

IN THE HIGH COURT OF JHARKHAND AT RANCHI**Cr. Revision (DB) No. 1103 of 2019**

.....
 Bindeshwari Prasad Rai, aged about 55 years, son of Late Neelkanth Prasad Rai, residence of Dewan Baba Gali, Karanibag, P.O.-Ashram, P.S. Deoghar (T), District -Deoghar.

... .. Petitioner

Versus

1. State of Jharkhand through Deputy Commissioner, Deoghar, P.O. &, P.S.- Deoghar, District - Deoghar.

2. Kunal Kumar Choudhary, son of Sadhan Kumar Choudhary, residence of Village - Gadiya, P.O.- Gadiya, P.S. - Bindapathar, District - Jamtara at present residing of Pratima Sadan, Behind Deoghar Public School, Karanibag, P.O. and P.S.- Kunda, District- Deoghar.

... .. Opp. Parties

with

Cr. Appeal (DB) No. 294 of 2019

Kunal Kumar Choudhary @ Kunal Kumar, aged about 39 years, son of Sri Sadhan Kumar Choudhary, resident of Village + P.O. Geria, P.S. Bindapathar, District Jamtara.

... .. Appellant

Versus

The State of Jharkhand

... .. Respondent

**CORAM: HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
 HON'BLE MR. JUSTICE SANJAY PRASAD**

For the petitioner	: Mr. Jitendra S. Singh, Advocate Mr. Sudhanshu Kr. Deo, Advocate
For the Appellant	: Mrs. Jasvindar Mazumdar,
For the State	: Mr. Tarun Kumar, APP

C.A.V. on 01.05.2026

Pronounced on 09/06/2026

Per Sujit Narayan Prasad J

1. **Cr. Appeal (DB) No. 294 of 2019** has been preferred by the appellant against judgment of conviction dated 05.03.2019 and order of sentence dated 07.03.2019 passed by learned Additional Sessions Judge-II, Deoghar in Sessions Trial Case No. 196 of 2016 arising out of Kunda P.S. Case No. 53 of 2016 corresponding to G.R. Case No. 742 of 2016, whereby and

whereunder, the appellant has been held guilty and convicted for the offence under Section 304B of the I.P.C. and sentenced to undergo rigorous imprisonment for 10 years and fine of Rs.2,00,000/- and in default of payment of fine the appellant has further been directed to undergo S.I. for two years.

2. Cr. Revision No. 1103 of 2019 has been preferred by the informant namely Bindeshwari Prasad Rai of Kunda P.S. Case No. 53 of 2016 for enhancement of sentence of opposite party no.2, i.e., appellant of **Cr. Appeal (DB) No. 294 of 2019**.

3. Both criminal appeal as well as criminal revision are arising out of same impugned judgment of conviction and sentence, hence taken together for hearing and disposal.

Factual Matrix

4. The factual matrix giving rise to this appeal is that the informant Bindeshwari Prasad Rai (P.W.4) has solemnized marriage of his daughter Abha @ Pammi (deceased) with appellant in year 2012 according to Hindu rites and customs. It has been further stated that after few happy days at matrimonial home informant's daughter was subjected to physical and mental torture for not bringing dowry and this fact was being communicated by the deceased (informant's daughter) herself. It is also alleged that a Panchayati was convened to bring good co-ordination between the couple and both the families but the accused persons including the appellant continued to torture the deceased.

5. It is further alleged that on the alleged date of occurrence in the evening the deceased called on mobile and informed that she is being tortured for bringing dowry. At about 9.00 p.m. the informant again received a call from appellant and it was communicated that the condition of the deceased was very precarious and when the informant went to the matrimonial home of the deceased he found her dead body lying on a bed flanked by the appellant and his younger brother and piece of 'Dupatta' was kept by the side of the bed and the accused persons informed that the deceased has committed suicide. It has been alleged that the informant has suspected that the deceased was done to death and colour of suicide was given by hanging the dead body and forging a suicidal note, which was not in the pen of the deceased.

6. On the basis of the written report of the informant, FIR being Kunda P.S. Case No. 53 of 2016 was registered for the offence under Sections 304B/34 of the I.P.C.

7. After completion of investigation, charge sheet was submitted for the aforesaid offences.

8. The learned Judicial Magistrate, after taking cognizance of offence, committed the case to the court of Sessions, where Sessions Trial Case No. 196/2016 was registered. The accused persons pleaded not guilty and claimed to be tried.

9. In course of trial, altogether 12 witnesses were examined by the prosecution. The prosecution witnesses are as follows:

P.W.-1 is Pradip Kumar Rai.

P.W.-2 is Bipin Kumar Rai. He is Mouserai Bhai (cousin) of the deceased.

P.W.-3 is Sushila Devi.

P.W.-4 is Bindeshwari Prasad Rai. He is the informant and father of the deceased.

P.W.-5 is Dr. Shatrughan Singh, who did postmortem of deceased.

P.W.-6 is Mrityunjay Kumar Rai. He has been declared hostile.

P.W.-7 is Madhu Devi. She is the mother of the deceased.

P.W.-8 is Rakesh Kumar Choudhary. He is the Phufera brother (cousin) of the appellant.

P.W.-9 is Krishna Kumar. He has been declared hostile.

P.W.-10 is Kajal Kumar Rai. He has been declared hostile.

P.W.-11 is Asim Kamal Topno. Investigating Officer of this case.

P.W.-12 is Rupesh Kumar.

10. Apart from oral testimony of witnesses, following documentary evidences have been adduced by prosecution:

Exhibits 4 and 4/1 are the account statements of Madhu Devi and Vinod Kumar Sharma respectively in Syndicate Bank.

Exhibit 5 Notes prepared by the deceased Kumari Abha.

Exhibit 6 Postmortem Report.

Exhibit 7 F.I.R.

Exhibit-12 Answer sheet of deceased Kumari Abha sent by Siddhu Kanhu University, Dumka.

Exhibit 1/1 Post Mortem REPORT

Exhibit2/1 SEIZURE LIST

Exhibit3/2 endorsement.

Exhibit 7 Computer generated F.I.R

Exhibit 8 Call details

Exhibit 9 production cum seizure list

Exhibit 10 letter regarding exhibit for articles

Exhibit 11 custody warrant

Article Exhibit 2 dupatta

Identification marks X to X/3, photographs of deceased.

11. On the other hand, the defence examined two witnesses in its defence, namely defence witness number 1 Alok Kumar Singh and defence witness number 2 Naveen Prabhakar, and the following documents were marked as exhibits as documentary evidence:

Exhibit A - Lesson plan prepared by Miss Abha.

Exhibit B and B/ 1 handwriting of pages marked as Q1 and Q2 in the diary of Kunal Kumar Choudhary.

Exhibit C Statement of account of Kumari Abha with Syndicate Bank.

Exhibit D Statement of account of Kunal Kumar Choudhary with Union Bank.

Exhibit E - Statement of loan account of Kunal Kumar Choudhary.

Exhibit F- Printout of messages from Facebook account of deceased.

Exhibit G-CD.

Exhibit H FSL Report (Handwriting of the deceased in the suicidal note has been proved) u/s 293 Cr.PC by the court vide 18.02.2019 with objection from the prosecution side.

12. The trial court after appreciating the evidence available on record and hearing the arguments of the parties, arrived at conclusion that the prosecution has been able to prove beyond all reasonable doubt the foundational facts constituting the offence of dowry death under Section 304B of the I.P.C. against the appellant and sentenced him as stated above.

Submission of the learned Counsel for the appellant

13. The Learned counsel for the appellant assailing the impugned judgment of conviction and sentence of the appellant have submitted that there are general and omnibus allegation about demand of dowry in the shape of vehicle and rupees, and

no specific day, date and time of alleged demand and from whom the demand were made and what type of harassment or cruelty was meted by the deceased at the hands of the accused persons is totally lacking in the evidence of witnesses.

14. It is further submitted that there is no doubt that the deceased died within seven years of her marriage, otherwise than under normal circumstances, but so far other ingredients as to cruelty and torture of the deceased soon before her death on account of or in connection with any demand of dowry has not been proved by any of the witnesses including the informant.

15. It has further been submitted that in the instant case, there was no evidence or allegation that only on account of non-fulfilment of demand of dowry, she was subjected to cruelty and in absence of the same, basic ingredient of section 304B IPC is totally lacking.

16. Further it has been submitted that from perusal of the suicide note, it would be evident that the deceased has not stated anything against the appellant nor has she alleged any torture meted out to her for demand of dowry by her in laws. , therefore on perusal of the suicide note it would be evident that she was not subjected to any torture for demand of dowry soon before her death.

17. It has further been contended that there is no external or internal injury as per the post mortem report on the person of the deceased which can be attributed as ante mortem injury. The

above finding of post-mortem report is indicative of the fact that deceased has committed suicide and its not a case of homicidal death. Furthermore, the cause of death is said to asphyxia as a result of hanging. P. W.5 who conducted post mortem has also stated in para 7 of cross examination that the death is suggestive of suicidal hanging.

18. It has further been submitted that all independent witnesses have turned hostile. (P.W.6, P.W.9, P.W.10) & material contradiction as amongst the interested witnesses. Further, the Prosecution witnesses have admitted the fact that no case for demand of dowry was instituted by the prosecution prior to this occurrence.

19. Referring the aforesaid factual aspects the learned counsel for the appellant has submitted that the learned trial court has miserably failed to consider the above aspect of the matter and lack of evidence regarding Ingredients of offence under Section 304B of the I.P.C., mis-directed himself and committed serious error of law while recording the guilt of the appellant. Therefore, the impugned judgment and order is absolutely perverse, illegal and based beyond the weight of evidence available on record.

20. It has further been submitted that no presumption under Section 113-B of the Evidence Act can be raised against the appellant in absence of proof of foundational facts constituting offence under Section 304B of the I.P.C. Therefore, the impugned judgment of conviction and sentence of the appellants is liable to

be set aside and appellant deserve to be acquitted from the charges levelled against him.

Submission of the learned APP for the State

21. On the other hand, learned A.P.P. appearing for the State has vehemently opposed the contentions raised on behalf of the appellant and defended the impugned judgment of conviction and order of sentence and has submitted that the learned trial court has properly analyzed and appreciated the evidence of witnesses, particularly, mother and father of the deceased. They have categorically proved the demand of dowry from the deceased and due to non-fulfilment of the same, consequent torture and harassment meted with the deceased.

22. It has been contended that from the evidence of P.W. 5 the doctor who has conducted the post mortem the cause of death is mechanical asphyxia due to hanging and the trachea, hyoid bone was found intact which amply suggest that the death has been caused otherwise than under normal circumstances.

