

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 816 of 2004

1. Pratima Devi, wife of Palku Tiwary,

2. Amar Tiwary, son of Palku Tiwary,

Both residents of village Tilodih, P.S. Deori, Dist.-Giridih

... .. **... Appellants**

Versus

1. The State of Jharkhand

2. Girdhar Kumar Tiwary, Son of Murlidhar Tiwary, Resident of village-

Bilotand, P.S.-Deori, Dist. Giridih **.... Respondents**

For the Appellants : Mr. S.P. Roy, Advocate

For the Resp. State : Mr. Jitendra Pandey, A.P.P.

For the Informant : Mr. Lukesh Kumar, Advocate

Mr. Dhananjay Kumar, Advocate

Mr. Sandip Singh Munda, Advocate

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

CAV On 01/05/2026

Pronounced On 12/06/2026

Per- Pradeep Kumar Srivastava, J.

1. The instant criminal appeal is directed against the judgment of conviction dated 23.04.2004 and order of sentence dated 26.04.2004 passed by the learned Addl. Dist. Judge-VI, Giridih in S.T. No. 90 of 2001/20 of 2002 whereby and whereunder the appellants have been held guilty for the offence under Sections 498A and 306 of the IPC and the appellant No. 1 has been sentenced to undergo R.I. for three years with fine of Rs. 1000/- with default stipulation for the offence under Section 306 of the IPC and appellant No. 2 has been sentenced to

undergo R.I. for 7 years for the offence under Section 306 of the IPC along with a fine of Rs. 1,000/- with default stipulation. Both the appellants have further been directed to undergo R.I. for one year for the offence under Section 498A IPC.

2. I have already heard the arguments of learned counsel for the appellants and learned APP assisted by learned counsel for the informant.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that one Arti Devi @ Guddi (since deceased) who happened to be sister of the informant, was married with appellant No. 2 Amar Tiwary in accordance with Hindu Rites and Customs, about three years prior to institution of this case. It is alleged that after Gauna, she went to her Sasural, where she resided about two months. Thereafter, her brother (informant) brought his sister to parental home. Then, she disclosed that her mother-in-law had asked her to bring Rs. 20,000/- from her father for the purpose of marriage of her sister-in-law. It is further alleged that after six months, informant's sister went to matrimonial home along with her husband. It is further alleged that when the informant went to matrimonial home of his sister on the occasion of Rakcha Bandhan, then, mother-in-law of his sister started quarreling with him making various complaints against his sister, whereby, the informant brought his sister to his home, where she disclosed that she was always subjected to assault and torture by her mother-in-law and Nanad on

account of non-fulfillment of the aforesaid money. Thereafter, the informant asked about the cruel treatment and torture meted to his sister from the accused persons but they declined to reply anything, rather, assured that such type of conduct shall not be repeated in future and again accused Amar Tiwary along with his wife went to his home. It is alleged that on 13.10.1999, Mahesh Pandey (P.W.-4), maternal uncle of the informant came and told that Arti Devi is missing from the evening from her matrimonial home. The villagers made a search and the dead body of the informant's sister was found floating in a well adjacent to the house of the appellants. The dead body was brought out and it was noticed that there was bleeding from nostrils and injuries near the left ear, therefore, informant claimed that his sister was thrown into the well after killing her by the accused persons due to non-fulfillment of demand of dowry.

On the basis of written report submitted by the informant, Girdhar Kumar Tiwary, Deori P.S. Case No. 89 of 1999 was registered for the offences under Section 498A/304B of the IPC and Section 3 and 4 of the Dowry Prohibition Act against the present appellants namely Amar Tiwary, Pratima Devi and Mundrika Kumari.

After completion of investigation, the Investigating Officer has submitted first charge sheet against accused Amar Tiwary and supplementary charge sheet against Pratima Devi. No sufficient

evidence was found against Mundrika Kumari and she was not sent up for trial.

