

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

Present:

The Hon'ble Justice Ananya Bandyopadhyay

C.R.A. 117 of 2008

Ader Mondal & Ors.

-Vs-

The State of West Bengal

For the Appellants : Mr. Milan Mukherjee
Mr. Aritra Bhattacharjee

For the State : Mr. Avishek Sinha

Judgment on : 20.07.2026

Ananya Bandyopadhyay, J.:-

1. This appeal is preferred against the judgment and order of conviction dated 24.01.2008 and 25.01.2008 passed by the Learned Additional Sessions Judge, Bongaon in Sessions Trial No. 1(5) 06 arising out of Sessions Case No. 26(12)05 convicting thereby the appellants for commission of offences punishable under Sections 498A/34 and Sections 306/34 of the Indian Penal Code and sentencing the appellant no. 1 to suffer rigorous imprisonment for two years and to pay a fine of Rs.2,000/- in default to suffer rigorous imprisonment for two months for the charge under Section 498A of the Indian Penal Code and also to suffer rigorous imprisonment for five years and to pay a fine of Rs.2,000/- in default to suffer rigorous imprisonment for two months for the charge under Sections 306/34 of the

Indian Penal Code; the appellant nos. 2 and 3 were sentenced to suffer rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each in default to suffer rigorous imprisonment for one month each for the charge under Sections 498A/34 of the Indian Penal Code and to suffer rigorous imprisonment for three years and to pay fine of Rs.1,000/- each in default to suffer rigorous imprisonment for three years each and to pay a fine of Rs.1,000/- each in default to suffer rigorous imprisonment for a further period of one month for the charge under Sections 306/34 of the Indian Penal Code; all the aforesaid sentences were directly to run concurrently.

2. The genesis of the prosecution rests upon a written complaint lodged by the father of the deceased, setting forth a continuous course of matrimonial cruelty which, according to him, culminated in the tragic demise of his daughter, Saima Khatun, by consuming poison within her matrimonial home on 2 March 2005.
3. The complaint narrates that approximately six years prior to the occurrence, Saima Khatun was married to appellant no. 1, Ader Mondal, in accordance with customary rites. At the time of marriage, the bride's family bestowed ornaments, cash and several household articles by way of dowry, hoping thereby to secure the peaceful commencement of her matrimonial life. Following the marriage, the couple established their residence at the matrimonial home, where a male child was born from the wedlock.
4. The narrative thereafter assumes a distressing complexion. It is alleged that appellant no. 1 developed an illicit relationship with the sister-in-law of his

brother, Siddique Mondal, who figures as appellant no. 2. The deceased is stated to have protested against that relationship, whereupon appellant no. 1 began subjecting her to physical assault and sustained mental harassment. Alongside this domestic discord, he repeatedly demanded money from her parental home and compelled her to secure further financial assistance from her father.

5. The complaint further attributes active participation in the acts of cruelty to appellant nos. 2 and 3, alleging that they joined appellant no. 1 in inflicting both physical and psychological torment upon the deceased. The harassment, according to the complainant, acquired a persistent character and gradually eroded the tranquility of her matrimonial existence.
6. In an endeavour to restore harmony, the complainant is stated to have arranged Rs. 25,000/-, which was paid to appellant no. 1. That payment, however, failed to bring the desired respite. The accused persons allegedly persisted with their monetary demands and thereafter insisted upon a further payment of Rs. 50,000/-. During her visits to the parental home, as also through frequent communications, the deceased repeatedly disclosed to her parents the ordeals that she was enduring and informed them of the continuing demands for additional money.
7. The complaint specifically recounts that on the night of 1 March 2005, appellant nos. 2 and 3 subjected the deceased to severe assault. On the following morning, namely 2 March 2005, appellant no. 1 allegedly beat her once again. The complainant asserts that the cumulative burden of relentless physical violence, emotional anguish and incessant monetary

demands reached such an overwhelming magnitude that the deceased found herself bereft of every avenue of relief. At about 9.00 a.m. on 2 March 2005, she consumed poison within her matrimonial home, thereby bringing her life to a tragic close.

8. Proceeding upon these allegations, the complainant attributed the death of his daughter directly to the sustained cruelty, repeated assaults and persistent financial demands allegedly practised by all the accused persons acting in concert, thereby setting the criminal law in motion.
9. On the basis of the complaint lodged by the father of the victim lady, Gopalnagar Police Station Case No. 29 dated 02.03.2005 under Sections 498A/306 of the Indian Penal Code and under Sections 3/4 of the Dowry Prohibition Act was initiated against the appellants.
10. After completion of the investigation, the Investigating Agency submitted charge-sheet under Sections 498A/304B of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act against the appellants.
11. Charges were framed against the appellants under Sections 498A/34 and 306/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act to which the appellants pleaded not guilty and claimed to be tried.
12. In order to prove its case, the prosecution examined as many as ten witnesses and exhibited certain documents.
13. PW-1, the father of the deceased Saima Khatoon, laid the foundation of the prosecution case by narrating the circumstances preceding his daughter's death and the sequence of events that culminated in the institution of the

criminal proceedings. According to him, Saima was given in marriage to accused Ader Mondal nearly eight years before the occurrence. The marriage was initially harmonious and, within about one year, a male child was born to the couple, who was about five years of age at the time of the witness's deposition.

14. The witness deposed that approximately four years after the marriage, discord entered the matrimonial household when Ader Mondal allegedly developed an illicit relationship with the wife of his brother Siddique Mondal, namely Jahanara Bibi. Saima expressed her resentment against that relationship, whereupon Ader Mondal, Siddique Mondal and Jahanara Bibi, acting in concert, subjected her to sustained physical and mental torment. Their conduct, according to the witness, extended beyond harassment arising from the alleged illicit relationship and assumed the character of persistent monetary demands. Pressure was repeatedly exerted upon Saima to procure money from her parental home.
15. Yielding to those demands in the hope of restoring tranquillity in his daughter's matrimonial life, PW-1 sold a portion of his landed property and handed over a sum of Rs.25,000/- to Saima. The payment, however, failed to bring about any improvement. During a subsequent visit to her parental residence, Saima again requested financial assistance, but the witness candidly informed her that his financial capacity had reached its limit. Saima also disclosed that her in-laws continued to insist that she consume poison since she had failed to satisfy their recurring demand for money.

Thereafter, the witness escorted his daughter back to her matrimonial residence after offering consolation and encouragement.

16. On 2 March 2005, PW-1 received information from neighbours that Saima had consumed poison in her matrimonial home. He immediately rushed there and found his daughter writhing in agony. His daughter-in-law Bulbul and one Kaki Rehana were then taking Saima to Bongaon Hospital, where she later breathed her last.
17. On the very day of the occurrence, PW-1 lodged a written complaint before Gopalnagar Police Station. He stated that the complaint had been scribed by Abutaleb Kazi at his instruction and in his presence, and he identified both the written complaint and his signature thereon, marked as Exhibit-1 and Exhibit-1/1 respectively. He further identified his signature on the carbon copy of the inquest report, marked as Exhibit-2/1, and stated that he had been examined by the Investigating Officer during the course of investigation.
18. PW-1 expressed the categorical belief that Saima ended her life because the continuous cruelty inflicted by the accused persons had become intolerable. In his estimation, the cumulative effect of the illicit relationship maintained by Ader Mondal, the persistent demands for money, and the relentless persecution within the matrimonial home drove his daughter to consume poison.
19. During cross-examination, PW-1 admitted that his residence and that of Ader Mondal stood in the same village, separated only by a pond, and that he had known Ader since the latter's birth. He furnished particulars of

neighbouring residents and family members, stating that he had no son, that his elder son-in-law Kutubuddin Mondal resided upon land belonging to him, and that Saima's son pursued his studies under the care of his daughter Nasima.

20. The witness acknowledged his inability to recollect the precise date of Saima's marriage, although he estimated that it had taken place about eleven years before his deposition. He also stated that he could not accurately recollect the age of his grandson. He identified several prosecution witnesses as his relatives, including his wife Asma Kazi, his uncle Nur Islam Kazi, his daughter-in-law Bulbul, his aunt Rehana and his uncle Entazul Kazi.

21. PW-1 stated that Siddique Mondal and Jahanara Bibi were residing separately from Ader Mondal in Nadia District. He admitted that he possessed no direct knowledge as to whether Jahanara had accompanied Saima outside the matrimonial residence or whether Saima had stayed at her residence during the floods of the year 2000. He reiterated that he had sold land to Nur Hossain Molla and had paid Rs.25,000/- to Saima from the sale proceeds, though he could not recollect the precise particulars of the land sold.

22. The witness conceded that no complaint had been lodged with the police during Saima's lifetime regarding the alleged cruelty. He further admitted that after receiving information of Saima's death, he first proceeded to the police station and did not accompany her to the hospital. He also stated that

he did not see Ader Mondal or Siddique Mondal at the matrimonial residence when he reached there.

23. PW-1 admitted that he was a member of a branch committee of the CPI(M) in his village and that there existed political rivalry in the locality. He, however, firmly repudiated every suggestion that the prosecution had originated from political hostility or village factionalism. He denied that the allegations concerning the illicit relationship, the demand for money, the payment of Rs.25,000/-, the persistent cruelty, or the circumstances compelling Saima to consume poison were fabricated. He steadfastly maintained that his daughter met her tragic end because the accused persons subjected her to relentless cruelty and financial coercion, rendering her life within the matrimonial home insufferable.

24. PW-2, the mother of the deceased Saima Khatoon, furnished evidence that substantially echoed the account of PW-1 while describing the domestic circumstances that preceded the tragic demise of her daughter. She stated that Saima had been married to accused Ader Mondal nearly eight years before the occurrence and, after the marriage, entered her matrimonial home where, within about one year, a male child was born. At the time of her deposition, the child was about five to six years of age.

25. According to the witness, the matrimonial life of Saima remained peaceful for a brief period after the marriage. Thereafter, discord entered the household following the development of an illicit relationship between Ader Mondal and Jahanara Bibi, the wife of Siddique Mondal. From that stage, Ader Mondal, Siddique Mondal and Jahanara Bibi allegedly subjected Saima to persistent

cruelty and repeatedly pressed her to procure money from her parental home. In an effort to satisfy those demands and preserve the marital relationship of their daughter, her husband sold a portion of his land and paid Rs.25,000/- to Saima. Even after receipt of the amount, the harassment persisted. PW-2 stated that she and her family consoled Saima and persuaded her to return to her matrimonial residence.

26. The witness deposed that on 2 March 2005, Saima consumed poison in her matrimonial home. Information regarding the occurrence reached the parental family through neighbours. PW-2, accompanied by her husband and sister-in-law, hurried to the matrimonial residence and found Saima writhing in agony. At that stage, Bulbul and Rehana were taking her to Bongaon Sub-Divisional Hospital, where she later expired. According to the witness, Saima consumed poison because she could no longer bear the cruelty inflicted upon her by the accused persons. She also stated that she was examined by the Investigating Officer during the investigation.

27. During cross-examination, PW-2 stated that she had been examined by the Investigating Officer one day after the death of her daughter. She admitted that she possessed no knowledge regarding whether Saima used to visit the residence of Jahanara's sister, the number of Jahanara's sisters, or the location of the matrimonial home of Jahanara's sister. She further stated that she had no knowledge as to the particulars of the sale of land by her husband for arranging the payment of Rs.25,000/-.

28. The witness deposed that for about one year after the marriage, Saima and her husband occasionally visited the parental home, following which such

visits gradually ceased. During that period, PW-2 also visited Saima at her matrimonial residence, though she later discontinued such visits.

29. She expressed inability to recollect whether she had informed the Investigating Officer that she, together with her husband and sister-in-law, had gone to Saima's matrimonial residence after receiving news of the incident or that Saima had been taken to Bongaon Hospital. She similarly could not recollect whether she had informed the Investigating Officer that the accused persons were absent from the matrimonial home when they arrived there, or whether she had specifically stated that Saima consumed poison because she could no longer bear the cruelty.

30. PW-2 firmly repudiated every suggestion that her evidence regarding the persistent demand for money, the illicit relationship between Ader Mondal and Jahanara Bibi, the payment of Rs.25,000/-, the continuing harassment, the duration of Saima's marriage, or the circumstances leading to her death had been fabricated. She also denied that the prosecution had been instituted without knowledge of the actual cause of death or that her deposition had been tailored at the instance of her husband or any other person.

31. PW-3 is a co-villager of the accused persons and also a close relation of the informant, being his nephew. He deposed that the residence of the accused and that of the parental family of the deceased were situated in close proximity, separated only by a single house. He was acquainted with the informant Shymser Kazi as well as with Saima Khatoon from before her marriage. According to him, Saima was married to Ader Mondal nearly eight

years before the occurrence, whereafter she went to reside in her matrimonial home and, within about one year, gave birth to a son, who was about five to six years old at the time of his testimony.

