



2026:AHC-LKO:52960

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL APPEAL No. - 3471 of 2024

Ankur Tandon

.....Appellant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Deptt. Lko.

.....Respondent(s)

Counsel for Appellant(s)	:	Vivek Kumar Rai, Ajai Kumar
Counsel for Respondent(s)	:	G.A.,

A.F.R.

Court No. - 14

HON'BLE SUBHASH VIDYARTHI, J.

1. Heard Shri Vivek Kumar Rai, the learned counsel for the appellant and Smt. Shikha Sinha, the learned AGA for the State of U.P.

2. By means of the instant appeal, the appellant has challenged the validity of a judgment and order dated 21.09.2024 passed by Sri. Rohit Singh, the learned Special Judge, Ayurveda Scam/CBI, Lucknow in Session Trial No.747 of 2012 arising out of Case Crime No.386 of 2010 under Sections 498-A, 304-B IPC and Section 3/4 of Dowry Prohibition Act 1961 registered at Police Station Alambagh, District Lucknow, whereby the appellant has been convicted for the offences under Sections 498-A and 306 IPC and Sections ¾ of the Dowry Prohibition Act while he has been acquitted for the offence under Section 304-B IPC. The appellant has been sentenced to

undergo two years' rigorous imprisonment and Rs.10,000/- fine for the offence under Section 498-A IPC, 7 years' rigorous imprisonment and Rs.50,000/- fine for the offence under Section 306 IPC and 5 years' rigorous imprisonment and Rs.15,000/- fine for the offence under Section 4 of the Dowry Prohibition Act along with stipulations for additional imprisonment in case of default in payment of fine.

3. The aforesaid case was instituted on the basis of an FIR lodged on the basis of a written complaint given on 02.10.2010, stating that the complainant's sister Monika had got married to the appellant on 14.12.2004. The appellant, his mother Shashi Tandon, younger brother Aman Tandon and younger brother's wife Shweta Tandon used to harass the complainant's sister for demanding Rs.10,00,000/- as dowry for purchasing a flat. Under compulsion, the complainant's father had sold away a plot of land of the complainant and her sister and had paid Rs.6,00,000/- in cash to the appellant. However, the accused persons kept on harassing the complainant's sister for demanding the balance amount of Rs.4 lakh. They had turned the complainant's sister out of her matrimonial home after beating her. Thereafter, the appellant filed a suit for divorce on false allegations. The FIR alleged that even while the complainant's sister was residing in her parents' home, she was threatened and harassed by the accused persons and for this reason she committed suicide by hanging herself in the night of 02.10.2010.

4. The postmortem examination report mentions an oblique ligature mark of 27 cm X 2.5 cm present all around her neck going obliquely upwards and backwards and it was interrupted by 6 cm on the right side. Besides the ligature mark, there was no other mark of injury on the dead body. The cause of death has been opined to be asphyxia due to antemortem hanging.

5. Initially, a charge-sheet was submitted against the appellant only and thereafter, a supplementary charge-sheet was submitted against other family members of the appellant and they have been tried separately.

6. The deceased had left two suicide notes, which were marked as Exhibit A-3 and A-4. The first note is addressed to the mother of the deceased,

wherein she expressed her agony due to ill treatment meted out to her by the appellant and stated that misbehaviour on part of the appellant had broken her heart and thereafter, her body was also not able to bear it. She had lost the desire to live. Every single day of her life passed with difficulty. The other suicide note was addressed to the appellant wherein the deceased blamed him for his misbehaviour and ill treatment and for having turned her out of her matrimonial home. She alleged that the appellant had had given her place to a prostitute, that he and his friend Abhijeet Trivedi had insulted her for that girl (whom the deceased referred to as a prostitute), he used her emotions for making complaints and preparing false records. She further wrote that the appellant felt that relations could be severed by merely signing some documents but she would not divorce him during her life time. The deceased wrote that the appellant ought to have been an Advocate, as he had prepared false record to such an extent as can normally not be thought of even by an Advocate. She wrote that the appellant was making preparations for obtaining divorce for the last several years and he might win the false case by paying bribe. But God will do justice with her, where cunningness, deceit and bribe will have no role to play. She also wrote that the appellant had compelled her to commit suicide, he, his family and friend Abhijeet Trivedi were responsible for her death and some day, a similar stage will come in the appellant's life also and that she would wait for the appellant in the other world.

