

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**Cr. Appeal (D.B.) No. 126 of 1999 (R)**

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Dhanesh Mahto, son of Sri. Charku Mahto, Resident of Village-  
Chitarkota, Police Station-Ratu, District-Ranchi

... .. Appellant

Versus

The State of Bihar (now Jharkhand) .... .. Respondent

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For the Appellant : Mr. Surendra Prasad Sinha, *Amicus Curiae*

For the Resp. State : Mrs. Shweta Singh, A.P.P.

**PRESENT**

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

**JUDGMENT**

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**CAV On 25/03/2026**

**Pronounced On 16/04/2026**

**Per- Pradeep Kumar Srivastava, J.**

1. Present criminal appeal is preferred by above named sole appellant, challenging his conviction and sentence under Section 304B and 498A of the IPC, passed by learned Addl. Judicial Commissioner-VII, Ranchi in S.T. No. 715 of 1996 dated 11.02.1999 and 24.02.1999, respectively, whereby and whereunder, the appellant has been directed to undergo rigorous imprisonment for life, for the offence under Section 304B and R.I. for three years, for the offence under Section 498A of the IPC. Both the sentences were directed to run concurrently.
2. We have already heard the arguments of learned Amicus Curiae -Mr. Surendra Prasad Sinha for the appellant and Mrs. Shweta Singh, learned APP for the State.

**Factual Matrix:-**

3. The factual matrix giving rise to this appeal is that one Shushila Devi (deceased), the sister of the informant, was married with the present appellant namely Dhanesh Mahto in accordance with the Hindu Rights and Custom on 18.06.1996. After marriage, informant's sister went to her matrimonial home and also twice returned to her parental home and narrated that her husband is demanding Rs. 50,000/- cash and one She-Buttalo in connection with dowry. The informant met with his brother-in-law and told that he is a poor man and could not fulfill his demand and requested him to keep his sister with due regard and honor. It is further alleged that on 12.08.1996 at about 02:30 PM, while informant was present at the matrimonial home of his sister in village Chitarkota (Chotki Tola) for *vidai* of his sister but present appellant was not ready to send his wife to her parental home until and unless his demand of Rs. 50,000/- and one she-buffalo is fulfilled. The informant returned back to his home. It is further alleged that just informant reached to his home, within 10 minutes, he received information that his sister has been died due to poisoning. The informant again rushed towards matrimonial home of his sister and found her dead at her matrimonial home.

On the basis of *fardebayan* of informant namely Ramesh Mahto, F.I.R. was registered for the offence under Section 498A and 304B/34 of the IPC against the present appellant and his parents and other family members total five persons.

After completion of investigation, charge sheet was submitted against all five accused persons for the aforesaid offence.

The case was committed to the Court of Sessions where S.T. No. 715 of 1996 was registered. The accused persons denied the charges leveled against them and claimed to be tried.

4. After conclusion of the trial, the impugned judgment and order has been passed whereby and whereunder, four co-accused persons have been acquitted and the present appellant was held guilty and sentenced, as stated above.

**Submissions on behalf of appellant: -**

5. Learned *Amicus Curiae* for the appellant assailing the impugned judgment has submitted that the prosecution has examined only interested witnesses who happened to be mother, father, brother and uncle and co-villagers of the informant party. No independent witness has been examined in this case to substantiate the prosecution story. The evidence of witnesses suffers from material contradictions and discrepancies affecting their veracity. The learned trial Court

has miserably failed to properly appreciate the evidence of witnesses and overlooked the material contradictions. The learned trial Court has given much weightage to the Post Mortem Report wherein it was a case of suspected poisoning but the viscera of deceased preserved in this case were never examined by forensic science laboratory and no report was brought on record, which is serious lacuna in the prosecution case. Therefore, impugned judgment suffers from serious error of law and liable to be set aside.

