

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE**

**HON'BLE SHRI JUSTICE PRAKASH CHANDRA GUPTA  
ON THE 11TH DAY OF SEPTEMBER, 2023**

**CRIMINAL APPEAL No. 136 of 1999**

**BETWEEN:-**

1. LALIT KUMAR S/O KANHAIYALAL  
AGED ABOUT 30 YEARS, ELECTRIC SHOP  
R/O 101, LAXMIBAI ROAD  
JAORA, DISTRICT RATLAM (MADHYA PRADESH)
2. KANHAIYALAL S/O JADAWCHAND  
AGED ABOUT 60 YEARS, OCCUPATION : SERVICE (DEAD)  
R/O 101, LAXMIBAI ROAD  
JAORA, DISTRICT RATLAM (MADHYA PRADESH)
3. ASHOK @ YESHWANT KUMAR JAIN S/O KANHAIYALAL  
AGED ABOUT 27 YEARS, OCCUPATION: NONE  
R/O 101, LAXMIBAI ROAD  
JAORA DISTRICT RATLAM (MADHYA PRADESH)

**.....APPELLANTS**

**(MS. SEEMA SHARMA, ADVOCATE FOR THE APPELLANTS)**

**AND**

**THE STATE OF MADHYA PRADESH  
THROUGH STATION HOUSE OFFICER  
POLICE STATION JAORA SHAHAR  
JAORA, DISTRICT RATLAM (MADHYA PRADESH)**

**.....RESPONDENT/STATE**

**(SHRI VISHAL SANOTHIYA, GOVERNMENT ADVOCATE FOR THE STATE)**

***Reserved on : 02.08.2023***

***Pronounced on : 11.09.2023***

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*This appeal having been heard and reserved for judgement, coming on for pronouncement this day, **Hon'ble Shri Prakash Chandra Gupta** pronounced the following:*

### **JUDGEMENT**

This appeal has been filed by the appellants/accused persons u/S 374 (2) of the Code Of Criminal Procedure, 1973, being aggrieved by the judgement of conviction and order of sentence dated 20.01.1999 passed by the Additional Sessions Judge, Jaora, District Ratlam in S.T. No.59/1994, whereby learned Trial Court has convicted the appellants u/S 498-A and 304-B of IPC and sentenced each of them to undergo RI for 02 years and RI for 10 years with fine of Rs.500/- and Rs.1,000/- each with default stipulations of RI for 02 months and RI for 04 months respectively. Both the sentences are to run concurrently.

2. During pending of this appeal, appellant No.2 – Kanhaiyalal has died on 25.08.2007 therefore, appeal against him has been abated.

3. It is an admitted fact that the appellants - Lalit Kumar and Ashok @ Yeshwant Kumar Jain are real brothers and they are sons of Kanhaiyalal. The appellants are residents of Laxmibai Road, Jaora, District Ratlam. Kanakmal (PW-1) and Shantibai (PW-2) are parents and Prakash (PW-3) is brother of deceased Jyoti @ Sangeeta. The deceased Arun was son of deceased Jyoti. Parents and brother of the deceased are residents of village Jhutawad, Police Station Mahidpur Road, District Ratlam. It is also an admitted fact by the appellants that marriage of

deceased Jyoti was solemnized on 15.05.1990 with co-accused Lalit Kumar and from the wedlock of deceased Jyoti and her husband, 2 sons namely, Tarun and Arun were born. The appellants had received a legal notice (Ex.P/5) which was sent by Advocate Pushpendra (PW-5) on behalf of deceased Jyoti and the appellants had sent the reply (Ex.P/6) of the aforementioned legal notice. It is also an undisputed fact that on 18.01.1994 at around 03:40 PM, the deceased Jyoti and her son Arun aged around 2 years had died in the house of appellants by being burnt.

