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2026:AHC:130327-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 4008 of 2021

Deshraj and another

…..Appellant(s)

Versus

State of U.P.

…..Respondent(s)

Counsel for Appellant(s)	:	Akhilesh Pandey, Jagmohan Singh, Jainendra Kumar Mishra, Syed Mohammad Abbas Abdy
Counsel for Respondent(s)	:	G.A.

Court No. - 2

HON'BLE J.J. MUNIR, J.
HON'BLE VINAI KUMAR DWIVEDI, J.

(Delivered by Hon'ble Vinai Kumar Dwivedi, J.)

1. This Criminal Appeal has been filed by the accused-appellants Deshraj and Ram Sajeevan against the judgment and order of conviction and sentence passed by the learned Additional Sessions Judge, Court Room No. 26, Kanpur Nagar in S.T. No. 514 of 2016 State Vs. Desh Raj and Others and Sessions Trial No. 655 of 2016 State Vs. Ram Sajeevan, both arising out of same Crime No. 314 of 2016 under Sections 498A, 304B, 302 I.P.C., and 3/4 Dowry Prohibition Act, Police Station Naubasta, District Kanpur Nagar. By the impugned judgment and order of conviction and sentence, learned Trial Court held guilty and convicted to accused-appellant Deshraj and Ram Sajeevan under Section 304B I.P.C., for life imprisonment. The accused-appellant Deshraj and Ram

Sajeevan were also held guilty under Section 498A I.P.C and convicted for two years simple imprisonment and a fine of Rs. 5,000/-. In default of payment of fine, they were ordered to serve an additional imprisonment for one month. The accused-appellants Deshraj and Ram Sajeevan were also held guilty under Section 4 of Dowry Prohibition Act and convicted for two years simple imprisonment and a fine of Rs. 5,000/-. In case of default of payment of fine, they were ordered to serve one month of additional simple imprisonment.

2. Brief fact as is revealed from the written report-exhibit Ka-1 is that, informant Sitapati (P.W.-1), who is resident of Village Chauhanpur, P.S. Udaipur, District Pratapgrah, has lodged a written report-exhibit Ka-1, at Police Station Naubasta, stating therein that, applicant had married her daughter with Deshraj son of Ram Sajeevan, resident of Kidwai Nagar, P.S. Naubasta, District Kanpur Nagar on 11.06.2014, after giving full gift and dowry according to custom and traditions, but the in-laws of my daughter were not satisfied with the dowry and they had been demanding Rs. 5,00,000/- in dowry. The economic condition of my family was not so sound so that above demand could be fulfilled. On this thing, husband of Savita, father-in-law Ram Sajeevan, Pappu son-in-law of Ram Sajeevan, Lalita daughter of Ram Sajeevan were beating her due to this demand of dowry and for many days, they had not give her food and many times they attempted to kill her by pouring kerosene oil. This thing was told by my daughter Savita to us, when she came to my home. Applicant and her husband tried to persuade the in-laws of Savita, but they were not agreed. On the occasion of festival of Holy, my daughter had came to my house. When she had returned with her husband Deshraj, then, at the time of departure, Deshraj had given this intimidation that if you cannot give Rs.5,00,000/-, then your daughter will not return at home. On 28.04.2016, at 1:00 hours in day, Pappu (*Nandoi*) of my daughter Savita has informed that your daughter has died. When we went at the home of my daughter then saw that my daughter was not at home; after receiving information from neighbours, we all went at postmortem house and saw my daughter in dead

condition. All the above peoples by a common intention, had murdered my daughter by strangulating her neck for not fullfiling further demand of dowry.

3. After lodging the written report-exhibit Ka-1, by informant Sitapati P.W.-1, First Information Report -Exhibit Ka-9 was registered as Crime No. 314 of 2016 at P.S. Naubasta, District Kanpur Nagar, under Section 498A, 304B, I.P.C., and 3/4 D.P. Act, on 01.05.2016 at 13:13 hours by then Constable Clerk Ashok Tiwari, PW-6. After registration of the F.I.R. exhibit-Ka-9, investigation of the case was taken up by Vishal Pandey P.W-8, the Investigating Officer reached at the spot and inspected the place of occurrence on the pointing out of the informant Sitapati and prepared site plan. He got prepared *panchayatnama* of dead body of Savita. He prepared other necessary police papers. The dead body of deceased Savita was sent for postmortem examination.

