

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 643 of 2003

Mohan Banerjee, Son of Late Ram Podo Banerjee, R/o-Saluk Capra, P.S.-
Nirsa, Dist.-Dhanbad **Appellant**

Versus

The State of Jharkhand **Respondent**

With
Cr. Appeal (S.J.) No. 656 of 2003

Baid Nath, Son of Late Ram Podo Banerjee, R/o-Saluk Capra, P.S.-Nirsa,
Dist.-Dhanbad **Appellant**

Versus

The State of Jharkhand **Respondent**

For the Appellants : Mr. M.B. Lal, Advocate
Mr. Avilash Kumar, Advocate
For the Resp. State : Mrs. Vandana Bharti, A.P.P.
[Cr.A.(S) No. 656 of 2003]
: Mr. Tarun Kumar, A.P.P.
[Cr.A.(S) No. 643 of 2003]

PRESENT

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

CAV On 09/04/2026

Pronounced On 13/05/2026

Per- Pradeep Kumar Srivastava, J.

1. These criminal appeals are preferred by the aforesaid appellants being aggrieved and dissatisfied with their conviction and sentence for the offence under Section 498A and 304B read with 34 of the IPC passed by Additional Sessions Judge, Dhanbad in Sessions Trial No. 18 of 2001 whereby and whereunder, appellants Baid Nath Banerjee, Mohan Banerjee and Renuka Banerjee have been convicted and sentenced for the aforesaid offences and directed to undergo R.I. for 2 years for the offence under Section 498A of the IPC and R.I. for 10 years for the

offence under Section 304B read with Section 34 of the IPC. Both the sentences were directed to run, concurrently.

2. It is here to mention at the very outset that appellant No. 2 Renuka Banerjee in Cr. A. (DB) No. 643 of 2003 died during the pendency of this appeal and her appeal has been abated vide order dated 19.02.2026.
3. We have already heard the arguments of learned counsel for the appellants-Mr. M.B. Lal and learned APPs.

Factual Matrix:-

4. The factual matrix giving rise to these appeals are that Mr. Nitya Nand Mukherjee (Informant) solemnized marriage of his daughter namely Shikha Banerjee on 26.02.1997 in accordance with Hindu Rites and Customs with Baid Nath Banerjee, son of Ram Podo Banerjee. It is alleged that at the time of marriage, the informant has given as per his capacity Rs. 50,000/- cash, 14 tola gold ornaments and other household articles. It is further stated that daughter of informant went to her matrimonial home and just 2-3 months, she was quite well at her matrimonial home. Thereafter, son-in-law of informant, who was practicing as Homeopathic Doctor, for opening a clinic at Hirapur, Dhanbad, started demanding Rs. 50,000/- cash and putting pressure upon the daughter of informant to fulfil the said demand. His daughter came to her parental home, then, disclosed that due to non-fulfilment of above demand of money, she was not being kept well. She was being threatened of life for non-fulfilment of said demand and she apprehended that she would not be comfortable, in her

matrimonial home. The informant, anyhow, managed Rs. 20,000/- in the month of February, 1999 and paid the same to accused Baid Nath Banerjee, for the sake of happiness of his daughter, at her matrimonial home. It is alleged that son-in-law of the informant insisted upon fulfilment of rest Rs. 30,000/- to which the informant's daughter protested, then, her husband frequently used to assault. It is further alleged that on 17.10.1999, informant's son Aditya Mukherjee got information that Shikha Banerjee has been set on ablaze at her matrimonial home and sent to Hospital, in burnt condition, then, the informant along with his wife Bhagya Laxmi Mukherjee went to Dhanbad on the same night and found his daughter was lying dead at Sadar Hospital, Dhanbad. It is alleged that deceased was also blessed with a son of one and half years, whose name is Rohan. The informant asked his son-in-law about the occurrence as to how this incident took place but nothing was told. Informant was very much shocked after the death of his daughter. In the next day, he along with his elder son Aditya Mukherjee went to Village Saluk Capra and came to know from villagers that his daughter has been burnt by sprinkling kerosine oil by her husband and in-laws' family. The informant has further disclosed that a U.D. Case was registered on the statement of his son-in-law.