23. It has further been submitted that from the inquest report it transpires that the dead body was found lying on the bed and one dupatta having knot on one side was found beside the dead body which amply suggest that the deceased was murdered in her matrimonial home.

24. It has been submitted that the demand of dowry in the form of one car and a sum of ₹50,000 stands established through the testimonies of the prosecution witnesses. Furthermore, it is

an admitted position that the deceased met her death under abnormal circumstances within seven years of marriage. In view of these facts, the learned trial Court finds that all the essential ingredients of Section 304-B of the Indian Penal Code are satisfied and proved against the appellant.

25. It has further been submitted that on the basis of the evidence adduced by the prosecution witnesses, the conviction of the appellant under Section 304-B of the Indian Penal Code has been rightly recorded by the learned Trial Court. Consequently, the impugned judgment does not suffer from any error of law warranting interference in appellate jurisdiction, and the present appeal is liable to be dismissed.

Submission of the learned counsel for the petitioner/revisionist:

26. The learned counsel for the informant/revisionist petitioner has submitted that the learned trial court has not awarded adequate sentence to appellant, which is disproportionate to his guilt and fit to be enhanced to the extent of maximum sentence prescribed under law.

27. It has been submitted that the prosecution also exhibited certain relevant documents in which one document Exhibit -12 answer sheet sent by Sidhu Kanhu University, Dumka of deceased Kumari Abha, and the suicidal note Exhibit -5 different handwriting in suicidal note which was found near the dead body of the deceased (Kumari Abha), this fact was not considered by the trial court while the trial court call for answer sheet of

deceased from the Sidhu Kanhu University, Dumka which are mis-match prima-facie, but the trial court on this point kept mum and in this circumstances it is fit to be enhancement of sentence.

28. It has been contended that in view of facts and circumstances of the instant case, especially in view of the legal provision of the Section 304(B) of I.P.C. the maximum punishment R.I. for life, it would be correct to say that the sentenced passed by learned trial court is without proper appreciation of law and legal provisions and as such the sentence is highly improper and inadequate and for that reason the sentence awarded to the appellant is fit to be enhanced.

Analysis

29. We have heard learned counsel for the parties, perused the material available on record more particularly the testimony of the witnesses and the finding recorded by learned trial Court.

30. This Court, before going into the legality and propriety of the impugned judgment of conviction/sentence, deems it fit and proper to refer the testimony of prosecution witnesses.

31. P.W.1 Pradeep Kumar Rai had stated that the deceased, Abha Devi, was the daughter of his brother-in-law (sadhoo), Bindeshwari Rai(informant) and her marriage was solemnized with Kunal Kumar Chaudhari (appellant herein) on April 24, 2012, in accordance with traditional Hindu rites and customs. The appellant Kunal Chaudhari with his wife, Abha Devi, and his

brother, Kamlesh was resided in a house of mother-in-law and their residence named 'Pratima Sadan falls under the jurisdiction of the Kunda Police Station in Deoghar.

He had further deposed that after marriage, Abha moved to her in-laws' home and she lived there peacefully for approximately three years, during which she also gave birth to a daughter. It has further been deposed that however, following the birth of the girl, her in-laws—specifically Pratima Sharma, her mother-in-law Bela Chaudhary, and her brother-in-law Kamlesh Kumar Chaudhary—began demanding dowry. They demanded ₹50,000 and a car as dowry.

He had deposed that as the bride's family was unable to provide the money and the car, Abha began to be subjected to harassment; she was physically assaulted and verbally abused. He has further deposed that two months prior to the incident in question he (the husband of the sister-in-law), his brother-in-law (Bengali Mistri), and his brother, Vipin Kumar Rai, visited Abha's in-laws' home in an attempt to mediate with in-laws.

This witness had further deposed that at Abha Devi's in-laws' home, they mediated with them by explaining that they have a younger daughter and asking them to allow them to arrange her marriage first; only after that, they assured them, that they would consider their demands and make every effort to fulfill them.

It has further been stated that the harassment of Abha Devi by her in-laws and their family members continued unabated and he along with other family members were occupied with preparations for the wedding of Abha's younger sister, and consequently, their attention had been somewhat diverted from situation of Abha Devi (deceased). He had further deposed that on the night of May 16, 2016, at 9:30 PM, he received a phone call from *Sadhu* Bindeshwari Prasad Rai informing him that his daughter, Abha, had passed away, thereafter this witnesses immediately rushed there and upon arrival, they found Abha lying on a bed, and visible injury marks on her neck suggested that she had been strangled.

This witness had further stated that they informed the police; the police arrived and prepared an inquest report. The police recorded the statement of his brother-in-law, Bindeshwari Prasad. He had further deposed that the deceased, Abha, had continued her studies even after her marriage and she had appeared for her M.Sc. Part I examinations just one week prior to her death. She was a student at DIPSER College.

32. In his Cross Examination this witness had stated that at the time of marriage, Abha (deceased) was studying in the I.S.C. (Intermediate Science) program and while residing at her matrimonial home, she completed her undergraduate degree, enrolled in a B.Ed. program, and appeared for the M.Sc. Part I examinations. This witness had further stated that he does not

know whether Abha's husband, Kunal (appellant), bore all the expenses related to her education and he has also no idea that whether Abha's husband purchased a scooter for Abha to commute her from home to college.

He had further stated that Abha's father, Bindeshwari Prasad Rai, works at the Deoghar branch of Syndicate Bank and he had no idea whether the deceased, Abha, held a joint locker with her father at Syndicate Bank.

He had further stated that the police also recovered a suicide note from the crime scene; however, he suspect that the handwriting on that suicide note was not Abha's. He had further stated that no demand for dowry was ever made directly to him but a demand for dowry was, however, made in his presence.

He had further deposed that Pratima Sharma owns two houses in Deoghar. Kunal Chaudhary resided with his family in the house where Abha's death occurred but he did not recall whether there were any tenants living in that house at the time. Pratima Sharma lived in her other house with her own children, although she frequently visited the house where the incident took place. He had further stated that Kunal's mother, Beri Chaudhary, resided at Pratima Sadan at the time of the incident.

He had deposed that prior to this case; they had not lodged any complaint or provided any information regarding Abha being subjected to harassment or demands for dowry by her in-laws. In the cross-examination he further stated that he

is unable to recall the specific day, date, or month—two months prior to the incident—when they went to Abha's Matrimonial house to mediate and reason with her in-laws.

He had further stated that his statement was recorded at the police station in the presence of the Sub-Inspector but he did not recall how many days after Aabha's death his statement was recorded. He had further stated that in his statement to the police, he had mentioned that Aabha was subjected to verbal abuse and physical assault, however, he did not state to the police that—two months prior to the incident his brother-in-law, his wife, Vipin Rai, and he had visited Aabha's home in Karnibagh. Nor did he stated to the police that, during the attempt to mediate, they had suggested to the in-laws of Abha's that they should allow her to get married of the younger daughter of the informant first, after which they would reconsider the matter.

He had further deposed that it is not true that, following Aabha's death, his brother-in-law Bindeshwari Rai (informant, father of deceased) and he demanded a reimbursement of the expenses incurred wedding of Abha and that they filed this false case solely because the money was not repaid. He had further stated that furthermore, it is not true that Aabha's father withdrew the valuable jewelry and belongings stored in her joint bank locker.

33. P.W.2, Bipin Kumar Rai is the uncle of deceased Kumari Abha. He had deposed that the deceased, Kumari Abha alias Pampi, was the daughter of his elder brother, Bindeshwari Prasad Rai. Her marriage was solemnized on April 24, 2012, in accordance with Hindu rites and rituals, with Kunal Kumar Chaudhary currently residing at Pratima Sadan, Karnibagh, Deoghar. After the marriage, his niece Pampi went to her in-laws' village, Garhiya. After staying there for approximately one week, she began residing at her in-laws' home—Pratima Sadan, Deoghar—along with her husband and other family members.

34. He had further stated that for a few days, everything proceeded smoothly. Then, about a year later, he suddenly received a phone call from his brother, Bindeshwari Prasad Rai, at his home in Ghodparas—located 12 kilometres from Deoghar that Pampi was being subjected to severe harassment over dowry demands and urged them to come there, so they could go together to speak with the in-laws of Abha (deceased). Consequently, he accompanied his brother to 'Pratima Sadan' in Deoghar, where Kunal Chaudhary, Amresh Chaudhary, Beli Chaudhary, Vinod Sharma, and Pratima Sharma were present. They then confronted them regarding the phone call from Pampi, asking why they were harassing her. They all replied that they required a four-wheeled vehicle and fifty thousand rupees in cash as dowry, stating that only then would they allow Pampi to live in peace.

He had further deposed that they pleaded with in-laws explaining that they were financially unable to meet such demands and the demands for dowry were made specifically by Vinod Sharma, Pratima Sharma, Kunal Chaudhary, Kamlesh Chaudhary, and Beli Chaudhary. He had further stated that they tried utmost to mediate with them, but they remained adamant and refused to listen, insisting that they wanted the dowry. Subsequently, they met with Pampi, she told them, *"Please provide them with the car and the fifty thousand rupees as dowry; otherwise, they will never let me live in peace."*

He had further deposed that later, when they once again attempted to mediate with the accused, they proposed a compromise that until they could provide the fifty thousand rupees and the car, they should at least provide an air cooler and a Godrej almirah. This witness had further stated that fifteen days later, they delivered a Godrej almirah and an air cooler to Pratima Sadan and consequently, things remained relatively calm for a few days thereafter; accused persons soon resumed harassing Abha over their demands. Subsequently, in the year 2015, a daughter was born to Abha. Following the birth of the daughter, the harassment inflicted upon her by the family members intensified even further. On several occasions, they attempted to mediate with the accused, but they remained unyielding.

This witness had further deposed that Pammi (deceased) used to tell them that all accused including the appellant Kunal Chaudhary would physically assault her and even deprive her of food and water. He had further deposed that even two months prior to Pammi's death, they had visited Pammi's residence—'Pratima Sadan'—in an attempt to reach a reconciliation. They pleaded with them, explaining that Pammi's younger sister was about to get married therefore they requested that they allow the wedding to take place, after which they would hand over the vehicle and the money which has been demanded.

He had further deposed that they brought Pammi back to their home because she had to appear for her M.Sc. examinations. Subsequently, on May 9, 2016, Kunal Chaudhary (appellant) arrived and took Pammi back to his home, Pratima Sadan. Thereafter, on May 16, 2016, his brother, Bindeshwari Rai, called me on the phone and informed him that Pammi had told him that all of them were jointly assaulting her that very day, demanding that she summon her father and compel him to provide the vehicle and the money.