4. After transfer of first I.O. Vishal Pandey PW-8, investigation of the case was taken by second I.O. Gyanendra Kumar Singh, PW-7. Second I.O. Gyanendra Kumar Singh, PW-7 completed the investigation, he recorded the statement of the prosecution witnesses under Section 161 Cr.P.C. After completion of all the formalities of investigation, the second I.O. Gyanendra Kumar Singh, PW-7 has filed charge-sheet exhibit Ka-11 against accused Deshraj, Pappu and Lalita. Thereafter second I.O. Gyanendra Kumar Singh, PW-7 also filed a charge-sheet exhibit Ka-12 against accused-appellant Ram Sajeevan.

5. Dr. Sumit Kumar Mishra, PW-5, examined the dead body of the deceased Savita and prepared postmortem report exhibit Ka-8. According to postmortem report exhibit Ka-8 of deceased Savita, which was prepared by Dr. Sumit Kumar Mishra PW-5, following *ante mortem* injuries were found on her dead body:

> 1. Abraded contusion measuring 7 cm × 2 cm on the front side of the neck, starting between the lower jaw and extending 5 cm downward, up to the thyroid cartilage.
>
> On cutting the above injury, clotted blood was found underneath it.
>
> 2. Abraded contusion measuring 1 cm × 1 cm located below the left side of the lower lip.

3. Contusion measuring 5 cm × 3 cm on the left eye.

4. Contusion measuring 4 cm × 3 cm present on the occipital area (back portion) of the head. Cause of death was asphyxia due to ante mortem throttling.

6. After submission of the charge-sheet by Second I.O. Gyanendra Kumar PW-7 in the concerned Magistrate's Court having jurisdiction, the case was committed to the Court of Session for trial because case was totally triable by Court of Session.

7. On 30.09.2016, charges were framed by the trial Court against accused persons Lalita, Deshraj, Pappu under Sections 498A, 304B I.P.C. and Section 3/4 D.P. Act. The learned trial Court also framed alternative charge against above accused persons under Section 302 I.P.C. Learned trial Court also framed charge against accused appellant Ram Sajeevan under Section 498A, 304B I.P.C. and also an alternative charge under Section 302 I.P.C. was framed by the trial Court against Ram Sajeevan on 20.12.2016. The accused persons denied from the charge and claim for the trial.

8. In support of their case, prosecution examined and adduced prosecution witnesses informant Sitapati Devi PW-1, Dinesh Kumar PW-2, Anil Kumar PW-3, Gyanendra Kumar Dwivedi, PW-4 , Dr. Sumit Kumar Mishra PW-5, Ashok Tiwari, PW-6 Gyanendra Kumar Singh (C.O) PW-7 and Vishal Pandey (C.O.) PW-8. Harilal father of the deceased Savita was also adduced and examined as CW-1. Apart from the above ocular evidence, prosecution also relied on documentary evidence as Exhibit Ka-1 to Exhibit Ka-13 in support of their case.

9. After recording of the evidence of all the prosecution witnesses, trial Court examined all the accused persons under Section 313 Cr.P.C. In their statement under Section 313 Cr.P.C., all the accused persons denied from the charge and all of theme have stated that they were falsely and wrongly implicated in the case. They have not committed the alleged crime. Accused appellant Deshraj have also sated in his statement under Section 313 Cr.P.C., that he is innocent. The family members of the in-laws of my wife had come before four to five days of the incident in the *Mundan* Ceremony of my daughter.. At the time of the

incident, all the family members of the in-laws of my wife were present at my home. We all the people, my father and sisters were out of home. I had went at my work place at 06:00 p.m. After returning home, then I know about the incident. In his written statement under Section 313 Cr.P.C., accused-appellant Deshraj also stated that he is a very poor person. Applicant lived in a *kachcha* hut (*Madhai*). By the applicant never demand of dowry has been made nor he committed cruelty of any kind before four days of the incident. The family members of my wife, such as mother, father, brothers, sisters, had come in the *Mundan* Ceremony of my daughter. Between my wife Savita and my father-in-law Harilal, Savita a quarrel occurred among them on the point of not giving money for wine. On the day of incident on 28.04.2016, the applicant was in Ordinance Factory Kalpi Road, Kanpur for training of BTR from the morning at 07.45 am to evening 16:45 pm. He remained present in the Ordinance Factory. When he returned home, then he came to know about the incident. My father has demanded an information under the Right to Information Act from G.C. Rawat, Additional G.M. Ordinance Factory/Central Information Officer. My father-in-law had give information on 28.04.2016 by a written application at Police Station Naubasta, Kanpur. That was registered in the GD No. 47 at night (10:00 pm). However, after that my mother-in-law (*Saas*) had given second false application, implicated to me and my family members, registered a false case against me and my family members. My sister was married twenty years back and they were living in District Pratapgarh and my father is too old and ill person and by pulling rickshaw trolley nearby for earning their livelihood. The accused-appellant Ram Sajeevan has also stated in his statement under Section 313 Cr.P.C., that mother and father of my daughter-in-law Savita were present at the time of incident; I was out of house; I am innocent; I had never demanded a single penny in the form of dowry.