On the basis of above fardbeyan of informant, F.I.R. was registered for the offences under Section 304B/34 of the IPC against 8 named accused persons.

5. After investigation of the case, first charge sheet was submitted on 13.02.2000 against accused persons namely Ram Pado Banerjee, Baid Nath Banerjee, Renuka Banerjee and Mohan Banerjee. Out of them, Ram Pado Banerjee died after submission of charge sheet.

Second charge sheet No. 67/2000 was submitted against accused Tapas Kumar Mukherjee, Bharati Mukherjee, Baidyanath Mukherjee and Tripti Mukherjee.

6. After submission of charge sheets, the case was committed to the Court of Sessions, where S.T. No. 18 of 2001 was registered. All the seven-charge sheeted accused persons appeared and denied from charges and claimed to be tried.

7. The learned trial Court after conclusion of trial extended the benefit of doubt to Baidyanath Mukherjee, Bharati Mukherjee, Tapas Kumar Mukherjee and Tripti Mukherjee and acquitted them from the charges. The present appellants were convicted and sentenced as stated above.

Submissions on behalf of appellants: -

8. Learned counsel for the appellants assailing the impugned judgment of conviction and order of sentence, has argued that prior to registration of F.I.R., U.D. case was instituted on statement of Baid Nath Banerjee, the husband of the deceased. This statement was witnessed by the brother of the deceased namely Aditya Mukherjee (P.W.-4). This fact is also supported by the investigating officer (P.W.-7). It is also admitted fact that the incident was informed by the husband of the deceased Baid Nath Banerjee to his brother-in-law (P.W.-4). It is further submitted that although the occurrence is of

16/17.10.1999 but a complaint was lodged on 05.11.1999 after due deliberation and the informant also wrote to National Human Rights Commission. Therefore, this false and fabricated case was registered. The very presence and signature of witness Mr. Aditya Mukherjee (brother of the deceased) over the fardbeyan of Baid Nath Banerjee (appellant) resulting in U.D. Case itself proves the innocence of the appellant. It is further submitted that the prosecution has miserably failed to prove any demand of dowry from the deceased or her relatives, at any point of time as well as mental and physical cruelty meted with her, due to non-fulfilment of any demand of dowry. It is submitted that even if the allegation of payment of Rs. 50,000/- for opening Homeopathic Clinic is said to be true for the sake of argument, such demand cannot be treated as dowry demand within the meaning of Section 2 of Dowry Prohibition Act. It is further submitted that the prosecution has miserably failed to prove the foundational facts of "dowry death" regarding demand of any dowry by the appellants, soon before her death as well as that the deceased was subjected to cruelty or harassment on account of non-fulfilment of such demand. Therefore, learned trial Court has wrongly drawn the presumption of guilt under Section 113B of the Indian Evidence Act. It is further submitted that the appellant Mohan Banerjee, who happens to be brother-in-law of the deceased (Devar), there is no iota of evidence, showing that he ever demanded any money from the deceased or her father or her brother nor he has treated the deceased with cruelty by inflicting any physical or mental violence. The

husband has also sought money only for developing his business and not as a dowry. The learned trial Court has also failed to consider the above vital aspect of the case, which clearly shows that no offence either under Section 304B or 498A of the IPC is made out against the appellants and recorded findings of guilt and convicted and sentenced them. The finding of the learned trial Court is based upon irrelevant evidence, conjecture, surmises and beyond the weight of evidence available on record. Therefore, impugned judgment of conviction and order of sentence of the appellants is liable to be set aside and the appellants deserve to be acquitted from the charges levelled against them and these appeals may be allowed.

Submissions on behalf of the State

9. On the other hand, learned A.P.Ps. appearing for the State opposing the aforesaid contentions raised on behalf of the appellants, have submitted that the prosecution has very well proved that the deceased died due to burn injuries under abnormal circumstances, at her matrimonial home and the death occurred within seven years of her marriage. It is also proved beyond doubt that the husband of the deceased was very much instrumental in demanding Rs. 50,000/- as dowry in pretext of opening and developing his homeopathic clinic. It was not mere a loan amount rather in connection with the marriage which was solemnized just within three years of occurrence. It was not a simple demand to carry on a business rather it was manifested in subjecting the deceased to cruelty, harassment, physical and mental torture, at the hands of her husband. It is also proved and not denied

