

**IN THE COURT OF BABRU BHAN, ADDITIONAL SESSIONS  
JUDGE-04, NORTH-EAST, KARKARDOOMA COURTS,  
DELHI**



SC No-152/2016  
State Vs. Danish & Ors.  
FIR No-424/2016  
PS-Khajuri Khas  
CNR No-DLNE01-003435-2016

(a)	Session Case No.	152/2016
(b)	Date of offence	24.05.2016
(c)	Accused	<b>1. Danish</b> S/o- Sh. Naeem, R/o- H.No- B/327, Gali No-08, Rajeev Vihar, Sri Ram Colony, Delhi. <b>2. Naeem</b> S/o- Sh. Julfikar, R/o- Utranchal Vihar Society, Bheta, Hajipur, Loni, Ghaziabad, U.P. <b>3. Rustam</b> S/o- Sh. Sirazul Haq, R/o- H.No- B/133, Gali No-11, Rajeev Vihar, Sri Ram Colony, Delhi.

		<p><b>4. Guddu @ Zulfikar</b> S/o- Sh. Mukhtiyar Ahmad, R/o- Wakil Ahmad Ka Makan, H.No- 153, Gali No-07, Dayal Pur, Delhi.</p> <p><b>5. Samreen Begum @ Rani</b> W/o- Sh. Rustam, R/o- H.No- B/133, Gali No-11, Rajeev Vihar, Sri Ram Colony, Delhi.</p> <p><b>6. Gudiya</b> W/o- Sh. Naeem, R/o- H.No- B/327, Gali No-08, B-Block, Sri Ram Colony, Delhi.</p> <p><b>7. Mehmooda</b> W/o- Sh. Naeem, R/o- H.No- B/327, Gali No-08, B-Block, Sri Ram Colony, Delhi.</p>
(d)	<b>Offence</b>	<b>498A/304B/34 of IPC</b>
(e)	<b>Plea of accused</b>	<b>Not guilty</b>
(f)	<b>Final Order</b>	<b>Acquittal</b>
(g)	<b>Date of institution</b>	<b>02.09.2016</b>
(h)	<b>Date when judgment was reserved</b>	<b>22.12.2025</b>
(i)	<b>Date of judgment</b>	<b>12.03.2026</b>

**JUDGMENT**

**BRIEF FACTS**

1. Accused Danish, Naeem, Rustam, Guddu @ Zulfikar, Samreen Begum @ Rani, Gudiya and Mehmooda have been sent for trial for committing offence U/s 498A/304B/34 of IPC.
2. Briefly, stated the facts of the case are that on 24.01.2016, accused Danish was married to deceased Naima @ Zeba according to muslim rites and ceremonies. Naima @ Zeba hanged herself to death on 24.05.2016.
3. On 24.05.2016, PW-1/Ct. Anita Kumari was working as DD writer at PS Khajuri Khas. At about 10:56 AM, wireless operator informed her that one lady committed suicide in C-Block, Gali No-7, 3<sup>rd</sup> Floor, Shri Ram Colony. PW-1 recorded the information in form of DD No-32B Ex.PW-1/A and assigned the same to PW-29/ASI Kavinder Singh.
4. PW-29/ASI Kavinder Singh along with Ct. Parmod reached at the spot and found one lady aged about 19-20 years hanging with hook of ceiling fan using a chunni (stall) as ligature. Lock of that room was bolted from inside. PW-29 transmitted the information to concerned SHO. PW-23/Insp. Yogender Khokhar along with PW-17/HC Sunil Kumar reached at the spot. PW-29 called the crime team. Thereafter, police party forced open the lock and brought down the body of the deceased with help of the public persons of the locality.

5. While PW-23/Insp. Yogender Khokhar was interrogating the family members of the deceased, PW-11/SI Mukesh Chauhan along with PW-5/ASI Mahavir Singh reached the spot. PW-11/SI Mukesh was posted as In-charge Mobile Crime Team, N/E and PW-5/ASI Mahavir Singh was the mobile team photographer. PW-11/SI Mukesh inspected the spot and thereafter, prepared his report Ex. PW-11/A. In the meanwhile, PW-5/ASI Mahavir Singh took 16 photographs of the place of incident which are Ex.PW5/A-1 to Ex.PW5/A-16. PW-5 has also issued a certificate Ex.PW5/B U/s 65B of Indian Evidence Act in support of the photographs.