4. After taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 90/2001 & 20/2002 was registered and charges for the offence under Section 498A, 304B of the IPC and Section 3 and 4 of the Dowry Prohibition Act were framed against the accused persons. The accused persons denied from the charges and claimed to be tried.
5. In order to substantiate the aforesaid charges leveled against the accused persons, altogether 12 witnesses were examined by the prosecution apart from the documentary evidence.
6. On the other hand, one defence witness namely Shankar Tiwary (D.W.-1) has been examined by the defence, who happens to be agnate of accused persons and stated about cordial relationship between the husband and the wife controverting the facts of any demand of dowry and consequent torture meted with the deceased.
7. The learned trial Court after threadbare analysis of the ocular testimony of the witnesses led by the prosecution as well as defence and also taking into account the documentary evidence adduced by the prosecution, arrived at conclusion of guilt of the appellants, for the charges under Sections 498A and 306 of the IPC and sentenced as stated above, acquitting the accused persons for the offence under Section 304B of the IPC with specific observation that the alleged demand of Rs. 20,000/- was for the purpose of marriage of sister-in-

law of the deceased as father of the deceased Murlidhar Tiwary (P.W.- 7) has admitted in clear terms that Rs. 20,000/- was demanded for the purpose of marriage of sister-in-law of the deceased and he assured the accused persons that he would provide help in the marriage. Therefore, the said demand does not come within the ambit of definition of dowry as defined under Section 2 of the Dowry Prohibition Act and adopted under Section 304B of the IPC. Learned trial Court on the basis of evidence, found that there are all the ingredients constituting the offence under Section 306 of the IPC, hence, convicted and sentenced them for the offence under Section 306 of the IPC.

Submissions on behalf of appellants: -

8. Learned counsel for the appellants assailing the impugned judgment of conviction and sentence of appellants, has strenuously argued that the learned trial Court has committed serious illegality in holding the appellants guilty for the offence under Section 306 of the IPC although charge was framed under Section 304B of the IPC. It is further submitted that the demand of dowry has not been proved by the prosecution and also fortified by the observation of learned trial Court. It is further submitted that so far as charge under Section 498A of the IPC is concerned, it is simply mentioned that the present appellants have subjected the deceased to cruelty in various ways mentally and physically by their willful conduct for or in connection with demand of dowry under Explanation (b) of Section 498A of the

IPC. There is no whisper in the entire evidence or in the charge that the accused persons ever abetted the commission of suicide by the deceased or by their willful conduct caused apprehension in the mind of deceased driving her to commit suicide. It is further submitted that the offence under Section 304B and 306 of the IPC are mutually exclusive and different offences having different ingredients, therefore, unless and until all the ingredients constituting offence under Section 306 of the IPC is proved by the prosecution, no conviction can be made thereunder. The prosecution has neither been able to prove suicidal death of the deceased nor its abetment at the hands of the appellants. Therefore, the deeming provision under Section 113A of the Indian Evidence Act is not attracted in this case at all. At best, the offence under Section 498A of the IPC is proved against the appellants, which comes under Explanation (b) of the Section 498A of the IPC.

In the alternative, it is contended that appellant No. 1 is an old lady aged about 70 years and has undergone about 8 months custody during trial and post-conviction. The appellant No. 2 has also undergone imprisonment of 3 years 5 months during trial and post-conviction. Therefore, both the appellants have sufficiently been punished for their guilt. Therefore, conviction and sentence of the appellants may be set aside and this appeal may be allowed.

Submissions on behalf of the State

9. On the other hand, learned A.P.P. assisted by learned counsel for the informant defending the judgment of conviction and sentence of the

appellants has submitted that the learned trial Court has very wisely and aptly considered all the materials available on record and rightly convicted the appellants for the offence under Section 498A and 306 of the I.P.C. and has not committed any illegality or infirmity in passing the impugned judgment which does not call for any interference in this appeal, which is devoid of merits and fit to be dismissed.

10. I have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of the parties.

11. In view of the points raised during arguments, following issues emerges for consideration in this appeal:-

- (i) Whether the conviction under Section 306 of the IPC is tenable when charge is only under Section 304B of the IPC?
- (ii) Whether the conviction and sentence of the appellants suffers from any error of law, calling for any interference in this appeal?

Analysis, reasons and decision:

12. For better appreciation of the above issues involved in this case, the relevant provisions are quoted as hereunder:-

Dowry Prohibition Act, 1961

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.

Explanation II. – The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code.

3. Penalty for giving or taking dowry- (1) *If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.*

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) *Nothing in sub-section (1) shall apply to, or in relation to-*

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf)

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act.

(b) presents which are given at the time of a marriage to the bride groom (without any demand having been made in that behalf)

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

Indian Penal Code

498-A. 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 purposes 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.]

