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CRA-6441-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE RATNESH CHANDRA SINGH BISEN

ON THE 17th OF FEBRUARY, 2026CRIMINAL APPEAL No. 6441 of 2025*THE STATE OF MADHYA PRADESH**Versus**SALMAN @ SALAM AND OTHERS*

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Appearance:

*Shri Manas Mani Verma - Government Advocate for the
appellant/State.*

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JUDGEMENT

Per. Justice Vivek Agarwal

This Criminal Appeal is filed by the State being aggrieved of the judgment dated 18.12.2024 passed by learned Additional Judge to First Additional Sessions Judge, Khandwa in Sessions Trial No. 140 of 2020, whereby the learned trial Court has acquitted all the accused persons from the charges under Sections 498-A & 304-B of IPC and under Section 3/4 of Dowry Prohibition Act.

2. It is submitted that, marriage of the deceased Biba was solemnized with accused Kalim Shah on 01.04.2018, she sustained burn injury on 23.07.2020 and therefore, death of deceased taking place within two years of her marriage under unnatural circumstances, presumption has to be drawn in regard to unnatural death for demand of dowry and related harassment under



Section 113-B of the Evidence Act, therefore, it is prayed that, impugned judgment be set-aside and conviction be recorded.

3. We have heard, learned Government Advocate for the State and going through the records, dying declaration of the deceased is available on record as Ex.D-1. It was recorded by Bhavna Rawat Executive Magistrate, Khandwa who had recorded this statement on 23.07.2020 at 03:12 p.m.

4. Prosecution displayed intellectual dishonesty in not producing the dying declaration before the Court alongwith the prosecution papers and charge-sheet. In the dying declaration (Ex.D-1), it is clearly mentioned that victim stated that, she was preparing meals in the afternoon, when kerosene oil had fallen over her and that caught fire. She has categorically stated that, nobody was harassing her. She was brought to hospital by her *Chachi* and brother. She denied any harassment. Dr. Madhu certified that patient was fully conscious at the time of giving of statement, she had certified her condition on 23.07.2020 starting at 03:20 p.m., and at the time of finish of the statement at 03:40 p.m.

5. When this statement is taken into consideration, which has remained unrebutted and has been proved by the Investigating Officer of the case namely Shri Lalit Gathare, SDO(P) (PW-12), then it is evident that, when this witness (PW-12) admitted that, when he had received the case diary for investigation then he had received a dying declaration as was recorded by the Executive Magistrate at District Hospital, Khandwa while she was being given treatment. But he could not give any reason for not enclosing those statements alongwith the charge-sheet.



6. Thus it is evident that, prosecution in fact trying to cheat the Court by not filing the complete papers of investigation received by the Investigating Officer during investigation alongwith the case diary before the Court.

7. When this act of cheating on the part of the Investigating Officer is taken in to consideration and dying declaration (Ex.D-1) is read in totality, then it being a case of accidental fire, there is no evidence of demand of dowry or related harassment, impugned judgment of acquittal cannot be faulted with.

8. Accordingly, appeal fails and is dismissed.

9. Before we part with the judgment, it will be necessary to caution the State that its Officers cannot indulge in such kind of intellectual dishonesty and cheating the Courts by not filing the relevant documents which may even go against the prosecution, but which are available in the case diary, as admitted by Shri Lalit Gathre (PW-12).

10. Let Director General of Police, issue a circular that in case in future, such kind of intellectual dishonesty is discovered, then Court may itself order for registration of FIR against such Investigating Officer.

(VIVEK AGARWAL)
JUDGE

(RATNESH CHANDRA SINGH BISEN)
JUDGE

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