effect that Rabin Ghosh, maternal uncle of Moumita called him over phone about this and he went to the matrimonial home of Moumita and saw that Moumita was burned up to 90 percent and taking of local maruti car, he along with local persons took her to Uluberia Hospital where from she was referred to Calcutta Medical College and Hospital and there was no bed for which, she was transferred to NRS Hospital. He failed to state when he saw Prasanta and Moumita together at the house of Moumita though he was a local visitor at the house of Rabin Ghosh.

19. PW-7 Rabin Ghosh is a cousin (brother) of mother of Moumita. He corroborated about the marriage between Moumita and Prasanta Chanak and stated that after 2 ½ months of her marriage, there was a lack of peace at her matrimonial home over food and buying a motor cycle and Prasanta and his family members started demanding motor cycle from father of Moumita and when father of Prasanta was hospitalized and Prasanta asked to sell gold ornaments of Moumita for his father medical treatment but Moumita refused to sell her necklace which resulted into an altercation between husband and wife. He added that father of Prasanta was admitted at Balaji Nursing Home but Moumita asked Prasanta to admit his father at hospital for huge expenses to be spent for him there and over this altercation, Prasanta slapped Moumita in the said nursing home. Subsequently, father of Prasanta was admitted at Uluberia Hospital and for the purpose of travelling to Uluberia Hospital, Moumita decided to keep her gold ornaments in their house(witness) and over the issue, she had altercation with her husband. It is further stated by him over this issue, they had verbal duel and in the course of same, Prasanta assaulted Moumita and when Moumita became senseless, Prasanta burned Moumita by setting her in fire. He went to the matrimonial home of Moumita with a cake and arrived there he saw that Moumita was burned in burning condition at verandah and he covered the burning Moumita by a quilt

from the house of Prasanta Chanak and called Sujoy Ghosh for bringing a vehicle and also called two other persons and made arrangement for sending her to Uluberia Hospital. Prasanta Chanak and Mrinal Kanti Ghosh accompanied Moumitta in the vehicle of Sujoy Ghosh to Uluberia Hospital and thereafter, arranging money he went to Uluberia Hospital and Moumita was referred to Calcutta Medical College and Hospital wherefrom they took her to NRS Hospital. He identified the certificate of Gram Panchayat Pradhan bearing his signature which was exhibited as P-2 and police seized piece of burnt blouse, bed sheet, a bottle of kerosene oil, two other sets of bed sheet under preparation of seizure list and he put his signature and identified the same. During cross-examination of this witness goes to say that this witness has a sweet meat shop at Santragachhi and about three months before the incident, Moumita and Prasanta came together on his house in the last time to attend on the occasion of annaprasan of his son. He disclosed that he did not visit Balaji and he came to know from Pintu Pal that there were an altercation and other incident which he has stated herein about the incident at Balaji Nursing Home i.e., slapping upon Moumita by Prasanta. He denied to making no statement to the effect that when father of Prasanta was admitted at Balaji Nursing Home, Moumita asked Prasanta to admit him at hospital due to huge expenses and over this altercation, Moumita was slapped by Prasanta in the said nursing home. He further denied making no statement before the IO that after keeping all gold ornaments at the house of maternal uncle's home by Moumita she had altercation with her husband and they had verbal duel and in the course of same, Prasanta Chanak assaulted Moumita and when Moumita became senseless Prasanta burned her by setting her into fire. He also denied of making no such statement to that effect that the gold ornaments of Moumita were planned to be sold by accused persons for the purpose of treatment of father of Prasanta. He replied that he visited at the house of Prasanta for 4-5 times and on the date of incident he was going to his house at 06.00 p.m. with a cake and replied that he did not see any burnt injury of Prasanta. He replied on a specific question that he never saw Prasanta and Moumita at the house of Madhab Barik and he never visited the house of Madhab Barik since marriage of Moumita till her death.

