

**IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 57 of 2013

Subhas Majhi

-Vs-

The State of West Bengal

For the Appellant : Mr. Samira Gerewal
Ms. Priyanka Bhattacharya

For the State : Ms. Shaila Afrin
Mr. Suman Dey

Judgment on : 22.06.2026

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against judgment and order dated 16/17.01.2013 passed by the Learned Additional Sessions Judge, Contai, Purba Medinipur in Sessions Trial No.59/July of 1998 arising out of Bhupatinagar Police Station Case No.41 of 1994 dated 30.10.1994 under Sections 498A/304(B)/34 of the Indian Penal Code, convicting thereby the appellant of the charge framed against him for committing offence punishable under Sections 498A/306 of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for seven (07) years and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for a further period of six (06) months for committing offence punishable under Section 306 of the Indian Penal Code and to suffer rigorous imprisonment for three (03) years and to

pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for a further period of six (06) months for committing offence punishable under Section 306 of the Indian Penal Code with both sentences to run concurrently.

2. The factual matrix of the prosecution case in a nutshell is inter alia to the effect that the deceased Sefali Majhi was married for one and a half years to the appellant. At the time of marriage, as per the demand of Sefali Majhi's in laws dowry was given. However, not been satisfied with the dowry, Sefali Majhi was physically and mentally tortured by her in laws. On 29.10.1994, there was a quarrel with Sefali Majhi and her in-laws over demand for dowry and Sefali Majhi was administered poison forcefully by her in-laws. Sefali Majhi died on 30.10.1994 at 7 a.m.
3. Over the aforesaid, Bhupatinagar Police Station Case No.41 of 1994 dated 30.10.1994 was registered for investigation on the basis of a written complaint lodged by one Paresh Chandra Mal (P.W.-1) with the officer in charge of the said police station, inter alia, for commission of offence punishable under Sections 498(A)/304(B)/34 of the India Penal Code committed by the appellant along with four others.
4. After completion of investigation, the Investigating Officer S.I. A. B. Paul (P.W.-10) submitted charge-sheet against the appellant and two others namely Bipin Mirdha and Manilal Mirdha for their alleged involvement in commission of offences punishable under Sections 498A/304/120B of the Indian Penal Code before the Court of the learned Sub-Divisional Judicial Magistrate, Contai.

5. Charges were framed against the appellant and two others namely Binoy Majhi and Prabhas Majhi for their alleged involvement in commission of offences punishable under Sections 498A/306/304B/34 of the Indian Penal Code and while the appellant and two others namely Binoy Majhi and Prabhas Majhi pleaded not guilty to the aforesaid charges and claimed to be tried.

6. In order to prove its case, the prosecution examined as many as 17 witnesses while the defence examined none.

7. The Learned Advocate representing the appellant submitted as follows:-

i. *“Status of Accused persons put on trail-*

Subhas Majhi (husband - Appellant), Convicted u/s 498A and 306/34 and acquitted of the charge u/s 304B IPC

Khadibala Majhi (mother in law) expired during trail

Binoy Majhi(brother in law)- acquitted

Ranjan Majhi (brother in law) -Expired during trail

Prabhas Majhi (brother in law) – acquitted

ii. *FIR lodged on 30/10/1994 by PW1*

Victim- Shephali majhi 29 years in 1994

Post mortem report dated 31/10/1994

Cause of death- suicidal in nature, death is due to the cardio-respiratory failure due to taking of poison.

Charge-sheet- dated 31/1/2000, u/s 498A, 304B and 306 /34 IPC.

Charges framed- u/s 498A/34 And 306/34 against Subhas Majhi (husband), Khadibala majhi(mother in law), binoy majhi (brother in law) Ranjan majhi (brother in law) and Prahas majhi (brother in law).

iii. During the course of trail, Accussed no. 2 and 4 expired and accused no. 3 and 5 were acquitted, the accused no. 1 was convicted u/s 498A of IPC and sentenced to suffer rigorous imprisonment for 3 years and to pay fine of Rs. Ten thousand with default clause and also sentenced to suffer seven years of rigorous imprisonment and to pay fine of rupees ten thousand with default clause for commission of offence punishable u/s 306 of the IPC.

iv. Defence Case

That during the course of trail, over the self same evidence the other accused that is the brothers of appellant has been acquitted. It has also been stated by the defence that the mother of the present appellant died and it solely the appellant who has been convicted by the impugned judgment.

v. No. of witnesses- 17

vi. Evidence of witnesses in brief

vii. PW1 being the father of the deceased stated that he had lodged the dairy at Bhupatinagar P.S. twice being dairy dated-13/09/1994 and 16/09/1994 complaining about assault and torture, he further stated that the deceased died at her matrimonial home and it was the PW1 who took the victim to the hospital where she died. He stated that his

daughter within one in a half years of marriage and he gave everything demanded as per talika.

