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

Date of reserving: 06th May, 2026

Date of Decision: 15th September 2026

IN THE MATTER OF:

+ CRL.A. 677/2004

NAVEEN KUMAR VERMA & ANR.Appellants

Through: Mr. Dharmendra Vashishtha, Mr.
Sumit Kalra, Ms. Yashika Malhotra,
Advs.

versus

STATE

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with SI Anil Kumar, PS Okhla
Industrial Area.

CORAM:

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. Challenged in this appeal is the judgement dated 16.8.2004 passed by learned Additional Sessions Judge, Patiala House Courts, in Sessions case No. 41/03, arising out of FIR No. 208/2003 registered at Police Station, Okhla Industrial Area, under Section 498-A/304-B/34 Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), whereby the Appellants, Naveen Kumar Verma and his brother, accused Ajay Kumar Verma, were convicted for the offences punishable under Section 304-B/498A IPC and through the order on sentence dated 17.08.2004 they were sentenced to undergo Rigorous Imprisonment ('RI') for 10 years for the offence punishable under Section 304-B IPC and 3 years RI and a fine of Rs. 5,000/- for the offence under Section 498-A, in default of payment of fine, to undergo six months



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Simple Imprisonment ('SI'). Both sentences were ordered to run concurrently. The Appellants were granted benefit of set-off under section 428 Code of Criminal Procedure, 1973 ('Cr.P.C').

2. The third accused, Smt. Kaushalya Devi (mother-in-law of the deceased) who was tried jointly with the Appellants for the same offences, was acquitted by the Ld. Trial Court by extending her the benefit of doubt. Her acquittal has not been assailed by the State before this Court and has thus, attained finality.

3. The gravamen of the prosecution is that on 10.04.2003, on receipt of an information in Police Station Okhla Industrial Area from Police Control Room (PCR) about a lady having committed suicide by hanging in House No. 21 or 31, I Block, Railway Colony, Tughlakabad, New Delhi, DD No.13-A was recorded. Thereafter, SI Ramjas Pandey who along with Constable Satender, reached the said house. One lady (by the name of Vinita @ Kamlesh) was found hanging from the ceiling fan of the room. As per the record, information was also given to the Sub-Divisional Magistrate (SDM). The dead body was sent for post-mortem examination.

4. It emerges from the record that on 11.04.2003, SDM recorded the statement of Ramesh Chand Verma, father of the deceased Vinita @ Kamlesh, wherein he stated inter alia that his daughter Vinita was married to accused Naveen Kumar Verma as per Hindu rites and ceremonies on 29.11.2002; that the marriage failed to bring happiness to the couple and soon after the marriage Vinita remained depressed in her matrimonial home; that Naveen Kumar Verma and his brother, accused Ajay Kumar Verma, used to beat her off and on and demand dowry to the tune of Rs.50,000/-; and that on 10.04.2003, Pankaj (brother of Appellants) came to the parental house of Vinita at about 4:30 PM and informed her parents that Vinita was



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not well, asking Ramesh Chand Verma to accompany him. It further emerges that Ramesh Chand Verma suspected and blamed Naveen Kumar Verma, Ajay Kumar Verma and their mother Kaushalya Devi, and alleged that all three accused, acting in tandem, had killed Vinita. Further, the SDM also recorded the statement of Shanti Devi, mother of the deceased, wherein she stated that soon after the marriage, the in-laws used to beat her daughter and demand dowry of Rs.50,000/-, and that accused Ajay wanted to have illicit relations with the deceased. On this basis, FIR No. 208/2003 was registered u/s 304-B, 498-A and 34 IPC. After completion of investigation, chargesheet was filed against the accused.

5. The Accused pleaded not guilty to the charge framed under section 498A read with section 34 IPC & section 304B IPC read with 34 IPC and claimed trial. In order to substantiate its case, prosecution examined 13 witnesses. Accused pleaded their innocence while explaining their position in their statement under section 313 Code of Criminal Procedure, 1973 (Cr.P.C.) and examined 4 witnesses in their defence. Vide impugned judgment and order on sentence, the Learned Additional Sessions Judge convicted the Appellant and sentenced them, as referred hereinbefore, while acquitting Smt. Kaushalya Devi.