4. Prosecution story in brief is that after the marriage, the deceased Jyoti used to live in her matrimonial home alongwith the appellants. After one year, the appellants started to demand Rs.5,000/- cash and gold ornaments as dowry. Parents of the deceased were unable to fulfill the demands of dowry, therefore, the accused persons used to abuse and assault the deceased. The deceased had shared about the same to her parents several times but they were incapable to give dowry. Due to this, the deceased had filed a written complaint (Ex.P/7) on 19.08.1991 to the SHO, Police Station Mahidpur and she also had sent a legal notice (Ex.P/5) through her Advocate to the appellants. Being aggrieved by the behaviour and torture by her in-laws, she started living in her maternal home. During this, son of deceased Arun was born at her maternal house only. In 1992 near Diwali Festival, in-laws of the deceased had assured that they would not bother the deceased, after which the deceased was sent back to her matrimonial home. But not long after, husband Lalit, father-in-law Kanhaiyalal and brother-in-law Ashok started demanding dowry again and started to torture her physically and mentally. On

03.01.1994 as well, the deceased had told about the happening of the same to her father. Thereafter on 18.01.1994 at around 03:45 PM, deceased died by being burnt in her matrimonial house under unnatural circumstances within 7 years of her marriage. Son of the deceased Arun died as well in the same incident.

5. After receiving the information about the incident, SHO Jaora R.B. Dikshit (PW-15) had visited the place of incident. The place of incident was also visited by the scientific expert R.L. Bariwal (PW-4), FSL mobile unit, Ratlam. They had found that the deceased persons had died because of being burnt in her room. There was semi-burnt clothes with skin pieces on floor and two burnt and 1 half burnt match-stick. Smell of kerosene was present in all the articles. A can of kerosene was present having 250 ml. left kerosene in it. SHO R.B. Dikshit (PW-15) had registered Merg (Ex.P/35) of the deceased Jyoti and Arun (Ex.P/36). R.L. Bariwal (PW/4) had prepared a spot inspection report (Ex.P/-10) and site map (Ex.P/11). SDO(P) Jaora, Indra Prakash Arjariya (PW-9) seized a plastic can containing 250 ml kerosene (Article-A), semi burnt pieces of clothes of deceased Jyoti (Article-C) and deceased Arun (Article-B), ash, match sticks (Article-D), remains of 2 semi burnt match sticks (Article-E), vide seizure memo (Ex.P/14). He prepared spot map (Ex.P/15) and (Ex.P/17). SHO R.B. Dikshit (PW-15) called photographer who took the photographs (Ex.P/26 – P/34) of the deceased persons at the place of incident. SHO R.B. Dikshit (PW-15) sent the dead bodies of the deceased persons to the Government Hospital, Jaora, for safe keeping.

6. On 19.01.1994, SHO R.B. Dikshit (PW-15) after giving notice (Ex.P/37 & P/38) to the witnesses prepared Lash Panchnama (Ex.P/24 & P/25) of the deceased persons and wrote letter to the concerned doctor for post-mortem. A post-mortem team was constituted. Members of the team were Dr. Mahaveer Khandelwal (PW-10), Dr. Suresh Jain and Dr. Mrs S. Katarkar. Post-mortem of the dead body of deceased Jyoti and Arun were done and post-mortem report (Ex.P/22 & P/23) was prepared. During post-mortem it was found that both the dead bodies were 100% burnt. There was smell of kerosene from both the dead bodies. During internal examination, it was found that most of the organs were congested. Respiratory track had carbon particles. Visceral materials were preserved and sealed and were handed over to the concerned constable for chemical examination. The doctors had given the cause of death to be 100% burnt injuries caused within 40 – 60 hrs.

7. On 20.01.1994, Head Constable Ashok Kumar Sharma seized sealed packs of visceral material of the deceased persons produced by constable Ramlal from the hospital vide seizure memo (Ex.P/43 & P/44). During merg inquiry, statement of witnesses were recorded. SDO(P) Indra Prakash Arjaria (PW-9) had lodged an FIR (Ex.P/18) against the appellants on 21.01.1994. ASI Rafeeq Ahmad Khan (PW-13) on 23.01.1994 had seized a letter (Ex.P/1) vide seizure memo (Ex.P/2), as alleged which was written and sent by deceased Jyoti to her father Kanakmal (PW-1) by post. He had arrested appellants Lalit Kumar, Kanhaiyalal (dead) and Ashok on 23.01.1994 vide arrest memo (Ex.P/19

– P/21). The seized articles from the spot and visceral material received from the hospital were sent for chemical examination by letter dated 09.02.2014 (Ex.P/40 & P/39). After examination, FSL report (Ex.P/42) was received alongwith covering letter (Ex.P/41) from FSL Sagar. Statement of witnesses was recorded u/S 161 of Cr.P.C. After completion of investigation, charge-sheet was filed.

