

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.127 of 2021**

Arising Out of PS. Case No.-135 Year-2018 Thana- NAYA RAM NAGAR District- Munger

Manjila Devi, Wife of Rajgir Yadav, R/o Village- Khutaha, P.S.- Lodipur,
District- Bhagalpur.

... .. Appellant

Versus

1. The State of Bihar
 2. Manish Kumar, Son of Krishnanand Yadav, Resident of Village- Fulhat Patam, P.S.- Naya Ramnagar, District- Munger.
- Respondents

Appearance :

For the Appellant : None
For the State : Mr. Ajay Mishra, Addl.PP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)**

Date : 22-01-2026

No one has appeared on behalf of the appellant.

2. Heard Mr. Ajay Mishra, learned Additional Public Prosecutor for the State. The trial court records have been received.

3. The present appeal has been preferred for setting aside the judgment of acquittal dated 25.01.2020 (hereinafter referred to as the 'impugned judgment') passed by learned Additional Sessions Judge-IV, Munger (hereinafter referred to as the 'learned trial court') in Sessions Trial No. 56 of 2019 arising out of Nayaram Nagar P.S. Case No. 135 of 2018. By the impugned judgment under appeal, the accused-respondent no. 2



who was facing trial for the charges under Sections 304(B)/34 of the Indian Penal Code (in short 'IPC') has been acquitted.

Prosecution Case

4. On 03.06.2018 at about 01:15 PM, one Manjila Devi (PW-4) alleged in her *fardbeyan* recorded in the premises of Jawaharlal Nehru Medical College and Hospital, Bhagalpur that her daughter Juli Kumari was married to Manish Kumar (respondent no. 2) in the year 2014 as per Hindu Rites and Customs. After two months of her marriage, the family members of her *sasural* used to demand a Bullet Motorcycle which the informant's daughter had told her on mobile phone. They were also demanding two *bhar* gold. The informant further alleged that about two years ago, the accused persons had assaulted the informant's daughter due to which she had sustained injuries over her head and ear. The informant's family got her treated and a Panchayat was held. On 01.06.2018, the informant's daughter told her over telephone that if they will not give gold and motorcycle, the accused persons are planning to kill her. On 03.06.2018, the son-in-law of the informant informed her that her daughter is getting treatment for burn at Mayaganj Hospital, Bhagalpur and asked them to come as early as possible. The informant asked him to let her talk to her daughter then he said that she was not in a



position to talk. When the informant reached the hospital, her daughter was being treated and during treatment she died. The informant alleged that the accused persons have burnt her to death due to one motorcycle and two *bhar* gold.

5. On the basis of the *fardebayan*, Nayaram Nagar P.S. Case No. 135 of 2018 dated 21.06.2018 was registered under Section 304B/34 IPC against (1) Manish Kumar, (2) Krishnanand Yadav, (3) wife of Krishnanad Yadav, (4) Shabnam, (5) Anish and (6) Ashish. After investigation, Police submitted chargesheet bearing Chargesheet No. 327 of 2018 dated 30.11.2018 against Manish Kumar keeping investigation pending against other accused persons. Learned trial court vide order dated 13.12.2018 took cognizance under above-mentioned section.

6. Charges were read over and explained to the respondent no. 2 in Hindi to which he pleaded not guilty and claimed to be tried. Accordingly, vide order dated 13.08.2019, charges were framed under Section 304B/34 IPC.

7. In course of trial, the prosecution examined as many as nine witnesses and exhibited several documentary evidences. The names of the prosecution witnesses and the exhibits are being shown hereunder in tabular form:-



List of Prosecution Witnesses

PW-1	Dr. Jayant Kumar
PW-2	Parmanand Kumar
PW-3	Dhrup Yadav
PW-4	Manjila Devi
PW-5	Rajgir Yadav
PW-6	Barun Kumar Chaurasia
PW-7	Devan Yadav
PW-8	Sri Ram Chaudhary
PW-9	Bindeshwari Yadav

List of Exhibits on behalf of Prosecution

Exhibit '1'	Postmortem report
Exhibit '2'	Writing and Signature of the In-charge
Exhibit '2/1'	Formal FIR

8. Thereafter, the statement of the respondent no. 2 was recorded under Section 313 of the CrPC. He took a plea of his innocence and stated that his wife died in course of cooking. No oral or documentary evidence has been adduced on behalf of the defence.