6. Feeling aggrieved, the present appeal has been preferred. Learned counsel for the Appellants contended that the learned Additional Sessions Judge erred in convicting the Appellant on the basis of unconvincing evidence on record, the judgment being bad on facts and in law and consequently liable to be set aside.

7. It was submitted that the Trial Court failed to appreciate that all the prosecution witnesses were closely related to the deceased and were interested witnesses, and that no independent witness has been examined. It



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was further submitted that the Trial Court did not accord equal weightage to the defence witnesses, casually rejecting their testimony without appreciating that the issues of credibility and trustworthiness apply with equal force to defence evidence. Reliance was placed, in particular, on the testimony of Savitri, who had mediated the marriage and was known to both families and would ordinarily have been the first person to be approached in the event of any discord. However, she was not cited as a witness by the prosecution; the defence, however, examined her, and she deposed that the deceased was living happily. Her testimony was rejected by the Trial Court without due consideration.

8. It was submitted that the entire testimony of PW-1 to PW-5 regarding demand and harassment was based on what had allegedly been told to them by the deceased, without any independent corroborative or medical evidence, and did not specify the detailed particulars like any date or time. It was pointed out that despite the couple having visited relatives, and vice versa, at least twenty times within a span of four and a half months, none of the witnesses deposed of having seen any injury or sign of beating on the deceased, nor did any of them state that any of the accused had personally made a demand from them or that they had ever confronted Appellant no.1 or Appellant no.2 regarding the alleged demands, beatings, or attempt to establish illicit relations.

9. It was submitted that it stood admitted that no dowry was demanded or given at the time of marriage, that no police complaint or panchayat was convened despite the seriousness of the allegations, and that no specific dowry article or amount was ever identified, the allegations being vague and general in nature. It was argued that even as per the prosecution's own version, the alleged demand and cruelty were stated to have commenced



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only in January 2003, with no extraordinary ill-treatment or intervening change in circumstances brought on record to explain the escalation leading to the incident on 10.04.2003. It was further submitted that the concept of cruelty varies from individual to individual and that no wilful conduct of such a nature as was likely to drive the deceased to commit suicide had been established.

10. It was submitted that although the deceased is alleged to have informed the witnesses about a demand of Rs.50,000/-, she never asked them to actually pay the amount, nor did the parents ever pay any sum or confront any accused regarding the alleged demand; nor did the deceased, before taking such a drastic step, choose to call any relative or her parents, or ever expressed her unwillingness to return to her matrimonial home, despite her parents' residence being merely 3.5 km away. It was argued that if she was being subjected to such cruelty as alleged, there ought to have been fresh or old injury marks on her person.

11. It was submitted that the prosecution introduced, for the first time during the trial, the allegation of a telephonic call made by the deceased to her mother on 08.04.2003 asking her, in a fearful tone, to come with money, a fact conspicuously absent from the statements recorded before the SDM or the police, and thus, a material improvement reflecting the interested and vengeful nature of the witnesses, which the Trial Court failed to take into account. It was further submitted that the witnesses were shown to have made improvements at every successive stage; before the SDM, before the police, and before the Court which aspect the Trial Court read in a casual manner with a pre-determined mind.

12. It was submitted that no specific role was attributed to the Appellants beyond a vague and general allegation of beatings, and that there existed no



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legal evidence, direct or circumstantial, connecting the Appellant with the offences under Sections 304-B and 498-A IPC, much less any material to establish a prior meeting of minds or agreement between the accused. It was further submitted that the Trial Court, having found the very same evidence trustworthy, could not have convicted the Appellant while acquitting a co-accused on that very evidence, and that the burden lay upon the prosecution to prove its case beyond reasonable doubt and not upon the defence to prove innocence; the conviction, being founded on surmises and conjectures rather than legal evidence, was accordingly liable to be set aside. Reliance was placed on ***Shoor Singh vs. Uttarakhand*** JT 2024 (9) SC 625; ***Manohar Lal vs. Haryana***, AIR 2014 SC 2555; ***Shobhit Kumar Mittal vs. Uttar Pradesh*** AIR 2025 SC 4653; ***State vs. Aftab & Anr.*** Dt. 17.2.206; ***State vs. Rakesh & Ors.*** 2012 (2) JCC 1334 ; ***Murari Lal and Ors. vs. State*** dt. 19.11.2025.

