IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (DB) No. 13 of 1997 (R)

[Against the judgment and order of conviction and sentence dated 29.11.1996 and 30.11.1996 respectively passed by learned Sessions Judge, Giridih in Sessions Trial No. 327 of 1994]

Taiyab Mian, Son of Karamat Mian, resident of Bankhajho, Police Station Giridih, Dist.-Giridih ... ... **Appellant**

Versus

The State of Bihar Now Jharkhand … … **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant : Mr. Tarun Kumar No.1, Advocate
For the State : Mr. Vineet Kr. Vashistha, Spl.P.P.

C.A.V. on 21.07.2025 **Pronounced on 14/08/2025**

Per: Pradeep Kumar Srivastava, J

The present criminal appeal arises out of Judgment of conviction dated 29.11.1996 and order of sentence dated 30.11.1996 passed by learned Sessions Judge, Giridih in Sessions Trial No. 327 of 1994 whereby and whereunder the appellant being husband of the deceased has been convicted for the offence punishable under Section 304B of IPC and sentenced to undergo imprisonment for life.

2. It is pertinent to mention at the outset that originally this appeal was preferred by the present appellant along with his father Karamat Mian but due to death of said Karamat Mian, during pendency of this appeal, his appeal has been abated vide order dated 10.12.2024.

3. We have already heard the arguments of learned counsel for the appellant, Mr. Tarun Kumar No. 1 as well as learned Spl. P.P., Mr. Vineet Kumar Vashisth appearing on behalf of State.

Submissions made on behalf of appellant: -

4. The follofwing grounds have been taken on behalf of the appellant:-

(i) It is a case where the appellant has been convicted for the offence under Section 304B of the IPC without appreciating the evidence in right perspective that the death cannot be said to be unnatural, rather, it was natural.

(ii) The dying declaration given by the deceased in the hospital before the investigating officer itself indicates her natural death.

(iii) It has further been contended that the falsity of the prosecution version is also evident from the fact that UD Case for the same occurrence was registered on the date of occurrence itself i.e. 01.01.1994 while the FIR was instituted on 03.03.1994, hence there is delay of about two months in institution/registration of FIR that too without any explanation.

(iv) The appellant has tried to save the life of the deceased and he has rushed to the hospital since he was not available in the house at the time of occurrence and in the meanwhile the deceased succumbed to burn injury.

(v) The story of demand of dowry and consequent torture meted to the deceased is absolutely false and concocted by the family members of the deceased with a view to put pressure upon the appellant with some ulterior motive of unlawful gain.

The learned counsel for the appellant based upon the aforesaid grounds has submitted that the impugned judgment, therefore, suffers from error of law and as such, not sustainable in the eye of law.

Submissions made on behalf of State

5. Mr. Vineet Kr. Vashisth, the learned Spl. P.P. has submitted that there cannot be any benefit to defence even though FIR was instituted on 03.03.1994 reason being that the occurrence took place on 19.01.1994 and the UD case was instituted on the same day. But thereafter, the informant in a situation of non-institution of FIR by the police had to file a complaint case before the concerned magistrate and the magistrate in exercise of the power under Section 156(3) of Cr. P.C. has referred the matter before the Police to conduct an enquiry and proceed in

accordance with law. Thereafter, getting the possibility of commission of cognizable offence, FIR was registered on 03.03.1994 based upon the direction passed by the concerned Court on 09.02.1994. Hence, merely on the ground of instituting the FIR on 03.03.1994 in such a situation will not prejudice the case of the appellant since the informant has been denied access to institute the FIR and for the said purpose, provision has been provided. Therefore, reason for delay has sufficiently been explained by the prosecution for instituting the FIR. It is further argued that it is a case where the burn injury was inside the matrimonial house and as per the post-mortem report the nature of burn injury is serious and in such a serious injury it also affects the trunk of the body of the deceased, there is no possibility to utter a word by the injured what to say about giving statement, said to be dying declaration. Learned counsel has further submitted that by virtue of mandate of provision under Section 113-B of the Evidence Act, the reverse onus is upon the appellant to disprove the accusation against him but if the statement recorded under Section 313 Cr.P.C. of the present appellant will be taken into consideration, it would be evident that the factum of date of death is not in dispute and it has been stated by the appellant while answering the question that due to the torture for dowry the death of the deceased was committed, the appellant has simply answered that he is innocent by denying the said allegation. It is further contended that the appellant has not taken any specific plea that at the time of alleged occurrence he was not present in the house and no such evidence has been adduced by the appellant although onus lies upon him to prove by virtue of provision under Section 105 of the Evidence Act. The appellant has not been able to rebut the presumption raised under Section 113-B of the Evidence Act and also failed to show his *bona fide* as to what steps were taken by him to save the life of the deceased, when she sustained bury injury, a situation as would be evident from the postmortem report that the extensive burn injury involving face, neck, trunk (both side), upper extremity and both thighs half including perineum was found. But no

