

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2307 of 2025**

Arising Out of PS. Case No.-189 Year-2018 Thana- KATHAIYA District- Muzaffarpur

MD. HASIB S/O AZHARUDDIN @ MD. AJARUDDIN R/O VILLAGE-
ASWARI BANJARIYA, P.S.- KATHAIYA, DISTRICT- MUZAFFARPUR

... .. Appellant/s

Versus

The State of Bihar BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Nafisu Zzoha, Advocate

For the Respondent/s : Mr. Mukeshwar Dayal, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT**

Date : 12-11-2025

At the outset, learned counsel for the appellant has not pressed the prayer for suspension of sentence and grant of bail. Accordingly, the said prayer stands disposed as not pressed.

2. The present appeal has been directed against the judgment of conviction dated 14.05.2025 and order of sentence dated 22.05.2025 passed by learned District and Additional Sessions Judge – XIII, Muzaffarpur in Sessions Trial No. 259 of 2019 arising out of Kathaiya P.S. Case No. 189 of 2018 whereby and whereunder the appellant has been convicted for the offence punishable under Section 304(B) of the IPC and has been sentenced to undergo rigorous imprisonment for ten years along with fine of rupees ten



thousand (Rs. 10,000/-) for the said offence. In case of default in payment of fine, appellant has to further undergo simple imprisonment for two months.

3. According to fardbeyan of informant (PW-5), the prosecution case, in brief, is that marriage of informant's daughter was solemnized with the appellant on 28.03.2014. The deceased and appellant were blessed with a daughter. It is alleged that after six months of marriage, appellant and others are said to have demanded dowry of motorcycle and amount of Rs. 2,50,000/- and tortured the informant's daughter in various ways. The informant purchased a motorcycle and gifted to his son in law. It is further alleged that again after some days, appellant and others assaulted and tortured the informant's daughter in various ways and demanded amount of Rs. 2,50,000/- in cash for casting the roof and to visit abroad to which informant's daughter resisted. It is further alleged that on 26.07.2018 informant's son-in-law had to go abroad for which the informant took loan of Rs. 1 lakh and gave to his son-in-law. It is further alleged that on 13.07.2018 at about 2:00 PM the elder son-in-law of informant informed that perhaps informant's daughter was killed. On the said information, informant alongwith his son, wife and other reached to the



house of informant's daughter and saw the dead body of informant's daughter lying on a cot and all the family members of in-laws of informant's daughter were absconded from there. It is further alleged that a white colored soaked and smeared pillow was found from the adjacent room of informant's daughter. It is believed that daughter of informant has been concertedly killed by pressing her mouth with pillow for non fulfillment of aforesaid demand of money.

4. On the basis of fardbeyan of the informant, Kathaiya P.S. Case No. 189 of 2018 was initially instituted for the offences punishable under Sections 302, 120(B)/34 of the IPC and vide order dated 23.07.2018, in place of Section 302 of IPC, Section 304(B) of IPC was added. Routine investigation followed. Statement of witnesses came to be recorded and on the completion of investigation, charge sheet has been submitted against the appellant under Section 304(B) of the IPC and the learned trial court took cognizance against the appellant under Section 304(B)/34 of IPC. The case was committed to the court of sessions after following due procedure. On 15.06.2019, the learned trial court has framed charges against the appellant under Sections 304(B)/34, 302/34 of the IPC. Charges were read over and explained to the appellant to which he pleaded



not guilty and claimed to be tried.

5. In order to bring home guilt of accused persons, prosecution has examined altogether twelve witnesses. PW-1 Md. Anwar, PW-2 Md. Aslam, PW-3 Md. Firoz Alam, PW-4 Md. Parwej Alam, PW-5 Md. Nisarul (informant), PW-6 Md. Salauddin, PW-7 Abdul Tohid, PW-8 Rasida Khatoon, PW-9 Md. Amruddin, PW-10 Reyaj Ahmad Usmani @ Meraj Alam, PW-11 Md. Alauddin, PW-12 Dr. Nitish Kumar Singh.

