* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 02.09.2026
Pronounced on: 28.10.2026
Uploaded on: 28.10.2026

\# **CNR No. DLHC010099662004**

\+ CRL.A. 707/2004

SANJIV SAXENA & ORS. .....Appellants

Through: Mr. Rishi Malhotra, Sr. Adv. with Ms. Ansuiya and Mr. Shivaansh Maini, Advs.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Aman Usman, APP with Mr.Manvendra Yadav, Adv. with Insp. Kashmiri Lal, Crime Branch.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. The present appeal has been filed by the appellants against the Judgment of Conviction dated 26th July, 2004 ["**impugned judgement**"] and Order on Sentence dated 30th July, 2004, passed by the learned Additional Sessions Judge, New Delhi ["**Trial Court**"] in case FIR No. 220/2002, registered at Police Station Uttam Nagar for the offences punishable under Sections 498A/304-B/34 of the Indian Penal Code ["**IPC**"].

2. Appellant No. 2 expired during the pendency of the appeal. The appeal *qua* him therefore stands abated.

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BRIEF FACTS:

3. The facts of the case have been succinctly captured in paras No. 2 & 3 of the impugned judgment, which are produced as under:-

> *"2. Tale of woe, which emerged out of the report of Shri Bimal Narain Lal, makes it clear that when Meena went to her matrimonial home, after her marriage on 30.11.01, she was not allowed to visit her parental home, like a newly wed bride for a customary "PHERA". Her parents pleaded and supplicated a lot with her husband and in-laws and then Meena was sent to her parental home with a condition that woolen suit for the groom, woolen suit for his father, clothes for his mother, besides clothes for entire family members would be given by her parents. A sum of Rs 20-25 thousands was spent by Shri Lal in purchasing the clothes and when his son-in-law and his parents came to his house, the same were given to them. At the time of Lohri festival, a list was dictated on telephone giving details of articles which were to be given at that time. It was made clear that in case gifts would not be given in pursuance of the said list, then parents of Meena should not visit her matrimonial home. On that occasion too, he borrowed a sum of Rs. 20 - 25 thousands to meet their demand. To send Meena to her parental home on Holi festival, a condition was imposed which her father could not fulfill, resulting thereby that Shri Lal could not call Meena at the time of Holi festival. Meena had given telephone calls to her parents only thrice and she talked only about the demands raised by her husband and in-laws. He fulfilled the demands raised on two occasions but at the time of Holi festival, he could not meet the demand on account of financial stringency. He further details that whenever he gave a telephonic call at the matrimonial home of his daughter to enquire about her well-being, he was abused by her husband, her father-in-law and mother-in-law. They told him not to give telephone calls at their house and advise his son not to visit them.*

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He emphasizes that on account of their behaviour, they had never given a telephone call at her matrimonial home. He unfolds that when Meena came to her parental home, she stayed there for a span of 5-7 days. At that time, she used to tell while weeping that in order to make her feel humble, her mother-in-law used to ask her to touch feet of her younger sister-in-law. In order to harass and ill-treat her, her mother-in-law asked her to wash entire house daily. His daughter told that she was slapped once by her husband. Despite her ill-treatment, Meena used to say that everything would come in order. His daughter was ill-treated by her husband and in-laws on account of insufficient dowry brought by Meena in her marriage.

3. Shri Lal recites that on 19.4.02 at 9.30 AM, uncle of Sanjiv Saxena gave him a telephone call and told that Meena was serious. He advised him to reach her matrimonial home saying that they were also reaching there. He along-with his son Dhiraj reached matrimonial home of his daughter at Uttam Nagar, Delhi, at 11 AM. Police was already present there. He inquired as to what the matter was and came to know that his daughter has committed suicide in upper room (room on second floor) by hanging herself. Recalling the incidents of ill-treatment and harassment of Meena at the hands of her husband and in-laws, Shri Lal had shown an apprehension that his daughter was murdered by them or such objective conditions were created that Meena dropped down and committed suicide. However, he asserts that Meena was a bold girl who would not have yielded to normal harassment or ill-treatment to take her life. He requested that matter may be investigated and action be initiated against Sanjiv Saxena and his parents. On the report of Shri Lal, SDM directed the police of Police Station Uttam Nagar to register a case.