Indian Penal Code

"304-B. Dowry death. -- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

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

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

306. Abetment of suicide.- If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Indian Evidence Act

113-A. Presumption as to abetment of suicide by a married woman.- When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume,

having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

***Explanation.-** For the purposes of this section, "cruelty" shall have the same meaning as in Section 498-A of the Indian Penal Code.*

***"113B. Presumption as to dowry death.** -- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.*

***Explanation.-** For the purposes of this section, dowry death shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860)."*

13. Before advertng to adjudicate upon the above points, I have to take brief resume of oral as well as documentary evidence adduced in this case during trial.

P.W.-8 is the informant-cum-brother of the deceased. According to his evidence, his sister Arti Devi @ Guddi (since deceased) was married with Amar Tiwary (appellant No. 2) in the year 1997. It is alleged that after marriage Arti Devi @ Guddi went to her Sasural and after five days, as per custom, she was brought to her parental home. After staying six months at her parental home, her Gauna ceremony was performed and again Arti Devi went to her matrimonial home, where she stayed about two months and again upon Vidai, she came to her parental home. Then, she disclosed that her husband and mother-in-law were asking for Rs. 20,000/- for expenses of marriage of her sister-in-law. This witness after getting knowledge of above fact went to the matrimonial home of his sister

and said to his brother-in-law Amar Tiwary that you should fix the marriage of your sister and as per capacity, he would extend all assistance. He has further deposed that after six months, his brother-in-law Amar Tiwari came to his house and after taking Vidai, proceeded along with sister of this witness. Thereafter, just after 15 days, on the occasion of Rakcha Bandhan, this witness again went to matrimonial home of his sister, then mother-in-law of his sister complained about her poor cooking and no interest in domestic work. After one month, this witness again got Vidai of his sister and brought to his home and she stayed at her paternal home for about 10 months, again, she disclosed that her mother-in-law, sister-in-law and husband are harassing her for bringing Rs. 20,000/- cash. He has further deposed that thereafter, husband of the deceased came for Vidai of his sister and this witness complained to him about the aforesaid demand and harassment meted with his sister, and then he assured that such type of occurrence would not happen in future and his sister went to matrimonial home along with her husband. He has further deposed that on 13.10.1999, at about 9 PM, Arbind Tiwary, Lakhan Tiwary and Sajjan Tiwary came from Tilodih and told to this witness that Arti Devi @ Guddi is missing. Thereafter, this witness started searching of his sister. After two hours, again, Arbind Tiwary and Mahesh Pandey came on motorcycle and told that no clue of Arti Devi was found. Thereafter, this witness along with other persons went to village Tilodih and saw that there was crowd near a well

situated adjacent to the house of Amar Tiwari (appellant No. 2), where the dead body of his sister was being pulled out from the well by Jaggar (Gal-thorn). He noticed that blood was present on both nostrils of his sister. There was black spot below the eyes and pinna. Thereafter, he lodged written report at the police station, which is marked as Ext.-2/1. This witness has also produced a letter dated 05.10.1999 purported to be written by his sister in her handwriting, just some few days prior to her death, addressed to his father, which is marked as Ex.-3 (with objection).

In his cross-examination, this witness admits that the letter which was produced on that day (ext.-3), was not produced before the Investigating Officer. This letter was given to him by Aniruddh Tiwari. He also admits that there is no mention in his written report about this letter. He has also denied the suggestion of the defence that he has manipulated a fake letter of deceased. There is nothing else to rebut his aforesaid testimony.

P.W.-7 Murlidhar Tiwari is the father of the deceased. According to his evidence also, deceased was married with the appellant No. 2 in the year 1997. He has stated in clear terms that after marriage, his daughter went to her matrimonial home and while, she was residing there, her mother-in-law, sister-in-law were not behaving properly. They were pressurizing his daughter to bring Rs. 20,000/- from her father. He also admits that his Samdhi (father-in-law of the deceased) met this witness in 1998 and asked Rs. 20,000/- for solemnization of

marriage of daughter. Then, this witness assured that if marriage is fixed, he will extend his help. On 14.10.1999, he came to know from his brother-in-law Mahesh Tiwary that his daughter has been killed by her mother-in-law, sister-in-law and husband and her dead body is disposed of in a well. When, he went to visit the place of occurrence, by that time, post-mortem was conducted.

In his cross-examination, this witness admits that he resides in Dhanbad in connection with his service and after marriage, his daughter, on several occasions, visited him at Dhanbad but till the date of death of his daughter, he has made no complain before Police or any authority that his daughter was being subjected to cruelty for demand of dowry. He has denied the suggestion of defence that his daughter was entangled with a Muslim boy and a photo of that boy was found in her Box, hence, due to fear of defamation, she committed suicide.