- viii. PW2 neighbour of the accused has turned hostile naturally as he admitted that he is the grandson of Subhas Majhi.*
- ix. PW3 and PW4 have all become hostile since they were co-villagers.*
- x. PW5 is the sister of the deceased who has stated that her father had lodged the dairy at Bhupatinagar P.S. twice being dairy dated- 13/09/1994 and 16/09/1994 complaining about assault and torture, she further stated that the deceased died at her matrimonial home and it was the PW-1 who took the victim to the hospital where she died. He stated that his daughter within one in a half years of marriage and he gave everything demanded as per Talika. She further stated that Shephali was medically treated. A Salish took place and thereafter PW1 took Shephali to her matrimonial house. One Apurba Mondal informed that the accused persons had administered poison to Shephali. She along with PW-1 and others went to the matrimonial house of Shephali and on being asked Shephali stated that sitting on her chest the appellant and his mother had administered poison while the other accused persons has instigated the matter.*
- xi. PW-6 narrated the entire incident as stated by PW1 and further about torture, assault and dowry demands by the accused she further stated that Shephali was administered poison at her matrimonial home and on the way to the hospital Shephali has stated that she was being administered poison by the appellant.*

- xii. *PW7 who is the brother has collaborated with PW1 and PW5.*
- xiii. *PW8 stated that he had come to know from Shefali that there was a demand of dowry and she driven out from her matrimonial house and hence, there was salish. PW8 also went the matrimonial house Shephali at the time when she was administered poison and was told by the deceased that sitting on her chest the appellant and his mother forcibly poured poison in her mouth.*
- xiv. *PW9 is the police witness who has inquest the dead body of Shephali.*
- xv. *PW10 is the investigating officer of the instant case and has submitted that he has visited the P.O. examined the witnesses u/s 161 Cr.P.C. and has prepared the sketch map with index prepared S.L. and has collected the injury report and the P.M. report and thereafter stated that on 21/04/1995 that he made over the case to O.C. and S.I. R.N. Sinha, Bhupatinagar P.S. as he was transferred. He further stated that the carbon copy of the S.L. was prepared and signed by him. The S.L.s are marked as Ext.4 series. The injury report collected by him and the carbon copy of the injury report was marked as Ext.5 and the P.M. report collected by him was marked as Ext.6. He also examined Smt. Alaka Dolai. The witness Alaka Dolai stated to him that the accused persons used to touture upon the deceased, Shephali for more dowry and money. mo She further stated to him that on 29/10/1994 she found the husband of the deceased and her mother in law torturing the deceased Shephali.*

- xvi. PW11 stated that he received the original complaint and after getting the complaint he filled up the formal FIR. He further stated that deceased has lodged GD on 13/09/1994 as Ext.1/1. The deceased lodged the GD on 13/09/1994 by GD entry No. 559 dated 13/09/1994. He further stated that he wrote the GD and signed the same.
- xvii. PW12 is the rickshaw puller who carried the dead body the deceased Shephali Majhi to Kontai hospital.
- xviii. PW13 and PW15 is the same witness who has performed the autopsy of the deceased.
- xix. PW14 is a vital witness to the prosecution case, PW14 being the doctor has stated that after the examination he has found injuries on the deceased's body, he found the injuries to be old and tender. Shephali has reported to him that she has been reportedly assaulted by the appellant and by other family members.
- xx. PW16 and PW17, since the co villagers has turned hostile.
- xxi. *Argument On Behalf of the prosecution*

That in this cases 17 witnesses have been examined out of which 5 witnesses are relative of the deceased who died on 30/04/1994. After her marriage with the accused Subhas Majhi in 1992.

That this is the case u/s 498A/304B/306/34 of the IPC and the evidences on the records reveal that the victim died in unnatural way almost within two years of her marriage.

The evidences of pw2 who has pointed out that the victim died at the hospital. It was submitted from the record that the victim was and tortured on different days and that is on 13/09/94, 16/09/94 and 19/10/94 and is the specific averment of the witnesses that the victim was administered poison.

xxii. With regard to the conduct of the accused persons it has been established from the witness of PW5, PW7 and PW8. That immediately after the occurrence of administration of poison when the victim was fighting for her life. At that time the accused persons were not found in their house. When the inmates of victim has visited the place. It is further to be stated that the evidence on record clearly proves that the victim was administered within one and a half years of marriage and that she died at her matrimonial home and there is allegation of physical and mental torture and demand of dowry.

xxiii. It is to be further stated there are evidences to the effect that the victim was tortured and GD entry in respect to the allegation made by the victim before death has been produced in Court.