4. FIR No. 220/2002, under Sections 498-A/304-B/34 IPC (Ex. P-7) was registered at PS Uttam Nagar and the investigation was

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entrusted to PW-14 SI Kashmiri Lal. The appellants were interrogated and arrested on 20th April, 2002. The body of the victim was sent for post-mortem and the statements of the relevant witnesses were recorded. As per post-mortem report (Ex. PW-11/A), the cause of death was hanging. Upon completion of investigation, charge sheet was filed against the appellants under Section 498-A/406/304-B/34 IPC.

PROCEEDINGS BEFORE THE TRIAL COURT:

5. Charges were framed for the offences under Section 498-A, 304-B/34 and 406/34 IPC on 27.09.2002 against the accused persons namely Sanjeev Saxena, Kuljit Singh Saxena and Vimla Saxena, to which they had pleaded not guilty and claimed trial.

6. The prosecution in order to bring home the guilt of the accused persons, examined 14 witnesses including father of deceased (PW-1), brother of deceased (PW-2), uncle of deceased (PW-3), brother of deceased (PW-6), SDM (PW-7), Post mortem doctor (PW-11), Inspector who signed the Chargesheet (PW-13) and the IO of the case (PW-14).

7. In their statements recorded under Section 313 of the Code of Criminal Procedure, 1973 ["**Cr. P.C.**"], the appellants admitted the marriage of Meena (deceased) with Sanjiv Saxena on 30th November, 2001, but denied the allegations of cruelty and harassment, contending that Meena was suffering from jaundice, which information had been conveyed to her parents by Saket Narain (PW-3), however, despite being informed, her parents and brothers did not visit her matrimonial home. They stated that Meena had a strong desire that her parents

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should visit her frequently and being deeply affected by their failure to do so, felt frustrated and committed suicide. They also stated that SI Kashmiri Lal had illegally detained them on 19th April, 2002 but had falsely shown their arrest on 20th April, 2002. They claimed that they were innocent and falsely implicated in the case. They did not lead any evidence in their defence.

8. Upon completion of the trial, the learned Trial Court held that prosecution has been able to establish that Meena, who was married to the appellant Sanjeev Saxena on 30th November, 2001, died an unnatural death by hanging on 19th April, 2002, within four and a half months of her marriage and that soon before her death, Meena had been subjected to cruelty and harassment by her husband and in-laws in connection with dowry demands. The learned Trial Court was of the view that the testimonies of Bimal Narain Lal, Dheeraj, Saket Narain Lal and Randhir Kumar Lal disclosed a continuous course of conduct, involving demands for a motorcycle, cash, clothes and other articles and ill-treatment upon non-fulfilment thereof. It was held that the evidence established the requisite proximity and live link between the dowry related cruelty and her death, thereby, attracting the statutory presumption of dowry death, while the defence plea that Meena had committed suicide out of frustration as her parents had not enquired about her well-being, was rejected. Consequently, the appellants were convicted for offences punishable under Sections 498-A and 304-B read with Section 34 IPC. However, in respect of Section 406 IPC, the Court held that there was no whisper of demand at any point of time for the return of dowry articles or Stridhan of Meena,

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and therefore in the absence of any such demand, it cannot be concluded that the offence of criminal breach of trust has been established against the appellants, and accordingly, acquitted them of the charge under Section 406 IPC.

9. *Vide* order dated 30th July, 2004, the appellants were sentenced to undergo life imprisonment for the offence of dowry death. They were further sentenced to undergo Rigorous Imprisonment for two years each and to pay a fine of Rs. 5,000/- each for an offence of cruelty punishable under Section 498-A IPC, and in default of payment of fine, they were directed to undergo Rigorous Imprisonment for a period of six months each. Both sentences were to run concurrently and the benefit of Section 428 of the Code of Criminal Procedure, 1973 was to be also extended to the appellant.