7. The complainant was examined as PW-1. She reiterated the FIR version. She stated that her sister came to her parents' home on 02.10.2010 and she committed suicide by hanging because of cruelty and harassment meted out to her by the accused persons. She stated that the deceased had come to her *maika* from her marital home 2-3 months prior to the incident. During cross examination, PW-1 stated that the deceased lived with her husband till two months before her death. She further stated that the deceased had gone to the court in connection with another case between herself and the appellant. When she went from the court to her matrimonial home, the lock put by her in the apartment had been broken open and had been replaced by the appellant. When the deceased contacted the appellant telephonically, he

reached there along with 2-3 other persons and assaulted her. The deceased had lodged an FIR against the appellant and his family members in this regard. She alleged that when her father could not pay Rs.4,00,000/-, the appellant had filed the suit for divorce.

8. During cross-examination, PW-1 stated that the deceased was four years older to her. The deceased and the appellant used to work together and both of them had developed an acquaintance. She stated that the appellant's mother had brought his marriage proposal. PW-1 further stated that prior to her marriage with the appellant, the deceased did not disclose that she used to date the appellant. She admitted that their relationship got converted into marriage on 14.12.2004. PW-1 admitted that the deceased had not made any mention of demand of dowry in any of the two suicide notes (Exhibit A-3 and A-4) and she did not level this allegation in any of the pending litigations. PW-1 stated that the deceased had come back from her matrimonial home 3 months prior to her death. The notice of the suit for divorce had been received by her mother and thereafter the deceased had appeared in the family court. She stated that the deceased had said that she did not want to divorce the appellant. PW-1 also had stated that the deceased was living at her residence for the past 3 months and she committed suicide in her house.

9. The father of the deceased was examined as PW-2. He stated that he had got his daughter married to the appellant on 14.12.2004. He had spent Rs.9 to 10 lakhs in the marriage. After 2-3 months of the marriage, the appellant and his family started harassing his daughter for demanding dowry. His daughter used to tell about it to him but PW-2 used to say to her that as she had got married, she had to live in her matrimonial home only.

10. PW-2 further stated that his daughter was beaten up on 18.04.2010. Her medico-legal examination was conducted on 20.04.2010 and she had lodged a first information report against her husband, her mother-in-law, younger brother of the husband and wife of the younger brother. When his daughter had gone to her matrimonial home along with him on 22.04.2010, the lock of her room had been broken open and replaced by another lock and

thereafter on 23.04.2010, wife of PW-2 had lodged an FIR. PW-2 stated that the appellant had sent a notice for divorce wherein he had assailed the character of the deceased. It caused so much mental agony to the deceased that she committed suicide by hanging on 02.10.2010.

11. Sunny Kapoor, the younger brother of the deceased, was examined as PW-3. He stated that his sister was ill-treated after her marriage for demanding dowry. On 20.04.2010, his sister had lodged a first information report in Mahila Thana and after that she had gone to her matrimonial home along with her mother in the night of 20.04.2010 but she was turned away after being ill-treated and the deceased had lodged a report of this incident in the police station. After that, the appellant had sent a notice for divorce. For this reason, the deceased committed suicide.

12. A neighbour of the complainant was examined as PW-9 and he also proved the demand of dowry and ill-treatment therefor and he stated that the deceased committed suicide because of ill-treatment meted out to her by her husband and his family members.

13. In the statement recorded under Section 313 Cr.P.C., the appellant denied all the charges and he stated that he will file his written statement. The appellant filed a written statement of his defence wherein he stated that he and the deceased were in service. Both of them developed a liking towards each other and decided to get married. Their love marriage was converted into an arranged marriage with the consent of their family members. The marriage ceremony was performed without any dowry. Immediately after their marriage, they started living in a separate house no. C-457, Indira Nagar. His wife and sister-in-law (the complainant) had executed a sale deed in the year 2005 in the interest of their career and they themselves received the sale consideration amount and he had no knowledge about it at that time. This amount was not deposited in his bank account.

14. The appellant further stated that after sale of the plot and receipt of the sale consideration, the behaviour of the deceased started getting worse, she wanted to shift to National Capital Region to struggle for upliftment of her

career and she also wanted the appellant to leave his stable job as a Manager in ICICI Prudential Life Insurance Co. Ltd. She started threatening the appellant by writing false suicide letters and she moved out of his house at Indira Nagar along with all her goods and shifted to her house at Alambagh. She did not return to his home thereafter.

