The State Of Madhya Pradesh vs Jogendra . on 11 January, 2022

Author: Hima Kohli

Bench: Hima Kohli, A. S. Bopanna, N. V. Ramana

CRIMINAL APPEAL NO. 190 OF 2012

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 190 OF 2012

STATE OF MADHYA PRADESH ….. APPELLANT

VERSUS

JOGENDRA & ANR. ….. RESPONDENTS

JUDGMENT

Hima Kohli, J.

1. The present appeal has been preferred by the State of Madhya Pradesh, being aggrieved by the judgment dated 10 th September, 2008 passed by the High Court of Madhya Pradesh, whereby the judgment of conviction and sentence dated 17th December, 2003 imposed by the learned Additional Sessions Judge on the original accused No.1, Jogendra – husband of the deceased, Geeta Bai[respondent No. 1 herein] and the original accused No.2, Badri Prasad – father-in-law of the deceased[respondent No. 2 herein] has been set aside under Sections 304-B and 306 of the Indian Penal Code, 1 while maintaining the order of conviction imposed on the original accused no. 1 – Jogendra 1 For short 'IPC' CRIMINAL APPEAL NO. 190 OF 2012 under Section 498-A IPC and reducing the sentence from three years to the period already undergone by him, but setting aside the conviction and sentence imposed on the accused No. 2, Badri Prasad even under Section 498-A IPC.

2. A quick glance of the relevant facts is necessitated. The deceased was 18 years old when she got married to the respondent No. 1 [A1] in a social marriage organisation function 2 conducted on 7th May, 1998. Before her marriage, Geeta Bai along with her mother, Kamla Bai and her brother used to reside with her maternal uncle, Bansi Lal [PW- 1]. In less than four years of her marriage, Geeta Bai committed suicide at her matrimonial home by pouring kerosene oil and setting herself on fire.

She was admitted in a burnt condition in the Community Health Centre, Baroda on 20th April, 2002 and breathed her last on the same day. At that time, she was five months pregnant. On receiving information from the attending doctor, an FIR was lodged on 23 rd April, 2002 [Exhibit P-13]. On completion of the investigation, the charge- sheet was filed and the case was committed for trial in the Sessions Court.

3. After examining the evidence produced by the prosecution and the defence, the trial Court acquitted Sushila [A-3] – mother-in-law and 2 Samuhik VIvaah Sammelan CRIMINAL APPEAL NO. 190 OF 2012 Jitender [A-4] – brother-in-law of the deceased, but convicted both the respondents[A-1 and A-2] [husband and father-in-law of the deceased] under Sections 304-B, 306 and 498-A IPC and imposed a sentence of rigorous imprisonment3 for life for the first offence, RI for a period of seven years with fine for the second offence and RI for three years with fine for the third offence. The conviction and sentence imposed on the respondents was primarily based on the evidence of Bansi Lal [P.W.-1], Shyam Bihari [P.W.-2] and Amrit Lal [P.W.-4], maternal uncles of the deceased who stated that the respondents had been demanding money from the deceased for constructing a house which her family members were unable to give. As a result, she was constantly harassed and subjected to cruelty, finally leading to her committing suicide. Dr. V.K. Garg [P.W.-8], who had conducted the post-mortem examination [Ex. P- 7] on the dead body of the deceased, had deposed that on examining the uterus, there was a foetus of five months in a dead condition and, in his opinion, the death of Geeta Bai had taken place due to burning.

