



2025:CGHC:39167



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HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 639 of 2003

Dilip Das Manikpuri, S/o Brij Lal Manikpuri, aged about 22 years, R/o Village Sarora, Police Station Simga, District Raipur (CG)

... Appellant.

versus

State of Chhattisgarh through Police Station Simga, District Raipur (CG)

... Respondent.

For Appellant	:	Mr. Garry Mukhopadhyay, Adv as Amicus Curiae
For Res/State	:	Mr. Dilman Rati Minj, Govt. Advocate.

Hon'ble Shri Deepak Kumar Tiwari, J

Judgment On Board

06.08.2025

1. It is pertinent to mention here that in pursuance of order of permanent non-bailable warrant of arrest dated 23.07.2024, the appellant is produced before this Court today. His presence is marked.
2. Though the name of counsel for the appellant is published in the cause list, however, no representation is made on his behalf. In such circumstances, this Court has requested Mr. Garry Mukhopadhyay, Advocate, who is present before this Court, to assist this Court and to



argue on behalf of the appellant. He is appointed as Amicus Curiae in this case.

3. This Criminal Appeal under Section 374 (2) of the Code of Criminal Procedure, 1973 is directed against the judgment dated 03.02.2003 passed by the First Additional Sessions Judge, Baloda Bazar, District Raipur in ST No.251/2002, whereby, the accused/appellant has been convicted for commission of offence under Section 304-B of the Indian Penal Code and sentenced to undergo Rigorous Imprisonment for 7 years.
4. This is an admitted fact that accused/appellant was husband of deceased Gaytri Bai. Sewak Das (PW-1) is father, Amru (PW-7) is brother and Janki Bai (PW-8) is mother of the deceased.
5. Facts of the case are that the marriage of appellant's brother Deepak was solemnized with elder daughter of Sewak Das (PW-1), namely, Santoshi who is elder sister of the deceased Gaytri Bai. Since there were relation between the family of the appellant and Sewakram (PW-1), the appellant used to visit the house of Sewakram (PW-1) and thus the appellant and the deceased became acquainted with each other and love relationship has been developed between them. Thereafter, the appellant made proposal before Sewakram (PW-1) for marriage with the deceased. Initially Sewak Ram (PW-1) has not accepted the said proposal as one daughter has already married in the family of the appellant. Thereafter, the appellant has made several efforts for marriage and also extended financial help to the father of the deceased. Thereafter, marriage was solemnized and the couple started residing at



Village Sarora. After the marriage, on the occasion of Rakshabandhan festival, the appellant met with an accident due to which his hand got fractured. After sometime, the deceased came along with her sister-in-law (Nanad) Prabha to Village Temari and told her father that appellant has asked her to bring Rs.5000/- from his father. When his father Sewak Das enquired about the same from the appellant, he refused to make any such demand. Later on, the deceased came to the house of the appellant. Thereafter, on 04.05.2002 the deceased committed suicide by pouring kerosene on her body at Village Sarora.

6. After the incident, Merg Intimation was recorded and FIR (Ex.P-6) was lodged at Police Station Simga. The deceased was subjected to postmortem which was conducted by Dr. G.R. Agrawal (PW-11) who gave his report Ex.P-9 opining that the cause of death was shock due to excessive burn injuries and same is antemortem in nature. Dead inquest was carried out after giving notice Ex.P-1 by the Executive Magistrate vide Ex.P-2. From the spot, kerosene lamp (Chimni), matchbox, matchbox stick and burnt clothes were seized vide Ex.P-3. After completion of the investigation, charge-sheet was filed before the jurisdictional criminal Court, which in turn committed the case to the Court of Sessions for trial.
7. In order to bring home the charges, the prosecution examined as many as 11 witnesses and exhibited 9 documents. In the statement recorded under Section 313 of the CrPC, the appellant has stated that he has been falsely implicated and taken a defence that after the accident he was unable to work and was having no source of income. It is further



stated that appellant never made any demand of money with the deceased. The deceased voluntarily went to her father's house as he was unable to give proper treatment for want of funds. However, he has not adduced any evidence in his defence.

8. The trial Court after appreciating the oral and documentary evidence available on record convicted and sentenced the appellant as mentioned in the initial paragraph of this judgment.
9. Learned Amicus Curiae would submit that the judgment of the trial Court is bad in law as well as on facts. He submits that in the record there is no evidence available on record to the effect that the deceased was subjected to cruelty for demand dowry soon before her death. He also submits that there is lack of evidence to attract the offence under Section 304-B of the IPC. He places reliance in the matter of **Sher Singh @ Partapa Vs. State of Haryana [(2015) 3 SCC 724]** and submits that the appellant has not committed the said offence and he is entitled for acquittal.
10. Per contra, learned State Counsel would support the impugned judgment and submits that the same has been passed after proper appreciation of evidence on record.
11. Heard learned counsel for the parties and went through the records with utmost circumspection.
12. In order to convict an accused for the offence punishable under Section 304-B IPC, the following essentials must be satisfied-



- * The death of a women should be caused by burn or bodily injury or otherwise than under normal circumstances.
- * Such death should have occurred within seven years of the marriage.
- * Soon before the death of deceased, she must have been subjected to cruelty or harassment by her Husband or any relative of her Husband.
- * Such cruelty or harassment should be for or in connection with demand for dowry.

