IN THE HIGH COURT AT CALCUTTA

CRIMINAL APPELLATE JURISDICTION

APPELLATE SIDE

CRA (DB) 183 OF 2024

Vs.
The State of West Bengal

With CRA 538 of 2017

& Anr.
Vs.
The State of West Bengal

Before: The Hon'ble Justice Arijit Banerjee
&
The Hon'ble Justice Apurba Sinha Ray

For the Appellants	:	Mr. Avishek Sinha, Adv. Ms. Madhusree Banerjee, Adv.
For the State	:	Mr. Debasish Roy, Ld. P.P., Ms. Sreyashee Biswas, Adv. Ms. Nandini Chatterjee, Adv.
Reserved on	:	06.04.2026
Judgment on	:	02.07.2026

Apurba Sinha Ray, J.

1. By this common judgment CRA (DB) 183 of 2024 and CRA 538 of 2017 are hereby disposed of for the sake of convenience and brevity. Both the appeals challenged the judgment and order dated 13.06.2017 passed by the learned Additional District and Sessions Judge, 2nd Court, Uluberia in Sessions Trial No. 64U of 2015 whereby the appellants were convicted under Section 498A/ 304B/34 of IPC

and whereas the appellant was sentenced to suffer rigorous imprisonment for life under Section 304B/34 IPC along with other sentences, the appellants namely and , parents-in-law of the victim, were sentenced to suffer rigorous imprisonment for 7 years alongwith fine.

2. The facts of the case are that married the deceased on 24.04.2010. At the time of marriage, gold ornaments, cash and household articles were allegedly given from the side of the bride. After marriage, the couple started residing together in the matrimonial home and a girl child was born out of the wedlock. According to the prosecution, after some time the appellant and his family members started demanding further money and subjected the deceased to physical and mental torture. The prosecution case further states that the deceased used to request her brother to sell their ancestral property and give her share of the proceeds. It appears from the evidence that on earlier occasions portions of the ancestral property were sold and the sale proceeds were shared between the deceased and her brother. On 23.06.2014, the brother of the deceased allegedly received information over the telephone regarding the incident. He went to the matrimonial house and found the deceased and her minor daughter hanging from the ceiling in dead condition. Thereafter, on 25.06.2014, Uluberia Police Station Case No. 479 of 2014 was registered under Sections 498A/302/304B/34 of the Indian Penal Code against the appellant and his parents on the complaint of the elder brother of the deceased. was arrested on

26.06.2014 and his parents were arrested on 28.06.2014. Upon completion of investigation, a charge sheet was submitted under Sections 498A/304B/34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act. During the trial, the prosecution examined fifteen witnesses. The defence case was one of complete denial and false implication. The defence specifically relied upon a suicide note allegedly written by the deceased, wherein the appellant and his family members were exonerated from responsibility. The handwriting expert also opined that the handwriting in the suicide note matched with the admitted handwriting of the deceased. The Learned Trial Court acquitted the accused persons from the charge under Section 302 of the Indian Penal Code but convicted the appellant and his parents under Sections 498A/34 and 304B/34 of the Indian Penal Code. The appellant, was sentenced to suffer rigorous imprisonment for life under Section 304B/34 IPC and other appellants for rigorous imprisonment for 7 years along with other sentences. Being aggrieved by the said judgment and order of conviction and sentence, the above appeals were preferred before this Court on different dates.

3. The husband filed CRA (DB) 183 of 2024 challenging the judgment and order of sentence, and his parents preferred CRA 538 of 2017 challenging the relevant order of conviction and sentence as aforesaid.