13. Countering the submissions made by the learned counsel for the Appellants, learned APP for the State has stood by the impugned judgment and asserted that the evidence of PW-1 to PW-5 was consistent on the core allegations of beating and demand of Rs. 50,000/-, and mere relationship with the deceased does not render their testimony unworthy of credit, more so where the alleged cruelty occurred within the four walls of the matrimonial home, then the natural witnesses are ordinarily drawn from the deceased's own family. It is further submitted that the statements Ex. PW-1/A and Ex. PW2/A were recorded by an independent authority, the SDM (PW-6), within a day of the incident, well before any opportunity for prolonged deliberation or embellishment. Further, the marriage (29.11.2002) and death (10.04.2003) were separated by barely four and a half months, which satisfies the proximity test under Section 113-B of the Evidence Act enabling the Court to raise a presumption against the Appellants. The



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Appellants offered no explanation of the circumstances of death within their special knowledge, and that Appellant No. 1's plea of the deceased's illicit relationship with Rakesh was found by the Trial Court to be false and a fabricated defence, itself indicative of a guilty mind; and that the infirmity which persuaded the Trial Court to acquit Smt. Kaushalya Devi i.e. the absence of any allegation against her in the earliest statement was specific to her case and does not extend to the Appellants, against whom consistent, specific and unwavering allegations of beating and dowry demand were levelled from the very first statement.

14. The principal issues that arise for consideration before this Court is whether the prosecution has been able to establish beyond reasonable doubt that the deceased Vinita was subjected to cruelty or harassment by the Respondents in connection with demand of dowry soon before her death so as to attract the offences punishable under Sections 498-A and 304-B IPC, and whether the judgment of conviction dated 16th August, 2004 passed by the Id. Trial Court suffers from any perversity warranting interference by this Court in appellate jurisdiction. In this context, reference can be made to the judgment titled as **“Gurdip Singh vs. State of Punjab”** 2013 IV AD (CRI.) (S.C.) where the mandatory requirements to prove a case under section 304B has been laid down, which are as under:-

5. *“Dowry death” in the Penal Code, 1860 was introduced under Section 304-B as per Act 43 of 1986. Under the said provision, if a married woman dies,*

(i) on account of burns or bodily injury or dies otherwise than under normal circumstances,

(ii) such death occurs within seven years of marriage,

(iii) it is shown that she was subjected to cruelty or harassment by her husband or any relative,

(iv) such cruelty or harassment be soon before her death, and

(v) such cruelty or harassment by the husband or his relative be for, or in connection with, demand for dowry,



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such death is called “dowry death” under Section 304-B IPC and the husband or relative shall be presumed to have caused the dowry death. Section 498A of IPC deals with the offence of cruelty by the husband or relative. If a married woman is subjected to cruelty by the husband or his relative, he is liable for conviction under Section 498A. There is no requirement under Section 498A that the cruelty should be within seven years of marriage. It is also not invariably necessary under Section 498A that the cruelty should be in connection with the demand for dowry. It is interesting to note that Section 498A was introduced as per Act 46 of 1983 to “suitably deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by their in-laws” and Section 304B was introduced as per Act 43 of 1986 to make the penal provisions “more stringent and effective”.

15. The prosecution case primarily rests upon the testimonies of PW-1 Ramesh Chand Verma (father of the deceased), PW-2 Smt. Shanti Devi (mother of the deceased), PW-3 Yogesh Verma (brother of the deceased), PW-4 Narender Kumar (Uncle of the deceased), and PW-5 Sunita (sister of the deceased), all of whom sought to establish that the deceased was subjected to cruelty and harassment in connection with demand of Rs. 50,000 soon before her death.