efforts have been shown to be there to save the life. The plea of alibi of the appellant is baseless and unfounded. It is further submitted that the learned trial Court has very properly and wisely considered the overall aspects of the case in the light of oral and documentary evidence adduced on behalf of prosecution and defence, as such, arrived at conclusion of guilt of the appellant, which suffers from no illegality or infirmity calling for any interference in this appeal which is devoid of merits and fit to be dismissed.

Factual Matrix

6. The deceased Abida Khatoon (20 years) was married with accused Taiyab Mian on 06.05.1990. It is alleged that after the marriage of Abida Khatoon (deceased), she went to her matrimonial home and hardly lived for 8 days that the accused persons started subjecting her to physical and mental torture compelling her to bring cash, television and other articles from her parents. It is further alleged that since both the families i.e. the informant and in-laws of the deceased were residing in the same village, the deceased often used to inform regarding the atrocities of the accused persons, for which appellant were taken to reconcile the matter but all in vain. It is further alleged that just before a day from the alleged occurrence, informant's daughter had come to fetch water from the village handpump, where she expressed her apprehension to her mother that the accused persons would not spare her because they were bent upon to take away her life due to non-fulfillment of aforesaid demands. The informant's wife pacified and consoled her daughter, but very next unfortunate day i.e. on 19.01.1994 at about 09:00 am hearing the cries "save save" coming from the in-laws house of his daughter, the informant along with his wife and other villagers went there, they were surprised to see that Abida Khatoon was under flames and was uttering that her father-in-law, mother-in-law and husband have sprinkled kerosine oil on her body and lit fire. It is further alleged that the mother of the deceased took her daughter to the hospital at Giridih by Rikshaw, where she died during treatment in the hospital. It is also stated that

during treatment of the deceased, the Doctor and Police had also asked the deceased about the matter then she disclosed them also that her husband and in-laws have burnt her by sprinkling kerosine oil on her body. After conducting postmortem of the deceased body, it was cremated. The first informant has stated in FIR registered under Section 156(3) of Cr.P.C. that he kept waiting for an action to be taken by the police, but when no action was taken against the accused persons in connection with the said occurrence, he ultimately, filed a complaint petition before the learned CJM, Giridih on 09.02.1994 which was sent for registration of the case and investigation by police and as such FIR was registered on 03.03.1994 for the occurrence which took place on 19.01.1994 at about 09:00 am.

The police investigated the case as per direction of the learned CJM based under Section 156(3) of Cr.P.C. and after completion of the investigation submitted charge-sheet against the accused persons for the offence under Section 304(B) of IPC. The case was committed to the court of sessions vide order dated 21.09.1994 where S.T. No. 327 of 1994 was registered. The accused persons denied the charge leveled against them for the offence punishable under Section 304(B) of IPC and claimed to be tried.

7. In the course of the trial, altogether, seven witnesses have been examined by the prosecution namely:-

(i) P.W.1- Munni Khatoon (Sister of the deceased)

(ii) P.W.2- Nuresha Khatoon (Mother of the deceased)

(iii) P.W.3- Wazir Mian (Father of the deceased -cum- first Informant)

(iv) P.W.4- Dr. Bhupendra Pd. Singh

(v) P.W.5- Sattar Mian (Brother of the deceased)

(vi) P.W.6- Udho Singh (I.O. of the case)

(vii) P.W.7- Uday Shankar Prasad (Formal witness who proved the FIR)

Apart from oral testimony of witnesses, the prosecution has relied

upon following documentary evidence:-

(i) Exhibit-1 Post-Mortem Report of the deceased

(ii) Exhibit-2 Formal F.I.R.