32. PW-3 stated that Saima committed suicide by consuming poison on 2 March 2005 in her matrimonial residence. He narrated that the first two years of the marriage passed peacefully. Thereafter, domestic discord arose following the development of an illicit relationship between Ader Mondal and the sister-in-law of Siddique Mondal. Owing to that relationship, frequent quarrels took place in the matrimonial home. Whenever Saima visited her parental residence, she wept and narrated that the accused persons were compelling her to bring money from her father's house. He further stated that Ader Mondal and Jahanara frequently quarrelled with Saima and that she often came to his house as well as to the house of her parents to recount the incidents of harassment. According to the witness, Saima also disclosed that Ader Mondal had physically assaulted her.

33. During cross-examination, PW-3 stated that PW-1 was his brother and the informant was his nephew. He disclosed that his family consisted of his wife and three daughters, one of whom was married while the remaining two were minors. He also stated that he had contracted marriage on three occasions; his second wife had died after consuming poison, while his first marriage had ended in divorce.

34. The witness affirmed that he had narrated the same facts before the Investigating Officer. He specifically stated that he had informed the Investigating Officer that Saima frequently came to their residence and

narrated the assaults perpetrated by Ader Mondal, the persistent pressure exerted upon her for bringing money, and the recurring quarrels between Ader Mondal, Jahanara and Saima. He further stated that he had informed the Investigating Officer that matrimonial discord began about two years after the marriage.

35. PW-3 admitted that he had merely heard that Siddique's sister-in-law resided in Nadia District and acknowledged that he possessed no direct knowledge concerning her domestic affairs. He reiterated that Ader Mondal's son was about five to six years old.
36. The witness steadfastly rejected the defence suggestions that Saima had not been married about eight years before the occurrence, that no matrimonial discord arose from the alleged illicit relationship, that Saima never complained of monetary demands or cruelty, that Ader Mondal and Jahanara never quarrelled with her, or that he had deposed falsely in order to support the informant because of their relationship. He maintained that his statement before the Court faithfully reflected the account earlier furnished to the Investigating Officer and that his evidence represented the true state of affairs as narrated to him by the deceased during her lifetime.
37. PW-4 is a co-villager and neighbour of both the complainant and the accused persons, their houses being separated by a single intervening dwelling. He stated that he had known the deceased Saima Khatoon since before her marriage. According to him, Saima was married to accused Ader Mondal about eight years before the occurrence and one male child was born

from the wedlock, who was about six years of age at the time of his deposition.

38. The witness deposed that Saima spent nearly one to one-and-a-half years in peaceful matrimonial life. Thereafter, Ader Mondal, Siddique Mondal and Jahanara began subjecting her to physical assault and persistent harassment for bringing money from her father's residence. They also threatened and exhorted her to consume poison if their monetary demands remained unsatisfied.
39. PW-4 stated that Saima frequently visited her parental home and narrated the incidents of cruelty to him. He further asserted that he had himself witnessed the accused persons assaulting Saima. On 2 March 2005, he saw Ader Mondal assaulting Saima and also witnessed Siddique Mondal and Jahanara participating in the assault. According to him, Saima consumed poison later on the same day and succumbed at Bongaon Hospital. He stated that he had narrated every fact within his knowledge to the Investigating Officer.
40. During cross-examination, PW-4 stated that he was examined by the Investigating Officer on the day following Saima's death. He described himself as a cultivator who ordinarily left home at about 7.00 a.m. and returned around 8.00 or 9.00 a.m. He stated that he witnessed the assault at about 6.00 a.m. He also disclosed that several persons, including Bishnu Mondal, Abutaleb Kazi and Mojid Mondal, were present nearby at the relevant time. He admitted that he was the paternal uncle of the informant

and also volunteered that accused Ader Mondal was related to him as a distant cousin.

41. The witness stated that he had informed the Investigating Officer that Saima remained content for nearly one to one-and-a-half years after marriage before the accused persons began assaulting her and demanding money. He admitted his inability to specify the exact date of Saima's marriage or the precise interval between the marriage and the birth of her son. He firmly repudiated every suggestion that he had never heard the allegations from Saima, that he had not witnessed the assault on 2 March 2005, that Saima enjoyed a peaceful matrimonial life throughout, or that his testimony had been influenced by his relationship with the parental family of the deceased.
42. PW-5 is another neighbour of the accused persons whose residence adjoins that of Ader Mondal. He stated that Saima Khatoon had been married to Ader Mondal about seven to eight years before the occurrence and that one male child, aged about five to six years, was born from the marriage.
43. According to PW-5, Ader Mondal maintained an illicit relationship with the sister-in-law of Siddique Mondal. Whenever Saima protested against that relationship, Ader assaulted her. Siddique Mondal and his wife also joined in assaulting Saima and collectively exerted pressure upon her to procure money from her parental home.
44. The witness deposed that during the morning of 2 March 2005, between 6.00 a.m. and 7.00 a.m., he witnessed Ader Mondal and Siddique Mondal assaulting Saima. At about 9.00 a.m., Saima consumed poison in her matrimonial home. She was thereafter taken to Bongaon Sub-Divisional

Hospital where she expired on the same day. He stated that he disclosed these facts to the Investigating Officer during investigation.

45. During cross-examination, PW-5 stated that he earned his livelihood as a colour worker and ordinarily remained away from home during working hours. He admitted that he could not recollect either the year of Saima's marriage or the birth date of her son. He further stated that nearly five years before his deposition he learnt from Saima herself about the illicit relationship involving Ader Mondal and Siddique's sister-in-law. At the relevant period, according to him, that lady had not yet been married.
46. PW-5 admitted that no complaint had been lodged with the police during Saima's lifetime regarding the assaults. He stated that his wife, son and neighbouring residents, including Bishnu Sarkar, Ali Mondal and Akbar Mondal, were also aware of the incident. According to him, the assault on 2 March 2005 continued for about three minutes and was witnessed by several neighbouring persons. He further stated that Saima's parents also came to know of the assault on that very day.
47. The witness stated that he was examined by the Investigating Officer on 4 March 2005 and had informed him that Saima protested against the illicit relationship between her husband and Siddique's sister-in-law, whereafter Siddique Mondal and his wife assaulted her. He denied belonging to the faction of the informant. He firmly rejected every suggestion that his evidence concerning the illicit relationship, the assaults, the monetary demands or the events of 2 March 2005 was fabricated. He further stated that he proceeded to Gopalnagar Police Station on his way to Bongaon

Hospital and narrated the occurrence to the duty officer before visiting the hospital.

48. PW-6 is a resident of Bhandarkhola within Gopalnagar Police Station. He merely stated that Saima had been married to Ader Mondal and that he had heard she died while residing in her matrimonial home. He candidly admitted that he possessed no knowledge regarding the manner or cause of her death and had no information concerning her matrimonial life or the relationship between the spouses.
49. PW-7 is the wife of Abu Gaffar Kazi and described the deceased Saima Khatoon as the daughter of her brother-in-law. According to her, Saima was married to accused Ader Mondal and one male child, about five years old at the time of deposition, was born from the marriage.
50. The witness deposed that Ader Mondal, Siddique Mondal and Jahanara persistently subjected Saima to cruelty and compelled her to bring money from her parental residence. She further stated that Ader Mondal maintained an illicit relationship with Siddique Mondal's sister-in-law and, whenever Saima protested against that relationship, Ader assaulted her and quarrelled with her.
51. PW-7 stated that Saima later committed suicide by consuming poison in her matrimonial home. According to her, Saima personally narrated the acts of cruelty and harassment committed by the accused persons. She also stated that she disclosed those facts to the Investigating Officer during investigation.

52. During cross-examination, PW-7 stated that her husband was unemployed and that her father-in-law maintained the family. She met the Investigating Officer on the date of Saima's death and was examined during the night. She admitted that she could not recollect the exact date of birth of Saima's child. She stated that she had seen Siddique's sister-in-law but had never conversed with her, though she knew that the lady had been married at the time of Saima's marriage and was the mother of two children.
53. The witness further stated that other members of her family were also aware of the cruelty as Saima narrated the incidents in their presence. She reiterated that she had informed the Investigating Officer that Saima herself disclosed the persistent torture, the pressure for bringing money, and the discord arising from Ader Mondal's illicit relationship with Siddique's sister-in-law, which frequently culminated in assaults and quarrels.
54. PW-7 steadfastly denied every suggestion that her evidence regarding the demand for money, the cruelty inflicted upon Saima, the illicit relationship attributed to Ader Mondal, or the disclosures allegedly made by Saima had been invented. She adhered to her account that the facts deposed before the Court faithfully reflected what Saima had personally narrated during her lifetime.
55. PW-8 was the Medical Officer attached to Bongaon Sub-Divisional Hospital at the relevant period. On 3 March 2005, while serving in that capacity, he conducted the post-mortem examination upon the body of Saima Mondal, wife of accused Ader Mondal, in connection with Bongaon Police Station U.D. Case No. 49 of 2005 dated 2 March 2005. The body was produced and

identified before him by Constable No. 2597, Breej Kishore Singh, and the examination took place at the police morgue of Bongaon Sub-Divisional Hospital.

56. During the autopsy, the witness detected copper sulphate poison within the stomach of the deceased. In his professional assessment, death had resulted from cardio-respiratory failure consequent upon copper sulphate poisoning. After completing the examination, the wearing apparel of the deceased was handed over to the police authorities. He proved the original post-mortem report prepared and signed by him under his official seal, which was admitted in evidence as Exhibit -3.

57. In cross-examination, PW-8 stated that he was not a designated autopsy surgeon, though he had received authorisation from the Superintendent of Bongaon Sub-Divisional Hospital to perform the post-mortem examination. He explained that every duly authorised Medical Officer possesses competence to conduct such examinations, while agreeing that standard medical jurisprudence recognises autopsy surgeons as the preferred specialists for that purpose.

58. The witness stated that the copper sulphate had been consumed in liquid form. He admitted that his report did not specify the quantity of poison recovered from the stomach, nor did it mention the interval between consumption of the poison and the occurrence of death. He also stated that the viscera had been preserved and forwarded for chemical examination, although no report had reached him thereafter.

59. PW-8 acknowledged that ingestion of a comparatively small quantity of copper sulphate might not invariably prove fatal and agreed that chemical analysis affords valuable assistance in arriving at a definitive diagnosis. He further accepted that oral administration of liquid copper sulphate may produce bluish or violet discolouration around the mouth and oral cavity, though no such finding had been recorded in his post-mortem report. He also clarified that his report expressed no opinion regarding whether the death was suicidal or homicidal in character. Every suggestion that the post-mortem report had been prepared casually or solely upon the basis of the inquest report, rather than upon his own examination, was firmly rejected.
60. PW-9, an Assistant Sub-Inspector of Police, stated that on 3 March 2005 he was attached to Bongaon Police Station. On that date he conducted the inquest upon the dead body of Saima Mondal at the morgue of Bongaon Sub-Divisional Hospital. The body was identified before him by Samser Kazi, and the inquest was conducted in the presence of witnesses as well as Constable Breej Kishore Singh.
61. The witness proved the carbon copy of the inquest report prepared contemporaneously by him in the same mechanical process as the original. The document bore his signature together with the carbon impressions of the signatures of the witnesses and was admitted in evidence as Exhibit-2. He also identified his signature appearing upon the inquest report.
62. PW-9 stated that the inquest was held in connection with Bongaon Police Station U.D. Case No. 49 of 2005 in the presence of the Executive Magistrate, Shri Shyamal Chandra Mondal. During the course of the inquiry,

he examined the persons present and reduced their respective versions into writing.

63. A significant feature of his evidence is his categorical assertion that during the inquest no external mark of injury was detected upon the body of the deceased, a fact expressly recorded in Exhibit -2.
64. PW-10 was the Investigating Officer who, on 2 March 2005, was serving as Sub-Inspector of Police attached to Gopalnagar Police Station. Acting upon the direction of the Officer-in-Charge, he assumed charge of investigation in Gopalnagar Police Station Case No. 29 of 2005 registered under Sections 498A and 306 of the Indian Penal Code.
65. The witness deposed that he visited the place of occurrence and prepared the sketch map together with its index, which was admitted in evidence as Exhibit-5. During investigation, he examined the witnesses under Section 161 of the Code of Criminal Procedure, collected the inquest report prepared by the Executive Magistrate, which was admitted as Exhibit-6, obtained the post-mortem report from Bongaon Sub-Divisional Hospital, and seized the wearing apparel of the deceased under a seizure list prepared in the presence of witnesses. The seizure list was proved as Exhibit-7, while the sari, saya and blouse seized during investigation were marked collectively as Material Exhibit-I.
66. PW-10 further deposed that accused Ader Mondal was arrested on 17 March 2005 and thereafter forwarded to the Court. Since Assistant Sub-Inspector Narayan Chandra Naskar had received the written complaint and prepared the formal First Information Report, PW-10 identified his handwriting and

signature. The endorsement upon the written complaint was proved as Exhibit-1/2, while the formal First Information Report was admitted as Exhibit-8. Upon completion of investigation, PW-10 submitted Charge-sheet No. 53 of 2005 dated 30 June 2005 against all three accused persons for offences punishable under Sections 498A and 304B of the Indian Penal Code read with Sections 3 and 4 of the Dowry Prohibition Act.

