IN THE HIGH COURT OF JHARKHAND AT RANCHI

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Acquittal Appeal (D.B.) No. 53 of 2018

(Arising out of judgment of acquittal dated 27.07.2018, passed by learned Additional Sessions Judge-I Special Judge FTC Jamshedpur in S.T. No.233 of 2015)

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Jagdish Singh, aged about 67 years, son of Late Balo Singh, Resident of Hume Pipe-Basti Kalyan Nagar, PO & Police Station-Sitaramdera, Dist-East Singhbhum. **….. Appellant**

Versus

1.The State of Jharkhand

2. Upendra Singh, Son of Sri Laxmi Singh, Resident of Hume Pipe Chhaya Nagar, PO & Police Station-Sitaramdera, District-Singhbhum, East

…. Respondent

……

For the Appellant(s) : Mr. Chandan Kumar, Advocate
For the Respondent(s) : Mr. Faisal Allam, Advocate

PRESENT
Sri Ananda Sen, J.
Sri Pradeep Kumar Srivastava, J.
J U D G M E N T

30.09.2026
***By Court.*:**

This acquittal appeal is preferred against the judgment of acquittal passed by learned Additional Sessions Judge-I Special Judge FTC Jamshedpur in S.T. No.233 of 2015, whereby and whereunder respondent Nos.2 namely, Upendra Singh has been acquitted from the charges under Sections 304 B of the IPC.

2. The law dealing with the judgment against acquittal has been settled by the Hon'ble Supreme Court. The Hon'ble Supreme Court in the case of ***Mallappa versus State of Karnataka***, reported in ***(2024) 3 SCC 544***, at paras 26 and 27 has held as under:-

> ***"26. No doubt, an order of acquittal is open to appeal and there is no quarrel about that. It is also beyond doubt that in the exercise of appellate powers, there is no inhibition on the High Court to reappreciate or re-visit the evidence on record. However, the power of the High Court to reappreciate the evidence is a qualified power, especially when the order under challenge is of acquittal. The first and foremost question to be asked is whether the trial court thoroughly appreciated the evidence on record and gave due consideration to all material pieces of evidence. The second point for consideration is whether the finding of the trial court is illegal or affected by an error of law or fact. If not, the third***

consideration is whether the view taken by the trial court is a fairly possible view. A decision of acquittal is not meant to be reversed on a mere difference of opinion. What is required is an illegality or perversity.

27. It may be noted that the possibility of two views in a criminal case is not an extraordinary phenomenon. The "two-views theory" has been judicially recognised by the courts and it comes into play when the appreciation of evidence results into two equally plausible views. However, the controversy is to be resolved in favour of the accused. For, the very existence of an equally plausible view in favour of innocence of the accused is in itself a reasonable doubt in the case of the prosecution. Moreover, it reinforces the presumption of innocence. And therefore, when two views are possible, following the one in favour of innocence of the accused is the safest course of action. Furthermore, it is also settled that if the view of the trial court, in a case of acquittal, is a plausible view, it is not open for the High Court to convict the accused by reappreciating the evidence. If such a course is permissible, it would make it practically impossible to settle the rights and liabilities in the eye of the law."

Further, the Hon'ble Supreme Court in the case of ***Girish Singh versus State of Uttarakhand***, reported in ***(2020) 18 SCC 423***, at paras 29, 30, 31 and 32 has held as under:-

"29. We have referred to the entire evidence. The trial court acquitted the accused. The jurisdiction of the appellate court, when it deals with such an order, is no longer res integra and is subject-matter of a catena of decisions of this Court.

30. In Upendra Pradhan v. State of Orissa [Upendra Pradhan v. State of Orissa, (2015) 11 SCC 124 : (2015) 4 SCC (Cri) 309] , this Court took the view that if there is benefit of doubt, it must go to the accused, and in case of two views, the view that favours the accused, should be taken, which was more so where the trial court's decision was not manifestly illegal, perverse and did not cause miscarriage of justice.

31. In Dilawar Singh v. State of Haryana [Dilawar Singh v. State of Haryana, (2015) 1 SCC 737 : (2015) 1 SCC (Cri) 759] , this Court took the view that the Court will not interfere with the verdict of acquittal merely because on evaluation of evidence, a different plausible view may arise. Very substantial and compelling reasons must exist with the appellate court to interfere with an acquittal.

32. In Gamini Bala Koteswara Rao v. State of A.P. [Gamini Bala Koteswara Rao v. State of A.P., (2009) 10 SCC 636 : (2010) 1 SCC (Cri) 372 : AIR 2010 SC 589] , this Court accepted the contention of the appellant that interference in an appeal against acquittal should be rare and in exceptional circumstance. It was further held that it is open to the High Court to reappraise the evidence and conclusions arrived at by the trial court. However, it is limited to those cases where the judgment of the trial court was perverse. This Court went on to declare that the word "perverse", as understood in law, has been understood to mean, "against the weight of evidence". If there are two views and the trial court has taken one of the views merely because another view is plausible, the appellate court will not be justified in interfering with the verdict of acquittal (see K. Prakashan v. P.K. Surenderan [K. Prakashan v. P.K. Surenderan, (2008) 1 SCC 258 : (2008) 1 SCC (Civ) 182 : (2008) 1 SCC (Cri) 200])."