by the appellant Baid Nath Banerjee that Rs. 20,000/- was given by his father-in-law to him but he was not satisfied and continued subjecting cruelty with his wife for the rest of Rs. 30,000/- which ultimately resulted in setting on ablaze the deceased on frightful day. Therefore, the prosecution has proved all the four foundational facts invoking the definition of offence of "dowry death" under Section 304B of the IPC. The learned trial Court has committed no error of law in invoking the presumption of dowry under Section 113B of the Indian Evidence Act against the appellants. It is further submitted that mere some delay in institution of F.I.R. does not cast any doubt on the prosecution case. In common parlance, the factum of crime of such nature can shock and deprive to take any decision immediately but the same is not sufficient to brand the case as false and fabricated. There are unrebutted, cogent and reliable evidence on record to conclusively prove the guilt of the appellants. There is no reason to take a different view than the learned trial Court. These appeals have no merits and fit to be dismissed.

10. We have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of the parties.
11. It appears that the prosecution has examined altogether 7 witnesses in this case.

P.W.-1	Bamapad Mukherjee
P.W.-2	Vijay Krishna Mukherjee
P.W.-3	Nityanand Mukherjee (Informant)
P.W.-4	Aditya Mukherjee (Brother of the deceased)

P.W.-5 Bhagya Laxmi Mukherjee (Mother of the deceased)

P.W.-6 Dr. Shailendra Kumar

P.W.-7 S.I., Sudama Tiwary (Investigating Officer)

12. Apart from oral testimony of the witnesses, the prosecution has adduced following documentary evidence:-

Ext. 1 to 1/1 Signature of Nityanand Mukherjee and his son on written report.

Ext. 2 to 2/1 Signature of Nityanand Mukherjee and Advocate on complaint petition

Ext.-3 to 3/1 Two letters

Ext.-4 P.M. Report of deceased Shikha Banerjee

Ext.-5 Fardbeyan

Ext.-6 Formal F.I.R.

13. The defence has also examined following witnesses:-

D.W.-1 Baidyanath Mukherjee

D.W.-2 Tapas Kumar Mukherjee

14. Apart from oral testimony of the witnesses, the defence has also adduced following documentary evidence:-

Ext.-A to A/1 Two original letters of Bhadeli Primary School dated 01.08.2002 issued by Head Teacher and Chairman of Bhadeli Primary School, respectively.

Ext.-B to B/1 Two original ration and bearing Nos. 3404106 and 3404107 of Baidyanath Mukherjee and Bharati Mukherjee, respectively of West Bengal Govt.

Ext.-C to C/1 Two original Voter-ID Cards in the name of Baidyanath Mukherjee and Bharati Mukherjee issued by Election Commission of India.

Ext. -B/2 Ration Card of Tapas Mukherjee No. 51113

Ext.-C/2 Original Voter I.D. Card of Tapas Mukherjee issued by Election Commission of India.

15. The sole point for determination in this appeal is “as to whether the impugned judgment of conviction and sentence of the appellants suffers from any error of law, which requires any interference in these appeals”?

Analysis, reasons and decision:

16. Before imparting our verdict on the above point, to satisfy our inner conscience, it appears necessary to take brief resume of ocular testimony of witnesses examined in this case.

P.W.-1 Bamapad Mukherjee is local resident of matrimonial home of the deceased. According to his evidence, wife of Baid Nath Banerjee died in the month of October due to burn. He knows all the accused persons but says that he was not interrogated by the police. He has been declared hostile by the prosecution.

In his cross-examination, he states that he never heard about any ill-treatment with the deceased by accused persons.

P.W.-2 Vijay Krishna Mukherjee has also been declared hostile by the prosecution who is local person of matrimonial home of the deceased. He also stated in his cross-examination by the defence that

there was cordial relationship between Baid Nath Banerjee and his wife (Deceased).

