2026:JHHC:30190

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 677 of 2005

Bharat Mahto, Son of Late Bishwnath Mahto, Resident of Village-Sarauni, P.O. & P.S.-Mufasil, Dist. Hazaribag **... ... ... Appellant**

Versus

The State of Jharkhand **.... .... Respondent**

For the Appellant : Mr. Ayush Kumar Verma, Adv.
For the Resp. State : Mrs. Shweta Singh, A.P.P.

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. On 22/07/2026 **Pronounced On 08 /10/2026**

Per- Pradeep Kumar Srivastava, J.

1. I have already heard the arguments of learned counsel for the appellant and learned A.P.P. for the State.

2. The instant criminal appeal is directed against the judgment of conviction dated 26.05.2005 and order of sentence dated 28.05.2005 passed by the learned Sessions Judge, Hazaribag in S.T. No. 467 of 1997 whereby and whereunder the appellant has been held guilty for the offence under Sections 306 of the IPC and 3 & 4 of Dowry Prohibition Act and sentenced to undergo rigorous imprisonment for 7 years under Section 306 of the IPC and further R.I. of 3 years for the offence under Section 3 & 4 each of D.P. Act. All the sentences were directed to run, concurrently.

Factual Matrix:-

3. Factual matrix giving rise to this appeal as per the fardbeyan of Hani

Mahto dated 09.03.1997 at about 12:30 PM recorded by S.I. K.N. Choubey, Officer-in-Charge, P.S.-Muffasil, Hazaribag is that the informant's daughter was married with Bharat Mahto in the month of June, 1994, resident of village Sarouni, P.S. Muffasil, Hazaribag in accordance with Hindu Rites and Customs. It is alleged that just after the marriage, informant's daughter started residing at her matrimonial home, where she was assaulted and harassed by her husband(Bharat Mahto, appellant herein) , Devar-Kailash Mahto and Mother-in-law Sabia Devi. The informant convened Panchayati several times to pacify the matter but the accused persons did not mend themselves. It is further alleged that about two years ago, informant's son-in-law Bharat Mahto (appellant) left his wife at her parental home, since then, she was residing with her parents, where she disclosed that she is being assaulted and tortured without any reason by her husband and his family members saying her to be Barren and used to say that you should die or consume poison and her husband will solemnize second marriage and not keep her with him. It is further alleged that on 2nd June, 1996 also, a Panchayati was convened at matrimonial village of the informant's daughter Sarouni, where son-in-law of the informant assured that he will keep his wife with dignity and honour and not harass or assault her and went together with the informant's daughter. It is further alleged that about one week ago, the informant again learnt that his son-in-law Bharat Mahto along with his younger brother Kailash Mahto and

wife of Kailash Mahato are still harassing and assaulting to informant's daughter. It is further alleged that on 09.03.1997, at about 11AM,Village Chowkidar -Sonelal Thakur of the informant's village met with informant and told that his daughter has died in her Sasural by consuming poison and her dead body is lying in a field. The informant went to the matrimonial home of his daughter, where he saw her dead body lying on a cot in a room situated in the Bari (courtyard) of the house, forth was coming out from her mouth. The informant has further stated that first wife of the informant's son-in-law had also died due to consuming poison on account of harassment and torture. Hence, he believes that his daughter has committed suicide by consuming poison due to assault and torture meted to her, at the instance of her husband and in-laws family members.

4. On the basis of fardbeyan of Informant, F.I.R. being Sadar P.S. Case No. 70 of 1997 was registered for the offence under Section 306 of the I.P.C.

5. After completion of investigation, the charge-sheet was submitted against all the named accused persons for the offence under Section 306 of the I.P.C. and section 3 and 4 of Dowry Prohibition Act and after taking cognizance, the case was committed to the Court of Sessions, where S.T. No. 467 of 1997 was registered. The accused persons pleaded not guilty and claimed to be tried.

6. In order to substantiate the charge leveled against the accused persons, altogether 10 witnesses were examined by the prosecution:-

P.W.-1	Dr. B.K. Verma
P.W.-2	Bhawani Mahato
P.W.-3	Laxman Mahto
P.W.-4	Birju Mahto
P.W.-5	Hani Mahto (Informant)
P.W.-6	Deoki Mahto
P.W.-7	Baijnath Mahto
P.W.-8	Kishori Mahto
P.W.-9	Ram Lal Mahto
P.W.-10	Chandrama Singh, I.O.