6. Since, it was an unnatural death of a married women and had occurred within 7 years of marriage, therefore, Sh. N.K. Meena, Executive Magistrate of the area was informed. He came at the spot and inspected the dead body. After conducting the requisite investigation of the spot, the concerned SDM left after issuing instructions to the police to produce the mother and brother of the deceased in his office.

7. Further, as per directions of Insp. Yogender Khokhar, PW-29/ASI Kavinder wrote a request letter Ex.PW29/A to get the dead body of Naima @ Zeba preserved. Thereafter, Ct. Parmod got the dead body preserved in mortuary of GTB Hospital.

8. Next day, after completion of formalities at the spot, PW-29/ASI Kavinder, PW-23/Yogender Khokhar, PW-17/HC Sunil Kumar took PW-4/Nasima (mother of the deceased) and

PW-13/Saleem (brother of the deceased) to office of the SDM. In the office, concerned SDM recorded joint statement Ex.PW4/C of PW-4/Nasima and PW-13/Saleem. In her statement Ex.PW4/C, PW-4/Nasima stated that she had married her daughter Naima @ Zeba with accused Danish on 24.01.2016. The alliance for the marriage was settled four months before that. After 3-4 weeks of the settlement of marriage, Danish came to her house when Naima @ Zeba was alone. He forcefully committed rape upon Naima @ Zeba. Thereafter, he repeated the offence 2 to 4 more times and then he refused to marry Naima @ Zeba. A complaint in this regard was lodged on 30.10.2015 with the concerned SHO. Nasima further stated in her statement to SDM that thereafter, family of accused Danish agreed for the marriage between accused Danish and Naima @ Zeba. She further stated that she was suspecting character of Danish and also that he was unfair to Naima @ Zeba and he killed her. PW-4 also stated that the persons responsible for death of her daughter were Danish, Naeem, Mehmooda, Samreen Begum @ Rani, Rustam, Guddu and Gudiya. She further stated that all these persons tortured her. Danish had extended threat to the deceased that if she lodged complaints, he would divorce her. She further stated that on 23.05.2016, about 09:30 AM, her daughter called her up on the phone and told "*please take me he is beating me and not allowing me to talk to you*". On hearing this, Nasima went to matrimonial home of Naima @ Zeba at about 04:00 PM. When she was trying to bring the deceased back to her parental home, Danish pushed her away. PW-4 further stated that Rani and Danish pushed

Naima @ Zeba and said that she would only leave on death or divorce. PW-4 was also insulted and beaten. She further stated that her daughter never came back to her parental home after the marriage and Danish always demanded dowry.

9. PW-23/Insp. Yogender Khokhar made an endorsement Ex.PW23/A on the statement of Nasima and got the present FIR registered. During further course of investigation, PW-23/Insp. Yogender Khokhar inspected the spot and prepared visual site-plan Ex. PW23/B.

10. Subsequently, accused Danish, Naeem and Rustam were arrested vide documents Ex.PW4/H to Ex.PW4/J and Ex.PW16/A to Ex.PW16/C. IO recorded their disclosure statements Ex.PW16/D-1 to Ex.PW16/D-3.

11. On 25.05.2016, PW-18/Dr. Vishwajeet Singh conducted postmortem on the body of the deceased. He has opined in his report Ex. PW18/A that the cause of death was asphyxia as a result of ante-mortem hanging.

12. Further, investigation of this case was handed over to PW-33/Insp. Sanwar Mal. On 22.06.2016, he called complainant Nasima and her son Saleem to PS. On that day, Nasima provided marriage invitation card of deceased Naima @ Zeba to the IO. She also handed over photocopy of marriage certificate of accused Danish and deceased Naima @ Zeba. PW-33/Insp. Sanwar Mal took the same in his possession vide seizure memo Ex.PW4/F.

Thereafter, he recorded supplementary statement of Nasima and Saleem. On 24.06.2016, he sent viscera of deceased Naima @ Zeba to FSL Rohini, Delhi through PW-22/Ct. Nitin.