10. Feeling aggrieved, the appellants have preferred the present appeal against the impugned judgment and order.

SUBMISSIONS ON BEHALF OF THE APPELLANTS:

11. Mr. Malhotra, learned Senior Counsel for the appellants submitted that statements of the material witnesses namely Bimal Narain and Dheeraj recorded by the learned SDM, are unspecific, general and vague in nature. They made material improvements in their evidence before the Court. They were confronted with the statements recorded by the SDM to prove the improvements in their testimonies recorded before the Court. They altogether presented a different story than the one which was presented by them in their statements recorded by the SDM and therefore their testimonies are not acceptable. He places reliance on the judgment of ***Karan Singh v.***

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State of Haryana, 2025 INSC 133 to argue that omissions in the previous statement amount to contradictions by virtue of explanation to Section 162 of the Cr. PC.

12. It was further argued that the Case Diary has not been recorded by the IO SI Kashmiri Lal (PW-14) in his own handwriting and was got written from a private person while sitting in the police station and this fact has been admitted by PW-14 in his cross examination. It is thus argued that investigation has not been conducted fairly.

13. It was further argued that the learned SDM had acted illegally by not recording the statements himself and by permitting the police officer to record the statements of the witnesses. It is argued that such illegality committed by the learned SDM completely vitiates the inquest proceedings and no reliance can be place on the statements of B.N. Lal (PW-1) and Dheeraj (PW-2).

14. Thus, according to the learned defence counsel, the evidence produced by the prosecution is deficient and therefore it cannot be held that the ingredients for the offence of dowry death stand established in this case and thus the appellants are entitled to honourable acquittal.

SUBMISSIONS OF THE STATE:

15. *Per contra*, Mr. Usman, learned Additional Public Prosecutor [“**APP**”] for the State, submitted that PW-1 himself, in his examination-in-chief, categorically stated that his supplementary statements had been recorded by the police, wherein he had furnished additional details regarding the occurrence and had given a detailed account of the persistent dowry harassment meted out to the deceased.

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16. It was contended that, despite the witness having specifically disclosed the recording of such supplementary statements, the appellants chose not to confront him with the said statements during his cross-examination with a view to bring out any contradiction or omission therein. According to the learned APP, the fact that the supplementary statements were not put to PW-1 in cross-examination is significant, as the defence cannot, after consciously refraining from confronting the witness with a particular previous statement, subsequently seek to rely upon the contents thereof to impeach his testimony.

17. The learned APP further submitted that it was rather peculiar that, despite being aware of the existence of the supplementary statements, the accused persons did not confront the material witnesses with those statements and instead selectively chose to confront them only with the statements recorded before the SDM. It was argued that such selective use of the previous statements cannot be permitted to defeat otherwise consistent and cogent testimonies of the witnesses before the Court.

18. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Tahsildar Singh v. State of U.P.***, 1959 SCC OnLine SC 17, to contend that the requirements governing contradictions and omissions in previous statements must be strictly complied with and that a previous statement can be utilised for contradiction only in the manner prescribed by law.

19. The learned APP thus argued that defence has failed to bring forth any omission/contradiction/improvement in the testimonies of

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PW-3 and PW-6, which have been found to be straight-forward and cogent, and therefore, there is no merit in the appeal and the same is liable to be dismissed.

20. With regard to the writing of Case Diary by private person, it was submitted that they were merely scribes and writing of case diary by scribes is not barred.

ANALYSIS AND REASONING:

21. We have given our thoughtful consideration to the rival submissions advanced by the learned Senior Counsel for the appellants and the learned APP for the State and have carefully analysed the evidence available on record.

22. Before moving forward, it is important to reproduce Section 498-A & 304-B IPC. They read as under:-

> ***"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*

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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."

23. 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.

24. 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.

25. Section 2 of the Dowry Prohibition Act, 1961 provides that dowry means any property or valuable security given or agreed to be

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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.

26. In this case, there is no dispute that the death of the wife of appellant Sanjiv Saxena 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)."*

27. 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,

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the presumptions under Section 113-B of the Evidence Act cannot be invoked.

28. Undisputedly, the marriage between the deceased and the appellant Sanjeev Saxena was short-lived, as Meena died within approximately four and a half months of the marriage. The autopsy report Ex. PW-11/A, prepared by Dr. Manoj Nagpal (PW-11), records an ante-mortem ligature mark and a knot mark in the neck and opines the cause of death to be hanging, thereby, establishing that the deceased met an unnatural death. Once it is established that the death of Meena occurred otherwise than under normal circumstances within seven years of marriage, we deem it appropriate to carefully re-appreciate the evidence and the testimonies of the material prosecution witnesses to determine whether the remaining ingredients of the offence of dowry death against the appellants beyond reasonable doubt.