67. During cross-examination, PW-10 admitted that the case diary did not record the precise time at which the investigation had been entrusted to him, although it reflected the date. He also admitted that he became aware of the existence of the earlier U.D. Case but neither collected the complete records thereof nor examined its contents.

68. The witness further stated that although he interrogated the Maulavi who had solemnised the marriage, he neither collected documentary proof regarding the marriage nor investigated the allegation concerning the sale of land by the informant for raising ₹25,000. He also admitted that he did not interrogate Siddique Mondal's sister-in-law to verify the allegation concerning her alleged relationship with accused Ader Mondal.

69. Several omissions appearing in the statements of prosecution witnesses under Section 161 of the Code of Criminal Procedure were brought to his notice. He admitted that witnesses had not previously stated before him several material facts narrated during trial, including assertions regarding the deceased informing them of repeated assaults, the duration of matrimonial harmony before the commencement of cruelty, the precise time of assault on 2 March 2005, the allegation that the deceased herself narrated

acts of torture to PW-7, and certain other particulars introduced during oral evidence. These admissions constitute the principal features elicited from the Investigating Officer during cross-examination and bear upon the appreciation of the evidentiary value of the oral testimony tendered by the prosecution witnesses.

70. Learned Advocate appearing for the appellants assailed the judgment of conviction by contending that the prosecution evidence, viewed in its entirety, falls considerably short of the degree of certainty demanded by criminal jurisprudence and is marked by material discrepancies, omissions and investigative lapses which strike at the very foundation of the prosecution case.

71. At the forefront of the argument, Learned Counsel submitted that PW-1, Samser Kazi, the father of the deceased and the de facto complainant, merely reiterated the allegations contained in the written complaint without furnishing any independent corroboration. Although he was present during the inquest over the dead body, his cross-examination disclosed that he failed to recollect even the date of his daughter's marriage and the date of birth of his grandson. It was further emphasised that throughout the lifetime of the deceased he had never approached any authority with a complaint alleging cruelty or harassment by any of the appellants, a circumstance which, according to the defence, considerably diminishes the evidentiary worth of the allegations subsequently introduced after her death.

72. With regard to PW-2, Asuma Kazi, the mother of the deceased, Learned Counsel submitted that her deposition merely echoes the narrative of the

written complaint. Attention was drawn to the fact that she was examined by the Investigating Officer only after the demise of her daughter and her evidence does not furnish any distinct or independent circumstance capable of reinforcing the prosecution version.

73. Referring to PW-3, Noor Islam Kazi, counsel argued that although he sought to support the allegations relating to monetary demands, cruelty and the alleged illicit relationship between appellant no.1 and the sister of appellant no.3, his statement emerged only after the occurrence and did not rest upon any direct perception of the material events.

74. The evidence of PW-4, Satajel Kazi, according to Learned Counsel, suffers from internal inconsistency. At one stage he attributed the death to poison consumed after an assault on 3 March 2005, while at another he asserted that the assault took place on 2 March 2005, followed by consumption of poison on the same day. His cross-examination further disclosed that at the alleged time of assault, namely about 6:00 a.m., he himself was present at the residence of Abu Taleb, thereby rendering his claim of witnessing the occurrence wholly incompatible with his own version. Counsel also highlighted that he admitted having stated before the Investigating Officer only that appellant nos.2 and 3 assaulted the victim, thereby exposing material variations between his earlier statement and his testimony before the Court.

75. The testimony of PW-5, Majid Mondal, was also subjected to close scrutiny. Learned Counsel pointed out that while he initially narrated the allegations contained in the complaint, he admitted during cross-examination that the

alleged assault on 2 March 2005 lasted barely three minutes and that the deceased consumed poison only around 9:00 a.m. No complaint was lodged before the police immediately after the alleged assault. His statement was recorded by the Investigating Officer only on 4 March 2005, thereby, according to the defence, reducing its probative force.

76. As regards PW-6, Abdul Karim Mondal, it was argued that his evidence carries scarcely any evidentiary value since he merely knew the parties and acknowledged that the deceased died while residing at her matrimonial home. He candidly admitted that he possessed no personal knowledge concerning the matrimonial life of the couple.

77. The deposition of PW-7, Bulbul Akhtar Kazi, aunt of the deceased, was likewise characterised as a repetition of the account furnished by PW-1. Learned Counsel contended that her evidence rested solely upon what the deceased had allegedly narrated to her and lacked any direct observation of the alleged acts of cruelty.

78. Turning to the medical evidence, Learned Counsel submitted that PW-8, Dr. Sudhansu Barman, conducted the postmortem examination and opined that death resulted from cardio-respiratory failure in a case of copper sulphate poisoning. Nevertheless, he admitted that the viscera had been forwarded for chemical examination but no chemical analyst's report had ever been received. The post-mortem report remained silent regarding the time at which poison had been consumed. During cross-examination, the medical officer acknowledged that oral administration of liquid copper sulphate ordinarily produces blue discolouration around the margins of the mouth

and within the oral cavity, yet his report contains no reference to the existence of any such feature. Counsel submitted that these omissions substantially dilute the certainty of the medical opinion.

79. With reference to PW-9, ASI Sarajit Kumar Thakur, who conducted the inquest, Learned Counsel emphasised that the inquest report expressly records the absence of any visible external injury upon the body of the deceased. Having regard to the prosecution allegation that three persons had assaulted the deceased shortly before her death, the absence of any external mark assumes considerable significance and sits ill with the prosecution narrative.

80. The evidence of PW-10, Sanjay Chowdhury, the Investigating Officer, was assailed as exposing several investigative deficiencies. Learned Counsel submitted that although he prepared the sketch map, examined witnesses, collected the inquest and post-mortem reports, seized the wearing apparel of the deceased and ultimately submitted chargesheet under Sections 498A and 304B of the Indian Penal Code together with Sections 3 and 4 of the Dowry Prohibition Act, his cross-examination reveals several omissions of consequence. He admitted that he neither interrogated the sister of appellant no.3, who stood at the centre of the allegation concerning the alleged illicit relationship, nor conducted any inquiry to verify that allegation. He also made no investigation into the alleged sale of land for Rs.25,000/-, which, according to the prosecution, was arranged to satisfy the appellants' monetary demand. Equally, several material facts narrated before the Court by prosecution witnesses, including allegations concerning the illicit

relationship, the deceased's protest against it, the alleged assault on the date of occurrence and her visits to her parental home to complain of torture, found no reflection in their statements recorded under Section 161 of the Code of Criminal Procedure. These omissions, counsel argued, reveal substantial embellishments introduced during trial.

81. Reliance was also placed upon the evidence adduced by the defence. Appellant no.1 produced the birth certificate of his son, demonstrating that the child was born in 1999, thereby indicating that the marriage had taken place in 1996, a circumstance which, according to the defence, bears directly upon the prosecution theory regarding the duration of marriage and the applicability of the statutory presumption.

82. Learned Counsel further contended that the prosecution has failed to establish by reliable evidence that a sum of Rs.25,000/- was ever paid to the appellants. No sale deed relating to the alleged transfer of land was produced, the alleged purchaser was never examined, and the Investigating Officer undertook no inquiry in that regard. Consequently, the allegation of dowry demand remains bereft of dependable corroboration.

83. It was further submitted that the alleged illicit relationship, projected as the genesis of the matrimonial discord, rests entirely upon assertion. Neither the woman concerned nor any independent witness was examined during investigation, nor was any material collected to lend credibility to that allegation.

84. Counsel also argued that the prosecution witnesses are either closely related to the deceased or otherwise interested in the success of the prosecution.

The solitary witness projected as independent, namely PW-5, did not state before the Investigating Officer either that appellant no.1 maintained an illicit relationship with the sister of appellant no.3 or that any assault had taken place on the date of the occurrence. His subsequent attempt to portray himself as an eye-witness constitutes, according to the defence, a clear improvement over his earlier statement.

85. Lastly, Learned Counsel highlighted that the alleged container or bottle containing poison was never seized during investigation, despite its obvious relevance. Equally significant, no criminal complaint alleging cruelty or dowry related harassment had ever been instituted against any of the appellants during the lifetime of the deceased. Viewed cumulatively, these circumstances, it was urged, create substantial doubt regarding the prosecution version and render the conviction under Sections 498A, 306 and 34 of the Indian Penal Code legally unsustainable, thereby warranting interference in appeal.

86. Learned Advocate representing the State stoutly defended the judgment of conviction and submitted that the findings recorded by the Learned Trial Court rest upon a coherent body of oral, documentary and medical evidence which, when appreciated in its cumulative perspective, establishes every constituent of the offences punishable under Sections 498A, 306 and 34 of the Indian Penal Code. It was contended that the prosecution has succeeded in proving sustained physical and mental cruelty, persistent monetary demands and conduct bearing the requisite *mens rea* that impelled the deceased to take the extreme step of ending her life. According to the State,

the evidence adduced before the Trial Court faithfully reflects the chain of circumstances leading to the occurrence and leaves no legitimate basis for appellate interference.

87. The State laid particular emphasis upon the evidence concerning the alleged illicit relationship maintained by appellant no.1 with Jahanara Bibi, the sister-in-law of appellant no.3, submitting that this circumstance formed the principal source of discord within the matrimonial home. PW-1, the father of the deceased, deposed that nearly four years after the marriage the parental family became aware of this relationship. The deceased protested against such conduct, whereafter the severity of her suffering increased considerably. PW-2, the mother of the deceased, furnished a substantially similar account and corroborated that the deceased was subjected to greater cruelty after she objected to the relationship. The State further relied upon the testimony of PW-3, an independent neighbour, who spoke of persistent disturbances within the matrimonial household arising from the association between appellant no.1 and Jahanara Bibi. According to the prosecution, these witnesses furnish consistent evidence regarding the atmosphere prevailing within the matrimonial home and the emotional distress inflicted upon the deceased.

88. Turning to the allegations relating to dowry, Learned Counsel submitted that the evidence establishes a continuous course of monetary demands. PW-1 testified that the appellants repeatedly compelled the deceased to obtain money from her parental home. In order to satisfy their demands, he sold a portion of his land and paid Rs.25,000/- to appellant no.1. Despite such

payment, the demands did not cease. During subsequent visits to the matrimonial home, the deceased again appealed to her father for financial assistance, informing him that her inability to procure further money exposed her to increasing cruelty. PW-2 corroborated the payment of Rs.25,000/- and stated that satisfaction of the initial demand merely encouraged the appellants to press for further financial benefits. PW-3 also deposed that whenever she visited the deceased, she found her in tears, complaining of relentless cruelty occasioned by her inability to satisfy the appellants' monetary expectations.

89. The State next relied upon the evidence of P.Ws.4 and 5, described as independent neighbours and eye-witnesses to the occurrence immediately preceding the death. Both witnesses deposed that the appellants habitually assaulted the deceased whenever monetary demands remained unmet and repeatedly exhorted her to consume poison if she failed to satisfy those demands. According to their testimony, on the very date of the occurrence they witnessed the appellants assaulting the deceased, whereafter she consumed poison and died later that day. Learned Counsel submitted that this evidence supplies direct proof of cruelty committed in close proximity to the fatal occurrence and, therefore, satisfies the legal requirement of establishing the immediate nexus between the acts of the appellants and the deceased's decision to commit suicide.

90. The prosecution further submitted that the evidence of P.Ws.1 and 2 consistently portrays a matrimonial life marked by continuous physical and mental torment. Their evidence depicts a course of conduct extending over a

considerable period rather than isolated episodes. The alleged illicit relationship aggravated the existing hostility, while recurring demands for money placed the deceased under mounting psychological strain. PW-3 further stated that the deceased herself narrated these circumstances, weeping before her and describing the persistent harassment to which she had been subjected. The State contended that these interlocking accounts lend substantial assurance to one another and portray a consistent narrative of matrimonial cruelty.

91. Attention was also invited to the inquest proceedings. The preliminary inquiry disclosed that on 2 March 2005 a serious quarrel had taken place between the deceased and appellant no.1. Soon thereafter the deceased consumed poison at about 7:00 a.m. She was taken to Bongaon Sub-Divisional Hospital, where she was declared dead at 9:45 p.m. Learned Counsel submitted that these circumstances furnish a close temporal connection between the quarrel and the fatal act, thereby strengthening the prosecution case.

92. The State further relied upon the medical evidence. PW-8, the autopsy surgeon, detected copper sulphate poison within the stomach of the deceased and opined that death resulted from cardio-respiratory failure consequent upon copper sulphate poisoning, as recorded in Exhibit 3. According to the State, the medical opinion lends complete assurance to the prosecution version regarding the manner of death and harmonises with the ocular testimony relating to the consumption of poison shortly after the assault.

