

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO. 1076 OF 2014****KARAN SINGH****... APPELLANT***versus***STATE OF HARYANA****... RESPONDENT****J U D G M E N T****ABHAY S OKA, J.****FACTUAL ASPECTS**

1. The appellant and his parents were tried for the offences punishable under Sections 304-B and 498-A read with Section 34 of the Indian Penal Code (for short, 'IPC'). While his parents were acquitted, the Sessions Court convicted the appellant for the offences punishable under Sections 304-B and 498-A of IPC. For the offence punishable under Section 304-B of IPC, the appellant was sentenced to undergo rigorous imprisonment for seven years. For the offence punishable under Section 498-A of IPC, he was sentenced to undergo rigorous imprisonment for one year. He was also sentenced to pay a fine of Rs.500/- and, in default of payment of the fine, to undergo rigorous imprisonment for three months. By the impugned judgment, the High Court has confirmed the conviction and sentence.

2. Appellant married to deceased Asha Rani on 25th June 1996. On 2nd April 1998, the deceased committed suicide. After the postmortem, the doctors opined that the death was due to asphyxia as a result of hanging. There were three main witnesses. PW-6 - Inder Kala (the mother of the deceased), PW-7 - Parvinder Kumar (brother of the deceased) and PW-8 - Ram Singh (maternal uncle of the deceased). Both the Courts have believed the testimony of PW-6 and PW-7.

SUBMISSIONS

3. The learned counsel appearing for the appellant has taken us through the notes of evidence of material prosecution witnesses. He submitted that all the allegations made by the witnesses regarding the demand of dowry are omissions. Therefore, there is no legal evidence to show that the appellant demanded dowry. Moreover, there is no evidence that the appellant subjected the deceased to cruelty. Learned counsel relied upon a decision of this court in the case of **Charan Singh alias Charanjit Singh v. State of Uttarakhand**¹ and submitted that there is no evidence to show that soon before her death, the deceased was subjected to cruelty or harassment by the appellant for or in connection with demand for dowry. He would, therefore, submit that in the absence of legal evidence against the appellant, the Courts ought to have acquitted him.

4. Learned counsel for the State submitted that there is more than sufficient evidence on record in the form of evidence of PW-6 and PW-7 to establish the demand for dowry. In fact, nine to ten

¹ 2023 SCC OnLine SC 454

days before the incident, the deceased had met PW-6 and PW-7 and stated about the demand of Rs.60,000/- by the appellant for purchasing a jeep. The appellant himself made the said demand to the witnesses. Learned counsel submitted that presumption under Section 113-B of the Indian Evidence Act, 1872 (for short, 'the Evidence Act') will apply in this case and the Court will have to presume that the appellant has caused the dowry death of his wife.

CONSIDERATION OF SUBMISSIONS

5. Sections 498-A and 304-B read thus:

“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

(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.”

“304-B. Dowry death.—(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to

cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

Explanation.—For the purpose of this sub-section, “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.”

6. The following are the essential ingredients of Section 304-B:

- a) The death of a woman must have been caused by any burns or bodily injury, or must have occurred otherwise than under normal circumstances;
- b) The death must have been caused within seven years of her marriage;
- c) Soon before her death, she must have been subjected to cruelty or harassment by the husband or any relative of her husband; and
- d) Cruelty or harassment must be for, or in connection with, any demand for dowry.

7. If the aforesaid four ingredients are established, the death can be called a dowry death, and the husband and/or husband's relative, as the case may be, shall be deemed to have caused the dowry death. Section 2 of the Dowry Prohibition Act, 1961 provides that dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage

to the other party to the marriage or by the parents of either party to a marriage or by any other person, to the other party to the marriage or to any other person. The dowry must be given or agreed to be given at or before or any time after the marriage in connection with the marriage of the said parties. The term valuable security used in Section 2 of the Dowry Prohibition Act, 1961 has the same meaning as in Section 30 of IPC.

