



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLLP No. 126 of 2011

(In the matter of an appeal under Section 378 (1) & (3) of the Code of Criminal Procedure, 1973).

<i>State of Odisha</i>		<i>Appellant (s)</i>
	<i>-versus-</i>	
<i>Paramanada Sahu & Ors.</i>		<i>Respondent (s)</i>

Advocates appeared in this case through Hybrid Arrangement Mode:

<i>For Appellant (s)</i>	:	<i>Ms. Gayatri Patra, ASC</i>
<i>For Respondent(s)</i>	:	<i>Mr. Dhananjay Mund, Advocate</i>

CORAM:
DR. JUSTICE SANJEEB K PANIGRAHI

DATE OF HEARING: -23.03.2026

DATE OF JUDGMENT: -22.05.2026

Dr. Sanjeeb K Panigrahi, J.

1. The Petitioner-State has filed the present CRLLP seeking leave to appeal against the judgment and order dated 25.06.2010 passed by the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna in Sessions Case No.121/29 of 2007-08 arising out of M. Rampur P.S. Case No.55 of 2007, whereby the accused persons were acquitted of the charges under Sections 498-A/304-B of the IPC read with Section 4 of the Dowry Prohibition Act, 1961.
- I. **FACTUAL MATRIX:**
2. The prosecution case, in brief, is that on 28.05.2007, a report was lodged at Risida Outpost, which was forwarded to M. Rampur P.S. for registration of the case. The O.I.C., M. Rampur P.S., registered the case



on the basis of the written report of the informant, Krupanidhi Sahu, and directed investigation into the matter.

3. During investigation, the preliminary I.O. visited the spot, examined the witnesses, conducted inquest over the dead body of the deceased in presence of the Executive Magistrate, and sent the dead body of the deceased, Santoshini Sahu, to C.H.C., M. Rampur for post-mortem examination.
4. After completion of investigation, the I.O. submitted the charge sheet under Sections 498-A/304-B of the IPC read with Section 4 of the Dowry Prohibition Act, 1961 against the accused persons.
5. The learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna, after going through the materials available on record, framed charges under the aforesaid sections against the accused persons to face trial.
6. In order to bring home the charges, the prosecution examined as many as nine witnesses, whereas the defence examined two witnesses. The plea of the accused persons was one of complete denial and false implication.
7. After perusal of the evidence available on record and upon hearing both sides, the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna acquitted the accused persons of the charges levelled against them.
8. Being aggrieved by the judgment dated 25.06.2010 passed by the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna, the petitioner has preferred the present application seeking leave to appeal.



II. SUBMISSIONS OF THE APPELLANT/STATE:

9. Learned counsel for the petitioner made the following submissions in support of his contentions:
- i. The Petitioner-State submitted that the prosecution examined nine witnesses in order to establish the charges. P.W.1, the father of the deceased, stated that the deceased's life became one of continuous suffering within a few years of her marriage to the accused. He deposed that his daughter had been subjected to persistent demands of Rs.20,000/- by the accused for release of mortgaged land. He further deposed that his daughter's condition had become so deplorable that she was not even provided with basic wearing apparel such as saree and saya, which compelled him to personally carry clothes to her matrimonial home. He further deposed that, upon receiving information about her burn injuries, he rushed to the house of the accused only to find his daughter lying lifeless. Before lawful procedures could be carried out, the accused persons had already attempted to dispose of her body by taking it to the cremation ground, where it was later recovered in a half-burnt condition.
 - ii. The petitioner relied upon the deposition of P.W.2, the mother of the deceased, who deposed that her daughter was continuously ill-treated by her husband and sisters-in-law for non-payment of the demanded sum of Rs.20,000/-. She stated that her daughter repeatedly confided in her about the cruelty meted out to her. Significantly, 15-20 days prior to her death, the deceased pleaded before her mother for money and even for basic clothing, expressing her utter helplessness and neglect in her



matrimonial home. This testimony, according to the petitioner, clearly indicates continued dowry-related harassment and neglect faced by the deceased in her matrimonial home.