**8.** Learned Trial Court had framed charge against the appellants/accused persons u/S 498-A, 304-B and 306 of IPC. The accused persons abjured their guilt and claimed to be tried. In order to prove its case, the prosecution has examined 15 witnesses. After completion of prosecution evidence, the accused persons were examined u/S 313 of Cr.P.C. The accused persons had taken the defence that they are innocent and they have not committed the offence. At the time of the incident, they were not present at their home. They are unaware about the incident. Though the accused persons have not examined any witness in their defence.

**9.** Learned Trial Court after hearing both the parties and considering the evidence available on record, came to the conclusion that the appellants are guilty for the offences as mentioned above. Though the appellants/accused persons were acquitted u/S 306 of IPC.

**10.** Learned counsel for the appellants submits that the impugned judgement is bad in law and contrary to the facts and evidence available on record. The evidence led by the prosecution witnesses suffers from serious infirmity. The independent witnesses/neighbour of appellants-

Naahru Bi (PW-7) and other witnesses Bapu singh (PW-6) have not supported the case of prosecution. Kanakmal (PW-1) Shantibai (PW-2) and Prakash (PW-3) being parents and brother of the deceased Jyoti are interested witnesses. There are material contradictions and omissions in their statements and their statement is not supported by independent witnesses therefore, their statement is not reliable. Indeed the deceased persons might have died of accident. She further submits that learned Trial Court has failed to consider that there is no evidence that right before the incident, the appellants had demanded dowry and committed cruelty on the deceased. No ingredient is present to constitute the offence u/S 304-B of IPC in support of her contention. She has relied upon the judgement passed by the Apex Court in the case of ***Nimay Sah V State of Jharkhand [CRA No.211/2011 dated 02.12.2020]***.

11. On the other hand, learned Government Advocate for the respondent/State has opposed the submissions made by counsel for the appellants, submitting that the prosecution succeeded to prove its case beyond reasonable doubt. There is specific evidence in respect of allegations levelled against the appellants for demand of dowry and cruelty soon before the death of the deceased Jyoti. The deceased died of unnatural death within a period of 7 years from her marriage. Therefore, presumption of Section 113B of the Indian Evidence Act, 1872 comes into play which is against the appellants. Further, he submitted that learned Trial Court has rightly considered the evidence available on record. With the aforesaid submissions, he prays for dismissal of the

appeal. He has placed reliance on the case of ***Surinder Singh V State of Haryana [(2014) 4 SCC 129]***.

12. I have heard learned counsels for the parties and perused the records.

13. Before dealing with the merits of the case, it would be appropriate to discuss the legal aspect first which is applicable in this case. The offence involved in the case u/S 304-B and 498-A of IPC which is pertinent are reproduced hereunder :-

*“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.”*

*“498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the*

*husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purposes of this section, “cruelty” means— (a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]”*

**14.** Undisputedly, deceased Jyoti had died of unnatural death within 7 years of her marriage. As per the Indian Evidence Act, 1872, there is presumption u/S 113B, which is also pertinent to be reproduced hereunder :-

*“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 304B of the Indian Penal Code (45 of 1860).”*

15. In the case of ***Kans Raj V State of Punjab & Ors. [(2000) 5 SCC 207]***, the Apex Court has elucidated the following ingredients to prove dowry death:-

*(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 7 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 of dowry, and*

*(e) To such cruelty or harassment the deceased should have been subjected to soon before her death.*