He had further stated that his brother Bindeshwari Rai conveyed this information to him. Upon receiving this news, they were preparing to leave for Pammi's house. Just then, my brother called again to inform us that Pammi was in a critical condition and that everyone needed to rush there immediately. He then returned to Deoghar and met with his brother and his brother

informed him that Pammi had passed away. They rushed in a panic to Pratima Sadan. Upon arriving there, they found Abha lying dead on the bed and all the members of her in-laws' family were present at the house and has claimed that Pammi had committed suicide by hanging herself from the ceiling fan.

He had further deposed that they informed the police and police arrived at the scene. The police prepared a Panchnama, which has been signed by this witness, marked as Exhibit-1. Furthermore, the police recovered a knotted dupatta (scarf) lying on the bed, as well as a diary containing writing on two pages; however, the handwriting in the diary was not Pammi's. The Sub-Inspector prepared the seizure memo, whereupon he had put his signature marked as Exhibit-2. This witness had deposed that the accused murdered Pammi for the sake of dowry and staged it to appear as a suicide.

35. In his cross-examination he had further deposed that he does not recall the specific date on which he spoke with his brother and prior to this case they had not lodged any complaint with the police at any station regarding demands for dowry or harassment.

He had deposed that he does not recall the exact date when his niece arrived at his place to take her examinations, but the date of her departure was May 9, 2016. She stayed at his house for approximately one and a half months during the examination period. His niece (deceased) used to reside

continuously at my house located in Karani Bagh and completed her B.Ed. from DIPSER College, Deoghar.

He had further deposed that he is unaware of whether any bank account was opened in his niece's name after her marriage and he had also no idea that whether the tuition fees for his niece's B.Ed. course were paid by his son-in-law. He had further deposed that he is unaware of whether a joint bank account or a locker was opened in the names of his elder brother, Bindeshwari Prasad Rai, and his niece.

He had further deposed that his statement was recorded in the presence of the Sub-Inspector and he stated to the Sub-Inspector that, even two months prior to Pammi's death, they had visited Pammi's home—'Pratima Sadan'—in an attempt to reach a settlement and they had brought Pammi to their home because she had to appear for her M.Sc. examinations. Subsequently, on May 9, 2016, Kunal Chaudhary arrived and took Pammi back to his residence, 'Pratima Sadan'. Thereafter, on May 16, 2016, his brother, Bindeshwari Rai, called him on the phone and conveyed that Pammi had told him that all accused persons including the appellant were collectively physically assaulting her that day, demanding that she summon her father and ensure the delivery of the car and the money.

He had deposed that he is in possession of samples of Pammi's handwriting. However, he did not hand over any

documents related to Pammi's handwriting to the investigating officer.

He had further deposed that it is not the case that the accusation of dowry-related murder they have levelled against the accused is false. It is also not the case that, following the death of Kumari Abha, they were demanding a substantial sum of money from the accused/appellant, and they filed this case solely because appellant failed to pay that amount.

36. P.W.3, Sushila Devi has deposed that the deceased, Abha Kumari (alias Pammi), was the daughter of her sister, Madhuri Devi. Her marriage to Kunal Chaudhary was solemnized on April 24, 2012, in accordance with Hindu rites and rituals. Following the wedding, Abha Kumari moved to her matrimonial home in Gadiya. After staying there for a few days, she travelled from Gadiya to Deoghar and took up residence in the house of Pratima Sharma, who was Kunal Chaudhary's paternal aunt. Kunal Chaudhary, Kamlesh Chaudhary, Beli Chaudhary, Sadhan Chaudhary, and Rakesh all resided in that same house alongside Abha. Pratima Sharma and her husband used to visit Kunal Chaudhary's residence on a daily basis.

She had further deposed that everything remained normal for a period of one year; thereafter, Abha began disclosing them that demands were being made for a sum of fifty thousand rupees and a car. The individuals making these demands were Kunal Chaudhary and other accused persons and as informant's family

were financially unable to provide the fifty thousand rupees and the vehicle, these demands could not be fulfilled therefore deceased was subjected to physical abuse by hand of Kunal Chaudhary, along with other accused.

She had further stated that they had even visited appellant's home and attempted to reach a compromise. However, after a brief period of normalcy, their behaviour would revert to its previous abusive pattern. She had further stated that on May 16, 2016, Bindeshwari Prasad Rai telephoned his husband to inform him that Abha had been murdered. Upon receiving this information, and within half an hour, they first proceeded to Bindeshwari Prasad Rai's residence; subsequently, they all went together to the specific residence of Kunal Chaudhary i.e. the house belonging to Pratima Sharma where they had been living.

She had further deposed that upon arriving at the place of occurrence, she had observed that the deceased's body lying on the ground, bearing visible injury marks on the neck. The fingers of her right hand were curled, while the fingers of her left hand remained straight. When she changed her clothes to prepare her for cremation, she found injury marks all over her body. The police arrived at the scene, completed the necessary paperwork for Abha's body, and sent it for a post-mortem examination.

In cross-examination she had stated that she is an Anganwadi worker and his center is located in Raydih. She had testified that she cannot state whether Kunal Chaudhary(appellant) resided in Pratima Sharma's house as a tenant or in what other capacity he lived there.

She had further deposed that in his presence, a demand for fifty thousand rupees and a car was made by Kunal Chaudhary and other accused persons. she cannot specify the exact date on which this demand for money and a car was made. At the time when the money and car were demanded, the following individuals were present at Pratima Sharma's house: herself, her brother-in-law Bindeshwari Prasad Rai, Madhuri Devi, Pradip Kumar Rai, and her brother-in-law's brother, Vipin Prasad Rai.

She had further deposed that they did not lodge any formal complaint anywhere regarding the demands for money and a car. At the time of the wedding, Abha was pursuing her B.Sc. degree. At the time of her death, Abha was pursuing her M.Sc. Having completed her B.Sc. after her marriage, she had also gone on to complete her B.Ed. She pursued her B.Ed. studies at DIPSER College, Deoghar. She had further deposed that she cannot state what expenses were incurred regarding Abha's admission to the B.Ed. program or the cost of her studies. She is not aware whether the expenses for Abha's B.Ed. education were borne by her husband or by someone else.

She had further deposed that she is also unaware of the existence of a joint account at Syndicate Bank held in Abha's name along with her father, Bindeshwari Prasad Rai.

She had further deposed that the police seized a dupatta (scarf) from the scene of the incident; that dupatta had a double knot tied in it. A mobile phone and a piece of paper were also seized. Something was written on that piece of paper. The Sub-Inspector also recorded her statement. She had deposed that she stated before the police that, on May 16, 2016, Bindeshwari Rai informed her husband over the phone that Abha had been murdered. She had further stated to the police that the fingers on the deceased's right hand were curled, while the fingers on her left hand were straight. She also mentioned to the police that when she began to change Abha's clothes, she observed injury marks all over her body.

She had further testified that she has not aware of any situation in which Abha's father allegedly retained a significant amount of her money and jewellery, thereby causing her great distress.

37. PW.4 informant, has deposed that the deceased, Abha alias Pammi, was his eldest daughter. Her marriage was solemnized on April 24, 2012, with Kunal Kumar Chaudhary in accordance with Hindu rites and rituals. After the wedding, his daughter went to her matrimonial home in Gadhiya. She stayed there for one week. Subsequently, his daughter, along with all

members of her in-laws' family, moved to "Pratima Sadan" (also known as Pratima Niwas), located behind Deoghar Public School in the Karnibagh locality, under the jurisdiction of Kunda Police Station.

He had further testified that his daughter lived there peacefully for approximately one year. After this one-year period, Kunal Kumar Chaudhary, along with her brother-in-law Kamlesh Chaudhary, her mother-in-law Beli Chaudhary, her paternal-aunt-in-law (*Phuphiya Sasur*) Vinod Kumar Sharma, and her paternal-aunt-in-law (*Phuphiya Sas*) Pratima Sharma all began to harass his daughter for dowry. They demanded a four-wheeled vehicle and a sum of ₹50,000 as dowry.

He had deposed that his daughter informed him about this matter. Upon receiving this information, this witness along with his relative visited Pratima Sadan and attempted to settlement with them and accordingly pleaded with them to allow them to first arrange for the marriage of younger daughter, after which they would endeavor to fulfil their demands. He had further deposed that following their intervention, the accused persons behaved properly for a few days, however, they soon resumed physically assaulting his daughter and began withholding food and water from her.

This witness had deposed that his daughter used to convey these details to him over the telephone. Upon receiving such information, they would visit the residence and attempt to

reason/mediate with them, but they remained unyielding. On May 16, 2016, sometime before 7:00 PM, his daughter telephoned me and stated that she had been physically assaulted that day by Kunal Kumar Chaudhary, Kamlesh Chaudhary, Pratima Sharma, Beli Chaudhary, and Vinod Kumar Sharma over the issue of dowry.

He had further testified that a girl baby was born to his daughter on January 22, 2015 and the harassment inflicted by those individuals intensified. On or about May 16, 2016, shortly after 9:00 PM, the accused, Kunal Kumar Chaudhary, telephoned him to inform that he should come immediately, as his daughter had fallen ill. Upon receiving this information, he notified his family members and close relatives, urging them to come at once. When they arrived there together, they discovered that his daughter's lifeless body lying on the bed.

There were marks of injury on her neck. The deceased's body was wrapped in a bedsheet on all sides. Kunal Kumar Chaudhary was seated near the head of the deceased, while Kamlesh was seated near her feet. Upon arrival, they suggested that they take her for medical treatment; however, they replied, "*Do not get emotional; she has already passed away.*"

He has further deposed that when they inquired about the cause of daughter's death by referring that he had spoken to her as recently as 7:00 PM that evening—Kunal Kumar

Chaudhary claimed that she had committed suicide by hanging herself from the ceiling fan.

He had deposed that the fan in the room was still running. Furthermore, there were no signs of tampering with the door. The knot in the dupatta was a simple knot, not the specific type of knot typically associated with suicide. He had further testified that Kamlesh Kumar Chaudhary then produced a diary, showed it to them, and asserted that the suicide note contained therein had been written by his daughter, however, it was not written by his daughter. Two different pens were used to write the said suicide note, and the handwriting also appeared to be of two distinct styles. He had stated that he recognizes his daughter's handwriting; this handwriting is not hers.

This witness had further deposed that acting upon this information, the police arrived at the scene. They prepared the necessary documentation regarding the body and subsequently transported it away for a post-mortem examination. They also seized the diary and a dupatta (scarf) from the premises.