7. Apart from the oral evidence, the prosecution has also adduced following documentary evidence:-

Ext.-1	Carbon Copy of P.M. Report
Ext.-2	Signature on Pachyaatinama
Ext.-2/1	Signature of C.C. of Inquest Report
Ext.-2/2	Signature on Fardbeyan
Ext.-2/3	Signature on Panchyatinama
Ext.-2/4	Signature on Panchayatinama
Ext.-3	Panchayatinama
Ext.-4	Formal F.I.R.
Ext.-5	Inquest Report
Ext.-6	Examination Report of Viscera of Lali Devi

8. On the other hand, defence has also examined following two witnesses:-

D.W.-1	Nageshwar Thakur
D.W.-2	Ishwar Yadav

9. Apart from oral testimony, no documentary evidence has been adduced on behalf of the defence

10. The learned trial Court after evaluating the evidence available on record, found the appellant guilty for the offence under Section 306 of the IPC and 3/4 of Dowry Prohibition Act and sentenced as stated above. Other three co-accused persons jointly facing the trial along with the appellant have been found innocent and acquitted by the learned Trial Court.

Submissions on behalf of appellant: -

11. Learned counsel for the appellant assailing the impugned judgment of conviction and sentence of the appellant, has strenuously argued that there is no eye witness of the occurrence, the main prosecution witnesses including P.W.-2, P.W.-3, P.W.-4 and P.W.-5 are the relatives of informant who have materially improved their evidence as regards demand of dowry and consequential torture meted with the deceased. The specific case of the prosecution from the very inception is that the deceased was harassed for not having any issues and was Barren (Banjh). P.W.-6, P.W.-7, P.W.-8 and P.W.-9 are the local villagers of matrimonial home of the deceased who have fairly admitted cordial relationship between the deceased and her husband (appellant) and other family members. It is also stated that appellant's wife has died due to snake bite. It is further submitted that in the P.M. Examination report of the deceased also, no internal or external injury was found on the dead body of the deceased, the cause of death was kept reserved till the receipt of viscera report which was preserved and sent for chemical examination to S.F.S.L.,

Ranchi and the S.F.S.L. Report in connection with this case clearly shows that **no metallic, alkaloidal, glycoside, pesticidal or volatile poison could be detected in the dark brown fluid described above.** Therefore, the cause of death of the deceased as projected by the prosecution has not been proved conclusively. It is further submitted that as per decision of Panchayati Ext.-3 dated 02.06.1996 as relied upon by the prosecution, the terms and conditions Nos. (2) and (3) categorically states that 2.लड़की भरत महतो के पास खुशी-खुशी रहना तैय्यार हैं। लड़की इस बीच अपने पति को आत्महत्या करने का धमकी नही देगी और नही अपने माता-पिता के बातों से गुमराह होगी। 3. भरत महतो अपनी पत्नी को बिना गलती किये किसी प्रकार का गाली गलौज या मार-पिट नहीं करेंगे. Therefore, it clearly shows that the deceased had a suicidal tendency. The prosecution has also not led any evidence that after Panchayati, the accused had ever assaulted or tortured the deceased for any reason. Therefore, the learned trial Court has miserably failed to properly appreciate the evidence available on record and wrongly held the appellant guilty for the aforesaid offences which is liable to be set aside allowing this appeal.

Submissions on behalf of the State

12. On the other hand, learned A.P.P. for the State defending the judgment of conviction and sentence of the appellant has submitted that the learned trial Court has very wisely and aptly considered all the materials available on record and rightly convicted the appellant for the offence under Section 306 of the I.P.C. and 3 and 4 of D.P. Act

and has not committed any illegality or infirmity in passing the impugned judgment which does not call for any interference in this appeal, which is devoid of merits and fit to be dismissed.

13. I have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of both the parties.

14. In view of the points raised during arguments, the sole question emerges for consideration in this appeal is as to "Whether the conviction and sentence of the appellant suffers from any error of law, calling for any interference in this appeal?