xxiv. That the injury report marked Ext.5 reveals that on 20/09/94 the doctor of B.M.O.H Bhagwanpur has mentioned in the report that the victim Shephali Majhi wife of Subhas Majhi attended the hospital on 12/09/94 and 16/09/94 with regard to the incident dated 12/09/94 at 4 p.m. and 16/06/94 at 10 a.m. It has been clearly noted in Ext.5 that the victim was assaulted by her husband and others. The case history as noted by the doctors further revealed that the victim

Shephali Majhi was assaulted physically repeatedly by her husband and family members on the said dates although the victim sustained some injuries on all the occasions. The victim was provided first aid and was advised to attend the O.P.D. and was subsequently treated by card dated 12/09/94 O.P.D 12711 and E.R. Ticket no. E 1293 dated 16/09/94.

- xxv. Through the cross examination of the I.O. during whose evidences has document has been marked exhibited and the witness stated on doc and this the injury report was collected by him, the genuineness and authenticity of the documents have not been challenged.*
- xxvi. The fact that the victim was subjected to cruelty and was tortured at her matrimonial home is very much clear from Ext.5 and examination of PW5., PW6,PW7 and PW8 THE evidences of PW11 in cross examination discloses that on the said date at night the victim had quarrelled with her mother in law and her husband, in the totality of the circumstances it is considered as cogent evidence so the GD entry suggesting the quarrel further corroborated the fact that the victim was forced to lodge the GD against her husband and in-laws as she was suffering from regular cruelty.*
- xxvii. That it is very much clear from the P.M. report that the cause of the death was due to poisoning. From the forensic report it can definitely be said that the death was due to endosulfan. Further there was no attempt by the in laws and other inmates to take the victim to the hospital.*

xxviii. *Transpires from the evidence that the appellant and other accused use to abuse and inflict torture upon upon the victim on the demand of additional dowry. It also transpires from the evidence produced by the prosecution that Shephali told about the tortures to her parents and a salish took place on effect of that There has been deposition of PW7 and others who discloses that Shephali was alone at the time when she was taken to the hospital and that she disclosed the accused husband and her mother in law has fed her poison.*

xxix. *It has further been stated by pwl when the victim was poisoned the other inmates fled away.*

xxx. *PW14 has stated when he examined Shephali at 29/9/94 at Bhupatinagar he noted injuries on her person which clearly proves that she was subjected to assault and torture.*

xxxi. *PW15 has held the post mortem of Shephali and has confirmed that she has died due to poison*

xxxii. *That there are reliable and cogent evidences that the victim has harassed by the appellant and that it is crystal clear that sufficient reliable evidences to prove that victim was assaulted by the appellant.”*

8. The circumspection of evidence of the prosecution witnesses revealed as follows:-

- i. PW-1 the father of the deceased and the de facto complainant, narrated that Sephali was married to appellant Subhas Majhi according to Hindu rites and thereafter resided in her matrimonial home situated at a short distance from her parental residence.

According to him, dissatisfaction regarding the quantity of ornaments and articles furnished at the time of marriage gave rise to persistent demands for additional dowry. He stated that his daughter was frequently assaulted, subjected to mental and physical cruelty and, on more than one occasion, driven out of her matrimonial home. Two prior complaints lodged at Bhupatinagar Police Station on 13th September, 1994 and 16th September, 1994 were referred to by him as manifestations of the continuing discord. PW-1 further deposed that on receiving information regarding the victim's condition, he proceeded to her matrimonial residence where she was still alive, thereafter arranging for her removal to hospital. Her life, however, could not be saved. He attributed responsibility for her death to the accused persons, particularly her husband and members of the matrimonial family. During cross-examination, several omissions and limitations surfaced. He could not furnish precise dates relating to the alleged demands or incidents of cruelty and acknowledged that certain particulars had not been communicated either to the Investigating Officer or to local authorities.

- ii. PW-2, a relative residing in close proximity to the matrimonial home, offered a comparatively restrained account. He affirmed the marital relationship between the deceased and appellant Subhas Majhi and stated that Sephali died after consuming poison in her matrimonial house. His testimony chiefly concerned the factum of her death and the circumstances surrounding the aftermath. He admitted that he

possessed no direct knowledge regarding the treatment accorded to the victim in her matrimonial home and could not state the reason that prompted the consumption of poison.