Findings of the Learned Trial Court

9. Learned trial court, after analysing the evidences available on the record found that all the witnesses of the prosecution seem to support the occurrence but they have stated in one voice that the relationship between the accused and the deceased was cordial and the accused or his family members have



not demanded motorcycle and gold as dowry. Learned trial court found that the Doctor in his cross-examination has stated that the injury may be accidental.

10. Learned trial court after considering all the facts and circumstances of the case observed that the prosecution has failed to prove the charges levelled against respondent no. 2 beyond all reasonable doubts and held respondent no. 2 not guilty of the charge framed against him. Accordingly, he was acquitted of the charges framed under Section 304(B)/34 IPC.

The grounds of appeal

11. It is submitted in the Memorandum of Appeal that after framing of charges, the witnesses were examined in a hurried manner and it appears that they have been managed. PW-1 was examined on 27.08.2019, whereafter PW-2 and PW-3 were examined on 17.12.2019, PW-4 and PW-5 were examined on 19.12.2019, PW-6 and PW-7 have been examined on 20.12.2019, PW-8 got examined on 07.01.2020 and PW-9 was examined on 13.01.2020, thereafter, the statement under Section 313 CrPC has been recorded on 20.01.2020 and finally the judgment had been delivered on 25.01.2020. The submission is that the total trial seems to have been managed, the informant questions as to what was the occasion to examine the witnesses in a sessions trial of 304B/34 IPC where the presumption is that the accused persons are responsible for the death



as the marriage of the deceased with respondent no. 2 was solemnized only in the year 2014 and the death had taken place within four years at the matrimonial home of the victim in a suspicious condition.

12. It is submitted in the appeal that the deceased had two children i.e. one son and one daughter who are minor and are in custody of their grandfather and grandmother. The submission is that the informant was pressurised that if they would say the real and correct thing in their examination in court, the children will be put in trouble for their life, otherwise if the respondent no. 2 gets free with their help, then the children will be given full cooperation and security by the members of the matrimonial family and having this impression and condition, they got managed the entire trial.

13. The submission is that this Court should direct the learned trial court to re-hear and re-examine the witnesses who have deposed themselves under pressure and coercion of the prosecution (informant) who is mother of the deceased, illiterate and *pardanashin* lady.

Submissions on behalf of the State

14. On the other hand, Mr. Ajay Mishra, learned Additional Public Prosecutor for the State submits that in this case the trial has been conducted in a fair manner. Witnesses have been examined on several dates and it would appear that while PW-1



was examined on 27.08.2019, PW-9, who was the last witness, got examined on 13.01.2020, therefore, the records remained pending for evidence for almost four and a half months. By no stretch of imagination it can be said that the trial court has recorded the evidences of the prosecution witnesses in haste.

15. Learned Additional Public Prosecutor for the State has further drawn the attention of this Court towards the fact that in this case the informant who has filed the present appeal was examined as PW-4 but she did not support the prosecution case as a result whereof she was declared hostile on the prayer of the prosecution. In her cross-examination, she denied that the husband or relatives demanded a motorcycle and two *bhar* gold, she denied all the allegations. She also deposed that there was good relationship between her daughter and her husband. It is submitted that the present appeal has been preferred only as an afterthought.

16. The brother of the victim has been examined as PW-2. He has stated that the mother-in-law and father-in-law of the deceased had informed him on mobile during the night between 12:00-1:00 o'clock that his sister had got burnt, he reached Mayaganj Hospital and one hour thereafter his sister died. In his cross-examination by the defence, this witness has stated that his sister and brother-in-law were having good relationship



and his brother-in-law had never demanded any money, motorcycle or gold. He has further stated that his sister had never made any complaint against her husband. He came to know that when his sister was boiling milk for the children, fire broke out of the gas in which his sister got burnt and died in course of treatment.