Analysis, reasons and decision:

15. For better appreciation of the above issues involved in this case, the relevant provisions are quoted hereunder:-

> ***Indian Penal Code***
>
> ***498-A. 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 willful 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.]*

306. Abetment of suicide.- *If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.*

Indian Evidence Act

113-A. Presumption as to abetment of suicide by a married woman.- *When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.*

Explanation.- *For the purposes of this section, "cruelty" shall have the same meaning as in Section 498-A of the Indian Penal Code.*

16. Before adverting to adjudicate upon the above point, I have to take brief resume of oral as well as documentary evidence adduced in this case during trial.

P.W.-1 Dr. B.K. Verma who had conducted the autopsy on the dead body of Leela Devi had found following:-

External Examination:- No any external mark of injury present on the dead body.

On dissection:- Both lungs intact and congested. Heart-Left Chamber Empty. Right Chamber-Blood Clots. Liver, Spleen and Kidney, all intact and congested. Stomach-Offensive Smell found.

Cause of death :- Cause of death was kept reserved till receipt of the chemical examination of the viscera.

P.W.-2 Bhawani Mahto is the brother of the deceased who got information from the village Chowkidar that his sister died in her matrimonial home. This witness has deposed that after the marriage of his sister with Bharat Mahto, accused persons used to harass and torture her for dowry. He has further deposed that it was a third marriage of the Bharat Mahto with his sister and once the accused persons had assaulted her sister in his presence and ousted her from matrimonial home and threatened this witness to take his sister to her parental home otherwise she would be killed. In that respect, a Panchayati was also held and document was prepared marked as Ext.-3 wherein Bharat Mahato had undertaken to keep his sister properly.

In his cross-examination, he has further stated that he saw a wound on his sister's right cheek. It was a lacerated would. Her throat was also swollen.

P.W.-3 Lakshman Mahato is the another brother of the deceased who has deposed that after one year of marriage of his sister, accused Bharant Mahato had brought his sister to his house then his sister had stated that accused persons used to demand a motorcycle and Rs. 20,000/- cash as a dowry and if the same would not be fulfilled, the accused persons would not keep his sister in matrimonial home. In that respect, a panchayati was also held between the parties and after the panchayti, the deceased had gone to her matrimonial home and she was again tortured and assaulted for dowry.

P.W.-4 Birjoo Mahato has deposed that prior to one day of occurrence, he had gone to the matrimonial home of the deceased who narrated the whole story of alleged harassment and torture meted to her for dowry. This witness has proved the inquest report marked as Ext. 2/1.

P.W.-5 Hani Mahato is the informant-cum-father of the deceased who has deposed that chowkidar had come to inform that his daughter died and when he went to the matrimonial house, saw the dead body of the deceased lying in the courtyard. Thereafter, this witness came to the Police Station and got recorded his fardbeyan. This witness also stated that his son-in-law and other accused persons used to harass and torture his daughter for dowry. He has further stated that once, his son-in-law had brought his daughter to her parental home and there was a panchayati held wherein assurance was given by the accused persons that they would keep his daughter properly. This witness has further stated that one day prior to the occurrence, son-in-law of this witness (P.W.-4) along with his friend Amrit Mahato had gone to the matrimonial house of the deceased where deceased had narrated that accused persons branded her as "Banjh" and there was no use of her to keep in their family she should die after taking poison. He has further stated that the previous two wives had also died by consuming poison due to torture and assault meted by the husband.

P.W.-6 Dewaki Mahato is the resident of village of accused persons who has deposed that the deceased was married with Bharat Mahato and expressed his inability to tell about the death of the deceased. This witness has admitted that a panchayati was held and a document was prepared between the parties. He has further stated that he heard so many things relating to the death of the deceased but deceased had never told him about the alleged demand of dowry.

P.W.-7 Baiju @ Baijnath Mahato has also deposed that prior to death of the deceased, there was a panchayati in that respect and the deceased was brought to her matrimonial home and after one year, she died. This witness has also stated that there was no demand of dowry.

P.W.-8 Kishori Mahato another resident of village of accused persons who has deposed that the deceased had died due to snake bite. This witness has proved the inquest report and also stated that the inquest report was prepared in his presence.