13. On 26.06.2016, PW-33 visited Shahi Jama Masjid, Bheta, Hazipur, Loni and met PW-9/Qazi Mustaq, who had performed the ceremony of *nikaah* between deceased Naima @ Zeba and accused Danish.

14. Subsequently, accused Guddu, Rani, Gudiya and Mehmooda were also arrested and on completion of investigation, IO filed the chargesheet accusing the accused persons for committing offence U/s 498A/304B/34 IPC.

15. Formal charges for offence U/s 498A/304B/34 of IPC were framed against the accused persons on 19.01.2016 and 15.12.2017. All the accused persons pleaded not guilty and claimed to be tried.

16. To prove its case, the prosecution has examined 36 witnesses. Out of those, some witnesses had played very brief and formal role in the process of investigation. While narrating the above facts of the case, the brief roles of many witnesses have already been discussed. So, this court shall not note their testimonies in detail. Brief testimonies of the remaining witnesses are being reproduced below.

17. **PW-2/SI Harish Chandra Pathak** has proved the PCR form filled by Ct. Anup Kumar. He has proved the certificate Ex.PW2/A

regarding the correctness of the PCR Form.

18. **PW-4/Nasima** is mother of the deceased. In her court statement, she has deposed the same facts which she had deposed in her statement Ex.PW4/A recorded by the Executive Magistrate. The details of that statement have already been elaborated above, therefore, same are not being reproduced again for sake of brevity.

19. **PW-13/Saleem** is brother of the deceased. He has deposed in sync with PW-4/Nasima.

20. **PW-6/Md. Nasir, PW-10/Md. Sabir and PW20/31 Abdul Khalid** are the witnesses of marriage and they have proved their signatures on the *nikaahnama* Ex.PW6/A.

21. **PW-9/Md. Mustaq** is the Qazi who had performed the marriage between deceased Naima @ Zeba and accused Danish.

22. **PW-7/Chander Shekhar, Nodal Officer, Bharti Airtel Ltd** has proved the CDR of mobile no-8826\*\*9500, Cell ID Card, CAF ID of customer and certificate U/s 65B of Evidence Act. The documents produced by this witness are Ex.PW7/A to Ex.PW7/C and Ex.PW7/D-1 to Ex.PW7/D-5.

23. **PW-8/HC Ravinder Kumar** had provided PCR form Ex.PW8/A to the IO of this case. PW-8 has proved the signatures of the concerned ACP Nasir Hussain on the PCR form.

24. **PW-12/ASI Satender Kumar** has deposed that on 30.10.2015,

he was on emergency duty at police post LNJP Hospital in PS IP State. At about 12:00 noon, Nasima came to him alongwith her daughter. She made an oral complaint against her sister Mehmooda that she was refusing to marry her son with the daughter of the complainant namely Naima despite engagement. PW-12 called Mehmooda. She came alongwith her relatives at the police post on the same day. Both the parties discussed the matter with each other and thereafter compromised their dispute. PW-12 has proved the compromise deed Ex.PW12/A. PW-12 got recorded DD No-34 PP JPN hospital Ex.PW12/A-2 in this regard.

25. **PW-14/Nooruddin** is the landlord of the rented premises where accused persons had taken Naima @ Zeba after her marriage. He has deposed that after about 1-2 month of the marriage, Naeem had shifted to Hajipur, Bhatta, Loni, Ghaziabad. His son Danish and his wife Naima @ Zeba continued to reside as a tenant at 3<sup>rd</sup> floor of his house. He has also deposed that none had told him about any quarrel between accused Danish and deceased Naima @ Zeba.

26. **PW-15/Javed Ahmed** is cousin of deceased and accused Danish. He was previously engaged with deceased Naima @ Zeba but the engagement could not culminate into marriage.

