

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (SJ) No. 869 of 2005

[Against the judgment and order of conviction and sentence dated 31.05.2005, passed by learned 4th Additional District & Sessions Judge, (F.T.C.), Dumka, in Sessions Case No. 80/2003 & 359/2003]

Lakhi Devi, wife of Sukhdeo Mistri, resident of Village-Tinghara, P.S.-
Jama, District-Dumka

... .. **Appellant**

Versus

The State of Jharkhand

... .. **Respondent**

PRESENT

HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant

: Mr. Om Prakash, Advocate

For the State

: Mr. Tarun Kumar, A.P.P.

JUDGMENT

C.A.V. on 17.06.2026

Pronounced on 30/06/2026

1. I have already heard the arguments of Mr. Om Prakash, learned counsel for the appellant and Mr. Tarun Kumar, learned A.P.P. for State.
2. The instant criminal appeal is directed against the judgment and order of conviction and sentence dated 31.05.2005, passed by learned 4th Additional District & Sessions Judge, (F.T.C.), Dumka, in Sessions Case No. 80/2003 & 359/2003, arising out of Jama P.S. Case No. 8/2001, G.R. Case No. 64 of 2001, whereby and whereunder the appellant was charged for the offence under Sections 306 & 498A of the I.P.C. and after conclusion of trial acquitted from the charge under Section 306 of the I.P.C. and convicted for the offence under Section 498A of the I.P.C. directing him to undergo R.I. for 3 years along with fine of Rs.500/- with default stipulation.

Factual Matrix

3. Factual matrix giving rise to this appeal is that, on 20.01.2001, the informant's mother-in-law brought some treacle (गुड़ का शीरा) from

the market and kept on some place of height of the wall (धरवा). The informant removed the treacle pot from the height of the wall and kept the same on the ground. Upon this, mother-in-law of the informant started abusing her. It is alleged that informant enraged due to rude behavior of her mother-in-law and took out fire from mud stove burning in the courtyard and put on herself, causing severe burn injuries. The informant Permila Devi was brought to Sadar Hospital, Dumka, where her treatment was going on. It is further alleged that her marriage was solemnized about seven years ago, she has been blessed with a girl child, who is about two and half years old. It is also alleged that from the very inception of marriage her mother-in-law is subjecting her to cruelty. The police approached at the hospital and her *fardebayan* was recorded by S.I., Shiv Kr. Singh, on 22.01.2001 at about 11:00 A.M. at Female Ward, Bed No. V/6. Accordingly, F.I.R. was registered for the offence under Section 498A of the I.P.C. against Lakhi Devi (mother-in-law of the informant).

4. In the course of investigation, the informant died during treatment, hence, offence under Section 306 of the I.P.C. was also added and charge-sheet was submitted there under.

5. After taking cognizance, the case was committed to the Court of Sessions, where Sessions Case No. 80/2003 & 359/2003 was registered. The accused denied from the charges levelled against her and claimed to be tried.

6. In the course of trial, altogether 11 witnesses were examined by prosecution, apart from documentary evidence.

7. On the other hand, the case of defence is denial from occurrence

and false implication, merely, because some scolding on misconduct of the deceased by the appellant.

8. The learned Trial Court after evaluating the evidence available on record held the appellant guilty for the offence under Section 498A of the I.P.C. and sentenced as stated above.

Submissions on behalf of appellant: -

9. Learned counsel for the appellant submits that there is simple allegation against the appellant that she scolded her daughter-in-law for scattering the treacle pot on earth removing from (धरवा) at a height on the wall. The act and conduct of the deceased shown in repercussion is very violent and suggests her a lady of short temperament. It is further submitted that such type of trivial issues frequently take place in village life and ordinarily sustained and endured. The conduct of deceased in self-immolation on such a trivial issue does not warrant invoking the offence under Section 498A of the I.P.C. or any type of offence punishable under law rather such occurrences are ordinary wear and tear of life and no Court should take cognizance of such trivial matters, but surprisingly the appellant being mother-in-law of the deceased has been convicted and sentenced for the offence under Section 498A of the I.P.C. In spite of fact that there is no allegation that the appellant put fire on deceased or committed any overt act or mental torture of such extent, which may drive the deceased to commit suicide. It is further submitted that the learned Trial Court, while framing the charge under Section 498A of the I.P.C. has not clarified as to date, time or place or any conduct of subjecting the deceased to cruelty except the occurrence of 20.01.2001 as mentioned in the F.I.R. It is further submitted that

except the single act of abusing for misconduct of the deceased herself by the appellant no overt act has been proved against her by the prosecution constituting the offence under Section 498A of the I.P.C. The learned Trial Court has held in clear terms that the words spoken by the appellant does not amount to abetment for commission of suicide by the deceased and acquitted from the charge under Section 306 of the I.P.C. Therefore, the conviction and sentence of the appellant for the offence under Section 498A of the I.P.C. is absolutely illegal, beyond the weight of evidence and improper and based upon illegal interpretation of Section 498A of the I.P.C. which is liable to be set aside and this appeal may be allowed.

