**IN THE HIGH COURT OF JHARKHAND AT RANCHI**
**Criminal Appeal (S.J.) No. 55 of 2017**
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Dilip Kumar Mahto @ Dilip Mahto, son of Late Santosh Mahto, resident of Mohalbani, P.O. and P.S. – Sudamdhi, District - Dhanbad ... ... **Appellant**

**Versus**

The State of Jharkhand ... ... **Respondent**

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**CORAM:HON'BLE MR. JUSTICE ARUN KUMAR RAI**

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For the Appellant : Mr. Kumar Nilesh, Advocate
For the State : Mr. Shiv Shankar Kumar, A.P.P.

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**C.A.V. on 14.01.2026** **Pronounced on 21.09.2026**

**1.** Heard Mr. Kumar Nilesh, learned counsel appearing for the appellant/convict, and Mr. Shiv Shankar Kumar, learned A.P.P. appearing on behalf of the State.

**2.** This appeal is directed against the judgment of conviction dated 30.11.2016 and order of sentence dated 06.12.2016 passed by the learned Additional Sessions Judge-FTC-XVII at Dhanbad in S. T. No. 409 of 2012, whereby and whereunder, the appellant/convict has been convicted under Section 304-B of IPC and sentenced to undergo simple imprisonment for seven years.

**3.** In the present case, the deceased, namely Mahi Devi, sustained burn injuries on 20.02.2012 and succumbed to those injuries on the night of 24.02.2012. Thereafter, a written application was addressed to the Officer-in-Charge, Chas, by the father of the deceased, Krishna Chandra Mahto, stating that his daughter, Mahi Devi, had married Dilip Kumar (the appellant/convict herein) on 01.07.2009 as per Hindu rites and customs. After the marriage, his daughter was blessed with a baby girl within one year. Subsequently, the appellant/convict and his mother began subjecting the deceased to cruelty and demanded Rs. 1,00,000/-, threatening to burn her if the demand was not met.

**4.** It was further contended by the informant that on 15.02.2012, when he visited his daughter's matrimonial home, her husband and mother-in-law reiterated that the demanded amount of Rs. 1,00,000/- had not been paid. The mother-in-law, after kicking the daughter of the informant, told her to go to her parental home with her father and return only after bringing Rs. 1,00,000/-. The informant requested time to arrange the amount, upon which his daughter was allowed to remain in her matrimonial home. On 20.02.2012, the informant received information from the deceased's aunt-in-law that her hand had been burnt. He, along with his brother, immediately rushed to her matrimonial home and learned that she had been admitted to K.M. Memorial Hospital, Chas. There, he saw his daughter in a severely burnt condition, and she succumbed to her injuries during treatment on 24.02.2012.

**5.** This written report was forwarded to the Officer-in-Charge, Jorapokhar (Sudamdih) Police Station, where Jorapokhar (Sudamdih) P.S. Case No. 35 of 2012 dated 25.02.2012 was registered under Section 304-B IPC and Sections 3/4 of the Dowry Prohibition Act.

**6.** After due investigation, the Investigating Officer submitted a charge-sheet under Section 304-B/34 IPC and Sections 3/4 of the Dowry Prohibition Act against the appellant/convict and his mother, Joshna Devi, wife of late Santosh Mahto. On the basis of the materials on record, the learned Magistrate took cognizance of the offences under the aforesaid provisions and committed the case to the Court of Sessions. Charges were framed against the accused persons under Sections 304-B/34 and 302/34 IPC, which were read over and explained to them. They pleaded not guilty and claimed to be tried.

**7.** After completion of the prosecution evidence, the statements of the accused persons were recorded under Section 313 Cr.P.C., wherein they denied the allegations and

claimed false implication. Upon appreciation of the evidence, the learned trial court convicted the appellant under Section 304-B IPC and sentenced him to undergo simple imprisonment for seven years, while acquitting his mother, Joshna Devi. Aggrieved thereby, the appellant/convict preferred the present appeal.