16. In the case of ***Satbir Singh and Anr. V State of Haryana [CRA No.1735-1736 of 2010, decided on 28.05.2021]***, the Apex Court held that no straitjacket formula can be applied to define the term “soon before” as its literal interpretation would defeat the intent of legislature and the ends of justice, and held in paragraph 14 as under:-

*“14. Considering the significance of such a legislation, a strict*

*interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, “soon before” they did not mean “immediately before”. Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exacts the phrase “soon before” entails. The aforesaid position was emphasized by this Court, in the case of Kans Raj v. State of Punjab, (2000) 5 SCC 207, wherein the three-Judge Bench held that:*

*“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. ... 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. .... 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.” (emphasis supplied) A similar view was taken by this Court in Rajinder Singh v.State of Punjab, (2015) 6 SCC 477.”*

17. On perusal of the aforementioned provisions and verdicts given by the Apex Court, it appears that the death of a woman is caused by burns or bodily injury or occurred otherwise than under normal circumstances within a period of 7 years of her marriage and the woman was subjected to cruelty or harassment by her husband or any relative of her husband and such cruelty should be for or in connection with the demand of dowry and such cruelty or harassment, the deceased should have been soon before her death be called as dowry death and the woman's husband or relative shall be deemed to have caused her death. Section 304-B of IPC does not categorize death as homicidal or suicidal or accidental. Likely Section 498-A of IPC provides that any willful conduct of the husband or his relatives is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to her life, limb or health whether mental or physical of the woman or harassment of the woman where such harassment is with a view to coercing her or her relative to meet any unlawful demand of any property or any valuable security or is on account of failure by her relative to meet such demand is offence u/S 498 A of IPC. It is also clear that the interpretation of the word “soon before” is to be construed in liberal manner and if done otherwise in literal sense, it would lead to

miscarriage of justice and failure of the intent of legislature for which the law was passed. Thus, the interpretation of the term “soon before” varies from case to case.

18. Further, in the case of *Satbir Singh and Anr. (Supra)*, the Apex Court, discussing in light of non-categorization of death as homicidal or suicidal or accidental in case of 304-B of IPC has opined as under:-

*“22. The second contentious part relating to Section 304-B, IPC is that it does not take a pigeonhole approach in categorizing death as homicidal or suicidal or accidental, as was done earlier. The reason for such non categorization is due to the fact that death occurring “otherwise than under normal circumstances” can, in cases, be homicidal or suicidal or accidental. However, the Section 304-B, IPC endeavors to also address those situations wherein murders or suicide are masqueraded as accidents.”*

19. In the case of *Nimay Sah (Supra)*, the Apex Court has observed in paragraph 14 as under:-

*“14. It ought to be noted that apart from these vague allegations, no specific instance of hostile attitude or persistent demands of dowry have been pointed out by any of these witnesses. Further, Shyam Sunder Sah (P.W.7), brother of the deceased, has admitted in his crossexamination that the deceased used to write him letters from her matrimonial place, and that, none of the letters mention any harassment on account of demand of dowry.”*

20. The principle relating to interested witnesses/close relatives has been laid down by the Apex Court in the case of **Surinder Singh (Supra)**, relevant paragraph 33 is reproduced as under:-

*“33. Before closing, the most commonplace argument must be dealt with. In all cases of bride burning it is submitted that independent witnesses have not been examined. When harassment and cruelty is meted out to a woman within the four walls of the matrimonial home, it is difficult to get independent witnesses to depose about it. Only the inmates of the house and the relatives of the husband, who cause the cruelty, witness it. Their servants, being under their obligation, would never depose against them. Proverbially, neighbours are slippery witnesses. Moreover, witnesses have a tendency to stay away from courts. This is more so with neighbours. In bride burning cases who else will, therefore, depose about the misery of the deceased bride except her parents or her relatives? It is time we accept this reality. We, therefore, reject this submission.”*

21. Therefore, it appears that the evidence of witnesses cannot be discarded merely because they are relatives of the deceased. Relationship is not a factor to ascertain credibility of a witness. However, close scrutiny is required before accepting their evidence.