10. In their statements under Section 313 Cr.P.C, accused-appellants submitted that they adduced their defence evidence. The accused-appellant examined Ram Kishore DW-1, Matadeen DW-2, Raj

Vishwakarma as DW-3, Shyam Kumar Bajpayee as DW-4, Anjani Kumar Tiwari as DW-5 and Lalit Mohan Shukla as DW-6 in their statements.

11. The learned trial Court after recording evidence of both the sides, heard arguments of the accused person and found guilty to them. The trial Court does not find any evidence against accused-Lalita and Pappu for the alleged crime under Section 304B, 498A IPC., and Section 3/4 D.P. Act, hence acquitted accused Lalita and Pappu. The trial Court found accused-appellant Deshraj and Ram Sajeevan, guilty under Section 498A, 304B IPC and Section 4 of D.P. Act and convicted accused-appellant Deshraj and Ram Sajeevan for the alleged incident. The trial Court also acquitted the accused-appellant Deshraj under Section 302 IPC and 3 of D.P. Act. Aggrieved by the above judgment and order of conviction and sentence, accused-appellant Deshraj and Ram Sajeevan have preferred this criminal appeal in this Court.

12. We have heard learned counsel for the accused-appellants and learned AGA for the State-respondent. We have also perused all the evidence and have also gone through the impugned judgment and order of conviction as delivered by the trial Court dated 25.08.2021.

13. Learned counsel for the accused-appellant have submitted that the sentence awarded to the appellants is too severe and not in accordance with law and further the Court below has awarded punishment against the material evidence available on record.

14. Appellant No.1 is the husband and the appellant No.2 is father-in-law of the deceased Savita against whom and other family members a general allegation of demand of additional dowry of Rs. 5,00,000/- has been levelled and further the appellants have not caused murder of deceased as alleged in the First Information Report. It is also submitted that the incident is said to have occurred on 28.04.2016 and it is an admitted case of the informant that on the information she has reached at the spot on the same day and the F.I.R. has been lodged by her on 01.05.2016, we do not find that why between 28.04.2016 to 01.05.2016 at about 13:40 pm, no FIR has been lodged by her. It is also argued by

the learned counsel for the accused-appellants that at the time of alleged incident, the father of the deceased was already present in the house of the deceased, but he never lodged any F.I.R., in pursuance of the alleged incident. The informant Smt. Sitapati Devi, who was wife of Harilal was examined as PW-1 before the trial Court, but she could not give explanation for lodging the delayed F.I.R. It is also submitted on behalf of the accused-appellant that father of the deceased, who was present at the time of the incident, had already submitted an application before the police, in which he had stated that his daughter Smt. Savita had died on account of committing suicide by hanging. There is no evidence before the trial Court which may say the involvement of the applicants in commission of alleged offence has come, even though the trial Court has convicted and sentenced the appellants for maximum period of life imprisonment and total fine of Rs.10,000/- which is not sustainable in the eyes of the law. It is also submitted that trial Court awarded maximum punishment of life imprisonment to accused-appellant without considering and keeping in mind the socio-economic condition and family background of the prosecution and defence side. From the evidence of prosecution, it is revealed that accused-appellant persons are very poor and father of the accused-appellant Ram Sajeevan is a very old and poor man. He earns his livelihood for his family by pulling rickshaw trolley. However, in respect of these facts and circumstances of the case, the trial Court without keeping this fact in mind awarded maximum punishment of life imprisonment to accused-appellant, which is against the settled principles of law. When in the law, under Section 304B IPC, minimum punishment of seven years imprisonment has been provided, then in this condition without assigning any reason and not considering the socio-economic condition of the accused-appellants, a conviction for life imprisonment for accused-appellant is too harsh and severe, which is not sustainable in the eye of the law. In this way, learned counsel for the accused-appellants has submitted that judgment and order of conviction and sentence as awarded by the learned trial Court is too severe and excessive as alleged against the accused-appellant persons. Thus, learned

counsel for the appellants submitted that the judgment and order of conviction as passed by the trial Court is not sustainable in the eye of law, hence liable to be set aside.