P.W.-3 Nityanand Mukherjee is father of the deceased-cum-informant (complainant) of this case. He has proved the contents of his information and deposed that the marriage of Shikha Banerjee was solemnized on 26.02.1997 with Baid Nath Banerjee and at the time of marriage, Rs. 50,000/- cash, 14 tola golden ornaments and other household articles were given. His daughter lived peacefully about 3 months in his Sasural, thereafter, accused persons including husband started putting pressure on his daughter to bring Rs. 50,000/- for opening Homeopathic Clinic by her husband. His daughter whenever came to her parental home, she used to weep and used to narrate her sufferings at Sasural. This witness and his elder son Aditya Mukherjee went to Sasural of the deceased and also attempted to convince the accused persons to keep his daughter peacefully. He also gave Rs. 20,000/- in the month of February, 1999 to his son-in-law for opening clinic as demanded by him but he was adamant upon Rs. 30,000/- and harassing and torturing his daughter in various ways. He has further deposed that on the occasion of Jitiya Festival in 1999, his daughter and son-in-law came to his colliery quarter, at that time, one golden chain presented at the time of marriage to his son-in-law was stolen, then, he said that he will give a chain on the occasion of Durga Puja. In the meantime, when Durga Puja festival started on 17.10.1999, he got information from his son that Shikha Banerjee is admitted in hospital at Dhanbad. Then, he

immediately went there and found dead body of his daughter lying in Sadar Hospital, Dhanbad. On 18.10.1999, her post-mortem was conducted. His son was also present there. On that occasion also, son-in-law of this witness fled away leaving dead body which was cremated by son of this witness. He has further stated that his daughter was frequently abused, assaulted and tortured by her husband and other accused persons due to non-fulfilment of his illegal demand of dowry and his daughter was burnt by sprinkling kerosine oil by all the accused persons. He has further deposed that in the next day of occurrence, he was desire to lodge the F.I.R. but at that time, U.D. Case was registered, hence his report was not taken by the police. Then, he filed an application before Superintendent of Police and also reported the matter to the President of India and National Human Rights Commission. This witness has admitted his signature and his son's signature on fardbeyan and proved his signature on complaint petition.

This witness has been cross-examined at length but nothing has been elicited to rebut his aforesaid testimony rather he has reiterated that his son-in-law was asking money for opening homeopathic clinic. His son-in-law also met with him and demanded the money. He also admits that at the time of marriage, whatever was agreed, he has given and nothing was due. He has denied the suggestion of defence that he was insisting upon taking back his grand son (son of the deceased) when the accused persons declined, he threatened to lodge a false case. In this regard, this

witness has himself said that before institution of the case, his Nati was returned by the accused persons.

P.W.-4 Aditya Mukherjee (brother of the deceased). According to his evidence, it was occasion of the Durga Puja, in the month of October on 17.10.1999, his brother-in-law Baid Nath Banerjee informed to the wife of this witness that Shikha Banerjee (younger sister of this witness) has sustained fire injury and admitted in Sadar Hospital, Dhanbad. This witness returned from his duty at about 3:00 to 3:30 pm, then, the incident was disclosed by his wife. Then, he went to his father house but he was not present and had gone outside along with his mother. Thereafter, he went to Sadar Hospital, Dhanbad where police were also present. Tapas Kumar Mukherjee, Baid Nath Banerjee were also present there, where police got his signature on a written paper without reading over to him about the contents of the said document. He went inside Hospital and saw his sister lying dead. In the previous night, itself she was referred for further treatment at Bokaro General Hospital and some injections were also advised but nothing was supplied to the conducting Doctor nor she was brought to Bokaro General Hospital. He again returned to R.S.P. College in the night and along with his father and mother again went to Hospital. On 18.10.1999, post-mortem of the deceased was conducted. He also went to matrimonial home of the deceased at village Saluk Chapra, where door of the house of Baid Nath Banerjee was locked. The neighbors told him that from the morning of the incident, scuffle was going on

with his sister and at about 3:00 to 4:00 pm, accused persons assaulted the deceased Shikha Banerjee and set on ablaze sprinkling kerosine oil. His father has lodged this case after registration of U.D. Case. He has further proved that Shikha Banerjee was married with Baid Nath Banerjee on 26.02.1997 and at the time of marriage, Rs. 50,000/- cash, 14 tola golden jewelry and household articles were given. Thereafter, her husband started demanding Rs. 50,000/- out of which Rs. 20,000/- was given by his father, in the month of February, 1999. He has further stated that just after 3-4 months of marriage, assault and torture began with his sister, due to non-fulfilment of additional demand of dowry by the accused persons.