4. On the respondents preferring an appeal against the judgment of conviction dated 17th December, 2003 passed by the Sessions Court, the High Court gave a clean chit to the respondent No. 2 [A-2], while setting aside the order of conviction in respect of the respondent No.1 [A-1] under Sections 304B and 306 IPC. However, the conviction of the 3 For short 'RI' CRIMINAL APPEAL NO. 190 OF 2012 respondent No.1 was sustained under Section 498-A IPC, but the sentence of RI for three years imposed on him was reduced to the period already undergone by him. For arriving at such a conclusion, the High Court was persuaded by the rulings in K. Prema S. Rao and Another v. Yadla Srinivasa Rao and Others4, Saro Rana and Others v. State of Jharkhand5 and Appasaheb and Another v. State of Maharashtra 6 and held that the demand of money for construction of a house cannot be treated as a demand for dowry. The High Court agreed with the submission made by the learned counsel for A-1 and A-2, respondents herein that the offence under Section 304-B was not established against them as the demand allegedly made on the deceased was for money to construct a house, which cannot be treated as a dowry demand for connecting her death to the said cause. The respondents were also acquitted for the offence under Section 306 IPC as the High Court was of the opinion that, from a scrutiny of the depositions of P.W.-1, P.W.-2, P.W.-4 and P.W.-6, there was nothing to sustain the conclusion that the respondents had abetted the deceased to commit suicide. As for the offence under Section 498-A relating to cruelty meted out to the deceased, the High Court acquitted the respondent No. 2, while maintaining the conviction order in respect of the respondent No. 1. 4 (2003) 1 SCC 217 5 2005 Crl.L.J. 65 delivered by a Division Bench of the High Court of Jharkhand 6 (2007) 9 SCC 721 CRIMINAL APPEAL NO. 190 OF 2012 Aggrieved by the said judgment, the present appeal has been filed by the State of Madhya Pradesh.

5. Mr. Prashant Singh, learned Advocate General for the appellant- State has assailed the impugned judgment and contended that the High Court has failed to appreciate the harassment caused to the deceased at the hands of the respondents who had been constantly demanding money from her to construct a house and purchase a plot of land; that the High Court did not consider the testimonies of Bansi Lal [P.W.-1], Shyam Bihari [P.W.-2], Amrit Lal [P.W.-4] and Rajesh Bhai [P.W.-6], who had unanimously stated that whenever the deceased used to visit her parental home, she would complain that she was being subjected to assault by the respondents for bringing a sum of 50,000/- [Rupees Fifty thousand] for constructing a house and that it was due to this harassment caused by them that the deceased got fed up and was forced to commit suicide. Learned counsel argued that contribution of money to construct a house, as demanded by the respondents from the deceased ought to be treated as a dowry demand and it is quite apparently a case where the offence under Section 304-B was made out. It was also submitted that this was a clear-cut case of abetment to commit suicide and both the respondents had rightly been convicted for CRIMINAL APPEAL NO. 190 OF 2012 the said offence by the trial Court, which order has been erroneously overturned in appeal.

6. For the purpose of deciding the present appeal, it is considered appropriate to extract below the statement of the uncle of the deceased, Bansi Lal [PW-1], who has been found to be a reliable witness by both the Courts below: -

> "2. Whenever Gitabai had used to come then she had used to say that she is beaten. She had told about beating by father- in-law and husband. They had used to demand rupees fifty thousand for construction of house. So they had used to beat her. Since I had no money so I did not give. I and people of society had also convinced to son-in-law and father-in-law but they did not agree. Gitabai had also discussed about demand of rupees fifty thousand with my sister and wife.
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> 3. We had received the information of death of Gitabai by phone at 11 o'clock of night. We did not give rupees fifty thousand thereafter Gitabai was beaten consequently her finger was also fractured. Her husband has committed beating.

Badriprasad had also expelled to Gitabai and Jogendra from the house. After ouster from the house, Gitabai and Jogendra had lived near the father of Badriprasad in Khanpur. Then both of them had come to Kota from there. They had lived in Kota for 7-8 months. After spending of money in Kota, both of them arrived near my sister Kamlabai in Takarbada. Both of them had stayed in Takarbada for 1-2 days. Jogendra demanded rupees twenty thousand from my sister in Takarbada. My sister had told me about it. Rupees twenty thousand was demanded for purchase of a plot in Kota. The both Gitabai and Jogendra arrived near me in Sultanpur from Takarbada. Jogendra also demanded rupees twenty thousand from me. Rupees was demanded for purchase of plot to construct the house. Money was used to demand as dowry. I had not given rupees. Then due to not giving of money, threatening to my niece Gitabai, he had carried her to Kota.