6. Prosecution has relied upon following documentary evidence on record:-

Ext. P-1 - Signature of the Md. Firoz Alam on Fardbeyan

Ext. P-2 - Signature of the Md. Firoz Alam on the carbon copy of Inquest report.

Ext. P1/1 - Signature of the Md. Nisarul on his fardbeyan.

Ext. P3 - Charge sheet No. 318 of 2018.

Ext. P4 - Signature of I.O. Pramod Kumar Singh on inquest report.

Ext. P5 - Postmortem report.

7. Defence has not adduced any oral or documentary evidence during the course of trial. However,



defence of the appellant as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section 313 of the Cr.P.C. is that of total denial.

8. After hearing the parties, the learned trial court has convicted the appellant and sentenced him as indicated in the opening paragraph of the judgment.

9. Learned counsel for the appellant has submitted that being husband of the deceased, the appellant has falsely been implicated in the present case merely on the basis of suspicion. He further submits that appellant is in custody since 11.09.2018 and out of ten years of sentence awarded to him, appellant has already remained in custody near about seven years and two months. He further submits that it is a case of suicide committed by the victim. He further submits that the allegation made in FIR is totally inconsistent with the postmortem report and inquest report. Learned counsel for the appellant has submitted that due to non examination of first investigating officer, place of occurrence cannot be proved which caused serious prejudice to the appellant and prosecution has failed to prove its case beyond reasonable doubt. He further submits that the learned trial court has passed the judgment of



conviction in a mechanical way and hence, the same is fit to be set aside.

10. Learned counsel for the State submits that FIR clearly denotes that death in question has been occurred within seven years of marriage and there was immediate demand of dowry which led to the death of the victim. He further submits that the death was committed at the house of the appellant which is clearly evident from FIR itself. He further submits that PW – 5 (father of the deceased), PW- 4 (brother of the deceased) and other witness (PW- 3) are closely aware of the fact as to what kind of treatment is meted out to the victim and their depositions are quite consistent with the initial version of prosecution story. What else is required to prove the commission of offence under Section 304(B) of the IPC which has been proved by the prosecution. He further submits that the initial story of prosecution has already been proved by prosecution that the death in question, has been occurred within five years of marriage and demand was made immediately after marriage and postmortem report clearly indicates that deceased died due to hemorrhage, coma and shock due to injuries sustained by the victim and the concerned court while recording the finding of conviction has stated that though everything was



in the knowledge of appellant, he has not denied as to why the death has been occurred. In the light of the aforesaid fact, the judgment of conviction and order of sentence passed by the learned trial court is justified and legal and hence, no interference is needed.

11. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the parties as noted above.

12. The question which arises for consideration is :-

“Whether offence under Section 304(B) of IPC is made out in the light of given facts and circumstance of the case or not?”

13. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contention made on behalf of the parties as noted above.

14. It is necessary to evaluate and analyze the evidences of prosecution witnesses adduced before the trial court in the light of the offence punishable under Section 304(B) read with 34 of the IPC.



15. PW- 5 (Md. Nisarul) is informant and father of the deceased. During the examination in chief, at para 2, he has stated that after marriage his son-in-law used to assault his daughter and used to demand Rs. 2,50,000/- and a motorcycle in dowry. At para 3, he has clearly stated that how his daughter was being killed at the house of the appellant. He has expressed that after medical examination, it was detected that bone of chest of his daughter was broken and injury was found over head and lacerated wound over leg. During cross-examination, PW- 5 has stated at para 10 that marriage of his daughter was solemnized in the year 2014 and his daughter died on 13.07.2018.

16. Statement of PW- 5 on the point of dowry as well as point of death is clearly indicative that the informant's daughter has died within five years of marriage and prior to death of informant's daughter, demand of dowry finds place in the FIR as well as deposition which was given during the course of trial. On the point of dowry as well as point of death, nothing was elucidated to discredit the evidence adduced by the informant/PW- 5.