22. Learned Trial Court has given its affirmative finding with regards to dowry death of deceased Jyoti by the appellants, therefore, this Court

has to examine whether the finding of the Trial Court is correct or not.

**23.** In this respect, counsel for the appellants submits that Kanakmal (PW-1) has deposed that marriage of the deceased Jyoti was solemnized with appellant No.1 Lalit Kumar on 15.05.1990 but in the case diary statement (Ex.D/1), it is stated that marriage of them was solemnized on 15.05.1989, which being contradictory is not reliable, but it appears that the appellants/accused persons have admitted the aforementioned fact in question No.1 in their examination u/S 313 of Cr.P.C. that marriage of the deceased Jyoti was solemnized with the accused Lalit Kumar on 15.05.1990. Apart from that, if it is assumed that marriage of the deceased was solemnized on 15.05.1989 and she died on 18.01.1994, even then it is clear that death of the deceased occurred within 7 years of her marriage.

**24.** Dr. Mahaveer Khandelwal (PW-10) clearly stated that on 20.01.1994, dead bodies of the deceased persons were brought by constable Ramlal for post-mortem, then he alongwith 2 other doctors examined the bodies of deceased persons and it was found that their body was 100% burnt and the same being cause of death, occurred within 40-60 hrs. of post-mortem.

**25.** SDO(P) Indra Prakash Arjariya (PW-9) deposed that he seized a plastic can (Article-A), remaining part of clothes of deceased Jyoti (Article-C), remains of match stick (Article-D) and burnt match stick (Article-E) from the spot vide seizure memo (Ex.P/14). Though Sheikh

Hasan Ansari (PW-8) has not supported the seizure of aforementioned articles from the spot but has admitted his signature on the seizure memo (Ex.P/14). Therefore, on the aforementioned ground of hostility of Sheikh Hasan Ansari (PW-8), statement of SDO(P) Indra Prakash Arjariya (PW-9) cannot be discarded. Therefore, statement of SDO(P) Indra Prakash Arjariya (PW-9) being supported by seizure memo (Ex.P/14) is reliable.

**26.** Dr. Mahaveer Khandelwal (PW-10) stated that at the time of post-mortem, he preserved and sealed visceral material of deceased persons and handed over the same to the concerned constable for chemical examination. SHO R.B. Dikshit (PW-15) stated that on 20.01.1994 Head Constable Ashok Sharma had seized visceral material vide seizure memo (Ex.P/43 & P/44). He further submitted that he recognizes signature of Ashok Sharma being posted together with him and affirmed the signature of Head Constable Ashok Sharma on the seizure memo (Ex.P/43 & P/44). As per FSL report (Ex.P/42), kerosene was found on the seized piece of burnt clothes of deceased persons. Dr. Mahaveer Khandelwal (PW-10) also stated that at the time post-mortem, there was smell of kerosene on the body of the deceased persons. Therefore, it is clear that deceased Jyoti had died due to burnt injuries which was other than natural circumstances.

**27.** As far as cruelty coupled with demand of dowry is concerned, the finding recorded by learned Trial Court suggests that learned Trial Court believed upon the statement of Kanakmal (PW-1), Shantibai (PW-2) and

Prakash (PW-3) who are parents and brother of the deceased Jyoti.

**28.** In this respect, Kanakmal (PW-1) stated that the deceased lived in her marital home well for 1 year since thereafter, the accused persons started to demand dowry. In paragraph 12 of cross-examination, he clarified that the accused persons had demanded cash of Rs.5,000/- and ornaments. In paragraphs 6,7 and 8 of examination-in-chief, he stated that in 1993 he went to meet the deceased at Jaora, then the accused Kanhaiyalal (dead) abused him and said that he does not need to come there. Thereafter, letter (Ex.P/1) of deceased Sangeeta was received by him, then he again met with the deceased, then she stated that accused persons Kanhaiyalal (dead), Lalit Kumar and Ashok Kumar used to beat and demand dowry from her. In paragraph 43 of cross-examination, he stated that the deceased narrated in respect of demand of dowry to her mother and her mother narrated about it to this witness.