P.W.-9 Ramlal Mahato is also a resident of village of accused persons who had heard that deceased died due to snake bite. This witness was also one of the punch in the panchayati held and he used to go to the house of the accused persons but this witness was never complained about any torture and assault by the accused persons upon the deceased.

P.W.-10 Chandrama Singh, the then, S.I. Muffasil, P.S., Hazaribag. Who has recorded the fardbeyan of the informant and proved the F.I.R. He has further stated that during course of investigation, he recorded the statements of the prosecution witnesses and prepared the inquest report in presence of independent witness. He has further stated that the informant has not said in his statement that after marriage the accused Bharat Mahato and his brother Kailash, his wife and mother-in-law Saro Devi were demanding a motorcycle and Rs. 5000/- and due to non-fulfillment of demand started harassing the deceased.

17. On the other hand, defence has also examined two defence witnesses.

D.W.-1 Nageshwar Thakur who has deposed that he knows the accused Bharat Mahto (appellant) who belongs to same village of this witness. This witness has stated that the deceased died due to snake bite when she had gone to pick vegetables from field and was bitten by a snake. Upon hearing *Halla*, Ishwar Mahato, Devki Mahato, Ramlal Mahato and Kishori Mahato went there, the, deceased told them that the snake had fled that way but they did not find it. After that, this witness went to call Bharat Mahto (appellant), then, Bharat Mahto went to call *Ojha*. The said *Ojha* arrived around two thirty but due to arrival of Police, the said *Ojha* did not attend the deceased.

In his cross-examination, this witness admits that he did not discuss this incident with the police. He also admits that this

incident occurred in front of him and deceased was never harassed for dowry.

D.W.-2 Ishwar Yadav has also stated that deceased died due to snake bite when she had gone to pick vegetables and on hearing *Halla*, this witness had rushed towards the place of occurrence with other witnesses.

In his cross-examination, this witness also admitted that apart from him, there was number of persons gathered there where snake had bitten the deceased. This witness admits that police did not record his statement about the occurrence.

18. Now the question for consideration is as to whether the prosecution has established the abetment due to which the deceased committed suicide within seven years of the marriage to fasten the guilt of the accused for the offence punishable under Section 306 of the IPC with the aid of Section 113A of the Indian Evidence Act. For applicability of Section 113A of the Indian Evidence Act, the following conditions are required to be satisfied:

(i) That the woman has committed suicide;

(ii) Such suicide has been committed within a period of seven years from the date of her marriage;

(iii) And the husband or his relatives, who are charged had subjected her to cruelty.

19. It is also pertinent to mention the relevant paragraph no. 4 of the judgment of Hon'ble Supreme in the case of "**Bhupendra Nath Prasad Vs. State of Bihar" reported in [(1992) 2 SCC 547]:-**

> *"4. We find considerable force in this submission. PW 6, the doctor, in his chief examination itself has stated that the family members who brought the deceased to the hospital told him that somebody made him take wine and betel and that since thereafter he started vomiting and feeling giddiness. In cross-examination PW 6 further admitted that he has written in the bed-ticket that the death was due to cardio-respiratory failure. It is also elicited from him that such failure could be due to over-drinking of wine or due to poison. He also stated that when brought to the hospital, the wine odour was coming from the mouth of the deceased. So his evidence is not very helpful as to the cause of death. As already mentioned the doctor who conducted the post-mortem has not been examined. However, the post-mortem certificate is on record. It only shows that the viscera was preserved for chemical analysis and the opinion as to the cause of death was reserved till the report of the Chemical Examiner regarding the viscera was received. As already noted no such report of the Chemical Examiner has been produced nor the doctor who conducted the post-mortem has given any opinion as to the cause of death. Therefore we are left with the Chemical Examiner's report given on the basis of the test examination of the stomach wash and the vomited substance, said to have been seized by the police and sent to the Chemical Examiner. PW 6 the doctor does not speak about any such seizure. PW 1, a compounder in the hospital, however, deposed that the vomited substance was put in a bottle and sealed but he does not say that the same was seized. PW 3, however, deposed that the police officer seized the vomited substance at the house of the deceased and a seizure report was prepared and he affixed his signature. PW 12, an Investigating Officer also stated that he seized the vomited substance. It is needless to say that in a criminal case the cause of death has to be ascertained conclusively. As already noted the post-mortem report does not in any manner establish the same. Even accepting that Nux Vocica was found in the vomited substance it cannot be concluded that the death was due to poisoning and particularly when PW 6, the doctor has noted that the death was due to cardio-respiratory failure either due to taking excess wine or due to poison. Admittedly the alcoholic smell was coming from the mouth of the deceased when he was unconscious. Therefore a reasonable doubt arises about the cause of death. Even otherwise there is no*