This witness has been cross-examined at length but nothing material has been elicited to cast any doubt on the prosecution story or disbelieve or discredit his testimony, rather, he has reiterated that his brother-in-law pressurized him to sign on the fardbeyan of UD Case and he was not aware of the contents thereof. He has never stated that Shikha died sustaining burn injury by cooking food. He has also reiterated that after marriage, Rs. 50,000/- was asked for by the husband of the deceased in the shape of dowry on pretext of opening clinic, due to that reason, Shikha was subjected to cruelty and ultimately set on ablaze by none else but her own husband and in-laws.

P.W.-5 Bhagya Laxmi Mukherjee is the mother of the deceased. She has also stated about marriage of her daughter with the appellant Baid Nath Banerjee and at the time of marriage, Rs. 50,000/- cash,

golden ornaments along with household articles and furniture were presented. Thereafter, Rs. 50,000/- cash was being asked for by her son-in-law and other family members. Due to non-fulfilment of which, her daughter was being subjected to physical and mental cruelty and she was let at her parental home for some time. She has further deposed that on persistent demand by husband of the deceased, Rs. 20,000/- was given by her husband to her son-in-law but even then, he was threatening that he will stop food and cloths of her daughter if remaining Rs. 30,000/- is not paid. He was also physically assaulting to his daughter due to non-fulfilment of remaining amount. She has further deposed that again a 10gm golden chain was given to her son-in-law and it was also said that at the time of Durga Puja money may be managed but, in the meantime, on 17.10.1999, her daughter was killed at her Sasural by setting her on fire. She saw the deceased daughter on Hospital was lying dead sustained burnt injuries on whole body. A son of deceased aged about one and half years was also left at her home.

This witness has also been cross-examined at length but nothing has been elicited in her cross-examination to disbelieve her aforesaid testimony rather in her cross-examination she admitted that her husband became instable after death of his daughter.

P.W.-6 Dr. Shailendra Kumar assistant professor at PMC, Dhanbad has conducted autopsy on the dead body which was brought and identified by the Baid Nath Banerjee, husband of the deceased, Aditya Mukherjee and Constable 1617 Sudip Kumar Singh and

dermo epidermical antemortem burn injuries were found all over the person of the deceased except back of lower part of trunk, back of left thigh and the whole left leg, both feet and private part. Cuticles were destroyed at most of places. Scalp hairs were burnt and signed at many places and remnant hairs were emitting faint smell of kerosine oil.

Cause of death:- Death was caused due to shock as a result of aforementioned kerosine oil burn injuries about 90 %. He has proved the post-mortem report as Exhibit-4 in his writing and bears his signature.

In his cross-examination, this witness admits that in such type of injury, possibility of recent accidental burn injury may not be ruled out.

P.W.-7 S.I. Sudama Tiwary is the Investigating Officer of this case. According to his evidence, the local villagers stated before him that after hearing Halla, they went to house of Baid Nath Banerjee and saw that Baid Nath Banerjee was taking his wife to hospital who has sustained burn injuries. There was cordial relationship between the husband and the wife. He has also deposed that on the statement of accused Baid Nath Banerjee, unnatural death case was lodged. Upon which, brother of the deceased Aditya Mukherjee has also put his signature. Aditya Mukherjee was also witness of the inquest report. He has further stated that in the UD Case, it was reported that due to burst of kerosine stove, deceased caught fire in her Sharee and during course of treatment died. He has also stated that Tapas

Kumar Mukherjee and Tripti Mukherjee are resident of Baliapur and Bharti Mukherjee and her husband is resident of Nakra Kunda, P.S. Kachra, Dist. Birbhum, West Bengal. He has proved exhibit 1, 1/1, signature of Nityanand Mukherjee and his son on written report. Ext. 2 and 2/1, signature of Nityanand Mukherjee and his advocate on the complaint petition, ext. 3 and 3/a are letters of National Human Rights Commission, Ext.-4 is post-mortem report of the deceased, ext.-5 is fardbeyan and Ext.-6 is formal F.I.R. In the course of investigation, he recorded the statement and visited the place of occurrence. According to him, place of the occurrence of the case is the house of Baid Nath Banerjee made by bricks and roofed by mud tiles situated in village Saluk Chapra. There is a courtyard inside the house, in this courtyard, deceased Shikha Banerjee caught fire on her body. After completion of investigation, he found the case true for the offence under Section 498A and 304B of the IPC, 3/4 of the Dowry Prohibition Act and submitted charge sheet against all the accused persons.