(iii) Exhibit-3 Inquest Report

8. On the other hand, defence has also examined as many as four witnesses:-

(i) D.W.1-Ramchandra Hembrom

(ii) D.W.2-Madina Khatoon

(iii) D.W.3-Vijay Mian (Rikshaw Puller)

(iv) D.W.4- Mumtaz Ali (Garage owner)

9. The case of defence is denial from occurrence and false implication. The specific plea of present appellant is that he had gone to attend his duty at the garage of Mumtaz Ali (D.W.-4) where he came to know about the accidental burn injury sustained by his wife and went directly to the hospital where the deceased disclosed that while cooking food she caught fire on her saree.

10. The learned trial Court after considering oral and documentary evidence adduced by the parties and the provisions of law involved in this case, recorded finding of guilt of the appellant and passed sentence as stated above.

11. In view of the submission raised on behalf of both the parties, the point for consideration is that "As to whether impugned judgment and order of conviction and sentence of the appellant suffers from any error of law calling for any interference?"

Analysis, decision and reasons:

12. Before imparting verdicts on above point, it would be appropriate to extract the relevant provisions of law applicable in this case are reproduced hereinbelow:

> ***"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."

*"**113B. Presumption as to dowry death.** -- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.*

Explanation.- For the purposes of this section, dowry death shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860)."

13. In view of the above provisions, in order to convict an accused for the offence punishable under Section 304(B) of the IPC, the following essentials must be satisfied:-

(i) the death of an woman must have been caused by burns or bodily injury or otherwise than under normal circumstances;

(ii) such death must have occurred within seven years of her marriage;

(iii) soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband;

(iv) such cruelty or harassment must be for, or in connection

with, demand for dowry.

When the above ingredients are established by reliable and acceptable evidence, such death shall be called dowry death and such husband or his relatives shall be deemed to have caused her death.

14. From bare perusal of provision of Section 304B of the IPC, it is evident that it does not categorize death as homicidal or suicidal or accidental. This is because death caused by burns can, in a given case, be homicidal or suicidal or accidental. Similarly, death caused by bodily injury can, in a given case, be homicidal or suicidal or accidental. Finally, any death occurring "otherwise than under normal circumstances" can, in a given case, be homicidal or suicidal or accidental. Therefore, if all the other ingredients of Section 304-B IPC are fulfilled, any death (homicidal or suicidal or accidental) whether caused by burns or by bodily injury or occurring otherwise than under normal circumstances shall, as per the legislative mandate, be called a "dowry death" and the woman's husband or his relative "shall be deemed to have caused her death". The section clearly specifies what constitutes the offence of dowry death and also identifies the single offender or multiple offenders who has or have caused the dowry death.

15. In order to attract the provisions of Section 304-B IPC, one of the main ingredients of the offence which is required to be established is that "soon before her death" she was subjected to cruelty or harassment "for, or in connection with the demand for dowry". The expression "**soon before her death"** used in Section 304-B IPC and Section 113-B of Evidence Act has been explained by Hon'ble Apex Court in plethora of judgments, ***Bansi Lal v. State of Haryana***, (2011) 11 SCC 359; ***Mustafa Shahadat Shaikh v. State of Maharashtra,*** (2012) 11 SCC 397; ***Ramesh Vithal Patil v. State of Karnataka,*** (2014) 11 SCC 516, ***Maya Devi & Anr. V. State of Haryana,*** (2015) 17 SCC 405. ***Satbir Singh & Anr. v. State of Haryana*** (2021) 6 SCC 1. It has been observed that though the language used is "soon before her death", no definite period has been enacted and the expression "soon before her death" has not been defined

in both the enactments. Accordingly, the determination of the period which can come within the term "soon before her death" is to be determined by the courts, depending upon the facts and circumstances of each case. However, the said expression would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question. In other words, **there must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the death concerned.** If the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.

Hon'ble Apex Court in the case of ***Satbir Singh & Anr. v. State of Haryana*** (2021) 6 SCC 1 has held that the phrase "soon before" in section 304B IPC 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. 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. Thus, a 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.

16. Section 113-B of the Evidence Act lays down rebuttable presumption of law in respect of dowry. If the ingredients under Section 304-B IPC are attracted, the court shall presume and it shall record such fact as proved unless and until it is disproved by the accused. However, it is open to the accused to adduce such evidence for disproving such conclusive presumption as the burden is unmistakably on him to do so and he can discharge such burden by getting an answer through cross-

examination of the prosecution witnesses or by adducing evidence on the defence side as such putting reverse onus of proving on the accused.