- iii. PW-3 and PW-4 did not support the prosecution version during trial and were declared hostile.
- iv. PW-5, the sister of the deceased, furnished one of the most significant accounts regarding the victim's married life. She stated that Sephali repeatedly disclosed to her that she was being harassed, assaulted and humiliated for dowry and monetary demands. According to PW-5, the victim had earlier sought refuge in her parental home after being expelled from the matrimonial residence and had received medical treatment consequent upon such maltreatment. She referred to the two prior police diaries lodged by the deceased and described village interventions through *salish* proceedings. Her testimony assumed greater significance when she stated that upon reaching the matrimonial residence on the date of occurrence, she found her sister alive and capable of speech. In response to her enquiries, Sephali allegedly disclosed that Subhas Majhi and his mother had forcibly administered poison to her while the remaining accused persons encouraged the act. The victim was thereafter removed to hospital where she succumbed. Cross-examination revealed certain omissions in her earlier statements and an inability to specify precise dates concerning several incidents of cruelty.

- v. PW-6, a co-villager acquainted with both families, also deposed regarding the strained matrimonial atmosphere. He stated that the deceased had informed him of demands for further dowry and the ill-treatment she suffered at the hands of her husband. More importantly, PW-6 asserted that while the victim was being transported to hospital and remained conscious, she stated that poison had been administered to her by Subhas Majhi. He further noted the conspicuous absence of the accused persons from the matrimonial home when villagers arrived after receiving news of the incident.
- vi. PW-7, the brother of the deceased, substantially echoed the version of PW-1 and PW-5. He stated that Sephali frequently complained of physical assaults and demands for additional dowry made by her husband and mother-in-law. He also referred to the prior police complaints and the intervention of village elders. According to PW-7, after receiving information about the victim's condition, he reached the matrimonial home and found her alive. Upon being questioned, she allegedly stated that her husband and mother-in-law had forcibly administered poison to her, while the remaining accused persons had encouraged the act. He further narrated that quarrels and assaults had taken place shortly before the occurrence. During cross-examination, he admitted certain omissions in his statement before the Investigating Officer and could not furnish exact dates concerning several events.

- vii. PW-8, the paternal uncle of the deceased, deposed that Sephali Majhi, daughter of his elder brother, had entered matrimony with appellant Subhas Majhi and thereafter faced persistent discord within her matrimonial household. He stated that demands for dowry and money were accompanied by physical assaults, of which he gained knowledge from the victim herself. According to him, after one such episode of assault and expulsion from the matrimonial residence, a village salish was convened. PW-8 further testified that upon receiving information regarding the victim's condition on the day of the occurrence, he proceeded to the matrimonial home where he found Sephali lying conscious while none of the accused persons remained present. On being questioned, the victim allegedly narrated that her husband, Subhas, and her mother-in-law, Khandi, had restrained her and forcibly poured poison into her mouth, while the remaining accused persons instigated the act. She was thereafter removed to hospital where she succumbed to death. During cross-examination, PW-8 acknowledged that all demands made at the time of marriage had initially been fulfilled and admitted his inability to furnish precise dates concerning the victim's visits to her parental home or the convening of the salish. Material omissions in his statement before the Investigating Officer were also elicited.
- viii. PW-9, an Assistant Sub-Inspector of Police, was entrusted with the inquest proceedings. Acting pursuant to official endorsement, he conducted the inquest over the body of Sephali Majhi at

Bhupatinagar B.P.H.C. in the presence of medical personnel and prepared the inquest report. He proved the inquest report and the challan by which the dead body was forwarded to Contai Sub-Divisional Hospital for post-mortem examination. His evidence remained formal in nature, directed principally towards proving the procedural steps undertaken after the death. During cross-examination, he stated that no opinion regarding the cause of death had been recorded by him in the relevant column of the inquest report.

- ix. PW-10, the first Investigating Officer, described the investigative measures undertaken after registration of the case. He visited the place of occurrence, examined witnesses under Section 161 of the Code of Criminal Procedure, prepared the sketch map with index, collected the injury report and post-mortem report, and proved the documentary exhibits generated during investigation. His testimony acquired particular significance in cross-examination, where numerous omissions and discrepancies between the statements of witnesses and their depositions before the Court were brought on record. He stated that several prosecution witnesses had not narrated to him material portions subsequently introduced in evidence, including allegations regarding forcible administration of poison, prior disclosures of torture, participation of particular accused persons in salish proceedings, and several circumstances

surrounding the occurrence. Certain witnesses had also informed him that Sephali had consumed poison of her own accord.

