



THE HIGH COURT OF ORISSA AT CUTTACK

CRA No. 181 of 1995

(In the matter of an application under Section 374 of Criminal Procedure Code)

Kamina Parida

.....

Appellant

-Versus-

State of Orissa

.....

Respondent

For the Appellant : Mr. P.K. Maharaj,
Amicus Curiae

For the Respondent : Mr. A.K. Apat, AGA

CORAM:

THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA

Date of Hearing: 17.02.2026 : Date of Judgment: 26.02.2026

S.S. Mishra, J. The sole appellant has assailed the judgment of conviction and order of sentence dated 20.06.1995 passed by the learned Addl. Sessions Judge, Khurda in S.T. Case No. 14/4/493 of 1995/94 arising out of G.R. Case No. 55 of 1994, whereby he has been convicted



and sentenced to undergo R.I. for a period of two years for offence punishable under Section 498-A of IPC and further to undergo R.I. for a period of three months for the offence under Section 4 of the Dowry Prohibition Act.

2. This appeal is pending since 1995. On each date of hearing, when the matter was called, none appeared on behalf of the appellant. On 10.02.2026, Mr. B.S. Tripathy, learned counsel for the appellant sought time to argue the appeal, but subsequently he did not appear. Therefore, this Court requested Mr. P.K. Maharaj, Advocate, who is present in Court, to assist the Court in the capacity of *Amicus Curiae* and he has readily accepted the same.

3. Heard Mr. P.K. Maharaj, learned *Amicus Curiae* for the appellant and Mr. A.K. Apat, learned Addl. Government Advocate for the State.

4. The prosecution report, as per the FIR is that the accused married one Manjulata, the sister of the deceased Sanjutata. They had two issues out of their wedlock, namely, Babina and Manas, the latter being a polio patient. After the death of Manjulata on account of some ailments, he



again married deceased Sanjulata, sometime in the year 1992 in Narayani temple at Bhubaneswar according to caste and custom keeping in view the welfare of Babina and Manas, who is a physically handicapped child. At the time of marriage, out of the demand of dowry, a sum of Rs.4000/- in cash was paid besides some golden ornaments and utensils and furnitures. After the marriage was solemnized, the accused forced the deceased against her will to ask for some landed property from her widowed mother Ramamani, the informant, in lieu of the balance dowry amount. The deceased did not agree to this demand of the accused in the first instance, for which she was sent three to four time to her mother's house with the said demand, but she had prevailed upon so much, so that she had to file a civil suit in the court claiming her share in the father's property, which was in possession of her mother, who married another man, namely, Kalu Jagadeb after the death of her first husband Pathani Routray. The informant (P.W.2) on 22.01.1994 about 1.00 P.M. lodged a FIR in Begunia P.S. alleging therein that the present appellant committed murder of her daughter Sanjulata.



5. On the basis of the written report of the informant (P.W.2), police registered the case and investigation was conducted and charge sheet has been filed in the present case against the accused for the alleged commission of offence u/s.304-B of I.P.C. The accused took a stance of complete denial and claim trial. Accordingly, he was put to trial on the charges, as mentioned above.

6. The prosecution in order to bring home charges examined as many as six witnesses and exhibited fifteen documents. Out of them, P.W.2 was the informant; P.W.1 was a witness to the marriage; P.W.3, who deposed about the sudden death of the deceased. P.W.4 was a witness to the payment of dowry amount and purportedly officiated as father of the girl at the time of her marriage with the accused. P.W.6 was the Sheristadar in the office of the Settlement Department, Puri, who kept the zima of Vol.II of Yadast Register (Ext.15) of mouza-Kalikaprasad, which was seized by P.W.5 and P.W.5 was the I.O. of the present case, who investigated the case and submitted the charge sheet.



7. Mr. Maharaj, learned *Amicus Curiae*, at the outset submitted that Ramamani Jagdeb, the informant, who was examined by the prosecution as P.W.2 had two daughters from her earlier marriage, namely, Sanjulata and Manjulata. The present appellant had married to the younger daughter Manjulata and out of the said wedlock, there are two children. The son is a Polio patient. Unfortunately, Manjulata expired due to prolonged illness. Since one of the children born out of the earlier marriage of the appellant has been suffering from Polio, the mother-in-law, i.e. P.W.2 insisted the appellant to marry her elder daughter, Sanjulata (the deceased). Since it was a marriage by compulsion and for convenient reasons, obviously there was no demand of dowry.