**8.** Learned counsel for the appellant/convict has submitted that the impugned judgment of conviction and order of sentence passed by the learned trial court is liable to be set aside, as the police officer who prepared the inquest report of the deceased was not examined by the prosecution, thereby causing prejudice to the defence. It has further been submitted that the informant, P.W.-5 Krishna Chandra Mahto, admitted in his cross-examination that he was mentally disturbed when he lodged the FIR and signed the inquest report, which creates serious doubt regarding the truthfulness of the prosecution case. Learned counsel has also submitted that the interested witnesses have contradicted each other on material particulars, and that there is neither a complete chain of circumstantial evidence nor any direct evidence to establish the involvement of the appellant.

**9.** It has also been contended that the learned trial court convicted the appellant/convict merely on the basis of presumption and that, in view of the evidence of the Doctor, P.W.-8, the appellant is entitled to the benefit of doubt, as the prosecution has failed to prove its case beyond reasonable doubt.

**10.** Per contra, learned A.P.P. for the State has submitted that the appellant/convict has failed to bring on record any iota of evidence to rebut the presumption arising under Section 113-B of the Indian Evidence Act, 1872 read with Section 304-B of the IPC. It is further submitted that non-examination of the police officer who prepared the inquest report of the deceased is not fatal to the prosecution case in the presence of other

material evidence, and therefore, the judgment of conviction and order of sentence require no interference by this appellate court.

**11.** Heard learned counsel for the parties and perused the material available on record, more particularly the testimony of the witnesses and the findings recorded by the learned trial court.

**12.** To prove its case, the prosecution examined as many as nine witnesses and, apart from that, several documents were brought on record. The signature of P.W.-5 on the inquest report has been marked as Exhibit-1; the written report has been marked as Exhibit-2; the post-mortem report has been marked as Exhibit-3; the registration of the case has been marked as Exhibit-2/1; the formal F.I.R. has been marked as Exhibit-4; the carbon copy of the inquest report has been marked as Exhibit-1/1. The defence has also adduced evidence as Exhibit-A, which is the sheet of attendance register showing attendance/absence of Joshna Mahatain during the week commencing 19.02.2012 and ending 25.02.2012.

**13.** The father of the deceased, Krishna Chandra Mahto (informant), was examined as P.W.-5. In his testimony, he stated that on 01.07.2009, his daughter, Mahi Devi, married Dilip Mahto (appellant/convict) as per Hindu rites and customs, and thereafter she resided in her matrimonial home along with her husband, mother-in-law, and brother-in-law (devar). On 20.02.2012, the appellant and his mother poured kerosene oil on his daughter, set her on fire, and she sustained severe burn injuries. For treatment, she was taken to K.M. Memorial Hospital, Chas, where she succumbed to her injuries on 24.02.2012. He also spoke about the preparation of the death inquest report and identified his signature on the same, which has been marked as Exhibit-1.

**14.** He further identified his signature on the written report dated 25.02.2012, which has been marked as Exhibit-2. He

categorically stated that the appellant and his mother were demanding Rs. 1,00,000/- from him, and both reiterated this demand on 15.02.2012, when he told them that he would arrange the amount. The demand was made both to the deceased and to this witness. In cross-examination, he stated that the written report was given at about 12:00 P.M. at Chas Police Station and that he had signed the death inquest report at 11:00 A.M. He further stated that he visited K.M. Memorial Hospital, Chas at 6:00 P.M. on 20.02.2012 and remained there for five days. He clarified that the deceased was not admitted to the hospital by the appellant but was brought there by the appellant's uncle and aunt. Out of the marriage between the deceased and the appellant, a daughter was born, who was one year old at the time of her mother's death. He also stated that he knew on 20.02.2012 that Mahi had been burnt by both accused persons and that he had made an application before the death of his daughter to Jorapokhar (Sudamdih) Police Station, but no action was taken.

**15.** The defence suggested that, in the course of preparing meals, the saree of the deceased caught fire, leading to her burn injuries and subsequent death. The witness admitted that he is a mechanic of auto/tempo vehicles, earning Rs. 200–300 per day, and that he was unaware of the income or employment details of his samdhan. He described his daughter as beautiful and virtuous, which facilitated her marriage, and stated that he frequently visited her matrimonial home. He further stated that the deceased's daughter was presently with the chhoti chachi saas of the deceased, and that the chacha sasur forbade them from taking the child away. He fairly conceded that from the time of marriage until the death of his daughter, he did not lodge any complaint before the panchayat.