- x. PW-11, the Officer-in-Charge of Bhupatinagar Police Station at the relevant time, proved the institution of the criminal case. He stated that on receipt of the written complaint lodged by Paresh Chandra Mal, Bhupatinagar P.S. Case No. 41 of 1994 was registered under Sections 498A, 304B and 34 of the Indian Penal Code together with Sections 3 and 4 of the Dowry Prohibition Act. He proved the formal First Information Report and the endorsement directing investigation. Of considerable relevance was his evidence concerning the earlier General Diary Entry No. 559 dated 13th September, 1994, lodged by the deceased herself, which was proved as an exhibit. During cross-examination, PW-11 stated that the deceased had recorded in the said General Diary that she had quarrelled with her husband and mother-in-law on that day and night. He further admitted that no enquiry had been undertaken by him regarding the particulars of such quarrel.
- xi. PW-12, a van-rickshaw puller, deposed that he transported the body of Sephali Majhi to Contai Sub-Divisional Hospital. His evidence remained confined to the transportation of the deceased and bore no direct connection with the circumstances leading to her death. During cross-examination, he candidly stated that he possessed no personal knowledge concerning the incident.

- xii. PW-13 formally proved the post-mortem report. His testimony was essentially documentary and confined to identification of the carbon copy of the report prepared in the ordinary course of official duty.
- xiii. PW-14, the Medical Officer who examined Sephali on 20th September, 1994, furnished evidence of notable significance regarding her physical condition during her lifetime. He stated that upon examination he detected minor injuries and tenderness upon her person. According to him, the victim informed him that she had been repeatedly assaulted by her husband and members of the matrimonial family. The injuries were assessed as old in nature, and an injury report was prepared accordingly. He also proved his participation in the inquest proceedings. During cross-examination, however, he conceded that the injury report did not contain identifying marks of the patient, nor did it record the history allegedly narrated by the victim. He further admitted that the injuries were simple in character and could have been manufactured. His testimony therefore supplied medical corroboration regarding the existence of bodily injuries, though the probative force of such injuries became a matter requiring cautious evaluation.
- xiv. PW-15, the Medical Officer who conducted the post-mortem examination, provided the scientific evidence concerning the cause of death. He stated that upon examination of the body he detected poison-like odour emanating from the stomach contents and liver. In his opinion, death resulted from cardio-respiratory failure consequent

upon consumption of poison. He described the injuries as ante-mortem and preserved the viscera for chemical examination. Of particular importance was his opinion that the death appeared suicidal in nature, subject to confirmation through chemical analysis of the viscera and consideration of the surrounding circumstances. He proved the post-mortem report prepared and signed by him. During cross-examination, he confirmed that the viscera had been forwarded for chemical examination.

9. The Learned Advocate appearing for the appellant assailed the judgment of conviction and the consequential order of sentence as suffering from grave infirmities both in fact and in law. It was contended that a criminal court derives its conclusions solely from evidence lawfully adduced before it and that no finding relating to a fact in issue may rest upon conjecture, surmise or judicial speculation. According to the appellant, the Learned Trial Judge travelled beyond the evidentiary record and founded the conviction upon assumptions rather than proof, thereby rendering the impugned decision vulnerable to appellate interference.
10. The Learned Advocate submitted that the trial stood vitiated by departure from the procedure ordained by law, resulting in a serious erosion of the appellant's right to a fair adjudicatory process. The judgment, it was argued, reflects a failure to engage with material aspects of the evidence and several questions arising for determination remained either unanswered or insufficiently addressed. Such omission, according to the appellant, strikes at the very foundation of a criminal verdict.

11. Emphasis was placed upon the cardinal principle that the burden of establishing guilt rests entirely upon the prosecution and never shifts to the accused. The learned Advocate contended that the Trial Court, rather than scrutinising the prosecution evidence against the settled standard of proof beyond reasonable doubt, drew adverse inferences from perceived frailties in the defence. Such an approach, it was argued, stands contrary to the elementary precepts governing criminal jurisprudence, for a deficient defence cannot fortify an infirm prosecution case.
12. It was further urged that the charge itself lacked the necessary particulars required to afford the appellant a meaningful opportunity of defence. The resulting prejudice, according to learned counsel, occasioned a substantial miscarriage of justice, as the appellant was deprived of a fair opportunity to meet the accusations with precision and clarity.
13. The Learned Advocate subjected the appreciation of evidence by the Trial Court to pointed criticism. It was submitted that the prosecution evidence, when examined witness by witness and circumstance by circumstance, revealed significant deficiencies, omissions and inconsistencies. Material features emerging from the cross-examination of prosecution witnesses were either accorded scant attention or excluded from consideration altogether. The learned Judge, according to the appellant, adopted a selective approach to the evidence and thereby arrived at conclusions unsupported by the record.
14. A further limb of the challenge rested upon the contention that the conviction was founded, in part, upon evidence that was either inadmissible

or incapable of sustaining the weight placed upon it. Learned counsel argued that gaps in the prosecution narrative were bridged through inferential reasoning divorced from proved facts, resulting in the introduction of hypothetical circumstances that found no support in legally admissible evidence.