- iii. The petitioner further relied upon the deposition of P.W.3, the sister-in-law of the deceased, who corroborated that the accused persons were present at the cremation ground and fled upon seeing the family members, which, according to the petitioner, indicated an attempt to destroy evidence by hurried cremation.
- iv. The petitioner also relied upon the evidence of P.W.6, the preliminary I.O., who stated that on 28.05.2007, while posted at Risida Out Post, he received the written report and immediately took up investigation. Upon reaching the spot, he found that the dead body had already been taken to the cremation ground. He rushed there and found the body in a half-burnt condition on the funeral pyre, clearly indicating a hurried attempt at cremation.
- v. The petitioner further relied upon the deposition of P.W.7, the Medical Officer, who conducted the post-mortem examination and opined that the cause of death was due to sudden cardiac arrest, which, as per medical opinion, is possible in cases of accidental burn injuries. Thus, the medical evidence does not completely rule out the prosecution case regarding the burn injuries sustained by the deceased.
- vi. The petitioner submitted that the judgment of the Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna suffers from material



irregularity and perversity, as the accused persons are liable under Sections 498-A and 304-B of the IPC.

- vii. The petitioner submitted that the prosecution has established a continuous course of conduct amounting to cruelty and harassment for dowry. The evidence clearly demonstrates that the demand for Rs.20,000/- was persistent and directly connected with the ill-treatment of the deceased. The learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna gravely erred in overlooking the proximity of such demand, which continued till 15-20 days prior to the death, thereby satisfying the requirement of “soon before death”.
- viii. The petitioner submitted that the statements made by the deceased to P.W.1 and P.W.2 regarding her ill-treatment and dowry demand are admissible under Section 32 of the Evidence Act, as they relate to the circumstances leading to her death. The evidence further establishes a shocking pattern of neglect, wherein the deceased was not even provided with basic necessities such as clothing, reflecting the extent of cruelty inflicted upon her.
- ix. The conduct of the accused persons in hastily attempting to cremate the body and fleeing the spot upon arrival of the family members, as testified by P.W.3, forms a crucial incriminating circumstance. The recovery of a half-burnt dead body clearly indicates an attempt to destroy vital evidence and conceal the true nature of death.
- x. The petitioner submitted that it is a settled proposition of law that when a death occurs within seven years of marriage and there is evidence of



dowry demand and cruelty, the presumption under Section 113-B of the Evidence Act is attracted. The present case clearly comes within its purview. The learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna failed to apply the said statutory presumption and instead placed undue emphasis on minor discrepancies, thereby resulting in grave miscarriage of justice.

- xi.** The petitioner submitted that, in view of the foregoing submissions and the cogent oral and documentary evidence available on record, the acquittal of the accused persons is perverse, illegal, and contrary to the settled principles of law. The State, therefore, prayed that the present Criminal Appeal be allowed, the impugned judgment be set aside, and the accused persons be convicted under Sections 498-A and 304-B of the IPC.
- xii.** The petitioner placed reliance on the observations in *State of Madhya Pradesh v. Jogendra and Another*¹ to assert that “soon before” is a relative term and it would depend upon the circumstances of each case, and that no straitjacket formula can be laid down as to what would constitute a period “soon before” the occurrence. It was further observed that it would be hazardous to indicate any fixed period, thereby bringing in the importance of the proximity test both for proof of an offence of dowry death as well as for raising a presumption under Section 113-B of the Evidence Act.

¹ (2022) 5 SCC 401.



- xiii. The petitioner further placed reliance on *Satbir Singh and Another v. State of Haryana*², wherein it was observed that when the prosecution shows 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”, a presumption of causation arises against the accused under Section 113-B of the Evidence Act.

