

reasonable doubt, nor of harassment, nor of death within the statutory period. *Sankara Suri Babu v State of AP*, [1991 Cr LJ 1480](#) (AP), proof of demand of dowry four years after marriage, hence no presumption. *Nunna Venkateswarlu v State of AP*, [1996 Cr LJ 108](#) (AP), no agreement for dowry at the time of marriage; about the subsequent demands, the court said, they would not create the presumption. *Rajinder Kumar v State of Haryana*, [1996 Cr LJ 3742](#) (P&H), there was no evidence showing demand, the husband made desperate attempt to save the deceased and himself got severely burnt, acquittal. *Anil Kumar Jain v State of MP*, [\(1996\) Cr LJ 3191](#) (MP), evidence of dowry demand which was fulfilled, no evidence of harassment either then or subsequently, the wife was depressed by reason of her illness also, no mention of harassment in dying declaration, section not attracted.

496. *Shanti v State of Haryana*, [AIR 1991 SC 1226](#) [[LNIND 1990 SC 696](#)] : [1991 Cr LJ 1713](#) .

497. *Shanti v State of Haryana*, [AIR 1991 SC 1226](#) [[LNIND 1990 SC 696](#)] at p 1229 : [1991 Cr LJ 1713](#) .

498. As to this see *Akula Ravinder v State of AP*, [AIR 1991 SC 1142](#) : 1991 SCC (Cr) 990, where it is emphasised that death must be proved to be one out of the course of nature and the mere fact that the deceased was young and death was not accidental is not sufficient to establish that death must have occurred otherwise than under normal circumstances. *Ashok Kumar v State of Punjab*, [1987 Cr LJ 1412](#) (P&H), where the wife died of self-poisoning within the statutory period, but there was no proof of cruelty by the husband or others. *Mohan Lal v State of Punjab*, (1984) 1 Chand L Rep 647, suicide by married woman by burning herself and the evidence only showed some maltreatment on some earlier occasions for inadequate dowry, not sufficient for conviction. *Gurditta Singh v State of Rajasthan*, [1992 Cr LJ 309](#) (DB), single judge session, [1991 Cr LJ 303](#) (Raj), where the court said that simply because a young wife had brought her life to a tragic end by committing suicide by consuming insecticide, it could not be said that she had embraced death on account of any demand of dowry by her husband or mother-in-law.

499. For the effect of not being able to show the date of marriage, see *Arbind kumar Ambasta v State of Jharkhand*, [2002 Cr LJ 3973](#) (Jhar), the effect being that the charge would have to be an ordinary one of murder and the benefit of the special provision would not be available.

500. *Kashmir Kaur v State of Punjab*, [AIR 2013 SC 1039](#) [[LNIND 2012 SC 802](#)] : [2013 Cr LJ 689](#) ; *GA Mohd Moideen v State of TN*, [2000 Cr LJ 4355](#) (Mad), a mere demand of money made by accused husband for the purpose of taking a shop on lease and refusal or delay in meeting the demand would not be sufficient to infer compulsion for suicide. *Bajrang v State of Rajasthan*, [1998 Cr LJ 134](#) (Raj), cruelty soon before death for demand for dowry are necessary constituents without which the offence is not complete. *Satvir Singh v State*, [1998 Cr LJ 405](#) (P&H), the married woman failed in her attempt at suicide, the offence under the section could not arise. *Nilamani Nath v State of Orissa*, [1998 Cr LJ 962](#) (Ori), dowry demand could not be proved nor the fact who caused death, mere production of a stick with which death was supposed to have been caused was not sufficient. Another case in which demand for dowry and ill-treatment could not be proved and was before the Supreme Court was *Ramaswamy v Dasari Mohan*, [1998 Cr LJ 1105](#) : [AIR 1998 SC 774](#) [[LNIND 1998 SC 17](#)] . *Gurnam Singh v State*, [1998 Cr LJ 3694](#) (P&H), the husband could not be shown to be guilty, rather he took his wife to the hospital and in the process was himself partly burnt, acquittal. *Bhagwandas v Sham Lal*, [AIR 1997 SC 1873](#) [[LNIND 1997 SC 304](#)] : [1997 Cr LJ 1927](#) , the victim wife had left home and was residing with her parents. She was taken back after an amicable settlement. There was no cruelty thereafter. Thus, no presumption of dowry death. Conviction under section 498A and not under section 304B. *State of HP v Jog Raj*, [1997 Cr LJ 2033](#) (HP), no conviction because the alleged demand of Rs. 15,000 was not proved and was also not in itself a dowry demand.