satisfactory evidence in this case that it was the accused who gave the betel containing poison to the deceased. The wife and the daughters of the deceased who took the deceased to the hospital stated before PW 6, the doctor that the deceased told them that somebody gave him wine and betel and thereafter he became giddy. These witnesses were cross-examined with their earlier statements and PW 12, an Investigating Officer admitted that the wife of the deceased did not state before him that the accused had taken her husband with him. Thus the evidence regarding the so-called oral dying declaration is also unsatisfactory and does not inspire confidence. It is well settled that in a case depending upon circumstantial evidence all the circumstances should conclusively point towards the guilt of the accused. In this case even the cause of death has not been conclusively established. Therefore, we are constrained to interfere. Accordingly the conviction and sentence awarded against the appellant are set aside and the appeal is allowed. He is on bail. His bail bond shall stand cancelled."

20. In the instant case, perusal of decision of Panchayatinama i.e. Ext.-3 dated 02.06.1996 clearly shows that the deceased had a suicidal tendency and after the said Panchayati dated 02.06.1996 till the death of the deceased, there is no iota of evidence led by the prosecution showing that the appellant has ever ill-treated or tortured his wife for any whatsoever reason. It is also not a case of homicidal death in as much as there was no internal or external injury found on the body of the deceased as per the post-mortem report of the Doctor (P.W.-1) and in the viscera of the deceased which was preserved for chemical examination, no poisonous substance was detected. Therefore, evidence of independent witnesses that the deceased died due to snake bite becomes more probable and this fact is also supported by the oral evidence of D.W.-1 and D.W.-2 who have categorically stated that deceased died due to snake bite when she had gone to pick vegetables and on hearing *Hulla* of her, many of the witnesses went

there but did not find the snake and the deceased told them that snake fled away towards that direction. The most vital element of offence under Section 306 of the IPC i.e. abetment by the accused to commit suicide, the deceased might have committed suicide but there is no evidence of any abetment extended by the present appellant. It also appears that no charge under Section 498A of the I.P.C. was framed by the learned Trial Court regarding any harassment or torture of the deceased at the hands of the appellant on account of any illegal demand. Therefore, the ingredients under Section 306 of the IPC to convict the accused is lacking in this case and the same is absolutely unwarranted in the facts and circumstances proved by the prosecution. It is also apparent from the very inception and even the dispute raised before the Panchayati (Ext.-3), that there was no demand of any dowry by the accused appellant. In the F.I.R. also, there is no whisper that the appellant has ever demanded anything as additional dowry. Therefore, some of the witnesses i.e. P.W.-3 and P.W.-4 who have materially improved in their evidence before the Court leveling allegation of demand of dowry in the shape of one motor-cycle and Rs. 20,000/- is absolutely unbelievable and beyond truth and not supported by the star prosecution witness being father of the deceased. Therefore, the learned trial Court has committed serious error of law in arriving at guilt of the appellant where prosecution has not proved its very initial facts constituting the offence under Section 306 of the IPC

against the appellant as well as under Section 3/4 of the D.P. Act. In absence of any cogent and reliable evidence, I am constrained to hold that the appellant is innocent and has not committed the offence charged against him.

21. In view of the above discussions and reasons, the conviction and sentence of the appellant passed by the learned trial Court under Section 306 of the IPC and 3 & 4 of D.P. Act **is hereby set aside**.

22. In result, **this appeal is allowed**.

23. Appellant is on bail, he is discharged from the liabilities of bail bond. Sureties are also discharged.

24. Pending I.A(s), if any, is also disposed of, accordingly.

25. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned immediately for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi
Date: 08/10/2026
*Basant/-**N.A.F.R.***
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