13. Thus, if the aforesaid ingredients are established by the prosecution by leading appropriate reliable evidence, such death shall be called dowry death and the court shall presume and it shall record such fact as proved unless and until it is disproved by the accused.
14. Section 113-B of the Indian Evidence Act, 1872 speaks about presumption as to dowry death which reads as under:-

"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 has 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 (45 of 1860)."

The aforesaid provision shows that if the women has been subjected to cruelty as defined in Section 498-A IPC, the court may presume that such person has caused dowry death. Section 2 of the Dowry Prohibition Act, 1961 provides as under:-



2. Definition of "dowry". In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by a other person, to either party to the marriage or to any other person; at or before or after the marriage us consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies."

15. To attract the provisions of Section 304B, one of the main ingredients of the offence which is required to be established is that "soon before her death" she was subjected to cruelty or harassment "for, or in connection with the demand for dowry". The expression "soon before her death" used in Section 304B IPC and Section 113B of the Evidence Act is present with the idea of proximity test.

16. As regards the principles concerning the above-referred provisions, it would be profitable to notice the decisions reported in K. Prema S. Rao v. Yadla Srinivasa Rao reported in (2003) 1 SCC 217, Kaliyaperumal v. State of T.N reported in (2004) 9 SCC 157 and Devi Lal v. State of Rajasthan reported in (2007) 14 SCC 176.

17. In K. Prema S. Rao (supra) it has been held as under:-

"16. ... To attract the provisions of Section 304-B IPC, one of the main ingredients of the offence which is required to be established is that 'soon before her death' she was subjected to cruelty and harassment 'in connection with the demand for dowry'."



18. Keeping the afore-stated principles of law in mind, this Court shall now proceed to consider the evidence led by the prosecution in the instant case as to whether the ingredients for offence under Section 304B IPC are made out or not?
19. Undisputedly, the marriage of brother of the appellant was solemnized with the elder sister of the deceased about 5-6 years ago. On account of such relation between the two families, the appellant used to visit the house of the deceased and thus they (appellant and deceased) became acquainted with each other and developed love relationship. Thereafter, the appellant himself made proposal before the father of the deceased Sewakdas (PW-1) for marriage with the deceased. Further, father (PW-1) of the deceased himself admitted this fact in his cross-examination and also admitted the fact that at the time of marriage, the appellant has extended financial help of Rs.1500/- and also spent an amount of Rs.3-4000/- in the marriage from his side.
20. From reading of evidence of father of the deceased Sewak Das (PW-1), brother Amru (PW-7) and Janki Bai (PW-8) who is mother of the deceased, it is evident that everything was normal after marriage, however, when the appellant met with an accident and unable to work and having no source of income, the deceased came to her parents' house and asked her father that the appellant needed an amount of Rs.5000/-. But when her father Sewak Das enquired from the appellant, the appellant refused for the same and denied that he has made any such demand. Moreover, the appellant has taken specific defence that he was facing acute financial stringency, the deceased wife herself had



visited her father's house and asked for money though he had never asked his wife to make such demand from her father.

21. In the in the matter of **Appasaheb and another v. State of Maharashtra [(2007) 9 SCC 721]** it has been extended by the Hon'ble Supreme Court that demand for money on account of some financial stringency or for making some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry. The relevant portion of the aforesaid judgment is reproduced hereunder for ready reference:-

“9. Two essential ingredients of Section 304-B IPC, apart from others, are (i) death of woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and (ii) woman is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for “dowry”. The explanation appended to sub section (1) of Section 304-B IPC says that “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961.

10. Section 2 of the Dowry Prohibition Act reads as under:

“ 2. Definition of ‘dowry’.-In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly. (a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

11. In view of the aforesaid definition of the word “dowry” any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving and taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or



taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (see Union of India v. Garware Nylons Ltd and Chemical and Fibres of India Ltd. v. Union of India). A demand for money on account of some financial stringency or for making some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for 'dowry' as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz demand for dowry is not established, the conviction of the appellants cannot be sustained.”

22. Even in the matter of Sher Singh @ Partapa (Supra), it has been emphasized that to attract the offence under Section 304-B IPC the prosecution is required to prove the cruelty "soon before her death". With regard to words "soon before her death" it has been observed by the Hon'ble Supreme Court that there must be live link and proximity between cruelty emanating from dowry demand and death of woman. Demand of dowry should not be stale or an aberration of the past but should be continuing cause of her death.
23. From scanning of the evidence on record and in light of the principles laid down by the Hon'ble Supreme Court in the aforesaid cases, this Court is of the view that the prosecution has failed to establish the



cruelty meted out by the appellant to the deceased/wife soon before her death and also failed to prove the allegation of demand of dowry and thus, the trial Court is absolutely unjustified in convicting the accused for the offence under Section 304-B of the IPC.

24. Accordingly the appeal is **allowed**. The conviction and sentence imposed upon the appellant under Section 304-B of the IPC are set-aside and he is acquitted of the said charge. He be set at liberty forthwith unless required to be detained in any other case.
25. Before parting, this Court would like to appreciate the valuable assistance rendered by Shri Garry Mukhopadhyay, Amicus Curiae in this case.

Sd/-

(Deepak Kumar Tiwari)
Judge