Submissions on behalf of State: -

10. On the other hand, learned A.P.P. has opposed the aforesaid contentions raised on behalf of the appellant and submitted that it was the appellant, who has started abusing and scolding the deceased for trivial matter of removing the treacle from place of height to the earth, which prompted and incited the deceased to set fire on herself. It is also alleged in the *fardebayan* of the deceased that she was frequently subjected to cruelty at the hands of the appellant. Therefore, there is no illegality or infirmity in the impugned judgment calling for any interference in this appeal which is devoid of merit and fit to be dismissed.

11. I have gone through the record of the case along with the impugned judgment in the light of contentions raised on behalf of both sides.

12. The only point for consideration in this appeal is that “as to

whether the impugned judgment of conviction and sentence of the appellant suffers from any serious error of law calling for any interference in this appeal?”

Analysis, discussions and reasons:-

13. First appraised the evidence of **P.W.-1, Savitri Devi** who is the *gotani* of the deceased. According to her evidence, her *gotani*, Permila Devi, set herself on fire due to anger, but, she can't disclose about the reason of occurrence. Hence, declared hostile by the prosecution.

P.W.-2, Dulal Rai has expressed no knowledge about the occurrence and declared hostile.

P.W.-3, Ramesh Khirhar is a hearsay witness and came to know about death of the deceased. He has stated that he was not present in the house and came to know the death of the deceased later on.

P.W.-4, Dr. C.P. Sinha has conducted autopsy on the dead body of Permila Devi (deceased) and found following injury:-

(i) Deep extensive burn about 80% with purulent discharge all over the body except below both knee joint. Scalp hair burnt.

He has opined that the death was due to shock as a result of septicemia. Time elapsed since death within 24 hours and weapon used by fire. He has proved the post-mortem report, which is marked as

Exhibit-1.

In his cross-examination, he stated that he did not find any smell of burning source like petrol or kerosene oil. According to him, burn injuries exceeding 50% generally carry a high likelihood of death. He further stated that he did not find any burnt pieces of clothing adhering to the body.

P.W.-5, Bimli Devi is neighbour of the deceased and has been declared hostile by the prosecution and expressing no knowledge about the occurrence.

P.W.-6, Sukhdeo Mistri is the husband of the appellant/accused. He was working at Palijori, when returned then came to know from his wife that Permila Devi has set her on fire and admitted in Sadar Hospital, Dumka. Later on, she died in the course of treatment. He has expressed no knowledge about any ill treatment or torture to the deceased at the hands of his wife.

P.W.-7, Sirish Mistri is the husband of the deceased. He was also not present in the house at the time of occurrence. Later on, he came to know that his wife has sustained burn injuries by self-immolation and admitted in hospital. He went to hospital, but his wife died in the course of treatment. He has declared hostile and stated nothing about any ill treatment or torture meted with the deceased.

P.W.-8, Shiv Pd. Mistri has also been declared hostile by prosecution and expressed no knowledge about the occurrence.

P.W.-9, Hameed Ansari is the neighbour of father of deceased. He came to know about the occurrence in the night, on 20.01.2002, from the father of the deceased. The father of deceased has not told him as to for what reason his daughter sustained burn injuries. Thereafter, in the course of treatment Permila Devi died in the hospital. He also came to know from the father of deceased that mother-in-law of the deceased was frequently scuffling with her during her lifetime. He also went to hospital and saw that all the body of Permila Devi was burnt. He also admits that in his presence *fardebayan* of the victim (deceased) was

recorded by police at the hospital.

In his cross-examination, he admits that prior to the date of occurrence, he was not aware about any scuffle between the deceased with her mother-in-law and no any case of cruelty was lodged against the accused.

P.W.-10, Debu Khirhar has also been declared hostile by the prosecution.