P.W.-1 Anirudh Tiwary is the cousin brother, who also came to know from the deceased that Rs. 20,000/- has been demanded by her mother-in-law, husband and sister-in-law, for which, she was being subjected to cruelty. This witness has also proved his signature on inquest report which was prepared in presence of this witness which is marked as Ext. 1.

In his cross-examination, he admits that after marriage of deceased, he has never gone to her matrimonial home.

P.W.-2 Arbind Tiwary is the local villager of place of occurrence i.e. Telodih. According to his evidence, about one month prior to the death of the deceased, he came to know from a village lady, wife of Sidheshwar Tiwary that some scuffle was going on in the house of Amar Tiwary and then, he went and saw that mother of Amar Tiwary was assaulting and scolding to her daughter-in-law, when he protested, then he was scolded and threatened to go away. Thereafter, on 13.10.1999, he came to know that wife of Amar Tiwary was missing and on a search, her dead body was found from a well which was pulled out by Jhaggar.

In his cross-examination, he admits that prior to one month of death of the deceased, he never disclosed about the occurrence to anyone, even to the father and brother of the deceased.

P.W.-3 Swarup Pandey is also local villager of place of occurrence. According to this witness, on 13.10.1999, in the evening, he came to know that wife of Amar Tiwary was missing from the house. He communicated this message to parental home of Arti Devi. Thereafter, dead body was brought out from the well. He has also stated that mother-in-law of the deceased was frequently scuffling with the deceased.

P.W.-4 Mahesh Pandey is maternal uncle of the deceased. He has also stated that Arti Devi was being harassed and tortured, just after her marriage for dowry. Her mother-in-law and husband were raising demand of dowry. On 13.10.1999, in the evening, he came to

know that Arti Devi was missing from her matrimonial home. After a search, her dead body was found in the well.

P.W.-5 Ramdhani Pandey is maternal grand-father of the deceased. He has also stated that initially there was everything well after the marriage but later on Rs. 20,000/- were demanded by mother-in-law and father-in-law of his Natini, which could not be fulfilled. Thereafter, Arti Devi was subjected to torture on her matrimonial home and her dead body was found in the well near the house of accused persons.

There is nothing else in his evidence in his cross-examination. This witness has failed to disclose the date and day of the demand of dowry.

P.W.-6 Barun Tiwary. He came to know from Informant Girdhar Tiwary that his sister has been subjected to cruelty and torture and due to non-fulfillment of demand of dowry of Rs. 20,000/-. On 13.10.1999, at about 10 PM, he came to know from villagers that Arti Devi has been killed in her Sasural and her dead body was disposed of in a well. In the next morning, he went to her Sasural and saw the dead body of the deceased brought out from the well.

This witness is scribe of this written report and also signed as a witness which is marked as Ext.-2.

In his cross-examination, this witness admits that he was not present at the time of marriage of the deceased. He has stated what he heard from the informant.

P.W.-9, Dr. B.P. Singh was posted as Civil Asst. Surgeon at Sadar Hospital, Giridih and on that day at 3:30 pm he conducted post mortem examination on the dead body of the deceased and opined that cause of death was asphyxia as a result of drowning. However, the viscera were preserved for chemical analysis, if needed. The P.M. report was in his handwriting and bears his signature marked as Ext. -4.

P.W.-10 Phirangi Tiwary is a home-guard and cousin brother of the deceased. According to his evidence, initially Arti Devi was quite well in her Sasural but he came to know that she has been killed and dead body was found in a well in his presence. This witness has been declared hostile by the prosecution as regards demand of dowry and consequent torture meted to the deceased by the accused persons.

P.W.-11 Bhagwan Mishra and **P.W.-12 Ram Lakhan Tiwary** both have been declared hostile by the prosecution.

14. On the other hand, one witness has been examined by the defence namely **Shankar Tiwary, D.W.-1**. He is a close neighbour of the accused persons. According to him, deceased was quite happy in her Sasural and he has never heard about any cruelty meted to her on account of any demand of dowry.

In his cross-examination, he admits that his statement was not recorded by the police. He does not know whether Police had come to his village after death of the deceased or not. He has also failed to disclose the date of marriage of the deceased.