4. Mr. Sinha, learned Counsel for the appellant, has submitted that the Learned Trial Court failed to appreciate the

evidence on record properly and arrived at findings based upon assumptions, surmises and conjectures without considering the inconsistencies appearing in the prosecution case. The Learned Trial Court failed to take into consideration the unexplained delay of two days in lodging the FIR. The complainant himself admitted during cross-examination that before lodging the complaint he had consulted lawyers and law clerks, which creates serious doubts regarding the spontaneity and genuineness of the allegations made against the appellant. The prosecution failed to establish any specific demand for dowry on the part of the appellant. On the contrary, the evidence on record suggests that the deceased was repeatedly asking her brother to sell their ancestral property and hand over her lawful share of the proceeds, which cannot be treated as dowry demand attributable to the appellant or his family members. The Learned Trial Court failed to consider that important prosecution witnesses, including neighbours residing near the matrimonial home, did not support the allegation of torture and cruelty against the deceased. Some of such witnesses were also declared hostile by the prosecution. Several prosecution witnesses made material omissions and improvements during trial which were not disclosed before the Investigating Officer at the earliest opportunity. Such contradictions materially affect the credibility and reliability of their evidence. The inquest witnesses, including close relatives of the deceased, did not make any allegation regarding dowry torture or foul play at the time of preparation of the inquest report. Such silence at the earliest stage casts serious doubt upon the

subsequent allegations made during trial. The Learned Trial Court failed to appreciate the evidentiary value of the suicide note recovered from the place of occurrence, wherein the deceased allegedly exonerated the appellant and his family members from responsibility for her death. The handwriting expert clearly opined that the handwriting appearing in the suicide note matched with the admitted handwriting of the deceased. Despite such scientific evidence being available on record, the Learned Trial Court failed to attach due importance to the same. The post mortem doctor categorically opined that both the deceased and the minor child died due to ante mortem hanging and there was no evidence suggestive of homicidal death. The charge under Section 302 of the Indian Penal Code was accordingly not proved. The evidence on record further shows that the parental family and matrimonial family of the deceased maintained cordial relations and were on frequent visiting terms with each other. Such evidence is inconsistent with the prosecution allegation of continuous cruelty and torture. The investigation in the present case was conducted in a casual and unfair manner and several material contradictions appearing in the prosecution case were ignored by the Investigating Agency as well as by the Learned Trial Court. The Learned Trial Court failed to extend the benefit of doubt to the appellant despite serious inconsistencies, omissions and weaknesses in the prosecution case and thereby arrived at an erroneous finding of guilt. The impugned judgment and order of conviction and sentence

being contrary to the evidence on record and the settled principles of criminal jurisprudence are liable to be set aside by this Court.

5. Mr. Sinha, learned counsel appearing also for the other appellants in connection with CRA 538 of 2017 has argued that the appellants have challenged the judgment and order of conviction mainly on the ground that the Learned Trial Court failed to appreciate the evidence on record and arrived at findings based on assumptions and conjectures. It has been argued that there was no reliable and independent evidence proving cruelty or dowry demand against the appellants and the prosecution failed to establish the essential ingredients of the offences under Sections 498A and 304B IPC. The appellants have further contended that the Learned Trial Court relied upon inconsistent and uncorroborated evidence and failed to consider the contradictions appearing in the evidence of the prosecution witnesses. It has also been argued that the conviction was based mainly upon suspicion and hearsay allegations and not upon definite and cogent evidence. According to the appellants, the prosecution failed to prove the charges beyond reasonable doubt and the evidence on record was insufficient to sustain the conviction. The appellants have also contended that the Learned Trial Court erred both in law and on facts while passing the impugned judgment and order of conviction and sentence. It has lastly been argued that the impugned judgment is illegal, improper and bad in law and therefore liable to be set aside by this Court.

6. Learned Counsel for the appellants have cited the following judicial decisions in support of his contentions:

i. ***Hari Om vs. State of Haryana and Anr***. *reported in* ***(2014) 10 SCC 577***

ii. ***Gurdip Singh vs. State of Punjab*** *reported in* ***(2013) 10 SCC 395***

iii. ***Vipin Jaiswal (A-1) vs. State of AP represented by Public Prosecutor*** *reported in* ***(2013) 3 SCC 684***

7. Learned Public Prosecutor Mr. Roy argued that the prosecution has been able to prove the case against the present appellants under Sections 498A/ 304B/34 of IPC and they were rightly convicted and sentenced in accordance with law. Learned Counsel also submitted that demand of dowry can take place through various designs and modes and, therefore, it cannot be said that as the deceased demanded her share of property the same cannot be treated as dowry demand. Learned Counsel further submitted that all the points were duly considered by the learned Trial Judge and thereafter the appellants were convicted and sentenced under appropriate sections of law. In support of his contention, he referred to the following judgments.