4. I saw to Gitabai at that time. Then she was pregnant. Subsequently Badriprasad, Jitendra and Sushila went near Jogendra and Gitabai in Kota and keeping their luggage forcibly, they brought the

luggage and they also brought to Gitabai and Jogendra in their house. After three months of carrying from Kota, I received the news of death of Gitabai." CRIMINAL APPEAL NO. 190 OF 2012

7. Some of the relevant statements made by P.W.-1 during his cross- examination are also extracted below:

> "13. After about 6 months of it, Gitabai had again come to in-laws house and she had stayed for 6-7 months and when we had used to go to take her then in-laws of Gitabai had not used to send her. Witness himself said that their harassment process had started during this time. My younger brother had gone to take her for 6-7 times in this period. I had used to live in Kota. After this when my mother had died then Gitabai had come and she had also come for one more programme. When Gitabai had gone to in-laws house after 6 months then after that I had met with her at the time of death of my mother. When my mother had died then Gitabai had come then she had stayed with my brother for 6 months.

When my mother had died then Jogendra had come with Gitabai on third day and he had also caused beating before us. He had not got tea so Jogendra had caused beating. When Gitabai lived with brothers for 6 months then I had gone there for many times during that period. Accused and Sushilabai and Badri had also come there at the time of death of my mother. I had stayed in the village for 12 days. It is incorrect to say when Gitabai had stayed in Takarwada at the time of death of mother then she had not made any complaint of in-laws there. This fact is correct that first of all Gitabai had complained at the time of death of mother. Jogendra had stayed in our village for 2 days.

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18. When Badriprasad had come at the time of death of mother. After that, I have not met with Badriprasad till today. Badriprasad demands rupees fifty thousand for construction of house. Gitabai had told me this fact when Gitabai had come after death of mother then she had told this fact that Badriprasad demands rupees fifty thousand for construction of house. Sister Kamlabai had told me this fact. Besides her, any other person did not tell the fact of demand of rupees fifty thousand. After 7 – 8 months of death of mother, Kamlabai had told me the fact of rupees fifty thousand. Which fact Kamlabai had told me, after 4 - 5 months of that, Gitabai and Jogendra had come near me for demand of rupees twenty thousand." CRIMINAL APPEAL NO. 190 OF 2012

8. It is clear that during his extensive cross-examination, P.W.-1 firmly stuck to his statements that the harassment of his niece, Geeta Bai had started within six months of her wedding with the respondent No.1 who had asked her to fetch a sum of 20,000/-[Rupees Twenty thousand] from her mother and P.W.-1 for construction of a house. The said demand was also made by the respondent No.1 on P.W.-1 directly. P.W.-1 stated that the deceased had also informed him that her father-in-law, respondent No.2 had raised a demand of 50,000/- [Rupees Fifty thousand] on her for construction of a house, which she was asked to convey to him. The said witness was consistent in his deposition that he used to give money to his deceased niece and her husband – respondent No. 1

towards expenses and that both of them had demanded a sum of 50,000/-[Rupees Fifty thousand] for construction of a house, which he had declined to give. Pertinently, Shyam Bihari [P.W.-2] and Amrit Lal [P.W.-4], both maternal uncles of the deceased, had the same version to narrate as P.W.-1. Thus, the prosecution version was that the respondents used to harass the deceased and that the respondent No. 1 had demanded a sum of 20,000/-[Rupees Twenty thousand], whereas the respondent No. 2 had demanded 50,000/- [Rupees Fifty thousand] from the deceased for constructing a house and for buying a plot of land. Fed up with the constant dowry demands made on her by the respondents, which her family could not satisfy, Geeta Bai CRIMINAL APPEAL NO. 190 OF 2012 had committed suicide by immolating herself at her matrimonial home within seven years of her marriage.

9. The most fundamental constituent for attracting the provisions of Section 304-B IPC is that the death of the woman must be a dowry death. The ingredients for making out an offence under Section 304-B have been reiterated in several rulings of this Court. Four pre-requisites for convicting an accused for the offence punishable under Section 304- B are as follows:

> (i) that the death of a woman must have been caused by burns or bodily injury or occurred otherwise than under normal circumstance;
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> (ii) that such a death must have occurred within a period of seven years of her marriage;
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> (iii) that the woman must have been subjected to cruelty or harassment at the hands of her husband, soon before her death; and
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> (iv) that such a cruelty or harassment must have been for or related to any demand for dowry.