16. Ramesh Chand Verma (PW-1), in his statement Ex. PW-1/A recorded before Sh. A.K. Singh, SDM, stated that since her marriage, his daughter had remained unhappy at her in-laws' house, as both her husband and brother-in-law used to beat her and demand dowry amounting to ₹50,000. He further stated that on 10.4.2003, the brother-in-law of his daughter (Pankaj) came to their house at around 4:30 p.m. and informed them that the deceased was unwell. Shortly thereafter, the police called and informed them that Vinita had died. He further stated that he suspected Naveen (husband), Ajay Kumar (brother-in-law), and Kaushalya Devi to be responsible for his daughter's death. In his deposition before the Court, he testified that his daughter died on 10.04.2003. Two days prior her death, on



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08.04.2003, she had made a phone call to her mother and, in a fearful tone, asked her to come to her with money. He further stated that Ajay used to harass her with the intention of establishing illicit relations with her. In cross-examination, he stated that the demand for dowry had started right after the marriage, in the month of January itself, and when they visited her in-laws' house, the demand was made from them there as well. The beatings and harassment, too, had begun in January. The demand of 50,000/- was made from the deceased and she informed them of this demand. He had complained about this to the mediator, Savitri Devi, who happens to be the niece of Kaushalya Devi (deceased's mother-in-law). He stated that he had informed the police about the phone call made on the 08.04.2003; however, when confronted with his own statement recorded before the police, this fact was found not to have been mentioned therein.

17. PW-2 Smt. Shanti Devi also deposed that after the marriage of her daughter with Naveen on 29.11.2002, her in-laws started harassing her for dowry, demanding ₹50,000. Whenever her daughter visited, she complained about this demand of ₹50,000. She stated that the demand began from January and was also made over telephone calls, though she could not recall the specific date. She was confronted with her statement Ex. PW2/DA, wherein this fact was not mentioned. PW-3 Yogesh Verma corroborated the testimony of PW-1 and PW-2, and further stated that on 08.04.2003, a telephonic call was received, in which she told them that she was being beaten on account of the demand of ₹50,000. PW-4 Narender Kumar deposed that the deceased was his niece, and that she used to make telephonic calls to him regarding the harassment being meted out to her by her in-laws over the demand of ₹50,000. He further stated that he had approached her in-laws to counsel them against harassing her. PW-5 the



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sister of the deceased corroborated the testimony given above, and stated that the harassment started on January 2003, for the demand of 50,000.

18. Certain variations have appeared in the testimonies of these witnesses as to when the demand was made and with regard to the telephonic call dated 08.04.2003. However, what remains consistent throughout is the demand of ₹50,000 from the accused. The demand was specific both in quantum (₹50,000) and in kind (cash), as deposed to by PW-1, PW-2, PW-3, PW-4, and PW-5. A perusal of the statements recorded before the police under Section 161 Cr.P.C., the statement before the SDM, and the depositions before the Court reveals no material variations; rather, they remain consistent throughout.

19. The contention that the abovementioned witnesses are 'interested witnesses' does not warrant rejection of their testimony. Such offences occur within the four walls of the matrimonial home, where independent witnesses are seldom available, and family members are the natural recipients of the victim's complaints. The law draws a distinction between an "interested" witness (one with a personal stake, such as enmity) and a "related" witness (one naturally privy to events); relationship alone cannot discredit testimony that is otherwise consistent and credible. The observations made in **Rajesh Yadav v. State of U.P.**, (2022) 12 SCC 200 are as follows:

31. A related witness cannot be termed as an interested witness per se. One has to see the place of occurrence along with other circumstances. A related witness can also be a natural witness. If an offence is committed within the precincts of the deceased, the presence of his family members cannot be ruled out, as they assume the position of natural witnesses. When their evidence is clear, cogent and withstood the rigour of cross examination, it becomes sterling, not requiring further corroboration. A related witness would become an interested witness, only when he is desirous of implicating the accused in rendering a conviction, on purpose.



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20. As regards DW-3 (the mediator/matchmaker of the marriage/niece of the deceased's mother-in-law), her testimony that she was unaware of any harassment carries limited value. A newly married woman would not ordinarily confide the strains of her matrimonial life to the very person who brought about the match, and who, by the nature of her role, stands closer to the husband's side than to the deceased. The Trial Court assessment that her evidence "does not carry much value" for this reason cannot be said to be unreasonable.

