



2025:CGHC:52155-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1530 of 2022

- 1 - Deepak Kumar Rathore S/o Shri Durgaprasad Rathore Aged About 23 Years
R/o Village- Gatoura, Police Station- Masturi, District- Bilaspur, Chhattisgarh
- 2 - Ishwari Bai Rathore W/o Shri Durgaprasad Rathore Aged About 45 Years
R/o Village- Gatoura, Police Station- Masturi, District- Bilaspur, Chhattisgarh
- 3 - Manharan Lal Rathore (**Died**)

... Appellants

versus

State of Chhattisgarh Through Police Station- Masturi, District- Bilaspur,
Chhattisgarh

Respondent

For Appellants : Mr. Rajeev Kumar Dubey, Advocate with Ms.
Maya Chaturvijani, Advocate

For Respondent/State : Mr. Hariom Rai, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Bibhu Datta Guru, Judge

27.10.2025

1. This appeal filed by the appellants, who are husband, mother-in-law and *nana sasur* of Pranjal Rathore (since deceased), is directed against the judgment of conviction and order of sentence dated 22/09/2022 passed

by the learned Fifth Additional Sessions Judge, Biilaspur, District: Bilaspur, C.G. in S.T. No.48/2021 whereby the appellants have been sentence and convicted as under:-

Conviction	:	Sentence
Under Section 302/34 of the IPC	:	R.I. for life and fine amount of Rs.1000/-, in default of payment of fine amount, further R.I. for 100 days
Under Section 304-B/34 of the IPC	:	R.I. for 07 years and fine amount of Rs.100/-, in default of payment of fine amount, further R.I. for 10 days
The sentences were directed to run concurrently.		

2. As per the order of this Court dated 10/11/2023, the Appellant No.3 - Manharan Lal Rathore has died during the pendency of this appeal and accordingly, the present appeal in his respect was abated. Thus, we are dealing with the appeal only in respect of A1 (husband) and A2 (mother-in-law).
3. Facts of the case, in brief, is that on 26.10.2020, PW6-Dilip Rathore, brother of A-1 and son of A-2 lodged merg intimation that on 26.10.2020, at around 8:30 a.m., A-1 brought Pranjal Rathore (deceased) from her parental home Saragaon to her matrimonial home and had meal together. Thereafter, A-1 had gone to his duty. Subsequently, the deceased had committed suicide by hanging herself in her room. Based on above facts, merg was registered vide Ex.P-7. During the investigation, it was revealed that after the marriage, the appellants

started harassing and treating the deceased with cruelty, saying that she had brought nothing in dowry and demanding dowry from her. On 22.10.2020, when the deceased went to her parental home during the Navratri festival, the accused persons demanded a sum of Rs. 3,00,000/- in the form of dowry and forbade her from returning to her matrimonial home unless she brought the said amount. On 23.10.2020, A-2 abused the mother of deceased over the phone and threatened that if the deceased was not sent back with Rs. 3,00,000/- she would be killed. As a result of continuous physical and mental harassment and torture by the accused persons for dowry, Pranjali Rathore committed suicide by hanging herself. FIR was registered vide Ex.P-18. Crime details form was prepared vide Ex.P-8. The dead-body of deceased was sent for postmortem examination and in the postmortem examination report (Ex.P/12), Dr. Mahendra Madhukar (PW-11/A) opined that the cause of death was asphyxia due to strangulation and the nature of death was homicidal. After completing the investigation, the appellants were arrested and final report was prepared alleging commission of offence under Section 304B/34 IPC.

4. In order to bring home the offence, the prosecution examined as many as 16 witnesses and exhibited 25 documents. The statement of the appellants under Section 313 of Cr.P.C. were also recorded in which they denied the material appearing against them and stated that they are innocent and they have been falsely implicated in the case.