17. PW-4 (Md. Parwej Alam) is the son of informant and he has reiterated the version of dowry demand as



well as the reason behind the death. The reason of dowry demand is given in the initial version of prosecution story and he has also supported that the death was on account of the said reason.

18. PW-1 and PW-2 have stated that they do not know anything regarding the occurrence and they have been declared hostile.

19. PW-3 Md. Firoj Alam has also supported the version of PW-5 on the point of demand of dowry. He has also visited the place of occurrence where he found the dead body of the deceased.

20. PW-7 (Abdul Tauhid) is the villager of the appellant and he has stated that he has no knowledge about the occurrence and he has been declared hostile.

21. PW- 8 (Rasida Khatoon) and PW- 9 (Md. Amruddin) are villagers of appellant and they have no knowledge regarding the occurrence. Hence, their statements are of no use.

22. PW- 6 (Md. Salauddin) and PW- 10 (Md. Riyaz Ahmad Usmani @ Meraj Alam) are the villagers of the appellant. They have stated that when they went to the house of appellant, they found the dead body of deceased lying on a cot..



Though, PW – 6 and PW – 10 have visited the place of occurrence but they have not stated anything regarding the alleged occurrence. Hence, their statements are of no use.

23. PW-11 (Md Alauddin) is the second investigating officer in the present case. He has stated that after retirement of the first investigating officer Pramod Kumar Singh, he took charge of Investigation of the present case. He has stated that appellant was apprehended on 11.09.2018 and after completing the investigation on all points, charge sheet has been submitted against the appellant by him. He identified the signature of previous Investigating Officer which has been marked as Ext. P-4.

24. PW-12 (Dr. Nitish Kumar Singh) was posted as a tutor in F.M.T. Department in SKMCH, Muzaffarpur on 13.07.2018 and on the same day, he did postmortem examination on the corpus of the deceased and found following injuries.:-

(i) Abrasion on Rt. Chin of 1''x (1/2)'' in size and over chest of 2'' x 1'' in size.

(ii) Fracture of sternum, 3rd to 6th Ribs of left side.

(iii) On opening the thoracic and chest cavity there were blood about one liter in chest cavity.

Laceration of the left side



of the lungs.

All others viscera are pale.

(4) on opening skull cavity there were subdural hemorrhage at occipital region of brain.

Opinion :- The deceased died due to hemorrhage, coma and shock due to above noted injuries caused by hard and blunt object.

Time Since death :- Within 12 to 24 hrs. prior to postmortem examination.

This postmortem report is prepared and written by PW 12 and the same bears his signature and designation marked as Ext. P5.

25. PW 12 is a expert witness and he has expressed the reason how the death has been occurred.

26. It is necessary to discuss the case of ***Prem Kumar Vs. State of Rajasthan*** reported in ***2009 (2) PCCR 194*** where it has been observed that presumption under Section 113(B) is a presumption of law. On proof of the essentials mentioned therein, it becomes obligatory on the Court to raise a presumption that the accused caused the dowry death and in the present case all the ingredients of Section 304 (B) of the I.P.C. has already been proved by the prosecution and a conjoint reading of Section 113 (B) of the Evidence Act and Section 304 (B) of the I.P.C. shows that there must be material to show that



soon before her death, the victim was subjected to cruelty or harassment. Prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances'.

27. It is essential to discuss the relevant law in the light of the facts given in the present case. The ingredients of offences under Section 304(B) of the I.P.C., have been discussed and reiterated in many judgments of the Hon'ble High Courts and the Hon'ble Supreme Court. There are four basic ingredients of offences under Section 304(B) of the I.P.C. and the same are as follows:-

(i) Death of a woman must have been caused by any burns or bodily injury or otherwise than under normal circumstances.

(ii) Death must have been occurred within seven years of marriage.

(iii) Soon before the death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband.

(iv) Such harassment or cruelty must have been subjected in connection with demand of dowry.