**16.** He further stated that he visited the in-laws' house and hospital along with his brother, Ashok Kumar Mahto (P.W.-1), after hearing about the incident. First, they visited the in-laws'

house and thereafter K.M. Memorial Hospital, Chas, where they found the chhoti chachi and manjhla chacha of the appellant, but neither the appellant nor his mother was present. He received information at about 10–11 P.M. on 24.02.2012 regarding the death of his daughter, and on 25.02.2012, he visited the police station. He also stated that the written report was not in his handwriting, though it bore his signature.

**17.** The defence put suggestion to this witness, that the deceased sustained burn injuries while preparing meals and that, the appellant removed her to the hospital for treatment and bore the expenses incurred therein that no dowry was given or demanded at any time, and that the present case was lodged at the instigation of others.

**18.** P.W.-1, Ashok Kumar Mahto, is the uncle of the deceased. He reiterated the facts stated by Krishna Chandra Mahto (P.W.-5), the informant. He deposed that on 20.02.2012 at about 6:00 P.M., his brother received a phone call informing him that his daughter's hand had been burnt. Upon receiving this information, he, along with P.W.-5 and four others, including Vijay Mahto, visited the in-laws' house of Mahi Devi, where no one was present. Nearby persons informed them that Mahi had been taken to K.M. Memorial Hospital, Chas, by her chacha and chachi saas. At the hospital, they found Mahi badly burnt and unconscious. He further stated that the deceased was burnt due to non-fulfilment of the dowry demand of Rs. 1,00,000/- made by the appellant and his mother. He added that whenever they visited Mahi's matrimonial home, they tried to reason with her in-laws. He also stated that on 15.02.2012, he and P.W.-5 visited Mahi's in-laws' house, where her mother-in-law pushed her with her leg and told her to ask for money from her father, failing which she would not be allowed to remain in the house. He further stated that at the time of marriage, 80–100 baraties were present, and he himself visited

Mahi's sasural 15–16 times, sometimes alone and sometimes with his brother or a friend. He added that after one and a half months of marriage, the demand of dowry was made from Mahi by her in-laws.

**19.** The defence put suggestion to this witness that Mahi's death was accidental, that her in-laws bore heavy medical expenses during her treatment, and that this witness and P.W.-5 demanded Rs. 20,00,000/- from the appellant's mother, lodging the present case only to extort money. This witness was cross-examined on behalf of the appellant's mother, but not on behalf of the appellant. Consequently, the cross-examination on behalf of the appellant was closed and the witness was discharged.

**20.** P.W.-2, Manju Devi, the aunt of the deceased, stated that 2–4 months after the marriage, both accused demanded Rs. 1,00,000/- as dowry. As the family was poor, they could not fulfill the demand, and consequently the deceased was burnt on 20.02.2012. This witness was not cross-examined by the defence and was discharged.

**21.** P.W.-3, Kamta Prasad Mahto, a friend of the deceased's father, stated that the incident was narrated to him by P.W.-5. He further deposed that even Mahi herself had conveyed to him that her husband and mother-in-law demanded Rs. 1,00,000/- as dowry and threatened to kill her if the demand was not met. He also visited K.M. Memorial Hospital, Chas, where Mahi was undergoing treatment. The defence put a suggestion to this witness also that Mahi sustained burn injuries while preparing meals.