5. After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellants and sentenced them as mentioned in para 1 of the judgment. Hence, this appeal.
6. Learned counsel for the appellants submits that the appellants have been falsely implicated in the present case. It is contended that there is no specific or cogent allegation of demand of dowry made soon before the death of the deceased. The marriage between the deceased and Accused No.1 was solemnized on 26.04.2020, and the alleged incident occurred on 26.10.2020. During this intervening period, neither the deceased nor her parents lodged any complaint or FIR alleging cruelty or demand of dowry. It is further submitted that there is no eyewitness to the occurrence and the conviction of the appellants rests merely on suspicion. The allegations levelled against the appellants are general and omnibus in nature, without any specific details regarding the nature or occasion of the alleged demand of dowry. He would submit that though the appellants were charge-sheeted for offences under Sections 304-B read with Section 34 and 302 read with Section 34 of the Indian Penal Code, the Trial Court, after having found all the ingredients of Section 304-B IPC established against them, could have only convicted them under Section 304-B read with Section 34 IPC. However, the Trial Court has erroneously convicted them under Section 302 read with Section 34 IPC, which is contrary to the settled law laid down by the Supreme Court in *Suresh Kumar v. State of Haryana*, (2013) 16 SCC 353, and *Muthu Kutty and another v. State by Inspector of Police, Tamil Nadu*,

AIR 2005 SC 1473. Therefore, the impugned judgment suffers from misappreciation of evidence and incorrect application of law. The conviction of the appellants under Section 302 read with Section 34 IPC is unsustainable in the eyes of law and deserves to be set aside.

7. On the other hand, learned State counsel opposes the submissions advanced on behalf of the appellants and contends that there is ample and sufficient evidence on record to establish the case against the appellants beyond reasonable doubt. It is submitted that the learned Trial Court, upon proper appreciation of oral and documentary evidence, has rightly convicted the appellants for the offences under Sections 304-B read with Section 34 and 302 read with Section 34 of the Indian Penal Code. The judgment of conviction and the order of sentence are well reasoned and based on due consideration of the material available on record. As such, no interference is warranted by this Court and the appeal deserves to be dismissed.
8. We have heard learned counsel for the parties and perused the entire record with due care.
9. In the postmortem report (Ex. P-12), Dr. Mahendra Madhukar (PW-11/A) found several external and internal injuries on the body of the deceased, which are as follows:
 - *The deceased's body showed several signs of trauma and injury.*
 - *The neck, chest, and face had Venous congestion, causing blood to clot and swell.*

- *The eyes were closed, and the eyelids were swollen.*
- *There were bruises on the lower part of both eyes, measuring 2 X 0.5 cm and 1 x 0.5 cm.*
- *The forehead had multiple bruises, measuring 2 X 2 cm and 1 x 0.5 cm.*
- *A saree was wrapped around the neck, 14 inches long, with the knot near the left ear.*
- *There were multiple bruises on the chest, measuring 2 X 1 cm, 4 X 0.5 cm, 1 X 1 cm, and 8 X 4 cm.*
- *A blunt penetrating injury was present at the level of the Hyoid bone.*
- *A ligature mark was present around the neck, measuring 13 inches X 1.5 inches.*
- *The throat and windpipe contained blood-mixed frothy liquid, with a fracture of the Hyoid bone and a vertical breakage of the thyroid cartilage.*

Opinion: *Cause of death was asphyxia due to strangulation and the nature of death was in favour of homicidal.*

10. From the postmortem report and the testimony of Dr. Mahendra Madhukar (PW-11/A), it is evident that the deceased sustained multiple injuries and that her death was homicidal in nature. The trial Court rightly recorded this finding after considering both oral and documentary evidence, and the same cannot be termed perverse or contrary to record.
11. PW-1, Basant Rathore, father of the deceased, deposed that his daughter

Pranjal Rathore was married to Deepak Rathore on 26.04.2020. After about a week of marriage, the accused persons began to harass and physically abuse her for dowry. During Navratri (22.10.2020), he brought her home, when she disclosed that the accused were demanding ₹3,00,000/- as dowry and had threatened to kill her if the demand was not met. On 25.10.2020, A-1 Deepak visited their house and promised not to harass her again. On 26.10.2020, he sent his daughter back to her matrimonial home around 5:00 a.m. However, around 12:00 noon, he received a call from A-2 Ishwari Bai informing that his daughter had hanged herself. Upon reaching the spot, he found his daughter hanging from the fan with visible injuries on her neck and hands, and he suspected that the accused persons had murdered her by strangulation and then hanged her to stage a suicide.