29. The learned Trial Court, while convicting the appellants, principally relied upon the testimonies of PW-1, PW-2, PW-3 and PW-6. According to PW-1, the first demand was made about one week prior to the engagement, when a motorcycle make "Passion" was demanded and was thereafter given to appellant Sanjeev Saxena at the engagement on 21st October, 2001. After Diwali and before the marriage, the accused persons insisted that sarees and clothes be purchased from a particular shop in Chandni Chowk as per their choice, and similarly, refused the furniture initially purchased by the deceased's family, compelling them to re-purchase furniture, blankets and other articles, as selected by them. PW-1 further deposed that

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Bimla Saxena and Ritu Saxena dictated a list of articles to be given at the Lagan ceremony and Kuljit Saxena demanded Rs. 50,000/- at the Phera ceremony, against which, Rs. 42,000/- was initially paid, due to which, no one was allowed by the in-laws of the deceased to accompany the deceased and the remaining Rs. 8,000/- was subsequently arranged and paid by them. At the occasion of Lohri, the appellants demanded to arrange clothes for the entire family costing Rs. 20,000/- to Rs.25,000/-, for which, PW-1 had to take a loan and was told that only after fulfillment of these demands, the girl will be sent to visit her parents. On the occasion of Holi in the year 2002, Kuljit Saxena demanded a further sum of Rs. 50,000/- for replacing the asbestos sheets of the roof and PW-1 paid a sum of Rs. 5,000/- to Sanjeev in the second week of March 2002. It is significant to note that in cross-examination, PW-1 admitted that several of these specific incidents of demand and payment were not stated by him in his statement recorded before the SDM (Ex.PW-1/A), but he explained that subsequently supplementary statements were recorded, wherein, the relevant details were given.

30. PW-2 Dheeraj, brother of the deceased Meena, supported the prosecution case regarding the dowry demands and harassment meted out to his sister after her marriage with accused Sanjeev Saxena on 30th November, 2001. He deposed regarding the demand of a red Hero Honda Passion motorcycle, the demand of Rs. 50,000/- at the time of marriage, payment of Rs. 42,000/- and subsequent payment of Rs. 8,000/-, demands on festivals including Lohri, demand of money for the renovation of the house and about Meena being beaten and

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harassed by Ritu and Neelam and taunting for non-fulfillment of the demands. In cross-examination, PW-2 made significant admissions, when confronted with his previous statement given to the SDM (Ex. PW-2/A) admitting that he had not specifically stated before the SDM or the police about the demand for the motorcycle, Rs. 50,000/- demand at the time of marriage, payment of Rs. 42,000/- and Rs. 8,000/-, the demand for sarees and gifts as a condition for Lohri, the demand of money for renovation, the alleged beatings by Ritu and Neelam or the taunts regarding non-fulfillment of demands and allegedly sub-standard articles. He explained the omissions regarding the motorcycle by stating that he was mentally disturbed following the death of his sister. He admitted that he had not disclosed the names of the persons present when Rs. 42,000/-was allegedly paid and had not stated that the balance Rs. 8,000/- was paid after about eight days at Vimla's residence. PW-2 was also confronted with his previous statement regarding the assertion that Meena was used to be forced to do unnecessary work like washing clothes, terrace and other household works. He admitted that these details were not recorded in such statement recorded by the SDM. He admitted that the Holi telephone incident, including the assertion that Ritu prevented him from speaking to Meena and Sanjeev instructed him not to telephone or visit the matrimonial home, was also not stated to the police. Thus, while PW-2 has furnished material allegations regarding dowry demands and harassment, his testimony is accompanied by substantial omissions and subsequent elaboration of material particulars.

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31. PW-3 Saket Narain Lal, maternal uncle of the deceased, deposed regarding the demand of motorcycle, the articles allegedly demanded at the Lagan ceremony and the demand of Rs. 50,000/- at the time of Phera, against which, Rs. 42,000/- was arranged from Kanyadan received in the marriage out of which Rs. 10,000/- was contributed by him and paid to the father of Sanjeev Saxena. He further stated that after 03rd April, 2002, Meena occasionally telephoned him and complained that she was being harassed by her in-laws, particularly Ritu and Neelam, who allegedly made her repeatedly clean the floor, gave her stale food and beat her when she took dal and chapati for eating. He also stated that Meena told him about being suffering from jaundice but requested him not to visit her matrimonial home as it would create further problems for her, while expressing hope that the situation might improve after Ritu's marriage.