15. It appears that on the basis of above evidence, the learned trial Court has recorded objective findings that there was demand of Rs. 20,000/- for the purpose of marriage of sister-in-law of the deceased. It is also evident from testimony of informant-cum-brother (P.W.-8) and father (P.W.-7) that his daughter disclosed that her mother-in-law and sister-in-law were demanding Rs. 20,000/- for the purpose of marriage. It is also stated by P.W.-7 and P.W.-8 that they assured the mother-in-law of the deceased that they would extend their help in terms of money when the marriage would be fixed. It appears from the evidence of prosecution witnesses, particularly the informant and some local witnesses (P.W.-2 and P.W.-5) examined in this case that a scuffle used to take place between the deceased and her mother-in-law but what kind of cruel treatment was meted with the deceased has not been proved except the fact disclosed by informant (P.W.-8) in his evidence that when he went to the matrimonial home of his sister on the occasion of Raksha Bandhan, then her mother-in-law complained about her poor quality of cooking and not good behavior with the family members, etc. It is also disclosed that the deceased was not supplied with proper food and clothes. Nothing more than that has been alleged. There is no doubt that the demand of Rs.20,000/- in this case was not directly made with any of the witnesses. It is not also disclosed that in spite of settlement of engagement of sister-in-law of the deceased, no money was given by the informant party, hence torture meted with the

deceased was enhanced at the hands of her mother-in-law or husband.

The learned trial Court has properly considered that the said demand of Rs. 20,000/- does not come within the definition of dowry. Therefore, the provision of Section 304B of the IPC read with Section 113B of the Indian Evidence Act has no application in the facts and circumstances of this case. Accordingly, the appellants were acquitted under Section 304B of the IPC convicting them for the offence under Section 498A of the IPC. It further appears that the learned trial Court after acquitting the accused persons from the charge under Section 304B of the IPC and $\frac{3}{4}$ of the Dowry Prohibition Act proceeded on its whim without dealing with provisions under Section 306 of the IPC and section 113A of the Indian Evidence Act and in absence of charge under Section 306 IPC, convicted and sentenced the accused persons thereunder. The learned trial Court simply observed that the deceased has died due to drowning as per P.M. Report conducted by Dr. B.P. Singh (P.W.-9) and in the suggestion extended to the father of the deceased (P.W.-7) and P.W.-5 that deceased was having a photo of a Muslim boy in her Box which was seen by the accused persons, hence, under same, she might have committed suicide is also cruelty which tends to imputation of adultery against the deceased leading to her suicide. The evidence of cruel treatment and harassment of the deceased has also been proved by the witnesses, hence offence under Section 306

of the IPC read with Section 113B of the Indian Evidence Act is also applicable in this case.

In this regard, the learned trial Court has placed reliance upon a reported judgment of Hon'ble Apex Court in **K. Prema S. Rao & Anr. Vs. Y. Srinivasa Rao & Ors., (2003) 1 East CRC 168** wherein it has been laid down that in absence of charge under Section 306 of the IPC, the Court can convict accused persons with the help of Section 221 and 215 of the Cr.P.C. The learned trial Court further observed that a conjoint reading of Section 306 of the IPC and section 113A of the Indian Evidence Act coupled with the fact that there is evidence on record of cruelty or harassment meted to deceased Arti Devi within seven years of her marriage by the accused persons for a demand of Rs. 20,000/- and may be for some unfounded allegations of adultery. The accused persons have abetted the commission of suicide by the deceased Arti Devi punishable under Section 306 IPC. Accordingly, the learned trial Court passed the conviction and sentence thereunder.

16. It is trite that gravity of offence and severity of punishment imposes an obligation on the Court to appreciate the evidence in threadbare manner so that no injustice is suffered by any of the party. In the instant case, the most important witnesses are P.W.-8 informant-cum-brother of the deceased and father of the deceased (P.W.-7). Other relevant witnesses are hearsay witnesses from above prime witnesses. The local witness P.W.-2 is the only witness who simply

stated about some scuffle and ill-treatment meted with the deceased at the hands of her mother-in-law. The F.I.R. is the earliest version of the informant in which he has disclosed several incidents that he brought his sister to his matrimonial home, after that twice her husband took her on Vidai to her matrimonial home. In not a single word, it is complained that husband was demanding any money, rather, the imputations are only against mother-in-law and sister-in-law.