17. In the background of aforesaid jurisprudence of dowry death, we have to appreciate the arguments of learned counsel for the parties apprising ourselves with the evidence adduced in this case by the respective parties.

18. We have to consider as to whether the ingredients of Section 304B IPC as discussed above has been established by the prosecution through cogent and reliable evidence.

(i) The first ingredient regarding the death of a woman due to burns or bodily injury or caused otherwise than under normal circumstance is concerned, it is evidence from post-mortem report of the deceased (Exhibit -1) as proved by P.W.-4 Dr. Bhupendra Pd. Singh, who has made following observations on the dead body of the deceased Abida Khatoon aged about 20 years wife of Taiyab Mian:-

> Teeth intact, conjunctive congested. Tongue inside.
>
> **Extensive burn injury** involving face, neck, ***tongue both sides,*** upper extremity and both thighs half including perineum was found.
>
> **Singing of hair, eye lashes, eye brows and blackening of** skin were present.
>
> Redness was found.
>
> **Characteristic smell of Kerosine Oil was found.**
>
> On dissection:- subcutaneous tissue in neck NAD. Larynx and trachea congested. Hoid bone intact. Lungs congested. Heart contained blood both sides. Liver, spleen and kidney congested. Stomach contained semi digested food mixed with liquid and its mucous membrane reddened. No peculiar smell from the stomach contains. Urinary bladder empty. Uterus normal size. Vagina NAL. Skull intact. Brain and its meninges congested. No mark of violence was found.

One injury was antemortem in nature produced by flame. **Cause of death** opined to be shock as a result of extensive burn injury.

Time elapsed since death till P.M. examination about 18 hours to 24 hours. The body was identified by SI RN Singh and Md. Taiyab and Md. Kurban.

The injuries caused to the deceased was sufficient in ordinary course of nature to cause her death.

In his cross-examination, this witness has stated that the entry is made in the hospital register for indoor patient.

19. It is admitted position that the occurrence took place on 19.01.1994 at about 9 AM and the deceased under extensive burnt injuries was brought to the hospital by her mother namely Nuresh Khatoon, (P.W.-2) and she was treated as indoor patient and succumbed to death due to injuries at evening at about 6 PM**,** therefore the first condition is established beyond doubt.

(ii) So far Second condition is concerned, it is also admitted fact that the deceased was married with the appellant on 06.05.1990 and she died on 19.01.1994 i.e. within seven years of her marriage.

(iii) Third and fourth conditions i.e. *soon before her death* the woman must have been subjected to cruelty or harassment by her husband or any relatives of her husband and *such cruelty or harassment must be for, or in connection with, demand for dowry*.

In this connection, the oral testimony of witnesses, particularly mother, father, sister and brother of the deceased have consistently testified supporting the demand of arrear of dowry agreed at the time of marriage to be paid later on.

P.W.3 namely Wazir Mian, father of the deceased-cum-informant who has deposed in clear terms that at the time of marriage he had given dowry according to his capacity, but some articles were left to be given to the accused persons, therefore, after few days of her marriage, the accused persons started demanding to bring those articles

and cash from the deceased and compelled her to be fulfilled by her parents. He has further deposed that due to non-fulfillment of their demand, the accused persons always subjected the deceased to various atrocities. He has also deposed that since the marriage of the deceased was performed in the same village, therefore, deceased always used to meet with her mother and other family members and use to complain about the demand and consequent physical and mental tortures meted to her. This witness also went to the house of the accused persons to assure them that he will try to fulfill their demands but could not fulfill the same due to paucity of fund. Thereafter, on 19.01.1994 at about 09:00 am in the morning he heard Halla coming from the matrimonial house of his deceased daughter, he rushed towards the place of occurrence along with his wife, P.W.-2, Nuresha Khatoon and P.W.-1 Munni Khatoon another daughter and found his daughter was completely burnt but told them that her husband and in-laws have sprinkled kerosine oil on her and lit the fire. Thereafter his wife (P.W.-2) Nuresha Khatoon brought the deceased to hospital on Rikshaw.

