



Criminal Moot Assignment

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C. No. ---/2025

Before the
Learned Session Court, Lucknow
in the matters of

State of U.P.

... Prosecution

vs.

Arjun Yadav & Ors

...Defence

TABLE OF CONTENTS

Sr. No.	Particulars	Page No.
1.	Table of Abbreviations	3
2.	Index of Authorities	4
3.	Statement of Jurisdiction	5
4.	Statement of Facts	6
5.	Issues Raised	7
6.	Summary of the Arguments	8
7.	Arguments Advanced	9-13
	1. Whether the ingredients for committing dowry death are fulfilled?	9-10
	1.1 Presumption of Guilt, Section 118 BSA	10
	2. Whether the Accused committed Murder of the Deceased?	11-12
	2.1 Dying Declaration	11
	2.2 Marital Rape	12
	3. Whether the prosecution has successfully rebutted the presumption of innocence and discharged its burden of proof beyond reasonable doubt?	13
8.	Prayers	14

TABLE OF ABBREVIATIONS

Sr. No.	Abbreviations	Full-forms
1.	AIR	All India Reporter
2.	Hon'ble	Honourable
3.	BNS	Bharatiya Nyaya Sanhita
4.	BSA	Bharatiya Sakshya Adhiniyam
5.	BNSS	Bharatiya Nagarik Suraksha Sanhita
6.	v.	versus
7.	SC	Supreme Court
8.	SCC	Supreme Court Cases
9.	Cri	Criminal
10.	RCR	Restitution of Conjugal Rights

INDEX OF THE AUTHORITIES

I. Case Laws

Sr. No.	Case Title	Citation	Pg. No.
1.	Kamesh Panjiyar v. State of Bihar	(2005) 2 SCC 388	9, 10
2.	Biswajit Haldar v. State of West Bengal	(2007) 1 SCC (Cri) 1048	10
3.	Ramaz Kumar v. State of Punjab	1998 (1) RCR (Criminal) 201	10
4.	Sharad Birdhichand Sarda v. State of Maharashtra	AIR 1984 SC 1622	11
5.	Khushal Rao v. State of Bombay	AIR 1958 SC 22	11
6.	P.V. Radhakrishna v. State of Karnataka	(2003) 6 SCC 443	11
7.	Ram Singh v. State of Haryana	AIR 2002 SC 620	13
8.	State of Punjab v. Karnail Singh	AIR 2003 SC 3609	13

II. LEGISLATIONS

Sr. No.	Title of Legislation	Pg. No.
1.	Bharatiya Nyaya Sanhita, 2023	9,10
2.	Bharatiya Sakshya Adhiniyam, 2023	9,10
3.	Bharatiya Nagrik Suraksha Sanhita, 2023	5

III. WEBSITES

Sr. No.	Website Link
1.	Indian Kanoon, https://indiankanoon.org/
2.	Live Law, https://www.livelaw.in/
3.	Manupatra, https://www.manupatrafast.in/

STATEMENT OF JURISDICTION

The Hon'ble Court has jurisdiction to try the instant matter. The Hon'ble Court is vested with the jurisdiction to adjudicate the present matter under Section 197 and 232 of the BNSS, 2023

Section 197

"Every offence shall ordinarily be inquired into and tried by a court within whose local jurisdiction it was committed."

Section 232

"When in a case instituted on a police report or otherwise, it appears to the Magistrate that the offence is triable exclusively by the Court of Session, he shall commit the case to the Court of Session..."

STATEMENT OF FACTS

The present case arises out of the alleged unnatural death of Ms. Neha Yadav, a 28-year-old homemaker residing in Lucknow, who was married to Mr. Arjun Yadav in January 2023.

On 5th February 2025, Neha was discovered lying in a pool of blood at her matrimonial home under suspicious circumstances. Her father filed a complaint alleging persistent dowry-related harassment and physical abuse by her husband and his family.

The complainant contended that Neha had confided in her family on multiple occasions regarding instances of emotional and physical torment, which were allegedly connected to unmet dowry demands.

A case was registered against the accused under Sections 107 i.e. Dowry Death and Section 302 i.e. murder of the Bharatiya Nyaya Sanhita, 2023. During investigation, the post-mortem report indicated grievous injuries and also suggested the possibility of sexual assault.

Prior to her death, Neha's dying declaration was recorded before a magistrate. In the said statement, she alleged that Arjun Yadav had raped her on 4th February 2025 and physically assaulted her when she refused to bring Rs. 10 lakh from her parents. She further claimed he threatened to kill her.

The defence denied all allegations and asserted that Neha's death was accidental. They also challenged the admissibility of the dying declaration and contended that prior allegations of cruelty were vague, lacking any direct evidence to establish motive or intent for murder or dowry-related harassment.