17. Learned Additional Public Prosecutor for the State has placed before this Court the evidence of PW-3, who is an independent witness. PW-3 has not supported the prosecution case and has been declared hostile. Similarly, the father of the victim, who has been examined as PW-5, has also not supported the prosecution case and has been declared hostile. It is submitted that since the informant, her husband, her son and other independent witnesses did not support the prosecution case, the learned trial court has rightly held that all the prosecution witnesses have stated that the relationship between the deceased and the accused was cordial and that the accused or his family members had not demanded motorcycle and gold as dowry. The learned trial court is correct in recording a finding that the prosecution has failed to prove the charges levelled against the accused beyond all reasonable doubt giving him benefit of doubt.



Consideration

18. Having gone through the grounds of appeal, the submissions of learned Additional Public Prosecutor for the State and upon perusal of the records, we find much substance in the submissions of learned Additional Public Prosecutor. There is no element of haste in the matter of recording of evidences by the trial court. The records of the case remained pending for four and half months for recording of evidence. It is found that in this case the charge was framed under Section 304B/34 IPC. The contention of the appellant that there is a presumption under Section 304B IPC of the guilt of the accused, therefore there was no need to examine any witness is not a correct statement. For this purpose, we would extract Section 304B IPC as under:-

“¹[**304B. Dowry death.** -- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation.- For the purposes 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.]”

1. Ins. By Act 43 of 1986, s. 10 (w.e.f. 19-11-1986).



Section 304B IPC is to be read with Section 113B of the Indian Evidence Act, 1872, therefore Section 113B of the Evidence Act is being reproduced hereunder for a ready reference:-

“¹⁵[113B. **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 the Indian Penal Code (45 of 1860).]”

19. It is well settled by a catena of judgments that to convict an accused under Section 304B IPC, the prosecution is required to prove that (a) the death of a woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances; (b) such death should have occurred within seven years of her marriage; (c) the deceased was subjected to cruelty or harassment by her husband or by any relative of her husband; (d) such cruelty or harassment should be for or in connection with the demand for dowry; and (e) to such cruelty or harassment the deceased should have been subjected soon before her death. Refer the judgments of the Hon’ble Supreme Court in

15. Inserted by Act 43 of 1986, S. 12 (w.e.f. 1-5-1986).



the case of **Kans Raj vs. State of Punjab & Ors.** reported in **AIR 2000 SC 2324 : (2000) 5 SCC 207**, **Satvir Singh and Ors. vs. State of Punjab and Anr.** reported in **2001 (8) SCC 633**, **Baljeet Singh vs. State of Haryana and Ors.** reported in **AIR 2004 SC 1714**.

20. In the case of **Sher Singh @ Partapa vs. State of Haryana** reported in **(2015) 3 SCC 724**, the Hon'ble Supreme Court had occasion to consider the true meaning and import of the words "soon" and "deemed" occurring under Section 113B of the Indian Evidence Act, 1872.

21. The Hon'ble Supreme Court had also occasion to consider as to what would be the standard of proof to be applied to the prosecution in proving the ingredients of Section 304B IPC and the standard of proof to be applied to the accused to rebut the deemed presumption of guilt which arises once the prosecution has proved the ingredients.

22. Upon consideration of the earlier judgments in the case of **State of West Bengal vs. Mir Mohammad Omar and Ors.** reported in **(2000) 8 SCC 382** and in the case of **Subramaniam vs. State of Tamil Nadu** reported in **(2009) 14 SCC 415**, their Lordships of the Hon'ble Supreme Court in the case of **Sher Singh** (*supra*) observed in paragraph '16' as under:-



“16. As is already noted above, Section 113-B of the Evidence Act and Section 304-B IPC were introduced into their respective statutes simultaneously and, therefore, it must ordinarily be assumed that Parliament intentionally used the word “deemed” in Section 304-B to distinguish this provision from the others. In actuality, however, it is well-nigh impossible to give a sensible and legally acceptable meaning to these provisions, unless the word “shown” is used as synonymous to “prove” and the word “presume” as freely interchangeable with the word “deemed”. In the realm of civil and fiscal law, it is not difficult to import the ordinary meaning of the word “deem” to denote a set of circumstances which call to be construed contrary to what they actually are. In criminal legislation, however, it is unpalatable to adopt this approach by rote. We have the high authority of the Constitution Bench of this Court both in *State of Travancore-Cochin v. Shanmugha Vilas Cashewnut Factory*⁸ and *State of T.N. v. Arooran Sugars Ltd.*⁹, requiring the Court to ascertain the purpose behind the statutory fiction brought about by the use of the word “deemed” so as to give full effect to the legislation and carry it to its logical conclusion. We may add that it is generally posited that there are rebuttable as well as irrebuttable presumptions, the latter oftentimes assuming an artificiality as actuality by means of a deeming provision. It is abhorrent to criminal jurisprudence to adjudicate a person guilty of an offence even though he had neither intention to commit it nor active participation in its commission. It is after deep cogitation that we consider it imperative to construe the word “shown” in Section 304-B IPC as to, in fact, connote “prove”. In other words, it is for the prosecution to prove that a “dowry death” has occurred, namely,