27. **PW-16/SI Kuldeep Singh** had reached at the spot on 24.05.2016. He is the witness of arrest of accused Danish, Naeem and Rustam. He has proved his signatures on the arrest memos Ex.PW4/H to Ex.PW4/J and Ex.PW16/A to Ex.PW16/C. He has

also proved the disclosure statement of above three accused persons namely Naeem, Danish and Rustam recorded vide memos Ex.PW16/D-1 to Ex.PW16/D-3. He has also deposed that on next day, IO Insp. Yogender Khokhar reached the mortuary and got the dead body of the deceased identified from the complainant and her son. Thereafter, postmortem was conducted by Dr. Vishwajeet Singh. After postmortem, dead body of the deceased was handed over to the complainant. The doctor had handed over 2 sealed parcels, one containing viscera and another ligature material. Same were seized by the IO vide memo Ex.PW16/E

**28. PW-17/HC Sunil Kumar** had joined the investigation on 24.05.2016. He has also narrated the details of the investigation carried out by the IO on that day.

**29. PW-18/Dr. Vishwajeet Singh** had conducted the postmortem on the dead body of the deceased Naima @ Zeba. He has opined in his report Ex.PW18/A that death was a result of asphyxia due to antemortem hanging.

**30. PW-19/Dr. Shalney Rajdan** had assisted Dr. Vishwajeet Singh during the postmortem of deceased Naima @ Zeba.

**31. PW-21/ASI Sukhbir** was the then MHC(M) at PS Khajuri Khas at the relevant point of time. He has produced the record of depositing and taking out of the property relating to the present case in the Malkhana. The record produced by him is Ex.PW21/A to Ex.PW21/G.

32. **PW-22/Ct. Nitin** has deposed that on 24.06.2016, he had taken one sealed parcel containing exhibits, sample seal and forwarding letter from the MHC(M) and deposited the same at FSL vide RC No-17/21/16 Ex. PW21/D. Thereafter, the dealing clerk handed him over a receipt Ex.PW21/G. PW-22 handed over the receipt to the MHC(M).

33. **PW-23/Insp. Yogender Khokhar** was the SHO of PS Khajuri Khas during the investigation of this case. He has also narrated the details of the investigation carried out by the IO on 24/25.06.2016.

34. **PW-24/Ajeet Singh, Nodal Officer, Idea Cellular Ltd** has proved the CDR of mobile no-9911\*\*7078 and 8745\*\*1863, Cell ID Card, CAF ID of customer and certificate U/s 65B of Evidence Act. The documents produced by this witness are Ex.PW24/A to Ex.PW24/H.

35. **PW-25/Israr Babu, Alternate Nodal Officer, Vodafone Mobile Services Ltd** has proved the CDR of mobile no-9818\*\*7036, Cell ID Card, CAF ID of customer and certificate U/s 65B of Evidence Act. The documents produced by this witness are Ex.PW25/A to Ex.PW25/E.

36. **PW-26/Rajeev Ranjan, Nodal Officer, Tele Services Ltd** has proved the CDR of mobile no-9212\*\*7579, Cell ID Card, CAF ID of customer and certificate U/s 65B of Evidence Act. The documents produced by this witness are Ex.PW26/A to Ex.PW26/F.

37. **PW-27/Mohd. Tasleem** is the brother of accused Naeem and he had not deposed anything against anyone.

38. **PW-28/ASI Yogesh Kumar** has proved the PCR form Ex.PW28/A. He has identified the signatures of ACP Sanjeev Kumar on the same.

39. **PW-30/Firasat Ali** has deposed that in the year 2007, he had let out one room to Naeem on monthly rent of Rs. 1500/-. His family lived there from 2007 to 2012. In 2012-2013, they shifted from there. He has not deposed anything against the accused persons.

40. **PW-32/Zahid Ali** has deposed that he had rented out his house situated at Khasra No-701, Utranchal Vihar Colony, Bhatta, Hajipur to Seema, W/o Bundu Khan. She was daughter of Naimuddin. He subsequently came to know that Naimuddin was also residing on the 1<sup>st</sup> floor of the house with a girl. He has further deposed that Mehmooda W/o Naimuddin had got signed a certificate from him on 24.08.2016.

41. **PW-34/Dr. Shubra Kumar Pal, SSO** had examined the viscera of the deceased. He has proved his report Ex.PW34/A in the court. He has deposed that during the chemical microscopic & TLC examination, metallic poisons, ethyl and methyl alcohol cyanide, phosphide, alkaloids, barbiturates, tranquilizers and pesticides were not detected in the viscera.