10. As the word “dowry” has been defined in Section 2 of the Dowry Prohibition Act, 19617, the said provision gains significance and is extracted below:

> “2. Definition of ‘dowry’ - In this Act, “dowry” means any property or valuable security given or agreed to be given either directly or indirectly –
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> (a) by one party to a marriage to the other party to the marriage; or
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> (b) by the parents of either party to a marriage by any other person, to either party to the marriage or to any other person;

7 For short ‘the Dowry Act’ CRIMINAL APPEAL NO. 190 OF 2012 at or before or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal law (Shariat) applies.

Explanation I.— xxx xxx xxx8 Explanation II.— The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860)."

11. In a three Judge Bench decision of this Court in Rajinder Singh v. State of Punjab9, Section 2 of the Dowry Act has been split into six distinct parts for a better understanding of the said provision, which are as follows:

> "8. A perusal of Section 2 shows that this definition can be broken into six distinct parts:
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> (1) Dowry must first consist of any property or valuable security— the word "any" is a word of width and would, therefore, include within it property and valuable security of any kind whatsoever.
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> (2) Such property or security can be given or even agreed to be given. The actual giving of such property or security is, therefore, not necessary. (3) Such property or security can be given or agreed to be given either directly or indirectly. (4) Such giving or agreeing to give can again be not only by one party to a marriage to the other but also by the parents of either party or by any other person to either party to the marriage or to any other person. It will be noticed that this clause again widens the reach of the Act insofar as those guilty of committing the offence of giving or receiving dowry is concerned. (5) Such giving or agreeing to give can be at any time. It can be at, before, or at any time after the marriage.

Thus, it can be many years after a marriage is solemnised.

(6) Such giving or receiving must be in connection with the marriage of the parties. Obviously, the expression "in connection with" would in the context of the social evil sought to be tackled by the Dowry Prohibition Act mean "in relation with" or "relating to"." 8 Omitted by Act 63 of 1984 (w.e.f. 2.10.1985) 9 (2015) 6 SCC 477 CRIMINAL APPEAL NO. 190 OF 2012

12. In the light of the above provision that defines the word "dowry" and takes in its ambit any kind of property or valuable security, in our opinion, the High Court fell into an error by holding that the demand of money for construction of a house cannot be treated as a dowry demand. In Appasaheb's case [supra] referred to in the impugned judgment, this Court had held that a demand for money from the parents of the deceased woman to purchase manure would not fall within the purview of "dowry", thereby strictly interpreting the definition of dowry. This view has, however, not been subscribed to in Rajinder Singh's case [supra] wherein it has been held that the said decision as also the one in the case of Vipin Jaiswal[a-1] v. State of Andhra Pradesh represented by Public Prosecutor10, do not state the law correctly. Noting that the aforesaid decisions were distinct from four other decisions of this Court, viz., Bachni Devi and Another v. State of Haryana 11, Kulwant Singh and Others v. State of Punjab12, Surinder Singh v. State of Haryana13, and Raminder Singh v. State of Punjab 14, the Court opined that keeping in mind the fact that Section 304-B was inserted in the IPC to combat the social evil of dowry demand that has reached alarming 10 (2013) 3 SCC 684

11 (2011) 4 SCC 427 12 (2013) 4 SCC 177 13 (2014) 4 SCC 129 14 (2014) 12 SCC 582 CRIMINAL APPEAL NO. 190 OF 2012 proportions, it cannot be argued that in case of an ambiguity in the language used in the provision, the same ought to be construed strictly as that would amount to defeating the very object of the provision. In other words, the Court leaned in favour of assigning an expansive meaning to the expression "dowry" and held thus :-

> "20. Given that the statute with which we are dealing must be given a fair, pragmatic, and common sense interpretation so as to fulfil the object sought to be achieved by Parliament, we feel that the judgment in Appasaheb case [Appasaheb v. State of Maharashtra, (2007) 9 SCC 721(2007) 9 SCC 721 : (2007) 3 SCC (Cri) 468] followed by the judgment of Vipin Jaiswal [Vipin Jaiswal v. State of A.P., (2013) 3 SCC 684 : (2013) 2 SCC (Cri) 15] do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise." [emphasis added]
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> 13. The Latin maxim "Ut Res Magis Valeat Quam Pereat" i.e, a liberal construction should be put up on written instruments, so as to uphold them, if possible, and carry into effect, the intention of the parties, sums it up. Interpretation of a provision of law that will defeat the very intention of the legislature must be shunned in favour of an interpretation that will promote the object sought to be achieved through the legislation meant to uproot a social evil like dowry demand. In this context the word "Dowry" ought to be ascribed an expansive meaning so as to encompass CRIMINAL APPEAL NO. 190 OF 2012 any demand made on a woman, whether in respect of a property or a valuable security of any nature. When dealing with cases under Section 304-B IPC, a provision legislated to act as a deterrent in the society and curb the heinous crime of dowry demands, the shift in the approach of the courts ought to be from strict to liberal, from constricted to dilated.