a. ***Pawan Kumar vs. State of Haryana*** *reported in* ***(1998) 3 SCC 309***

b. ***Hira Lal and ors. Vs. State (Government of NCT), Delhi*** *reported in* ***AIR 2003 SC 2865***

c. ***The State of MP vs. Jogendra and Anr.*** *reported in* ***(2022) 5 SCC 401***

d. ***Parvati Devi vs. State of Bihar now State of Jharkhand and Ors.*** *Reported in* ***AIR 2022 SC 1266***

e. ***Hanumant vs. State of MP*** *reported in* ***AIR 1952 SC 342***

f. ***Veerendra vs. State of MP*** *reported in* ***(2022) 8 SCC 668***

Court's view:

8. From the judgment of the learned Trial Court, it appears that the learned trial judge has come to the conclusion that the prosecution has failed to prove the offence under Section 302 IPC and by scanning the evidence and exhibited documents the learned trial judge has rightly concluded that the death of was suicidal and the death of baby child namely was homicidal at the instance of her mother. We do not find any reason to interfere with such observation of the learned Trial Judge.

9. It is contended from the side of the appellant that there was a delay of two days in lodging the FIR but it appears to us that when an unfortunate incident of death of one's sister and her baby child occurred, suddenly, it may make the close relatives stunned and speechless and they might have been placed in a state of indecisiveness. In our view, such delay cannot give a fatal blow to the prosecution case. Moreover, taking legal advice on such a scenario is the most reasoned step on the part of the defacto complainant.

10. We have also considered the depositions of witnesses.

11. PW 1 the de facto complainant and the elder brother of the victim has categorically stated that on the request of the victim he sold out ancestral property and gave the half share of such consideration price to the victim and it is also deposed that in some documents the appellant has also signed. If we turn to the cross-examination of PW 1 we shall find that sale of ancestral property on the

request of the victim and handing over half of the share of such consideration money to the victim was not denied from the side of the appellants specifically. During argument it was submitted from the side of the appellants both in Trial Court and also before us that claim of her share in her ancestral property cannot be treated as a demand for dowry, and even if there were any such claim from the side of the victim and her husband the same cannot be treated as illegal demand for dowry. But if we consider the materials on record we have no hesitation to say that it is very rightly considered by the learned Trial Judge that there was a continuous pressure upon the victim from the side of her husband to claim her share of ancestral property. The learned trial Judge has also considered that within a very short span of time PW 1 was asked to sell off the entire ancestral land of the victim's deceased father and to hand over the consideration money commensurate to her share. It is true that a lady can demand her share in her ancestral property but when such demand appears to be a result of direction and pressure from her husband, we cannot say that such demand would not come under the broader term of "dowry demand". The learned Trial Judge has very elaborately with circumspection come to the conclusion that such demand was due to the pressure of the appellant . It is true that there is no independent witness but the factual aspect of demand as narrated by the relatives coupled with the suicide note of the victim are sufficient to show that there was a serious unhappiness in the marital relationship of the victim with . Needless to say, such a demand on the victim was the outcome of the pressure created

upon her by her husband. It is not expected that will make such a demand in the presence of any independent witness.

12. The suicide note has clearly indicated that there was a passive threat from the side of the appellants that if the arrangement of money was not done at the instance of the victim, the appellant no. 1 may marry another girl for the second time. If that be so, we can say that the demand for share was so much so that the victim chose to end her life with her minor child. We have found no reason to interfere with the reasoning and conclusion of the learned trial judge in this regard, so far as is concerned.

13. But as regards the appellant and his wife, we do not find any substantive evidence on record. Although PW 1 in his FIR has made allegations against the appellants and , in his evidence before Court he did not utter a single word against them. We have also considered the depositions of other witnesses but there is no clinching evidence against those appellants showing that they had actively participated in the commission of offence and took part in demanding the victim's share in her ancestral property. The learned judge's observations in respect of the appellants and do not inspire confidence since we have found that there is no substantive piece of evidence against and which could prompt the learned Court to convict them under Sections 498A/ 304B/34 of IPC.