42. PW-35/Sh. Amit Sharma, Nodal Officer, Reliance Communication Ltd has produced the CDR of mobile no-9310\*\*6197, Cell ID Card, CAF ID of customer and certificate U/s 65B of Evidence Act on behalf of Yogesh Tripathi who had left the services of this company. The documents produced by this witness are Ex.PW35/A to Ex.PW35/C.

43. PW-36/Mohd. Yusuf had deposed that he had got issued a mobile number-9310\*\*6197 from reliance company. Thereafter, he had handed over the same to Mehmooda at the time of engagement of Naima and thereafter the number was being used by Mehmooda.

44. The prosecution evidence was followed by statement of accused persons U/s 313 Cr.P.C, wherein entire incriminating evidence brought on record by the prosecution was put to the accused persons. All the accused persons denied the allegations against them and pleaded innocence.

45. Although, all the accused persons had expressed their willingness to lead defense evidence when they were questioned in this regard after recording of their statement U/s 313 of Cr.P.C but, despite given opportunity, no defense evidence has been led.

46. Arguments heard. Record has been perused.

47. The case of the prosecution against the accused persons is that deceased Naima @ Zeba was married to accused Danish on

24.01.2016. After marriage, all the accused persons, who are in-laws of the deceased, started harassing her verbally and physically for not bringing the sufficient dowry. Accused Danish would taunt the deceased by saying that he was getting motorcycle in his marriage and if she had not levelled allegations of rape against him, he would not have married her. Further, accused Danish used to give beatings to the deceased. As per prosecution, the aforesaid continuous harassment meted out to the deceased by her husband and in-laws ultimately compelled her to commit suicide on 24.05.2016.

48. To prove the offence U/s 304B IPC, the prosecution is required to establish some basic ingredients of the offence. Firstly, it has to be proved that the death of the deceased has been caused by burns or bodily injury, or has occurred otherwise than normal circumstances. Secondly, that the unnatural death has occurred within seven years of her marriage. Lastly, that the deceased was being subjected to cruelty or harassment by her husband or any relative of the husband for or in connection with any demand of dowry, soon before her death.

49. As far as first two ingredients are concerned, there appears to be no dispute. The prosecution witnesses, including PW-4/Nasima (mother of the deceased), PW-13/Saleem (brother of the deceased), PW-6/Mohd. Nasir (witness of marriage), PW-9/Mohd. Mustaq (Qazi), PW-10/Md. Sabir (witness of marriage) and PW-20/PW-31 Abdul Khalid (witness of marriage),

all have deposed that deceased Naima @ Zeba was married to accused Danish on 24.01.2016. She died due to hanging on 24.05.2016. There is no dispute upon the date of marriage and the date of the death of the deceased. Cause of death has been proved by PW-18/Dr. Vishwajeet Singh, who had conducted the postmortem on the body of the deceased. He has opined in the PM report Ex.PW18/A that death was result of asphyxia due to ante-mortem hanging. Thus, the prosecution has successfully proved that the deceased had died an unnatural death within seven years of her marriage.

50. Now, comes the third and most important ingredient of the offence u/s 304B that deceased was being subjected to cruelty and harassment on or before her death. If the prosecution successfully proves this ingredient, a presumption provided u/s 113(B) of Indian Evidence Act shall come into play in favour of the prosecution and against the accused that the death of the deceased was a dowry death. The burden shall then shift towards the accused persons to rebut the statutory presumption by proving that the death was not a dowry death.

51. Logically, before entering into the probable repercussions of a particular act, firstly the act itself has to be proved. The unnatural death, for the offence u/s 304B IPC, as noted above, must be preceded by immediate cruelty and harassment by the accused and that cruelty must be the reason for the unnatural death. That requisite cruelty can be a specific instance or a continuous conduct

consisting of series of acts or omissions. In both the cases, the specific instance or the series consisting of multiple acts have to be proved specifically, clearly and coherently. The general, ambiguous and omnibus allegations without specifying any particular incident and specific role played by each accused individually, may not be sufficient to prove the requisite cruelty in a criminal case. In other words, the cruelty which ultimately led to the unnatural death of the victim has to be proved specifically like any other fact. Some of the Hon'ble High Courts and even Hon'ble Apex Court of India have also expressed the view that general allegations without any specific role and instance are not sufficient to fasten the criminal liability upon the accused.