III. SUBMISSIONS OF THE RESPONDENTS:

10. Per contra, learned counsel for the respondents made the following submissions in support of their contentions:

- i. The respondents submitted that the alleged occurrence took place on 28.05.2007 and the accused persons were acquitted on 25.06.2010, whereas the leave petition was filed after more than one year without any application for condonation of delay. Subsequently, in the year 2016, an application under Section 5 of the Limitation Act was filed stating that the delay had occurred due to inter-departmental communication and official compliance. The accused/opposite parties filed their objections contending that official procedure cannot constitute sufficient cause for condonation of delay, as has been held by the Supreme Court in a number of cases. In support of this submission, the respondents relied on the observations in *State of Madhya Pradesh v. Bherulal*³ and *Postmaster General v. Living Media (India) Ltd*⁴.

² (2021) 6 SCC 1.

³ 2020 (10) SCC 654.

⁴ (2012) 3 SCC 563.



- ii. The respondents submitted that it is a settled position of law that the Government cannot file appeals after substantial delay due to bureaucracy and red-tapism and thereafter seek advantage of the liberal approach adopted by Courts in condoning delay by relying upon old judgments rendered at a time when technology was not as advanced as at present. It was further submitted that allowing the application filed by the State/petitioner for condonation of delay of 440 days would cause serious prejudice to the opposite parties. Accordingly, it was prayed that the leave petition be dismissed as being hopelessly barred by limitation.
- iii. The respondents submitted that P.W.1 and P.W.2, being the father and mother of the deceased respectively, gave testimonies which were silent, non-specific, inconsistent, and not supportive of the prosecution case so as to bring home the charges relating to demand of dowry or cruelty soon before death.
- iv. The respondents further submitted that P.W.4, the cousin sister of the deceased, who had visited the matrimonial home of the deceased on several occasions, did not support the prosecution case regarding cruelty or dowry demand and stated that the deceased was living happily in her matrimonial home. Similarly, the respondents submitted that P.W.3 admitted that during her visits, she was never made aware of any cruelty or dowry-related harassment.
- v. The respondents submitted that P.W.6, P.W.8, and P.W.9 are the Investigating Officers in the present case. A careful reading of their testimonies, along with the documents prepared during investigation,



clearly reveals that the surrounding circumstances at the spot, as recorded in the spot map, seizure list, and related documents, give rise to a plausible inference that the incident was accidental in nature and that there was no overt act.

- vi.** The respondents further submitted that the prosecution failed to prove the duration of the marriage between the deceased and the accused, which is an essential ingredient required to attract Section 304-B of the IPC.
- vii.** It was further submitted that the prosecution miserably failed to establish demand of dowry and cruelty by the in-laws in any form, which are the essential ingredients required to constitute offences under Section 498-A of the IPC and Section 4 of the Dowry Prohibition Act.
- viii.** On the other hand, the respondents submitted that D.W.1 and D.W.2, both independent witnesses, deposed that upon hearing shouts from the house of the accused, they rushed to the spot and found the deceased with burn injuries in the courtyard. The deceased informed them that while cooking, her saree accidentally caught fire, due to which she sustained burn injuries. It was further stated that accused Paramananda and his brother had gone to arrange a vehicle to shift the injured to the hospital, but before they returned, the deceased had died. Thereafter, information regarding the death of the deceased was given to her parents.
- ix.** The respondents further submitted that though both the defence witnesses were cross-examined by the prosecution, no contradiction



could be found from their statements. Hence, according to the respondents, the presumption of death due to fire accident, and not on account of dowry demand or cruelty has been proved.

- x. The respondents submitted that the allegations made in the F.I.R. were not corroborated by any independent and consistent evidence during trial. It was submitted that the prosecution failed to establish specific dates, dowry demand, or overt acts attributable to the accused persons. Rather, the surrounding circumstances, as revealed during trial, did not corroborate the contents of the F.I.R. or the statements made by the interested witnesses.
- xi. It was further submitted that during spot inspection, materials such as a dibri, kerosene, pan, cooking materials, and cow-dung cake were found in the kitchen area. According to the respondents, such surrounding circumstances probabalise the defence case that the incident occurred accidentally while cooking.
- xii. The respondents further submitted that P.W.8, the I.O., examined persons including Gopal Sahu, Bhagwan Sahu (D.W.1), and Arun Seth (D.W.2), before whom the deceased had reportedly stated that she had accidentally caught fire while cooking pitha in the kitchen. It was submitted that the defence witnesses, namely D.W.1 and D.W.2, consistently supported the said version and remained unshaken during cross-examination. According to the respondents, such evidence significantly weakens the prosecution theory of dowry death.