15. Against the above argument of the learned counsel for the accused-appellants, learned AGA for the State-respondents has submitted that trial Court after perusing and examining all the documentary and oral evidence, as available on the record, has passed a perfect and judicious order in the light of the evidence in the case. The trial Court found that it is a dowry death case, which happened in the matrimonial home of the deceased Savita. Postmortem report indicated death by strangulation. In view of the above facts, the trial Court sentenced and convicted the accused-appellants for life imprisonment so that after giving reasonable finding found that a message can be given to the society that no other person could dare to commit this kind of heinous offence, like dowry death. It is also submitted by learned AGA for the State-respondent that the reasoning of the trial Court is supported by the evidence oral and documentary, there is no any perversity and illegality in the findings and reasoning of the trial Court in the judgment and order of conviction dated 25.08.2021. The Criminal Appeal as preferred by the accused-appellants is devoid of merit, hence liable to be dismissed.

16. In the light of the above arguments and counter arguments of learned counsel for the accused-appellants and learned AGA on behalf of the State-respondents, we have gone through all prosecution evidence as available on the records. The informant Smt. Sitapati Devi PW-1 has stated in her examination-in-chief that the deceased Savita was my daughter; I have married her on 11th June, 2014 with Deshraj. Accused Ram Sajeevan is the father-in-law, Pappu is (*Nandoi)* and Lalita is (*Nanad).* These all peoples live together at Daskuan, Naubasta in own house. After marriage, my daughter had gone to Naubasta at Kanpur. About five days after marriage, my daughter returned to my home (*Maika*) then she told that my in-laws are not happy with dowry which you have given to them at the time of marriage; I have given in dowry

one passion pro-motorcycle, gold ring, almirah, bed, utensils *charpai* and Rs. 20,000/- cash; My son had told me that these all peoples are not satisfied with the above dowry and demanding Rs.5,00,000/- as additional dowry; I have expressed my inability in giving Rs.5,00,000/- because I have no worth of that kind; I have persuaded my daughter Savita and send her with her husband at matrimonial home. After marriage, before her death she came five times at her *maika* and she had told that all the accused persons had been demanding Rs.5,00,000/- and in case of refusal, they are beating and committing cruelty; the informant Smt. Sitapati Devi PW-1 further stated in her examination-in-chief that they had not give food to her and pouring kerosene oil upon her and tried to kill her. Before one month of the current festival of Holi Savita had told that above four accused persons are demanding Rs.5,00,000/- and they are beating and committing cruelty. On 28.04.2016, at about 01:00 p.m. in noon accused Pappu (*Nandoi*) had made a telephonic call that your daughter has died; after this, all of us reached at the house of my daughter Savita; my daughter was not there. This came to knowledge from neighbours that my daughter had been taken to Hallet Hospital, Kanpur; after that we all reached at Hallet Hospital, there we saw the dead body; there was injury in the neck of the dead body; sign of injury was also on her face, eyes and back side of the head; dead body of my daughter was packed in the hospital; postmortem was conducted on the same day; after postmortem, the dead body of my daughter was handed over to us at 4:10 pm; after postmortem, Deshraj had performed rituals of cremation; we all of us had participated in these rituals; after that on 30.04.2016, I got typed an application in *Kutchery*.

17. The informant Sitapati Devi PW-1 has stated in her cross-examination that my daughter had one daughter, her name was Kritika; when my daughter had died then Kritika was of eight months. At that time, daughter of my deceased daughter is with his father in jail; at that time the girl had came from jail; her father is nourishing her; her *Mundan* ceremony was performed one day before the incident; my husband had participated in the *Mundan* ceremony; we all of us were in

Delhi at that time; we live at Delhi in a rented house; address is not correctly remembered; my husband do daily labour work; I live at my house; in Mundan ceremony, my sons had came before two days; after *Mundan* ceremony my husband halted and sons had returned back; at the day of incident, my husband was in Kanpur; I after marriage had only one time had gone to matrimonial home of my daughter then I had seen her house; in the main house of the door there is a wooden tattar, one room of *Zhuggi*; all of these peoples had been living in the above *Zhuggi.* Ram Sajeevan father of Deshraj was a rickshaw puller. His son Deshraj does not do anything.