8. P.W.2 in her testimony has deposed that at the time of marriage there was no demand of dowry. Within seven years of subsistence of marriage, unfortunately Sanjulata expired. Therefore, the present case has been initiated against the appellant.

8.1 The appellant was charged for the alleged commission of offence under Sections 498-A/304-B IPC read with Section 4 of the D.P. Act and



he was put to trial. However, the learned trial court disbelieving the prosecution evidence, acquitted the appellant of the charge under Section 304-B of IPC, but found the appellant guilty of offence under Section 498-A read with Section 4 of the D.P. Act. Accordingly, the appellant has been sentenced on both counts.

9. Before appreciating the prosecution evidence, relevant would be to revert to the family background of P.W.2. P.W.2, the mother-in-law of the appellant, who was the informant, had earlier married to one Pathani Routray. From the said wedlock, they have two daughters Sanjulata and Manjulata. The appellant had married to the younger daughter and after her death, he married to the elder one (deceased). After the death of first husband Pathani Routray, P.W.2 again married to one Kalu Jagdeb and from that wedlock, they have one son and one daughter. The entire property of late Pathani Routray has been transferred by P.W.2 in the name of her second husband and the children born out of the second marriage. That appears to be the bone of contention. It appears from the record that the appellant had insisted his second wife Sanjulata



(deceased) to file a suit claiming her right over the properties of her late father. The suit has been exhibited as Ext.10 and 11. The day when the wife of the appellant died, on the same day, the summons of the suit was received by P.W.2. It is also apparent from record that the deceased wife of the appellant had earlier filed a claim petition regarding the properties before the settlement authority, however she withdrew those proceedings. The prosecution evidence needs to be analyzed, keeping in view the aforementioned background of the case.

10. P.W.2, the informant in her testimony has deposed that the appellant had married to her daughter Sanjulata in the year 1992 and Sanjulata died in the year 1994. The relation between her daughter and the appellant was not cordial. She deposed that the appellant had made demand of rupees six thousand towards the dowry at the time of marriage and she could only paid rupees four thousand. Because of non-fulfillment of dowry, her daughter was repeatedly sent back to her house. She deposed that about one month prior to the death of her daughter, she told her that the appellant was no more prepared to take the balance



dowry amount and instead wanted her to get some land, which was rightfully belongs to her. The appellant wanted that the property should be transferred to the name of the deceased. P.W.2 declined to come under the pressure of her daughter to transfer the land, as she had one more daughter and son from her second marriage. She further deposed that the appellant could prevail upon her deceased daughter to file a civil suit claiming the share of the property. She received the summons of the suit on the same day when she got the message that her daughter has died. Immediately she rushed to the house of the appellant on getting information about the death of her daughter. She submitted a FIR at the police station, which has been exhibited as Ext.9. In the cross-examination, the said witness deposed that the appellant wanted to marry Sanjulata (deceased) after the death of the first wife Manjulata on the plea that if he marries elsewhere, his children Babina and Manas might face trouble in their up-bringing. She also admitted that the property belongs to her former husband Pathani Routray, which was gifted away by her to the second husband in 1973. In the cross examination, she further deposed as under:-



“8. I got married Sanju at Bhubaneswar according to the request of the accused. There was no mediator for the marriage that took place between the accused with Sanju. Dambarudhar Parida acted as the father of the accused at the time of his marriage with the deceased. One Dukhisyam Rautara officiated as the father of the deceased Sanju. He is my agnatic relation. None others had gone from our village to attend the said marriage. I was present during the marriage. The marriage ceremonies were performed within two hours. The accused requested me to pay a sum of Rs.6,000/- as a consideration for the marriage, though it was not in shape of a demand. I had agreed of my own to meet his request and assured him that I would pay him Rs.6000/-. The accused had not come up with any demand for any definite amount of money though he wanted me to give him between Rs.5000/- to Rs.7000/-. I had agreed to pay him Rs.6000/-. I paid him Rs.4000/- at Bhubaneswar on the date of the marriage in the house of the barber. All of us returned from Bhubaneswar on the same day.”

11. From the aforementioned evidence of P.W.2, it is eminently clear that she was aggrieved by the fact that the appellant has insisted his deceased wife to file a suit claiming her rights in the property of her late father. In the same breath, she had also admitted that the appellant has not come up with any demand for any definite amount of money and the cash of Rs.4000/- was voluntarily paid by her at the time of marriage.



12. P.W.1 is an independent witness, who has testified that the appellant and his deceased wife had filed a claim petition in the settlement for allocation of the share of her father's property, but later the deceased withdrew the same. He has also deposed that a civil suit has been filed by the wife of the appellant.