Similarly, the scuffle, harassment or ill-treatment whichever is meted with the deceased is also stated at the hands of mother-in-law and sister-in-law. The main reason for such treatment is that both above accused persons were demanding Rs. 20,000/- in connection with marriage of sister-in-law of the deceased, who has not been made accused in this case. The prosecution has also not taken any step to implead her as an accused even invoking the provision of Section 319 of the Cr.P.C. It is clear cut evidence of P.W.-8 Informant Girdhar Tiwary that when after staying about six months at her parental home, husband of the deceased came for Vidai of her, then this witness complained as to why his sister is being harassed or tortured for demand of Rs. 20,000/- and he also assured non-repetition of such acts. When P.W.-8 again went to the matrimonial home of his sister on the occasion of Rakcha Bandhan, he assured to mother-in-law of deceased that whenever the marriage of sister-in-

law would be fixed, he would arrange the money for helping in marriage.

Similarly, P.W.-7 who happens to be father of the deceased has also stated that although the marriage of his daughter subsist a very short span of three years and in that period his daughter several times visited Dhanbad at the work place of this witness and complained that Rs. 20,000/- was being asked by her mother-in-law for solemnization of marriage of her daughter. This witness has also admitted that mother-in-law of the deceased never directly asked him any money.

Similarly, P.W.-8 has also not stated that any demand was raised before him by the mother-in-law of the deceased, rather, she complained about bad cooking and improper conduct and behavior of the deceased.

17. In the above factual background, which has been brought on record by the prosecution, the charge under Section 498A of the IPC was framed in following words ; “that on or about 13th of October, 1999, at night, at village Tilayadih, P.S. Deori, Dist. Giridih, after the marriage and before the death of Arti Devi, at the same place, the husband and the mother-in-law of the deceased subjected her to cruelty in various ways mentally and physically by their willful conduct for or in connection with demand of dowry and thereby committed offence under Section 498A of the IPC and within my cognizance.”

18. The above charge admittedly shows that it has been framed under Explanation (b) attached to Section 498A of the IPC which in general terms consist in harassment and coercion of a married woman to meet any unlawful demand of property. Admittedly, in the instant case, the demand of Rs. 20,000/- even for the marriage of sister-in-law cannot be recognized as legal demand, rather, it was unlawful demand for which the victim lady was coerced and harassed at the hands of her mother-in-law and the husband.
19. I have given anxious consideration to the overall factual aspects of the case and the nature of cruelty or harassment as disclosed by the witnesses. It does not appear to be 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 as enunciated in Explanation (a) attached to Section 498A of the IPC.
20. In the case of **Gurjit Singh Vs. State of Punjab, (2020) 14 SCC 264**, the Hon'ble Apex Court has occasion to decide as to whether conviction under Section 306 of the IPC was tenable though charge was only under Section 304-B of the IPC.
21. Now the question that would fall for consideration is as to whether when the prosecution establishes cruelty under Explanation (b) of Section 498A of the IPC and also establishes that the deceased committed suicide within seven years of the marriage, could the accused be also held guilty for the offence punishable under Section

306 of the IPC with the aid of Section 113A of the Indian Evidence Act. It was further observed that to attract the applicability of Section 113A of the Indian Evidence Act, the following conditions are required to be satisfied:

- (i) That the woman has committed suicide;
- (ii) Such suicide has been committed within a period of seven years from the date of her marriage;
- (iii) And the husband or his relatives, who are charged had subjected her to cruelty.

22. On the existence and availability of the aforesaid circumstances, the court may presume that such suicide had been abetted by her husband or by such relatives of her husband. It has been held that the presumption is not mandatory; but only permissive as the words “may presume” suggests. It has further been held that the existence and availability of the aforesaid three circumstances shall not, like a formula, enable the presumption being drawn. It has been held that before a presumption being drawn, the court shall have regard to all other circumstances of the case. The consideration of all the other circumstances of the case may strengthen the presumption or may dictate the conscience of the court to abstain from drawing the presumption. It, thus observed that the expression “the other circumstances of the case” used in Section 113A of the Indian Evidence Act suggests the need to reach a cause and effect

relationship between the cruelty and the suicide for the purpose of raising a presumption.