P.W.-2, Nuresha Khatoon is the mother of the deceased. According to her evidence, Rs. 5000/- cash, one Television and one Cycle were left to be given to accused persons as was agreed at the time of marriage. The accused persons were raising consistent demand of aforesaid articles from the deceased and compelled her to bring from her parents. She has also stated that due to their poor financial condition, aforesaid demands could not be fulfilled and the accused persons started subjecting the deceased to harassment and cruelty both mental and physical and she used to complain about the atrocities met with her to her mother while going to fetch water from the handpump. On the previous night of occurrence also, the deceased complained about ill treatment and torture meted to her and her apprehension that she might not be spared due to non-fulfillment of the demand of dowry.

20. The above versions regarding conditions No. (iii) and (iv) finds further corroboration from the evidence of P.W.-1, Munni Kumari, sister

of the deceased and P.W.5, Sattar Mian, brother of the deceased. It is also proved that it was consistent and persistent demand of money and other articles like TV and Cycle at the hands of appellant and his relatives and due to non-fulfillment of which the deceased was subjected to cruelty and torture, soon before her death.

21. The defence has not been able to elicit any substantive materials from the witnesses of facts examined by the prosecution to rebut their testimony as regards demand of cash and other articles and due to non-fulfillment of the same subjecting the deceased to ill treatment, torture and harassment rather by way of suggestion there is general denial from any demand and torture meted to deceased and they have been falsely implicated due to ulterior motive of the witnesses to harass the accused persons.

22. The defence has also attempted to rebut the prosecution story by adducing oral and documentary evidence.

D.W.-1 Ramchandra Hembrom, A.S.I. who was posted at Giridih Town, Police Station on the relevant date and time. According to his evidence, on 19.01.1994, he had gone to Sadar Hospital, Giridih after receiving information that a woman in a burnt condition has been admitted there. He recorded the statement of injured Abida Khatoon at about 1:30 PM which was basis of UD Case No. 01 of 1994 which was investigated by A.S.I. Soudagar Yadav. According to this witness, the injured woman told that while she was cooking food, her Saree caught fire and she raised alarm and the neighboring people assembled over there who tried to save her. The statement of the victim was read over to her and she put her thumb impression finding the same to be correct.

23. It is pertinent here to mention that the said statement as alleged to be recorded by this witness of the deceased containing her thumb impression has not been brought on record rather summary of the said statement was recorded in para 3 of the case-diary, which has been marked as Exhibit A in this case.

Admittedly, no certificate was obtained from the concerned

Doctor, who was treating the deceased about her mental and physical condition nor the statement was recorded in presence of any witness including the Doctor nor the record of the statement has been adduced in evidence, therefore no reliance can be placed on the evidence of D.W.-1.

D.W.-2, Madina Khatoon, is a neighbor of accused Taiyab Mian, who has simply expressed her no knowledge about any demand of dowry from the deceased at the hands of her husband and in-laws but a glaring fact supporting the prosecution story has been stated by her that when she went at the place of occurrence at the house of Taiyab Mian after hearing Halla from his house, Abida Khatoon (deceased) was badly burnt and she was naked. She also admitted the presence of mother of the deceased who rushed towards hospital along with injured Abida Khatoon.

Being a close-door neighbor of accused persons, she might not have chosen to inculpate them. Moreover, the demand of money or any form of dowry pertains in between husband and in-laws of groom and family members of wife, which often takes place within four walls of house and for the sake of their prestige and honor in the society, no party would like to make them public. Therefore, mere ignorance of D.W.-2 about such demand is not sufficient to turn down prosecution story.

D.W.-3, Vijay Mian is a Rikshaw Puller who has brought the deceased in burnt condition to the hospital, but he has overheard the conversation between injured Abida Khatoon with her mother and reproduced the same as the injured was saying to her mother that she has accidently caught fire on her Sharee while cooking food, which is contrary to the evidence of mother of the deceased.

D.W.-4, Mumtaz Ali is the owner of the garage. According to him, on 19.01.1994 at about 8:30am, Taiyab Mian came to his garage to discharge his duties, but at about 09:30 AM one person came and told him that his wife got burnt, then he immediately rushed towards hospital.

This witness was never interrogated by the police during investigation nor the accused at any point of time during investigation or

even at the time of cross examination of the prosecution witnesses has ever taken such plea that he had gone to the garage for discharging his duties early in the morning. There is no such time gap between happening of the occurrence and presence of the accused at garage as alleged. It is also possible to reach the garage after commission of the alleged occurrence. Even in his statement under Section 313 Cr.P.C. the accused has not taken such plea, therefore, above testimony of witness holds no much water to disturb the prosecution story or otherwise cast any doubt over the prosecution case.