52. Some of the relevant judgments where the Hon'ble Higher Courts have given observations upon the effect of general allegations are reproduced as under :

In case titled as *Shivendra Raizada and Ors. Vs. State of UP and Ors., the Hon'ble Allahabad High Court* has held as under:-

*“ We, therefore, deem it just and legally appropriate to quash the proceedings initiated against the appellants Geeta Mehrotra and Ramji Mehrotra as the FIR does not disclose any material which could be held to be constituting any offence against these two appellants. Merely by making a general allegation that they were also involved in physical and mental torture of the complainant-respondent No.2 without mentioning even a single incident against them as also the fact as to how they could be motivated to demand dowry when they are only related as brother and sister of the complainant's husband, we are pleased to quash and set aside the criminal proceedings*

*in so far as these appellants are concerned and consequently the order passed by the High Court shall stand overruled. The appeal accordingly is allowed."*

53. Further, in case titled as ***Kahkashan Kausar @ Sonam and Ors. Vs. State of Bihar 2022, SC, Hon'ble SC of India*** has held as under:

*"Coming to the facts of this case, upon a perusal of the contents of the FIR 01.04.2019, it is revealed that general allegations are levelled against the appellants. The complainant alleged that 'all accused harassed her mentally and threatened her of terminating her pregnancy'. Furthermore, no specific and distinct allegations have been made against either of the appellants herein, i.e. none of the appellants have been attributed any specific role in furtherance of the general allegations made against them. This simply leads to a situation wherein one fails to ascertain the role played by each accused in furtherance of the offence. The allegations are therefore, general and omnibus and can at best be said to have been made out on account of small skirmishes. In So far as husband is concerned, since he has not appealed against the order of the High Court, we have not examined the veracity of allegations made against him. However, as far as the appellants are concerned, the allegations made against them being general and omnibus, do not warrant prosecution.*

*"Therefore, upon consideration of the relevant circumstances and in absence of any specific role attributed to the accused/ appellants, it would be unjust if the appellants are forced to go through the tribulation of a trial, that is general and omnibus allegations cannot manifest in a situation where the relatives of the complainant husband are forced to undergo trial. It has been highlighted by this Court in varied instances , that a criminal try leading to an eventual acquittal also inflicts severe scar upon the accused and such an exercise must therefore, be discouraged."*

54. Similarly in the matter of ***Neelu Chopra and another Vs.***

*Bharti reported in (2009) 10 SCC 184* while quashing the proceedings against father-in-law and mother-in-law has observed as under:

*"9. In order to lodge a proper complaint, mere mention of the sections and the language of those sections is not be all and end of the matter. What is required to be brought to the notice of the court is the particulars of the offence committed by each and every accused and the role played by each and every accused in committing of that offence.*

*10. "When we see the complaint, the complaint is sadly vague. It does not show as to which accused has committed what offence and what is the exact role played by these appellants in the commission of offence. There could be said something against Rajesh, as the allegations are made against him more precisely but he is no more and has already expired. Under such circumstances, it would be an abuse of process of law to allow the prosecution to continue against the aged parents of Rajesh, the present appellants herein on the basis of vague and general complaint which is silent about the precise acts of the appellants."*

55. Now, this court shall proceed to see whether the prosecution witnesses have levelled specific and coherent allegations against the accused persons or not. For the said purpose, the testimonies given by the material witnesses are being analyzed as under:-

(i) *PW-4/Nasima* is mother of deceased. She has deposed that she had married her daughter Naima @ Zeba to accused Danish on 24.01.2016, as per muslim rights and ceremonies. At the time of marriage, they had spent Rs. 50,000/- and had given Fridge, Washing Machine, Almirah, 15-20 Utensils, Dinner Set etc. She has further deposed that a week or two prior to the marriage,

*accused Mehmooda had come to her house to cancel the engagement of deceased Naima @ Zeba and accused Danish. That day, Naima @ Zeba had told PW-4 that Danish had committed rape upon her. Thereafter, PW-4 has lodged a police report in this regard. Thereafter, accused Danish agreed to marry her. After the marriage, they shifted to B-327, Gali no-8, Sri Ram Colony. Initially, everything went very well and deceased did not lodge any complaint. However, on subsequent visits, Naima @ Zeba told PW-4 that accused Danish used to give beatings to her. Further, deceased had called her at her (deceased's) matrimonial home and told that accused Danish had given beatings.*