Any rigid meaning would tend to bring to naught, the real object of the provision. Therefore, a push in the right direction is required to accomplish the task of eradicating this evil which has become deeply entrenched in our society.

14. In the facts of the instant case, we are of the opinion that the trial Court has correctly interpreted the demand for money raised by the respondents on the deceased for construction of a house as falling within the definition of the word "dowry". The submission made by learned counsel for the respondents that the deceased was also a party to such a demand as she had on her own asked her mother and maternal uncle to contribute to the construction of the house, must be understood in the correct perspective. It cannot be lost sight of that the respondents had been constantly tormenting the deceased and asking her to approach her family members for money to build a house and it was only on their persistence and insistence that she was compelled to ask them to contribute some amount for constructing a house. The Court must be CRIMINAL APPEAL NO. 190 OF 2012

sensitive to the social milieu from which the parties hail. The fact that the marriage of the deceased and the respondent No.1 was conducted in a community marriage organization where some couples would have tied the knot goes to show that the parties were financially not so well off. This position is also borne out from the deposition of P.W.-1 who had stated that he used to bear the expenses of the couple. Before the marriage of the deceased also, P.W.-1 had stated that he used to bear her expenses and that of her mother and brother [his sister and nephew] as her father had abandoned them. In this background, the High Court fell in an error in drawing an inference that since the deceased had herself joined her husband and father-in-law, respondents herein and asked her mother or uncle to contribute money to construct a house, such demand cannot be treated as a "dowry demand". On the contrary, the evidence brought on record shows that the deceased was pressurized to make such a request for money to her mother and uncle. It was not a case of complicity but a case of sheer helplessness faced by the deceased in such adverse circumstances.

15. Now, coming to the second point urged by learned counsel for the State that the High Court has overlooked the fact that Geeta Bai had been subjected to cruelty/harassment at the hands of the respondents soon before her death, which submission is strictly contested by learned CRIMINAL APPEAL NO. 190 OF 2012 counsel for the respondents, we may note that the meaning of the expression "soon before her death" has been discussed threadbare in several judgments. In Surinder Singh (supra), while relying on the provisions of Section 113-B of the Indian Evidence Act, 1872 15 and Section 304-B IPC, where the words "soon before her death" find mention, the following pertinent observations have been made: -

> "17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304- B IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words "soon before" is, therefore, important. The question is how "soon before"? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, "soon before" is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.

> 18. In this connection we may refer to the judgment of this Court in Kans Raj v. State of Punjab [(2000) 5 SCC 207 :
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> 2000 SCC (Cri) 935] where this Court considered the term "soon before". The relevant observations are as under: (SCC pp. 222-23, para 15) "15. ... 'Soon before' is a relative term which is required to be considered under specific circumstances of each case and no 15 For short 'the Evidence Act' CRIMINAL APPEAL NO. 190 OF 2012 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." Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law.

[emphasis added]

16. In Rajinder Singh [supra], falling back on the rulings in Kans Raj v. State of Punjab and Others16, Dinesh v. State of Haryana17 and 16 (2000) 5 SCC 207 17 (2014) 12 SCC 532 CRIMINAL APPEAL NO. 190 OF 2012 Sher Singh @ Partapa v. State of Haryana 18, it has been emphasized that "soon before" is not synonymous to "immediately before" and the following observations have been made: -

> "24. We endorse what has been said by these two decisions. Days or months are not what is to be seen. What must be borne in mind is that the word "soon" does not mean "immediate". A fair and pragmatic construction keeping in mind the great

social evil that has led to the enactment of Section 304-B would make it clear that the expression is a relative expression. Time-lags may differ from case to case. All that is necessary is that the demand for dowry should not be stale but should be the continuing cause for the death of the married woman under Section 304-B." [emphasis added]

17. In the above context, we may usefully refer to a recent decision of a three Judge Bench of this Court in Gurmeet Singh v. State of Punjab19 that has restated the detailed guidelines that have been laid down in Satbir Singh and Another v. State of Haryana 20, both authored by Chief Justice N.V. Ramana, relating to trial under Section 304-B IPC where the law on Section 304-B IPC and Section 113-B of the Evidence Act has been pithily summarized in the following words:

"38.1. Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-B IPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase "soon before" as appearing in Section 304- B IPC cannot be construed to mean "immediately before".