- xiii.** The respondents also submitted that P.W.7, the Medical Officer, opined in the post-mortem report that the cause of death was cardiac arrest. According to the respondents, the medical evidence does not conclusively support a dowry-related or homicidal death and, rather, the medical findings are consistent with accidental burn injuries leading to cardiac arrest.
- xiv.** The respondents submitted that, in order to sustain conviction under Section 304-B of the IPC, the prosecution is required to prove the necessary ingredients thereof. In the present case, the year of marriage was not conclusively established, no reliable evidence regarding demand of dowry was proved, and there was absence of evidence relating to cruelty “soon before death”. Therefore, according to the respondents, the foundational requirements for invoking the presumption under Section 113-B of the Evidence Act are absent.
- xv.** The respondents further submitted that even assuming, for the sake of argument, that a demand of Rs.20,000/- had been made, the evidence indicates that the said amount was allegedly sought for livelihood purposes and for release of mortgaged land. According to the respondents, such demand does not fall within the definition of “dowry” as contemplated under Section 2 of the Dowry Prohibition Act, 1961.
- xvi.** It was further submitted that the prosecution failed to establish any nexus between the alleged demand and the marriage. Thus, according to the respondents, no specific act of cruelty of the nature contemplated



under Section 498-A of the IPC has been proved at any stage of the trial. It was also submitted that the evidence on record does not establish wilful conduct likely to drive the deceased to commit suicide. Therefore, according to the respondents, the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna rightly extended the benefit of doubt to the accused persons.

- xvii.** The respondents further submitted that there is no credible evidence to establish intentional disappearance of evidence so as to constitute an offence under Sections 201/34 of the IPC. According to the respondents, mere suspicion cannot substitute proof of common intention or active participation.
- xviii.** The respondents submitted that they are enjoying a double presumption of innocence, firstly under the general principles of criminal law and secondly by virtue of the order of acquittal passed by the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna, which further strengthens the presumption of innocence in favour of the accused persons.
- xix.** It was further submitted that interference in an appeal against acquittal is justified only where the findings are perverse, manifestly illegal, or based on complete misreading of evidence, as prescribed under the settled principles of law.
- xx.** The respondents submitted that the offences alleged by the prosecution do not even satisfy the basic ingredients required to constitute the alleged crimes. Thus, according to the respondents, the order passed by



the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna is free from any infirmity warranting interference. It was further submitted that the appellant has failed to demonstrate any perversity or illegality in the impugned judgment on the face of the record.

- xxi.** The respondents further submitted that the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna scrutinized the evidence in detail and assigned cogent reasons for acquittal. According to the respondents, the findings are based on proper appreciation of evidence and constitute a reasonable and plausible view. It was contended that the petitioner/State has failed to demonstrate any perversity or misreading of evidence and, therefore, no interference by this Court is warranted.

IV. FINDINGS OF THE LEARNED ADDL. DISTRICT AND SESSIONS JUDGE, FAST TRACK COURT, BHAWANIPATNA:

- 11.** The learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna framed charges against accused Paramananda Sahu, Smt. Sadhini Sahu, and Smt. Bud @ Jasobanti Sahu under Sections 498-A/304-B of the IPC read with Section 4 of the Dowry Prohibition Act, and against accused Paramananda Sahu, Kanhu Charan Sahu, Tikelal Sahu, Jugeswar Sahu, and Sardha Sahu under Sections 201/34 of the IPC.
- 12.** The learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna noted that the prosecution examined nine witnesses, whereas the defence examined two witnesses. The defence plea was that the deceased accidentally caught fire while cooking “Pitha”.



