



2026:UHC:3489

Judgment reserved on:11.03.2026

Judgment delivered on:07.05.2026

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

**Criminal Appeal No.54 of 2005**

Lakhman Singh

.....Appellant

Vs.

State of Uttaranchal

.....Respondent

**Presence:**

Mr. R.P. Nautiyal, Senior Advocate, assisted by Mr. Pavan Kumar Nath,  
Mr. Vinay Bisht, learned counsel for the Appellant.

Mr. Vikas Uniyal, learned Brief Holder, for the State.

**Hon'ble Ashish Naithani, J.**

1. The present criminal appeal under Section 374(2) of the Code of Criminal Procedure has been preferred by the Appellant, Lakhman Singh, assailing the judgment and order dated 30.03.2005 passed by the learned Sessions Judge, Rudraprayag in Sessions Trial No. 10 of 2004, whereby the Appellant has been convicted under Section 304-B of the Indian Penal Code and Section 3/7 of the Dowry Prohibition Act, while the co-accused persons have been acquitted.
2. The record reveals that the case was instituted on the basis of a First Information Report lodged by a relative of the deceased, alleging that the death of Smt. Roshani Devi, wife of the Appellant, had occurred under unnatural circumstances within a few years of her marriage, and that prior to her death, she was subjected to cruelty and harassment in connection with demand for dowry.



3. Upon registration of the FIR, the matter was investigated by the Investigating Officer, who conducted inquest proceedings, collected relevant material, recorded statements of witnesses under Section 161 CrPC, and sent the dead body of the deceased for post-mortem examination.
4. The post-mortem examination indicated that the death was not under normal circumstances. On completion of investigation, charge-sheet was submitted against the Appellant and other accused persons for offences punishable under Section 304-B IPC and Section 3/7 of the Dowry Prohibition Act.
5. The case being triable exclusively by the Court of Sessions, it was committed to the Court of Sessions, Rudraprayag, where charges were framed against the accused persons. The accused denied the charges and claimed trial.
6. During the course of trial, the State examined several witnesses, including the relatives of the deceased, to establish the allegations of cruelty and dowry demand. Documentary evidence, including the post-mortem report and other investigation-related documents, was also brought on record.
7. After completion of prosecution evidence, the statements of the accused persons were recorded under Section 313 CrPC, wherein they denied the allegations and stated that they had been falsely implicated. The Appellant admitted the factum of marriage and the death of his wife but denied any demand for dowry or cruelty.
8. Upon appreciation of the evidence on record, the learned Trial Court acquitted the co-accused persons, but found the present Appellant guilty of the offences under Section 304-B IPC and Section 3/7 of the Dowry Prohibition Act, and accordingly convicted and sentenced him as noted above.



9. Aggrieved by the said judgment of conviction and order of sentence, the present appeal has been preferred by the Appellant before this Court.
10. It is not in dispute that the deceased Smt. Roshani Devi was married to the Appellant and that her death occurred within seven years of marriage. The controversy in the present appeal primarily revolves around whether the State has been able to establish that the deceased was subjected to cruelty or harassment in connection with demand for dowry soon before her death so as to attract the ingredients of Section 304-B IPC and the presumption under Section 113-B of the Evidence Act.
11. Learned Senior Counsel appearing for the Appellant submits that the impugned judgment suffers from serious errors in appreciation of evidence and proceeds on assumptions rather than legally admissible proof. It is contended that the conviction under Section 304-B IPC has been recorded without the foundational requirements of the provision being satisfied.
12. It is argued that the witnesses examined by the State, particularly the parents and close relatives of the deceased, have made general and omnibus allegations of harassment for dowry, but have failed to specify any definite instance of demand or cruelty attributable to the Appellant. Their statements, it is submitted, lack particulars as to time, place, and nature of the alleged demand of ₹50,000.
13. Learned Senior Counsel further submits that the requirement of “soon before death” has not been established from the evidence on record. It is argued that even if the testimonies are taken at their face value, they speak of vague allegations of past discord, but do not disclose any proximate or live link between the alleged harassment and the death of the deceased.



14. It is contended that there are material inconsistencies in the statements of the witnesses examined by the State. Certain witnesses have improved their versions before the Court as compared to their statements under Section 161 CrPC, and such improvements go to the root of the case. The learned Trial Court, it is submitted, has overlooked these contradictions.
15. Learned counsel further argues that no independent witness from the village or neighbourhood has been examined, though the incident is stated to have occurred in a residential setting where such evidence could have been available. The case rests entirely on interested witnesses, whose testimony required strict scrutiny.
16. It is also submitted that the Appellant was not residing jointly in a manner suggested by the State, and the prosecution has failed to establish his specific role in any alleged act of cruelty. The acquittal of the co-accused persons, on the same set of allegations, casts a serious doubt on the overall prosecution case.
17. On the aspect of medical evidence, learned counsel submits that the post-mortem report does not conclusively establish that the death was homicidal or directly attributable to any act of the Appellant. It is contended that the possibility of suicide has not been ruled out, and the medical evidence does not support a definite conclusion pointing towards dowry death.
18. It is further argued that the presumption under Section 113-B of the Evidence Act has been erroneously invoked by the learned Trial Court without the prosecution first discharging its initial burden of proving cruelty or harassment in connection with dowry soon before death. In the absence of such foundational facts, the presumption could not have been drawn.