24. The appellant had laid much emphasis that the death of the deceased was natural one as per evidence of D.W.-1 who stated that the victim herself stated before him in the hospital that while cooking food she caught fire on her Saree and sustained burnt injuries.

25. The next point is that the UD case was investigated and matter was dropped by the police but the father of the deceased with oblique motive lodged the complaint case and consequently FIR was lodged after two months of the occurrence without stating any explanation.

26. The above contentions could not be given any legal sanctity for following reasons:- (i) firstly; it is admitted case of the prosecution and also evident from the face of record that the deceased had got extreme burnt injuries and admitted to hospital on the same day of occurrence at about 10am and admitted as an indoor patient. It is also evident that she succumbed to injury at about 6 pm. The doctor who conducted the autopsy on the dead body of deceased has spelt about the extensive burnt injuries covering face, neck, *tongue both sides,* upper extremity and both thighs half including perineum was found. Singing of hair, eye lashes, eye brows and blackening of skin were present. Redness was found. There is no iota of evidence at all that at the time of admission, the deceased was able to speak anything or was under conscious state and able to give any statement. Story projected by defence taking assistance from investigating officer of UD case and non-production of relevant documents in spite of order of the Court and trying to put the case under

natural death, cannot be entertained by any stretch of imagination. The defence version that it was accidental burnt injuries caused due to catching fire in the Aanchal (आँचल) of the Saree while cooking food would never cause such type of extensive burnt injuries as described above even including inside *tongue both sides,* upper extremity and both thigs half including perineum, Singing of hair, eye lashes, eye brows and upper part of the body. It is not a case of defence that the deceased has put any food on gas-stove which suddenly got exploded causing extensive burnt injuries. The mode of cooking has also not been stated, therefore the theory of natural/accidental catching of fire as the main cause of the death of the deceased is absolutely beyond the evidence and cannot be relied upon.

27. The further plea of the defence regarding delay in institution of FIR has been explained by the prosecution with sufficient reasons.

28. In the instant case, the police registered an unnatural death case No. 01 of 1994 and indulged in investigating the same in spite of claim of the informant party that it was deliberate murder of the deceased setting her on ablaze, the Informant waited for 20 days about the outcome of the police investigation but all in vain. The complaint case was filed before the learned CJM, Giridih on 09.02.1994 after 20 days of the occurrence. Therefore, it cannot be said that not lodging of prompt FIR cast any doubt over the prosecution story in the instant case. There is no limitation for lodging FIR in the dowry death case. Moreover, in the complaint petition as well as in the evidence of P.W.-3, Wazir Mian, father of the deceased, the delay in lodging the FIR has reasonable been explained.

29. In view of the above discussion and reasons, we do not find any substance in the points of argument raised on behalf of the appellant. We further find that the learned trial Court has very wisely and aptly taken into consideration the overall materials adduced in the evidence by the respective parties and has given due weightage to each piece of evidence for arriving at the conclusion. We further find that the fundamental

factual conditions required to be proved by the prosecution to attract the offence under Section 304B IPC has been well established by the prosecution. Further the conditions required to attract the presumption of dowry death under Section 113-B of the Evidence Act has also been proved beyond doubt by the prosecution. However, the presumption of law for dowry death is rebuttable one, therefore reverse onus is upon the accused to prove his defence negating the prosecution case to the satisfaction of the court.

30. In the instant case, we do not find any legal substance in the rebuttal evidence of the defence to absolve from his culpability. Therefore, we do not find any illegality or infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference and taking a different view, this appeal appears to be devoid of merits and accordingly **dismissed.**

31. The appellant is enjoying the benefit of suspension of sentence vide order dated 05.07.2000 which is hereby cancelled and the appellant is directed to surrender forthwith before the concerned trial Court for undergoing the remaining part of sentence, otherwise the learned trial Court shall take all necessary steps for securing the presence of the appellant and his imprisonment to serve the rest of the sentence imposed by learned trial Court.

32. Let a copy of this judgment along with trial court record be sent back to the concerned trial Court for information and needful.

(Sujit Narayan Prasad, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court
Dated 14/08/2025
Basant/ ***A. F. R.***