**22.** P.W.-4, Sonia Devi, the mother of the deceased, stated that the husband and mother-in-law of Mahi demanded Rs. 1,00,000/- as dowry. As the family was poor, they could not fulfil the demand, and Mahi was burnt by them. She further stated that she visited K.M. Memorial Hospital to look after her daughter, who was badly burnt. She admitted that no

Panchayati was convened regarding the demand of money. On the evening of the incident, she received telephonic information and immediately proceeded to see Mahi. She also stated that she informed Sudamdih Police Station, but no one came, and the dead body was taken away by the in-laws. Mahi had a daughter aged about one and a half years, who was being kept by the appellant's uncle and aunt

**23.** Similar suggestions, as were put to other witnesses, were also put to this witness that Mahi was burnt while preparing meals and that she was taken to the hospital by her husband and mother-in-law. This witness was not cross-examined on behalf of the appellant, though she was cross-examined on behalf of the appellant's mother.

**24.** P.W.-6, Sadhu Mallick, and P.W.-7, Rajender Marandi, resiled from their earlier statements and were declared hostile.

**25.** P.W.-8, Dr. Bikash Kumar, conducted the post-mortem examination of the deceased, aged about 20 years. He found approximately 80% burns over the face, neck (front and back), chest (front and back), abdomen, arms and forearms, pelvic region, thighs, and knee joints. All injuries were ante mortem. He opined that the cause of death was septicemia leading to shock, caused by burn injuries. He identified the post-mortem report and his signature, which was marked as Exhibit-3. In cross-examination, he stated that it could be a case of self-burning.

**26.** P.W.-9, Surendra Prasad, the Investigating Officer, inspected the place of occurrence. He stated that the deceased and her husband resided in a room measuring 8 ft. x 7 ft., which contained a palang (bed). He found black smoke stains on the western wall, one and a half feet away from the bed, and the southern corner of the bed was burnt. He also deposed regarding the conduct of the post-mortem examination and preparation of the death inquest report. He recorded the statements of witnesses. In cross-examination, he admitted

that he did not seize the palang (bed) or collect samples of the smoke stains. He further stated that no evidence was adduced by the informant regarding dowry articles given at the time of marriage, nor was any specific date disclosed as to when Rs. 1,00,000/- was demanded.

**27.** It is apposite to discuss herein Section 304-B IPC, which defines, and provides the punishment for dowry demand, reads as under:

> *"304-B. 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 purpose 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."*

**28.** From perusal of the aforesaid provision, it is evident that Section 304-B (1) defines "dowry death" of a woman. It provides that "dowry death" is where death of a woman is caused by burning or bodily injuries or occurs otherwise than under normal circumstances, within seven years of 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, in connection with demand for dowry. Sub-clause (2) provides for punishment for those who cause dowry death.

**29.** Thus, it is evident that there are three conditions in the aforesaid statute and if those three conditions are fulfilled then the case will come under the purview of Section 304-B of IPC. Three conditions which culled out from section 304-B of IPC are as follows: **(i)** The death caused by burn or bodily injury or occurs otherwise within under normal circumstance. **(ii)** Death was occurred within seven years of her marriage. **(iii)** It has been shown that soon before her death she was subjected to

cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

**30.** Thus, in order to sustain the conviction under Section 304-B of IPC, it is mandatory to establish that soon before death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry and the death caused by burn or bodily injury or occurs otherwise within under normal circumstance within seven years of victim's marriage.

**31.** In the case of ***Major Singh v. State of Punjab***, reported in (***2015) 5 SCC 201***, a three-Judge Bench of the Hon'ble Apex Court has laid down the guidelines, wherein it has been specifically observed that in order to sustain the conviction under Section 304-B of IPC, cruelty or harassment is shown to have been meted out to the woman soon before her death.The relevant paragraph of the aforesaid judgment is being quoted as under:

> *10. To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:*
>
> *(i) the death of a woman should be caused by burns or bodily injury or otherwise than under a "normal circumstance"; (ii) such a death should have occurred within seven years of her marriage; (iii) she must have been subjected to cruelty or harassment by her husband or any relative of her husband; (iv) such cruelty or harassment should be for or in connection with demand of dowry; and (v) such cruelty or harassment is shown to have been meted out to the woman soon before her death.*

**32.** It is further required to discuss herein that the cruelty or harassment differs from case to case. 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 depriving her of economic resources or essential amenities of life. The list is illustrative and not exhaustive.