The attention of this witness has been drawn towards the statement of witness Bamapad Mukherjee (P.W.-1) who has stated before him that on 16/17.10.1999, at about 9:00 pm, he heard Halla that wife of Baid Nath Banerjee has caught fire in her Saree and died during the course of treatment. He also disclosed before this witness that prior to occurrence, Baid Nath Banerjee and his wife were frequently quarreling.

Witness Vijay Krishna Mukherjee has stated before him that on 16/17.10.1999, in the night, he heard Halla and went to the house of Baid Nath Banerjee, then, saw that Shikha Banerjee was burnt and her husband was taking her to Hospital but she died on 17.10.1999. He has also stated that there was no cordial relationship between husband and wife.

In his cross-examination by defence, this witness states that this case was not lodged under any pressure of the complainant. He has also reiterated that UD case was registered on the basis of the fardbeyan of the Baid Nath Banerjee. At that time, brother of the deceased Aditya Mukherjee was not disclosed about the fact that the deceased was burnt by her husband and he also signed over the inquest report. The accused has stated that the deceased died due to accidental fire caused due to burst of kerosine stove and her Saree caught fire and in the course of treatment, she died. He has further reiterated that none of the witnesses have told him that deceased died due to catching accidental fire in her Saree. He also reiterates that in the course of investigation, mother, father and brother of the deceased have stated that the deceased was killed by setting on ablaze due to non-fulfilment of dowry of demand and she was frequently subjected to cruelty to pressurize her to fulfil the illegal demand of money. He has also affirmed that witness Aditya Mukherjee has not stated before him that due to non-fulfilment of demand of Rs. 30,000/-, his sister was burnt by her husband and other accused persons.

17. On the other hand, defence has also examined two witnesses.

Baidyanath Mukherjee (D.W.-1) is one of the accused. He is husband of Bharati Mukherjee. His marriage was solemnized about twenty years ago. He along with his wife resides at Nakrakunda, Dist. Birbhum, West Bengal. He has also proved that he is by a profession teacher of a primary school. He has proved two certificates, one issued by the Head Master of Bhadeli Primary School and another issued by Chairman of Bhadeli Primary School, which has been marked as Ext.-A and A/1, respectively. He has also proved ration cards of his name and in the name of his wife, which has been marked as Ext.-B and B/1, respectively. He has also proved his own voter ID Card and voter ID card of his wife marked as Exhibit C and C/1. The above documents are produced to prove his permanent address and present residence as well as his presence on the relevant date of occurrence that he was at his residential house along with his wife Bharati Mukherjee.

D.W.-2 Tapas Kumar Mukherjee is husband of Tripti Mukherjee, daughter of Rampado Mukherjee. He has also proved that his wife is working as Nurse at Baliapur, Dist. Vardhman, West Bengal and he also work as Medical Technician in private clinic. He has brought his ration card of the year 1995 issued by the Competent Authority and proved as Exhibit B/2. He has also proved his Voter ID Card marked as Exhibit C/2.

In his cross-examination, he submits that Shikha Banerjee was wife of Elder Brother-in-law of Baid Nath Banerjee resident of village Saluk Chapra, Dist. Dhanbad.

18. However, no evidence has been adduced by the present appellants in their defence that they have pleaded their innocence and the main defence of Baid Nath Banerjee is that his wife got fire due to accidental burst of kerosine stove and he immediately brought her to hospital and informed his brother-in-law Aditya Mukherjee and also lodged U.D. Case, hence, he is innocent and has committed no offence at all.

19. Before imparting our verdict on the basis of evidence available on record, the relevant provisions of law are required to be reproduced hereinbelow:-

"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 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)."

498-A. Husband or relative of husband of a woman subjecting her to cruelty-Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.-For the purposes of this section, "cruelty" means-

Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.]

2. Definition of "dowry".- In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II. – The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code.