15. Particular criticism was directed against the finding of guilt on the ground that the prosecution failed to establish, through cogent and reliable evidence, the precise manner, time, place and circumstances in which the alleged occurrence took place. The evidentiary foundation, according to the appellant, fell considerably short of the degree of certainty demanded by criminal law before a finding of guilt may be recorded.
16. The examination of the appellant under Section 313 of the Code of Criminal Procedure also formed a substantial component of the challenge. Learned counsel submitted that the questions put to the appellant were lengthy, composite and laden with multiple factual assertions. Such a mode of examination, it was argued, defeated the legislative purpose underlying Section 313 of the Code of Criminal Procedure, namely, to afford an accused a real and effective opportunity to explain the circumstances appearing against him. The appellant, a layperson unassisted in appreciating intricate legal implications, could scarcely be expected to furnish meaningful answers to questions framed in such a manner. The safeguard contemplated by law, therefore, stood substantially diluted.
17. Drawing these submissions together, the Learned Advocate contended that the prosecution case, viewed in its entirety, rested upon evidence lacking the

requisite degree of reliability and certainty demanded in a criminal trial. The conviction and sentence were thus portrayed as the product of an erroneous appreciation of evidence, procedural irregularities and a departure from settled principles governing criminal adjudication. The appellant accordingly prayed for setting aside the judgment and order of conviction and sentence, asserting that the prosecution had failed to establish the charges beyond the threshold mandated by law.

18. The Learned Advocate for the State supported the judgment of conviction and sentence, contending that the prosecution had succeeded in establishing a continuous chain of circumstances revealing persistent cruelty, dowry-related harassment and the eventual death of Sefali Majhi by poisoning within a short span of her marriage. It was submitted that the prosecution examined seventeen witnesses whose collective testimony, when read alongside the documentary and medical evidence, furnishes a coherent and persuasive narrative of matrimonial oppression culminating in a tragic and premature death.
19. Attention was drawn to the fact that the deceased had entered into matrimony with appellant Subhas Majhi in the year 1992 and met her death scarcely one and a half to two years thereafter. The prosecution maintained that the death occurred in circumstances attracting the statutory ingredients of Sections 498A, 304B and 306 of the Indian Penal Code, read with the provisions of the Dowry Prohibition Act. The evidence, according to the State, demonstrates that the deceased was subjected to repeated physical and

mental torment on account of demands for additional dowry and that such cruelty persisted till the period immediately preceding her death.

20. The Learned Advocate placed considerable reliance upon the testimony of the relations of the deceased, particularly PW-5, PW-7 and PW-8, whose depositions describe recurring acts of assault, humiliation and coercion. Reference was also made to the General Diary entries lodged by the deceased during her lifetime and to the village mediation convened in consequence of her grievances. These circumstances, it was argued, reveal that her complaints were neither isolated nor fabricated but formed part of a continuing course of conduct within the matrimonial household.
21. The State further relied upon the medical evidence embodied in the injury report and the testimony of the attending medical officer. It was submitted that the injury report records the history furnished by the deceased herself and reflects repeated episodes of assault at the hands of her husband and members of his family. The genuineness of these records, having been collected during investigation and exhibited in evidence, remained substantially intact. The medical findings thus lend assurance to the oral testimony regarding the cruelty inflicted upon the deceased.
22. The conduct of the accused immediately following the occurrence was also pressed into service. According to the prosecution, evidence on record indicates that when the relatives of the victim reached the matrimonial residence after receiving information of the incident, the accused persons were absent. Such conduct, viewed in conjunction with the surrounding circumstances, was urged as a significant incriminating feature.

23. The Learned Advocate further submitted that the evidence discloses that the deceased was alone and in a vulnerable condition when she was taken for treatment and that she attributed the administration of poison to her husband and mother-in-law. The statements attributed to the deceased, coupled with the surrounding factual matrix, were projected as possessing considerable evidentiary value.
24. Reliance was also placed upon the post-mortem examination and forensic materials. The medical evidence, according to the State, establishes that death occurred as a consequence of poisoning, later traced through scientific examination. The prosecution emphasised that the cause of death stood established through objective medical evidence and harmonised with the oral testimony adduced during trial.
25. The Learned Advocate argued that the cumulative effect of the oral, documentary and medical evidence leaves little room for doubt that the deceased was subjected to sustained cruelty and harassment within her matrimonial home. The recurring complaints, the documented injuries, the evidence of dowry demands, the village mediation, the poisoning leading to death and the conduct of the accused following the occurrence together form a compelling mosaic pointing towards the culpability of the appellant. On such premises, it was submitted that the findings recorded by the learned Trial Court rest upon a sound appreciation of evidence and warrant no appellate interference.
26. The appeal arises from a judgment of conviction rendered in a prosecution founded upon allegations of matrimonial cruelty, dowry-related harassment

and abetment of suicide. The death of Sephali Majhi, a young married woman, undoubtedly casts a long and sombre shadow over the record. The gravity of the occurrence, however, cannot relieve the Court of its abiding obligation to ascertain whether the evidence adduced satisfies the statutory ingredients of the offences charged. Criminal adjudication derives its legitimacy not from the emotional force of a tragedy but from the disciplined application of law to facts established through legally admissible evidence.