In the alternative, it is argued that the maximum sentence of life imprisonment has been awarded to the appellant which is not justifiable in the facts and circumstances of the present case, where the cause of death of the deceased was not proved conclusively and there was general and omnibus allegation roping all the family members in the alleged crime. The appellant has remained in custody throughout the trial of the case for about three years and was granted bail during the pendency of this appeal vide order dated 16.07.1999, therefore, adequate sentence may be imposed against the appellant instead of maximum sentence of imprisonment as prescribed under law.

**Submissions on behalf of the State**

6. Per contra, learned A.P.P. appearing for the State has opposed the aforesaid contentions raised on behalf of the appellant and

submitted that the appellant has rightly been held guilty for committing dowry death of his own wife, due to non-fulfilment of Rs. 50,000/- and one she-buffalo which was demanded just after the marriage and the appellant was insisting upon his demand and was not sending his wife to visit at her parental home. It is proved by most natural witness who happened to be parents, brother and uncle of the deceased that due to non-fulfillment of the aforesaid demand, the deceased was being ill-treated, tortured and physically assaulted. The Post Mortem Report of the deceased conducted by P.W.-5, Dr. Ram Sevak Sahu, wherein it is mentioned that cow dung was smelling, all over the body of the deceased and on dissection, stomach also contained 250 gm cow dung. It is also opined that death was due to poisoning, subject to confirmation by forensic science laboratory, for which Viscera was preserved. Although no Viscera Report was available during trial but the death of the deceased is certainly happened, otherwise than, under normal circumstance, in unnatural manner, at her matrimonial home. She was subjected to cruelty and torture, soon before her death, on account of demand of dowry and its non-fulfillment, the death was also within seven years of marriage. Therefore, the prosecution has proved the ingredients of Section 304B of the IPC and section 498A of the IPC beyond reasonable doubt

against the appellant since there was direct allegation against the appellant, therefore, other co-accused persons were extended benefit of doubt which does not affect the case of the appellant. It is further submitted that the plea of the appellant that the witnesses are interested cannot be accepted in view of the fact that in such type of matrimonial case, the best evidence comes from the mouth of parents and near and dear relatives, no one can seek any independent witness, who may intrude into the family affairs of any person. So far as, sentence awarded to the appellant is concerned, there are no mitigating circumstances challenged by the appellant during trial to be taken into consideration. Therefore, there is no illegality or infirmity in the impugned judgment and order calling for any interference in this appeal, which is devoid of merits and fit to be dismissed.

7. We have gone through the record along with the impugned judgment in the light of rival contentions raised on behalf of the parties.
8. The sole point for determination in this appeal is “as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?”

**Analysis, reasons and decision:**

9. Before imparting our verdict on the above point, we have to appraise with the relevant provisions of law applicable in this case. 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)."*

**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.]*

10. 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.*

11. 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.

12. 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.

13. Applying the aforesaid legal parameters for constituting dowry death, we have to appreciate the evidence available on record led by both the parties.

14. It appears that altogether 8 witnesses were examined in this case by the prosecution:

**P.W.-1 Ramesh Mahto** is the informant-cum-brother of the deceased of this case. According to his evidence, his sister Sushila Devi was married with Dhanesh Mahto (Appellant) on 18.06.1996. She went to her Sasural and lived together with her husband and in-laws and twice came to her Naihar and told that her husband was demanding Rs. 50,000/- cash and a Buffalo. This witness went to the matrimonial home of his sister and told to his brother-in-law that he is a poor man and unable to meet the aforesaid demands. This witness also requested for Vidai of his sister but her husband flatly declined and said that unless and until Rs. 50,000/- and she-bufallo is given, he would not allow his wife to go her parental home. He has further deposed that on 12.08.1996, when he returned to his home, just after 10 minutes, he received message that his

sister has died in her Sasural by poisoning. This witness again went to matrimonial home of his sister and saw dead body of her sister, lying in the house of accused persons. He also noticed that blood was coming out from her nose and body was stained with cow-dung and smell of cow-dung was also coming from her body. The informant immediately went to police station and told about the occurrence. The officer-in-charge of Police Station Chitarkota having jurisdiction of village Chotkitola arrived and recorded statement of this witness. He has deposed that all the accused persons have administered poison to his sister, due to which, she has died. He has proved his signature on inquest report, marked as Exhibit 1/1.