3. Penalty for giving or taking dowry- (1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more.

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) Nothing in sub-section (1) shall apply to, or in relation to-

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf)

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act.

(b) presents which are given at the time of a marriage to the bride groom (without any demand having been made in that behalf)

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

20. From bare perusal of Section 304B of the IPC (Section 80 of B.N.S., 2023), it is obvious that following ingredients have to be proved by the prosecution as foundational facts for invoking the offence of dowry death:-

(i) the death of a 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 and once the prosecution establishes aforesaid ingredients, the

burden of proof radically shifts to the defence due to strict statutory presumption.

21. The provision of section 304-B of IPC as regards cause of death does not categorize death as homicidal, suicidal or accidental rather any death occurring "otherwise than under normal circumstances" may attract the provision of section 304-B of IPC, if other ingredients are fulfilled.
22. Applying the aforesaid legal parameters for constituting dowry death, we have to appreciate the evidence available on record led by both the parties.
23. In the instant case, the death of the deceased as per post-mortem report proved by P.W.-6 Dr. Shailendra Kumar was found due to shock as a result of aforementioned kerosine oil burn injuries about 90%. The deceased died at her matrimonial home while in custody of her husband and in-laws. The plea taken by the appellants that due to accidental burst of kerosine stove, her Saree caught fire. To substantiate the death of deceased due to burst of kerosine stove, no material was brought on record, no burst kerosine stove was produced or found at place of occurrence by the Investigating Officer. It is quite obvious that the death of the deceased was not due to any burst of kerosine stove or under normal circumstance, rather, it has happened otherwise than under normal circumstance which confirms the first requirement of Section 304B of the IPC.

24. The second requirement is also proved by establishing that the deceased was married with the appellant on 26.02.1997 and she died under unnatural death on 17.10.1999 i.e. within 7 years of marriage.

25. So far as, third and fourth conditions are concerned, there is consistent evidence of P.W.-3 Nityanand Mukherjee that just after three months of marriage, accused persons including husband of his deceased daughter started putting pressure on his daughter to bring Rs. 50,000/- for opening homeopathic clinic by her husband and whenever the deceased used to come her parental home, she used to weep and used to narrate her sufferings at Sasural. It also appears that deceased's father and brother went to matrimonial home of the deceased and attempted to convince the appellant Baid Nath Banerjee to keep his daughter well and also gave Rs. 20,000/- in the month of February, 1999 to his son-in-law but his son-in-law was adamant upon rest of Rs. 30,000/- and due to non-fulfilment of rest amount, the accused Baid Nath Banerjee used to harass and torture the deceased in various ways and just after 6-7 months i.e. in 17th October, 1999 P.W.-3 came to know that his daughter has died at her matrimonial home, due to burn. The other witnesses P.W.-5, mother of the deceased also corroborates the factum of demand of dowry and consequent torture meted with the deceased, which was disclosed to her by the deceased, when she came to her parental home. It also appears that due to non-fulfilment of the said demand of money, her daughter was being subjected to physical and mental cruelty and she was let at her parental home for some time. She has

further deposed that on persistent demand by husband of the deceased, Rs. 20,000/- was given by her husband to her son-in-law but even then, he was threatening that he will stop food and cloths of her daughter if remaining Rs. 30,000/- is not paid.

P.W.-4, Aditya Mukherjee has also corroborated the factum that Shikha Banerjee was married with Baid Nath Banerjee on 26.02.1997 at the time of marriage Rs. 50,000/- cash, 14 tole golden jewelry and household articles were given. Thereafter, her husband started demanding Rs. 50,000/- out of which Rs. 20,000/- was given by his father in the month of February, 1999. He has also stated that just after 3-4 months of marriage, assault and torture began with his sister due to non-fulfilment of additional demand of dowry by the accused persons. The unrebutted testimony of aforesaid witnesses also proves the ingredients nos. (iii) and (iv).

26. Therefore, presumption under Section 113B of the Indian Evidence Act can legitimately be raised in this case against the husband of the deceased by the learned trial court.

27. We have considered the defence version in the light of circumstances proved by the prosecution. It is crystal clear that all the four ingredients of dowry death have been proved by the prosecution against the appellant Baid Nath Banerjee in Cr. A. (SJ) No. 656 of 2003 through cogent and reliable evidence and the defence has miserably failed to rebut the presumption invoked under Section 113B of the Indian Evidence Act.