93. On the basis of the cumulative evidence, Learned Counsel submitted that the prosecution has established a coherent sequence of events. The appellants maintained an illicit relationship that generated grave matrimonial discord; they persistently demanded money from the parental family of the deceased; repeated acts of cruelty accompanied those demands; independent witnesses witnessed the assault immediately preceding the occurrence; the deceased consumed poison within a short interval thereafter; and the medical evidence conclusively establishes death by copper sulphate poisoning. Each circumstance, according to the State, complements the others and forms an integrated chain pointing firmly towards the guilt of the appellants.
94. It was, therefore, urged that the Learned Trial Court committed no error either in its appreciation of evidence or in its application of law. The conviction recorded under Sections 498A, 306 and 34 of the Indian Penal Code represents a proper application of settled legal principles to the proved facts of the case. Learned Counsel accordingly prayed that the appeal be dismissed and that the judgment of conviction and sentence be affirmed so as to preserve the due administration of criminal justice.
95. The prosecution rests substantially upon the evidence of the parents of the deceased, certain relations, two neighbours projected as eye-witnesses, the medical officer, the officer conducting the inquest and the Investigating Officer. Since criminal liability has been fastened upon the appellants for offences carrying grave penal consequences, every piece of evidence requires scrutiny both independently and in conjunction with the remaining

materials on record. The Court is equally required to examine whether the oral testimony preserves harmony with the contemporaneous documentary evidence and whether the investigation lends assurance to the prosecution narrative.

96. PW-1, the father of the deceased and the de facto complainant, narrated the allegations incorporated in the written complaint. His evidence speaks of the marriage, presentation of ornaments, cash and other customary articles, the alleged illicit relationship of appellant no.1 with Jahanara Bibi, recurring monetary demands, payment of Rs.25,000/- after disposal of land and the continued harassment suffered by his daughter.

97. The witness undoubtedly occupies a position of natural concern, and his evidence cannot be discarded merely because of his relationship with the deceased. At the same time, his testimony must receive the degree of scrutiny ordinarily applied where conviction rests substantially upon interested evidence.

98. His cross-examination assumes considerable significance.

99. He admitted that he had forgotten the date of marriage. He also admitted that he lodged no complaint against any of the appellants during the lifetime of his daughter despite his assertion that cruelty had persisted over a considerable period. Such omission does not by itself demolish the prosecution case, yet it constitutes a relevant circumstance while examining whether the allegations represent a continuous course of conduct of the degree contemplated by Section 498A of the Indian Penal Code.

100. More importantly, the allegation that he sold land to arrange Rs.25,000/- remains without documentary corroboration. Neither the sale deed nor the purchaser was produced before the Court. The Investigating Officer also made no enquiry regarding that transaction. An allegation projected as the principal illustration of dowry demand ordinarily invites objective verification wherever such material remains readily available. The absence of such verification deprives the allegation of substantial evidentiary assurance.
101. PW-2, the mother of the deceased, substantially reiterated the narrative advanced by PW-1. She also referred to the alleged illicit relationship and recurring monetary demands.
102. Her deposition essentially corroborates the parental version rather than introducing any independent source of knowledge. She admitted that the police interrogated her only after the death of the deceased.
103. While her testimony certainly establishes parental anxiety after the unfortunate occurrence, it contributes little towards establishing either direct acts of cruelty immediately preceding the occurrence or the statutory ingredient of instigation contemplated under Section 107 of the Penal Code.
104. PW-3, Noor Islam Kazi, was projected as an independent neighbour.
105. According to him, disturbances prevailed in the matrimonial household because of the alleged relationship between appellant no.1 and Jahanara Bibi. He also referred to monetary demands and alleged torture.
106. His evidence, however, proceeds largely upon information communicated by the deceased rather than facts personally witnessed by him.

107. Equally significant is the admission of the Investigating Officer that PW-3 never stated during investigation that the deceased frequently visited him narrating her suffering. Such omission concerns a material circumstance forming an important part of his testimony before the Court. It therefore acquires relevance while assessing its evidentiary value.
108. PW-4 occupies a pivotal position in the prosecution case since he claims to have witnessed the assault immediately preceding the consumption of poison. His evidence, however, reveals substantial internal inconsistency. Initially he stated that the deceased consumed poison after assault by appellant nos.2 and 3. Subsequently he deposed that all the appellants jointly assaulted the deceased on the morning of 2 March 2005. He further admitted that the alleged occurrence lasted only a few minutes while he was standing at another person's residence. His evidence also suffers from contradiction regarding the identity of the assailants. The Investigating Officer admitted that PW-4 had earlier attributed assault only to appellant nos.2 and 3. Such divergence upon the very identity of the assailants cannot readily be regarded as a trivial discrepancy. Where conviction under Sections 306 and 34 is sought, the precise participation attributed to each accused assumes considerable legal significance.
109. PW-5 was also projected as an independent eye-witness. He claimed to have witnessed assault upon the deceased at about 6.00 a.m., lasting nearly three minutes, whereafter she allegedly consumed poison at about 9.00 a.m. His testimony likewise encounters substantial difficulty. The Investigating Officer admitted that PW-5 never disclosed during investigation either the alleged

illicit relationship or the alleged assault on the date of occurrence. These omissions concern the very foundation of the prosecution case. The witness further admitted that no complaint regarding the alleged assault was lodged before the police on that day.

110. The prosecution therefore seeks to establish a violent assault immediately preceding suicide solely upon testimony that finds no corresponding reflection either in contemporaneous complaint or in the previous statement recorded during investigation.

111. PW-6 merely stated that he knew the deceased and that she died at her matrimonial residence without stating any personal knowledge of the fatal incident.

112. PW-7, the maternal aunt of the deceased, substantially repeated the parental version. Her knowledge also emanated from conversations allegedly held with the deceased. The Investigating Officer admitted that she had not disclosed during investigation several matters narrated before the Court, including the alleged direct narration by the deceased regarding torture. Such omission materially affects the evidentiary value of the improvements introduced during trial.

113. The evidence of the Autopsy Surgeon PW-8 assumes decisive significance because medical science often furnishes objective guidance where oral testimony presents divergence. The doctor opined that death resulted from cardio-respiratory failure consequent upon copper sulphate poisoning. The medical opinion therefore establishes the cause of death beyond controversy. Equally important, however, is another aspect of his evidence. The doctor did

not record any external injuries corresponding to the alleged assault immediately preceding death. He also stated that oral administration of copper sulphate ordinarily leaves bluish discolouration around the lips and oral cavity. The report does not specifically record such findings. Medical evidence may not invariably override reliable ocular testimony. Yet where several witnesses allege a collective assault by three persons shortly before death, the absence of corresponding bodily injuries assumes considerable evidentiary importance. The prosecution offered no satisfactory explanation for this inconsistency.

114. PW-9 conducted the inquest. His report records that he found no visible mark of injury upon the body. This contemporaneous document was prepared shortly after death. Its evidentiary value therefore deserves importance. If the prosecution version of repeated assault immediately before consumption of poison were accepted literally, some corresponding indication upon the body would ordinarily be expected. The complete absence of such finding introduces a circumstance that cannot be disregarded.

115. The Investigating Officer made several admissions possessing considerable legal significance. He admitted— that no investigation was conducted regarding the alleged illicit relationship; that Jahanara Bibi herself was never examined; that no enquiry was made regarding the alleged sale of land; that the purchaser of the land was never examined; that the poison container was never seized; that important facts narrated before the Court by P.Ws.3, 5 and 7 had never been stated during investigation. These admissions are

not mere procedural irregularities. Each omission concerns a circumstance projected by the prosecution as a principal foundation of guilt.

116. Investigation is expected to discover both facts supporting the prosecution and circumstances bearing in favour of the accused. Where obvious avenues of enquiry remain unexplored, the Court must exercise considerable caution before affirming a conviction.

117. Viewed collectively, the prosecution evidence undoubtedly establishes that the deceased met a tragic death by consuming copper sulphate poison within her matrimonial home, that circumstance, however, represents only the point of departure. The succeeding enquiry concerns the legal responsibility of the appellants.

118. The evidence regarding persistent cruelty rests principally upon interested witnesses. The allegation concerning the illicit relationship lacks investigation into the person alleged to be involved. The monetary transaction of Rs.25,000/- is in the form of general and omnibus allegation. The alleged assault immediately preceding death stands in discord with both the inquest report and the medical evidence. The omissions admitted by the Investigating Officer concern material features rather than peripheral details. Each circumstance, examined individually, may not prove decisive.

119. The criminal liability fastened upon the appellants rests upon Sections 498A, 306 and 34 of the Indian Penal Code. Each of these provisions embodies distinct statutory ingredients. Conviction can follow only when every constituent receives satisfactory proof by evidence possessing the degree of certainty that criminal jurisprudence demands. Moral conviction,

however compelling, cannot substitute legal proof, nor can suspicion acquire the status of evidence merely because the consequence is tragic.

120. The Hon'ble Supreme Court in **Charul Sukla Vs. State of U.P. & Ors.**¹ held the following:-

“20.Upon a plain reading of Section 498A of the IPC, it can be understood that an offence is punishable under the said provision when a husband or his relative subjects a woman to cruelty, which may result in imprisonment for a term extending up to three years and a fine. The Explanation under Section 498A of the IPC defines “cruelty” for the purpose of the said provision to mean any of the acts mentioned in clauses (a) or (b). The first limb of clause (a) of the Explanation of Section 498A of the IPC states that “cruelty” means any wilful conduct that is of such a nature as is likely to drive the woman to commit suicide. The second limb of clause (a) of the Explanation of Section 498A of the IPC states that cruelty means any wilful conduct that is of such a nature as to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman. Further, clause (b) of the Explanation of Section 498A of the IPC states that cruelty would also include harassment of the woman where such harassment is to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

21. Firstly, with reference to the allegations of dowry demand and related harassment of the complainant, it is noted by us that the complainant and the prosecution have failed to put forth any material evidence or substance which support the allegations contained in the FIR and the chargesheet. A mere statement stating that the

¹ 2026 SCC OnLine SC 476

accused/appellants herein frequently demanded dowry and harassed the complainant for the same is not sufficient to initiate criminal proceedings against them when the same are not corroborated or bolstered by other materials placed on record. At the same time, the said allegations also have to be juxtaposed with the fact that the complaint was registered by the complainant only on 15.11.2023 i.e. after a delay of more than six years and seven months from the alleged dowry demand. The prosecution has failed to put forth any sufficient cause for such delay and this casts aspersions on their story. At this juncture, we find it apposite to underline the importance of taking an early recourse to pursue and prosecute criminal complaints. We find that the citizens who allege commission of an offence should not dawdle on their rights but should rather pursue them in real time in order to achieve the ends of justice as vigilantibus non dormientibus jura subveniunt meaning, law protects those who are vigilant about their rights. The delay or lack thereof assumes greater importance in the matrimonial cases or criminal cases between the spouses as due to the personal nature of the allegations and relationship shared between the parties, there is already an insufficiency and inadequacy of evidence to support or rebut the claims and counterclaims. A delay of nearly seven years can therefore be fatal to the prosecution's case especially when the same has not been properly explained.

22. *Furthermore, with respect to the allegations against the sister-in-law regarding the incitement of the complainant's husband in relation to the alleged extra-marital affair, the prosecution has failed to provide any specific detail and has not been able to elaborate upon the nature of the relationship or how those accusations purportedly affected complainant's relationship with her husband. It is apposite to note that upon the perusal of the records of the case, nothing material has been put forth to advance or substantiate the said allegations. Time and again, this Court has observed that merely stating certain vague and omnibus allegations without any cogent material evidence to support*

*the same should not become a fillip to jump-start the criminal machinery of the State. At this juncture, we find it appropriate to quote the observations of this Court in *Dara Lakshmi Narayana v. State of Telangana*, (2025) 3 SCC 735 which is extracted as under:*

“27. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. ...

x xx

30. The inclusion of Section 498A of the IPC by way of an amendment was intended to curb cruelty inflicted on a woman by her husband and his family, ensuring swift intervention by the State. However, in recent years, as there have been a notable rise in matrimonial disputes across the country, accompanied by growing discord and tension within the institution of marriage, consequently, there has been a growing tendency to misuse provisions like Section 498A of the IPC as a tool for unleashing personal vendetta against the husband and his family by a wife. Making vague and generalised allegations during matrimonial conflicts, if not scrutinized, will lead to the misuse of legal processes and an encouragement for use of arm twisting tactics by a wife and/or her family. Sometimes, recourse is taken to invoke Section 498A of the IPC against the husband and his family in order to seek compliance with the unreasonable demands of a wife. Consequently,

this Court has, time and again, cautioned against prosecuting the husband and his family in the absence of a clear prima facie case against them.

31. We are not, for a moment, stating that any woman who has suffered cruelty in terms of what has been contemplated under Section 498A of the IPC should remain silent and forbear herself from making a complaint or initiating any criminal proceeding. That is not the intention of our aforesaid observations but we should not encourage a case like as in the present one, where as a counterblast to the petition for dissolution of marriage sought by the first appellant-husband of the second respondent herein, a complaint under Section 498A of the IPC is lodged by the latter. In fact, the insertion of the said provision is meant mainly for the protection of a woman who is subjected to cruelty in the matrimonial home primarily due to an unlawful demand for any property or valuable security in the form of dowry. However, sometimes it is misused as in the present case.”