- (i) that the death of a woman has been caused in abnormal circumstances by her having been burned or having been bodily injured,
- (ii) within seven years of her marriage,

8. [AIR 1953 SC 333]

9. [(1997) 1 SCC 326]



(iii) and that she was subjected to cruelty or harassment by her husband or any relative of her husband,

(iv) in connection with any demand for dowry, and

(v) that the cruelty or harassment meted out to her continued to have a causal connection or a live link with the demand of dowry.

We are aware that the word “soon” finds place in Section 304-B; but we would prefer to interpret its use not in terms of days or months or years, but as necessarily indicating that the demand for dowry should not be stale or an aberration of the past, but should be the continuing cause for the death under Section 304-B or the suicide under Section 306 IPC. Once the presence of these concomitants is established or shown or proved by the prosecution, even by preponderance of possibility, the initial presumption of innocence is replaced by an assumption of guilt of the accused, thereupon transferring the heavy burden of proof upon him and requiring him to produce evidence dislodging his guilt, beyond reasonable doubt. It seems to us that what Parliament intended by using the word “deemed” was that only preponderance of evidence would be insufficient to discharge the husband or his family members of their guilt. This interpretation provides the accused a chance of proving their innocence. This is also the postulation of Section 101 of the Evidence Act. The purpose of Section 113-B of the Evidence Act and Section 304-B IPC, in our opinion, is to counter what is commonly encountered—the lack or the absence of evidence in the case of suicide or death of a woman within seven years of marriage. If the word “shown” has to be given its ordinary meaning then it would only require the prosecution to merely present its evidence in court, not necessarily through oral deposition, and thereupon make the accused lead detailed evidence to be followed by that of the prosecution. This procedure is unknown to common law systems, and beyond the contemplation of CrPC.”

Therefore in a case charged under Section 304B IPC it is required to be considered as to whether the prosecution in the case



has been able to prove the essential ingredients which have been highlighted by the Hon'ble Supreme Court in paragraph '16' in the case of **Sher Singh** (*supra*).

23. Keeping in view the aforementioned provisions of law and the judgments of the Hon'ble Supreme Court on the subject, when we examine the evidences available on the record, it is found that the prosecution has not proved the essential conditions for raising a presumption that it is a case of dowry death. The prosecution witnesses, even the informant, who is the mother of the victim, and the entire family members of the victim as also independent witnesses have turned hostile.

24. In these circumstances, we are reminded of the judgment of the Hon'ble Supreme Court in the case of **H.D. Sundara and Ors. vs. State of Karnataka** reported in (2023) 9 SCC 581 and **Babu Sahebagouda Rudragoudar and Ors. vs. State of Karnataka** reported in (2024) 8 SCC 149 wherein their Lordships have laid down the principles governing an appeal against acquittal. Paragraph '8' of the judgment in the case of **H.D. Sundara** (*supra*) is being reproduced hereunder for a ready reference:-

“ 8. In this appeal, we are called upon to consider the legality and validity of the impugned judgment¹ rendered by the High Court while

1. (State of Karnataka v. H.K. Mariyappa, 2010 SCC OnLine Kar 5591)



deciding an appeal against acquittal under Section 378 of the Code of Criminal Procedure, 1973 (for short "CrPC"). The principles which govern the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378 CrPC can be summarised as follows:

8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappraise the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappraising the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible."

25. In result, we find no reason to interfere with the impugned judgment.

26. This appeal has no merit. It is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

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