27. The prosecution case proceeds upon the assertion that the deceased, after her marriage with appellant Subhas Majhi, was subjected to physical and mental cruelty on account of dowry demands and that such conduct culminated in her death by poisoning within a comparatively brief span of her matrimonial life. To substantiate the accusation, the prosecution examined seventeen witnesses and relied upon certain General Diary entries, medical records, the testimony of relatives, an alleged village *salish*, the post-mortem report and the forensic materials.
28. The learned Advocate for the State contended that the cumulative force of the evidence demonstrates a persistent course of cruelty and harassment. The learned Advocate for the appellant, on the other hand, submitted that the conviction rests upon assumptions rather than proof; that material contradictions permeate the prosecution evidence; that the alleged dying declaration remains legally unproved; that the *salish* was never established; that the General Diary entries were either not produced or remained bereft of evidentiary significance; and that the ingredients of Sections 498A and 306 of the Indian Penal Code remain conspicuously absent.

29. At the outset, it must be noted that the prosecution succeeded in proving one fact beyond controversy, namely, that the deceased died on account of poisoning. The post-mortem evidence and the medical materials leave little room for debate on that aspect. Yet proof of death by poison is merely the point of departure. The decisive question is whether the prosecution has established, through reliable evidence, that the appellant committed acts constituting cruelty within the meaning of Section 498A of the Indian Penal Code or abetted the commission of suicide so as to attract Section 306 thereof.
30. The distinction is of considerable importance. A conviction cannot emerge merely because a married woman died in unfortunate circumstances within a few years of marriage. Criminal responsibility must rest upon proof of the constituent elements prescribed by statute.
31. Section 498A of the Indian Penal Code contemplates cruelty of a specific legal character. Every matrimonial disagreement, every domestic quarrel, every episode of discord cannot be elevated to the level of criminal cruelty. The provision contemplates either wilful conduct of such gravity as is likely to drive a woman to commit suicide or to cause grave injury or danger to her life, limb or health, or harassment directed towards coercing fulfilment of unlawful demands for property or valuable security.
32. When the evidence of the prosecution witnesses is examined through that statutory prism, considerable difficulty emerges.
33. PW-s 1 to 8, most of whom belong to the family circle of the deceased or possess close acquaintance with her, spoke of alleged dowry demands and

assault. Their evidence undoubtedly reflects that matrimonial relations were strained. Yet the testimony lacks the consistency and precision ordinarily expected when criminal liability of such magnitude is sought to be established.

34. A recurring feature appearing from the evidence of the Investigating Officer is that several assertions narrated before the Court had not been disclosed during investigation. The omission assumes significance because it concerns matters lying at the heart of the prosecution case. Witnesses who claimed before the Court that the deceased narrated the circumstances of poisoning, identified the perpetrators or described prior acts of cruelty had omitted to communicate those facts to the Investigating Officer. Such omissions cannot be dismissed as minor lapses attributable to fading memory. They relate directly to the foundational allegations constituting the prosecution narrative.
35. The evidence concerning the alleged *salish* presents another area of concern. Witnesses referred to a village mediation convened to resolve matrimonial discord. Yet no written resolution was produced. No independent participant of recognised authority was examined to establish either the proceedings or the outcome. The witnesses themselves displayed uncertainty regarding the date and particulars of the meeting. The evidentiary value of such a circumstance consequently remains tenuous. A fact repeatedly asserted does not become established merely through repetition. Proof requires evidentiary certainty, particularly where the circumstance is relied upon as corroboration of continuing cruelty.

36. The prosecution further relied upon General Diary entries allegedly lodged by the deceased. One such entry was brought on record through PW-11. The contents reveal that the deceased complained of a quarrel with her husband and mother-in-law. Yet the prosecution witnesses repeatedly referred to earlier complaints and incidents which were never produced before the Court. More importantly, the record does not reveal any consequential police action suggestive of a complaint regarded as grave enough to warrant intervention. While failure on the part of law enforcement cannot erase a grievance, the absence of follow-up action remains a circumstance relevant to the overall evidentiary assessment. The prosecution sought to derive substantial support from the existence of such complaints, yet the material itself remains fragmentary and incomplete.
37. The medical evidence relating to earlier injuries also requires careful scrutiny. PW-14 spoke of examining the deceased and noticing certain minor injuries and tenderness. The injury report records the history furnished by the patient. Yet the witness admitted during cross-examination that the injuries were simple in nature and capable of being manufactured. The report does not contain particulars sufficient to establish the manner in which the injuries were sustained. Such evidence may indicate the existence of some physical injury; it does not, by itself, furnish conclusive proof of systematic cruelty of the nature contemplated by Section 498A of the Indian Penal Code.
38. The prosecution placed considerable reliance upon alleged oral statements made by the deceased shortly before her death. According to certain