23. *The attached medical examination report fails to ascribe or delineate any particular injury that relates to or supports the claim of the complainant either.*

24. *It would not be out of place to mention that the delay of almost seven years between the alleged incident and lodgment of the FIR has not been explained sufficiently by the complainant. The reasons ascribed by her for the said delay is the affluent position held by her father-in-law who is stated to be a reputed advocate in Kanpur but she has failed, in our opinion, to aver any specific instances wherein the father-in-law, using the said position of reputation, threatened or restrained the complainant for more than six years so as to prevent her from filing any written complaint or approaching the appropriate authorities. At this point, we reiterate the observations made in State of Punjab v. Sarwan Singh, (1981) 3 SCC 34, wherein this Court stated*

the object of the Code of Criminal Procedure in putting a bar of limitation as follows:

“3. ... The object of the Criminal Procedure Code in putting a bar of limitation on prosecutions was clearly to prevent the parties from filing cases after a long time, as a result of which material evidence may disappear and also to prevent abuse of the process of the court by filing vexatious and belated prosecutions long after the date of the offence. The object which the statutes seek to subserve is clearly in consonance with the concept of fairness of trial as enshrined in Article 21 of the Constitution of India. It is, therefore, of the utmost importance that any prosecution, whether by the State or a private complainant must abide by the letter of law or take the risk of the prosecution failing on the ground of limitation. ...”

26. However, no evidence, documentary or otherwise has been provided by either the prosecution or the complainant with respect to the jewellery taken from her, the manner in which the assault took place or in what circumstances she was compelled to leave her matrimonial home. A statement making bald allegations are fatal to the case of the prosecution when the same are not supported by material facts and circumstances. At this juncture, it is pertinent to point out that although the Allahabad High Court, through its impugned judgment dated 18.12.2023 has taken due cognizance of the fact that the allegations prima facie make out a cognizable offences, but upon perusal of the material on record, it is apparent that the High Court has failed to take note of the fact that the said allegations are made without any evidentiary backing or material support for the same and hence the ingredients of the sections invoked are not fulfilled.

27.In this regard, it would be apposite to rely on the judgment in the case of *State of Haryana v. Bhajan Lal*, 1992 Supp (1) SCC 335 (“*Bhajan Lal*”) with particular reference to paragraph 102 therein, where this Court observed as under:

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power Under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the Accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers Under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the Accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated Under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person

can ever reach a just conclusion that there is sufficient ground for proceeding against the Accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the Accused and with a view to spite him due to private and personal grudge.”

28. *On a careful consideration of the aforementioned judicial dictum, we find that the offence alleged against the accused/appellants herein is not made out and therefore, the judgment of this Court in the case of Bhajan Lal squarely applies to the facts of this case having regard to sub-paragraphs 1, 2, 3, 5, and 7.”*

121. The Hon’ble Supreme Court, in the case of **JAYESH KANNA vs. ASSISTANT COMMISSIONER LAW AND ORDER (WEST) ETC²**., has made the following observations: -

“11. *After hearing learned counsel for parties at length, we have perused the provisions of Section 498A IPC which are reproduced for ready reference as thus:*

“Section 498A - Husband or relative of husband of a woman subjecting her to cruelty:—

Whoever, being the husband or the relative of the husband of a woman subjects such woman to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

²2026 SCC OnLine SC 1025

Explanation:— For the purposes of this section, Cruelty means:—

(a) any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

12. *On perusal thereof, it is clear, if the husband or the relatives of the husband subject the woman with cruelty, they shall be punished under the said section. In the explanation appended to Section 498A IPC, the word ‘cruelty’ has been defined which primarily includes any willful conduct of a nature which may drive a woman to commit suicide or to cause grave injury or danger to life, limb or health.*

13. *This Court in the case of Mohd. Hoshan v. State of A.P.⁵ while adjudicating a matter involving the tragic suicide of an eighteen-year-old bride within eleven months of her marriage, held that the determination of mental cruelty is essentially a question of fact, the evaluation of which must entirely depend upon the distinct circumstances of each case. For easy reference relevant portion of the said judgment is reproduced hereunder:*

“6. Whether one spouse has been guilty of cruelty to the other is essentially a question of fact. The impact of complaints, accusations or taunts on a person amounting to cruelty depends on various factors like the sensitivity of the individual victim concerned, the social background, the environment, education etc. Further, mental cruelty varies from person to person depending on the intensity of sensitivity and the degree of courage or endurance to withstand such mental cruelty. In other words, each case has to be decided on its own facts to decide whether the mental cruelty was established or not.”

122. The Hon'ble Supreme Court, in the case of **RAJESH CHADDHA vs. STATE OF UTTAR PRADESH**³, held as follows: -

“13. Notwithstanding the merits of the case, we are distressed with the manner, the offences under Section 498A IPC, and Sections 3 & 4 of the D.P. Act, 1961 are being maliciously roped in by Complainant wives, insofar as aged parents, distant relatives, married sisters living separately, are arrayed as accused, in matrimonial matters. This growing tendency to append every relative of the husband, casts serious doubt on the veracity of the allegations made by the Complainant wife or her family members, and vitiates the very objective of a protective legislation. The observations made by this Hon'ble Court in the case of Dara Lakshmi Narayana v. State of Telangana, appropriately encapsulates this essence as under:

“25. A mere reference to the names of family members in a criminal case arising out of a matrimonial dispute, without specific allegations indicating their active involvement should be nipped in the bud. It is a well-recognised fact, borne out of judicial experience, that there is often a tendency to implicate all the members of the husband's family when domestic disputes arise out of a matrimonial discord. Such generalised and sweeping accusations unsupported by concrete evidence or particularised allegations cannot form the basis for criminal prosecution. Courts must exercise caution in such cases to prevent misuse of legal provisions and the legal process and avoid unnecessary harassment of innocent family members. In the present case, appellant Nos. 2 to 6, who are the members of the family of appellant No. 1 have been living in different cities and have not resided in the matrimonial house of appellant No. 1 and respondent No. 2 herein. Hence, they cannot be dragged into criminal prosecution and the same would be an abuse of the process

³2025 SCC OnLine SC 1094

of the law in the absence of specific allegations made against each of them.”

14. *The term “cruelty” is subject to rather cruel misuse by the parties, and cannot be established simpliciter without specific instances, to say the least. The tendency of roping these sections, without mentioning any specific dates, time or incident, weakens the case of the prosecutions, and casts serious suspicion on the viability of the version of a Complainant. We cannot ignore the missing specifics in a criminal complaint, which is the premise of invoking criminal machinery of the State.*

15. *We accordingly allow the Appeals and the Order dt.14.11.2018 passed by the High Court of Allahabad in Criminal Revision No. 612/2004 convicting the Appellant under Section 498A of IPC & Section 4 of D.P. Act, 1961, is set aside and the Appellant is acquitted of all the charges.”*

123. The Hon’ble Supreme Court, in the case of **PARVEEN KUMAR vs. STATE OF HIMACHAL PRADESH**⁴, has made the following observations: -

“8. *From the explanation to Section 498-A IPC, it is discernible that the word ‘Cruelty’ means, (i) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide (ii) any wilful conduct which is of such a nature as is likely to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (iii) harassment of the woman with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. So far as the instant case is concerned, as per the case of the prosecution the appellant had subjected the deceased to Cruelty i.e. had committed wilful conduct which was of such a nature, that drove her to commit suicide.*

⁴2024 SCC OnLine SC 2935

Undoubtedly, the allegations of Cruelty as contemplated under Section 498A have to be established beyond reasonable doubt. Similarly, the charge under Section 306 also has to be proved by the Prosecution beyond reasonable doubt by leading cogent evidence that the appellant abetted the deceased to commit suicide as contemplated in Section 107 of IPC. Of course, Section 113A of the Evidence Act permits the Court to raise a presumption as to abetment of suicide, if the Suicide was committed within seven years of the marriage and if it is proved that she was subjected to the “Cruelty” as explained in Section 498A by her husband or the relative of the husband. However, for the purpose of raising the presumption by the Court under Section 113A of the Evidence Act, the basic facts as contemplated in the said provision, need to be proved by the Prosecution.”

124. The Hon’ble Supreme Court, in the case of **K.V. PRAKASH BABU vs. STATE OF KARNATAKA**⁵, has made the following observations: -

“9. In view of the aforesaid evidence, the question that emerges for consideration is whether the conviction under Sections 498-A and 306 IPC is legally justiciable in this context. We think it appropriate to refer to Section 498-A IPC. The said provision reads as follows:

“498-A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.— For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

⁵(2017) 11 SCC 176

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.”

11. *In Gurnaib Singh v. State of Punjab [Gurnaib Singh v. State of Punjab, (2013) 7 SCC 108 : (2013) 3 SCC (Cri) 49] , while dwelling upon the concept of “cruelty” enshrined under Section 498-A the Court has opined thus: (SCC pp. 118-19, para 18)*

“18. ... Clause (a) of the Explanation to the aforesaid provision defines “cruelty” to mean “any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide”. Clause (b) of the Explanation pertains to unlawful demand. Clause (a) can take in its ambit mental cruelty.”

12. *The aforesaid analysis of the provision clearly spells how coercive harassment can have the attributes of cruelty that would meet the criterion as conceived of under Section 498-A IPC. Thus, the emphasis is on any wilful conduct which is of such a nature that is likely to drive the woman to commit suicide. The mental cruelty which is engraved in the first limb of Section 498-A IPC has nothing to do with the demand of dowry. It is associated with mental cruelty that can drive a woman to commit suicide and dependent upon the conduct of the person concerned.*

13. *In this regard, Mr Singh has drawn our attention to the authority in Pinakin Mahipatray Rawal v. State of Gujarat [Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48 : (2013) 4 SCC (Civ) 616 : (2013) 3 SCC (Cri) 801] . In the said case, the Court was dealing with as to whether relationship between the appellant and the second accused therein was extra-marital leading to cruelty within the meaning of Section 498-A IPC and whether that would amount to abetment leading to the act of suicide within the meaning of Section*

306 IPC. Dealing with the extra-marital relationship, the Court has opined that marital relationship means the legally protected marital interest of one spouse to another which include marital obligation to another like companionship, living under the same roof, sexual relation and the exclusive enjoyment of them, to have children, their upbringing, services in the home, support, affection, love, liking and so on, but extra-marital relationship as such is not defined in the Penal Code. The Court analysing further in the context of Section 498-A observed that the mere fact that the husband has developed some intimacy with another woman, during the subsistence of marriage and failed to discharge his marital obligations, as such would not amount to “cruelty”, but it must be of such a nature as is likely to drive the spouse to commit suicide to fall within the Explanation to Section 498-A IPC. The Court further elucidated that harassment need not be in the form of physical assault and even mental harassment also would come within the purview of Section 498-A IPC. Mental cruelty, of course, varies from person to person, depending upon the intensity and the degree of endurance, some may meet with courage and some others suffer in silence, to some it may be unbearable and a weak person may think of ending one's life. The Court ruled that in the facts of the said case the alleged extra-marital relationship was not of such a nature as to drive the wife to commit suicide. The two-Judge Bench further opined that: (Pinakin Mahipatray case [Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48 : (2013) 4 SCC (Civ) 616 : (2013) 3 SCC (Cri) 801] , SCC p. 58, para 27)

....

14. Slightly recently in *Ghusabhai Raisangbhai Chorasiya v. State of Gujarat* [Ghusabhai Raisangbhai Chorasiya v. State of Gujarat, (2015) 11 SCC 753 : (2015) 4 SCC (Cri) 545] , the Court perusing the material on record opined that even if the illicit relationship is proven, unless some other acceptable evidence is brought on record to establish such

high degree of mental cruelty the Explanation (a) to Section 498-A IPC which includes cruelty to drive the woman to commit suicide, would not be attracted. The relevant passage from the said authority is reproduced below: (SCC pp. 759-60, para 21)

“21. ...True it is, there is some evidence about the illicit relationship and even if the same is proven, we are of the considered opinion that cruelty, as envisaged under the first limb of Section 498-A IPC would not get attracted. It would be difficult to hold that the mental cruelty was of such a degree that it would drive the wife to commit suicide. Mere extra-marital relationship, even if proved, would be illegal and immoral, as has been said in Pinakin Mahipatray Rawal [Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48 : (2013) 4 SCC (Civ) 616 : (2013) 3 SCC (Cri) 801] , but it would take a different character if the prosecution brings some evidence on record to show that the accused had conducted in such a manner to drive the wife to commit suicide. In the instant case, the accused may have been involved in an illicit relationship with Appellant 4, but in the absence of some other acceptable evidence on record that can establish such high degree of mental cruelty, the Explanation to Section 498-A IPC which includes cruelty to drive a woman to commit suicide, would not be attracted.”