28. In the case of **Rajinder Singh vs. State of Punjab, reported at (2015)**

6 SCC 477, a **three-judge bench** of the Hon'ble Supreme Court noted down as to what would fall within the term "dowry". Relevant para 20 reads as under:-

"20. Given that the statute with which we are dealing must be given a fair, pragmatic, and common sense interpretation so as to fulfill the object sought to be achieved by Parliament, we feel that the judgment in Appasaheb case (2007) 9 SCC 721 followed by the judgment of Vipin Jaiswal (2013) 3 SCC 684 do not state the law correctly. We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise."

29. In the instant case, it is stoutly pleaded that demand of money for opening Homeopathic Clinic does not amount dowry cannot be accepted. Firstly, the demand was not as a loan amount but asked in connection with marriage. Secondly, the deceased was coerced and subjected to cruelty to enforce the payment of such illegal demand of money. Thirdly, it was in the garb of starting business, was in essence a demand in connection with marriage, without any other consideration.

30. In such type of offence, mere passing of time and the case being stale one, lenient view cannot be taken. Therefore, we do not find any illegality or infirmity in the impugned judgment of conviction and

sentence of the appellant-husband calling for any interference in the appeal filed by the husband of the deceased i.e. Cr. App. (SJ) No. 656 of 2003. Accordingly, the judgment of conviction and order of sentence passed by the learned trial Court against the husband of the deceased namely Baid Nath Banerjee in Cr. A. (SJ) No. 656 of 2003 is hereby confirmed and upheld.

31. So far as the appeal i.e. Cr. App (SJ) No. 643 of 2003 filed by the appellant namely Mohan Banerjee, who happens to be brother-in-law of the deceased is concerned, it appears that the main allegation of demand of dowry pertains to the husband of the deceased as none of the witnesses including the brother, father and mother of the witnesses have ever deposed that brother-in-law of the deceased has made any demand of dowry and has inflicted any cruelty or torture to the deceased. Hence, presumption under Section 113B of the Indian Evidence Act that 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 of dowry is not proved. Hence the charge against this appellant namely Mohan Banerjee in Cr. A. (SJ) No. 643 of 2003 does not stand proved.

32. It also appears that the learned trial Court has in general manner roped the present appellant namely Mohan Banerjee in this case without any evidence or deeming provision of Section 304B of the IPC. For invoking the presumption under Section 113 B of the Indian Evidence Act, a person against whom presumption is to be raised, it

must be proved that he was also involved in demanding the dowry and soon before her death, she was tortured and subjected to physical or mental assault by such person and the same is not proved against the present appellant namely Mohan Banerjee in Cr. A. (SJ) No. 643 of 2003. Therefore, the judgment of conviction and order of sentence against the appellant namely Mohan Banerjee in Cr. A. (SJ) No. 643 of 2003 suffers from serious error of law, which stands set aside.

33. In view of the aforesaid discussions and reasons, the appeal i.e. **Cr. A. (SJ) No. 643 of 2003 filed by the appellant namely Mohan Banerjee is allowed.** Consequently, the appellant namely Mohan Banerjee is acquitted from the charges leveled against him. The appellant namely Mohan Banerjee is on bail, hence, he is discharged from the liabilities of bail bonds. The sureties are also discharged.

34. The appeal i.e. **Cr. A. (SJ) No. 656 of 2003 filed by the husband of the deceased i.e. Baid Nath Banerjee is dismissed.** Consequently, the appellant namely Baid Nath Banerjee is directed to surrender before the learned Trial Court within two months from the date of this Judgment and undergo the remaining period of sentence awarded to him by the learned trial Court, failing which, the learned trial Court shall take all coercive steps for arrest and detention of the appellant namely Baid Nath Banerjee for sustaining the remaining period of sentence awarded to him and the suspension of sentence granted to Appellant namely Baid Nath Banerjee during pendency of this appeal, is hereby cancelled.

35. Pending I.A(s), if any, is also disposed of, accordingly.

36. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Rongon Mukhopadhyay, J.)

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, at Ranchi

Date: 13/05/2026

Basant/-N.A.F.R.

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