*(ii) PW-4 has further deposed that on 24.05.2016, at about 10-11 AM, Naima @ Zeba called her at her matrimonial home and when she visited there, deceased told her that Danish had given beatings to her. Further, Danish gave beatings to deceased in presence of PW-4 also. He had also shown churi (knife) to PW-4 and the deceased also. Accused also threatened to divorce the deceased. PW-4 has further deposed that for 04 months, deceased had lived with the accused persons. On 24.05.2016, she received information that her daughter had died.*

*(iii) Before the court statement, another statement Ex.PW4/C of Nasima was recorded by Executive Magistrate. In that statement, PW-4/Nasima had stated that accused Danish had married deceased Naima @ Zeba after she had lodged complaint of rape against him. His character was also not good. She further stated that all the*

accused persons were responsible for death of Naima and on the date of incident also, accused Danish had given beatings to the deceased.

**56. Statement of PW-13/Md. Saleem (brother of the deceased).**

He has also deposed almost same facts as has been deposed by PW-4/Nasima with slightly lesser details. This court is not repeating his testimony for sake of brevity.

**57. Analysis of the testimonies of the above two material witnesses.**

(i) The testimony of PW-4 recorded in the court would reveal that she has levelled completely vague, general and omnibus allegations against all the accused persons. In her statement Ex.PW4/C also, she had stated that all the accused persons namely Danish, Naeem, Mehmooda, Rani, Rustam, Guddu and Gudiya were responsible for death of the deceased. Although, there is one specific incident of beating on 24.05.2016 against accused Danish but as far as the roles of remaining accused persons are concerned, same have not been elaborated anywhere. Either in the complaint Ex.PW4/C or in their court statements, PW-4 or PW-13 have not explained that how they used to harass the deceased, when she was harassed or what was the role of the individual accused.

(ii) Similarly, the allegations levelled by PW-13/Md. Saleem are also vague, general and omnibus. He has also not elaborated

any date, place, manner of harassment, exact demand made or the specific role of any individual accused persons. Moreover, the incidents of alleged harassment by the accused persons were admittedly not directly told to him by the deceased. He has stated that he never visited the matrimonial home of his sister. PW-13 has further admitted himself that it was his mother who used to visit the matrimonial home of his sister and she told him about the alleged harassment to Naima @ Zeba. So, the allegations levelled in the court statement of PW-13 are not only vague and omnibus but same are hearsay also.

(iii) PW-4/Nasima has further levelled allegations that accused Danish used to beat the deceased frequently. In case, accused Danish was so brutal and violent towards the deceased, the deceased must have sought some medical help for the obvious physical injuries at some point of time. However, no such medical document has been produced before the court.

(iv) Further, there is always a saturation point of endurance and resilience. If the deceased was being harassed to such an extent that she had to take the extreme step, before taking her own life, she could have also lodged complaint to some authority. However, there is no such contemporary complaint on record.

(v) One argument may be made on behalf of the prosecution that accused Danish had given beatings to deceased on the day of the suicide also. This incident was witnessed by PW-4/Nasima and

it can be considered as harassment and cruelty immediately before death. Firstly, it is not the every harassment and cruelty which can be considered as requisite harassment for the purpose of Section 304 B of IPC. The harassment or cruelty has to be necessarily connected with the demand of dowry. PW-4/Nasima has nowhere elaborated the reasons of quarrel between accused Danish and deceased Naima @ Zeba on 24.05.2016. PW-4 has not stated anywhere that accused Danish had beaten deceased Naima @ Zeba on 24.05.2016 for not meeting demand of dowry. Further, the deceased had committed suicide on the same day, the injuries compatible with the alleged beatings should have been reflected in the post-mortem report also. However, besides a single ligature mark, no such injury is mentioned in the post-mortem report prepared by the doctor. There is no other medical document in addition to the post-mortem report which may show that deceased was given beatings on the day of incident for not meeting the demand of dowry.