13. While analysing the evidence of P.W.1 and P.W.2, namely the father and mother of the deceased, the learned Court observed that they stated regarding the alleged demand of Rs.20,000/- by accused Paramananda for release of mortgaged land and the alleged ill-treatment of the deceased. However, the learned Court also took note of the admissions made during cross-examination, including the admission of P.W.1 that there was no demand of dowry at the time of marriage and that none of the accused persons had directly demanded Rs.20,000/- from him after the marriage.
14. The learned Court further analysed the evidence of P.W.3 and P.W.4 and observed that, although they deposed regarding the alleged demand of money and harassment, P.W.4 admitted in cross-examination that during her visits to the matrimonial house, the deceased had never complained against her in-laws regarding dowry demand or ill-treatment and had stated that she was leading a happy married life.
15. The learned Court also considered the evidence of P.W.7, the Medical Officer, who conducted the post-mortem examination and opined that the cause of death was due to sudden cardiac arrest and that such cardiac arrest was possible in cases of accidental burns or under other circumstances.
16. The evidence of the preliminary I.O. was also considered by the learned Court. It was noted that during the spot visit, the I.O. found cooking materials, a dibri, and other kitchen articles at the spot. The learned Court further noted that the I.O. had examined Gopal Sahu, Bhagaban



Sahu, and Arun Seth, before whom the deceased had allegedly stated that she had accidentally caught fire while preparing “Pitha”.

17. The learned Court also discussed the evidence of D.W.1 and D.W.2, who stated that upon hearing cries from the house of the accused persons, they rushed to the spot and found the deceased with burn injuries. According to them, the deceased stated that while cooking, her saree had accidentally caught fire, resulting in burn injuries.
18. The learned Court thereafter referred to the decision in *Appasaheb v. State of Maharashtra*⁵ and observed that a demand for money for domestic purposes or for release of mortgaged land cannot be termed as “dowry” within the meaning of Section 2 of the Dowry Prohibition Act, 1961.
19. Upon appreciation of the entire evidence on record, the learned Court held that the prosecution failed to establish that the death occurred within seven years of marriage or that the deceased had been subjected to cruelty or harassment in connection with demand for dowry. The learned Court further held that the prosecution failed to establish the charges under Sections 498-A/304-B of the IPC read with Section 4 of the Dowry Prohibition Act, as well as the charges under Sections 201/34 of the IPC.
20. In view of the aforesaid findings, the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna, by judgment dated 25.06.2010, acquitted the accused persons of all the charges levelled against them.

⁵ 2007 (9) SCC 721.



V. COURT'S REASONING AND ANALYSIS:

21. Heard learned counsel for the parties and perused the material placed on record.
22. Before advertng to the specific facts and circumstances pertaining to the matter at hand, this Court deems it apposite to address the preliminary issue raised by the respondents regarding the delay in filing the present CRLLP.
23. It is the case of the respondents that the impugned judgment was passed on 25.06.2010, whereas the present leave petition was filed after a delay of approximately 440 days. Moreover, the application under Section 5 of the Limitation Act, 1963 seeking condonation of the delay was filed only in the year 2016. In this regard, the respondents have placed reliance on *State of Madhya Pradesh v. Bherulal*⁶ and *Postmaster General v. Living Media (India) Ltd*⁷.
24. This Court is cognizant of the settled position of law that bureaucratic efficiency does not constitute a valid ground for condonation of delay. Further, the State is not entitled to special indulgence merely by virtue of it being a public body.
25. However, this Court is equally mindful of the fact that in matters involving serious offences such as dowry death, the overarching objective of securing the ends of justice ought not to be defeated solely on technical grounds. Where the delay has been sufficiently explained and no irreparable prejudice is shown to have been caused to the

⁶ 2020 (10) SCC 654.

⁷ (2012) 3 SCC 563.



accused persons, the Court may adopt a justice-oriented approach while considering an application for condonation of delay.