He had further testified that on May 17, 2016, he submitted a written complaint at the police station and his cousin, Ashok Kumar Chaudhary, drafted the application exactly as he dictated it. Having verified its accuracy, he affixed his signature to it. The said written application has been marked as Exhibit-3, and the signature has been marked as Exhibit-3/1. He had further testified that the post-mortem examination of the deceased's

body was conducted on the morning of May 17, 2016. Following the post-mortem, all members of the deceased's in-laws' family absconded and he performed the cremation rites for the deceased. In accordance with Hindu customs and rituals, the deceased's husband, Kunal Kumar, was brought from police custody to perform the *Mukhagni* and he performed this rite while remaining in police custody.

He had testified that prior to the wedding, he had deposited a sum of ₹7,50,000 into the joint bank account held by Vinod Kumar Sharma and Pratima Sharma to cover wedding expenses; additionally, he transferred ₹5,35,000 via RTGS into the bank account of Kunal Kumar Chaudhary's father. In connection with these financial transactions, he has furnished to the Court the relevant bank account statements issued by the Syndicate Bank, Deoghar Branch. These statements are computer-generated documents; they bear the initials of a competent bank official as well as the official bank seal, marked as Exhibits 4 and 4/1.

He had further stated that at the time of his daughter's marriage, his daughter was a student in the third year (Part 3) of her B.Sc. program and after completing her B.Sc. degree, she went on to pass her B.Ed. examination. This witness had furnished to the Court certain academic papers which are written in his daughter's own handwriting.

He had further testified that at the cremation ground, they observed that the deceased had injuries on her back; the fingers

of her right hand were curled, while her left hand was straight. There was a mark of injury near her left ear, as well as an injury mark on her neck. Therefore, they fully convinced that his daughter was murdered by the accused over a dowry dispute.

38. In his cross examination he had stated that he is unable to specify the exact dates on which he transferred the sum of ₹7.5 lakhs to Vinod Kumar Sharma for the purpose of marriage of his daughter. He had further testified that on February 8, 2012, he transferred a sum of ₹2.25 lakhs to Vinod Kumar Sharma's account. However, this was not the first time he had sent him money; it was, in fact, the second instance. The first time, he had given him ₹4 lakhs—likely during the month of November—though I do not recall the exact date. He also provided funds a third time; while he does not have a precise recollection of the exact amount given on that occasion, the total sum provided across all instances amounted to ₹7.5 lakhs.

He had further testified that he has submitted the bank statement for the joint account held by Madhu Devi and himself to the Court. As reflected in the said statement, a sum of ₹3.85 lakhs was deposited into that account on March 20, 2012. He had testified that he had deposited this money after borrowing it from his relatives, as it was required to cover wedding expenses and it is incorrect to claim that Vinod Kumar Sharma returned the sum of ₹7.5 lakhs that he had given to him. He had further stated that it is not the case that Vinod Kumar Sharma had taken

that amount from him as a loan for the purpose of constructing a house, nor is it true that, once his home loan was sanctioned, he repaid that money to him in instalments on various dates.

He has further testified that it is absolutely true that he deposited a total of ₹5,35,000—in two separate transactions—into the bank account of Kunal Kumar's father. He had further testified that he cannot specify the exact date on which the demand for a four-wheeled vehicle and ₹50,000 was made following the wedding; such demands were made on multiple occasions. The mobile number on which his daughter used to inform him about these demands for dowry is 94xxxxxx46. He does not recall the specific number from which his daughter used to call him; however, it is saved in his mobile phone and he can provide that number with the Court's permission.

He has further testified that in his statement to the police, he had mentioned that his daughter used to call and tell him that her in-laws were harassing her for dowry—specifically demanding a four-wheeled vehicle and ₹50,000. He has further testified that on May 16, 2016, a phone call was received on his younger daughter's mobile phone. On that same date—May 16, 2016 he did not receive any phone call from his deceased daughter on his own mobile phone.

He had testified that his daughter was married in the year 2012, and she passed away in the year 2016. During these four years, he had not submitted any written complaint anywhere

concerning the harassment his daughter was subjected to; however, he did attempt to resolve the matter through persuasion and mediation at a social level.

He further testified that his daughter held a joint locker with him at his bank branch, which he had opened at the behest of his daughter and son-in-law. Since no security deposit is required for bank employees, the locker's annual rent is debited directly from his account.

He had testified that he is not aware of whether husband of his daughter purchased a scooter for her daughter to commute to and from her college. He had deposed that he had stated before the police that the harassment inflicted upon his daughter intensified significantly following the birth of her female child. He also stated to the police that the deceased's body was wrapped on all sides in a bedsheet. Furthermore, he informed the police that the ceiling fan in the room was operational, that there were no signs of tampering with the door, and that the knot of the dupatta was not a typical "suicidal knot."

He further testified that he had stated to the police that Kamlesh Kumar Chaudhary arrived carrying a diary; displaying it to him and claimed that the suicide note contained therein had been written by daughter of this witness. This witness had stated to the police that two different pens had been used to write the said suicide note, and that the handwriting appeared to be of two distinct types. He had further testified that he is not aware that

samples of his daughter's handwriting are available at her B.Ed. college. Her handwriting samples were subjected to forensic analysis at the FSL (Forensic Science Laboratory), and the handwriting in the suicide note was found to match that of the deceased. It is his contention that the FSL report is erroneous, as the handwriting in the suicide note was compared against a document that had been fabricated by the accused persons. Specifically, the handwriting in the suicide note was compared against a "Lesson Plan"—a type of assignment that students typically write at home and subsequently submit.

39. P.W.5 doctor has deposed that on 17-05-2016 a board of doctors have been constituted. 1. Satrudhan Singh, 2. Dr. C.K Shahi, 3. Dr. Prabhat Ranjan were the members of the board. By this board postmortem of the dead body of Kumari Abha, W/O- Kunal Kumar Chaudhary, R/O- Pratima Niwas, Behind Deoghar Public School, Karnibagh, P.S- Kunda, Distt- Deoghar have been conducted on 17-05-2016 at 10:30 A.M. The dead body was brought by choukidar Prahalad Turi and Kamdeo Mirdha and found the following-

External Findings-

Mouth slightly opened, Rigor mortis present in all four, limbs, Teeth were clenched, Left eye open and right eye closed. An Oblique incomplete ligature mark was present above thyroid cartilage. From below ear lobe to left occiput about 1.5 cm in

width. The base is pale, hard and Parchent like. Slight bleeding from nose was present.

Internal Findings -

Subcutaneous tissue under ligature mark was hard and glistening. Larynx, trachea was intact hyoid bone. Mucosa of trachea was congested. Lungs, liver, spleen were congested. Brain and meninges were congested. Stomach contained small amount of undigested food particles. Intestine contained gaseous and fecal material. Urinary bladder was empty. Uterus was non gravid. Right chamber of heart contained blood while left chamber was empty.

Cause of death- Most probable cause of death was mechanical asphyxia due to hanging.

40. This witness had testified that the P.M report was prepared by him and bears his signature in presence of all board members. Signature of other board members Dr. C.K. Sahi, Dr. Prabhat Ranjan also signed in P.M. Report. This P.M. Report marked as Ext. 6. in cross examination this witness had stated that as per his finding death appears to be of suicide as he did not find any external injury on the person of dead body.

41. P.W.6, 9 and 10 has been declared hostile

42. P.W.7 is mother of the deceased. She had deposed that the deceased, Kumari Abha alias Pammi, was my eldest daughter. Her marriage was solemnized on April 24, 2012, in accordance with Hindu rites and rituals, with Kunal Kumar Chaudhary. They resided at Karnibagh, under Police Station

Kunda, District Deoghar. After the wedding, her daughter went to her matrimonial home in Gadhiya, District Jamtara and after staying there for approximately one week, the entire family relocated to Pratima Sadan at Karnibagh in Deoghar.

She had further testified that for approximately one year, her daughter lived there peacefully and in the year 2015, a baby girl was born to her daughter and thereafter her daughter's husband Kunal Chaudhary (appellant herein) along with other accused persons who all were acting in concert—began demanding a four-wheeled vehicle and fifty thousand rupees in cash from her daughter as dowry. She had further deposed that her daughter informed her about this matter and after receiving this information, they visited their daughter's home, reasoned with her in-laws, and assured them that they would make every effort to fulfilled their demands once their younger daughter's marriage had taken place. However, her in-laws continued to physically assault and harass her daughter. She had testified that her daughter would often tell her, *"If you do not fulfill their demands for dowry, these people will kill me."*

She had further testified that on May 16, 2016, sometime before 7:00 PM, her daughter called home and reported that, once again, her husband Kunal Chaudhary, along with other accused persons were physically assaulting her over dowry demands, then she offered words of comfort to her daughter.

She had further testified that at approximately 9:00 PM, her son-in-law, Kunal Kumar Chaudhary, called her husband to inform him that Aabha was in a critical condition and urged him to come immediately. Subsequently, accompanied by her husband and other family members, she rushed to her daughter's in-laws' residence, "Pratima Sadan." She had testified that upon her arrival, she discovered her daughter lying dead on a bed in the room, wrapped in a bedsheet. Kunal Kumar Chaudhary (appellant herein) was seated near her head, while his brother, Kamlesh Kumar Chaudhary, sat near her feet.

She had deposed that upon examining her daughter, she noticed injury marks on her neck; the fingers of her right hand were curled inward, while her left arm lay straight and when questioned regarding the circumstances of her death, Kunal Kumar Chaudhary claimed that Aabha had committed suicide by hanging herself. She had testified that a dupatta (scarf)—which appeared to have been cut was lying nearby; the accused persons asserted that she had used this very dupatta to hang herself and her son-in-law then produced a diary, claiming it contained a suicide note written by her daughter.

She had testified that after observing her daughter's body, it became abundantly clear to her that, driven by their demands for dowry, her daughter's in-laws had murdered her and subsequently hung her body from the ceiling fan in an attempt to stage the incident as a suicide.

43. In cross examination she had stated that her son-in-law, Kunal Kumar Chaudhary, was a clerk at Union Bank and residing in Deoghar following the marriage and at the time of the marriage, Aabha's educational status was that she was pursuing her B.Sc. Part-III studies and after the marriage, Aabha completed her B.Sc. course and subsequently finished her B.Ed. studies. Aabha had also appeared for the M.Sc. Part-I examination, in which she secured First Class marks. She had further testified that Aabha did not ride a scooter and this witness is not aware if any scooter was purchased in her name.

She had testified that she cannot recall the specific day, date, or month when the demand for fifty thousand rupees and a four-wheeled vehicle was first made. She had deposed that on the evening of May 16, 2016, sometime before 7:00 PM, a call was received on her younger daughter's mobile phone (number: 950xxxxxx2); and the mobile phone belonging to her younger daughter on which the call was received was handed over to the Investigating Officer (Daroga-ji) in connection with the investigation. The Investigating Officer did not record the statement of my younger daughter. She had further stated that they did not provide any information regarding the demands for dowry to any police station, court, or other official authority.