28. In the present case, the informant who set



the prosecution story into motion by lodging the FIR has clearly stated that the marriage was solemnized on 28.03.2014 and it is also clear from the initial version that the death of the deceased has taken place within five years of marriage i.e. on 13.07.2018. It is also claimed by informant that the demand of motorcycle was being made by appellant and others and said fact was also asserted by the near relatives who were witness of the said case. Postmortem report clearly indicates that the death in question was caused by hard and blunt substance and the death was not in normal circumstance.

29. The initial burden lies on the prosecution to prove the basic ingredients of Section 304(B) of the I.P.C. and if the prosecution succeeds in discharge of initial burden then Section 113(B) of the Indian Evidence Act shall come into play and the said Section can be brought into picture for drawing presumption against the accused that he caused the death on account of demand of dowry. So, this Court has to examine whether, all the ingredients of Section 304(B) of the IPC has been proved by the prosecution against the accused/appellant, or not?

30. In the present case, the victim was married with the appellant on 28.03.2014 and death was occurred within



five years of marriage and the said fact has not been disputed. It also reveals that deceased was killed by the appellant and others. Inquest report and postmortem report clearly indicates that death of deceased was not in a normal circumstance. On the point of “soon before death”, there was allegation that deceased was subjected to cruelty by her husband and relative. There is clear cut fact in the FIR itself that she was being exposed to demand of dowry in form of motorcycle and other things in cash.

31. There is irresistible presumption that she was being murdered within five years of marriage and the said fact was supported by informant and other relative witness.

32. On the said point, the Hon'ble Supreme Court has observed guidelines in the case of *Jagdish and Others Vs. State of Uttrakhand* reported in *2015 (2) PLJR SC 345* wherein the Hon'ble Supreme Court has observed that in a case of cruelty and harassment on a married woman and demand of dowry are generally committed within four walls of residential houses and in secrecy, thereby making it difficult to get direct evidence and presumption under Section 113(B) of the Indian Evidence Act, due weightage is to be given to the evidence of father, brother, sister and other relatives of the



deceased with regard to the case put forth relating to demand of dowry. In this way, in the present case, PW- 5 (father of the deceased), PW- 4 (brother of the deceased) and other witness (PW- 3) have supported and corroborated the evidence of demand of dowry.

33. It is relevant to quote the judgment of Hon'ble Supreme Court in the case of *Ram Badan Sharma Vs. State of Bihar, (Cr. Appeal No. 1493 of 2004), dated 21 August, 2006* wherein it has been clearly observed as follows:-

“A reading of Section 304 (B) of the I.P.C. would show that when a question arises whether a person has committed the offence of dowry death of a woman what all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death. It can therefore be seen that irrespective of the fact whether such person is directly responsible for the death of the deceased or not by virtue of the presumption, he is deemed to have committed the dowry death if there were such cruelty or harassment and that *if the*



unnatural death has occurred within seven years from the date of marriage. Likewise there is a presumption under Section 113 (B) of the Evidence Act as to the dowry death. It lays down that the Court shall presume that the person who has subjected the deceased to cruelty before her death caused the dowry death if it is shown that before her death, such woman had been subjected, by the accused, to cruelty or harassment in connection with any demand for dowry. Practically this is the presumption that has been incorporated in Section 304 (B) of the I.P.C. also, it can therefore be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned above are satisfied.

34. In cases where it is proved that it was neither a natural death nor an accidental death, then the obvious conclusion has to be that it was an unnatural death either homicidal or suicidal. But, even assuming that it is a case of suicide, even then it would be death which had occurred in unnatural circumstances. Even in such a case, Section 304 (B) of the I.P.C. is attracted.

35. It is also necessary to discuss the case of



"Satvir Singh & Others V/S State of Punjab & Another reported in *(2001) 8 SCC 633*, wherein meaning of the words, "soon before her death" has been examined and the Court observed that the legislative object in providing such a radius of time by employing the words "soon before her death" is to emphasize the idea that her death, should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a close and perceptible nexus between death and the dowry-related harassment or cruelty inflicted on the deceased."