32. In cross-examination, PW-3 admitted that several material particulars stated in his examination-in-chief including the demand of motorcycle, the articles given at Lagan, the improper conduct of the in-laws, Rs. 50,000/- demand, payment of Rs. 42,000/- and about harassment, beatings, stale food and jaundice, were not recorded in his statement Mark DX, despite his assertion that he had conveyed these facts to the police over telephone. He admitted that he had not personally visited Meena's matrimonial home after the marriage and left Delhi shortly after the marriage and had personally not met her thereafter until her death, although, he stated that she had visited his brother's house on 14th January, 2002 and that to his knowledge, there

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was no complaint from her up to that date. In these circumstances, the testimony of PW-3, while furnishing corroborative circumstances, is required to be assessed with due regard to the material omissions and the fact that a substantial part of his knowledge regarding the dowry demand and cruelty are derived from telephonic conversations with the deceased.

33. PW-6 Randhir Kumar Lal, the other brother of the deceased, also gave a detailed account of the alleged demands from the time preceding the engagement till shortly before the death of Meena. He deposed that the accused family initially stated that they did not want dowry, but subsequently demanded a motorcycle, dictated cash amounts and articles to be given as Shagun, and thereafter, demanded colour television, refrigerator, washing machine, almirah, dressing table, centre table and other furniture at the Lagan ceremony, besides insisting that sarees and clothes be purchased from a particular shop as per their choice. He further stated that at the time of Phera, all the accused demanded Rs. 50,000/-, out of which Rs. 42,000/- was paid, leaving a balance of Rs. 8,000/-, on account of which, the brothers were not permitted to accompany Meena to her matrimonial home. He also deposed regarding the alleged harassment of Meena, including the taunts that she belonged to a family of beggars, the demand for gifts on her first Lohri, the demand of approximately Rs. 50,000/- for replacement of asbestos sheets and subsequent telephonic conversations in which Meena cried and complained of harassment, beatings and being made to consume rotten sweets.

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34. PW-6 was extensively confronted in cross-examination, upon which, he made several admissions. He admitted that he had not specifically stated before the police about the demands for colour TV, refrigerator, washing machine, almirah, dressing table and centre table, although he volunteered that he had given a list to the police containing these articles; he admitted that he had not stated about the demand to purchase sarees from Tripathi/Tirupati Saree House, the conversation with Vimla regarding the price of the sarees or the illegal demand of Rs. 50,000/- at the time of Saptpadi/Phera and payment of Rs. 42,000/-. He admitted that he had not stated that the non-payment of balance of Rs. 8,000/- was the reason why the brothers were not permitted to accompany Meena after marriage and was confronted with Ex. PW-6/DA, where the fact of Meena not being permitted to visit the parental home until 14th January, 2002, was not recorded. He was also confronted with Ex.PW-6/DA regarding his alleged conversation with Sanjeev, his request that Meena be accepted as a bride, Meena's complaint that she had been harassed by all the family members, that she was called as a member of family of beggars and his assertion that she believed that Sanjeev was under the pressure of other family members; he admitted that these particulars were not recorded.

35. Likewise, he admitted that he had not stated before the police about the condition of giving gifts for the first Lohri, the telephone number given by him to Meena, Rs. 50,000/- demand for asbestos sheets or the subsequent telephone call in which Meena cried and complained of harassment and beatings. He admitted that the Holi

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telephone incident and the instruction by Sanjeev not to telephone or visit the matrimonial home were not stated before the police and that neither he nor his brother or father had visited Meena's matrimonial home between 14th April, 2002 and 19th April, 2002. At the same time, he maintained that the allegations were true, denied the suggestion of fabrication and stated that he had subsequently handed over a list to the SHO around 24th or 25th April, 2002, even though, he could not recollect the exact date.

36. On an analysis of the testimonies of PW-1 and PW-2, we do find that there are material improvements with regard to the dowry demand and harassment, as deposed by them before the Court from their statements recorded by the SDM, which are Ex. PW-1/A and Ex. PW-2/A respectively.