21. The contention that the defence witnesses were denied equal weight is not borne on a fair reading of the impugned judgement. DW-1 and DW-2 were the co-accused and Appellant testifying in their own defence, whose evidence necessarily fell to be weighed against their interest in the outcome. DW-4's testimony that the marriage was a happy one stands on the same footing as that of DW-3; both are persons unlikely to have been privy to what transpired within the four walls of the matrimonial home.

22. It is also a matter of common human experience, of which this Court cannot lose sight of that individuals differ in speech, manner and disposition, and that the face a person presents to the world is seldom an accurate mirror of the discord that may exist within the home. It is not unusual indeed, it is the ordinary course of human conduct for a spouse to project before neighbours, relatives, or persons outside the immediate family a picture of domestic harmony, however troubled the reality within may in fact be; few are inclined to have the unhappiness of their matrimonial life whispered about by outsiders. The mere fact that the deceased chose to appear content before persons such as DW-3 and DW-4, who stood away from the matrimonial home is, therefore, no ground to doubt or discredit the testimony of family members who, by reason of their proximity and



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continuous association with her, were in a position to speak to the actual state of affairs. Such reticence reflects, at best, the deceased's own reserve and social inhibition, and nothing more; it cannot be read as corroborating a version of marital bliss, nor can it be permitted to outweigh direct and consistent evidence to the contrary.

23. It is further true that PW-1 and PW-3 deposed about a telephonic call made on 08.04.2003, recording the distress call made by the deceased to her mother to bring the dowry so demanded. PW-1 was confronted in cross-examination with his police statement, wherein this fact was not recorded. As for PW-3, no such contradiction was put to him. Further, the recipient of the call, the deceased's mother, PW-2 specifically deposed that a telephonic call was made, but could not recall when. These particulars were not found in their earlier statements, that is, before the SDM (recorded on 11.04.2003) and the police (recorded on 12.04.2003), and the name of Smt. Kaushalya Devi surfaced only in the statements under Section 161 Cr.P.C. These are precisely the improvements which weighed with the Trial Court in extending the benefit of doubt to Smt. Kaushalya Devi. However, the core of the prosecution's case, that Appellant No. 1 and Appellant No. 2 used to beat the deceased and had demanded Rs. 50,000/- in dowry, remained consistent across the statements before the SDM, under Section 161 Cr.P.C., and in the deposition before the Court. The law does not require the prosecution's witnesses to depose with the precision of a stopwatch, particularly where, as here, their statements before the Court were recorded several months after the incident. Normal discrepancies arising from the lapse of memory, the trauma of a daughter's or sister's death, and the rigours of cross-examination are not to be equated with material contradictions striking at the root of the prosecution's case. It is only the material infirmity that vitiates a conviction.



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It is in relation to discrepancies of that kind, lapses of memory and matters of detail that surface only in the course of trial, rather than the wholesale fabrication of the central allegation, that the settled position of law cautioning against scrutiny of minor discrepancies which may usefully be noticed. In **Goverdhan v. State of Chhattisgarh**, (2025) 3 SCC 378, the court while relying on **Bharwada Bhoginbhai Hirjibhai v. State of Gujarat** (1983) 3 SCC 217 held as under:

“5. ... We do not consider it appropriate or permissible to enter upon a reappraisal or reappreciation of the evidence in the context of the minor discrepancies painstakingly highlighted by the learned counsel for the appellant. Overmuch importance cannot be attached to minor discrepancies. The reasons are obvious:

‘(1) By and large a witness cannot be expected to possess a photographic memory and to recall the details of an incident. It is not as if a video tape is replayed on the mental screen.

(2) Ordinarily it so happens that a witness is overtaken by events. The witness could not have anticipated the occurrence which so often has an element of surprise. The mental faculties therefore cannot be expected to be attuned to absorb the details.

(3) The powers of observation differ from person to person. What one may notice, another may not. An object or movement might emboss its image on one person's mind, whereas it might go unnoticed on the part of another.