36. In the present case, the statements of PW- 5 (father of the deceased), PW- 4 (brother of the deceased) and other witness (PW- 3) are quite consistent with the initial version on the point of dowry demand as well as on the point of death. PW- 5 (father of the deceased), PW- 4 (brother of the deceased) and other witness (PW- 3) have supported and corroborated the initial version of prosecution story that there was a demand of dowry and deceased has died within the five years of marriage. The contention of the defence counsel is that it was suicidal death, in that context, Section 304(B) is attracted if it is not accidental or not natural. On the other hand, the contention of the learned APP for the State is quite tenable and



sustainable in the light of the facts and circumstances of the case and appellant had committed the offence of dowry death as the victim was tortured for demand of dowry and material available on record, postmortem report and other exhibit clearly indicates that the death was not in normal circumstance.

37. The learned trial court, in para 24 of the judgment has noted that the statement of accused recorded under Section 313 of Cr.P.C., he denied the allegation but if the fact specially in the knowledge of the person then the burden of proofing that the fact is upon him. In this regard, it is the duty of the accused to explain the incriminating circumstance fixed against him while making the statement under Section 313 of Cr.P.C. Keeping silent and not furnishing any explanation for such circumstance is additional link in chain of circumstance to sustain the charge against him. In this way, finding of learned trial court is not in any way derogation of settled principle of law.

38. Learned counsel for the appellant has raised a question that due to non examination of first investigating officer, place of occurrence cannot be proved which caused serious prejudice to the appellant and prosecution has failed to prove its case beyond reasonable doubt and in this context, he



has relied upon the decision of ***Kaila Yadav @ Balram Yadav Vs. State of Bihar (Cr. Appeal No. 628 of 2012)*** in which at para 19, 20, 21, 22 of the said decision, it has been held as follows:-

19. In view of aforesaid evidences, the Court is of the opinion that the learned Trial Judge was not right in holding all the appellants guilty. The absence of investigating officer has seriously prejudiced the case of the defence. In absence of investigating officer, even place of occurrence was also not properly proved, even by any other police official. No reason has been assigned by the prosecution as to why the investigating officer was not produced for evidence and what was the reason for not formally proving the fardbeyan, formal F.I.R. and inquest report.

20. In this case, only evidence was of P.W.2 (Arvind Kumar Yadav @ Bauwa Yadav), who had claimed to be eye-witness to the occurrence, however; his inconsistent deposition before the court below does not inspire confidence on his evidence and as such, only on the sole evidence



of P.W.2 (Arvind Kumar Yadav @ Bauwa Yadav), it was not safe to hold all the appellants guilty and as such, we are of the considered opinion that the learned Trial Judge was required to acquit the appellants by extending the benefit of doubt. Since the learned Trial Judge has committed error in not appreciating the evidence of P.W.2 in its right perspective, the Court has got no option but to set aside the impugned judgment of conviction and sentence.

21. Accordingly, by way of extending benefit of doubt, the appellants of all the aforesaid three appeals are acquitted and judgment of their conviction and sentence dated 29.05.2012 passed by Sri S.N.Srivastava, learned Adhoc Additional District & Sessions Judge-1, Supaul in Sessions Trial No. 43 of 1998 (arising out of Raghapur P.S. Case No. 87 of 1996) is, hereby, set aside and all the three appeals are allowed.

22. In this case, except appellant Kaila Yadav @ Balram Yadav (in Cr. Appeal DB No. 628 of 2012), all other appellants are on bail. Accordingly, they are discharged from the liability of their bail-bonds and



since the judgment of conviction and sentence has been set aside and the appellant Kaila Yadav @ Balram Yadav (in Cr. Appeal DB No. 628 of 2012) is in custody, it is, hereby, directed to release him forthwith, if not wanted in any other case.