Balasaheb v State of Maharashtra, 1997 Cr LJ 3476 (Bom), demands made for celebration of seventh month of wife's pregnancy. It could not be interpreted as a demand in connection with marriage under the [Dowry Prohibition Act, 1961](#). Conviction set aside. *Gati Bahera v State of Orissa*, 1997 Cr LJ 4331 (Ori), death due to diarrhoea, in village areas it cannot be said to be unnatural. It is not uncommon for ailing persons to remain without medical care. *Kishan Singh v State of Punjab*, (2007) 14 SCC 204 [LNIND 2007 SC 1218] : AIR 2008 SC 233 [LNIND 2007 SC 1218] , Supreme Court restated ingredients. *Biswajit Halder v State of WB*, (2008) 1 SCC 202 [LNIND 2007 SC 344] : 2007 Cr LJ 2300 , dowry demand was there but there was no proof of any cruelty or harassment being practiced, bride's suicide followed in about four months after marriage. *Nallam Veera Satyanarayanadam v PP High Court of AP*, (2004) 10 SCC 769 [LNIND 2004 SC 250] : AIR 2004 SC 1708 [LNIND 2004 SC 250] , all ingredients of the defence satisfied. *Balwant Singh v State of Punjab*, (2004) 7 SCC 724 , no proof against mother-in-law, she could not be punished only for the fact of being mother-in-law. *Surinder Kaur v State of Haryana*, (2004) 4 SCC 109 [LNIND 2004 SC 256] : AIR 2004 SC 1747 [LNIND 2004 SC 256] : 2004 Cr LJ 1765 . Conviction of two sister-in-laws was wrongful there being no evidence against them. *Arun Garg v State of Punjab*, (2004) 8 SCC 251 [LNIND 2004 SC 1012] , dowry demand proved because twice over she rang to her father stating that she was being threatened with death for dowry, she died of poisoning, husband convicted.

501. *Bakshish Ram v State of Punjab*, AIR 2013 SC 1484 [LNIND 2013 SC 1157] : (2013) 4 SCC 131 [LNIND 2013 SC 1157] .

502. *Indrajit Sureshprasad Bind v State of Gujarat*, (2013) 14 SCC 678 [LNIND 2013 SC 219] : (2013) 2 SCR 931 [LNIND 2013 SC 219] .

503. Subs. by Act 43 of 1986, section 2, for "or after the marriage" (w.e.f. 19-11-1986).

504. Subs. by Act 63 of 1984, section 2, for certain words (w.e.f. 2-10-1985).

505. [Section 2 of the Dowry Prohibition Act, 1961](#).

506. *Ashok Kumar v State of Haryana*, 2010 (12) SCC 350 [LNIND 2010 SC 582] : AIR 2010 SC 2839 [LNIND 2010 SC 582] : 2010 Cr LJ 4402 .

507. *Ram Singh v State of Haryana*, (2008) 4 SCC 70 [LNIND 2008 SC 204] ; *Satbir Singh v State of Punjab*, AIR 2001 SC 2828 [LNIND 2001 SC 2168] .

508. *Madhu Sudan Malhotra v KC Bhandari*, (1988) Supp 1 SCC 424.

509. *State of Andhra Pradesh v Raj Gopal Asawa*, (2004) 4 SCC 470 [LNIND 2004 SC 347] .

510. *Vidhya Devi v State of Haryana*, (2004) 9 SCC 476 [LNIND 2004 SC 78] : AIR 2004 SC 1757 [LNIND 2004 SC 78] , there was additional demand for dowry after marriage. *State of AP v Raj Gopal Asawa*, (2004) 4 SCC 470 [LNIND 2004 SC 347] : AIR 2004 SC 1933 [LNIND 2004 SC 347] , mere demand for dowry is enough.

511. *Kans Raj v State of Punjab*, 2000 Cr LJ 2993 : AIR 2000 SC 2324 [LNIND 2000 SC 735] .

512. *Koppiseti Subbharao v State of AP*, AIR 2009 SC 2684 [LNIND 2009 SC 1038] : (2009) 12 SCC 331 [LNIND 2009 SC 1038] ; *Reema Aggarwal v Anupam*, (2004) 3 SCC 199 [LNIND 2004 SC 1499] : AIR 2004 SC 1418 [LNIND 2004 SC 1499] .

513. *State of Punjab v Gurmit Singh*, 2014 Cr LJ 3586 : AIR 2014 SC 2561 [LNIND 2014 SC 518] .