26. At this juncture, it is also pertinent to note that the present matter arises out of an order of acquittal passed by the learned Trial Court. It is a settled principle of law that interference in an appeal against acquittal is warranted only when the findings recorded by the Trial Court are perverse, manifestly illegal, or based on complete misreading of evidence. Merely because another view is possible on the basis of the evidence available on record, the same would not by itself justify interference with an order of acquittal.
27. In this regard, in *Chandrappa v. State of Karnataka*⁸, the Supreme Court culled out certain general principles regarding powers of the appellate Court while dealing with an appeal against an order of acquittal. It was observed:

“(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, “substantial and compelling reasons”, “good and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes of language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the

⁸ (2007) 4 SCC 415



court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court."

28. The principal questions which arise for consideration in the instant matter are whether the prosecution has been able to establish the foundational ingredients necessary to attract Section 304-B of the IPC and whether the alleged demand of Rs.20,000/- can legally be construed as a demand for dowry within the meaning of the Dowry Prohibition Act, 1961. Further, it is also to be considered whether the findings recorded by the learned Trial Court suffer from such perversity or manifest illegality so as to warrant interference in an appeal against acquittal.
29. Section 304-B of the IPC prescribes that for a death to fall within the definition of "dowry death" it must be caused by any burns or bodily injury or otherwise than under normal circumstances within seven years of her marriage. Further, it must be established that soon before her death, the woman was subjected to cruelty or harassment by her



husband or any relative of her husband in connection with a demand for dowry.

30. The learned Trial Court, upon appreciation of the evidence available on record, recorded a finding that the prosecution failed to conclusively establish that the death of the deceased occurred within seven years of marriage.
31. It is evident from a perusal of the record that although P.W.1 stated that the marriage of the deceased with accused Paramananda had taken place about six years prior to the occurrence, no documentary evidence whatsoever was adduced by the prosecution to establish the date or year of marriage. The prosecution was required to establish the foundational ingredients of the offence through cogent evidence. In the present case, the learned Trial Court found the evidence in that regard to be insufficient. Upon independent scrutiny, this Court does not find the said view to be unreasonable or perverse.
32. The prosecution has primarily relied upon the testimonies of P.W.1 and P.W.2, namely the father and mother of the deceased, to establish the alleged demand of Rs.20,000/- and the cruelty allegedly meted out to the deceased in connection therewith. The learned Trial Court in this regard observed that although allegations regarding demand of money and ill-treatment had been made, their testimonies were not wholly free from inconsistencies and omissions. The Court took note of the particular admission made by P.W.1 during cross-examination that there was no demand of dowry at the time of marriage. P.W.1 further admitted that none of the accused persons had directly demanded Rs.20,000/- from



him after the marriage. The learned Trial Court also observed that the alleged demand appeared to have been made for release of mortgaged land and for livelihood purposes.

33. At this juncture, it becomes necessary to examine whether the alleged demand would fall within the ambit of “dowry” as contemplated under Section 2 of the Dowry Prohibition Act, 1961. The said provision defines “dowry” as any property or valuable security given or agreed to be given directly or indirectly in connection with the marriage of the parties. Thus, the establishment of a nexus between the demand and the marriage is a foundational requirement for attracting the provisions relating to dowry death.
34. The learned Trial Court, while considering the aforesaid aspect, relied upon the decision in *Appasaheb v. State of Maharashtra*⁹ and observed that a demand for money for domestic purposes or for release of mortgaged agricultural land would not, by itself, fall within the statutory definition of “dowry”. Upon careful consideration of the evidence available on record, this Court does not find the said conclusion to be either unreasonable or contrary to the settled position of law.
35. The learned Trial Court further examined the evidence of P.W.3 and P.W.4. In particular, it was noted that P.W.4, during cross-examination, admitted that during her visits to the matrimonial house, the deceased had never complained regarding any dowry demand or ill-treatment by her in-laws and had stated that she was leading a happy married life.

⁹ 2007 (9) SCC 721



The said observation of the learned Trial Court is borne out from the evidence available on record.