18. In her cross-examination, she further stated that at 09:00 am in the morning, we reached at Kanpur; we reached at the home of my daughter. There was no person except the neighbours meet; they told that dead body of the girl is in Hallet Hospital. The neighbours told only that dead body of my daughter is in the hospital; we have straight forward gone to Hallet Hospital. In hospital, my daughter was found dead. Police had taken to my husband for three days; he was locked behind the bar in the Police Station; I had stayed at the home of my *Nanad*. Next day morning I came to Kutchery; I had got typed an application by typewriter. At that time, my brother had came with me in Kutchery; I had not written my application; she further stated that when my husband was locked in police station then none had gone to meet him; my son and brother had not gone at police station; my husband earned 200 to 300 Rs. daily; we both people had same socio-economic status.

19. Apart from informant Smt. Sitapati Devi PW-1, other prosecution witnesses of the fact such as Dinesh Kumar PW-2, Anil Kumar PW-3, have stated and narrated the same thing and facts in their evidence in the Court as was stated by their mother informant Sitapati Devi PW-1 in her evidence.

20. From a perusal of the evidence of the above witnesses of fact, such as informant Sitapati Devi PW-1, Dinesh Kumar PW-2 and Anil Kumar PW-3, we find that general allegations regarding demand of additional dowry and cruelty are levelled by the above prosecution

witnesses against accused-appellants. No specific statement or any other evidence has been adduced by the prosecution from which it could be revealed that in what way and manner father-in-law (Sasur) appellant Ram Sajeevan had committed cruelty to her deceased daughter-in-law Savita and demanded Rs.5,00,000/- From the perusal of the evidence of the above prosecution witness, it is also revealed that general allegations against accused-appellant persons including accused appellant Ram Sajeevan are levelled by the said prosecution witness. The deceased Savita was married to accused-appellant Deshraj. This fact is clearly emerged from the prosecution evidence that, accused-appellant Ram Sajeevan father of the accused-appellant Deshraj is a very poor person. He earn his livelihood and nourishing the family by pulling rickshaw trolley. A person who earns his livelihood by pulling rickshaw trolley, naturally leave home in the morning and will return at his home in the late evening. Since the above prosecution witnesses clearly accepted in their evidence that Ram Sajeevan father of accused-appellant Deshraj was a rickshaw puller and is maintaining his family by pulling rickshaw trolley, then in this condition we find that involvement of the accused-appellant Ram Sajeevan is falsely concocted by the prosecution side to harass the whole family of the defence side. From the perusal of the evidence of the above prosecution witness, we find that involvement of the accused-appellant Ram Sajeevan in the alleged crime is doubtful and suspicious. However, when we perused the finding and reasoning of the learned trial Court in this respect, we find that trial Court has not considered this material aspect in its judgment and order of conviction and sentence dated 25.08.2021.

21. The trial Court only on the basis of the general allegations against all the family members of the deceased Savita’s matrimonial home held guilty and convicted Ram Sajeevan for the alleged crime, which we find not supported by any cogent evidence on the record. It is settled principles of law that no accused person can be held guilty for heinous crime only on general allegations without supported by any cogent and reliable evidence. Thus, from the above discussions, we are of the

considered view that the judgment and order of conviction passed by the trial Court in respect of the accused-appellant Ram Sajeevan is not judicious and proper, hence nor sustainable in the eye of the law.

22. As far as accused-appellant Deshraj is concerned, from the perusal of the evidence of the prosecution witnesses, such as informant Smt. Sitapati Devi PW-1, Dinesh Kumar PW-2, Anil Kumar PW-3, this fact emerges that accused-appellant Deshraj live in a hut of *Zhuggi* made up of mud having a gate of *tatter*. It is also clear from the prosecution evidence that socio-economic condition of the prosecution side and accused-appellants are same, meaning thereby that socio-economic condition of both the sides are same. Both sides are daily wage earner peoples. They did daily labour work and earn their livelihood for their family members. It is thus clear that both sides are people of low strata, they go daily for work on daily basis and earn by doing labour work for their livelihood for maintaining their family members. This is also clear from the prosecution evidence as stated by informant Smt. Sitapati Devi PW-1, Dinesh Kumar PW-2 and Anil Kumar PW-3 that when these prosecution witnesses have reached at the house of the deceased Savita, they did not found her at her home.