37. Similarly, PW-3 and PW-6 were confronted with their previous statements recorded by the police under Section 161 Cr. PC, which show material improvements from the statements recorded by the police under Section 161 Cr. PC. While the statements recorded before the police under Section 161 Cr. PC were general in nature, PW-3 and PW-6 made specific averments of dowry demand and dowry related harassment in their examination before the Court, which were not stated in the previous statements before the police. The omissions made by PW-3 and PW-6 are significant and relevant and therefore by virtue of explanation to Section 162 Cr. PC, the same amount to contradictions.

38. Even if, the testimonies of PW-3 and PW-6 are kept aside on account of omissions elicited in cross-examination, the prosecution

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case regarding the dowry demands and harassment meted out to Meena does not collapse, as the testimonies of PW-1 and PW-2 furnished a detailed account of the demands and the circumstances in which they were met. They narrated the demands commencing from the demand of motorcycle before the engagement and extending to the demands concerning clothes, furniture, Lagan articles, Rs. 50,000/- at the Phera, Lohri articles and Rs. 50,000/- towards replacement of asbestos sheets, against which, Rs. 5,000/- was paid to Sanjeev in March 2002. The omissions/contradictions elicited from the testimonies of PW-3 and PW-6, on account of the reason of such allegations having not been made in their previous statement, cannot be used to discredit PW-1 and PW-2 for the reasons as would be discussed by us in detail in the following para.

39. A perusal of the record reveals that the testimony of PW-1 Bimal Narain was partly recorded on 10th October, 2002 and his remaining statement was deferred at the request of learned APP on the ground that there were 3-4 supplementary statements for which the Prosecutor sought time to study. On 31st October, 2002, when PW-1 was recalled, he categorically stated that he had mentioned the names of Neelam and Ritu in his supplementary statements. Again, in cross examination dated 26th March, 2003, he made it clear that his supplementary statements were recorded, even though he was not sure whether the same were recorded in April or May.

40. Similarly, PW-2 Dheeraj, in his cross examination stated that the police had recorded his statement, but could not give the date of recording of such statement. He also stated that as far as he

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remembers, such statement given by him to the police was not got signed.

41. PW-14 SI Kashmiri Lal, Investigating Officer, deposed that he recorded the statement of Dheeraj (Ex.PW-14/DA) at the police post on 20th April, 2002 and further recorded the supplementary statements of B.N. Lal and Randhir. In cross examination when asked about the date of recording of statement of B.N. Lal, PW-14 stated that he had recorded the statement of B. N. Lal on 04th May, 2002.

42. It is thus evident that the supplementary statement of PW-1 under Section 161 Cr. PC was recorded during investigation. There can be no quarrel with the settled position that a statement made by a witness to a police officer during investigation is not substantive evidence and may be utilized for contradiction only in the manner prescribed by Section 162 Cr. PC read with Section 145 of the Indian Evidence Act. In the present case, it is imperative to distinguish between omissions or contradictions pointed out from particular previous statements, that is, Ex. PW-1/A and Ex. PW-2/A recorded by the SDM. PW-1 and PW-2 were duly confronted with previous statements Ex. PW-1/A and Ex. PW-2/A to highlight that there were improvements in the statements made before the Court from the one made before the SDM. The difficulty in treating such omissions as conclusive improvements is that PW-1 and PW-2 were not confronted with the supplementary statements that they gave to the police. Ex. PW-1/A was the first statement made by PW-1, which formed the basis for the registration of the FIR. The registration of the FIR sets the criminal law into motion and is not the end of the investigation.

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During investigation, the investigating agency collects the evidence, records the statements of witnesses and only thereafter files the final report before the Court. In ***V.K. Mishra v. State of Uttarakhand***, (2015) 9 SCC 588, the Supreme Court *inter alia*, held that Section 162 Cr. PC bars use of statements of witnesses recorded by the police except for the limited purpose of contradiction of such witnesses as indicated there. The statement made by a witness before the police under Section 161(1) Cr. PC can be used only for the purpose of contradicting such witness on what he has stated at the trial, as laid down in the proviso to Section 162(1) Cr.PC. The statements under Section 161 Cr.PC recorded during the investigation are not substantive pieces of evidence but can be used primarily for the limited purpose: (i) of contradicting such witness by an accused under Section 145 of the Evidence Act; (ii) the contradiction of such witness also by the prosecution but with the leave of the Court; and (iii) the re-examination of the witness if necessary.