She had testified that she actually stated to the police that the house situated at her daughter's matrimonial home—known as 'Pratima Sadan'—belongs to her daughter's paternal aunt,

Pratima Sharma; furthermore, Pratima Sharma also operates a lodging facility adjacent to the house, as a result of which she frequently stayed there and asserted her claim over all the belongings and affairs within the premises.

She had further testified that the suicide note found near the deceased's body was seized by the police. She had testified she had stated before the police that, upon receiving information regarding a demand for fifty thousand rupees and a four-wheeled vehicle, she along with others visited her daughter's home and reasoned with her in-laws, assuring them that their demands would be fulfilled once younger daughter's marriage had taken place.

She had deposed that she did not witness the actual incident with her own eyes but it is not the case that, following Abha's death, they demanded a substantial sum of money from their son-in-law in the name of marriage expenses, and since demand was not met, therefore the instant case has been instituted.

44. P.W.8 is the cousin of the deceased. He had deposed that Kunal was married to Abha Kumari on April 24, 2012 and thereafter her brother and sister-in-law(deceased) resided at Pratima Niwas, Deoghar. He had further testified that he along with his brother Kunal, sister-in-law Abha (deceased), Kamlesh Chaudhary, his aunt Beli Chaudhary, all lived together. He had further testified that two years after the marriage, his sister-in-

law gave birth to a daughter, whom they named Ananya. He had further testified that the alleged incident occurred on May 16, 2016 and on that his sister-in-law (deceased) committed suicide by hanging herself from a ceiling fan. The reason behind this suicide was that, on the aforementioned date, it was the birthday of Pratima Sharma's son, and our entire family had been invited to the celebration and his brother, Kunal Chaudhary, wanted to take his wife and child to the event, but Abha Kumari did not wish to go. Kunal Chaudhary took his daughter along and left for the birthday celebration, while Abha Kumari and this witness remained at home and when his brother left, he went to his room to study, and his sister-in-law (deceased) went into another room and latched the door from the inside and sometime later, when his brother returned, he opened the main door upon hearing the sound of car horn.

He had testified that upon entering his sister-in-law's room, his brother discovered that his wife was hanging from the ceiling fan; he immediately screamed loudly and hearing his cries, this witness rushed to the scene as well.

He had testified that the door to his sister-in-law's (deceased) room was open and he saw that she was hanging from the fan. Attracted by the sound of our screaming, neighbours from the surrounding area gathered at the house. She had further stated that he along with Kunal, Kamlesh, one or two neighbours, and unfastened his sister-in-law's body and

brought it down from the fan. After examining her, the neighbours confirmed that she was no longer alive and had passed away. After that, his brother called his father-in-law and told him everything.

45. P.W.11 is the investigating officer. He had deposed that on May 16, 2016, he was posted as Station House Officer at Kunda Police Station. On the night of May 16, 2016, after receiving a telephone call regarding a woman who had hanged herself in Karnibag, he along with Sub-Inspector Jaiprakash Pandey and other police personnel reached at the place of occurrence, i.e. Pratima Sadan, Karnibag, and prepared an inquest report for the deceased, Kumari Abha alias Pammi, wife of Kunal Kumar Chaudhary. He had testified that a diary containing a suicide note was recovered near the deceased's body, along with a dupatta with a knot. Both were seized after a proper seizure list was prepared. The deceased's family members were unable to give their statements at the time, so their statements could not be taken. Due to the nighttime nature of the deceased's body, the body could not be transported to Sadar Hospital and an autopsy was conducted in the morning.

He had stated that the inquest report, which bears his handwriting and signature, prepared in carbon copies along with the original. It bears the signatures of two independent witnesses, Sanjay Kumar Rai and Vipin Kumar Rai. He

recognizes the entire handwriting and signature which has been marked as Exhibit 1/1.

He had further testified that the seizure list in his handwriting and signature which bears the signatures of two independent witnesses Sanjay Kumar Rai and Vipin Kumar Rai and he identified the handwriting and signatures on the seizure list, marked as Exhibit 2/1.

46. He had further stated that on May 17, 2016, Bindeshwari Prasad Rai submitted a written application to the police station and based on this, Kunda Police Station registered Case No. 53/2016 and assumed the responsibility of the investigation. This endorsement on the written application is in his writing and signature marked it as Exhibit 3/2. This formal FIR is computer-generated, in his handwriting and recognize it marked as Exhibit-7.

After assuming charge of the investigation, the informant's statement was recorded again. The witness Madhu Devi's statement was taken. She corroborated the incident. The scene of the incident was inspected. The scene of the incident is Pratima Sadan, the residence of the accused, located in Karnibag, it is a five-room concrete house with a main gate facing east. The main door has a large iron gate. Upon entering the main door, there is a wooden door on the south side, leading into a hall. Moving south from this hall, there is a room to the west, with a wooden bed in the north-west corner, on which a mace is

placed. The room contains a Godrej cupboard, a wardrobe, a dressing table, and children's toys. Books are kept on the table. There is a ceiling fan in the room. The plaintiff states that the deceased, Kumari Abha, lived in this room and that on the day and time of the incident, the accused conspired to harass her for dowry, then murdered her, and then hanged her from the ceiling fan to make it look like a suicide.

He had further testified that the statement of witness Vipin Kumar Rai was taken. He supported the incident. Accused Kunal Kumar Chaudhary was arrested. His defense statement was taken. Statements of witnesses Mrityunjay Rai, Kajal Kumar Rai, and Krishna Kumar were taken. All supported the incident. The post-mortem report was obtained by going to Sadar Hospital, Deoghar.

He had deposed that he had submitted an application to the Superintendent of Police, Deoghar, for the call details of accused Kunal Kumar Choudhary's mobile numbers 99xxxxxxxx99 and 72xxxxxxxx80, and the deceased Kumari Ama's mobile numbers 809xxxxxx6 and 9xxxxxxxx0. These are the same call details that I received from the Superintendent of Police, Deoghar, via letter number 193/Technical Branch, dated 30 May 2016. The Technical Branch's certificate is printed on it, spanning pages 1 through 8.

He had testified that afterward; to investigate the suicide note, they went to deceased College and submitted an application

to the principal requesting the original copy of the examination papers taken by the deceased, Kumari Abha. The principal in charge of the College refused to provide the original copy of the examination papers, which included the final lesson plan for Physical Science, prepared while she was attending college.

He had further testified that in the presence of two independent witnesses, a seizure memo was prepared regarding the items produced and the said seizure memo is in his handwriting and bears his signature, and which also bears the signatures of the person producing the items—Kalpana Kumari—as well as the two independent witnesses: Anup Kumar Banerjee and Julie Devi. This witness identifies all the handwriting and signatures contained therein, marked as Exhibit-9.

He had deposed that Subsequently, he received the supervision note. Thereafter, he obtained permission from the learned Chief Judicial Magistrate (CJM) to send the Final Lesson Plan and the entries recorded in the diary to the Director of the Police Laboratory (for the examination of disputed writings) at Bailey Road, Patna, Bihar, for forensic analysis, however, the laboratory did not accept the exhibits for testing, stating that—for the past six months—cases originating from Jharkhand were no longer being accepted for examination at that facility.

He had deposed that he recorded the statements of witnesses Rakesh Chaudhary, Pradeep Kumar Rai, and Sushila

Devi and all of them corroborated the details of the incident. Subsequently, the witness Mrityunjay Kumar Rai stated before him during the recording of his statement that Kunal Chaudhary, his paternal aunt (Fua) Pratima Sharma, and his younger brother Kamlesh Chaudhary frequently engaged in quarrels with Abha over domestic disputes. He further stated that Pratima Sharma, Vinod Kumar Sharma, and Kunal Kumar Chaudhary would often demand a sum of fifty thousand rupees and a car as dowry, and would subject Abha to physical torture in furtherance of these demands. Kajal Kumar Rai, too, in his statement recorded before him, stated that occasionally Kunal's paternal aunt, Pratima Sharma, and Kamlesh would quarrel with Abha over domestic disputes.

He had deposed that upon completing the investigation into all relevant points—and in compliance with the orders of superior officers—a charge sheet was submitted against the accused named in the FIR, Kunal Kumar Chaudhary, under Sections 304B/34 of the Indian Penal Code (IPC), while supplementary investigation against the other accused named in the FIR—remains ongoing.

He had further testified that the seized article pertaining to this case, which he had previously sealed and taken into custody, has been produced in accordance with the orders of the court. The sealed envelope was opened in the presence of both parties. Upon opening it, a dupatta(scarf), enclosed within a

plastic wrapper, was found inside. This is the very dupatta with which, according to the witnesses' statements, the victim was beaten and subsequently hanged. Based on their identification, this dupatta is hereby marked as a Material Exhibit-1.

He had further testified that he had entrusted the investigation to Rajiv Ranjan, Station House Officer, Kunda. In column 9 of the Inquest report, he states: *"The case appears to have been committed by hanging. There was a black mark on the neck and no other injuries were reported."* The postmortem report also stated that the cause of death was asphyxia due to hanging. Kunal Kumar Chaudhary lived in the house where the incident occurred, which belonged to Kunal's aunt, not as a tenant. Kunal had been living there since shortly after his marriage. Kunal's aunt sometimes lived in that house and sometimes in her own home in Karnibag.

He had testified that Witness Pradeep Kumar Rai did not mention in his statement before him that Abha was abused and beaten by her maternal uncle-in-law and Beli Choudhary. He had testified that Witness Vipin Kumar Rai has not said in his statement before him that two months before the death of Pammi (Abha Kumari), they went to Pammi's house Pratima Sadan to reach a settlement and said there that let Pammi's younger sister get married, after that they will give her the car and money and brought Pammi to their house because she had to appear for her M.Sc. exam and on 09.05.2016 Kunal Kumar Chaudhary came

and took Pammi away. On 16.05.2016 his brother Bindeshwari Rai told him on the phone that Pammi told that today all five people are beating her and are saying that she should call her father and get him the car and money.

He had further testified that witness Sushila Devi stated in her statement to him that on May 16, 2016, Bindeshwari Rai called her husband to inform him that Abha had died, not that she had been murdered. She also did not mention that when she changed her clothes, Abha's entire body was covered in bruises, and she had noticed that the finger on her right hand was bent.

He had further stated that witness Bindeshwari Rai did not state before him that Abha's body was wrapped in a bedsheet, that the room fan was running, and that the door was untouched. She did not state before him that two pens were used in the suicide note and that the handwriting was also of two different styles.