20. PW-8 Pintu Pal is a neighbour of complainant and he corroborated about the marriage of Moumita with Prasanta. He also corroborated about demand of dowry, dispute in the house of in-laws of Moumita demanded of motor cycle

and demand of Rs. 20000/- for treatment of father of Prasanta. He stated that he took father of Prasanta to Tamluk Balaji Nursing Home where Moumita was present and Moumita advised her husband to admit his father to hospital for huge expenses and Prasanta slapped her and she fainted and he left the place. He further added that on 04.01.20 when there was gossiping at Macha came to know from Rabin Ghosh that his cousin was set ablaze but he failed to state who set on her fire. Moumita was severely burned and Prasanta was present there and they took Moumita to Uluberia Hospital in the Maruti car of Sujoy Ghosh and after two days he came to know that she died at NRS Hospital and he identified his signature in the seizure list regarding seizure of blouse, bed sheet etc. but those were not produced before him and not identified by him.

21. PW-9/Laxmikanta Chakraborty is the family priest of Mahadeb Barik who presided over the marriage of Moumita and Prasanta and heard from the neighbours of Mahadeb Barik that his daughter Moumita was burned by her husband and in-laws pouring kerosene oil.

22. PW-10/Jitendranath Manna stated that he assisted PW-9 in the performance of marriage between Moumita and Prasanta but he failed to state anything about this incident.

23. PW-11 Anup Kr. Raj, now retired from his service, the then Investigating Officer who had identified the FIR, endorsement of O.C in the written complaint, rough sketch map with index prepared by him, examined available witnesses including complainant of this case, held raid and arrested accused Prasanta Chanak and forwarded him before Ld. CJM, Purba Medinipur. He has further stated that he has collected injury report from NRS Medical College and Hospital and recorded statement of attending doctor of said hospital, seized burnt blouse, several bed sheets with marks of burn, one water bottle containing kerosene oil under preparation of seizure list, collected inquest report and post mortem report, collected a paper where deceased made statement before the attending doctor of NRS and after the conclusion of the investigation, he submitted the charge sheet being C.S no. 117/20 dated 02.04.20 against the accused persons Prasanta Chanak, Sabita Chanak, Ratan Chanak, Ajit Chanak and Baby Chanak for offence punishable under sections 498A/304B/34 of IPC and section 4 of D.P.Act. During cross-examination, he failed to state whether there is any complaint in their PS regarding alleged incident between 04.01.20 to 07.01.20, before the complaint on

which investigation was made. He replied that Mahadeb Barik (PW-1) did not state before him that about 1 ½ months of his daughter's marriage, a dispute started at her matrimonial home on the allegation that the furniture given at the marriage were of poor quality and since then, accused persons started torturing upon his daughter; they have demanded Rs. 100000/- as further dowry from his daughter and he met part of demand and since he failed to meet all demands in full, his daughter was assaulted for which, she lost unconscious and thereafter, in connivance with all accused persons his daughter was setting on fire. He denied that PW-3 Kakoli Barik stated before him that during marriage, they gave Rs. 35000/- in cash, six bhoris of gold ornaments, furniture and utensils to her daughter. He further denied regarding statement of Kakoli Barik before him that her daughter informed her over phone that she was assaulted by her husband and subsequently, her son-in-law also called her and she told him to send her back and on 4th January, 2020 her daughter was assaulted by Prasanta Chanak and his family members and they also setting her on fire and her brother Rabin Ghosh informed this fact to her. He denied that Shampa Das (PW-4) stated before him that she heard from her sister Saraswati that Mahadeb Barik had altercation with her husband over demand of money or for construction of house or purchase of scooty or treatment and father of Moumita gave Rs. 20000/- to her husband and on 04.01.20 Moumita has sustained burnt injury so he heard from her elder sister. He denied that Saraswati @ Kuheli Ghosh (PW-5) stated before him that accused persons demanded from Moumita and Prasanta intended to mortgage the ornaments of Moumita in exchange of money and Moumita told her in hospital bed that she will not return to her matrimonial home. He denied of any statement of Mrinal Kanti Ghosh (PW-6) to that effect that during marriage the husband and inlaws of Moumita demanded cash of Rs. 25000/-, six bhoris of gold ornaments, cot, furniture, bed-beddings which was fulfilled by parents of Moumita and after 3-6 months of the marriage, Prasanta and his family members started demanding further dowry from Moumita and father of Prasanta was admitted at Uluberia Hospital for stroke. Due to such pressure of further dowry, father of Moumita gave Rs. 20000/- more for treatment of his father and she was further pressurized to bring more dowry but Moumita failed to meet such demand for which the accused persons decided to sell gold of Moumita to which Moumita described for which, she was assaulted by accused persons and Prasanta set Moumita into fire. He