514. *K Prema S Rao v Yadla Srinivasa Rao*, 2003 (1) SCC 217 [LNIND 2002 SC 662] : AIR 2003 SC 11 [LNIND 2002 SC 662] : 2003 SCC (Cr) 271 : 2003 Cr LJ 69 .

515. *Tummala Venkateswar Rao v State of Andhra Pradesh*, 2014 Cr LJ 1641 : 2014 (4) SCJ 322 [LNIND 2013 SC 1090] .

516. *Ashok Kumar v State of Haryana*, 2010 (12) SCC 350 [LNIND 2010 SC 582] : AIR 2010 SC 2839 [LNIND 2010 SC 582] : 2010 Cr LJ 4402 .

517. *Tarsem Singh v State of Punjab*, AIR 2009 SC 1454 [LNIND 2008 SC 2415] , *Yashoda v State of MP*, (2004) 3 SCC 98 [LNIND 2004 SC 155] .

518. *Satya Narayan Tiwari v State of UP*, 2011 Cr LJ 445 : (2010) 13 SCC 689 [LNINDORD 2010 SC 188] : (2011) 2 SCC (Cr) 393.
519. *State of Rajasthan v Girdhari Lal*, 2014 Cr LJ 41 : 2014 (3) SCJ 584 [LNIND 2013 SC 908] .
520. *Sukhwinder Singh v State of Punjab*, 2014 Cr LJ 446 : 2014 (2) SCJ 629 .
521. *Vidhya Devi v State of Haryana*, (2004) 9 SCC 476 [LNIND 2004 SC 78] : AIR 2004 SC 476 .
522. *Deen Dayal v State of UP*, (2009) 11 SCC 157 [LNIND 2009 SC 19] : AIR 2009 SC 1238 [LNIND 2009 SC 19] : 2009 Cr LJ 1119 : (2009) 2 All LJ 169. On facts, the offence was established. *Narayanamurthy v State of Karnataka*, (2008) 16 SCC 512 [LNIND 2008 SC 1179] : AIR 2008 SC 2377 [LNIND 2008 SC 1179] , mere cruelty is not sufficient, it has to be in connection with dowry and continue up to a period soon before death. *Govindaraju v State of Karnataka*, (2009) 14 SCC 236 [LNIND 2009 SC 1362] : 2009 Cr LJ 3457 : (2009) 2 APLJ 203 , mental torture proved by the fact that she had not taken any food for two days before her death, her death in her own bed room, in the early hours of morning by burns not explained by the accused, conviction under section 304B justified. *Raja Lal Singh v State of Jharkhand*, (2007) 15 SCC 415 [LNIND 2007 SC 609] : [2007] 6 SCR 105 [LNIND 2007 SC 609] , death within seven months of marriage, ingredients of the offence established. *Tarsem Singh v State of Punjab*, (2008) 16 SCC 155 [LNIND 2008 SC 2415] : AIR 2009 SC 1454 [LNIND 2008 SC 2415] , ingredients restated, meaning of dowry explained, object of provision explained, offence not covered because ultimately inability to bear a child was the cause for harassment. *Dharam Chand v State of Punjab*, (2008) 15 SCC 513 [LNIND 2008 SC 2160] : AIR 2009 SC 1304 [LNIND 2008 SC 2160] , remission of sentence not applicable to the offence under the section, government order of 14 August 2002. Under section 433, Cr PC, 1973. *Prem Kumar v State of Rajasthan*, (2009) 3 SCC 726 [LNIND 2009 SC 23] : AIR 2009 SC 1242 [LNIND 2009 SC 23] : 2009 Cr LJ 1123 , death by burn injuries and head-bone fracture proved, taunting and harassment for insufficient dowry also proved, the High Court set aside the acquittal by the trial Court and convicted under the section, upheld by the Supreme Court.
523. *Pradipsinh Nanubha Zala v State of Gujarat*, 2016 Cr LJ 4779 (Guj).
524. *Suresh Kumar v State of Haryana*, 2014 Cr LJ 551 : 2013 (14) Scale 90 .
525. *Surinder Singh v State of Haryana*, 2014 Cr LJ 561 : AIR 2014 SC 817 [LNIND 2013 SC 1006] .
526. *Mustafa Shahadal Shaikh v State of Maharashtra*, 2012 AIR (SCW) 5308 : 2012 Cr LJ 4763 : 2012 (8) Scale 692 [LNIND 2012 SC 590] ; *Kaliyaperumal v State of TN*, JT 2003 (7) SC 392 [LNIND 2003 SC 715] : AIR 2003 SC 3828 [LNIND 2003 SC 715] ; *Yashoda v State of MP*, JT 2004 (2) SC 318 [LNIND 2004 SC 155] : 2004 (3) SCC 98 [LNIND 2004 SC 155] ; *Uday Chakraborty v State of WB*, AIR 2010 SC 3506 [LNIND 2010 SC 593] ; *State of Andhra Pradesh v Raj Gopal Asawa*, AIR 2004 SC 1933 [LNIND 2004 SC 347] : (2004) 4 SCC 470 [LNIND 2004 SC 347] .
527. *Balwant Singh v State of Punjab*, (2004) 7 SCC 724 : AIR 2004 SC 4368 [LNIND 2004 SC 796] .
528. *Yashoda v State of MP*, (2004) 3 SCC 98 [LNIND 2004 SC 155] : AIR 2005 SC 1411 [LNIND 2004 SC 155] .
529. *Keshab Chandra Panda v State of Orissa*, (1995) 1 Cr LJ 174 (Ori). Another case on dowry theme, *Gordhan Ram v State of Rajasthan*, 1995 Cr LJ 273 (Raj), the husband was convicted under sections 304B and 498A because there was evidence to show harassment and cruelty and the wife had taken spray poison within seven years of marriage. *Sant Gopal v State of UP*, (1995) 1 Cr LJ 312 (All), there was no evidence of dowry torture, but the offence of murder simpliciter under section 300 was made out. *Babaji Charan Barik v State*, 1994 Cr LJ 1684 (Ori), no proof of harassment. About the expression "soon before", the court said that it is a relative