47. P.W.12, Rupesh Kumar is cousin of the deceased. He had deposed that the deceased, Kumari Abha Kumari alias Pammi, was his cousin and he tutored her for approximately four years, until the 12th grade. He recognized the handwriting of Miss Abha alias Pammi.

He had testified that, upon examining the handwriting of the answer sheet sent by Kanho Murmu University, Dumka, with registration number 1532/2009, serial number 016B 09130, states that it is in the handwriting of Kumari Abha, alias Pammi.

This entire answer sheet is marked as Exhibit 12. The handwriting identified by him was not written in his presence.

48. On behalf of the defence two witness were examined.

49. DW1 deposed that he knew Kunal Chaudhary and his wife's name was Abha. Abha had passed her B.Ed. and even wrote her B.Ed. assessment papers. The final lesson plan is in Abha's handwriting, which he recognizes. The entire lesson plan is marked Exhibit A upon identification with objection.

On being shown the diary on record, the witness stated that the handwriting in Q1 and Q2 of the diary is that of Miss Abha (deceased), whom he identifies. The above pages of the diary were marked as Exhibits B and B/1, with objections to the identification.

50. In cross-examination he had stated that the final lesson plan was not written in his presence. Again, he says it was written in his presence and at the time of preparing the lesson plan, deceased was studying at DIPSER College.

The prosecution has placed on record the exhibit available on record (Exhibit 12) stating that after looking at the answer sheet of the B.Ed. examination given by Kumari Abha, he says that the handwriting is that of Kumari Abha and he is able to recognize it. Lesson plan is made at home; hence other people can help in writing it but in his opinion, it cannot be written but during the examination no one can help in writing the answer

sheet. It is not the case that lesson plans can be written by other people also.

He had testified that it is true that two inks were used in the writing on pages Q1 and Q2 (Exhibits B and B/1) of the diary previously marked as exhibits. On being shown page Q2, the witness said that the words "**hi hun**" were crossed out after the words "*main bahut pereshan.*" He has further stated that's not the case that the lesson plan is not in Miss Abha's handwriting. It was written by the same family member who wrote pages Q1 and Q2 of the diary (Exhibits B and B/1).

He had further testified that Kunal Chaudhary has summoned him to testify today. He did not give a statement to the police, and he also did not tell the police what he said in court today.

51. DW.2 had deposed that he knew Kumari Abha, Kunal's wife. When shown a bank statement, the witness stated that it pertained to Kumari Abha's account. This three-page statement bears the Syndicate Bank seal and initials, which he recognizes. It was marked Exhibit C with a dispute about identification. He had deposed that this is Kunal Kumar Choudhary's Union Bank of India savings account statement, consisting of nineteen pages. All pages bear the Union Bank stamp, which I recognize. It is marked Exhibit D with an objection to identification.

He had further stated that Kumari Abha had her own Facebook account. This is a 103-page printout of messages from

Kumari Abha's Facebook account, which he recognizes. It is marked Exhibit F with an objection to the identification.

He had further testified that this is a backup digital CD of Miss Abha's Facebook account, which he recognized. It is marked Exhibit G with the objection to identification. This witness had further stated that he has never worked in a bank and he does not know who deposited or withdrew money from account. The documents certified by him have not been printed or taken out by the manager in his presence.

He had further testified that the deceased Abha's husband, Kunal Kumar Chaudhary, works in the same bank and today he has been brought by Kunal Kumar Chaudhary to testify.

52. After due appreciations of evidences as mentioned above the learned trial court has found the charge to be proved beyond reasonable doubt against the appellant and accordingly, convicted the appellant under Section 304-B of the IPC, against which the instant appeal has been preferred.

53. This Court, in order to appreciate the submissions advanced on behalf of the appellant with respect to the culpability of the appellant, for commission of offence under Section 304-B of the Indian Penal Code vis-à-vis the evidences adduced on behalf of the parties, deems it fit and proper to refer certain legal provisions and judicial pronouncements in context of contention raised by the appellant.

54. At this juncture, it is pertinent to analyse the law on dowry death. Section 304-B IPC, which defines, and provides the punishment for dowry demand, reads as under:

"304B. 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."

55. From perusal of the aforesaid provision, it is evident that Section 304-B (1) defines "dowry death" of a woman. It provides that "dowry death" is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven 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 of her husband, in connection with demand for dowry. Sub-clause (2) provides for punishment for those who cause dowry death.

56. Thus, it is evident that there are three conditions in the aforesaid statute and if those three conditions are fulfilled then the case will come under the purview of Section 304-B. Three conditions which culled out from section 304-B are as follows:

- i. The death caused by burn or bodily injury or occurs otherwise within under normal circumstance.
- ii. Death was occurred within seven years of her marriage.
- iii. It has been shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

57. It needs to refer herein that in order to sustain the conviction under Section 304B of the IPC, it is mandatory to establish that soon before death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry and death caused by burn or bodily injury or occurs otherwise within under normal circumstance within seven years of victim's marriage.

58. In the case of *Major Singh v. State of Punjab, (2015) 5 SCC 201* a three-Judge Bench of the Hon'ble Apex Court has laid down the guideline wherein it has been specifically observed that in order to sustain the conviction under Section 304-B IPC, cruelty or harassment is shown to have been meted out to the woman soon before her death. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under:

“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.”

59. It needs to refer herein that the cruelty or harassment differs from case to case. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be depriving her of economic resources or essential amenities of life. The list is illustrative and not exhaustive.

60. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain, etched in her memory for a long time.

61. The phrase “soon before” as appearing in Section 304-B IPC cannot be construed to mean “immediately before”. It is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. Proximate and live link

between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution.

62. The aforesaid position was emphasized by the Hon'ble Apex Court in the case of ***Satbir Singh v. State of Haryana, (2021) 6 SCC 1*** wherein it has been held which reads as under:

“15. Considering the significance of such a legislation, a strict interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, “soon before” they did not mean “immediately before”. Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exactly the phrase “soon before” entails. 17. Therefore, courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term “soon before”. What is pivotal to the above determination, is the establishment of a “proximate and live link” between the cruelty and the consequential death of the victim.”

63. When the prosecution shows that “soon before her death such woman has been subjected to cruelty or harassment for, or in connection with, any demand for dowry”, a presumption of causation arises against the accused under Section 113-B of the Evidence Act. Section 113-B of the Evidence Act reads as under:

“113-B. 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 304-B of the Indian Penal Code (45 of 1860).”

64. It is evident from the aforesaid provision that the word “shall” has been stipulated therein which provides mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry and as such onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts on the accused.

65. The Hon’ble Apex Court while relying on the provisions of Section 113-B of the Evidence Act, 1872 (for short “the Evidence Act”) and Section 304-B IPC, where the words “soon before her death” find mention, the following observations have been made in the case of ***Surinder Singh v. State of Haryana, (2014) 4 SCC 129:***

“17. Thus, the words “soon before” appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words “soon before” is, therefore, important. The question is how “soon before”? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities

of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain, etched in her memory for a long time. Therefore, “soon before” is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.

18. In this connection we may refer to the judgment of this Court in *Kans Raj v. State of Punjab* [*Kans Raj v. State of Punjab*, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] where this Court considered the term “soon before”. The relevant observations are as under : (SCC pp. 222-23, para 15)

‘15. ... “Soon before” is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term “soon before” is not synonymous with the term “immediately before” and is opposite of the expression “soon after” as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be “soon before death” if any other intervening circumstance showing the non existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the

consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.’ Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law.”

(emphasis supplied)

66. Further, the Hon’ble Apex Court in the case of ***State of M.P. v. Jogendra, (2022) 5 SCC 401*** has pithily summarized the law on Section 304-BIPC and Section 113-B of the Evidence. For ready reference the relevant paragraph is being quoted as under:

“17. In the above context, we may usefully refer to a recent decision of a three-Judge Bench of this Court in Gurmeet Singh v. State of Punjab [Gurmeet Singh v. State of Punjab, (2021) 6 SCC 108 : (2021) 2 SCC (Cri) 771] that has restated (at SCC pp. 111-12, para 9) the detailed guidelines that have been laid down in Satbir Singh v. State of Haryana [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , both authored by N.V. Ramana, C.J. relating to trial under Section 304-BIPC where the law on Section 304-BIPC and Section 113-B of the Evidence Act has been pithily summarised in the following words : (Satbir Singh case [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , SCC p. 13, para 38)

“38.1. Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-BIPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase “soon before” as appearing in Section 304-BIPC cannot be construed to mean “immediately before”. The prosecution must establish existence of “proximate and live link” between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

38.4. Section 304-B IPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring “otherwise than under normal circumstances” can, in cases, be homicidal or suicidal or accidental.”

(emphasis in original and supplied)

67. Thus, in order to convict an accused for the offence punishable under Section 304(B) of the IPC, the following essentials must be satisfied by prosecution:

- (i) the death of a woman must have been caused by burns or bodily injury or otherwise than under normal circumstances;
- (ii) such death must have occurred within seven years of her marriage
- (iii) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband;
- (iv) such cruelty or harassment must be for, or in connection with, demand for dowry.

68. When the above ingredients are established by reliable and acceptable evidence, such death shall be called dowry death and such husband or his relatives shall be deemed to have caused her death.

69. From bare perusal of provision of Section 304B of the IPC, it is evident that it does not categorize death as homicidal or suicidal or accidental. This is because death caused by burns can, in a given case, be homicidal or suicidal or accidental. Similarly, death caused by bodily injury can, in a given case, be homicidal or suicidal or accidental. Finally, any death occurring "otherwise than under normal circumstances" can, in a given case, be homicidal or suicidal or accidental. Therefore, if all the other ingredients of Section 304-B IPC are fulfilled, any death (homicidal or suicidal or accidental) whether caused by burns or by bodily injury or occurring otherwise than under normal circumstances shall, as per the legislative mandate, be called as "dowry death" and the woman's husband or his relative "shall be deemed to have caused her death". The section clearly specifies what constitutes the offence of dowry death and also identifies the single offender or multiple offenders who has or have caused the dowry death.

70. In order 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 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 Evidence Act has been explained by Hon'ble Apex Court in plethora of judgments, **Bansi Lal v. State of Haryana, (2011) 11 SCC 359; Mustafa Shahadat**

Shaikh v. State of Maharashtra, (2012) 11 SCC 397; Ramesh Vithal Patil v. State of Karnataka, (2014) 11 SCC 516, Maya Devi & Anr. V. State of Haryana, (2015) 17 SCC 405. Satbir Singh & Anr. v. State of Haryana (2021) 6 SCC 1.

