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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 94 of 2021

Judgment Reserved on 23.02.2026

Judgment Delivered on 26.02.2026

- State of Chhattisgarh, Through its Station House Officer, Police Station City Kotwali, Jagdalpur, District Bastar, Chhattisgarh.

...Appellant

versus

1. Gunesh Kumar, S/o Late Tulsi Ram Panigrahi, aged about 41 Years,
 2. Jeevan Kumar, S/o Late Tulsi Ram Panigrahi, aged about 50 Years,
 3. Smt. Sunanda, W/o Jeevan Kumar Panitrahi, aged about 43 Years,
 4. Smt. Babita, W/o Laxminath Mishra, aged about 46 Years,
- Respondent Nos. 1 to 4 are residents of Purana Para, Aasna, Police Station City Kotwali, Jagdalpur, District Bastar, Chhattisgarh.
5. Smt. M. Reeta Rao, W/o M. Bharat Rao. aged about 39 Years, Resident of Forest Colony, Jagdalpur, District Bastar, Chhattisgarh.
 6. Smt. Chitrani Komra, W/o Ashok Komra, aged about 42 Years, R/o Goswami Gali, Kumhar Para, Jagdalpur District Bastar Chhattisgarh.
 7. M. Bharat Rao, S/o M. Appal Raju, aged about 46 Years, R/o Forest Colony, Kumhar Para, Jagdalpur, District Bastar Chhattisgarh.
 8. Ashok Komra, S/o Late Dhanraj Komra, aged about 42 Years, R/o Banskot, Tehsil Vishrampuri, District Kondagaon Chhattisgarh. Presently Residing at Goswami Gali, Kumhar Para, Jagdalpur, District Bastar Chhattisgarh.

... Respondents

For Appellant	:	Mr. Ram Narayan Sahu, Deputy Government Advocate.
For Respondents Nos. 1 to 5 & 7	:	Ms. Pragya Shrivastava & Mr. Vikas A. Shrivastava, Advocates.
Respondent No.8- Ashok Kumar Komra appears in person and also represents his wife/respondent No.6- Chitrani Komra.		

**Hon'ble Smt. Justice Rajani Dubey &
Hon'ble Shri Justice Radhakishan Agrawal**

CAV Judgment

Per Radhakishan Agrawal, J.

1. This appeal against acquittal, preferred by the Appellant/State, arises out of the judgment dated 23.10.2019 passed by the learned Third Additional Sessions Judge, Bastar at Jagdalpur, Chhattisgarh, in Sessions Trial No. 11/2014, whereby the learned trial Court acquitted the accused persons/respondents herein of the charge under Section 304-B read with Section 34 of Indian Penal Code (for short, "IPC").
2. Case of the prosecution, in brief, is that deceased- Vijeta Panigrahi was married to accused/respondent No.1- Gunesh Kumar on 14.12.2012. After marriage, she started residing in her matrimonial home at Jagdalpur. It is alleged that soon after marriage she was subjected to cruelty and harassment by her husband/respondent No.1 and his family members on account of insufficient dowry. On 17.10.2013, between 7:30 a.m. and 9:30 a.m., she committed suicide by jumping into river Indravati.
3. During the course of investigation, merg intimations were recorded vide Exs.P-2 and P-21, pursuant to which, FIR (Ex.P-22) was registered against the accused persons/respondents. Thereafter, inquest proceedings were conducted vide Ex.P-8, and the dead body of the deceased was sent for postmortem examination, which was conducted by PW-16 Dr. Pawan Tekade, who submitted his report vide Ex.P-18. According to PW-16 Dr. Pawan Tekade, the cause of death of deceased was drowning. From the spot, one Honda Activa, a yellow-coloured cloth, one pair of slippers, and one plastic bottle were seized vide Exs. P-10 and P-17. Vide Ex.P-23, the body parts of the deceased, preserved in a sealed

container containing a salt solution, were seized. The seized articles were sent to the FSL for chemical examination and the FSL report has been brought on record vide Ex. P-25.

4. Statements of the witnesses were recorded and after completion of the investigation, a charge sheet was filed against the accused persons/respondents before the concerned Trial Court. The accused persons/respondents abjured their guilt and prayed for trial.
5. The trial Court, after hearing counsel for the parties and appreciating the evidence on record, by the impugned judgment acquitted the accused persons/respondents herein of said charge leveled against them.
6. Learned counsel for the Appellant/State submits that the learned trial Court is unjustified in acquitting the accused persons/respondents herein of said charges by recording perverse findings. He further submits that the evidence available on record clearly shows that after marriage and soon before her death, deceased- Vijeta Panigrahi was subjected to cruelty or harassment for demand of dowry by the respondents, due to which, she committed suicide by jumping into the river and the said fact is also evident from the statements of prosecution witnesses and despite there being cogent and reliable evidence, the learned trial Court committed grave error in acquitting the accused persons/respondents without appreciating the evidence on record in its correct perspective. Thus, the impugned judgment of acquittal suffers from perversity and illegality, therefore, the same is liable to be set aside.
7. On the other hand, learned counsel for accused persons/respondents No. 1 to 5 and 7 and respondent No. 8, who appears in person and also represents respondent No. 6, supported the impugned judgment and

submitted that it is not proved by the prosecution that any demand of dowry was ever made by the respondents and even soon before the death of deceased. He further submitted that prior to the incident, neither the deceased nor any of her relatives had lodged any complaint or report alleging demand of dowry or harassment by the accused persons. Therefore, the learned trial Court, after evaluating the evidence available on record, rightly acquitted the accused persons, which needs no interference by this Court.