8. In this case, there is no dispute that the death of the appellant's wife occurred within seven years of the marriage. Section 113-B of the Evidence Act reads thus:

"113-B. Presumption as to dowry death.-When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation.-For the purposes of this section, "dowry death" shall have the same meaning as in Section 304-B of Indian Penal Code (45 of 1860)."

The presumption under Section 113-B will apply when it is established that soon before her death, the woman has been subjected by the accused to cruelty or harassment for, or in connection with, any demand for dowry. Therefore, even for attracting Section 113-B, the prosecution must establish that the deceased was subjected by the appellant to cruelty or harassment for or in connection with any demand of dowry soon before her

death. Unless these facts are proved, the presumptions under Section 113-B of the Evidence Act cannot be invoked.

9. We have carefully perused the evidence of PW-6 and PW-7. PW-6, the mother of the deceased, stated that her three statements were recorded by the police. The first was exhibit PD, on the basis of which the first information report was recognised. The second was exhibit DA recorded on 6th April 1998 and the third one was exhibit DB dated 23rd June 1998. According to PW-6, sufficient dowry was given in the marriage to the appellant. Her evidence in the examination-in-chief can be summarised as under:

- a) The deceased was taunted and maltreated as dowry given at the time of marriage was not sufficient;
- b) The deceased was taunted on the ground that at the time of marriage, a black and white television set was given and not a colour television;
- c) There was a demand for a motorcycle, a refrigerator and a mixi by the accused;
- d) There was also a demand for a buffalo and a sum of Rs.10,000/- was paid to the appellant's father in his presence for the said purpose;
- e) There was a demand for furniture on the ground that at the time of marriage, only old furniture was given;
- f) She gave a tape recorder and walkman to the appellant;
- g) Nine to ten days prior to the death of the deceased, the appellant and the deceased had come to her village when the deceased informed her that she was forced by the accused to bring a sum of Rs.60,000/- from her for

purchase of a jeep. This demand was made in presence of PW-7; and

- h) Later on, even the appellant demanded a cash amount of Rs.60,000/- from her for the purchase of a jeep. The appellant disclosed that his parents were putting pressure on him to bring the cash amount of Rs.60,000/-.

10. PW-6 was confronted by showing her prior statements at exhibit PD and DA. All the aforesaid demands stated by her in her examination-in-chief are omissions as far as both the statements are concerned. Even the payment of Rs.10,000/- is an omission. These omissions are significant and relevant and, therefore, by virtue of explanation to Section 162 of the Code of Criminal Procedure, 1973 (for short, 'the CrPC'), the same amounts to contradictions.

11. PW-6 claimed that the demand for a colour television, motorcycle, refrigerator and mixi had been mentioned in the supplementary statement dated 23rd June 1998 (exhibit DB). She stated that even demand for new furniture and a buffalo has been mentioned in exhibit DB. She further stated that she had stated that she had given a tape recorder and a walkman to the appellant in her police statements at exhibit DA and DB. However, the same does not find place in both statements. She stated that she had told the police while recording statements at exhibit PD and DA that she had given an amount of Rs. 10,000/- to the appellant's father in the presence of the appellant for the purchase of a buffalo. However, she admitted that the allegation does not find a place in

statements at exhibit PD and DA. She stated that this allegation finds place in her statement at exhibit DB. However, the payment of Rs.10,000/- by PW-6 to the appellant's father is irrelevant as the Trial Court acquitted him, and his acquittal has become final.

12. PW-6 admitted that though she had stated while recording her statement at exhibit PD that when nine or ten days before the incident, the deceased and the appellant had come to her house, both of them gave information regarding the demand of Rs.60,000/-. However, she accepted that this statement does not find place in the statement at exhibit PD. She was shown a notebook at exhibit DC, allegedly maintained by the deceased. However, PW-6 stated that she could not tell whether it was in the handwriting of the deceased.

13. Therefore, the version of PW-6 in her statements recorded on 2nd April 1998 and 6th April 1998 regarding providing dowry and regarding demands of dowry are omissions. She also stated that she told the police that the accused had fled from their house. However, she admitted that even this fact is not mentioned in any of the three statements. She claimed that she has stated some of the instances of demand of dowry in her statement dated 23rd June 1998. The statement was recorded more than two and half months after the incident; and therefore, what is stated therein is an afterthought.