23. She was taken to the Hallet Hospital by the accused persons. This fact indicate that after so called incident it was the accused-appellant persons who carried deceased Savita to the hospital for her treatment but unfortunately life of Savita could no be saved by the treatment. This fact also emerges that after death of the deceased Savita in Hallet Hospital, last cremation rituals were performed by her husband accused-appellant Deshraj. From the prosecution evidence this fact also emerges that Kritika-daughter of the deceased Savita, who was eight months old, was living with her father Deshraj accused-appellant in jail. The accused-appellant Deshraj nourishing and maintaining her daughter Kritika in jail after the death of deceased Savita. It is also a fact that husband of informant Sitapati Devi PW-1, do the labour work and earn daily 200 to 300 rupees per day.

24. Thus, from above facts, it is clearly emerges that socio-economic condition of both sides are the same. Both sides are very poor people of low strata earning their livelihood by doing daily labour work for maintaining their family members. However, when we have gone through the findings and reasoning recorded by the learned trial Court, we find that learned trial Court has not considered this major aspect in the judgment and order of conviction and sentence in this respect. Without keeping in view the socio-economic condition of the accused-appellant persons and prosecution side, trial Court sentenced accused-appellant persons to the maximum sentence of life imprisonment under Section 304B IPC. Under Section 304B of IPC, minimum sentence of seven years imprisonment is provided. The trial Court without considering this major and material aspect and totality of the fact and circumstances of the case, awarded a very severe and disproportionate punishment of life imprisonment to accused-appellant persons.

25. From the records of the file, it appears that families of the informant and accused-appellant belongs to the weaker section of the society, earning their livelihood by doing labour work on daily basis. It is settled principle of law that punishment should be of the nature and extent that it must not be too lenient and also must not be too severe and harsh. Both sides belong to weaker sections of the society and are daily wage earner. In view of the above social condition and economic capacity of the accused-appellants as well as also of the prosecution sides, we find that life imprisonment under Section 304B IPC as awarded by learned Trial Court is too harsh and severe.

26. The Three Judges Bench of Hon'ble Supreme Court in the case of **Hem Chand v. State of Haryana, (1994) 6 SCC 727**, which was also a case under Section 304B IPC (dowry death), held in para 7 that;

> *"A reading of Section 304-B IPC would show that when a question arises whether a person has committed the offence of dowry death of a woman what all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death.*

Likewise there is a presumption under Section 113-B of the Evidence Act as to the dowry death. Practically this is the presumption that has been incorporated in Section 304-B IPC also. It can, therefore, be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned in the section are satisfied. In the instant case the prosecution has proved that the deceased died an unnatural death, but there is no direct evidence connecting the accused with the death. The accused has not been charged under Section 302 IPC. Therefore at the most it can be said that the prosecution proved that it was an unnatural death in which case also Section 304-B IPC would be attracted. But this aspect i.e., absence of direct connection of the accused with death has certainly to be taken into consideration in balancing the sentence to be awarded to the accused.

Section 304-B IPC only raises presumption and lays down that minimum sentence should be seven years but it may extend to imprisonment for life. Therefore awarding extreme punishment of imprisonment for life should be in rare cases and not in every case."

27. Thus, from the above case law of Hon'ble Supreme Court, it is clear that under Section 304B IPC for dowry death, life imprisonment should be awarded in rarest of the rare cases, where it is alleged that bride was killed in a brutal and ruthless manner and also where there is no mitigating circumstances, then in this condition, life imprisonment should be awarded as a rarest of the rare cases. However, the trial Court also held the accused-appellants guilty under Section 4 of Dowry Prohibition Act and convicted them for two years imprisonment and a fine of Rs. 10,000/- to each accused and in default of payment of fine, both the accused-appellants were directed to undergo further imprisonment for three months. The accused-appellants were also convicted under Section 498A IPC for two years simple imprisonment and a fine of Rs.5,000/- each and in default of payment of fine, they were ordered to serve one month of additional imprisonment.