8. We have heard learned counsel for the parties and perused the material available on record.
9. The Supreme Court in the matter of *Jafarudheen and others vs. State of Kerala*¹ has considered the scope of interference in Appeal against acquittal, which reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 CrPC, the appellate court has to consider whether the trial court's view can be terms as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

10. To attract the provisions of Section 304-B, 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 304-B IPC and Section 113-B of the Evidence Act, 1872 is present with the idea of proximity test.

1 (2022) 8 SCC 440

11. As regards the principles concerning the above-referred provisions, this Court wishes to refer to the decisions reported in *V.K. Mishra & another vs State of Uttarakhand and another*², *K. Prema S. Rao v. Yadla Srinivasa Rao*³ & *Kaliyaperumal v. State of T.N.*⁴.

12. In *V.K. Mishra and another (supra)*, it has been held as under:-

“7. In order to attract application of Section 304-B IPC, the essential ingredients are as follows:-

1. The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstance.
2. Such a death should have occurred within seven years of her marriage.
3. She must have been 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 demand of dowry.
5. Such cruelty or harassment is shown to have been meted out to the woman soon before her death.

On proof of the essential ingredients mentioned above, it becomes obligatory on the court to raise a presumption that the accused caused the dowry death. A conjoint reading of [Section 113B](#) of the Evidence Act and [Section 304B](#) IPC shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. ‘Soon before’ is a relative term and it would depend upon circumstance of each case and no strait-jacket formula can be laid down as to what would constitute a period ‘soon before the occurrence’. There must be inexistence a proximate live link between the facts of cruelty in connection with the demand of dowry and the death. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb mental equilibrium of the woman concerned it would be of no consequence.

13. 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'.”

² (2015) 9 SCC 588

³ (2003) 1 SCC 217

⁴ (2004) 9 SCC 157

14. In the light of the above enunciation of law, the facts of the present case are required to be examined minutely.
15. From the evidence of PW-3 Khagendra Panigrahi (brother of the deceased), PW-4 Pramila Panigrahi (mother of the deceased) and PW-5 Anita Panigrahi (sister-in-law of the deceased), it stands duly established that the marriage of the deceased with accused No.1- Gunesh Kumar was solemnized on 14.12.2012 and that she died on 17.10.2013, i.e., within seven years of her marriage. The postmortem report (Ex.P-18), duly proved by PW-16 Dr. Pawan Tekade, clearly opines that the cause of death was drowning and the FSL report (Ex.P-25) rules out the presence of any poison in the viscera. The evidence on record thus conclusively establishes that the death of the deceased was unnatural in nature and had occurred within seven years of her marriage.
16. The primary issue before this Court is whether the deceased was subjected to cruelty or harassment in connection with any demand for dowry, particularly soon before her death.
17. PW-3 Khagendra Panigrahi, brother of the deceased and the informant, deposed that after the marriage on 14.12.2012, his sister used to inform him that her husband and in-laws were dissatisfied with the dowry and were harassing and committing *marpeet* with her. He stated that on 17.10.2013, she committed suicide by jumping into river Indravati while carrying eight months' pregnancy and thereafter he lodged the report. However, in his cross-examination, he admitted that in the written complaint, he had not mentioned any specific article, amount or property allegedly demanded as dowry, nor could he specify the date, time or manner of any such demand by the accused persons. He further admitted

that though he used to visit the matrimonial house daily for supplying milk, but he had never personally witnessed any assault or act of cruelty. He also admitted that a meeting was convened on 12.10.2013 in which one Devashish Choudhary was called, that accused Gunesh had lodged a complaint on 15.10.2013, and that he was unaware of the exact reason for the suicide. He further conceded that no complaint regarding dowry harassment was lodged during the lifetime of the deceased.

18. PW-4 Smt. Pramila Panigrahi, mother of the deceased, in her evidence also admitted that she had not personally witnessed any act of cruelty alleged to have been committed upon the deceased and that she could not specify any particular article, amount or property allegedly demanded as dowry by accused persons. She was further unable to state the date, time or manner in which such demand was allegedly made by the accused persons. She also admitted that some of the accused persons were residing separately from the deceased and her husband, and that no complaint regarding dowry harassment was lodged during the lifetime of the deceased.