12. PW-2, Nirmala Devi, mother of the deceased, corroborated the above facts and further stated that the accused persistently demanded ₹3,00,000/- and had threatened to kill her daughter if the amount was not paid. On 26.10.2020, soon after the deceased was taken back by her husband, she was informed about her daughter's death by hanging. She suspected that the appellants had murdered her and hung the body to make it appear as suicide.
13. PW-3, Priyanka Rathore, sister of the deceased, also testified that her sister had informed her about the repeated demands for ₹3,00,000/- and the physical assaults inflicted by her husband and in-laws. She too suspected that the accused had murdered her sister and hanged the body

to give an impression of suicide.

14. PW-6, Dilip Rathore, brother of A-1 and son of A-2, deposed that the deceased committed suicide by hanging herself with a saree tied to the ceiling fan, and he had lodged the merg intimation. However, he admitted that he had signed blank papers in connection with the merg and nazri naksha.
15. A bare perusal of the above evidence reveals that the marriage of the deceased was solemnized in April 2020 and she died in October 2020 i.e., within seven months of her marriage.
16. Provision of Section 304-B of IPC is also extracted below for ready reference.

“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.”

The above provision was inserted by Act 43 of 1986 and came into force with effect from 19.11.1986.

17. In order to convict an accused for the offence punishable under Section 304B of the IPC, the following essentials must be satisfied-

- The death of a woman should be caused by burn or bodily injury or otherwise than under normal circumstances.
- Such death should have occurred within seven years of the marriage.
- Soon before the death of deceased, she must have been subjected to cruelty or harassment by her Husband or any relative of her Husband.
- Such cruelty or harassment should be for or in connection with demand for dowry.

Thus, if the aforesaid ingredients are established by the prosecution by leading appropriate reliable evidence, such death shall be called dowry death and the court shall presume and it shall record such fact as proved unless and until it is disproved by the accused.

18. Section 113B of the Indian Evidence Act, 1872 speaks about presumption as to dowry death, which reads as under:-

"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 has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry,

the Court shall presume that such person had caused the dowry death.

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

19. The aforesaid provision shows that if the woman has been subjected to cruelty as defined in Section 498A of the IPC, the court may presume that such person has caused dowry death. Section 2 of the Dowry Prohibition Act, 1961 provides as under:-

S.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 a other person, to either party to the marriage or to any other person; at or before or after the marriage us consideration for 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."*

20. To attract the provisions of Section 304B of the IPC, one of the main ingredients of the offence, which is required to be established is that "soon before her death" she was subjected to cruelty or harassment "for, or in connection with the demand for dowry". The expression "soon before her death" used in Section 304B of the IPC and Section 113B of

the Evidence Act is present with the idea of proximity test

21. In the matter of *Appasaheb and another v. State of Maharashtra (2007) 9 SCC 721*, it has been held by the Supreme Court at paras 9 to 11 as under:-

“9. Two essential ingredients of Section 304-B IPC, apart from others, are (i) death of woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and (ii) woman is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for “dowry”. The explanation appended to sub section (1) of Section 304-B IPC says that “dowry” shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961.

10. Section 2 of the Dowry Prohibition Act reads as under:

“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.”

11. *In view of the aforesaid definition of the word “dowry” any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving and taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning. (see Union of India v. Garware Nylons Ltd and Chemical and Fibres of India Ltd. v. Union of India). A demand for money on account of some financial stringency or for making some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. The evidence adduced by the prosecution does not, therefore, show that any demand for 'dowry' as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for*

meeting domestic expenses and for purchasing manure. Since an essential ingredient of Section 304-B IPC viz demand for dowry is not established, the conviction of the appellants cannot be sustained.”