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

**34.** The above legal proposition was emphasized by the Hon'ble Apex Court in the case of ***Satbir Singh v. State of Haryana***, reported in ***(2021) 6 SCC 1***, wherein it has been held which reads as under:

> *15. Considering the significance of such a legislation, a strict interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, "soon before" they did not mean "immediately before". Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exactly the phrase "soon before" entails.*
>
> *17. Therefore, courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term "soon before". What is pivotal to the above determination, is the establishment of a "proximate and live link" between the cruelty and the consequential death of the victim.*

**35.** When the prosecution shows that "soon before her death such woman has been subjected to cruelty or harassment for, or in connection with, any demand for dowry", a presumption of causation arises against the accused under Section 113-B of the Indian Evidence Act, 1872. Section 113-B of the Evidence Act reads as under:

> *113-B. 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 has 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 304-B of the Indian Penal Code (45 of 1860).*

**36.** It is evident from the aforesaid provision that the word "shall" has been stipulated therein which provides mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry and as such onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts on the accused.

**37.** The Hon'ble Apex Court while relying on the provisions of Section 113-B of the Indian Evidence Act, 1872 and Section 304-B IPC, where the words "soon before her death" find mention, the following observations have been made in the case of ***Surinder Singh v. State of Haryana*** reported in ***(2014) 4 SCC 129***. The relevant paragraph is quoted here under:

*17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-BIPC. 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 [Kans Raj v. State of Punjab, (2000) 5 SCC 207 : 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 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.*

**38.** Further, the Hon'ble Apex Court in the case of ***State of M.P. v. Jogendra*** reported in ***(2022) 5 SCC 401*** has pithily summarized the law on Section 304-B of IPC and Section 113-B of the Evidence Act. The relevant paragraph is quoted as under:

*17. In the above context, we may usefully refer to a recent decision of a three-Judge Bench of this Court in Gurmeet 21 Singh v. State of Punjab [Gurmeet Singh v. State of Punjab, (2021) 6 SCC 108 : (2021) 2 SCC (Cri) 771] that has restated (at SCC pp. 111-12, para 9) the detailed guidelines that have been laid down in Satbir Singh v. State of Haryana [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , both authored by N.V. Ramana, C.J. relating to trial under Section 304-BIPC where the law on Section 304-BIPC and Section 113-B of the Evidence Act has been pithily summarised in the following words : (Satbir Singh case [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , SCC p. 13, para 38)*

*"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-BIPC cannot be construed to mean "immediately before". 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-BIPC 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.*

**39.** In the light of the aforesaid legal proposition, coming to the case in hand, it is an admitted fact that the marriage between the deceased victim and the accused was solemnized on 01.07.2009 and the death of the victim occurred on 24.02.2012, i.e., more than two years and six months after the marriage. Thus, the death of the victim occurred within seven years of marriage, thereby fulfilling one of the primary requisites to invoke the provisions of Section 304-B IPC.

**40.** As regards the demand of dowry and cruelty/harassment "soon before" the death of the deceased, it transpires that the father of the deceased, P.W.-5 (informant), categorically stated that the appellant and his mother demanded Rs. 1,00,000/- on 15.02.2012, and he assured them that he would arrange the said amount. This statement is corroborated by the fardbayan. The demand was also made directly to the deceased. P.W.-1 (uncle) further stated that the demand of dowry was made within one and a half months of marriage and that whenever he accompanied P.W.-5 to the matrimonial home, they tried to pacify the in-laws. He also stated that the deceased was burnt to death as the demand of Rs. 1,00,000/- was not fulfilled, and that on 15.02.2012, the mother-in-law kicked the deceased and told her to ask for money, failing which she would not be allowed to stay.

**41.** P.W.-2 also spoke of the demand of Rs. 1,00,000/- by the in-laws. P.W.-3 deposed that the deceased herself conveyed to him that her husband and mother-in-law demanded Rs. 1,00,000/- and threatened to kill her if the demand was not met. P.W.-4, the mother of the deceased, reiterated the demand of Rs. 1,00,000/- by the husband and mother-in-law and stated that the deceased had frequent quarrels with them. She denied the defence suggestion that the allegations of dowry demand and harassment were false.