14. There is something fundamental which goes to the root of the matter. While deposing about the demand of dowry, she has not deposed to any particular act of cruelty or harassment by the

appellant. This is an essential ingredient of Section 304-B. It is not made out from the evidence of PW-6.

15. Now, we come to evidence of PW-7. Following are the allegations made by him:

- a) The accused used to taunt her sister by saying that she had brought insufficient dowry in the marriage;
- b) They used to taunt her by stating that she had brought broken furniture;
- c) Three months after the marriage when he had visited the matrimonial home of his sister, all the three accused told him to bring a motorcycle, a refrigerator and a mixi;
- d) When the deceased, along with the appellant came to their house nine to ten days before the incident, the appellant disclosed that his parents were putting pressure upon him that he should bring a sum of Rs.60,000/- from PW-6 for purchasing a jeep; and
- e) The accused used to give a beating to the deceased.

16. In the cross-examination, PW-7 stated that police had recorded his statements on 3rd April 1998 and 7th April 1998, which were marked as exhibits DG and DH, respectively. He accepted that the allegation that the accused used to maltreat his sister on account of insufficient dowry given in the marriage and having brought broken furniture is not found in both the police statements. He also stated that the demand for a refrigerator, a motorcycle, and a mixi does not find place in both statements. Therefore, the version of PW-7 in his examination-in-chief about the demands of dowry is a significant and relevant omission.

Hence, this amounts to a contradiction. The public prosecutor claimed that the demand for a refrigerator, a motorcycle, and a mixi was mentioned in his third statement, which was recorded on 23rd June 1998. The third statement, recorded belatedly, obviously appears to be an afterthought. As regards his statement that the accused used to give a beating to his sister, it seems that he got this information when he visited the matrimonial home of his sister three months after the marriage. It is a very vague allegation. Moreover, the witness has not stated that this was disclosed to him by his deceased sister. Assuming that what he has said is correct, this incident of beating must have taken place between 25th June 1996 till end of September 1996. Therefore, this incident did not happen soon before the death. It is not his case that when the deceased allegedly visited his house nine to ten days before the incident, she complained about any cruelty or any harassment. Thus, none of the three statements of the witnesses contain any specific instances of cruelty or harassment.

17. Now, coming to evidence of PW-8, Ram Singh. PW-6 has not deposed that any demand of dowry was made to PW-8 or in his presence. She claimed in the cross-examination that PW-8 had told her about the maltreatment and the demand of dowry by the accused three to four months after the marriage. She stated that before 23rd June 1998, the police did not record the statement of PW- 8. She stated that PW-8 had come to her house after the death of the deceased but she did not tell her brother to make a statement before the police. The statement of PW-8 was recorded more than two and half months from the date of the incident. Moreover, he had no personal knowledge whether the appellant

had subjected the deceased to cruelty or harassment. Therefore, the prosecution did not prove the material ingredients of the offence punishable under Section 304-B. Not a single incident of cruelty covered by Section 498-A was proved by the prosecution. Section 304-B of the IPC was brought on the statute book in 1986. This Court has repeatedly laid down and explained the ingredients of the offence under Section 304-B. But, the Trial Courts are committing the same mistakes repeatedly. It is for the State Judicial Academies to step in. Perhaps this is a case of moral conviction.

18. Therefore, both the offences alleged against the appellant were not proved by the prosecution beyond a reasonable doubt. Hence, the impugned judgments dated 9th November 2010 and 24th January 2002 are hereby quashed and set aside and the appellant is acquitted of the offences alleged against him. The appellant was enlarged on bail pending this appeal. Hence, his bail bonds are cancelled.

19. The appeal is allowed accordingly.

.....J.
(Abhay S. Oka)

.....J.
(Ujjal Bhuyan)

**New Delhi;
January 31, 2025**