term and it would depend upon the circumstances of each case and no fixed period can be indicated in that regard.

530. *Keshab Chandra Panda v State of Orissa*, (1995) 1 Cr LJ 174 (Ori) at p. 178.

531. *Ashok Kumar v State of Haryana*, 2010 (12) SCC 350 [LNIND 2010 SC 582] : AIR 2010 SC 2839 [LNIND 2010 SC 582] : 2010 Cr LJ 4402 ; *Pathan Hussain Basha v State of AP*, JT 2012 (7) SC 432 [LNIND 2012 SC 473] .

532. *Kashmir Kaur v State of Punjab*, AIR 2013 SC 1039 [LNIND 2012 SC 802] : 2013 689.

533. See *Akula Ravinder v State of Andhra Pradesh*, AIR 1991 SC 1142 .

534. Where there was no proof of harassment soon before death, conviction under section 304B was set aside, and was converted to one under section 498A. See also *Dilip v State of Orissa*, 2002 Cr LJ 1613 (Ori), only the father-in-law was convicted to 10-year imprisonment and fine of Rs. 1,000 under this section read with section 498A, husband and mother-in-law were acquitted. *Venugopal v State of Karnataka*, AIR 1999 SC 146 [LNIND 1998 SC 1339] : 1999 Cr LJ 29 , there was unnatural death of wife within two years of marriage. Evidence showed that she was ill-treated, harassed and beaten by the accused husband many a time for dowry. Evidence also showed that she was ill-treated by her husband before her death. Plea of suicide was not acceptable. Conviction for murder under the section. *Prem Singh v State of Haryana*, AIR 1998 SC 2628 [LNIND 1998 SC 721] : 1998 Cr LJ 4019 , wife died in the husband's house of burn injuries. He was not able to explain the happening. There was evidence of dowry harassment conviction for murder upheld. *Satpal v State of Haryana*, AIR 1999 SC 1476 : 1999 Cr LJ 594 , harassment on account of dowry demand was not proved, but there was direct and convincing evidence to show that the wife had been humiliated and treated with cruelty on some occasions by the accused husband. His conviction under section 498A was maintained. *Bhuneshwar Pd Chaurasia v Bhuneshwar Chaurasia*, 2001 Cr LJ 3541 (Pat), death by poisoning, the body was cremated hurriedly on the same night without informing police or relatives. There was evidence of dowry demand soon before death. The husband convicted but his father acquitted, there being no evidence against him. *Budhi Singh v State of HP*, 2000 Cr LJ 4879 , no evidence to show that soon before death, the housewife who committed suicide was subjected to harassment or cruelty. She became compelled for suicide because of other quarrels with her husband. The accused could be convicted only under section 498A. *Surveshwar Singh v State of Rajasthan*, 1999 Cr LJ 2179 (Raj), no evidence of cruelty soon before death, that is to say, in the immediate past, acquittal. *State of Karnataka v MV Manjunathogowda*, AIR 2003 SC 809 [LNIND 2003 SC 5] , death of wife within six months, the testimony of her father and brother established that soon before her death she was being subjected to cruelty in connection with demand for dowry. The accused husband was sentenced to RI for 10 years.