19. Learned Senior Counsel submits that the defence of the Appellant, as reflected in his statement under Section 313 CrPC, has not been considered in its proper perspective. The suggestion that the deceased was under personal distress and may have taken the extreme step on account of reasons unrelated to dowry has been brushed aside without adequate consideration.
20. It is thus contended that the conviction of the Appellant is based on conjectures and surmises, and the evidence on record falls short of the standard required to sustain a conviction under Section 304-B IPC. The Appellant, therefore, deserves to be acquitted by extending the benefit of doubt.
21. Learned DAG appearing for the State supports the judgment under appeal and submits that the learned Trial Court has correctly appreciated the evidence on record and has rightly convicted the Appellant.
22. It is contended that it stands established from the record that the death of the deceased occurred within seven years of her marriage and under unnatural circumstances. These foundational facts, it is submitted, bring the case within the ambit of Section 304-B IPC.
23. Learned counsel for the State submits that the testimony of the relatives of the deceased clearly establishes that she was subjected to cruelty and harassment in connection with demand for dowry. The demand of ₹50,000 has been consistently spoken to by the witnesses, and their evidence cannot be discarded merely on the ground that they are related to the deceased.
24. It is further argued that the evidence reflects a continuing course of conduct, and the requirement of “soon before death” does not mean



immediately before death but requires a proximate and live link, which stands satisfied in the present case.

25. Learned counsel submits that minor inconsistencies or variations in the statements of witnesses are natural and do not affect the core of the case. The learned Trial Court has rightly relied upon the consistent substratum of the evidence.
26. It is also contended that the acquittal of the co-accused persons does not enure to the benefit of the present Appellant, as the role attributed to him is distinct and has been proved through the evidence on record.
27. On the question of presumption, learned counsel for the State submits that once the State establishes that the death was unnatural and within seven years of marriage, coupled with evidence of dowry-related harassment, the presumption under Section 113-B of the Evidence Act operates against the accused, and the burden shifts upon him to rebut the same.
28. It is argued that the Appellant has failed to discharge this burden. The explanation offered in his statement under Section 313 CrPC is vague and unsupported by any evidence, and is insufficient to rebut the statutory presumption.
29. Learned counsel for the State, therefore, submits that the conviction recorded by the learned Trial Court is based on proper appreciation of evidence and settled principles of law, and does not warrant interference by this Court.
30. Heard learned counsel for the Parties and perused the records.
31. It is not in dispute that the death of Smt. Roshani Devi occurred within seven years of her marriage with the Appellant and that the



death was otherwise than under normal circumstances. These foundational facts are borne out from the record. However, the mere existence of these two circumstances does not ipso facto attract Section 304-B IPC unless the further requirement of cruelty or harassment in connection with demand for dowry “soon before death” is established.

32. The gravamen of the prosecution case rests upon the testimonies of the relatives of the deceased. A careful scrutiny of their evidence reveals that while general allegations of demand of ₹50,000 have been made, the same are not supported by specific instances, dates, or circumstances which would indicate a continuous or proximate course of conduct attributable to the Appellant.

33. The expression “soon before death” has been consistently interpreted to mean a live and proximate link between the alleged cruelty and the death in question. In the present case, the evidence led by the State does not disclose any such proximate incident of harassment immediately preceding the death. The allegations, as they stand, are general in nature and refer to past discord without establishing the required nexus.

34. This Court also finds that there are material inconsistencies in the statements of the witnesses. Certain improvements have been made before the Court which were not part of the statements recorded during investigation. These discrepancies assume significance in a case resting primarily on interested testimony and necessitate cautious evaluation.

35. It is further noteworthy that no independent witness from the locality has been examined, though the incident is stated to have occurred in a residential setting. The entire case is based upon the testimony of related witnesses, and in the absence of corroboration,



their evidence required closer scrutiny, which does not appear to have been undertaken by the learned Trial Court in its correct perspective.

36. The medical evidence, though indicative of an unnatural death, does not, by itself, establish that the death was the result of cruelty or harassment connected with dowry demand. The possibility of suicide, as suggested by the defence, has not been effectively ruled out by the evidence on record.
37. The learned Trial Court has invoked the presumption under Section 113-B of the Evidence Act. However, such presumption can be drawn only when the prosecution first establishes the foundational facts, namely, that the deceased was subjected to cruelty or harassment in connection with dowry demand soon before her death. In the absence of clear and cogent evidence satisfying this requirement, the presumption could not have been invoked.
38. The acquittal of the co-accused persons on the same set of allegations further weakens the case against the present Appellant, particularly when the evidence does not clearly distinguish his role from that of the acquitted accused in a manner sufficient to sustain conviction.
39. The defence of the Appellant, though not required to be proved beyond reasonable doubt, has raised a plausible alternative explanation which has not been effectively dislodged by the evidence led by the State. In criminal jurisprudence, where two views are possible, the one favourable to the accused must be adopted.
40. In view of the aforesaid discussion, this Court is of the considered opinion that the State has failed to establish the essential ingredients of Section 304-B IPC beyond reasonable doubt. The conviction of the Appellant, therefore, cannot be sustained.



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## ORDER

The appeal is allowed. The judgment and order dated 30.03.2005 passed by the learned Sessions Judge, Rudraprayag in Sessions Trial No. 10 of 2004, convicting the Appellant under Section 304-B of the Indian Penal Code and Section 3/7 of the Dowry Prohibition Act, is hereby set aside.

The Appellant, Lakhman Singh, is acquitted of all the charges.

The Appellant is on bail. His bail bonds stand discharged.

Let a copy of this judgment be sent to the court concerned for compliance.

**(Ashish Naithani J.)**

Dated:07.05.2026

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