In his cross-examination, he admits that while administering poison to the deceased, he was not present. This witness has been cross-examined at length but nothing material has been elicited to discredit his aforesaid testimony.

**P.W.-2, Dukhu Mahto** is the uncle of the deceased. He has also proved the factum of marriage of the deceased with the present appellant about one and half years back of occurrence. He came to know from one Bablu of village Chitarkota that his niece has died in her Sasural. He went to the village Chitarkota along with some other persons and saw the dead body of Sushila Devi. He also noticed that cow-dung was pasted on the

entire body of the deceased and blood was oozing out from the mouth and nose. On enquiry from co-villagers of the deceased, he came to know that Sushila Devi had died, due to poisoning.

In his cross-examination, he reaffirms that the father-in-law of the deceased Charku Mahto disclosed that deceased has consumed poisonous substance. There is nothing else in his cross-examination worth mentioning.

**P.W.-3, Dhania Devi** is the mother of the deceased. She has also proved the factum of demand of Rs. 50,000/- and one she-buffalo by the husband of her daughter Sushila Devi. She has also corroborated the fact that her son Ramesh Mahto had gone to matrimonial home of Sushila Devi to bring back her but she was not allowed by her husband until and unless that demand is fulfilled, just after returning of her son Ramesh Mahto at home, message about death of her sister was received. She also went to see her daughter at her matrimonial home and found that blood was coming out from her mouth and nose and cow-dung was pasted all over the body.

There is nothing in her cross-examination to rebut her aforesaid testimony rather she admits that her son-in-law made her no direct demand but she has clearly reaffirmed that her daughter disclosed about demand of Rs. 50,000/- and she-buffalo made by her husband to her.

**P.W.-4 Jagdish Mahto** is father of the deceased. According to his evidence, about two years ago, his daughter was married in the month of *Jeth* with Dhanesh Mahto. He came to know about the death of his daughter from Chhedi Uraon. His son Ramesh Mahto disclosed him on asking that blood was coming out from the mouth and nose of the deceased. This witness admits that on the date of occurrence and prior to that, he was not present rather he was at his duty place and came to know about the occurrence from the family members. Therefore, he is a hearsay witness of the occurrence.

**P.W.-6 Bholu Nayak**, is the I.O. of the case, who was posted at Ratu Police Station on 13.08.1996. According to his evidence, he came to know about the occurrence from rumor at about 12 P.M. that in village Chitarkota (Chotki Tola), a lady has died consuming poison. He entered station diary entry and proceeded towards Chitarkota Chotkitola where he has recorded fardbeyan of informant Ramesh Mahto which was signed by witness Jageshwar Sahu and the informant which is marked as Exhibit-3. He has further proved the endorsement and registration of the case as Exhibit 3/1. He also prepared inquest report of the deceased in presence of witnesses which is marked as Exhibit-4. He further recorded restatement of the informant and interrogated with the other witnesses and sent the dead body of the deceased for post-mortem to RMCH,

Ranchi. He also visited the place of occurrence, which is the house of Charku Mahto situated in village Chitarkota, Chotkitola, which is a mud made house and roofed with mud tiles. The house consists of two rooms and one Baramada (Courtyard). The main door is towards north. Towards western side, the main door, there is a dhaba where dead body of Sushila Devi was lying stained with cow-dung. No other remarkable things were found at the place of occurrence. He has further deposed that on the basis of fardbeyan of the informant, Ratu P.S. Case No. 92 of 1996 was registered for the offence under Section 498A of the IPC and 304B/34 of the IPC against all the accused persons, which is marked as Exhibit-5. He also received post mortem report of the deceased. After completing the investigation, he found sufficient evidence against the accused persons and submitted charge-sheet against the accused persons.

In his cross-examination, this witness admits that inquest report was prepared at 13:30 hours. He has taken statement of all the witnesses on 13.08.1996 itself. He has denied the suggestion of the defence that without sufficient evidence, he has submitted charge-sheet against the accused persons and his investigation is defective.