39. Learned counsel for the appellant has also relied upon the decision of ***Bajinath & Others Vs. State of Madhya Pradesh (Cr. Appeal No. 628 of 2012)*** in which at para 35 to 40 of the said decision, it has been held as follows:-

*(35) This Court while often dwelling on the scope and purport of Section 304B of the Code and Section 113B of the Act have propounded that the presumption is contingent on the fact that the prosecution first spell out the ingredients of the offence of Section 304B as in ***Shindo Alias Sawinder Kaur and another Vs. State of Punjab -(2011) 11 SCC 517*** and echoed in ***Rajeev Kumar Vs. State of Haryana (2013) 16 SCC 640***. In the latter pronouncement, this Court propounded that one of the essential ingredients of dowry death under Section 304B of the Code is that the accused must have subjected the*



woman to cruelty in connection with demand for dowry soon before her death and that this ingredient has to be proved by the prosecution beyond reasonable doubt and only then the Court will presume that the accused has committed the offence of dowry death under Section 113B of the Act. It referred to with approval, the earlier decision of this Court in **K. Prema S. Rao Vs. Yadla Srinivasa Rao (2003) 1 SCC 217** to the effect that to attract the provision of Section 304B of the Code, one of the main ingredients of the offence which is required to be established is that "soon before her death" she was subjected to cruelty and harassment "in connection with the demand for dowry".

(36) Tested on the judicially adumbrated parameters as above, we are of the unhesitant opinion that the prosecution has failed to prove beyond reasonable doubt, cruelty or harassment to the deceased for or in connection with any demand for dowry as contemplated in either of the two provisions of the Code under which the accused persons had been charged. Noticeably, the alleged demand centers around a motorcycle, which as the



evidence of the prosecution witnesses would evince, admittedly did not surface at the time of finalization of the marriage. PW-5, the mother of the deceased has even conceded that there was no dowry demand at that stage. According to her, when the husband (who is dead) had insisted for a motorcycle thereafter he was assured that he would be provided with the same, finances permitting. Noticeably again, the demand, as sought to be projected by the prosecution, if accepted to be true had lingered for almost two years. Yet admittedly, no complaint was made thereof to anyone, far less the police. Apart from the general allegations in the same tone ingeminated with parrot like similarity by the prosecution witnesses, the allegation of cruelty and harassment to the deceased is founded on the confidential communications by her to her parents in particular and is not supported by any other quarter.

(37) To the contrary, the evidence of the defence witnesses is consistent to the effect that no demand as imputed had ever been made as the family of the husband was adequately well-off and further the appellant No.1



Bajnath had been living separately from before the marriage. According to them there was no occasion for any quarrel/confrontation or unpleasantness in the family qua this issue. Significant is also the testimony of DW-3, the sister-in-law of the deceased who indicated abandonment of the matrimonial home by her with the son of Thoran Singh, the Sarpanch of the village for which she understandably had incurred the displeasure of the in-laws. DW-4, the father of DW-3 who had given his daughter in marriage in the same family had deposed that he did not ever encounter any demand for dowry. The testimony of the prosecution witnesses PW-3 and PW-7 fully consolidate the defence version.

(38) *A cumulative consideration of the overall evidence on the facet of dowry, leaves us unconvinced about the truthfulness of the charge qua the accused persons. The prosecution in our estimate, has failed to prove this indispensable component of the two offences beyond reasonable doubt. The factum of unnatural death in the matrimonial home and that too within seven years of marriage therefore*



is thus ipso facto not sufficient to bring home the charge under Sections 304B and 498A of the Code against them.

(39) The predicament of the prosecution is compounded further by the by its failure to prove, the precise cause of the death of the deceased. It is not clear as to whether the death has been suicidal or homicidal. It is also not proved beyond doubt, the origin and cause of the external injuries. Though the obscurity of the causative factors is due to the putrefaction of the body, the benefit of the deficiency in proof, logically would be available to the persons charged.

(40) In all, tested on the overall scrutiny of the evidence as a whole, in our comprehension, the conviction of the accused persons including the appellants herein on the basis of the materials on record would not be out of risk. To reiterate, the prosecution has failed to prove the crucial ingredient of cruelty and harassment by direct and cogent evidence thereby disentitling itself to the benefit of the statutory presumption available under Section 113B of the Act.