535. The Court referred to *Shanti v State of Haryana*, AIR 1991 SC 1226 [LNIND 1990 SC 696] : 1991 Cr LJ 1713 . Also followed in *Keshab Chandra Panda v State of Orissa*, 1995 Cr LJ 174 (Ori), recounting the ingredients into five points. *Pramila Patnaik v State of Orissa*, 1992 Cr LJ 2385 (Ori), no proof of harassment etc. *PP Rao v State of AP*, 1994 Cr LJ 2632 (AP), offence proved, conviction.

536. *Nand Kishore v State of Maharashtra*, 1995 Cr LJ 3706 (Bom).

537. There were details in the statements of the witnesses of the items already given and the fact of withdrawal by the husband of the whole amount from the wife's account which was opened by her father.

538. *Hans Raj v State of Punjab*, AIR 2000 SC 2324 [LNIND 2000 SC 735] : 2000 Cr LJ 2993 .

539. *State of Rajasthan v Jaggu Ram*, (2008) 12 SCC 51 [LNIND 2007 SC 1514] : AIR 2008 SC 982 [LNIND 2007 SC 1514] : 2008 Cr LJ 1039 , death within 1½ years of marriage, cruel treatment and harassment started immediately after marriage and continued till death. High

Court erred in acquitting by giving undue weightage of some discrepancies, ignoring the fact that she suffered head injuries at her in-laws' place and died of them, her parents not informed, cremation in hush-hush manner.

540. *Pawan Kumar v State of Haryana*, AIR 1998 SC 958 [LNIND 1998 SC 176] : 1998 Cr LJ 1144 . *Meka Ramaswamy v Dasari Mohan*, AIR 1998 SC 774 [LNIND 1998 SC 17] : 1998 Cr LJ 1105 , there was no proof of any demand. The mere fact that death took place within four months was not sufficient to convict. *Mahesh Kumar v State*, 2001 Cr LJ 4417 (All), death caused within 11 months of marriage by throttling and body burnt to give it the touch of suicide. Her statement to her brother two to three days before death that she would not be permitted to leave till the demand for scooter was met. The statement was held to be made soon before her death. The Orissa High Court has expressed the opinion that the proximity of time between ill-treatment and time of death is not a highly relevant factor and not an essential item to prove by evidence. See *Niranjan v State*, 1998 Cr LJ 630 (Ori). *State v Srikanth*, 2002 Cr LJ 3605 (Kant), allegation that the wife was driven to suicide by cruelty, the court found that the harassment had ceased three to four years before the suicide, there was no nexus between the cruelty and suicide. The fact of husband contemplating remarriage which could have become the cause of suicide was also not evident. The court also said that grandparents should not be charged without something specific against them. Cases in which charge not proved: *Mangal Ram v State of MP*, 1999 Cr LJ 4342 (MP), death within seven years, there was harassment for four tolas of gold. She was beaten and turned out. But it seemed that the cause of suicide was quarrel with some persons and not dowry demand. Hence offence under section 498A made out but not under section 304B. *T Raghunatha Reddy v State of AP*, 1999 Cr LJ 4857 (AP), death of wife and child due to drowning, evidence not clear, possibility of accident not ruled out, acquittal.

541. *Public Prosecutor, HC of AP v Appireddy Madhavan Reddy*, 2003 Cr LJ NOC 28 (AP) : (2002) 2 Andh LT (Cri) 590 .

542. *Savalram v State of Maharashtra*, 2003 Cr LJ 2831 (Bom).

543. *Ashok Kumar v State of Haryana*, 2010 (12) SCC 350 [LNIND 2010 SC 582] : AIR 2010 SC 2839 [LNIND 2010 SC 582] : 2010 Cr LJ 4402 ; *GV Siddaramesh v State of Karnataka*, 2010) 3 SCC 152 [LNIND 2010 SC 145] : 2010 Cr LJ 1649, accused has not rebutted or discharged the presumption. Conviction upheld.

544. *Pathan Hussain Basha v State of AP*, 2012 Cr LJ 4230 : (2012) 8 SCC 594 [LNIND 2012 SC 473] : AIR 2012 SC 3205 [LNIND 2012 SC 473] .

545. *Amar Singh v State of Rajasthan*, AIR 2010 SC 3391 [LNIND 2010 SC 701] : (2010) 3 SCC (Cr) 1130.