15. *The concept of mental cruelty depends upon the milieu and the strata from which the persons come from and definitely has an individualistic perception regard being had to one's endurance and sensitivity. It is difficult to generalise but certainly it can be appreciated in a set of established facts. Extra-marital relationship, per se, or as such would not come within the ambit of Section 498-A IPC. It would be an illegal or immoral act, but other ingredients are to be brought home so that it would constitute a criminal offence. There is no denial of the fact that the cruelty need not be physical but a mental torture or abnormal behaviour that amounts to cruelty or harassment in a given*

case. It will depend upon the facts of the said case. To explicate, solely because the husband is involved in an extra-marital relationship and there is some suspicion in the mind of wife, that cannot be regarded as mental cruelty which would attract mental cruelty for satisfying the ingredients of Section 306 IPC.

16. *We are absolutely conscious about the presumption engrafted under Section 113-A of the Evidence Act. The said provision enables the court to draw presumption in a particular fact situation when necessary ingredients in order to attract the provision are established. In this regard, we may reproduce a passage from Pinakin Mahipatray Rawal [Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48 : (2013) 4 SCC (Civ) 616 : (2013) 3 SCC (Cri) 801] : (SCC p. 58, para 26)*

“26. ... Criminal law amendment and the rule of procedure was necessitated so as to meet the social challenge of saving the married woman from being ill-treated or forcing to commit suicide by the husband or his relatives, demanding dowry. Legislative mandate of the section is that when a woman commits suicide within seven years of her marriage and it is shown that her husband or any relative of her husband had subjected her to cruelty as per the terms defined in Section 498-A IPC, the court may presume having regard to all other circumstances of the case that such suicide has been abetted by the husband or such person. Though a presumption could be drawn, the burden of proof of showing that such an offence has been committed by the accused under Section 498-A IPC is on the prosecution.”

125. The Hon’ble Supreme Court, in the case of **GIRDHAR SHANKAR TAWADE vs. STATE OF MAHARASHTRA**⁶, has made the following observations:-

⁶(2002) 5 SCC 177

“3. *The basic purport of the statutory provision is to avoid “cruelty” which stands defined by attributing a specific statutory meaning attached thereto as noticed hereinbefore. Two specific instances have been taken note of in order to ascribe a meaning to the word “cruelty” as is expressed by the legislatures: whereas Explanation (a) involves three specific situations viz. (i) to drive the woman to commit suicide or (ii) to cause grave injury or (iii) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in Explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury: whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since the same would also embrace the attributes of “cruelty” in terms of Section 498-A.*

4. *At this juncture, it would also be profitable to notice the other statutory provision (Section 306) relevant in the present context. Section 306 of the Code reads as below:*

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

16. *We have already noted Section 498-A hereinbefore in this judgment and as such we need not delve into the same in greater detail herein excepting recording that the same stands attributed only in the event of proof of cruelty by the husband or the relatives of the husband of the woman. Admittedly, the finding of the trial court as regards the death negated suicide with a positive finding of accidental death. If suicide is ruled out then in that event applicability of Section 498-A can be had only in terms of Explanation (b) thereto which in no uncertain terms records harassment of the woman and the statute itself thereafter clarifies it to the effect that it is not every such*

harassment but only in the event of such a harassment being with a view to coerce her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand — there is total absence of any of the requirements of the statute in terms of Section 498-A. The three letters said to have been written and as noticed earlier cannot possibly lend any credence to the requirement of the statute or even a simple demand for dowry.

17. *As regards the core issue as to whether charges under Sections 306 and 498-A of the Penal Code, 1860 are independent of each other and acquittal of one does not lead to acquittal on the other, as noticed earlier, there appears to be a long catena of cases in affirmation thereto and as such further dilation is not necessary neither are we inclined to do so, but in order to justify a conviction under the later provision there must be available on record some material and cogent evidence. Presently, we have on record two inconsistent versions of the brother and the cousin, as such no credence can be attributed thereon — the documentary evidence (namely, those three letters), in our view, falls short of the requirement of the statute: even on an assumption of the fact that there is no contradiction in the oral testimony available on record, the cousin goes to the unfortunate girl's in-laws' place and requests the husband to treat her well — at best some torture and a request to treat her well. This by itself would not bring home the charge under Section 498-A. Demand for dowry has not seen the light of day.*

18. *A faint attempt has been made during the course of submissions that Explanation (a) to the section stands attracted and as such, no fault can be attributed to the judgment. This, in our view, is a wholly fallacious approach to the matter by reason of the specific finding of the trial court and the High Court concurred therewith that the death unfortunately was an accidental death and not suicide. If suicide is left out, then in that event question of applicability of Explanation (a) would not arise — neither the second limb to cause injury and danger to life*

or limb or health would be attracted. In any event the wilful act or conduct ought to be the proximate cause in order to bring home the charge under Section 498-A and not de hors the same. To have an event sometime back cannot be termed to be a factum taken note of in the matter of a charge under Section 498-A. The legislative intent is clear enough to indicate in particular reference to Explanation (b) that there shall have to be a series of acts in order to be a harassment within the meaning of Explanation (b). The letters by themselves though may depict a reprehensible conduct, would not, however, bring home the charge of Section 498-A against the accused. Acquittal of a charge under Section 306, as noticed hereinbefore, though not by itself a ground for acquittal under Section 498-A, but some cogent evidence is required to bring home the charge of Section 498-A as well, without which the charge cannot be said to be maintained. Presently, we have no such evidence available on record.

19. In the wake of the aforesaid, conviction as recorded by the trial Judge as also by the High Court cannot be sustained. The appeal, therefore, is allowed. The impugned orders stand set aside and quashed. The accused stands acquitted of the charge under Section 498-A of the Code.”

126. The Hon’ble Supreme Court, in the case of **KAMALAKAR vs. STATE OF KARNATAKA**⁷, has made the following observations: -

“15. Section 306 deals with abetment of suicide wherein whoever abets the commission of suicide of another person, he/she shall be punished with imprisonment of either description for a term not exceeding ten years and shall also be liable to fine. This provision has to be read with Section 107IPC which reads as:

“107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

⁷(2023) 15 SCC 544

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

16. Section 306IPC penalises abetment of commission of suicide. To charge someone under this section, the prosecution must prove that the accused played a role in the suicide. Specifically, the accused's actions must align with one of the three criteria detailed in Section 107IPC. This means the accused either encouraged the individual to take their life, conspired with others to ensure the person committed suicide, or acted in a way (or failed to act) which directly resulted in the person's suicide.

17. In *Ramesh Kumar v. State of Chhattisgarh* [*Ramesh Kumar v. State of Chhattisgarh*, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088], this Court has analysed different meanings of “instigation”. The relevant para of the said judgment is reproduced herein : (SCC p. 629, para 20)

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable

certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.”

18. *The essentials of Section 306IPC were elucidated by this Court in M. Mohan v. State of T.N. [M. Mohan v. State of T.N., (2011) 3 SCC 626 : (2011) 2 SCC (Cri) 1] , as under : (SCC p. 638, paras 43-45)*

“43. This Court in Chitresh Kumar Chopra v. State (NCT of Delhi) [Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word “instigation” and “goading”. The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidality pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been

intended to push the deceased into such a position that he/she committed suicide.”

19. *The essential ingredients which are to be meted out in order to bring a case under Section 306IPC were also discussed in Amalendu Pal v. State of W.B. [Amalendu Pal v. State of W.B., (2010) 1 SCC 707 : (2010) 1 SCC (Cri) 896] in the following paragraphs : (SCC p. 712, paras 12-13)*

“12. Thus, this Court has consistently taken the view that before holding an accused guilty of an offence under Section 306IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether the cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306IPC is not sustainable.

13. In order to bring a case within the purview of Section 306IPC there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under Section 306IPC.”

20. *On a careful reading of the factual matrix of the instant case and the law regarding Section 306IPC, there seems to be no proximate link between the marital discord between the deceased and the appellant and her subsequent death by burning herself. The appellant has not*

committed any positive or direct act to instigate or aid in the commission of suicide by the deceased.

21. *Hence as the ingredients of Section 306IPC have not been fulfilled in the case at hand, the conviction of the appellant under Section 306IPC cannot be sustained.*

23. *The conviction and sentence under Section 306IPC is set aside and the appellant is acquitted of the said offence.”*

127. The Hon’ble Supreme Court, in the case of **KASHIBAI AND OTHERS vs.**

STATE OF KARNATAKA⁸, has made the following observations: -

“4. *Having regard to the said evidence, which has been also appreciated by the Sessions Court and High Court, there remains no shadow of doubt that the deceased was subjected to the harassment at the instance of the appellants-accused and that the prosecution had successfully brought home the charges levelled against them insofar as the offence under Section 498-A read with Section 34IPC was concerned. However, the next question that falls for consideration before this Court is whether the prosecution had proved beyond reasonable doubt the charge levelled against the appellant with regard to the offence punishable under Section 306 read with Section 34IPC.*

5. *At this juncture, it would be beneficial to reproduce the relevant provision contained in Section 306IPC pertaining to abetment of suicide:*

“306. Abetment of suicide.—*If any person commits suicide, whoever abets the commission of such suicide, shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”*

6. *What is “abetment of a thing” has been described in Section 107 which reads as under:*

“107. Abetment of a thing.—*A person abets the doing of a thing, who—*

⁸(2023) 15 SCC 751

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.”

7. *From the bare reading of the said provisions, it clearly transpires that in order to convict a person for the offences under Section 306IPC, the basic constituents of the offence, namely, where the death was suicidal and whether there was an abetment on the part of the accused as contemplated in Section 107IPC have to be established.*

8. *In M. Mohan v. State of T.N. [M. Mohan v. State of T.N., (2011) 3 SCC 626 : (2011) 2 SCC (Cri) 1] , this Court has elaborately dealt with the provisions contained in Section 306 read with Section 107IPC, and after discussing various earlier decisions has observed as under : (SCC pp. 637-38, paras 41-45)*

“41. This Court in SCC para 20 of Ramesh Kumar [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has examined different shades of the meaning of “instigation”. Para 20 reads as under : (SCC p. 629)

‘20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his

acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.'

In the said case this Court came to the conclusion that there is no evidence and material available on record wherefrom an inference of the appellant-accused having abetted commission of suicide by Seema (the appellant's wife therein) may necessarily be drawn.

42. *In State of W.B. v. Orilal Jaiswal [State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73 : 1994 SCC (Cri) 107] this Court has cautioned that (SCC p. 90, para 17) the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it appears to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and difference in domestic life, quite common to the society, to which the victim belonged and such petulance, discord and difference were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.*

43. *This Court in Chitresh Kumar Chopra v. State (NCT of Delhi) [Chitresh Kumar Chopra v. State (NCT of Delhi), (2009) 16 SCC 605 : (2010) 3 SCC (Cri) 367] had an occasion to deal with this aspect of abetment. The Court dealt with the dictionary meaning of the word "instigation" and "goading". The Court opined that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidality pattern is different from the others. Each person has his own idea of self-esteem and self-*

respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

44. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.

45. The intention of the legislature and the ratio of the cases decided by this Court are clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he/she committed suicide.”

9. *In view of the above, it is quite clear that in order to bring the case within the purview of “abetment” under Section 107IPC, there has to be an evidence with regard to the instigation, conspiracy or intentional aid on the part of the accused. For the purpose proving the charge under Section 306IPC, also there has to be an evidence with regard to the positive act on the part of the accused to instigate or aid to drive a person to commit suicide.*

15. *So far as the evidence adduced by the prosecution in the instant case is concerned, in our opinion the prosecution had failed to adduce any clinching evidence to enable the Court to conclude that the appellants-accused had abetted the deceased to commit suicide. In absence of any satisfactory evidence having been brought on record, in our opinion both the courts below had committed grave error in holding the appellants guilty of the offence under Section 306IPC.”*

128. The Hon'ble Supreme Court, in **MARIANO ANTO BRUNO AND ANOTHER vs. INSPECTOR OF POLICE**⁹, held as follows: -

“29. While analysing the provisions of Section 306IPC along with the definition of abetment under Section 107IPC, a two-Judge Bench of this Court in Geo Varghese v. State of Rajasthan [Geo Varghese v. State of Rajasthan, (2021) 19 SCC 144] has observed as under : (SCC pp. 149-50, paras 12-16)

“12. In our country, while suicide in itself is not an offence as a person committing suicide goes beyond the reach of law but an attempt to suicide is considered to be an offence under Section 309IPC. The abetment of suicide by anybody is also an offence under Section 306IPC. It would be relevant to set out Section 306IPC, which reads as under:

‘306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.’

13. Though, IPC does not define the word “Suicide” but the ordinary dictionary meaning of suicide is “self-killing”. The word is derived from a modern Latin word “suicidium”, “sui” means “oneself” and “cidium” means “killing”. Thus, the word suicide implies an act of “self-killing”. In other words, act of death must be committed by the deceased himself, irrespective of the means adopted by him in achieving the object of killing himself.