**P.W.-7 Jaipal Mahto** is local villager of the informant. He appears to be hearsay witness and also declared hostile by the

prosecution and denied any statement recorded by the police under Section 161 Cr.P.C. This witness admits in his cross-examination that Sushila Devi was married with Dhanesh Mahto before two months of her death, in this period, she has twice returned to her parental home. There was nothing in connection with demand of dowry by the accused person.

**P.W.-8 Bilashi Devi** has also deposed that Sushila Devi was married with Dhanesh Mahto of village, Chitarkota (Chhotkatoli) and she died at her matrimonial home, just after three months of marriage. She has further stated that accused persons were demanding Rs. 50,000/-and one she-buffalo as dowry due to non-fulfillment of which Sushila Devi was being assaulted and tortured by her husband and in-laws. She further stated that she had gone to the matrimonial home of the deceased and saw the dead body of Sushila Devi stained with cow-dung and blood was oozing from her nose.

In her cross-examination, she admits that in village relationship, deceased was her niece. She also admits that in her presence, demand of dowry and consequent torture not happened with the deceased. She also admits that whatever she heard, she has stated in the Court.

**P.W.-5, Dr. Ram Sewak Sahu.** He was posted as Medical Officer, Dept. of Forensic Medicine, RMCH, Ranchi. On that day, at 16 : 30 Hrs. he conducted post-mortem examination on

the dead body of Sushila Devi w/o Dhaneshwar Mahto of Village Chitarkota, Chotka Toli, P.S.-Ratu, Dist.-Ranchi a female aged about 19 years who was brought and identified by constable 1241 Yuvraj Singh and found following:-

- i. There was no evidence of any mechanical injury either external or internal. There was no evidence of pressure over nose, mouth, chest or neck.
- ii. Stomach contained rice particles in pasty form alongwith cow-dung which had disagreeable smell and weighed 250 gm. The mucus membrane of the stomach was congested.
- iii. Rigor Mortis was present. Abdomen was distended. Cow dung was present all over the body surface and clothes were wet.

**Opinion**

- iv. Death was due to poisoning subject to confirmation by forensic science laboratory for which viscera was preserved.
- v. Time since death-between 3 to 18 hours from the time of post-mortem.
- vi. He has proved the post mortem report marked as Ext.-2

15. On the other hand, the case of the defence is denial from occurrence and false implication. The defence has also examined three witnesses.

**D.W.-1 Prasad Mahto** is brother in village relationship of the accused Dhanesh Mahto. He further states that he is brother-in-law of the accused because the deceased was his own sister-in-law and married with the accused Dhanesh Mahto. He was mediator in the marriage from both sides and there was no demand of any kind as alleged by the witnesses examined by the prosecution. According to him, the deceased died consuming poison. He came to know that poisonous substance was in a sweet which was consumed by the deceased.

In his cross-examination, this witness fairly admits that this witness happened to be brother of main accused Dhanesh Mahto and Charku Mahto (father-in-law of the deceased) is his uncle. Therefore, he has given the evidence in this case for providing help to them.

**D.W.-2 Etwa Uraon** is the neighbor of appellant has rather stated a real story and disclosed that wife of Dhanesh Mahto consumed poison thereafter cow-dung was administered to her for vomiting so that poisonous substance may come out. He also admits that on the same day, brother of the deceased had come to her matrimonial home. Being a neighbor, he never came to know about any demand of dowry from accused persons or any ill-treatment or torture meted with her. He has given the evidence to help the accused persons.

**D.W.-3 Dinesh Gope** is cousin of accused appellant. He has simply stated that appellant is the son of his elder father Charku Gope and helps his father in cultivation and maintains his old parents. If he remains in jail, the family will be ruined. He has stated nothing about the factual aspects of the case.

16. In the instant case, the death of the deceased as per post-mortem report proved by P.W.-5 Ram Sewak Sahu was found due to poisoning. Not only this, she was administered cow-dung and sufficient quantity of cow-dung was found in her stomach. The deceased died at her matrimonial home while in custody of her husband and in-laws. The stout plea taken by the appellant that F.S.L report for confirmation of death due to poisoning was not brought on record could not be sustained in view of the fact that it is quite obvious that the death of the deceased was not due to any illness or under normal circumstance, rather, it has happened otherwise than under normal circumstance which confirms the first requirement of Section 304B of the IPC as per defence.