71. It has been observed that though the language used is "soon before her death", no definite period has been enacted and the expression "soon before her death" has not been defined in both the enactments. Accordingly, the determination of the period which can come within the term "soon before her death" is to be determined by the courts, depending upon the facts and circumstances of each case. However, the said expression would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. In other words, there must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned. If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.

72. The Hon'ble Apex Court in the case of **Satbir Singh & Anr. v. State of Haryana (2021) 6 SCC 1** has held that the phrase "soon before" in section 304B IPC is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time limit. In relation to dowry deaths, the circumstances

showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. Thus, a proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.

73. Section 113-B of the Evidence Act lays down rebuttable presumption of law in respect of dowry death. If the ingredients under Section 304-B IPC are attracted, the court shall presume and it shall record such fact as proved unless and until it is disproved by the accused. However, it is open to the accused to adduce such evidence for disproving such conclusive presumption as the burden is unmistakably on him to do so and he can discharge such burden by getting an answer through cross-examination of the prosecution witnesses or by adducing evidence on the defence side as such putting reverse onus of proving on the accused.

74. In the background of aforesaid jurisprudence of dowry death, this Court has to appreciate the arguments of learned counsel for the parties apprising ourselves with the evidence adduced in this case by the respective parties.

75. In the backdrop of the aforesaid discussion of proposition of law, statute, factual aspect and the submission for learned counsel for parties, this Court in the instant case is to consider following issues: -

(i) Whether the material/evidence as has come in course of trial is sufficient to attract the offence committed under Section 304 B of the Indian Penal Code?

(ii) Whether all the prerequisites, as discussed and referred hereinabove, are available in the instant case for invoking the provision of Section 304 B of the Indian Penal Code?

(iii) Whether the impugned judgment of conviction and sentence of appellant suffers from serious error of law and liable to be set aside?

(iv) Whether the sentence awarded to the appellant is inadequate?

76. Since, the aforesaid issues are inextricably interlinked, the same are being decided hereinbelow by considering them together.

77. At this juncture this Court thinks fit to revisit the factual aspects of the instant case in the backdrop of aforesaid legal proposition.

78. It would be apt to refer herein the following admitted/undisputed fact of the instant case:

(i) The marriage between informant's daughter and the accused/Appellant Kunal Kumar Choudhary was solemnized on 24.04.2012, and the death of the informant's daughter occurred on 16.05.2016 which is approximately four years after the marriage.

(ii) The death of the informant's daughter was not normal death i.e under abnormal circumstances.

79. Thus, it is an admitted fact that the marriage between deceased/informant's daughter and the accused was solemnized on 24.04.2012, and the death of the informant's daughter occurred on 16.05.2016 which is approximately **four years** from the date of marriage. Thus, death of the victim lady was caused within 7 years of the marriage and the death was not a normal death, but occurred under suspicious circumstances, therefore, it brings the case within the ambit of **Section 304B IPC (Dowry Death)** and **Section 113B of the Indian Evidence Act**, which create a presumption against the husband and his relatives if the death of a woman occurs within seven years of marriage under abnormal circumstances linked to cruelty or harassment for dowry.

80. This Court now turns to the question of whether there were dowry demand and cruelty soon before the death of the deceased, as required under Section 304B IPC.

81. PW.4 informant and father of the deceased has deposed that the deceased, Abha alias Pammi, was his eldest daughter.

Her marriage was solemnized on April 24, 2012, with Kunal Kumar Choudhary in accordance with Hindu rites and rituals and his daughter, along with all members of her in-laws' family, moved to "Pratima Sadan" (also known as Pratima Niwas), located behind Deoghar Public School in the Karnibagh locality. He had further testified that his daughter lived there peacefully for approximately one year. After this one-year period, Kunal Kumar Choudhary, along with other family member began to harass his daughter for dowry. They demanded a four-wheeled vehicle and a sum of ₹50,000 as dowry.

82. He had deposed that his daughter informed him about this matter. Upon receiving this information, this witness along with his relative visited Pratima Sadan and attempted to settlement with them and accordingly pleaded with them to allow them to first arrange for the marriage of younger daughter, after which they would endeavour to fulfil their demands.

83. He had further deposed that following their intervention, the accused persons behaved properly for a few days, however, they soon resumed physically assaulting his daughter and began withholding food and water from her.

84. This witness had deposed that his daughter used to convey these details to him over the telephone. Upon, receiving such information, they would visit the residence and attempt to reason with them, but they remained unyielding. On May 16, 2016, sometime before 7:00 PM, his daughter telephoned and stated

that she had been physically assaulted that day by Kunal Kumar Choudhary (appellant), Kamlesh Choudhary, **Pratima** Sharma, Beli Chaudhary, and Vinod Kumar Sharma over the issue of dowry. Shortly, after 9:00 PM, on the same day, the accused, Kunal Kumar Chaudhary, telephoned him to inform that he should come immediately, as his daughter had fallen ill. Upon receiving this information, this witness notified his family members and close relatives, urging them to come at once and when they arrived there together, they discovered that his daughter's lifeless body lying on the bed and There were marks of injury on her neck.

85. From the testimony of P.W.4, who is the informant and father of the deceased, it emerges that his daughter confided to him that the appellant had demanded ₹50,000 in cash and one car as dowry. Due to non-fulfilment of this demand, the deceased was subjected to physical assault and abuse at the hands of the appellant. Furthermore, on the day of occurrence, i.e., 16.05.2016, sometime before 7:00 P.M., the informant's daughter informed him of the assault perpetrated by the appellant and his family members.

86. From the perusal of testimony of other witnesses, it is evident that the aforesaid part of testimony of P.W.4 stands fully substantiated by the consistent depositions of P.Ws. 1, 2, 3, and 7.

87. P.W.1 has deposed that a demand of ₹50,000 in cash and a car was made by the appellant and his family members as dowry from the informant's daughter. Since the informant's family was unable to fulfil the said demand, the informant's daughter was subjected to harassment, including physical assault and verbal abuse. This witness has further stated that about two months prior to the incident in question, he, along with the informant and other family members, had visited the matrimonial home of Abha (deceased) in an attempt to mediate and resolve the dispute with her in-laws. In cross-examination at paragraph 10 this witness had stated that a demand for dowry was, made in his presence.

88. P.W.2, who is the uncle of deceased Kumari Abha, has testified in corroboration of P.W.1. He stated that for a few days after the marriage, everything appeared to proceed smoothly. However, about a year later, he received a phone call from his brother, Bindeshwari Prasad Rai, the father of the deceased, informing him that Abha @ Pampi was being subjected to severe harassment over dowry demands and urging him to accompany him to confront the in-laws. Consequently, he accompanied his brother to *Pratima Sadan* in Deoghar, where the appellant Kunal Chaudhary and others were present. They confronted them regarding the harassment, upon which the appellant and his family members reiterated their demand for a four-wheeled vehicle and ₹50,000 in cash as dowry, stating that only upon

fulfilment of such demand would Abha be permitted to live in peace.

89. This witness had categorically stated that they tried utmost to mediate with in-laws of the informant's daughter, but they remained adamant and refused to listen, insisting that they wanted the dowry. Subsequently, they met with Pampi, she told them, *"Please provide them with the car and the fifty thousand rupees as dowry; otherwise, they will never let me live in peace."*

90. He had further deposed that later, when they once again attempted to mediate with the accused, they proposed a compromise that until they could provide the fifty thousand rupees and the car, they should at least provide an air cooler and a Godrej almirah. This witness had further stated that fifteen days later, they delivered a Godrej almirah and an air cooler to Pratima Sadan and consequently, things remained relatively calm for a few days thereafter; accused persons soon resumed harassing her over their demands. Subsequently, in the year 2015, a daughter was born to Abha. Following the birth of the daughter, the harassment inflicted upon her by the family members intensified even further. On several occasions, they attempted to mediate with the accused, but they remained unyielding.

91. This witness had further deposed that Pammi (deceased) used to tell them that all accused including the appellant Kunal

Chaudhary would physically assault her and even deprive her of food and water.

92. This witness has further deposed that on May 9, 2016, Kunal Chaudhary (appellant) arrived and took Pammi back to his home, Pratima Sadan. Thereafter, on May 16, 2016, his brother, Bindeshwari Rai, called him on the phone and informed him that Pammi had told him that all of them were jointly assaulting her on that very day, demanding that she summon her father and compel him to provide the vehicle and the money.

93. P.W.3 is the *mausi* of the deceased. She has deposed that after marriage of informant's daughter everything remained normal for a period of one year; thereafter, Abha (informant's daughter) began disclosing them that demands were being made for a sum of fifty thousand rupees and a car. The individuals making these demands were Kunal Chaudhary (appellant) and other accused persons. As we were financially unable to provide the fifty thousand rupees and the vehicle, these demands could not be fulfilled. She was also subjected to physical abuse by hand of Kunal Chaudhary, along with other accused.

94. This witness had further stated that they had even visited appellant's home and attempted to reach a compromise. However, after a brief period of normalcy, their behaviour would revert to its previous abusive pattern.

95. She had further stated that on May 16, 2016, Bindeshwari Prasad Rai telephoned his husband to inform him that Abha had been murdered.

96. In cross examination at paragraph- 8 P.W.3 had stated that that in her presence, a demand for fifty thousand rupees and a car was made by Kunal Chaudhary and other accused persons.

97. P.W.7 is mother of the deceased. She had deposed that for approximately one year, her daughter lived in her matrimonial house peacefully and in the year 2015, a baby girl was born to her daughter and thereafter her daughter's husband Kunal Chaudhary (appellant herein) along with other accused persons who all were acting in concert—began demanding a four-wheeled vehicle and fifty thousand rupees in cash from her daughter as dowry.

98. She had further deposed that her daughter informed her about this matter and after receiving this information, they visited their daughter's home, reasoned with her in-laws, and assured them that they would make every effort to fulfil their demands once their younger daughter's marriage had taken place. However, her in-laws continued to physically assault and harass her daughter. She had testified that her daughter would often tell her, *"If you do not fulfil their demands for dowry, these people will kill me."*

99. She had further testified that on May 16, 2016, sometime before 7:00 PM, her daughter called home and reported that, once again, her husband Kunal Chaudhary, along with other accused persons were physically assaulting her over dowry demands, then she offered words of comfort to her daughter. She had further testified that at approximately 9:00 PM, her son-in-law, Kunal Kumar Chaudhary, called her husband to inform him that Aabha was in a critical condition and urged him to come immediately. Subsequently, accompanied by her husband and other family members, she rushed to her daughter's in-laws' residence, "Pratima Sadan." She had testified that upon her arrival, she discovered her daughter lying dead on a bed in the room, wrapped in a bedsheet.