22. The Supreme Court in the matter of ***Mustafa Shahadal Shaikh v. State of Maharashtra (2012) 11 SCC 397***, while considering the term "soon before her death", has held that term of the period which can come within the term "soon before her death" is to be determined by the courts, depending upon the facts and circumstances of each case and it would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question and there must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the concerned death. It has been further held that if the alleged incident of cruelty is remote in time and has become stale enough not to disturb the mental equilibrium of the woman concerned, it would be of no consequence.
23. The testimonies of PW-1, PW-2, and PW-3, who are the father, mother and sister of the deceased clearly establish that soon after the marriage, the deceased was subjected to persistent cruelty and harassment by the appellants for a demand of ₹3,00,000/- as dowry. Despite assurances of good behaviour, she was found dead within hours of being sent back to her matrimonial home.
24. The postmortem report, coupled with the ocular evidence, conclusively proves that the death was homicidal and occurred otherwise than under

normal circumstances, thereby attracting the presumption under Section 113-B of the Evidence Act.

25. It is evident from the record that the case was initially registered for offence under Section 304-B/34 IPC, but the learned Sessions Judge also framed an alternative charge for offence under Section 302/34 IPC and eventually convicted the appellants under both the offences without cogent reasoning.
26. The trial Court also invoked Section 106 of the Evidence Act to support conviction under Section 302 IPC; however, in absence of direct evidence proving homicidal culpability, such simultaneous conviction under both Sections 302 and 304-B IPC is legally impermissible.
27. It is noteworthy to mention here that the deceased has been subjected to cruelty in connection with demand of dowry within seven years from the date of marriage and she died unnatural death within 7 months of marriage, the finding recorded by the trial Court that the appellants are guilty of the commission of offence under Section 304B read with Section 34 of the IPC is correct finding of fact based on the evidence available on record, it is neither perverse nor contrary to the record and we hereby affirm the said finding.
28. Now, the question is whether the trial Court is simultaneously justified in convicting the appellants for offence under Section 302 read with Section 34 of the IPC along with 304B/34 IPC?
29. In this regard, two pertinent decisions of the Supreme Court may be

noticed herein.

30. The Supreme Court in **Suresh Kumar** (supra) held that if the prosecution establishes all the ingredients of Section 304B of the IPC against accused, any death (whether homicidal or suicidal or accidental) and whether caused by burns or by bodily injury or occurring otherwise than under normal circumstances, as per the legislative mandate, shall be called a “dowry death”, and observed in paragraph 27 as under: -

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

31. Similarly, in **Muthu Kutty** (supra) the Supreme Court has held that if the

accused persons are direct participants in the commission of the offence of death, the provisions of Sections 300, 302 and 304 of the IPC will attract, and observed in paragraph 20 as under: -

“20. A reading of Section 304-B, IPC and Section 113-B, Evidence Act together makes it clear that law authorizes a presumption that the husband or any other relative of the husband has caused the death of a woman if she happens to die in circumstances not normal and that there was evidence to show that she was treated with cruelty or harassed before her death in connection with any demand for dowry. It, therefore, follows that the husband or the relative, as the case may be, need not be the actual or direct participant in the commission of the offence of death. For those that are direct participants in the commission of the offence of death there are already provisions incorporated in Sections 300, 302 and 304. The provisions contained in Section 304-B, IPC and Section 113-B, of the Evidence Act were incorporated on the anvil of the Dowry Prohibition (Amendment) Act, 1984, the main object of which is to curb the evil of dowry in the society and to make it severely punitive in nature and not to extricate husbands or their relatives from the clutches of Section 302, IPC if they directly cause death. This conceptual difference was not kept in view by the Courts below. But that cannot bring any relief if the conviction is altered to Section 304, Part II. No prejudice is caused to the accused-appellants as they were originally charged for offence punishable under Section 302, IPC along with Section 304-B, IPC.”

32. From the above settled propositions, it was clarified that Section 304-B covers cases where the accused may not be direct participants in causing

death; however, direct participants are liable under Sections 300 or 302 IPC separately.