denied any such statements of Mrinal Kanti Ghosh (PW-6) that Rabin Ghosh, maternal uncle of Moumita called him over phone and went to the matrimonial home of Moumita and saw her 90 percent burnt condition and by taking a local maruti car, he along with other local persons took her to Uluberia Hospital from where she was referred to Calcutta Medical College and Hospital since there is no bed for which, she was transferred to NRS Hospital. He denied of any such statement of Rabin Ghosh (PW-7) that father of Prasanta was admitted at Balaji Nursing Home and Moumita asked Prasanta to admit his father at hospital for huge expenses to be spent for his admission at nursing home and over this altercation, Prasanta slapped Moumita in the said nursing home. He also denied regarding any such statement of Rabin Ghosh that over keeping her gold ornaments at the house of her maternal uncle's home, Moumita had altercation with her husband and they had verbal duel and in the course of same, Prasanta assaulted Moumita and Moumita became senseless and then Prasanta burned Moumita for setting her in fire. He also denied any such statement of Rabin Ghosh that gold ornaments of Moumita were planned to be sold by accused persons for treatment of father of Prasanta. He denied any such statement of Pintu Pal that Moumita advised her husband to admit his father to hospital for huge expenses and Prasanta slapped her and was fainted there and father of Moumita goes Rs. 20000/- to Prasanta for treatment of his father. The I.O. admitted that during investigation he found that Prasanta got burn injury on his both hands and he has collected injury report to that effect. He replied that he has submitted the charge sheet as per statement of witnesses disbelieving the statement of doctor Sakshi Gopal Saha of NRS Medical College and Hospital regarding cause of burnt.

24. Section 498A in The Indian Penal Code:

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

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand

for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

25. Section 498A, IPC reads that whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

26. Cruelty is the essence of offence under Section 498A of I.P.C. This provision has given a new dimension to the concept of cruelty for matrimonial relief. The expression 'cruelty' has been defined for Section 498A. The concept of cruelty is multi-dimensional. It can either be mental or physical; either intentional or unintentional. Each case has to be decided on its facts to decide what type of cruelty is applicable.

Cruelty:

27. Essential ingredients of the offence under section 498A of the IPC are:

- (1) The woman must be married;
- (2) She must be subjected to cruelty or harassment; and
- (3) Such cruelty or harassment must have been done either by the husband of such woman or the relative of her husband.

28. So far as the evidence available in the case record, the evidence of defacto complainant as a witness, the mother and other close relatives of the deceased are the most important witnesses. Father examined as PW-1 did not state in specific terms the details of the cruelty practiced upon the victim/deceased. Mother as PW- failed to state about the details of the torture inflicted upon her daughter at her matrimonial home as she heard from her daughter either when she visited her house, or when she met her at her daughter's matrimonial home or over phone any time before the death and the manner in which the husband and in-laws of her daughter killed her daughter. There are no such previous statements being made before the I.O. so these witnesses have made before the court as witness and there are embellishment and further development during trial.

29. The learned Advocate for the appellant referred the decision of the Hon'ble Supreme Court in **Yudhishtir Versus State of Madhya Pradesh** reported in 1971 SCC (Criminal) 684, wherein the Hon'ble Court observed that when a particular fact deposed by the witness does not find mention both in the F.I.R and

2the statements recorded under section 161 of the Cr.P.C, it is an improvement and cannot be considered (paragraph 24). The local relative of the deceased who is the maternal uncle (PW-7) of the deceased made so many new revelations which are not stated by him before the I.O. Pintu Pal (PW-8) did not state those facts during their examination before the I.O. and their evidence contradicts their previous statements. PW-8 did not state that he informed PW-7 about the incident which he saw at Balaji Nursing Home and the statement referring the incident of the Balaji nursing home cannot be considered since it is hearsay.