14. Section 306IPC makes abetment of suicide a criminal offence and prescribes punishment for the same. ...

15. The ordinary dictionary meaning of the word “instigate” is to bring about or initiate, incite someone to do something. This Court in Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State

⁹(2023) 15 SCC 560

of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088] has defined the word “instigate” as under : (SCC p. 629, para 20)

‘20. ... Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”.’

16. The scope and ambit of Section 107IPC and its co-relation with Section 306IPC has been discussed repeatedly by this Court. In *S.S. Chheena v. Vijay Kumar Mahajan* [*S.S. Chheena v. Vijay Kumar Mahajan*, (2010) 12 SCC 190 : (2011) 2 SCC (Cri) 465] , it was observed as under : (SCC p. 197, para 25)

‘25. Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained. The intention of the legislature and the ratio of the cases decided by the Supreme Court is clear that in order to convict a person under Section 306IPC there has to be a clear mens rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.’ ”

(emphasis in original and supplied)

30. The ingredients of Section 306IPC have been extensively laid out in *M. Arjunan v. State of T.N.* [*M. Arjunan v. State of T.N.*, (2019) 3 SCC 315 : (2019) 2 SCC (Cri) 219] which are as under : (SCC p. 317, para 7)

“7. The essential ingredients of the offence under Section 306IPC are : (i) the abetment; (ii) the intention of the accused to aid or instigate or abet the deceased to commit suicide. The act of the accused, however, insulting the deceased by using abusive language will not, by itself, constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by such act to instigate the deceased to commit suicide. Unless the

ingredients of instigation/abetment to commit suicide are satisfied, the accused cannot be convicted under Section 306IPC.”

31. *In order to convict an accused under Section 306IPC, the state of mind to commit a particular crime must be visible with regard to determining the culpability. With regard to the same, a two-Judge Bench of this Court in Ude Singh v. State of Haryana [Ude Singh v. State of Haryana, (2019) 17 SCC 301 : (2020) 3 SCC (Cri) 306] observed as under : (SCC pp. 321-22, para 16)*

“16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

16.1. For the purpose of finding out if a person has abetted commission of suicide by another; the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions abovereferred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold

the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of Section 306IPC. If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.”

40. *Charges were framed and after completion of trial, the trial court convicted the appellants under Sections 306 and 498-AIPC. On appeal, the High Court upheld the same. The operative portion of the judgment reads as under : (Mariano Anto Bruno case [Mariano Anto Bruno v. State of T.N., 2022 SCC OnLine Mad 5880] , SCC OnLine Mad paras 16, 19 & 21)*

“16. Two things have to be proved by the prosecution in order to sustain the appellants’ conviction for the offences under Section 498(A) and 306IPC, as to whether, the death of the deceased is unnatural and as to whether the deceased committed suicide due to harassment, inducement and abetment of the appellants. In this case, as already stated, as per the Medical evidence, it is clear that

the victim died unnaturally and the evidence of PW 1 to PW 3 proved that the appellants made harassment on the victim and caused mental and physical cruelty. Due to cruelty, the deceased has taken the extreme step to end her life.

19. In cases of this nature, no independent witness can be expected, because in India, the woman are even well qualified persons, considering their family reputation, they may not express certain things to any third person or stranger and they can only say either to their mother or sister or very close friend or well-wishers.....

21. A careful reading of the evidence of PW 1 to PW 3 and also the evidence of the Doctor who conducted post-mortem proved that the victim was subjected to harassment and cruelty made by the appellants. She is well educated and working as a Psychiatrist in the Government Mental Hospital, Kilpauk, she ended her life by way of hanging. Therefore, this Court finds that the appellants have committed the offence under Sections 498(A) and 306IPC and the learned trial Judge rightly appreciated the evidence and convicted the appellants and therefore, there is no merit in this case and the appeal is liable to be dismissed.”

(emphasis supplied)

41. *A bare perusal of the impugned judgment [Mariano Anto Bruno v. State of T.N., 2022 SCC OnLine Mad 5880] indicates that the High Court erred in recording the finding that there is sufficient evidence for convicting the appellants under Section 306IPC losing sight of the fact that there exists no evidence on record indicating that the deceased was meted out with harassment by the appellants just before her death. It is well settled that not only there has to be evidence of continuous harassment, but there should be cogent evidence to establish a positive action by the accused which should*

more or less be proximate to the time of occurrence, which action can said to have led or compelled the person to commit suicide.

43. *To convict a person under Section 306IPC, there has to be clear mens rea to commit offence. It also requires an active act or direct act which leads the deceased to commit suicide finding no other option and the act must be such reflecting intention of the accused to push the deceased into such a position that he commits suicide. The prosecution has to establish beyond reasonable doubt that the deceased committed suicide and Appellant 1 abetted the commission of suicide of the deceased. In the present case, both the elements are absent.*

...

45. *This Court has time and again reiterated that before convicting an accused under Section 306IPC, the court must scrupulously examine the facts and circumstances of the case and also assess the evidence adduced before it in order to find out whether cruelty and harassment meted out to the victim had left the victim with no other alternative but to put an end to her life. It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306IPC is not sustainable.*

49. *It is well settled that the courts ought to be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. Reference may be made to the judgment of a three-Judge Bench of this Court in Ramesh Kumar v. State of Chhattisgarh [Ramesh Kumar v. State of Chhattisgarh, (2001) 9 SCC 618 : 2002 SCC (Cri) 1088], wherein this Court set aside the conviction of the accused for the offence under Section 306IPC as ingredients of*

Section 306IPC were not satisfactorily proved. It was observed as under : (SCC p. 629, paras 20-21)

“20. Instigation is to goad, urge forward, provoke, incite or encourage to do “an act”. To satisfy the requirement of instigation though it is not necessary that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out. The present one is not a case where the accused had by his acts or omission or by a continued course of conduct created such circumstances that the deceased was left with no other option except to commit suicide in which case an instigation may have been inferred. A word uttered in the fit of anger or emotion without intending the consequences to actually follow cannot be said to be instigation.

21. In State of W.B. v. Orilal Jaiswal [State of W.B. v. Orilal Jaiswal, (1994) 1 SCC 73 : 1994 SCC (Cri) 107] , this Court has cautioned that the court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end her life by committing suicide. If it transpires to the court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty.”

(emphasis supplied)

50.2. *There is not a shred of evidence with respect to offence alleged under Section 498-AIPC meted out to the deceased by the appellants.*

50.6. *The trial court as well as the High Court did not take the evidence of PW 9, Psychiatrist into consideration while convicting the appellants under Sections 306 and 498-AIPC.*

50.7. *The conviction of the appellants is solely based on the oral evidence of*

50.8. *The post-mortem report does not give the cause of the death but on 15-12-2014, the cause of the death is shown as asphyxia due to external compression.*

51. *Having considered the aforesaid facts of the case in juxtaposition with the judgments referred to above and upon appreciation of evidence of the eyewitnesses and other material adduced by the prosecution, we are of the view that the trial court wrongly convicted the appellants and the High Court was also not justified in upholding the conviction of the appellants under Sections 306 and 498-AIPC.*

52. *As a result, the impugned judgment dated 31-1-2022 [Mariano Anto Bruno v. State of T.N., 2022 SCC OnLine Mad 5880] passed by the High Court as well as judgment and order of the trial court dated 26-3-2021 are unsustainable and deserve to be set aside and are hereby set aside. The appellants are acquitted of the charges levelled against them.”*

129. Section 498A of the Indian Penal Code was enacted with the salutary object of protecting a married woman against cruelty practised within her matrimonial household. The legislative purpose was to furnish penal consequences where a wife becomes the victim of conduct of such gravity that it either endangers her physical or mental wellbeing or subjects her to harassment designed to compel fulfilment of unlawful financial demands. The provision, therefore, contemplates conduct of a definite legal character. Every matrimonial discord, every domestic disagreement or every episode of

unpleasantness within a marriage does not attain the statutory threshold of cruelty. The distinction is both deliberate and substantial.

130. The Explanation appended to Section 498A of the Indian Penal Code defines "cruelty" under two distinct compartments. The first embraces deliberate conduct of such gravity as is likely to drive the woman to commit suicide or to occasion grave injury or danger to her life, limb or physical or mental health. The second relates to harassment undertaken with the object of compelling the woman or her relations to satisfy an unlawful demand for property or valuable security.

131. The prosecution, therefore, bears the obligation of establishing not merely that the spouses experienced friction within the matrimonial home, but that the conduct attributed to the accused answers the precise legislative description contained in the Explanation. Judicial interpretation has consistently recognised that the criminal law does not undertake regulation of every domestic discord. Penal liability arises only where the evidence demonstrates conduct possessing the gravity contemplated by Parliament.

132. The conviction under Section 306 of the Indian Penal Code stands upon an even narrower legal foundation. The provision does not criminalise every suicide occurring during matrimony. Liability arises only where suicide has been abetted within the meaning assigned by Section 107 of the Indian Penal Code. Consequently, Section 107 of the Indian Penal Code furnishes the controlling statutory definition.

133. Section 107 of the Indian Penal Code contemplates three recognised modes of abetment, namely instigation, conspiracy or intentional aid. Among these,

the present prosecution rests exclusively upon the allegation of instigation. Instigation signifies active encouragement, incitement or conduct consciously intended to provoke another to perform a particular act. The statutory concept imports a positive mental element. Mere indifference, ordinary quarrels, strained relations, emotional incompatibility or occasional exchanges of harsh words, though morally regrettable, cannot automatically assume the legal complexion of instigation. Criminal liability under Section 306 of the Indian Penal Code demands evidence demonstrating that the accused intended, by his conduct, to create such circumstances that the deceased was left with no reasonable alternative except self-destruction.

134. The Supreme Court has repeatedly observed that the existence of *mens rea* constitutes the very foundation of the offence under Section 306 of the Indian Penal Code. There must exist a live, proximate and effective nexus between the conduct attributed to the accused and the commission of suicide. The causal connection cannot rest upon remote events, speculative inference or emotional conjecture. The evidence must reveal that the conduct of the accused bore such immediate relationship with the fatal act that the latter became its natural and probable consequence.

135. Another equally important principle has received consistent judicial recognition. Where the deceased reacts to ordinary domestic discord in an unusually sensitive manner, the criminal law cannot readily attribute that decision to the spouse unless the conduct proved before the Court satisfies the statutory ingredients of abetment. Human responses differ considerably.

Criminal liability cannot fluctuate according to the subjective temperament of the deceased.

136. Section 113A of the Indian Evidence Act occupies an allied field. The provision permits the Court, in certain circumstances, to draw a permissive presumption that the husband or his relatives abetted the suicide of a married woman where such suicide occurs within seven years of marriage and the evidence establishes cruelty within the meaning of Section 498A of the Indian Penal Code.

137. The statute provides that the Court "may presume". The expression does not create a compulsory presumption. It merely authorises the Court to draw such inference where the surrounding circumstances justify that course. The provision leaves intact the judicial obligation to scrutinise the evidence with circumspection. Before such presumption is invoked, the prosecution must first establish cruelty as defined under Section 498A of the Indian Penal Code through reliable evidence. Even thereafter, the Court must examine whether the entire body of evidence warrants invocation of the presumption in the particular facts of the case.

138. The presumption contemplated by Section 113A of the Indian Evidence Act cannot relieve the prosecution of its primary obligation to establish foundational facts. Nor does it dispense with proof regarding the existence of a proximate connection between the alleged cruelty and the suicide. The statutory presumption supplements the evidence; it cannot substitute the evidence.

139. The prosecution has also invoked Section 34 of the Indian Penal Code. Section 34 of the Indian Penal Code embodies the doctrine of joint liability founded upon common intention. The provision does not create a substantive offence. It merely attributes criminal responsibility where several persons participate in the commission of a criminal act in furtherance of a pre-arranged common design. The existence of common intention cannot be presumed merely because several persons belong to the same family or reside within the same household. It must emerge from proved facts demonstrating prior meeting of minds or concerted participation directed towards accomplishing the particular criminal act.
140. Examined against these settled principles, the present appeal assumes considerable significance. The prosecution seeks to establish that the deceased was subjected to persistent cruelty arising from two alleged circumstances—firstly, the alleged intimate relationship between appellant no.1 and Jahanara Bibi; secondly, repeated monetary demands. It is further alleged that assault immediately preceding the consumption of poison supplied the immediate cause for the deceased taking the fatal decision.
141. These allegations undoubtedly invite serious judicial examination. Yet the gravity of the accusation cannot dilute the standard of proof required by criminal law. Every link in the chain must withstand careful scrutiny. The Court is required to ascertain whether the oral testimony remains harmonious with the contemporaneous documentary evidence, whether the medical findings reinforce or diminish the prosecution narrative, whether the investigation pursued every material circumstance with fairness and

completeness, and whether the cumulative evidence establishes the statutory ingredients beyond reasonable doubt.