546. *Pathan Hussain Basha v State of AP*, 2012 Cr LJ 4230 : (2012) 8 SCC 594 [LNIND 2012 SC 473] : AIR 2012 SC 3205 [LNIND 2012 SC 473] ; *Biswajit Halder @ Babu Halder v State of WB*, (2008) 1 SCC 202 [LNIND 2007 SC 344] .

547. Section 113B of Evidence Act, 1872.

548. *Jagjit Singh v State of Punjab*, AIR 2018 SC 5719 [LNIND 2018 SC 498] .

549. Section 113B of Evidence Act, 1872.

550. *Bakshish Ram v State of Punjab*, AIR 2013 SC 1484 [LNIND 2013 SC 1157] : (2013) 4 SCC 131 [LNIND 2013 SC 1157] .

551. *Mustafa Shahadal Shaikh v State of Maharashtra*, 2012 AIR (SCW) 5308 : 2012 Cr LJ 4763 : 2012 (8) Scale 692 [LNIND 2012 SC 590] .

552. *M Srinivasulu v State of AP*, 2007 (12) SCC 443 [LNIND 2007 SC 1047] : AIR 2007 SC 3146 [LNIND 2007 SC 1047] ; *Kulwant Singh v State of Punjab*, AIR 2013 SC 1567 [LNIND 2013 SC 205] : (2013) 4 SCC 177 [LNIND 2013 SC 271] : 2013 Cr LJ 2199 (SC); *Tarsem Singh v State of Punjab*, (2008) 16 SCC 155 [LNIND 2008 SC 2415] .

553. *State of HP v Nikku Ram*, 1995 Cr LJ 4184 . *Bhaskar Ramappa Madar v State of Karnataka*, (2009) 11 SCC 690 [LNIND 2009 SC 723] : 2009 Cr LJ 2422 , no proof of dowry demand, hence no abetment by such demand. *State of Rajasthan v Teg Bahadur*, 2005 SCC (Cr) 218, no proof of dowry demand.

554. *Krishna Puntram Dhobi v State of Chhattisgarh*, 2016 Cr LJ 4800 (Chh).

555. *Kailash v State of MP*, (2006) 12 SCC 667 [LNIND 2006 SC 803] : AIR 2007 SC 107 [LNIND 2006 SC 803] .

556. *Dhian Singh v State of Punjab*, (2004) 7 SCC 759 : AIR 2005 SC 1450 .

557. *Rameshwar Das v State of Punjab*, (2007) 14 SCC 696 [LNIND 2007 SC 1474] : AIR 2008 SC 890 [LNIND 2007 SC 1474] : 2008 Cr LJ 1400 , part of dowry demands fulfilled and also proved, death by suicide within seven years, the very fact that a pregnant woman should commit suicide speaks of unbearable harassment. Conviction under section 304B not interfered with.

558. *Bhagwan Das v Kartar Singh*, (2007) 11 SCC 205 [LNIND 2007 SC 650] : AIR 2007 SC 2045 [LNIND 2007 SC 650] , in this case, no charge under the section had been framed, the accused could not be convicted under this section.

559. *Shanti v State of Haryana*, AIR 1991 SC 1226 [LNIND 1990 SC 696] at p 1230 : 1991 Cr LJ 1713 . *Noorjahan v State*, (2008) 11 SCC 55 [LNIND 2008 SC 950] : AIR 2008 SC 2131 [LNIND 2008 SC 950] , cruelty is a common essential to both the sections and has to be proved. But otherwise these provisions have created distinct offences.