33. In the present case, the trial Court recorded a finding that Smt. Pranjali Rathore died an unnatural death due to asphyxia by strangulation within seven months of her marriage, and that she was subjected to cruelty and harassment by the appellants for demand of ₹3,00,000/-. However, without recording a clear finding of intentional homicide, it convicted them simultaneously under Section 302/34 and Section 304-B/34 IPC, which is legally unsustainable.
34. The trial Court convicted the appellants for commission of offence under Section 302/34 IPC by applying the provisions of Section 106 of the Evidence Act with the presumption that the deceased was residing with the appellants. On the basis of mere presumption under Section 106 of the Evidence Act, the conviction under Section 302 IPC is not sustainable because it is a trite law that before shifting of burden under Section 106, the prosecution will have to prove its case beyond reasonable doubt. In the case at hand, the learned trial Court has not observed anything in the finding and even no discussion has been made about the evidence which attracts the offence under Section 302/34 IPC
35. Reverting to the facts of the present case finally in light of the principles of law laid down by the Supreme Court in the aforesaid judgments, it is quite vivid that the trial Court in paragraph 51 of the judgment firstly recorded finding that the deceased died unnatural death otherwise than in

normal circumstances by strangulation and such death has occurred within seven years of marriage and soon before death, she has been subjected to cruelty and harassment by the appellants herein i.e. her husband and mother-in-law, in connection with demand of dowry. But thereafter, without recording any further finding, the trial Court in repeat paragraph 51 (page 39) of the judgment has simultaneously convicted the appellants under Section 302 read with Section 34 of the IPC also which in our considered opinion runs contrary to the principles of law laid down by the Supreme Court in **Suresh Kumar** (supra) and **Muthu Kutty** (supra), as the trial Court has found proved all the ingredients of Section 304B of the IPC against the appellants and thereafter, even the trial Court did not record finding that death of deceased was homicidal in nature by any specific finding and that the appellants are guilty of offence under Section 302 of the IPC.

36. Be that as it may, a Court generally cannot convict a person simultaneously for both Section 304-B and Section 302 IPC, as the two offenses are mutually exclusive. If the conditions for dowry death are met (death within seven years of marriage, caused by burns or bodily injury, or otherwise than under normal circumstances, and evidence of cruelty or harassment for dowry soon before death), the case falls under the category of dowry death. However, if the prosecution proves that the death was a deliberate murder (requiring proof of intent), a conviction under Section 302 would be more appropriate.

37. On minute appreciation of the entire evidence and the material available on record, it is clear that the death of the deceased was a dowry death within the meaning of Section 304-B IPC. The charge under Section 302 IPC was alternatively framed by the trial Court, but without any sufficient material for convicting and sentencing under Section 302/34 IPC.
38. In view of the foregoing discussion, we are of the considered opinion that the conviction of the appellants under Section 302/34 IPC cannot be sustained and is accordingly set aside. However, the conviction under Section 304-B/34 IPC is affirmed, being fully supported by the evidence on record.
39. It is informed that appellant No.2, Ishwari Bai Rathore, is on bail. Her bail bond is cancelled, and she is directed to surrender forthwith and/or be taken into custody to serve out the remaining sentence. Appellant No.1, Deepak Kumar Rathore, is already in jail and shall continue to serve the remaining period of imprisonment as awarded by the trial Court under Section 304-B/34 IPC.
40. The Registry is directed to forward a copy of this judgment to the concerned Superintendent of Jail to serve the same on the appellants, informing them of their right to prefer an appeal before the Hon'ble Supreme Court with assistance of the High Court Legal Services Committee or the Supreme Court Legal Services Committee.
41. Accordingly, the Criminal Appeal is **partly allowed**.

42. A copy of this judgment shall be circulated to all Sessions Courts in the State through the Registrar General, so that in cases of alleged dowry death, charges are framed and trials are conducted strictly in accordance with law.
43. The record of the case, along with a copy of this judgment, be sent back forthwith to the trial Court concerned for compliance and necessary action.

Sd/-

(Bibhu Datta Guru)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

HEAD NOTE

Basic ingredients of both the offences i.e. S. 302 and S. 304-B IPC operates in distinct spheres, each require appreciation of evidence from the perspective relevant to the ingredients of the respective offence