30. Evidence of the PW-1 shows that the accused demanded Rs.100000 from his daughter and whence he failed to meet such demand in full, his daughter was assaulted for which she lost consciousness and thereafter all the accused persons set his daughter in fire. But this statement was denied to have been stated before him by the I.O. and therefore this statement is nothing but improvements during trial and cannot be considered by the court. PW-3 is the wife of PW-1 who stated that her daughter informed her over phone that her husband assaulted her but the I.O. denied that such a statement was made before him by her and therefore, this statement also shall not be considered by this court. Other witnesses being PW-4, PW-6, PW-7 and PW-8 also stated something new before the Court which they never stated to I.O. and such improvements also could not be considered by this court.

31. Therefore, from the strength of the evidence, no material ingredient of the offence of cruelty is made by the prosecution against the accused persons. The prosecution witness failed to prove the contention and allegation of practicing cruelty upon the deceased by the accused persons beyond reasonable doubts and the ingredients of the cruelty are not fulfilled by the prosecution against them.

Dowry Death:

32. S.304-B of the I.P.C. penalised dowry death. It says:

(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 purpose 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.

33. Section 113B of the Evidence Act states about presumption of dowry death caused within 7 years of the marriage. It says-

“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 purpose of this section, “dowry death” shall have the same meaning as in Section 304-B of the Penal Code, 1860.”

34. In **Major Singh v. State of Punjab** reported in (2015) 5 SCC 201, a three-Judge Bench of Hon'ble Supreme Court held as follows :

“10. To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:

(i) the death of a woman should be caused by burns or bodily injury or otherwise than under a “normal circumstance”;

(ii) such a death should have occurred within seven years of her marriage;

(iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband;

(iv) such cruelty or harassment should be for or in connection with demand of dowry; and

(v) such cruelty or harassment is shown to have been meted out to the woman soon before her death.”

35. In **Kans Raj v. State of Punjab, (2000) 5 SCC 207** Honourable Supreme Court observed-

“9. The law as it exists now provides that where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative for or in connection with any demand of dowry such death shall be punishable under Section 304-B. In order to seek a conviction against a person for the offence of dowry death, the prosecution is obliged to prove that:

(a) the death of a woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances;

(b) such death should have occurred within 7 years of her marriage;

(c) the deceased was subjected to cruelty or harassment by her husband or by any relative of her husband;

(d) such cruelty or harassment should be for or in connection with the demand of dowry; and

(e) to such cruelty or harassment the deceased should have been subjected soon before her death.”

36. It is also observed by the Hon'ble Court that no presumption under Section 113-B of the Evidence Act would be drawn against the accused if it is shown that after the alleged demand, cruelty or harassment the dispute stood resolved and there was no evidence of cruelty and harassment thereafter. Mere lapse of sometime by itself would not provide to an accused a defence, if the course of conduct relating to cruelty or harassment in connection with the dowry demand is shown to have existed earlier in time not too late and not

too stale before the date of death of the woman. [Hon'ble Supreme Court in *Kans Raj v. State of Punjab (Supra)*].

37. The learned advocate for the Accused referred the decision of the Hon'ble High Court at Calcutta in **Somenath Jana Vs The State of West Bengal** reported in (2018) 2 C Cr L R (Cal) 555 wherein the Hon'ble Court in paragraph 16 of the said decision observed that in order for the presumption to apply it is founded on the proof of cruelty or harassment of the woman dead for or in connection with any demand for dowry by the person or persons charged with the offence soon before her death. The presumption as to dowry death will be only triggered upon proof of the fact that the deceased had been subjected to cruelty or harassment for or in connection with any demand for dowry by the accused and that to in the reasonable contiguity (sic, continuity) of death. Such proof therefore is legislatively mandated pre-requisite before the statutory presumption of the offence of dowry death by the person charged there with can be activated.