**42.** From the testimony of P.W.-1, P.W.-2, P.W.-3, P.W.-4, and P.W.-5, it is evident that the demand of dowry was made. The statement of P.W.-1 regarding the mother-in-law kicking the deceased in the presence of P.W.-5, coupled with P.W.-4's statement about frequent quarrels, establishes that the deceased was subjected to cruelty and harassment in connection with dowry demand soon before her death.

**43.** As regards the cause of death, P.W.-8 (doctor) opined that septicemia leading to shock, caused by burn injuries, was the cause of death. He found 80% burns over the face, neck (front and back), chest (front and back), abdomen, arms, forearms, pelvic region, thighs, and knees. P.W.-5 stated that the husband and mother-in-law poured kerosene oil and set the deceased on fire, which was corroborated by P.W.-1 and P.W.-4. However, the medical report and testimony of P.W.-8 did not specifically confirm the manner of burning as alleged. The appellant, in his statement under Section 313 Cr.P.C., claimed ignorance of how his wife was burnt, stating that she caught fire in the cooking room and in his house food is prepared using coal.

**44.** From the appellant/convict's statement, it is admitted that a coal stove (koyla chulha) was used for cooking. A coal stove burns solid fuel and cannot explode like a pressure stove. Accidental burns from such a stove typically follow a vertical path from bottom to top and rarely cover the entire body

uniformly. The extensive, uniform 80% burns over the front and back of the body strongly suggest the use of a liquid accelerant such as kerosene or petrol, rather than accidental burning from a coal stove.

**45.** P.W.-9 (Investigating Officer) inspected the place of occurrence and found black smoke stains on the wall and a burnt corner of the palang (bed) in the room where the deceased resided. This rules out accidental burning from a coal stove and supports the inference of deliberate burning using a liquid accelerant. The testimony of P.W.-5, coupled with corroboration from P.W.-1 and P.W.-4, further strengthens this conclusion.

**46.** The appellant/convict's statement under Section 313 Cr.P.C. that he was playing cricket less than a kilometer away from his house and that at 01:00 P.M. he received information regarding the incident from 3-4 villagers whose name he was unable to disclose. The appellant/convict has further stated that he reached home at 02:00 P.M. He showed his ignorance about how his wife sustained burn injury but has stated that she burnt in the kitchen. However, the unnamed persons from whom he allegedly learnt of the incident were not examined by the appellant/convict.

**47.** The above stated response of the appellant under Section 313 Cr.P.C. raises serious doubts about the veracity and credibility of his version.

It is further required to be noted that, in cross-examination, defence has put a suggestion to witnesses that deceased has sustained burn injury while preparing meal. However, there is no evidence available on record to substantiate this defence. No effort was made on behalf of the appellant/convict to bring such a fact on record, as not a single question *qua* this, was put to the I.O. who had inspected the place of occurrence.

**48.** It is settled law that statements under Section 313 Cr.P.C. can be considered to lend credence to prosecution evidence but cannot form the sole basis of conviction. In the present case, however, the ingredients of Section 304-B IPC stand satisfied, and the presumption under Section 113-B of the Indian Evidence Act, 1872 operates against the appellant. The burden shifted to him to rebut the presumption, but he failed to adduce any evidence to establish accidental death or his non-involvement.

**49.** Considering the legal propositions and the overall facts and circumstances, this Court is of the considered view that the appellant failed to rebut the presumption under Section 113-B of the Indian Evidence Act, 1872, as no evidence was adduced on his behalf to discharge the burden. The prosecution has proved the charge beyond the reasonable doubt, and the judgment of conviction and order of sentence, therefore stand affirmed.

**50.** Resultantly, the instant criminal appeal being Cr. Appeal (S.J.) No. 55 of 2017 is, hereby, dismissed.

**51.** Let a copy of this judgment along with the trial court records be sent back forthwith to the court concerned for information and needful.

**52.** Pending I.A., if any, stands disposed of.

**(Arun Kumar Rai, J.)**

Umesh/-
Dated, the 21.09.2026
A.F.R.