100. Thus, it is evident from the testimony of the aforesaid prosecution witnesses i.e. P.W.1, P.W.2, P.W.3, P.W.4 and P.W.7 that the demand of dowry was there and victim lady was subjected to cruelty soon before her death. The prosecution has thus able to prove beyond all reasonable doubt that the death of victim lady was not in normal circumstances and soon before her death she was subjected to dowry demand and torture.

101. As far as documentary evidence is concerned, Exhibits B and B/1 constitute the alleged suicide note written by Ms. Abha, addressed to her father and her husband, respectively. In the aforementioned Exhibit B—which is addressed by the deceased to her father—she wrote: "...आपकी बेटी हार गयी और किसी को भी कुछ

नहीं होने देना पापा मैं इन सबसे बोहोत प्यार करती हूँ, मेरी बेटु का ध्यान रखना, पापा बोत कुछ बताना था पर नहीं बता सकती"

102. Meanwhile, in Exhibit B/1—which is addressed by the deceased to her husband—she wrote: ""*Babu मैं आपसे आगे से ना कुछ बोलूंगी और ना ही आपको गुस्सा आयेगा पर आप कभी भी एक अच्छे husband नहीं बन पाये कम से कम अच्छे पापा बनना*" /

103. It is evident from the aforementioned Exhibit B/1 that, prior to her death, the deceased requested her father to look after her child; she also conveyed that there was much she wished to tell him, yet was unable to do so. Furthermore, she expressed the wish that no harm should befall anyone, as she loved them all deeply. This indicates that all was not well with the deceased within her matrimonial home—despite her profound love for her family members—and it was for this very reason that, despite her desire to confide in her father about the many tribulations she was enduring, she refrained from doing so. Moreover, she evidently lacked the confidence that, following her demise, her husband and in-laws would care for her daughter with proper affection and diligence.

104. It is equally evident from Exhibit B that her husband's conduct towards her was unsatisfactory; in her final moments, she expressed the hope that he would, at the very least, strive to become a good father—a sentiment which further corroborates the fact that the deceased had been subjected to poor treatment by her husband.

105. This Court has given thoughtful consideration to the overall facts and circumstances of the case and the material testimony of the witnesses. This Court has referred hereinabove four ingredients of the offence under Section 304B of the I.P.C. as foundational facts to be proved by the prosecution through cogent and reliable evidence. So far first two ingredients are concerned, it is undisputed that the deceased was married with the appellant prior to four years of occurrence i.e. in the year 2012 and she died on 16.05.2016, as such within seven years of her marriage. It is also well- proved through testimony of witnesses that the death of the deceased was not normal and same is in suspicious circumstances. The overall circumstances, as discussed above, clearly shows that the death of deceased has occurred otherwise than under normal circumstances.

106. In view of the above discussion, ingredient nos. (i) & (ii) of Section 304B of the I.P.C. is well-proved by the prosecution. So far ingredient nos. (iii) & (iv) i.e. soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband and such cruelty or harassment must be for, or in connection with, demand for dowry and cruelty soon before death is concerned, in this regard, there is clear cut evidence of P.W.-4 informant-cum-father of the deceased and the same has fully been substantiated by the testimonies P.W.-1, 2, 3 and PW.7 as discussed and referred in the preceding paragraph. From testimonies of these witnesses, it

is categorically proved that the deceased was married with appellant about four years prior to occurrence and after some time of the marriage the appellant and his family members started demanding car and Rs.50,000 from his wife. There is un rebutted testimony of the aforesaid witnesses P.W.-1, P.W.2 P.W.-3 and P.W.-7 that they have gone to the matrimonial home of deceased prior to the occurrence for settlement of the issue of dowry demand. Further from testimonies of P.W.-1, P.W.2 P.W.-3 and P.W.-7 it is further established that even on the day of occurrence the daughter of informant was subjected to physical assault and cruelty, therefore, prosecution has succeeded in proving the ingredient nos. (iii) & (iv) of Section 304B of the I.P.C. also.

107. On the basis of discussion made herein above it is evident that the prosecution has successfully prove that the death of the deceased took place within 7 years and it was happened not in normal circumstances. It has further been proved that soon before her death she was subjected to harassment and cruelty pursuant to demands of dowry. Since the ingredients of Section 304-B IPC stand satisfied, the presumption under Section 113-B of the Evidence Act operates against the appellant, who are deemed to have caused the offence specified under Section 304-B IPC.

108. The burden therefore shifts on the accused/appellant to rebut the aforesaid presumption. Therefore, the presumption

adumbrated in Section 113-B of the Evidence Act takes full effect in this particular case, which has not been rebutted by the appellant-accused herein. The appellant has failed to make out a case to interfere in the finding of the learned trial court, convicting the appellant-accused under Section 304-B IPC.

109. In light of the above findings, after perusing the relevant material and the evidence available on record, we find that the trial court has not committed any error in convicting the appellant under Section 304-B IPC as the appellant has failed to discharge the burden under Section 113-B of the Evidence Act.

110. This Court, having discussed the factual aspect and legal position and considering the finding recorded by the learned trial Court, is of the view that the prosecution has been able to prove the charge beyond all shadow of doubts against the present appellant, therefore, order impugned requires no interference by this Court.

111. Accordingly, the instant appeal stands dismissed.

112. So far quantum of sentence is concerned, the appellant has been awarded R.I. for 10 years and revision against the impugned judgment has also been filed by the informant for enhancement of sentence.

113. It needs to refer herein that for the offence under Section 304-B IPC, the minimum sentence stipulated under IPC is seven years which may be extended to imprisonment for life, So, a very

vast discretion has been given to the Court to inflict appropriate sentence.

114. Thus, appropriate sentence, in cases of dowry death, depends upon the facts and circumstances of each case. In the instant case, the marriage of deceased had taken place about four years prior to her death. She died an unnatural death.

115. Now we will have to consider the law on the point of sentence to be inflicted under Section 304-B I.P.C.

116. Hon'ble the Apex Court in the case of **Hem Chand v. State of Haryana** reported in **(1994) 6 SCC 727**, in paragraph 7 of the judgment, has held as under:-

"Now coming to the question of sentence, it can be seen that Section 304B I.P.C. lays down that: "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." The point for consideration is whether the extreme punishment of imprisonment for life is warranted in the instant case. A reading of Section 304B I.P.C. would show that when a question arises whether a person has committed the offence of dowry death of a woman that all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death. It can therefore be seen that irrespective of the fact whether such person is directly responsible for the death of the deceased or not by virtue of the presumption, he is deemed to have committed the dowry death if there were such cruelty or harassment and that if the unnatural death has occurred within seven years from the date of marriage. Likewise there is a presumption under Section 113B of the Evidence Act as to the dowry death. It lays down that the court shall presume that

the person who has subjected the deceased wife to cruelty before her death shall presume to have caused the dowry death if it is shown that before her death, such woman had been subjected, by the accused, to cruelty or harassment in connection with any demand for dowry. Practically this is the presumption that has been incorporated in Section 304B I.P.C. also. It can therefore be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned above are satisfied."

117. The Hon'ble Apex Court in the case of **G.V. Siddaramesh v. State of Karnataka** reported in **(2010) 3 SCC 152** has observed in paragraph 30 of the judgment as under:-

"On the point of sentence, learned Counsel for the appellant pointed out that the appellant is in jail for more than six years. The appellant was young at the time of incident and therefore, the sentence awarded by the trial court and confirmed by the High Court may be modified. In so far as sentencing under the section is concerned, a three Judge Bench of this Court in the case of Hemchand v. State of Haryana [(1994) 6 SCC 727] has observed that:

"Section 304B merely raises a presumption of dowry death and lays down that the minimum sentence should be 7 years, but it may extend to imprisonment for life. Therefore, awarding the extreme punishment of imprisonment for life should be used in rare cases and not in every case."

118. It is settled law that the courts are obliged to respect the legislative mandate in the matter of awarding of sentences in all such cases. A reference on this point may also be made to the pronouncement of Hon'ble Apex Court in the case of **Sunil Dutt Sharma V State** reported in **(2014) 4 SCC 375** wherein Hon'ble the Apex Court has considered the point of sentence in detail and has observed in para 5 as under:-

"The power and authority conferred by use of the different expressions noticed above indicate the enormous discretion vested in the Courts in sentencing an offender who has been found guilty of commission of any particular offence. No where, either in the Penal Code or in any other law in force, any prescription or norm or even guidelines governing the exercise of the vast discretion in the matter of sentencing has been laid down except perhaps, Section 354(2) of the Code of Criminal Procedure, 1973 which, inter-alia, requires the judgment of a Court to state the reasons for the sentence awarded when the punishment prescribed is imprisonment for a term of years. In the above situation, naturally, the sentencing power has been a matter of serious academic and judicial debate to discern an objective and rational basis for the exercise of the power and to evolve sound jurisprudential principles governing the exercise thereof."

119. The case of ***Sunil Dutt Sharma (Supra)*** was also a case of dowry death. In that case the cause of death was strangulation and Hon'ble Apex Court was of the view that a sentence of 10 years rigorous imprisonment would be appropriate.

120. Keeping in view the aforementioned legal position, this Court has gone through the impugned judgment, wherein the learned counsel for the accused/appellant and learned APP were heard on the question of quantum of sentence awarded to the accused/Appellant and the learned trial court has recorded its finding that the rigorous imprisonment for 10 years along with Rs. 2,00,000/- will meet the ends of justice.

121. Further in the instant case no aggravating circumstance has been brought on record by the prosecution and the informant for enhancement of sentence in this case. Therefore, this Court is not inclined to interfere with the quantum of sentence awarded to the appellant.

122. In this view of the matter, Criminal Revision No. 1103 of 2019 is hereby dismissed.

123. The conviction and sentence of appellant is upheld and confirmed.

124. The Appellant namely Kunal Kumar Choudhary @ Kunal Kumar is directed to surrender before the concerned trial court to serve the remaining period of sentence awarded to him by learned trial court within one month from the date of this judgment, failing which the learned trial court shall take all coercive steps to secure the arrest and detention of the said appellant for the purpose of undergoing the remaining period of sentence awarded to him.

125. Pending I.A., if any, stand disposed of.

126. Let a copy of this judgment along with trial court record be sent back to the court concerned for information and needful.

I Agree

(Sujit Narayan Prasad, J.)

(Sanjay Prasad, J.)

(Sanjay Prasad, J.)

Jharkhand High Court, Ranchi

Dated, the 9th June, 2026.

Birendra /**A.F.R.**

Uploaded on 10.06.2026