

## **Salamat Ali And Another vs State Of Bihar on 4 April, 1995**

**Equivalent citations:** AIR1995SC1863, AIR 1995 SUPREME COURT 1863, 1995 (4) SCC 419, 1995 AIR SCW 2907, 1995 AIR SCW 2901, (1995) 2 SERV LJ 228, (1995) 30 ATC 551, (1995) 2 LAB LN 263, (1995) 4 SCT 173, 1997 SCC (CRI) 842, (1995) 2 SCJ 333, (1996) 1 PAT LJR 72, 1996 ( ) MARR LJ 51, (1995) 58 DLT 673, (1996) 1 EASTCRIC 478, (1995) 3 CHANDCRIC 58, (1996) 1 EFR 147, (1995) 3 CURCRIR 43

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**Bench:** Madan Mohan Punchhi

### **JUDGMENT**

1. Appellant, Salamat Ali, was the father-in-law and appellant, Anwari Begum, was the mother-in-law of Jahanara, deceased. The husband of the deceased, Md. Salim Ahmed, was a co-accused with the former two. The aforesaid three were tried for offences under Sections 302/34 and 304B/34, I.P.C. for causing the death of Jahanara, daughter of P.W. 7 on account of her parents being unwilling and incapable of meeting the dowry demand for providing them a television and a scooter. The prosecution case is that the demand of the husband was shared by the parents and that all the three were conjointly responsible for being cruel to the deceased and on the fateful night she died in the room of her husband being strangled, wherefrom her corpse was recovered in that situation. The incident, in a different light, was reported to the parents of the deceased and it is her father who reported the matter to the police which led to the investigation and ultimately to trial.

2. The Court of Session convicted the three accused for offence under Sections 304B/34, I.P.C. and sentenced them to undergo rigorous imprisonment for seven years each, but acquitted them of offence under Sections 302/34, I.P.C. Their appeal to the High Court failed, but the High Court expressed grave doubts about the view of the Court of Session in acquitting the accused for offence under Sections 302/34, I.P.C. According to the High Court, it was a homicidal death and not a suicidal one, as found by the Court of Session. Despite the High Court so expressing, it took no remedial steps, but went on to dismiss the appeal confirming the conviction and sentence passed under Section 304B/34, I.P.C. At the special leave stage, the petition of the husband Salim Ahmed was dismissed, but leave was granted to his parents, which are the appellants before us.

3. By the conviction of Salim Ahmed, it stands confirmed that the deceased met a suicidal death and that Salim Ahmed was responsible for it, whether by himself or conjointly with others. The only point to be examined is whether there is clear and cogent evidence to involve the parents in the demands of dowry made or were they otherwise responsible for inflicting any cruelty on the deceased. We have been taken through the relevant portions of the evidence led by the prosecution. Uniformly every witness has said that the family members of the husband, i.e. Sasuralwale had been

making demands of dowry in the form of television and scooter. The nature of the demand is some indication. The demand of scooter predominantly must have been raised by the husband. It cannot be expected that the father-in-law would be demanding a scooter for himself or that the mother-in-law needed it for her use. Different considerations, however, could, in certain events, apply to the television demand, but here again, it is predominant that the husband wanted it more than his parents. Evidence of P. W. 1 is clear on this point that there were frequent quarrels, but only between husband and wife. In other words, the parents had no part to play in the quarrels between the spouses. P.W. 7, the father of the deceased also had said that his daughter had told him that the demand had been made by the husband, but he had then not taken it seriously. Thus, the allegations against the appellants are general in nature attributed to the husband's family. They have been identified because they were members of his family. It is not clear on the record as besides them who else were members of the family. It thus appears to us that in the absence of clear and pointed evidence it would be unsafe to maintain the conviction of the parents, on vague allegations that the demand of dowry was made by the husband's family members. In this view of the matter, we would record their acquittal.

4. Accordingly, this appeal is allowed, the judgment and order of the High Court, vis-a-vis the two appellants stands set aside, but maintained insofar as Salim Ahmed, accused, is concerned but under Section 304B, I.P.C. simpliciter, without the aid of Section 34, I.P.C. The appellants are on bail. They need not surrender to their bail-bonds.