23. The Hon'ble Apex Court placing reliance upon the reported judgment in **Ramesh Kumar vs State of Chhattisgarh, (2001) 9 SCC 618** and **State of West Bengal Vs. Orilal Jaiswal, (1994) 1 SCC 73** wherein it was held as under: "when a case does not fall under clause secondly or thirdly, it has to be decided with reference to the first clause, i.e., whether the accused has abetted the commission of suicide by intentionally instigating her to do so." Instigation is to goad, urge forward, provoke, incite or encourage to do "an act". Though the court observed that to satisfy the requirement of instigation, it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. However, it has been observed that a reasonable certainty to incite the consequence must be capable of being spelt out. Even if the presumption of Section 113A of the Indian Evidence Act could be drawn, the burden of proof of showing that such an offence has been committed by the accused is on the prosecution. The prosecution has to establish beyond reasonable doubt that the accused had instigated, conspired or intentionally aided so as to drive the wife to commit suicide. It was further observed that *"the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the*

victim had in fact induced her to end her life by committing suicide."

Sections 498A and 306 IPC are independent and constitute different offences. Though, depending on the facts and circumstances of an individual case, subjecting a woman to cruelty may amount to an offence under Section 498A and may also, if a course of conduct amounting to cruelty is established leaving no other option for the woman except to commit suicide, amount to abetment to commit suicide. However, merely because an accused has been held liable to be punished under Section 498A IPC it does not follow that on the same evidence he must also and necessarily be held guilty of having abetted the commission of suicide by the woman concerned. Another aspect that needs consideration is that the cases wherein this Court has held that the conviction under Section 306 of the IPC was tenable though charge was only under Section 304B of the IPC, it was found the charge specifically stated that the deceased was driven to commit suicide on account of cruelty meted out to the deceased.

24. In the instant case, the prosecution is successful in proving the case under Section 498A of the IPC but the prosecution has failed to prove that the cruelty was of such a nature which left no choice to the deceased than to commit suicide. The prosecution has not been in a position to place on record any evidence to establish beyond reasonable doubt that any act or omission of the accused instigated the deceased to commit suicide. There is no material on record to

show that immediately prior to the deceased committing suicide there was a cruelty meted out to the deceased by the accused due to which the deceased had no other option than to commit the suicide. There is no material placed on record to reach a cause and effect relationship between the cruelty and the suicide for the purpose of raising presumption under Section 113A of the Indian Evidence Act.

25. In the above discussions and reasons, I arrive at a definite conclusion that though there is no legal bar in convicting the accused for the offence under Section 306 of the IPC when he was charged only for Section 304B of the IPC and found not guilty hereunder but the basis of cruelty meted with the deceased must be proved of such a degree and extent that the deceased was driven to commit suicide on account of cruelty meted out to her.

26. In the instant case, the charge of cruelty was framed under Explanation (b) appended to Section 498A of the IPC and the factual background of the case does not suggest that the cruelty meted with the deceased was of such a nature that she was driven to commit suicide having no option in the life.

27. At this juncture, Ext.-3 i.e. letter of the deceased proved and relied on by the prosecution itself goes to show that all allegations are leveled against the mother-in-law and sister-in-law of the deceased that she was assaulted and scolded frequently in indecent manner. This letter was written on 05.10.1999 but no apprehension of any kind has been expressed by the victim, rather, she states that now there is no scuffle

and not to worry about her and console her mother. There is no whisper about any ill-treatment or any kind of demand by the husband. It was also brought on record that the family members of the husband have sent message about missing of the deceased from the evening. Thereafter, she managed to end her life by jumping into well and cause of death has also been opined to be drowning. In such circumstances, the conviction of appellants for the offence under Section 306 of the IPC does not appear to be based on sound reasons and the evidence available on record, rather, conviction under Section 498A IPC is justified against both the appellants. Therefore, conviction and sentence of appellants for the offence under Section 306 of the IPC is hereby set aside and the conviction under Section 498A of the IPC is maintained.

28. It appears that the appellant No. 2 has already undergone three years two months imprisonment during trial and post-conviction of the case and sustained the maximum sentence awarded to him. Therefore, he is directed to set at liberty forthwith. So far as appellant No. 1 is concerned, she has been sentenced one year R.I. for the offence under Section 498A of the IPC and already undergone custody for eight months out of one year imprisonment. Hence, sentence of appellant No. 1 is reduced from one year to the imprisonment already undergone for the offence under Section 498A of IPC.

29. This **appeal is partly allowed with modification** in conviction and sentence as stated above.

30. The appellants are on bail, hence, they are discharged from the liabilities of bail bonds. The sureties are also discharged.

31. Pending I.A(s), if any, is also disposed of, accordingly.

32. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 12/06/2026

Basant/-A.F.R.

Uploaded on 12/06/2026