witnesses, she disclosed that poison had been forcibly administered by her husband and mother-in-law. Such evidence, if accepted, would constitute the most incriminating circumstance in the case. No dying declaration was recorded by a Magistrate. No doctor certified the mental fitness of the deceased for making a statement. No contemporaneous document records the words allegedly spoken by her. No effort appears to have been undertaken by the investigating agency to preserve what the prosecution now portrays as the most vital piece of evidence.

39. The law does not insist that every dying declaration must be recorded by a Magistrate. Nevertheless, where the prosecution seeks to build its edifice substantially upon alleged last words of the deceased, the Court must search for assurance regarding authenticity and reliability. The present record hardly furnishes such assurance. The alleged declarations survive only through oral recollections of interested witnesses. Their versions do not maintain complete harmony and several aspects of those assertions stand contradicted by the evidence of the Investigating Officer regarding prior statements.
40. Turning to the charge under Section 306 of the Indian Penal Code, the prosecution case encounters an even more formidable legal obstacle.
41. Abetment is a distinct and substantive concept. The offence requires proof of instigation, conspiracy or intentional aid as contemplated under Section 107 of the Indian Penal Code. A conviction cannot be sustained merely because the deceased experienced unhappiness in matrimonial life. Nor can the Court infer abetment solely because death occurred by suicide.

42. The evidence on record fails to disclose any proximate act, exhortation, incitement or intentional assistance attributable to the appellant immediately preceding the occurrence. No witness has narrated conduct possessing the degree of *mens rea* necessary to attract criminal liability under Section 306 of the Indian Penal Code. The prosecution evidence, taken at its highest, depicts matrimonial discord and allegations of harassment. It falls short of demonstrating the legal ingredients of abetment.
43. A Court of criminal jurisdiction must remain vigilant against the subtle transformation of suspicion into proof. The record undoubtedly discloses circumstances capable of generating suspicion regarding the conduct of the matrimonial family. Suspicion, however grave, occupies a domain entirely distinct from legal proof. The distance between the two cannot be traversed through conjecture.
44. Criminal jurisprudence demands proof beyond reasonable doubt. The burden never shifts. A conviction cannot rest upon assumptions generated by the tragic nature of the occurrence. The death of a young woman within a short span of marriage naturally evokes deep concern; judicial determination, however, must remain anchored to evidence and statutory requirements rather than sentiment.
45. The learned Trial Court appears to have been considerably influenced by the tragic nature of the occurrence and the fact that death occurred within a relatively short period of marriage. Such circumstances may invite close judicial scrutiny. They cannot substitute proof of the ingredients constituting the offences charged. The criminal law does not permit conviction upon

moral conviction alone. The evidence must establish guilt through a chain of circumstances capable of excluding reasonable doubt.

46. Viewed cumulatively, the prosecution evidence suffers from material omissions, significant inconsistencies, doubtful corroboration of crucial facts, absence of reliable proof regarding the alleged dying declaration, failure to establish the *salish* through satisfactory evidence, incomplete production of the General Diary records, and lack of evidence demonstrating either the statutory form of cruelty contemplated under Section 498A of the Indian Penal Code or the ingredients of abetment required under Section 306 of the Indian Penal Code.
47. The prosecution, therefore, has failed to discharge the burden resting upon it. The conviction recorded by the learned Trial Court consequently cannot be sustained.
48. Under such facts and circumstances, the instant criminal appeal being CRA 57 of 2013 is allowed.
49. Accordingly, the judgment and order dated 16/17.01.2013 passed by the Learned Additional Sessions Judge, Contai, Purba Medinipur in Sessions Trial No.59/July of 1998 arising out of Bhupatinagar Police Station Case No.41 of 1994 dated 30.10.1994 under Sections 498A/304(B)/34 of the Indian Penal Code convicting thereby the appellant under Sections 498A/306 of the Indian Penal Code is set aside.
50. The appellant is acquitted of the charges. Bail bonds, if any, stand discharged. In the event the appellant is in custody, he shall be released

forthwith unless his detention is required in connection with any other proceeding.

51. There is no order as to costs.

52. Trial court records along with a copy of this judgment be sent down at once to the Learned Trial Court for necessary action.

53. Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Ananya Bandyopadhyay, J.)