38. The Hon'ble Supreme Court in **Shoor Singh Vs State of Jharkhand**, referred by the learned defence counsel, reported in 2024(4) AICLR 860(SC) observed that when all the ingredients of 'dowry death' are proved, the presumption of section 113B of the Evidence Act is to be raised against the accused that he has committed the offence of 'dowry death'.

39. It is not at all disputed that the victim woman died at her matrimonial home in a mysterious circumstance within seven years of her marriage but the testimonies of the prosecution witnesses are not convincing enough to believe. There is evidence of cordial relationship between the accused persons, namely Prasanta Chanak, the husband and the complainant and his family even before death of the victim woman. There was visiting terms between them and in last meeting between the deceased and her parents, there was no such exchange of communications amongst them regarding any demand of dowry and torture in the matrimonial home on non-payment of the same. Therefore, the prosecution evidence failed to prove beyond reasonable doubt that soon before the unnatural death of the deceased, there was any such demand of dowry and torture upon the victim which resulted such death to be stated as 'dowry death'.

40. The prosecution evidence failed to disclose any evidence that the accused persons practised cruelty upon the deceased and there was any harassment upon the deceased just before the death of the deceased. The death was unnatural in deed, occurred within 7 years of their marriage but whether it was accidental or suicidal is a question of fact. The medical evidence of the prosecution shows that the death was accidental so far, the P-4 is concerned. The I.O. challenged and disbelieved the same and submitted a charge sheet apprehending the continuous harassment and cruelty upon the deceased by the accused before the death was caused. Post Mortem report is more believable because the oral evidence failed to prove the same unbelievable and unreliable. Ocular evidence from the prosecution case failed to supplement that the death was suicidal or homicidal in nature.

41. After careful reading of Section 113-B of the Evidence Act it could be understood that there must be material to show that ‘soon before the death’ of woman, such woman was subjected to cruelty or harassment for or in connection with demand of dowry, then only a presumption can be drawn that a person has committed the dowry death of a woman and the accused persons from the evidence of prosecution are able to discharge this presumption. Such evidence is not forthcoming from the prosecution.

Dowry:

42. Section 4 of the Dowry Prohibition Act states about demands of dowry, directly or indirectly, from the parents, relatives, or guardians of a bride or bridegroom which shall be punishable with imprisonment and fine. Prosecution failed to prove any such demand of dowry by adducing reliable witnesses and believable documents.

Conclusion:

43. Having considered the materials of recording in evidence, both oral and documentary and for the want of believable and credible as well as sufficient evidence, this court is convinced to hold that the prosecution is unable to prove its case beyond reasonable doubt and as a result, the accused persons are entitled to be acquitted.

44. Hence, it is

Ordered

that the accused persons namely 1. Prasanta Chanak, 2. Sabita Chanak, 3. Ratan Chanak, 4. Ajit Chanak & 5. Baby Chanak are not found guilty to the offence punishable under sections 498A/304B/34 of the Indian Penal Code and section 4 of Dowry Prohibition Act, 1961 and they are acquitted from the charge under section 235(1) of the Code of Criminal Procedure, 1973.

They shall be set at liberty at once unless they are required in any other case and be discharged from their bail bond liabilities.

Seized alamats, if any, shall be destroyed after the appeal period is over. Property seized as personal property, if any, be returned to its owner after proper verification and identification.

A copy of the judgement each will be forwarded to the District Magistrate, Purba Medinipur and the Secretary of the DLSA, Purba Medinipur for information with copies of evidence and statements under section 313 Cr.P.C to enable the victim to appeal against the judgment if so desired.

The accused persons are directed to submit a bond of Rs. 1000 each of one surety subject to satisfaction of the learned CJM, Purba Medinipur under section 437A of the Cr.P.C which shall remain in force for 6 months.

Dictated & Corrected by

sd/- Annada Sankar Mukhopadhyay
(JO Code-WB 00863)
Addl. Sessions Judge
4th Court, Tamluk,
Purba Medinipur