The prosecution, on the other hand, relied on circumstantial evidence, witness statements of neighbours who allegedly heard Neha's screams on the night of 4th February, and forensic evidence indicating assault and sexual violence.

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ISSUES RAISED

I.

Whether the ingredients for committing dowry death are fulfilled?

II.

Whether the Accused committed Murder of the Deceased?

III.

Whether the prosecution has successfully rebutted the presumption of innocence and discharged its burden of proof beyond reasonable doubt?

SUMMARY OF THE ARGUMENTS

1. Whether the ingredients for committing dowry death are fulfilled?

The prosecution has failed to prove that the deceased was subjected to cruelty or harassment in connection with a dowry demand soon before her death. Mere allegations without specific, consistent, and credible evidence do not satisfy the legal requirements to establish dowry death. The circumstances in which the dying declaration was made raise serious doubts regarding its voluntariness and truthfulness. No independent verification, medical certification of fitness, or timely recording ensures its credibility. It cannot be solely relied upon for conviction.

2. Whether the Accused committed Murder of the Deceased?

There is a complete absence of any eyewitness testimony or clear forensic linkage that proves the accused caused the death of the deceased with intention or knowledge. The defence submits that the incident, at best, remains shrouded in suspicion and lacks the certainty required for conviction. The allegation of rape made shortly before death is uncorroborated and does not align with the conduct or prior statements of the deceased. The lack of prompt complaint or supporting witness statements renders this allegation doubtful.

3. Whether the prosecution has successfully rebutted the presumption of innocence and discharged its burden of proof beyond reasonable doubt?

The burden of proof rests squarely on the prosecution and cannot be shifted to the defence. In the absence of convincing and consistent evidence, the benefit of doubt must go to the accused in accordance with settled principles of criminal jurisprudence.

ARGUMENTS ADVANCED

1. Whether the ingredients for committing dowry death are fulfilled?

It is first brought into the kind attention of the Leaned Court that the prosecution, while alleging the serious offence of dowry death, has failed to invoke the correct statutory provision under Section 80 BNS, instead citing Section 107, which pertains to abetment. While this may be seen as a curable defect under Section 510 BNSS, it reflects the non-application of mind by the police at the stage of FIR and charge-sheet, casting doubt on the integrity of the investigative process. The accused was thus subjected to proceedings without clear legal foundation.

Secondly, even if the ground of prosecution is rectified the offence of dowry death is not made out. The Supreme Court in *Kamesh Panjiyar v. State of Bihar*¹, has clearly laid down five essential ingredients that must be cumulatively established to sustain a conviction for dowry death. These elements are also incorporated into Section 80 of the Bharatiya Nyaya Sanhita, 2023, and must be read along with Section 118 of the Bharatiya Sakshya Adhiniyam for the presumption to apply.

- (i) The death of a woman should be caused by burns or bodily injury or otherwise than under normal circumstance.
- (ii) Such a death should have occurred within seven years of her marriage.
- (iii) She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
- (iv) Such cruelty or harassment should be for or in connection with the demand of dowry.
- (v) Such cruelty or harassment must have occurred soon before her death.

It is submitted that in the present case while the prosecution claims the deceased had been harassed, there is no contemporary complaint, no FIR, no medical record, or witness to such alleged cruelty prior to the date of incident.

The neighbours' statements only refer to screams heard on February 4, which relates to the night of the incident — not a pattern of past cruelty. There is also no indication of cruelty by other relatives as alleged. Crucially, the demand for dowry has not been substantiated beyond mere assertions in the dying declaration. There is no documented complaint, any prior bank statements

¹ (2005) 2 SCC 388

or transfers to substantiate the allegation or corroborating evidence from the deceased during her lifetime indicating any pressure or violence linked to a demand of Rs.10 lakh.

It is to be noted that the arguments by the prosecution are mere oral averments regarding any dowry demand. And such general accusations are without any merit.

In, *Biswajit Halдар v. State of West Bengal*²– conviction unsustainable without proof of nexus between cruelty and dowry demand.

Here, there is no material evidence showing that cruelty was for or in connection with dowry. Hence, Element (iv) fails.

The defence submits that even if there were prior incidents of quarrels in the marriage, the prosecution has not proved any recent acts of cruelty “soon before” death, which is a mandatory precondition for invoking Section 80 BNS.

As per Kamesh Panjiyar, the cruelty must be proximate in time. Here, no neighbour has testified to consistent or recent quarrels. No prior complaint was made to police or relatives “soon before” Feb 4–5, 2025. Dying declaration is uncorroborated and vague on timing of earlier incidents.

Therefore, the charge under Section 80 BNS is not maintainable, and the presumption under Section 118 BSA cannot be invoked.