(vi) Further, Hon'ble Supreme Court of India in case titled as *Achin Gupta Vs. State of Haryana & Ors. 2024 LiveLaw (SC) 343*, has held that “*In all cases, where wife complains of harassment or ill-treatment, Section 498A IPC cannot be applied mechanically. Every matrimonial conduct, which may cause annoyance to the other, may not amount to cruelty. Mere trivial irritations, quarrels between spouses, which happen in day to day married life, may not amount to cruelty.*”

(vii) Thus, even if it is believed that the relationship between the deceased and accused Danish were not cordial and some incidents of beatings had taken place, same shall not be sufficient to reach at the conclusion that reason for their dispute was demand of dowry. Further, for the purpose of Section 498A/304B of IPC, a single instance of quarrel cannot be recognized as cruelty and harassment for demand of dowry. It has to be a continuous harassment, where each accused plays a specific role.

(viii) Another argument which may be made by the prosecution is that accused Danish and his mother Mehmooda had refused for the marriage with Naima @ Zeba. They agreed for the same when a complaint of rape was given against accused Danish. Since, they were not willing for the marriage, it becomes more probable that they were cruel towards the deceased who had forced them to marry accused Danish with her. This court has to keep in mind that accused persons have been charged for offence U/s 498A/304B of IPC. As has been noted above, one of the essential ingredient of both the above offences is cruelty and harassment in relation to demand of dowry. Here, even if the previous complaint of rape is believed, there would be no probable connection between the allegations of rape against accused Danish and the demand of dowry after the marriage. Although, the earlier complaint can be a reason for subsequent dispute and strained relationship but same shall not prove the element of demand of dowry and cruelty which is one of the essential ingredient for offence U/s 498A/304B of IPC.

Further, it is a criminal case where every fact has to be proved through cogent evidence. Unless and until provided, unnecessary presumptions cannot be drawn. No doubt, there is some possibility that accused persons might not be happy with deceased because she had levelled allegations of rape upon accused Danish but that possibility cannot be stretched to the extent of presuming that she was being harassed for dowry also.

**58. Conclusion**

**(I)** When the entire material produced by the prosecution is analyzed and evaluated, it shows that before marriage, the complainant Nasima had filed a complaint against accused Danish levelling allegations of rape upon her daughter. It is possible that the bitterness emanating from the aforesaid complaint continued to remain the reason of dispute and petty quarrels between the deceased and accused Danish after the marriage also. However, the dispute and quarrel for the aforesaid reason shall not fulfill the ingredients of offence U/s 498A/304B of IPC.

**(II)** Further, had the dowry demand been the reason of quarrels, complainant Nasima would have definitely mentioned about the same in her initial complaint (Ex.PW4/C) given to the Executive Magistrate. However, the perusal of this statement Ex.PW4/C would reveal that PW-4/Nasima had not whispered even a single word that demand of dowry was the reason for the dispute between deceased and accused Danish. Although, PW-13/Saleem, who is

brother of the deceased has levelled some vague allegations that accused Danish used to harass his sister for demand of a motorcycle but in cross-examination, he himself has admitted that these facts were never told to him by the deceased herself and same were told to him by his mother Nasima. Thus, the evidence given by PW-13/Saleem is firstly not admissible being hearsay. Secondly, even if it is admitted, it lacks the quality and coherence required to prove the offences under consideration.

**(III)** Demand of dowry and thereafter harassment and cruelty in connection with the same is one of the essential ingredient of offence U/s 498A and 304B of IPC. The requisite harassment and cruelty for demand of dowry has not been proved in this case. Although, some allegations have been levelled but same are too vague and general to prove anything. Therefore, all the accused persons are hereby **acquitted** from the charges of offence U/s 498A/304B/34 of IPC.

59. All accused persons are directed to furnish bail bonds in the sum of Rs.10,000/- with one surety in like amount in terms of section 481 of BNSS (Section 437A of IPC) within 07 days.

60. File be consigned to Record Room after due compliance.

61. **Ordered accordingly.**

*Announced in open court  
on 12-03-2026.*

**(BABRU BHAN)**  
ASJ-04, North-East District  
KKD/DELHI/12.03.2026