P.W.-11, Shiv Kr. Singh is the I.O. of this case. According to his evidence, on 22.01.2001, father of Permila Devi (injured) informed at police station that his daughter has sustained burn injuries due to poor treatment by her mother-in-law, then he went to hospital and recorded *fardebayan*, after entering Sanha he proceeded to Sadar Hospital, where *fardebayan* of Permila Devi was recorded, which is marked as **Exhibit-3**. He has further proved formal F.I.R. marked as **Exhibit-4**. The charge of investigation was handed over to him. He recorded restatement of the victim and other witnesses present there. He went to place of occurrence, which is house of Sukhdeo Mistri situated in village Tindhara, P.S. Jama, District-Dumka. It is a mud made wall roofed with mud tiles. In the said house towards East there is some open place which is given shape of a room and used as kitchen, where the deceased set her on fire herself bolting the door from inside. He has further stated that Permila Devi died on 13.02.2001, in the course of treatment. He has further proved *fardebayan* of maternal uncle of the deceased, namely Manir Rana dated 14.02.2001 at about 10:30 A.M. recorded at Sadar Hospital, Dumka by A.S.I., Sadanand Hembram after death of the informant, which is marked as **Exhibit-5**. He has further

proved inquest report of the deceased, which is marked as **Exhibit-6**. He obtained post mortem report of the deceased and recorded statement of witnesses, Savitri Devi, Bimli Devi, Sirish Mistri, Sukhdeo Mistri, Shiv Pd. Mistri, Debu Khirhar, Dulal Rai etc. and find sufficient evidence submitted charge-sheet against the accused for the offence under Section 498A of the I.P.C.

14. From perusal of record, it appears that the learned Trial Court treating the *fardebayan* of the deceased as dying declaration evaluated the same as substantive evidence available against the appellant and observed that *“The stray domestic quarrels, perfunctory abuses by mother-in-law to her daughter-in-law in the Indian society crude and uncultured behaviour by the in-laws is a normal occurrence in traditional joint Hindu family and it will not go to form and constitute “abetment” unless these acts or conduct are found to be of such formidable and compelling nature as may lead to the commission of suicide. Mere allegation of harassment in the dying declaration against the accused is not sufficient to bring home a charge under Section 306 of the I.P.C. There is no mention in F.I.R. that the accused mother-in-law subjected the deceased to physical torture or she may raised any illegal demands of dowry. Therefore, analyzing the dying declaration of “Exhibit-3” I find that there is nothing in the statement of the deceased that she committed suicide on instigation of the accused, but “Exhibit-3” shows that the accused being mother-in-law of the deceased used to torture her by using abusive language and she is liable to be convicted for the offender under Section 498A of the I.P.C.”*

15. At this juncture, it is desirable to extract the provision of Section

498A of the I.P.C.

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

Explanation.—For the purposes of this section, “cruelty” means—

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

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

16. The ingredients for an offence to be made out under Section 498-A of I.P.C. require that there has to be cruelty inflicted against the victim, which either drives her to commit suicide or cause grave injury to herself or lead to such conduct that would cause grave injury or danger to life, limb or health. The second part of this Section refers to harassment with a view to satisfy an unlawful demand for any property or valuable security raised by the husband or his relatives. In the present case, no allegations which would fulfill the requirement of the second part are found.

17. In the instant case, except the allegation that on scattering the treacle on earth the mother-in-law (accused appellant) abused the deceased. No other overt act has been stated against her and there is no demonstration of any earlier instances of cruelty and harassment meted with the deceased, inspired her prolong stay about more than seven years at her matrimonial home. Therefore, if any abusive words prior to the occurrence used by the appellant had become normal course of life and endured by the victim (deceased) without any serious repercussion. The charge framed against the appellant for the offence under Section 498A of the I.P.C. does not contain any allegation as mentioned in explanation (a) or (b) appended to Section 498A of the I.P.C. In the statement under Section 313 of the Cr.P.C. of the appellant also there is no whisper as to how the deceased was subjected to cruelty or harassment at the hands of present appellant rather a compound question has been asked that she abetted the deceased to commit suicide by setting her on fire. Therefore, it is quite obvious that the learned Trial Court has failed to properly appreciate the evidence available on record as regards instances of cruelty and harassment meted with the deceased at the hands of present appellant except the single act of abusing her on the date of occurrence. Therefore, I am of the firm view that the prosecution has miserably failed to prove the ingredients of Section 498A of the I.P.C. against the appellant. The learned Trial Court has committed serious error of law, while appreciating the evidence led by prosecution and the conviction of appellant in absence of cogent and reliable evidence for the offence under Section 498A of the I.P.C. does not appear to be justified under

law and suffers from serious illegality.

18. In view of above discussion and reasons, the impugned judgment of conviction and sentence of the appellant is hereby set aside and this appeal is **allowed**.

19. Appellant is on bail, as such she is discharged from the liability of bail bond and sureties are also discharged.

20. Pending I.A(s), if any, stands disposed of.

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

(Pradeep Kumar Srivastava, J.)

*Jharkhand High Court
Dated 30/06/2026
Arpit/ N. A. F. R.
Uploaded on 01/07/2026*