P.W.3, who is the cousin brother of the deceased in his testimony has not said much which could be said to be favouring the prosecution.

P.W.4 is the agnatic brother of the father of the deceased has also not thrown any light either regarding the suspicious death of the wife of the appellant or regarding the demand of dowry, except saying that he has seen the father in law of the appellant had paid Rs.4000/- at the time of marriage out of the demand amount of Rs.6000/-. In the cross examination, however, he has stated that he does not know about the demand of dowry and Rs.4000/- was paid after the marriage inside the temple when the marriage was solemnized.



The I.O. (P.W.5) of the case has testified regarding the filing of the suit being Ext.10 and the summon of the suit as Ext.11. In the cross examination, the I.O. has stated as under:-

“7. The accused gave written report about the death of his wife on 20.01.94. I sent a requisition to Sub-Collector, Khurda for deputing an Executive Magistrate for remaining present at the time of holding inquest over the dead body of the deceased. Executive Magistrate L.K. Mohanty remained present on 21.1.94 at the time of holding inquest. The mother of the deceased and her husband (Kalu Jagadev) were sent for before holding inquest. They did not turn up. The uncle of the deceased was however present. The report submitted by accused on 20.1.94 forms part of the U.D. Case record. The accused had gone to his sister’s house on the early morning of date of incident. He came to the spot (his village) on getting information from Rusia Parida.”

13. While analyzing the aforementioned evidence of all the witnesses, the learned trial court in para-7 of the impugned judgment has held as under:-

“7. In order to prove its case, under Section 498-A I.P.C., prosecution relies upon the evidence of P.Ws. 1 and 2. P.W.1 in his testimony has given out that the deceased, who had married to the accused in the year 1992, was not pulling on well with him prior to her marriage. He further stated that the deceased had



filed a claim case in the settlement for allocation of her share in father's property, but later, she went to the settlement camp at Khanapuni stage and withdrew her claim petition. It further transpires from his evidence that he was present when the deceased gave in writing withdrawing her claim. Similarly, it transpires from the evidence of the informant, who is the mother of the deceased that the relationship between the accused and her daughter Sanju was not all cordial because of dowry claimed by the accused. It further transpires from her evidence that the accused had demanded a sum of Rs.6,000/- towards dowry at the time of marrying her daughter (deceased) out of which she paid only Rs.4,000/- because of financial hardship. She has further asserted that her daughter was rebuked and ill-treated and she was sent away to her house on many occasions by the accused for the balance dowry amount. In connection with her evidence that the accused was persistently demanding balance dowry amount, which later took the shape of a demand for a share in the landed property, the suit summons in T.S. No.62/93 and the certified copy of the order sheet of that suit are proved as Exts. 10 and 11.

7.1. On perusal of the evidence on this score, it appears that though it is suggested to P.W.2 that she had not stated before police that the accused used to rebuke and assault the deceased on account of dowry, P.W.5 was not confronted with such a statement. In other words, it has not been elicited from P.W.5 that P.W.2 had not made any statement before him that the accused rebuked and assaulted her daughter for the balance dowry amount.



7.2. *Mr. B.C. Mohanty, the learned counsel for the defence submitted that P.W.3 has admitted that the deceased was neither ill-treated nor rebuked by her husband in connection with any demand for dowry.*

Mr. Burma, the learned P.P. on the other hand submitted that P.W.3 is not a witness on the point of cruelty meted out to the deceased. Therefore, his admission in cross-examination that the deceased was not ill-treated and rebuked by the accused does not affect the veracity of the prosecution case. Mr. Burma submitted that there is over-whelming evidence on record, particularly in shape of Ext.10 and 11 to show that the greedy eyes of the accused had fallen on the landed properties of Pathani, who is the father of the deceased and the first husband of P.W.2. He further canvassed that the accused, who is a party to T.S. No.62/93, will clearly go to establish the case of demand for dowry, as has been put forth by the prosecution. He contended that viewed in this back drop, the evidence of P.Ws. 1 and 2 regarding mental and physical cruelty, to which the deceased was subjected to by the accused, should be acceptable to the court.

7.3. *Taking into consideration the entire gamut of the evidence on record on the point of physical and mental cruelty, I am of the opinion that the said evidence, though little cryptic, appears to be trustworthy, particularly in view of documentary evidence vide Exts. 10 and 11. In that view of the matter, I hold that prosecution has been able to establish its case under Section 498-A I.P.C, against the accused that he subjected his deceased wife to cruelty both*



mentally and physically. Accordingly, he is convicted thereunder.”