19. PW-5 Anita Panigrahi, sister-in-law of deceased, deposed that the deceased had informed her about harassment on account of dowry. However, in her cross-examination, she admitted that she had not personally witnessed any act of cruelty. She further stated that dowry is socially condemned in their community and that the articles given at the time of marriage were customary gifts. She also admitted that accused-Jeevan and Sunanda were residing separately and that the financial condition of the accused persons was good. Importantly, she admitted that at the time of marriage, no demand for dowry was made by the accused persons.

20. PW-9 Smt. Sasmita Sahu and PW-10 Smt. Binda Thakur, colleagues of the deceased in the same school, deposed that the deceased had informed them that she was unhappy in her matrimonial home and was being mentally harassed by her husband and in-laws due to dissatisfaction with dowry. They further stated that prior to the incident, she appeared disturbed and had shared her grievances with them. However, in their cross-examination, both witnesses admitted that they had never visited the matrimonial home of the deceased and had not personally witnessed any quarrel, act of cruelty, or demand of dowry by the accused persons. Their knowledge was based solely on what the deceased had allegedly told them. They were unable to specify any particular article, amount, or property allegedly demanded, nor could they state the date, time, or manner of such alleged demand by the accused persons.

21. PW-13 Anil Kumar Pandey deposed that a few months after the marriage, he met the deceased and she allegedly informed him that she had been married into a wrong family, was being assaulted for dowry, that her ATM card and passbook had been taken away, and that her essential articles were being supplied from her parental home. These statements constitute material improvements, inasmuch as neither the complainant (PW-3) nor the mother of the deceased (PW-4) deposed that the basic necessities of the deceased were being met from her maternal home. Further, though PW-13 stated that both parties had gone to the police station on 15.10.2013, but he admitted in cross-examination that none of them informed the police about any dowry-related harassment by accused-Gunesh at that time. This omission assumes significance, as despite the matter reaching the police station shortly before the incident, no allegation

of dowry demand was made, thereby casting serious doubt on the subsequent allegations.

22. This apart, from the testimonies of prosecution witnesses and the evidence available on record, it stands admitted that on 12.10.2013, a social and family meeting had taken place between the family of the deceased and accused- Gunesh Panigrahi, during which members of the parental family had visited the matrimonial house. It has also come on record that Devashish Choudhary used to visit the house of the deceased and had been called there by the complainant. The evidence further discloses that a scuffle had occurred between the two sides, that a report was lodged by the accused- Gunesh, and that medical treatment of the deceased was undertaken. It is also an admitted position that the deceased had written a letter which, according to the complainant/PW-3, was handed over to the police, however, the said letter was not produced by the prosecution during trial. The Investigating Officer, Anu Kumar Devangan (PW-18), admitted in his cross-examination that no document is available on record to show that any action was taken on the basis of a written complaint submitted by complainant- Khagendra Panigrahi. He further expressed ignorance as to whether the handwritten letter dated 13.10.2013 allegedly written by the deceased was submitted to the police. He admitted that on 16.10.2013, accused- Gunesh Panigrahi had submitted complaint Ex.D-04 regarding the dispute between the parties, which was received through the Office of the Superintendent of Police. He also admitted that Devashish Choudhary was not examined during investigation and that all the accused persons were not residing together. The above admissions reveal material lapses in the investigation and create doubt regarding the fairness and completeness of the prosecution

case. The non-production of the alleged letter written by the deceased further weakens the prosecution case.

23. Thus, from perusal of the above evidence, it is evident that there is no material on record to establish that the accused persons subjected the deceased to cruelty or harassment for demand of dowry soon before her death or instigated her to commit suicide. Brother (PW-3) and mother (PW-4) of the deceased have admitted that prior to the incident neither they nor the deceased had lodged any report against the accused persons regarding any alleged dowry demand. No specific demand of dowry, nor any particular incident, date, or continuous course of conduct amounting to cruelty within the meaning of Section 304-B of IPC, has been proved by the prosecution. The evidence adduced is general, vague, and omnibus in nature. In these circumstances, the prosecution has failed to establish beyond reasonable doubt that the deceased was subjected to cruelty or harassment in connection with any demand of dowry soon before her death. Consequently, this Court is of the considered opinion that the charge under Section 304-B of IPC has not been proved against the accused persons/respondents.

24. The Hon'ble Apex Court in its judgment dated 12.02.2024 passed in Criminal Appeal No.1162 of 2011 in case of *Mallappa and Ors. Versus State of Karnataka*, has held in para 36 as under:-

"36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

"(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive inclusive of all evidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re- appreciation of evidence, it specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

25. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in *Jafarudheen & Mallappa* (supra), the view taken by the learned trial Court appears to be a plausible and possible view. In the absence of any patent illegality or perversity, this Court is not inclined to interfere with the impugned judgment passed by the learned trial Court.

26. Accordingly, the acquittal appeal filed by the appellant/State against the acquittal of accused persons/respondents is hereby dismissed.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Radhakishan Agrawal)
Judge