Further, the Hon'ble Supreme Court in the case of ***State of Odisha versus Banabihari Mohapatra***, reported in ***(2021) 15 SCC 268*** at para 32 has held as under:-

"32. As held by this Court in Sadhu Saran Singh v. State of U.P. [Sadhu Saran Singh v. State of U.P., (2016) 4 SCC 357 : (2016) 2 SCC (Cri) 275] an appeal against acquittal has always been on an altogether different pedestal from an appeal against conviction. In an appeal against

> ***acquittal, where the presumption of innocence in favour of the accused is reinforced, the appellate court would interfere with the order of acquittal only when there is perversity. In this case, it cannot be said that the reasons given by the High Court [State of Odisha v. Banabihari Mohapatra, 2020 SCC OnLine Ori 936] to reverse the conviction of the accused are flimsy, untenable or bordering on perverse appreciation of evidence."***

3. Considering the aforesaid law, the impugned judgment of acquittal in this case has to be evaluated.

4. As per the written report of the informant namely, Jagdish Singh the marriage of his daughter namely, Priyanka was solemnized with Upendra Singh. On 13.02.2015 in the evening at about 7:30 PM, his son-in-law Upendra Singh informed him on phone that Priyanka has sustained burn injury and she has been admitted to TMH. The informant has stated that his daughter was burnt to death after being assaulted by her husband, father-in-law, Laxmi Singh, mother-in-law, Urhul Devi, Nand-Anju Devi and Maya Devi and Dewars Abhay Singh and Nirbhay Singh.

5. The police after investigation, submitted chargesheet against respondent No.2. After taking cognizance the case was committed to the Court of Sessions where charge was framed under Section 304B of IPC.

6. Altogether eleven witnesses have been examined in this case by the prosecution, who are as follows:-

(i) P.W.-1 Rajendra Singh
(ii) P.W.-2 Tanushri Dhan
(iii) P.W.-3 Rajiv Banik
(iv) P.W.-4 Mamuni Patro
(v) P.W.-5 Munmun Mandal @ Anjana Mandal
(vi) P.W.-6 Nitu Singh
(vii)P.W.-7 Suraj Yadav
(viii) P.W.-8 Niraj Singh
(xi)P.W.-9 Jagdish Singh is informant
(x) P.W.-10 Dr. Lalan Choudhary (Medical Officer)
(xi) P.W.-11 Sangita Kumari is the I.O.

7. The following documentary evidences were exhibited by the prosecution:-

Exhibit-1- Signature of witness over written report
Exhibit-1/1 entire written report.
Exhibit-2 post-mortem report
Exhibit-1/2- registration of written application

Exhibit- 3 signature of Sunil Choudhary on formal FIR

8. The accused/defence, has examined two witnesses which are as follows: -

D.W.-1 Manish Kumar
D.W.-2- Jashwant Singh

9. After hearing arguments of both the parties, the Trial court acquitted the respondent No.2 from charges under Section 304B of IPC, however has convicted him under Section 498-A of IPC.

10. Learned counsel for the appellant submits that the Trial Court has not properly appreciated the evidence of the prosecution in this case. He submits that the case is under Section 304B of IPC and all the ingredients of Section 304B of IPC are present. The death of the deceased was not natural and it happens within seven years of her marriage. Further, she was subjected to cruelty or harassment in connection with demand of dowry. Thus, the Trial Court should have convicted the appellant under Section 304B of IPC.

11. Learned counsel for the State submits that the Trial Court has properly appreciated evidence of the prosecution and came to a conclusion that this is not a case under Section 304B of IPC however, this is a case under Section 498-A of IPC. He submits that ingredients of Section 304B of IPC has not been established by the prosecution, but the ingredient of Section 498-A of IPC has been properly established. Thus, the judgment of the Trial Court needs no interference.

12. Heard, learned counsel for the appellant, learned counsel for the State and we have gone through the impugned judgment and records, we find that the charge was framed under Section 304B of IPC against the appellant.

Section 304B of IPC reads as follows:-

"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."*

13. In order to attract Section 304B of IPC following essential ingredient has to be satisfied:-

I) The death of woman should be caused by burns or bodily injury or otherwise than under normal circumstances.

II) The death should occurred within seven years of her marriage.

III) She must have been subjected to cruelty or harassment by husband/ relatives of husband.

IV) Such cruelty / harassment should be in connection with demand of dowry.

V) The cruelty/ harassment should be soon before her death."