28. At this stage, it is also noteworthy to mention here that Harilal CW-1, who is the father of deceased Savita has also given an information to the concerned police station of this incident that his daughter Savita had committed suicide in her matrimonial home. The prosecution witness Ashok Tiwari PW-6 who was Head Moharrir at

police station Naubasta on 01.05.2016 have stated in his cross-examination that one *fauti* information about committing of suicide by his daughter Savita was given at police station Naubasta. This information was recorded in the G.D No.48 dated 28.04.2016 at 22:00 pm., meaning thereby that after the incident Harilal CW-1 father of the deceased Savita has given *fauti* information about her daughter stating that her daughter Savita has committed suicide. After this Sitapati Devi PW-1, mother of deceased Savita came to surface and got typed a written report in *Kutchery* on 30.04.2016 and on the basis of a typed application dated 30.04.2016, the first information report exhibit Ka-9 was registered against accused appellant persons on 01.05.2016.

29. Only on this ground that accused-appellant Ram Sajeevan father of the accused-appellant Deshraj against which only general allegation has been levelled by the prosecution regarding demand of additional dowry and committing of cruelty, we cannot hold guilty to accused-Ram Sajeevan for the alleged commission of the crime. Only on this ground that accused-appellant Ram Sajeevan is father-in-law of the deceased and he is father of the accused-appellant Deshraj, Ram Sajeevan could not be held guilty for the alleged crime. For recording a finding of guilty, cogent and consistent reasons and also evidence must be adduced by the prosecution. We find that no any cogent and consistent evidence is present in this case against the accused-appellant Ram Sajeevan for the alleged commission of the crime except general allegations.

30. In view of the above discussions, facts and circumstances of the case, conviction and sentence awarded by the trial Court against accused-appellant Ram Sajeevan is not sustainable in the eyes of the law and, therefore, liable to be set aside.

31. We are of the considered view that quantum of punishment should be proportionate to the crime. It should neither be too lenient nor too excessive and harsh. While awarding sentence, the Court must take an overall view of the facts and circumstances of the case, including the socio-economic conditions of both the parties, so as to meet the ends of justice and convey a clear message to society that no person could dare

to commit any heinous crime. In view of the above facts and circumstances of the case, as revealed from the records, we are inclined to sustain the order of conviction only against accused-appellant Deshraj and maintaining the finding and reasoning in this respect. However, we are inclined to reduce the sentence from life imprisonment to the period already undergone by the accused-appellants Deshraj, without altering the finding of the trial Court in respect of accused-appellant Deshraj. The finding as given by the learned trial Court in respect of conviction and sentence against accused-appellant Ram Sajeevan is not sustainable in the eye of the law, hence we are inclined to set aside the finding and reasoning of conviction and sentence against the accused-appellant Ram Sajeevan by the trial Court.

32. In the light of the above discussion, we are of the considered view that the ends of justice would meet by reducing the sentence of life imprisonment, as awarded by the trial Court against accused-appellant Deshraj, to imprisonment for a period of ten years. Thus, we reduce the life imprisonment against accused-appellant Deshraj awarded by the trial Court to the imprisonment for ten years only.

33. In the light of the above discussion, we set aside the judgment and order of conviction and sentence against accused-appellant Ram Sajeevan.

34. The accused-appellant Deshraj is in jail since 2016 and serving the sentence, meaning thereby that accused-appellant Deshraj had already served more than 9 years in jail, hence we reduced the sentence of accused-appellant Deshraj for ten years imprisonment. Thus, the criminal appeal filed by the accused-appellant is liable to be partly allowed.

35. Accordingly, the appeal is **partly allowed.** The judgment and order of conviction and sentence awarded by the trial Court against accused-appellant Ram Sajeevan is, accordingly, set aside. It is directed that the appellant be released forthwith, if not warranted in any other case and also subject to the compliance of Section 437A Cr.P.C.

36. The sentence of life imprisonment under Section 304B IPC as awarded by the learned trial Court to accused-appellant Deshraj is reduced to the period of ten years imprisonment. After completing of the sentence of ten years of imprisonment, the accused-appellant Deshraj shall be released from jail.

37. Let the trial Court record be returned by the office along with the copy of this judgment for necessary information and compliance forthwith. This order shall also be sent to the jail authorities concerned for necessary compliance forthwith.

(Vinai Kumar Dwivedi,J.) (J.J. Munir,J.)

July 01,2026
NSC

Digitally signed by :-
NARENDRA SINGH CHAUDHARY
High Court of Judicature at Allahabad