1.1 Presumption of Guilt, Section 118 BSA

As held in *Biswajit Halдар v. State of West Bengal*, the Court ruled that:

"Evidence of cruelty and harassment not enough to bring Section 304-B into play unless such cruelty is shown to be in connection with demand of dowry."

In *Ramaz Kumar v. State of Punjab*³, the Court ruled that in the absence of contemporaneous proof of dowry demand, conviction merely based on post-facto statements is unsustainable. The court criticized the lack of reasoning and unverified accusations, leading to the accused's acquittal.

The demand for dowry is not substantiated, hence, any cruelty with regards to it under section 118 of BSA is rebutted.

For the sake of the argument even if such guilt is presumed, the accused need not prove innocence beyond reasonable doubt, a small doubt casted by him is enough to shift the burden on the prosecution.

²(2007) 1 SCC (Cri) 1048

³1998 (1) RCR (Criminal) 201

2. Whether the Accused committed Murder of the Deceased?

It is humbly contended that there is no direct evidence or eye witness that is relied on. The only evidence used is circumstantial evidence.

As held in *Sharad Birdhichand Sarda v. State of Maharashtra*⁴, it is well settled that the prosecution must stand or fall on its own legs and it cannot derive any strength from the weakness of the defence. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

- i) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,
- ii) the circumstances should be of a conclusive nature and tendency,
- iii) they should exclude every possible hypothesis except the one to be proved, and
- iv) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

In the facts at hand there is another view possible which is not consistent of the hypothesis of the guilt of the accused.

2.1 Dying Declaration

The dying declaration is uncorroborated and allegedly made while the victim was in critical condition.

In *Khushal Rao v. State of Bombay*⁵, Dying declaration must be wholly reliable and recorded in a fit mental state.

There is no mention of a medical certificate stating that Neha was in a fit physical and mental condition to give the statement. Without this, the voluntariness and reliability of the declaration are questionable.

The case of *P.V. Radhakrishna v. State of Karnataka*⁶ upheld that the dying declaration cannot be relied upon if there is doubt about the mental fitness of the declarant at the time of giving the statement.

⁴AIR 1984 SC 1622

⁵AIR 1958 SC 22

⁶(2003) 6 SCC 443

Moreover the dying declaration stated that “Arjun had physically assaulted her on multiple occasions and had threatened to kill her if she did not bring Rs.10 lakh from her parents. She also alleged that Arjun had raped her on February 4, 2025, before attacking her fatally” is gravely uncorroborated and does not at all point the reason of the impugned attack whether it was any dowry demand ‘soon before’ the death of the deceased.

2.2 Marital Rape

It is to be noted that the ground of Marital Rape has no substance because it is not proved in the forensic and even if for the sake of argument it is proved then it is an exception under exception 2 of section 63 so it cannot be made a ground for liability.

3. Whether the prosecution has successfully rebutted the presumption of innocence and discharged its burden of proof beyond reasonable doubt?

It is submitted that injuries are not conclusive of guilt. The presence of grievous injuries does not automatically prove that who inflicted them, when they were inflicted, whether they were accidental, suicidal, or homicidal, whether they were inflicted with intent to kill. It is respectfully submitted that although the post-mortem indicates that the deceased suffered injuries and possibly sexual contact before death, the prosecution has failed to establish that these were the result of homicidal violence or rape by the accused. The forensic report does not link the alleged assault to the accused, and the dying declaration lacks corroboration and is tainted by doubt. Therefore, no inference can be drawn that the death was caused under unnatural circumstances by the accused, or that sexual assault occurred as alleged.

In *Ram Singh v. State of Haryana*⁷, it is stated that

"Mere presence of injuries or marks on the deceased does not establish the identity of the assailant. Prosecution must link the injuries to the accused by cogent evidence."

Moreover, no blood-stained weapon recovered from Arjun. No eyewitness testimony of him attacking Neha.

In *State of Punjab v. Karnail Singh*⁸, Hon'ble Apex Court held that the golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favorable to the accused. Thus the view discharging the accused must be adopted.

⁷AIR 2002 SC 620

⁸AIR 2003 SC 3609

PRAYERS

WHEREFORE, in light of the issues raised, arguments advanced and authorities cited it is most humbly and respectfully requested that this Hon'ble Court to adjudge and declare:

1. Acquit the Accused, Mr. Arjun Yadav, of all charges levelled against him under Sections 80, 101, and 63 of the Bharatiya Nyaya Sanhita, 2023;
2. Hold that the prosecution has failed to prove its case beyond reasonable doubt;

The court may also be pleased to pass any other order, which this Hon'ble Court may deem fit in light of justice, equity and good conscience. All of which is respectfully submitted on behalf of

The Respondent

Sd/-

(Counsel for the "Respondent")