(4) By and large people cannot accurately recall a conversation and reproduce the very words used by them or heard by them. They can only recall the main purport of the conversation. It is unrealistic to expect a witness to be a human tape-recorder.

(5) In regard to exact time of an incident, or the time duration of an occurrence, usually, people make their estimates by guesswork on the spur of the moment at the time of interrogation. And one cannot expect people to make very precise or reliable estimates in such matters. Again, it depends on the time-sense of individuals which varies from person to person.

(6) Ordinarily a witness cannot be expected to recall accurately the sequence of events which takes place in rapid succession or in a short time span. A witness is liable to get confused, or mixed up when interrogated later on.

(7) A witness, though wholly truthful, is liable to be overawed by the court atmosphere and the piercing cross-examination made



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by the counsel and out of nervousness mix up facts, get confused regarding sequence of events, or fill up details from imagination on the spur of the moment. The subconscious mind of the witness sometimes so operates on account of the fear of looking foolish or being disbelieved though the witness is giving a truthful and honest account of the occurrence witnessed by him — perhaps it is a sort of a psychological defence mechanism activated on the spur of the moment.”

24. The learned counsel for the Appellant has also relied upon the absence of physical injuries on the deceased, as no such injuries were recorded in the post-mortem report. However, this contention does not, by itself, negate the allegations of cruelty or dowry-related harassment. In ***Sukh Chand & Anr. v. State of NCT of Delhi***, 2026 SCC OnLine Del 6287, the Delhi High Court, while considering a similar contention regarding the absence of injury marks, suicide note and incriminating substances in the viscera, observed that such circumstances relate to the manner and cause of death and do not, by themselves, negate allegations of cruelty or dowry-related harassment. The Court further observed that the absence of any prior complaint by the deceased could not, at the stage of framing of charge, outweigh the material subsequently collected during investigation. Thus, the absence of visible bodily injuries may bear upon an allegation of physical assault, but cannot, by itself, rule out cruelty or harassment within the meaning of Sections 498-A and 304-B IPC.

25. To constitute a “dowry death” punishable under Section 304-B IPC, the prosecution is required to establish the essential ingredients, as discussed hereinabove. The expression “otherwise than under normal circumstances” is wide enough to include a suicidal death. Once the abovementioned ingredients are proved, the presumption under Section 113-B would arise against the accused persons. However, the presumption under Section 113-B of the Indian Evidence Act arises only upon the prosecution establishing,



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beyond reasonable doubt, the foundational facts constituting an offence under Section 304-B IPC. The initial burden, therefore, remains upon the prosecution to establish that the deceased was subjected to cruelty or harassment by the accused, for or in connection with the demand for dowry, and that such cruelty or harassment occurred soon before her death. Once these foundational facts are established, the statutory presumption under Section 113-B is attracted against the accused.

26. In the present case, it is undisputed that the deceased died of hanging on 10.04.2003, i.e., within about four and a half months of a marriage solemnized on 29.11.2002. This fact is borne out by the post-mortem report of Ex.PW-7/A. Thus, the first and second ingredient of Section 304-B IPC i.e. an unnatural death within 7 years of marriage stands squarely established and was, in fact, not seriously disputed before this Court. However, the core issue which arises for consideration is whether the prosecution has been able to establish that the deceased was subjected to cruelty or harassment soon before her death in connection with demand of dowry.

27. The testimonies of PW-1, PW-2, PW-2, PW-3, PW-4, PW-5 reveal the specific demand of dowry that is, 50,000/- made after the marriage. The allegations regarding the demand of 50,000/- was consistent in their statements recorded under Section 161, statement recorded by the Sub-Divisional Magistrate (SDM) and deposition before the court, accompanied by the alleged beatings, taunting and harassment. Under the circumstances, the factum of harassment to the deceased on account of non-fulfilment of demand of dowry is proved.