13. In **Hari Om (supra),** it is stated in paragraph 17 as follows:

> *"**17.** This issue has been the subject-matter of debate before this Court in several cases, which arose out of Section 304-B read with Section 498-A and wherein this Court while interpreting the expression "may" occurring in Section 304-B IPC held that it is not mandatory for the Court in every case to award life imprisonment to the accused once he is found guilty of the offence under Section 304-B. It was held that the Court could award sentence in exercise of its discretion between seven years to life imprisonment depending upon the facts of each case. It was held that in no case it could be less than seven years and that extreme punishment of life term should be awarded in "rare cases" but not in every case."*

From the above it is found that life imprisonment in case of conviction under section 304B IPC can be given only in rare cases and not in every case.

14. In **Gurdip Singh (supra)**, the Hon'ble Supreme Court in para 10 has recorded its finding as under:

> *"**10.** Being a mandatory presumption on the guilty conduct of an accused under Section 304-B, it is for the prosecution to first show the availability of all the ingredients of the offence so as to shift the burden of proof in terms of Section 113-B of the Evidence Act. Once all the ingredients are present, the presumption of innocence fades away. Yet another reference to Para 1.8 in the 91st Report of the Law Commission of India would be fruitful in this context:*
>
> > *"**1.8.Difficulty of detection**.—Those who have studied crime and its incidence know that once a serious crime is committed, detection is a difficult matter and still more difficult is successful prosecution of the offender. Crimes that lead to dowry deaths are almost invariably committed within the safe precincts of a residential house. The criminal is a member of the family: other members of the family (if residing in the same house) are either guilty associates in crime, or silent but conniving witnesses to it.*

In any case, the shackles of the family are so strong that truth may not come out of the chains. There would be no other eyewitnesses, except for members of the family."
(emphasis supplied)"

From the above case laws and materials on record in the case in hand we have found that the prosecution has been able to prove that all the ingredients under Section 304B IPC were available and there was no reason for not drawing presumption under Section 113B of the Evidence Act in so far as is concerned.

15. In **Bipin (supra)**, the Hon'ble Supreme Court has discussed that a reasonable doubt was raised on the prosecution story that the deceased was subjected to harassment and cruelty in connection with demand of dowry and accordingly, the Hon'ble Court had held in that case that the prosecution had not been able to prove beyond reasonable doubt regarding harassment or cruelty under Section 498A/304B IPC but in the case in our hand we have found there are sufficient materials showing that the victim was subjected to cruelty for bringing money from his brother's house and it is also found from the deposition of close relatives that there was constant demand of money from the side of the appellant and for which not only the victim killed herself by suicidal hanging but she also ended the life of her baby child. The observation of the learned trial judge is very pertinent and reasonable. Accordingly, we did not find any reason to interfere with such observation of the learned trial judge.

16. However, needless to say, the commission of suicide failing to bear with the torture for demand of dowry is not very rare or uncommon

one, and accordingly, in view of the judgment passed in **Hari Om (supra)**, we are inclined to reduce the sentence of the appellant no. 1 from life imprisonment to 10 years rigorous imprisonment but there would be no change in sentence of fine. Accordingly, the impugned order of sentence dated 13.06.2017 be modified to that extent in respect of the appellant . The appeal being CRA (DB) 183 of 2024 is, thus, allowed partly.

17. However, after going through the materials on record we do not find any cogent evidence against the appellants and , who were already on bail, for commission of the alleged offences, and accordingly, and (since deceased) are acquitted from the charges levelled against them.

18. Accordingly, **CRA (DB) 183 of 2024** is allowed partly, and all connected applications, if any, are hereby disposed of and **CRA 538 of 2017** is hereby allowed. All connected applications, if any, are disposed of. The bail bonds be discharged.

19. Urgent photostat certified copies of this judgment, if applied for, be supplied to the parties on compliance of all necessary formalities.

I Agree.

(ARIJIT BANERJEE, J.) **(APURBA SINHA RAY, J.)**