17. The second requirement is also proved by establishing that the deceased was married with the appellant on 18.06.1996 and she died under unnatural death on 12.08.1996, which is after two months of her marriage i.e. within 7 years of marriage.

18. So far as, third and fourth conditions are concerned, there is consistent evidence of P.W.-1 Ramesh Mahto that just after marriage, the deceased came to her parental home twice and disclosed that her husband is demanding Rs. 50,000/- cash and one she-buffalo. This witness went to her matrimonial home and told to her husband that he is unable to fulfill the aforesaid demand due to poverty. Later on, he went for *vidai* of his sister but the present appellant flatly denied saying that unless and until Rs. 50,000/- cash and one she-buffalo is given, he would not allow Sushila Devi to go her *Naihar*. Again, informant went to meet with his sister on the date of occurrence itself and returned to his home without fulfilling the demand of the appellant. Therefore, just after reaching his home, P.W.-1 came to know that his sister has died at her matrimonial home, due to poisoning. The other witnesses P.W.-3, 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.

P.W.-8 Bilashi Devi who also happens to be aunt of the deceased in village relationship has also stated that when Sushila Devi returned to her parental home, she disclosed her that her husband is demanding Rs. 50,000/- cash and one she - buffalo as a dowry and due to non -fulfillment of which

she is being assaulted and tortured by her husband and in-laws. The un rebutted testimony of aforesaid witnesses also proves the ingredients nos. (iii) and (iv).

19. Therefore, presumption under Section 113B of the Indian Evidence Act can legitimately be raised in this case and rightly raised by the learned trial court.

20. The rebuttal evidence relied upon by the defence is simply that there was no demand of dowry at the time of marriage. The marriage was solemnized without any dowry and own brother-in-law of the deceased, namely, D.W.-1 Prasad Mahto was mediator, who has stated that deceased died consuming poison in a sweet. The defence version as stated by D.W.-1, is also speculative. There is no reasonable explanation by the main accused, as to when, sweet was administered and how cow-dung was found over the body and inside the stomach of the deceased. Admittedly, this witness was not present, at the time of occurrence and has produced a concocted story.

21. Similarly, D.W.-2 Etwa Uraon has also tried to explain that cow-dung was administered for vomiting, due to consumption of poisonous substance. He is also neighbor of the appellant but has failed to explain the circumstances under which the poisonous substance was consumed by the deceased. D.W.-3 has simply stated about family hardship when deceased is put under jail custody.

22. 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 through cogent and reliable evidence and the defence has miserably failed to rebut the presumption invoking under Section 113B of the Indian Evidence Act.

Therefore, we do not find any illegality or infirmity in the impugned judgment of conviction and sentence of the appellant calling for any interference in this appeal.

23. In view of the above, we do not find any merits in this appeal and any legal substance in the point of argument raised on behalf of the appellant. Therefore, this **appeal is dismissed**.

24. Accordingly, the appellant 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 Dhanesh Mahto for sustaining the remaining period of sentence awarded to him.

25. The suspension of sentence granted to Appellant namely Dhanesh Mahto during pendency of this appeal is hereby cancelled.

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

27. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.
28. We take this opportunity to appreciate the assistance rendered by Mr. Surendra Prasad Sinha, learned amicus curiae and direct the Member Secretary, High Court Legal Services Committee to extend the stipulated fees to him within a period of four weeks from the date of receipt/production of a copy of this order.
29. Office is directed to ensure that a copy of this order is served upon Member Secretary, High Court Legal Services Committee.

**(Rongon Mukhopadhyay, J.)**

**(Pradeep Kumar Srivastava, J.)**

*Jharkhand High Court, at Ranchi*

*Date: 16/04/2026*

*Basant/-N.A.F.R.*

*Uploaded on 17/04/2026*