560. See also *Padmaben Shambalbhai Patel v State of Gujarat*, (1991) 1 SCC 744 : (1991) 1 GLH 125 , where the conviction of the sister of the deceased woman's husband was sustained on the basis of the dying declaration ignoring hypertechnicalities about the mode of recording a dying declaration. For another case of the conviction of the husband for burning his wife which conviction was founded on dying declaration, see *Ved Prakash v State (Delhi Admn)*, 1991 Supp 1 SCC 296. See also *Ashok Kumar v State of Rajasthan*, AIR 1990 SC 2134 [LNIND 1990 SC 515] : 1990 Cr LJ 2276 : (1991) 1 SCC 166 [LNIND 1990 SC 515] , where the social background of the provisions for protection of the person of married women is explained. *Ravi Kumar v State*, 1991 Cr LJ 2579 (Del), applicant losing his wife leaving 20 months old baby, his parents infirm, bail allowed. *State of Kerala v Rajayyan*, (1995) 1 Cr LJ 989 (Ker) here death within seven years was caused by drowning in a well, all the ingredients of section 304B were made out, hence conviction. *Prakash Chander v State*, (1995) 1 Cr LJ 368 (Del), husband convicted under section 304B for burning off his wife because all the ingredients were proved. His mother was convicted under section 498A which only meant her acquittal under section 304B. In an appeal against this acquittal, it was held that the High Court had no power to convict her under section 304B. *D Jayana v State of Karnataka*, (2009) 6 SCC 575 [LNIND 2009 SC 1188] : (2009) 3 SCC (Cr) 75, there was sufficient evidence relating to demand of dowry to attract section 498A but the same was not sufficient for the purposes of section 304B, conviction under section 304B, was set aside and that under section 498A, was maintained. Custodial sentence of 3½ years already served was held to be sufficient. *Jagjit Singh v State of Punjab*, (2009) 4 SCC 759 [LNIND 2009 SC 544] : AIR 2009 SC 2133 [LNIND 2009 SC 544] : 2009 Cr LJ 2440 , facts established, since the minimum sentence imposed, no interference in appeal. *Anand Kumar v State of MP*, (2009) 3 SCC 799 [LNIND 2009 SC 404] : AIR 2009 SC 2155 [LNIND 2009 SC 404] , onus on the accused under section 306 is not as heavy as in the case of a dowry death under section 304B. *State of UP v Santosh Kumar*, (2009) 9 SCC 626 [LNIND 2009 SC 1770] , comparison with section 498A restated. *Kanti Lal v State of Rajasthan*, (2009) 12 SCC 498 [LNIND 2009 SC 902] : AIR 2009 SC 2703 [LNIND 2009 SC 902] : (2009) 9 AP LJ 95 , charge proved through witnesses. *Madan Lal v State of UP*, (2009) 11 SCC 527 [LNIND 2009 SC 540] : AIR 2009 SC 2175 [LNIND 2009 SC 540] : (2009) 3 All LJ 806, two injuries on neck, wind pipe and sound box fractured, medical opinion

that it could be due to epileptic fit was unfounded, even Modi's Medical Jurisprudence did not say so, offence proved.

561. *State of UP v Santosh Kumar*, (2009) 9 SCC 626 [LNIND 2009 SC 1770] .

562. *Pathan Hussain Basha v State of AP*, (2012) 8 SCC 594 [LNIND 2012 SC 473] : AIR 2012 SC 3205 [LNIND 2012 SC 473] .

563. *Soni Devrajbhai Babubhai v State of Gujarat*, 1991 Cr LJ 3135 (SC), in view of the protection under [Article 20\(1\) of the Constitution](#). See also *Praveen Malhotra v State*, 1990 Cr LJ 2184 (Del), where the husband's bail application was not allowed to be opposed as of right by the father of the deceased bride or by a women's organisation. *Amarnath Gupta v State of MP*, 1991 Cr LJ 2163 (MP), neither suicide note nor the fact that the accused was lawyer by profession was considered enough by itself for grant of bail. *Premwati v State of MP*, 1991 Cr LJ 268 , treatment by in-laws such that the bride was left with no choice but to end her life.

564. *Bhoora Singh v State of UP*, 1992 Cr LJ 2294 (All).

565. *Rajibir v State of Haryana*, AIR 2011 SC 568 [LNIND 2009 SC 1352] .

566. *Rajibir v State of Haryana*, AIR 2011 SC 568 [LNIND 2009 SC 1352] .

567. *Karan Singh v State of Haryana*, 2014 Cr LJ 2708 : (2014) 5 SCC 738 [LNINDU 2014 SC 38] .

568. *Narwinder Singh v State of Punjab*, (2011) 2 SCC 47 [LNIND 2011 SC 25] : AIR 2011 SC 686 [LNIND 2011 SC 25] .

569. *Ashaben v State of Gujarat*, 2011 Cr LJ 854 (Guj).

570. *K Prema S Rao v Yadla Srinivasa Rao*, 2003 (1) SCC 217 [LNIND 2002 SC 662] : AIR 2003 SC.

571. *Gurnaib Singh v State of Punjab*, (2013) 7 SCC 108 [LNIND 2013 SC 1343] : 2013 (7) Scale 89 [LNIND 2013 SC 1343] .

572. *Bhupendra v State of MP*, 2014 Cr LJ 546 : 2014 (1) SCJ 627 .

573. *Baljeet Singh v State of Haryana*, (2004) 3 SCC 122 [LNIND 2004 SC 249] : AIR 2004 SC 1714 [LNIND 2004 SC 249] .

574. *Dalbir Singh v State of UP*, (2004) 5 SCC 334 [LNIND 2004 SC 455] : AIR 2004 SC 1990 [LNIND 2004 SC 455] : 2004 All LJ 1448 : 2004 Cr LJ 2025 .