142. The inquest report, the medical evidence, the omissions admitted by the Investigating Officer, the absence of contemporaneous complaints during the lifetime of the deceased, the failure to examine the principal figure in the alleged illicit relationship, the absence of documentary proof regarding the alleged sale of land, and the discrepancy between the alleged assault immediately preceding death and the absence of corresponding bodily injuries constitute circumstances that require careful judicial evaluation before the Court may safely affirm a conviction carrying grave penal consequences.

143. The Appellate Court, while exercising jurisdiction against conviction, bears a solemn obligation. Where the evidence sustains the finding recorded by the Trial Court, affirmation naturally follows. Equally, where material deficiencies generate reasonable doubt regarding the fulfilment of essential statutory ingredients, the appellate Court must extend the benefit flowing from that doubt to the accused, for the administration of criminal justice derives its legitimacy not from the number of convictions recorded but from the fidelity with which the law protects both the victim and the accused.

144. The melancholy end of a young married woman's life naturally evokes profound judicial concern. Yet, criminal adjudication proceeds neither upon emotion nor upon sympathy. The solemn obligation of the Court is to ascertain whether the evidence placed upon record fulfils every constituent of the offences charged. A conviction cannot rest upon moral persuasion

alone; it must derive its legitimacy from legally admissible evidence capable of establishing guilt beyond reasonable doubt.

145. The prosecution has attributed criminal liability to the appellants upon two principal foundations. The first relates to alleged matrimonial cruelty arising from persistent monetary demands coupled with the alleged intimate relationship maintained by appellant no.1 with Jahanara Bibi. The second proceeds upon the allegation that the deceased consumed poison immediately after being assaulted by the appellants, thereby rendering them liable for abetment of suicide.

146. Each of these foundations requires independent examination. Section 498A of the Indian Penal Code does not criminalise every strain that may occasionally surface within matrimonial life. Parliament consciously employed language of considerable precision. The conduct attributed to the accused must either possess such gravity as is likely to drive the woman to commit suicide or must amount to harassment designed to compel fulfilment of an unlawful demand for property or valuable security.

147. Consequently, proof of occasional disagreement, domestic discord or emotional incompatibility cannot, by itself, satisfy the statutory requirement. The prosecution has relied principally upon three circumstances. The first concerns the alleged illicit relationship between appellant no.1 and Jahanara Bibi. The second concerns recurring demands for money. The third concerns alleged physical assaults. The allegation concerning the alleged relationship constitutes the very genesis of the prosecution narrative. Curiously, investigation remained wholly silent upon the most obvious source of

evidence. Jahanara Bibi was never examined. No enquiry was undertaken regarding the allegation. No circumstance was collected to ascertain whether the accusation possessed any factual basis.

148. The Investigating Officer candidly admitted this omission. Where the prosecution itself projects a particular circumstance as the foundation of matrimonial discord, elementary fairness demanded a sincere investigation into that allegation. The omission assumes considerable significance because the Court is left only with hearsay assertions made by interested witnesses. The allegation therefore remains deprived of independent assurance. The allegation relating to payment of Rs.25,000/- suffers from a similar deficiency. According to PW-1, he disposed of land in order to arrange the amount demanded by the appellants. Ordinarily, such a transaction would leave documentary traces. Neither the deed of conveyance nor the purchaser entered the witness-box. The Investigating Officer admitted that he made no enquiry regarding the alleged sale. Consequently, the alleged payment rests exclusively upon oral assertion.

149. The Court does not suggest that documentary evidence is indispensable in every prosecution under Section 498A of the Indian Penal Code. Yet where documentary material is naturally available and the prosecution itself bases its case upon such transaction, complete absence of verification inevitably bears upon the weight of the allegation. The evidence regarding physical assault presents a further difficulty. P.Ws.4 and 5 claimed to have witnessed assault shortly before the deceased consumed poison.

150. If such evidence were accepted in its entirety, one would reasonably expect corresponding physical findings in the contemporaneous records. The record reveals precisely the opposite. The inquest report records no external injury. The medical officer also detected no bodily injury corresponding to assault by three persons. Neither circumstance received satisfactory explanation. Medical evidence does not invariably prevail over ocular testimony. Yet where the ocular version and contemporaneous objective evidence move in divergent directions upon a material circumstance, the Court cannot disregard such divergence.

151. The prosecution also encountered considerable difficulty regarding consistency of witness testimony. Material improvements admitted by the Investigating Officer concern the alleged assault, disclosure made by the deceased, duration of cruelty and the circumstances immediately preceding death. These omissions cannot readily be dismissed as ordinary discrepancies arising from lapse of memory. They relate to facts forming the very foundation of criminal liability. Taken cumulatively, the evidence certainly indicates that matrimonial relations were not cordial. The evidence may even suggest that differences existed between the spouses. The distance, however, between strained matrimonial relations and statutory cruelty attracting penal consequences remains considerable.

152. Upon the evidence presently available, the Court finds itself unable to record a conclusion that the prosecution has established every constituent of Section 498A of the Indian Penal Code with the degree of certainty demanded in criminal law. The ingredients of Section 306 of the Indian Penal

Code cannot operate independently. Its foundation lies in Section 107 of the Indian Penal Code. Before liability may arise, the prosecution must establish instigation, conspiracy or intentional aid.

153. The present case proceeds solely upon alleged instigation. Instigation is not synonymous with unhappiness within marriage. Neither every quarrel nor every act of unpleasant conduct constitutes instigation. The conduct attributed to the accused must display a conscious intention of provoking or encouraging the deceased to commit suicide. The prosecution has not produced evidence of any direct exhortation immediately preceding the occurrence.

154. Equally, there exists no evidence that the appellants compelled the deceased to consume poison or created circumstances leaving no avenue except self-destruction. The evidence merely establishes that the deceased consumed copper sulphate poison inside her matrimonial home. The prosecution seeks to bridge this evidentiary gap by relying upon the alleged assault occurring shortly beforehand. This submission encounters formidable incertitude. The inquest reveals no bodily injury. The post-mortem reveals none either. The alleged assault therefore finds no objective corroboration. The prosecution also failed to recover the vessel or container containing the poison. No forensic examination could therefore ascertain the circumstances in which poison was consumed. The precise interval between ingestion and death likewise remains absent from the medical evidence.

155. Equally significant is the absence of evidence regarding immediate provocation. The prosecution witnesses broadly refer to prior discord and

alleged cruelty extending over several years. They do not establish any definite act possessing such immediate proximity to the act of suicide that the legal requirement of instigation may safely be inferred.

156. Criminal liability under Section 306 of the Indian Penal Code rests upon the existence of a live and effective nexus between the conduct complained of and the fatal act. Remote allegations spread across several years cannot automatically satisfy that requirement. The law insists upon proximity because human conduct is influenced by numerous circumstances. Where the evidence fails to establish the immediate cause operating upon the mind of the deceased, attribution of criminal responsibility becomes a matter of speculation rather than judicial inference.

157. The contemporaneous documents assume particular significance in the present appeal. The inquest report was prepared shortly after death. It records no external injury. The medical officer reached the same conclusion. These documents emerged before embellishment could naturally find place through repeated narration. It therefore possesses considerable evidentiary value.

158. If the prosecution version regarding assault immediately before consumption of poison is accepted literally, the absence of any corresponding injury becomes difficult to reconcile. Investigation forms the bridge between accusation and proof. Several important links remained unexplored. The alleged participant in the illicit relationship was never examined. The alleged purchaser of land was never traced. The poison container was never seized. The alleged financial transaction remained without verification. Material

omissions appear between statements recorded during investigation and testimony before the Court. Each lapse, viewed separately, may not necessarily prove fatal.

159. A Criminal Court is not expected to search for reasons to convict. Its obligation is to ascertain whether guilt has been established with certainty. Where two views remain reasonably possible upon the evidence, the view favourable to the accused constitutes the course sanctioned by criminal jurisprudence. The evidence on record undoubtedly creates suspicion regarding the matrimonial atmosphere prevailing in the household of appellant no.1. Suspicion, however compelling, cannot occupy the place reserved for proof. The distinction preserves the integrity of criminal justice.

160. The Learned Trial Court has invoked Section 34 of the Indian Penal Code while recording conviction against all the appellants. Section 34 of the Indian Penal Code embodies the principle of joint criminal liability founded upon a pre-concert or a meeting of minds culminating in the commission of a criminal act. The provision neither creates a substantive offence nor dispenses with the obligation of proving the criminal act itself. Before joint liability may arise, the prosecution must establish, through cogent and reliable evidence, that the participants shared a common intention directed towards the commission of the particular offence.

161. The prosecution has failed to establish, with the degree of certainty demanded by law, either the precise role attributed to each appellant or the existence of any concerted design culminating in the commission of the offences charged. The allegations concerning the participation of appellant

nos.2 and 3 remain inconsistent. Certain witnesses attributed assault exclusively to appellant no.1, while others sought to implicate all three appellants. These versions also stand at variance with their earlier statements recorded during investigation.

162. The contemporaneous documentary evidence, namely the inquest report and the medical findings, lends little support to the allegation of a collective assault immediately preceding the death. Once the foundational offences themselves remain deprived of satisfactory proof, invocation of Section 34 of the Indian Penal Code loses its legal footing. Joint liability cannot survive independently of the principal offence. The Learned Trial Court appears to have proceeded upon the premise that the death having occurred within seven years of marriage, the statutory presumption under Section 113A of the Indian Evidence Act could legitimately be invoked.

163. The provision deserves closer scrutiny. Section 113A of the Indian Evidence Act authorises the Court to presume that the husband or his relatives abetted the suicide of a married woman where two foundational facts coexist, namely, the commission of suicide within seven years of marriage and proof that she had been subjected to cruelty as contemplated by Section 498A of the Indian Penal Code.

164. The expression employed by Parliament is "may presume". The legislative language confers discretion rather than command. The Court must first arrive at a definite conclusion that cruelty within the statutory meaning has been established. Even thereafter, the Court must examine the entirety of the evidence before deciding whether the presumption deserves invocation.

In the present case, the prosecution has not succeeded in establishing cruelty of the nature contemplated by Section 498A of the Indian Penal Code through evidence inspiring confidence beyond reasonable doubt.

165. The allegation relating to persistent dowry demand remains unsupported by documentary verification. The allegation concerning the alleged illicit relationship remained practically without investigation. The alleged assault immediately preceding the death receives no corroboration from either the inquest report or the post-mortem examination.
166. The evidence of the principal witnesses also reveals material omissions and improvements. Consequently, the foundational facts necessary for drawing the statutory presumption remain insufficiently established. Even assuming that the presumption could initially arise, the cumulative circumstances emerging from the evidence effectively dispel its evidentiary force.
167. The prosecution cannot, therefore, derive assistance from Section 113A of the Indian Evidence Act. The death of Saima Khatoon is indeed a matter of profound sorrow. A young life came to a premature end within the confines of her matrimonial home. Such occurrences invariably call for careful judicial scrutiny. Yet criminal law neither punishes tragedy nor proceeds upon conjecture.
168. Several prosecution witnesses introduced material facts before the Court that had never been narrated during investigation. The cumulative effect of these circumstances renders the prosecution version insufficiently reliable to sustain a conviction for offences carrying grave penal consequences.

169. The evidence undoubtedly indicates that matrimonial relations were far from cordial. Such circumstance, standing alone, cannot satisfy the statutory ingredients of Sections 498A and 306 of the Indian Penal Code.
170. Likewise, the evidence does not establish any immediate provocation, active instigation, intentional aid or conduct maintaining such close proximity with the commission of suicide as would attract Section 107 of the Indian Penal Code.
171. The prosecution has therefore failed to establish that the appellants, acting either individually or jointly, committed the offences for which they stand convicted. Where doubt arises from the evidence itself and touches the essential ingredients of the offence, criminal jurisprudence requires that such doubt operate in favour of the accused. That principle does not represent a technical rule. It forms one of the enduring safeguards of a fair criminal trial.
172. The judgment of conviction and the order of sentence dated 24.01.2008 and 25.01.2008 passed by Learned Additional Sessions Judge, Bongaon in Sessions Trial No. 1(5) 06 arising out of Sessions Case No. 26(12)05 convicting the appellants for offences punishable under Sections 498A, 306 and 34 of the Indian Penal Code are hereby set aside.
173. Before parting with the record, this Court considers it appropriate to observe that every case of matrimonial death deserves earnest, fair and meticulous investigation. Equally indispensable is adherence to the fundamental principle that conviction can follow only upon proof that satisfies the exacting standard of criminal law. The solemn duty of a Criminal Court lies

in preserving that equilibrium, for justice derives its moral authority not merely from securing punishment where guilt is proved, but equally from protecting individual liberty where the evidence falls short of the standard that the law inexorably demands.

174. Under such facts and circumstances, the instant criminal appeal being CRA 117 of 2008 is allowed.

175. Accordingly, the instant criminal appeal being CRA 117 of 2008 stands disposed of.

176. There is no order as to costs.

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

178. 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.)