43. Coming back to the present case, perusal of the evidence of PW-1 and PW-2 indicates, that the appellants while cross-examining, selectively cross-examined the witness with their previous statements Ex. PW-1/A and Ex. PW-2/A, which were made to the SDM on 19th April, 2002 but not with the supplementary statements made before the police. Consequently, the appellants cannot derive the full benefit of the alleged contradictions merely by demonstrating that particular deposition made by the witnesses were absent from Ex.PW-1/A and Ex. PW-2/A, when the prosecution case is that the necessary details were subsequently recorded in the supplementary statements recorded

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during investigation. That being so, the contradictions so pointed out by the appellants were only in reference to the statements Ex. PW-1/A and Ex. PW-2/A and not shown to be improvements/omissions and contradictions with other statements recorded under Section 161 Cr. PC during investigation.

44. We now proceed to analyze as to whether there is any explanation for the statements Ex. PW-1/A and Ex. PW-2/A being general in nature, being without specific details of the dowry demand/harassment. It must be remembered that the victim had died on 19th April, 2002. The family members immediately on getting such information, rushed to her matrimonial home. PW-1 deposed that on reaching her matrimonial home, they were informed that Meena had committed suicide on the second floor of their house, and when they wanted to see the room and the place where she committed suicide, he was not permitted. He was told that she had committed suicide with the help of a *chunni* but was not shown the *chunni*. He stated that he was not even allowed to see the face of Meena and the body of Meena was taken to DDU Hospital for postmortem. The statements of PW-1 and PW-2 were recorded by the SDM on the same day. During cross examination, while PW-1 was being confronted with the statement Ex. PW-1/A which did not contain specific averments made in Court, he explained that at the time of making such statement before the SDM, he was perturbed. He stated that he was disturbed because of death of his daughter. Similarly, PW-2 upon being confronted with his previous statement Ex. PW-2/A regarding the omissions, stated that he was not mentally fit when he made such statement. He clarified that

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by being mentally not fit, he meant that he was mentally disturbed. One can duly understand the shock, pain and grief in which the family may have been, upon getting the tragic news of the death of their daughter. It would be futile to expect that in such state of mind, the close relatives would be able to furnish the meticulous details of all what happened with the victim during her short-lived marital life. Hence, the absence of specific instances of cruelty on account of dowry demand in the very first statements recorded by the SDM on the day of death of the victim cannot be given much importance.

45. The other contention of the appellants is that the Investigating Officer SI Kashmiri Lal (PW-14) had engaged an unauthorized private person for writing the Case Diary and therefore it can be inferred that the investigation has not been conducted fairly. In cross examination, PW-14 admitted that the Case Diary is not recorded in his handwriting and that the same was got recorded from three private persons. Similarly, the statements Ex. PW-1/A and Ex. PW-2/A are not in the handwriting of the SDM but by some police officials. In cross examination SDM (PW-7) admitted that the statements Ex. PW-1/A and Ex. PW-2/A are not in his handwriting. According to him, the said statements were in the handwriting of the witnesses themselves. However, PW-1 and PW-2 have something else to say. In cross examination, PW-1 stated that his statement was recorded at the residence of SDM by a police official in the presence of the SDM. Similarly, PW-2, in cross examination, stated that his statement was recorded by a Head Constable in the presence of the SDM at his residence. It is argued that it was the duty of the SDM to record the

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statement in his own handwriting and by not doing so, he delegated the power of recording of such statements to a police official and thus he is guilty of dereliction of his duty.

46. Ideally, the SDM/Investigating Officer, as the case may be, should record the statements in his/her own handwriting. However, there is no statutory embargo that they cannot take the assistance of a scribe for recording statement/case diary. A perusal of Section 172 (1) Cr. PC indicates that every police officer, conducting an investigation under the said Chapter is required, day by day, to record in the case diary the proceedings of the investigation, including the time when the information was received, the time when the investigation commenced and concluded, the place visited and the circumstances ascertained during the course of such investigation. The law does not mandate that the case diary must necessarily be handwritten personally by the Investigating Officer. No material has been brought on record to demonstrate that the engagement of a scribe, by itself, has caused any prejudice to the appellants or has otherwise affected the fairness of the investigation. Accordingly, the mere fact that a scribe was engaged for writing the case diary, in the absence of any specific statutory bar or demonstrated prejudice, cannot by itself be treated as a circumstance casting doubt upon the investigation.