14. The findings recorded above clearly indicates that the evidence brought on record by the prosecution to establish its case are really cryptic in nature and the learned trial court by supplying the entire thrust on Ext.10 and 11 have come to the conclusion that filing of the suit by the deceased wife of the appellant on the insistence of the appellant in order to get the property is nothing but demand of dowry. It is held by the learned trial court that the appellant was persistently demanding balance dowry amount which was later took in the shape of demand for the share in the landed property for which Title Suit No.62 of 1993 was filed. The conviction is based solely on the basis of the fact that the appellant has insisted his deceased wife to file the suit so as to get the share of the property, which is nothing but demand of dowry. Even if the appellant has insisted his deceased wife to file a suit claiming her right that cannot be treated to be offensive attracting any penal offence. The appellant appears to have insisted his deceased wife to assert her right in the property that has been construed as demand of dowry on behalf of



the appellant to sustain the charge under Section 4 of the D.P. Act. This Court is of the considered view that even if the prosecution story is accepted at its face value, mere insistence by the appellant to file a civil suit through her deceased wife to claim her right cannot be considered as demand of dowry, because his wife could acquire the share of the property in the event she succeed in the suit, hence it was contingent upon the result of the suit. Unless the same is culminated to a decree, it cannot be said to be “property” or “valuable security”.

15. In view of the aforementioned, this Court is completely in disagreement with the findings recorded by the learned trial court as discussed above. Since the prosecution has failed to bring home the charge of Section 4 of the D.P. Act, the appellant is entitled to acquittal of the said charge. The necessary corollary would be that no case under Section 498-A is also made out, as there is no demand of dowry and harassment in line of that. The prosecution has failed to prove the element of demand of dowry. Hence, on both counts, the appellant is entitled to the benefit of doubt. Since the learned trial court has already



recorded an acquittal in favour of the appellant in so far as the charge under Section 304-B of the IPC is concerned and there is no appeal on behalf of the State or the informant, I need not delve upon the same. Moreover, the evidence appreciated by the learned trial court in so far as the offence under section 304-B is concerned is apt, no fault could be found. The learned trial court while recording acquittal in favour of the appellant in so far as the offence under Section 304-B has recorded as under:-

“9. Now coming to the offence under Section 304-B of the I.P.C., it may be stated that the only evidence which is available on record, in this regard, is that the deceased died all on a sudden while she was residing with the accused under the same roof. The Investigating Officer of this case collected and seized some vomiting materials for chemical examination to find out if the deceased was poisoned by the accused or not. The report of the Director-cum-Chemical Examiner (Ext.12) gives a clean chit to the accused in as much as it is reported that common insecticidal alkaloidal and metallic poison 'could not be detected in the viscera of the deceased so also the exhibits sent under the forwarding report of the S.D.J.M. (Ext.2). On the other hand, it has been admitted by P.W.5 that the accused lodged a written report on 20.1.94 about the death of his wife upon which an U.D. case was registered. He further admitted that the accused had gone to his sister's house on the early morning of the



date of incident and came to the spot (village) on getting information from one Rusia Parida, Similarly, P.W.2 has also admitted in para-10 that while her deceased daughter was being taken to the hospital for treatment while she was ailing, she died on the way.

In the above premises of the evidence, I am of the opinion that there is no satisfactory evidence to come to finding that the death of the deceased occurred: otherwise than under normal circumstances, though no doubt within 7 years of her marriage. That being the position of evidence, I am of the view that prosecution has not been able to establish its case under Section 304-B(II) I.P.C.-against-the accused and he is accordingly acquitted of the said charge under Section 235(1) Cr.P.C.”

I am in complete agreement with that part of the finding of the learned trial court. Taking into consideration the entire conspectus of this case, this Court is inclined to allow the appeal.

16. Accordingly, the judgment of conviction and order of sentence dated 20.06.1995 passed by the learned Addl. Sessions Judge, Khurda in S.T. Case No. 14/4/493 of 1995/94, arising out of G.R. Case No. 55 of 1994, is set aside. The appellant be set at liberty forthwith, if his detention is not required in any other case. The bail bond furnished by the appellant stands discharged.



17. This Court records the appreciation for the effective and meaningful assistance rendered by Mr. P.K. Maharaj, learned *Amicus Curiae*. He is entitled to an honorarium of Rs.7,500/- (Rupees seven thousand five hundred) to be paid as token of appreciation.

18. The Criminal Appeal is allowed.

(S.S. Mishra)
Judge

The High Court of Orissa, Cuttack
Dated the 26th February, 2026/Ashok