18 (2015) 3 SCC 724 19 (2021) 6 SCC 108 20 (2021) 6 SCC 1 CRIMINAL APPEAL NO. 190 OF 2012 The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives. 38.4. Section 304-B IPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental." [emphasis added]

18. In the instant case, it is not in dispute that the marriage between the deceased and the respondent No. 1 – accused had taken place on 7th May, 1998 and the deceased was brought in a severely burnt condition from her matrimonial home to the Health Care Centre at Baroda on 20th April, 2002 and she had expired on the very same day. It is also not in dispute that the death had occurred on account of the deceased dowsing kerosene oil and setting herself on fire. The evidence brought on record amply demonstrates that the harassment of the deceased for money had commenced within a few months of her marriage and had continued thereafter on several occasions. This fact is borne out from the deposition of PW-1, which shows that on not being able to fulfil the demand for 50,000/- [Rupees Fifty thousand] made by the respondent No. 2 [father-in-law], he had thrown out the deceased and the respondent No.1 from the matrimonial home. They had then shifted to Kota and resided there. Thereafter, respondent No.2 had brought the couple back to Baroda and had again started demanding money from the deceased. Then the deceased and the respondent No. CRIMINAL APPEAL NO. 190 OF 2012 1 moved to Tankarwada. This time, it was

respondent No. 1 who had demanded a sum of 20,000/- [Rupees Twenty thousand] from the deceased and her uncle for constructing a house. On being persistently hounded with the repeated demands for money made on her which her family could not fulfil, the hapless deceased who was well into the second trimester of her pregnancy, immolated herself at her matrimonial home.

19. The above glairing circumstances when viewed together, can hardly mitigate the offence of the respondents or take the case out of the purview of Section 304-B IPC, when all the four pre-requisites for invoking the said provision stand satisfied, namely, that the death of Geeta Bai took place at her matrimonial home within seven years of her marriage; that the said death took place in abnormal circumstances on account of burning and that too when she was five months pregnant; that she had been subjected to cruelty and harassment by the respondents soon before her death and such cruelty/harassment was in connection with demand for dowry. Though the High Court found the testimony of P.W.-1 [maternal uncle of the deceased] to be trustworthy and consistent and no credible evidence could be produced by the respondents to demolish the prosecution version, surprisingly, their conviction under Section 304-B IPC has been set aside and furthermore, respondent No. CRIMINAL APPEAL NO. 190 OF 2012 2 has been acquitted for the offence punishable under Section 498-A IPC.

20. Taking into account the evidence brought on record by the prosecution, particularly, the testimony of P.W.-1, this Court has no hesitation in holding that the analysis of the trial Court was correct and the respondents deserved to be convicted under Sections 304-B and 498-A IPC. However, we do not propose to disturb the findings returned by the High Court that has acquitted the respondents for the offence of abetment to commit suicide under Section 306 IPC, as the prosecution could not bring any conclusive evidence on record to satisfactorily demonstrate that it was due to the abetment on the part of the respondents that the deceased had committed suicide by immolating herself. Accordingly, the judgment of conviction and sentence passed by the trial Court in respect of both the respondents under Section 304-B and Section 498-A IPC, is restored. However, the sentence imposed on them by the trial Court of RI for life is reduced to RI for seven years, which is the minimum sentence prescribed for an offence under Section 304-B IPC.

21. In view of the foregoing discussion, the present appeal is partly allowed. The respondents shall surrender before the trial Court within CRIMINAL APPEAL NO. 190 OF 2012 four weeks to undergo the remaining period of their sentence. The appeal is allowed in the above terms.

.....CJI [N. V. RAMANA] .....J. [A. S. BOPANNA] .....J. New Delhi, [HIMA KOHLI] January 11, 2022.