47. On an appreciation of the evidence, it clearly emerges that dowry demands were raised by the appellants and when the bride's family could not fulfil the said demands, Meena was ill-treated at her matrimonial home. Cruel treatment was meted out to her on account of non-fulfilment of dowry demands to the expectations of her

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husband and in-laws. It is evident from the depositions of the witnesses that Meena was subjected to cruelty on account of the dowry demands. All this happened within a short period of four and a half months of marriage. Therefore, the intervening period between the time of ill-treatment on account of dowry demand and the death is not too long and is covered by the requirements of law, that is, "soon before death", as prescribed in Section 304-B IPC.

48. The taking of one's own life is an extreme act, ordinarily preceded by circumstances of such intensity that a person is driven to perceive death as preferable to the continuation of life. To subject a woman to sustained cruelty and harassment on account of dowry demands, to the extent that she is driven to take the extreme step of ending her life, represents a grave form of human suffering and cannot be treated as a mere domestic discord. Marriage, particularly for a woman entering a new family, carries profound social and emotional significance, and the transformation of that sacrosanct relationship into a transaction governed by demands for money, articles and material considerations strikes at the very foundation of the institution of marriage. When such demands are followed by humiliation, harassment and cruelty upon their non-fulfilment, the conduct assumes a particularly reprehensible character, as it seeks to extract a financial price at the cost of the dignity, security and life of the woman.

49. Dowry-related cruelty becomes all the more grave when the relentless pressure exerted upon the woman leaves her feeling that death is the only escape from the suffering inflicted upon her. A demand for dowry, by itself, may begin as an unlawful expectation,

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but when coupled with persistent taunts, humiliation, harassment and cruelty for its non-fulfilment, it can become a sustained assault upon the dignity and autonomy of the woman. No person should be compelled to choose between enduring such cruelty and ending their own life, and conduct that drives a woman to such an extreme cannot be regarded as an ordinary matrimonial disagreement. The eradication of dowry-related cruelty therefore remains essential not merely to preserve the sanctity of marriage, but, more fundamentally, to protect the dignity, autonomy and very life of women within the matrimonial home.

50. On an overall appreciation of the evidence, therefore, we find that the prosecution has proved all the essential ingredients of Section 304-B IPC beyond reasonable doubt. The death of Meena occurred otherwise than under normal circumstances and within a few months of her marriage; the evidence of PW-1, the father of the deceased establish that she was subjected to continuous cruelty and harassment in connection with dowry demands, and the circumstances demonstrate the requisite proximity between such harassment and her death. The presumption under Section 113-B of the Evidence Act consequently operates against the accused, and the defence has failed to rebut the same by establishing any credible alternative explanation for the unnatural death. The conviction of the appellants under Sections 304-B/34 IPC is, therefore, fully supported by the evidence on record. Likewise, the evidence regarding cruelty and harassment constitutes sufficient basis for sustaining their conviction under Section 498-A/34 IPC. The findings of the learned Trial Court suffer

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from no perversity or material illegality warranting appellate interference.

51. Accordingly, this Court finds no reason to interfere with the impugned judgment, and the conviction of the Appellants namely Sanjiv Saxena and Bimla Saxena are upheld. The sentence imposed is proportionate and commensurate with the offence committed. The appeals are therefore dismissed.

52. The Appellants namely Sanjiv Saxena and Bimla Saxena are directed to surrender before the Trial Court within a period of two weeks from today for serving the remaining sentence. In the event of failure to surrender, appropriate steps shall be taken by the State/Trial Court to ensure that they are taken into custody and sent to jail for undergoing the remaining sentence.

53. A copy of this judgement be sent to the trial Court and Jail Superintendent for information and necessary action.

RAVINDER DUDEJA, J.

NAVIN CHAWLA, J.

OCTOBER 28, 2026/na

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