14. In this case, we find that the whole prosecution case is based on related witnesses. Admittedly, those witnesses are not eye witnesses. From the evidence, we find that the deceased died due to burning at the matrimonial home. The witnesses who are the neighbour stated that the deceased was burning inside her matrimonial house and the door was bolted from inside and none of her in-laws including her husband was inside the said house. On getting information about smoke coming out it was accused who rushed there and having forced his entry through the door and he extinguished fire and immediately took her to TMH by his tempo. P.W.-7 also stated that at that time when she was burning inside, the door of the house was bolted from inside, so they broke open the door to enter. Further, we find that the death within four years of her marriage as she was married to the accused on 24th June, 2011 and she died on 13.02.2015. From the evidence of the related witness, we also find that she was subjected to torture and assault after her marriage, however, from the evidence of witnesses of neighbour, we find that they have consistently stated that they never saw or heard any quarrel or dispute between the deceased

and her in-laws or husband and there was very cordial relationship between them. From the totality of the facts emerged, we find that she was certainly subjected to cruelty and harassment at her Sasural by her husband.

15. So far as the question as to whether the cruelty / harassment was in connection with demand of dowry or not and whether the same has been meted out to the deceased soon before her death or not, we find that the prosecution has failed to satisfy these two ingredients of Section 304-B of IPC. From the evidence, we find that soon after the marriage demand of dowry was made, but there is no evidence that soon before death any demand of dowry was made. Further, there is also no evidence that any cruelty or harassment has been meted out to the deceased soon before her death.

16. The Hon'ble Supreme Court in the case of ***Baljinder Kaur v. State of Punjab***, reported in ***(2015) 2 SCC 629*** at paragraphs 18 & 21 has held as under:-

> *18. The above decisions of this Court laid down the proximity test i.e. there must be material to show that "soon before her death" the woman was subjected to cruelty or harassment "for or in connection with dowry". The facts must show the existence of a proximate live link between the effect of cruelty based on dowry demand and the death of the victim. "Soon before death" is a relative term and no straitjacket formula can be laid down fixing any time-limit. The determination of the period which can come within the term "soon before death" is left to be determined by the courts depending upon the facts and circumstances of each case.*
>
> *21. In our view, there is force in the submission of the learned counsel for the appellant. In cases related to dowry death, the circumstances showing the cruelty or harassment are not restricted to a particular instance, but normally refer to a course of conduct. Such conduct of cruelty or dowry harassment must be "soon before death". There should be a perceptible nexus between her death and the dowry related harassment or cruelty inflicted on her.*

Further, the Hon'ble Supreme Court in the case of ***Devender Singh v. State of Uttarakhand***, reported in ***(2022) 13 SCC 82*** at paragraph 14 has held as under:-

> *14. The question, therefore, is as to whether the evidence tendered by the prosecution would be sufficient to establish the remaining ingredients of Section 304-BIPC with regard to the demand for dowry and perpetration of cruelty and harassment in connection with such a demand. Further, whether such cruelty and harassment were suffered*

by the deceased soon before her death so as to constitute a dowry death. As to the phrase "soon before her death", it is well-settled that the same ought to be interpreted to mean proximate and to be linked with but not to be understood to mean immediately prior to the death.

Further, in the case of ***Kans Raj v. State of Punjab,*** reported in ***(2000) 5 SCC 207***, the Hon'ble Supreme Court at paragraph 15 has held as under:-

15. *It is further contended on behalf of the respondents that the statements of the deceased referred to the instances could not be termed to be cruelty or harassment by the husband soon before her death. "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. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. 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. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be "soon before death" if any other intervening circumstance showing the non-existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. 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.*

From the aforesaid judgment, we find that the expression "Soon before her death" does not mean immediately, however, it also does not mean that such time can be stretched to any period. The determination of the period which can come within the term "soon before death" is depending upon the facts and circumstances of each case. However, there should be a perceptible nexus between the death and the dowry related harassment or cruelty.

17. In this case, we find that the informant father has testified that one day before the occurrence of death that is on 12.02.2015, he had gone to meet Priyanka at her Sasural but she did not make any complain of any sort. Other witness like PW1 and PW8 have not

stated about any such cruelty meted out to her soon before her death. The prosecution has failed to bring forth any sleight of evidence which may show that she was subjected to cruelty soon before her death in connection with dowry demand.

18. Considering the aforesaid materials and relying upon the judgment of the Hon'ble Supreme Court, we find no infirmity in the judgment of acquittal, accordingly, the instant Acquittal Appeal stands **dismissed**.

19. Let the Trial Court Record be transmitted to the Court concerned along with a copy of this judgment.

(Ananda Sen, J.)

(Pradeep Kumar Srivastava, J.)

High Court of Jharkhand, Ranchi
Dated 30/09/2026
A.F.R. R.S./S.K.D. Cp 03.
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