36. Similarly, P.W.3 also admitted during cross-examination that during her visits to the matrimonial house, she had not been informed regarding any cruelty or dowry-related harassment. These admissions hold significant weight while assessing the allegation that the deceased had been subjected to continuous cruelty and harassment in connection with demand for dowry soon before her death.
37. The learned Trial Court further considered the evidence of P.W.7, the Medical Officer, who conducted the post-mortem examination over the dead body of the deceased. P.W.7 opined that the cause of death was sudden cardiac arrest and further stated that such cardiac arrest was possible in cases of accidental burns. The learned Trial Court in this regard observed that the medical evidence did not conclusively indicate homicidal death.
38. The learned Trial Court also took note of the evidence of P.W.6, the preliminary I.O., who stated that during spot inspection he found cooking materials, dibri, and other kitchen articles at the spot. It was further noticed that the I.O. had examined certain witnesses during investigation before whom the deceased had allegedly stated that she had accidentally caught fire while preparing "Pitha". The learned Trial Court observed that the aforesaid surrounding circumstances lend support to the defence plea of accidental burns while cooking.
39. The evidence of D.W.1 and D.W.2 was also considered in detail by the learned Trial Court. Both the defence witnesses consistently stated that



upon hearing cries from the house of the accused persons, they rushed to the spot and found the deceased with burn injuries. According to them, the deceased stated that while cooking “Pitha”, her saree had accidentally caught fire, resulting in burn injuries. The learned Trial Court found that nothing substantial could be elicited during their cross-examination so as to discredit their testimony.

40. The petitioner/State in the present case has laid considerable emphasis on the circumstance that the accused persons had allegedly attempted to cremate the dead body before completion of legal procedures and that the body was recovered in a half-burnt condition from the cremation ground. According to the petitioner/State, such conduct constitutes an incriminating circumstance against the accused persons.
41. There can be no dispute with the proposition that hurried cremation in suspicious circumstances may constitute a relevant incriminating circumstance. At the same time, as rightly observed by the learned Trial Court, suspicion, however strong, cannot take the place of legal proof. In the absence of cogent evidence establishing the foundational ingredients of the offences alleged, the aforesaid circumstance by itself cannot be held sufficient to sustain conviction under Sections 498-A and 304-B of the IPC.
42. The petitioner/State has further relied upon *State of Madhya Pradesh v. Jogendra and Another*¹⁰ and *Satbir Singh and Another v. State of Haryana*¹¹, to contend that the expression “soon before death” is a

¹⁰ (2022) 5 SCC 401.

¹¹ (2021) 6 SCC 1.



relative term and that the evidence available on record satisfies the proximity test required for attracting Section 304-B of the IPC and Section 113-B of the Evidence Act.

43. There can be no dispute regarding the aforesaid proposition of law. However, it is also imperative to note that the presumption under Section 113-B of the Evidence Act can arise only when the prosecution first establishes the foundational facts necessary to attract Section 304-B of the IPC. It must first be established that the death occurred within seven years of marriage and that soon before her death, the deceased was subjected to cruelty or harassment in connection with demand for dowry.
44. In the present case, the prosecution has failed to conclusively establish that the death of the deceased occurred within seven years of marriage.
45. Further, the alleged demand of Rs.20,000/-, in the facts and circumstances of the present case, cannot readily be construed as a demand for “dowry” within the meaning of Section 2 of the Dowry Prohibition Act, 1961. Therefore, the statutory presumption under Section 113-B of the Evidence Act is not attracted.

VI. CONCLUSION:

46. Upon overall appraisal of the evidence available on record, this Court is of the considered opinion that the findings recorded by the learned Trial Court are based upon proper appreciation of the material on record and do not suffer from perversity, manifest illegality, or complete misreading of evidence warranting interference by this Court in exercise of appellate jurisdiction against acquittal.



47. Accordingly, this Court does not find any sufficient ground to grant leave to appeal against the judgment dated 25.06.2010 passed by the learned Addl. District and Sessions Judge, Fast Track Court, Bhawanipatna in S.C. Case No.121/29 of 2007-08. The CRLLP stands **dismissed**.
48. Interim order, if any, passed earlier stands vacated.

(Dr. Sanjeeb K Panigrahi)
Judge

*Orissa High Court, Cuttack,
Dated the 22nd May, 2026/*