28. The next question is whether soon before her death the deceased was subjected to any harassment for, or in connection with demand of dowry. Reliance was placed by the Learned Counsel of the Appellants on **Manohar**



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Lal v. State of Haryana (2014) and **Shobhit Kumar Mittal v. State of Uttar Pradesh** (2025), which are required to and must be considered in context. In **Manohar Lal's case** (supra), the conviction was set aside because none of the witnesses, including the complainant's own mother, spoke of harassment "soon before death" in connection with dowry, the allegation being wholly general. Shobhit Kumar Mittal was a case of quashing of an FIR at the threshold under Section 482 Cr.P.C., where the Complaint itself, without more, disclosed no specific act. In the present case, unlike in Manohar Lal, the demand is specific both in quantum (Rs. 50,000/-) and in kind (a cash demand, described by more than one witness), and is spoken to consistently by 5 witnesses from the earliest point in time. The circumstance that PW- 2, in the course of her testimony, explained the demand as being connected with setting up a business does not take it outside the definition of dowry, since a demand connected with the marital relationship does not cease to be a dowry demand merely because the purpose disclosed for it is "business" rather than "personal use". The Trial Court's reliance on the principle that Section 304-B IPC does not require proof of any concluded "agreement" to give dowry, a demand alone being sufficient, correctly states the law and requires no interference.

29. The expression 'soon before her death' occurring in Section 304-B IPC has been the subject of consistent judicial elaboration. **In State of Madhya Pradesh v. Jogendra**, (2022) 5 SCC 401, the court placing reliance on **Kans Raj v. State of Punjab**, (2000) 5 SCC 207 observes as follows:

'15. ... "Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and



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understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be “soon before death” if any other intervening circumstance showing the non-existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.’ Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law.”

In the present case, the entire span of the marriage was barely four and a half months, and the beating and demand are alleged to have persisted, off and on, through that period. Even accepting, for the sake of argument, the Appellants' submission (drawn from PW-5's testimony) that the phase of harassment is traceable to January 2003, that still leaves an interval of a little over 3 months to the death on 10.04.2003 well within the “proximity” requirement. The Trial Court's invocation of the presumption under Section 113-B of the Evidence Act cannot, therefore, be faulted.

30. Undoubtedly, the presumption under Section 113-B of the Evidence Act is rebuttable at the hands of the Accused by adducing evidence and discharging the reverse burden cast upon them, but in the present case the



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defence has failed to do so for a threefold reason. Firstly, the plea that the Appellants were not present in the house at the relevant time, which if established could have gone some distance towards rebutting the presumption, was not substantiated by any independent or reliable evidence and was rightly found by the Trial Court to lead "nowhere." Secondly, the plea sought to be raised that the deceased was under stress on account of her own alleged illicit relationship with one Rakesh, which was clearly intended to suggest an alternative cause for her death, was found to be an afterthought, inasmuch as no such suggestion was ever put to the relevant prosecution witnesses so as to test its veracity, and the same stood squarely belied by the admission of the defence's own witness, DW- 1, who conceded in cross-examination that she had never seen Rakesh in the company of the deceased. Thirdly, the conduct of the youngest son of Smt. Kaushalya and brother of Appellant no.1 and 2 namely Pankaj, who on the date of the incident informed PW-1 that the deceased was merely unwell rather than disclosing that she had in fact died, remained wholly unexplained, and instead of aiding the defence, this conduct constituted a telling circumstance operating against the Appellants. In these circumstances, far from discharging the reverse burden placed upon them, the explanations offered by the Appellants, being false and unsubstantiated, only served to reinforce the presumption of guilt arising under Section 113-B, and the presumption must accordingly be held to stand un-rebutted. Apart from that, clear and categorical evidence of witnesses leaves no doubt about the complicity of the Appellants.

31. In view of the foregoing reasons, the conviction dated 16.08.2004 and order of sentence dated 17.08.2004 under Section 304B and 498A is maintained.



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32. As a result, the appeal stands dismissed bereft of any substance.
33. Appellants viz. Naveen Kumar Verma and Ajay Kumar Verma are called upon to surrender forthwith to undergo the remaining sentence. Needless to say that they shall be entitled to the benefit of set off under Section 428 Cr.P.C.
34. Copy of the judgment be transmitted to the learned Trial Court and Prison Authorities for information and necessary compliance.

VIMAL KUMAR YADAV, J

SEPTEMBER 15, 2026/bj/VS/NY