40. The above two cited decisions by learned counsel for the appellant are not applicable in the facts and circumstances of the present case and the same cannot be taken into account as if second Investigating Officer has been examined and place of occurrence is otherwise proved by all the witnesses and there is no reason to doubt the place of occurrence where it is clear cut that the death has occurred at the house of appellant and in several cases, wherein even Investigating Officer has not been examined, prosecution case cannot be thrown out.

41. In the light of the aforesaid fact, the contentions raised by the learned counsel for the appellant is neither tenable nor sustainable in the light of the facts and circumstance of the present case.

42. In the light of discussions made above, I find no reason to differ with the findings given by the trial court on the point of Sections 304(B) of IPC. Accordingly, the impugned judgment of conviction is hereby affirmed.

43. At this stage, learned counsel for the appellant submits that the appellant has sufficiently been punished by remaining in judicial custody which is near about seven years and two months and he has prayed to reduce the



sentence of appellant awarded by the concerned court for the ends of justice.

44. It is necessary to cite para-10 of decision rendered by Hon'ble Supreme Court in the case of ***State of M.P. vs. Bablu***, reported in ***(2014) 9 SCC 281*** which reads as under:-

10. It is well settled proposition of law that one of the prime objectives of criminal law is the imposition of adequate, just, proportionate punishment which is commensurate with the gravity and nature of the crime and manner in which the offence is committed. One should keep in mind the social interest and consciousness of the society while considering the determinative factor of sentence commensurate with the gravity and nature of crime. The punishment should not be so lenient that it shocks the conscience of the society. It is, therefore, the solemn duty of the court to strike a proper balance while awarding sentence as awarding a lesser sentence encourages any criminal and as a result of the same society suffers.

45. It is also necessary to cite para-5 of decision



rendered by Hon'ble Supreme Court in the case of ***State of M.P. vs. Udaibhan***, reported in ***(2016) 4 SCC 116*** which reads as under:-

5. The law on the principles governing proper sentencing has been elaborated by this Court in a large number of cases. It is the duty of the court awarding sentence to ensure justice to both the parties and therefore undue leniency in awarding sentence needs to be avoided because it does not have the necessary effect of being a deterrent for the accused and does not reassure the society that the offender has been properly dealt with. It is not a very healthy situation to leave the injured and complainant side thoroughly dissatisfied with a very lenient punishment to the accused. In the present case the order of punishment imposed by the High Court suffers from the vice of being over lenient even in absence of any mitigating circumstance.

46. It is also necessary to cite para-18 of decision rendered by Hon'ble Supreme Court in the case of ***Ravada Sasikala Vs. State of A.P.***, reported in ***(2017) 4 SCC***



546 which reads as under:-

“18. It has been further held that one should keep in mind the social interest and conscience of the society while considering the determinative factor of sentence with gravity of crime. The punishment should not be so lenient that it would shock the conscience of the society. Emphasis was laid on the solemn duty of the court to strike a proper balance while awarding the sentence as imposition of lesser sentence encourages a criminal and resultantly the society suffers.”

47. In the present case, the appellant is husband of the deceased and the death of his wife has been occurred within five years of marriage and postmortem report clearly indicates that the deceased died on account of injuries caused by hard and blunt substance as indicated by postmortem report and appellant has not explained the incriminating circumstance fixed against him while making the statement under Section 313 of Cr.P.C. Deceased was residing at the house of the appellant and death of the deceased was unnatural and within five years of marriage. Hence, the appellant does not deserve any leniency.



48. In the light of the facts and circumstance of the case, there is no reason differ and to reduce the sentence awarded by the learned trial court in respect of appellant as it is duty of the court awarding sentence to ensure justice to both the parties and therefore undue leniency in awarding sentence needs to be avoided because it does not have the necessary effect of being a deterrent for the accused and does not reassure the society that the offender has been properly dealt with.

49. In the result, the present appeal stands dismissed.

50. Pending Interlocutory Application(s), if any, shall stand disposed of.

(Alok Kumar Pandey, J)

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