THE INDIAN PENAL CODE

CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

[s 305] Abetment of suicide of child or insane person.

If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or ⁵⁷⁵[imprisonment for life], or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

COMMENT.—

This and the following section have been inserted because the ordinary law of abetment is inapplicable. They apply when suicide is in fact committed. In order to frame charge under [section 305 of IPC, 1860](#) the material placed by the prosecution before the trial judge must be such that if it is accepted at its face value, it would establish that the commission of suicide by the girl below 18 years of age was the direct and proximate cause of the abetment or instigation offered by the applicant.⁵⁷⁶

⁵⁷⁵. Subs. by Act 26 of 1955, section 117 and Sch, for "transportation for life" (w.e.f. 1 January 1956).

⁵⁷⁶. *Chandan Soni v State*, [2006 Cr LJ 3528](#) (Chh).

THE INDIAN PENAL CODE

CHAPTER XVI OF OFFENCES AFFECTING THE HUMAN BODY OF OFFENCES AFFECTING LIFE

[s 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.

COMMENT.—

Abetment of suicide is punishable under this section and attempt to commit suicide, under section 309.

[s 306.1] Ingredients.—

The ingredients of abetment of suicide are as follows:

The prosecution has to prove—

- (i) the deceased committed suicide;
- (ii) the accused instigated or abetted the commission of suicide;
- (iii) direct involvement by the accused in such abetment or instigation is necessary.⁵⁷⁷ In *Ramesh Kumar v State of Chhattisgarh*,⁵⁷⁸ the Supreme Court held that where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option but to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that
 - (a) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction, and
 - (b) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of *mens rea* is the necessary concomitant of instigation.

Relevantly, it may be mentioned that there is a marked difference between "intimidatory" statement and "instigatory" statement. "Intimidatory" statements may give rise to two types of consequences, (a) either the person to whom such statements are made may be frightened and may be on receiving end or he may be angry enough to retaliate, whereas (b) instigatory statements falls within the category of goading, provoking, etc.⁵⁷⁹. Abetment involves a mental process of instigating a person or

intentionally aiding a person in doing a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.^{580.}

[s 306.2] The scope and ambit of [section 107 IPC, 1860](#) and its co-relation with [section 306 IPC, 1860](#).—

Abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.^{581.} The intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of this constituents would militate against this indictment. Remoteness of the culpable acts or omissions rooted in the intention of the accused to actualise the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of [section 306, IPC, 1860](#). Contiguity, continuity, culpability and complicity of the indictable acts or omission are the concomitant indices of abetment. [Section 306 IPC](#), thus criminalises the sustained incitement for suicide.^{582.} In the case of *M Mohan v State*,^{583.} the Apex Court held that there should be some live link, or a proximate link between the act of the accused and the act of committing of suicide. If the live link is missing, it cannot be said that the accused has instigated, or intentionally aided the commission of suicide. Mere threats of involving the family in a false and frivolous cases cannot be tantamount to instigation.^{584.}

Words uttered in a fit of anger or emotion without any intention could not be regarded as an instigation.^{585.} A type of active role which can be described as amounting to instigation or aiding for doing something is requisite before a person can be said to have committed the offence under the section.^{586.}

[s 306.3] What, if the abetted survives.—

The Supreme Court in *Satvir Singh v State of Punjab*,^{587.} explained this particular situation and held that a person can be convicted only when the abetted person commits suicide. If it ends in an attempt, the abetter cannot be convicted. It is possible to abet the commission of suicide. But nobody would abet a mere attempt to commit suicide. It is also inconceivable to have abetment of an abetment. Hence, there cannot be an offence under [section 116](#) read with [section 306, IPC, 1860](#).

[s 306.4] Maltreatment of wife.—

Mere stray instances of quarrel between husband and wife or the evidence that at times the appellant used to consume liquor cannot be termed as abetment as defined under [section 107 IPC, 1860](#). In these circumstances, it cannot be said that the accused/appellant instigated or abetted the deceased to end her life and that being the position his conviction under [section 306 IPC, 1860](#) is not justified, and therefore, liable to be set aside.^{588.} Where husband maltreating and beating wife for not conceiving and wife committed suicide, husband is liable to be convicted under section 306.^{589.} The accused husband, a drunkard, always ill-treated his wife, beat her and imputed unchastity. The wife in a quarrel set herself ablaze and died. The husband along with others attempted to stamp out flames. The conviction of the accused for murder was set aside and he was convicted under section 306.^{590.}