**29.** Shantibai (PW-2) also stated that after 1 year of the marriage, the deceased used to tell this witness that the accused persons had started to demand Rs.5,000/- and gold ring, ear ring, chain and bangles, *Kandore* as dowry. The accused persons did not use to give her food and used to beat her. Thereafter she narrated the incident to her husband.

**30.** Prakash (PW-3) has deposed that deceased used to tell him that accused persons used to demand Rs.5,000/- and gold ornaments as dowry. One day before Rakshabandhan, he had went to the matrimonial home of deceased, to bring her then the accused Kanhaiyalal (dead) had

abused him and did not let him enter the house. Therefore, he returned without taking the deceased alongwith him. Hence, it appears that the aforementioned witnesses are unanimous on the point of demand of dowry by the appellants. They deposed that deceased Jyoti had disclosed that the appellants used to harass her on account of bringing Rs.5,000/- cash and gold ornaments from her parents. Statement of the aforesaid witness is also supported by legal notice (Ex.P/5) and written complaint (Ex.P/7) of the deceased. It is also revealed from letter (Ex.P/1) that behaviour of appellants was not well with the deceased. Therefore, statement of father of deceased Kanakmal (PW-1), mother Shantibai (PW-2) and brother Prakash (PW-3) is reliable, though there are some omissions and contradictions in their statement but those contradiction and omissions appears to be natural and are not material. Learned Trial Court in paragraph 19 of the impugned judgement has properly discussed in respect of aforementioned contradictions and omissions. Shantibai (PW-2) and Prakash (PW-3) are close relatives of deceased Jyoti, but their statement appears to be reliable therefore, statement of the witnesses cannot be discarded merely because they are relatives of the deceased. Mere relationship is not a factor to ascertain the credibility of the witness.

**31.** Though it appears from the statement of Kanakmal (PW-1) and Shantibai (PW-2) that there was no demand of dowry by the accused persons at the time of marriage of the deceased but on this ground it cannot be assumed that later on the accused persons could not raise their

demand of dowry. Learned Trial Court has properly discussed in this respect in paragraphs 17 and 21 of the impugned judgement. Though neighbour of the appellants Naahru Bi has not supported the case of prosecution and she has been declared hostile by the prosecution. Another witness Bapu Singh (PW-6) is not a witness of the incident, therefore, the above ground has no adverse effect on the prosecution case.

**32.** In the instant case, as per statement of Kanakmal (PW-1), Shantibai (PW-2) and Prakash (PW-3), it appears that one year after the marriage, the accused persons had started demand of dowry and used to abuse and beat the deceased, thereby they have harassed her physically and mentally. Therefore, it is clear that there existed a live and proximate link between the instance of demand of dowry and the death of the deceased.

**33.** From the aforementioned discussion, it is proved that deceased Jyoti had died within 7 years of her marriage meanwhile being subject to cruelty by her husband, father-in-law and brother-in-law in connection with demand of dowry. The death was caused by burns, otherwise than normal circumstances in her matrimonial home and soon before the death as well she was subjected to cruelty. Therefore, presumption u/S 113B of the Indian Evidence Act, 1872, goes against the appellants and they failed to rebut the same. Therefore, it is clear that the appellants have committed dowry death of the deceased therefore, learned Trial Court has not committed any error in convicting the appellants in the

offence. Learned Trial Court has also not committed any error with respect to quantum of sentence of the appellants. Therefore, conviction and sentence of the appellant u/S 498-A as well as 304-B of IPC is hereby affirmed.

**34.** Consequently, the instant appeal is hereby **dismissed**. Appellants are directed to surrender forthwith before the learned Trial Court to undergo their remaining jail sentence, failing which the Trial Court shall be at liberty to take necessary steps against the appellants. After their surrender before the Trial Court, their bail bonds shall be discharged.

**35.** Copy of this judgement alongwith record of the Trial Court be sent back to the Trial Court for necessary compliance.

Certified copy, as per Rules.

**(PRAKASH CHANDRA GUPTA)**  
**JUDGE**

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