15. The appellant stated that he filed a complaint against the deceased in the Court of C.J.M. (Custom) Lucknow. On 06.04.2010, the C.J.M. took cognizance of the offences under Sections 504 and 506 IPC on the basis of the complaint filed by him against his wife and a summon was issued to her for 05.05.2010. However, afterwards he filed a suit for restitution of conjugal rights for reviving his relation with his wife. His wife withdrew Rs.50,000/- and Rs.10,000/- on 21.07.2008 and 22.07.2008 from his salary account from a branch of the Bank at NOIDA. Thereafter, he came to know that his wife was working as an Executive – Business Support in Max New York Life Insurance at Delhi - NCR. He lost an opportunity to go on the company's business trip to South Africa even after getting a Visa clearance because of the mental cruelty inflicted by his wife.

16. The appellant further stated that on 13.11.2009, he had sent a letter to the police complaining against his wife. The appellant also stated that because of the continuous mental cruelty, he withdrew the suit for restitution of conjugal rights and on 21.11.2009 he filed a suit for divorce. Upon receipt of its summon, she appeared in the Family Court and filed a vakalatnama.

17. It was also stated in the written statement of the appellant that his office had issued him warning letters dated 10.12.2009 and 19.04.2010 as his wife had come to the office of his employer Kotak Life Insurance Co. Ltd. and had created nuisance there. Thereafter, he sent a complaint to the police through speed post on 19.04.2010 for lodging a first information report against his wife.

18. The appellant stated that his wife or her family members had not lodged any complaint alleging demand of dowry till that date and even in the suicide note, the deceased did not allege any demand of dowry. On

23.04.2010 the deceased lodged a FIR against the appellant and a security guard of his apartment wherein a charge-sheet was filed against the security guard only. He stated that the appellant and his wife were working and living in separate cities since August 2007.

19. The appellant filed a copy of the complaint filed in the Court of the Chief Judicial Magistrate Custom, a copy of the letter dated 16.12.2007 sent to the S.H.O. Ghazipur, a copy of the statement of the appellant recorded under Section 200 Cr.P.C., a copy of the statements of witnesses recorded under Section 202 Cr.P.C., a copy of the order dated 01.03.2008 passed by the Principal Judge, Family Court, a copy of the plaint filed under Section 9 of the Hindu Marriage Act, a copy of the letter sent to the Manager ICICI Bank, Lucknow, copies of cheques for Rs.50,000/- and Rs.10,000/-, a copy of TDS, a copy of the letter dated 13.11.2009 sent to SHO Ghazipur, a copy of the plaint in Regular Suit No. 2253 of 2009 in the Family Court for divorce, a copy of the order dated 06.04.2010 passed by the C.J.M (Custom) in Complaint No. 9194 of 2007, a copy of the letter dated 19.04.2010 sent by the appellant to SHO Alambagh requesting for lodging a first information report, a copy of the police documents and charge-sheet relating to Case Crime No. 301 of 2010 under Section 323, 504 IPC, Police Station Ghazipur and a copy of the letter dated 27.04.2010 given by the residents of C-455 and C-457, Ganapati Apartments to SHO Ghazipur. The appellant requested the trial Court to obtain admission / denial of the documents by the prosecution.

20. The trial Court held that the documents filed by the appellant included her Form 26-AS containing entries for the period April 2009 to June 2009, which merely proved that the deceased was in a private service for the aforesaid three months. The other documents filed by the appellant proved that the deceased was at Delhi NCR on 21.07.2008 and 22.07.2008 and that she withdrew Rs.50,000/- and Rs.10,000/- from their joint account. The documents do not prove that the deceased lived at Delhi-NCR during the entire period of 2007 to 2010.

21. The trial Court further held that the statements of the prosecution witnesses proved that the appellant had started harassing the deceased for demanding Rs.10,00,000/- as dowry 1 – 1 ½ months after her marriage. Her father had paid him Rs.6,00,000/- after selling away a plot of the deceased and her sister but the appellant continued to harass the deceased for demanding the balance amount of Rs.4,00,000/-. The trial Court disbelieved the defence of the appellant that no amount from the sale consideration of the plot was deposited in his bank account stating that he is an educated person and his mother is a gazetted officer and it cannot be expected that they would deposit the amount in their bank account.

22. The trial Court disbelieved the appellant's contention that the allegation of demand of dowry was not levelled till 19.04.2010 and this allegation was levelled for the first time in the FIR No. 34 of 2010 lodged on 20.04.2010.

23. The trial Court held that the charge under Section 304-B IPC was not proved as the deceased and her husband were not in contact with each other since 20.04.2010 when the FIR bearing Case Crime No. 34 of 2010 under Section 498A, 323, 406, 506 of IPC and 3/4 Dowry Prohibition Act was registered in Mahila Thana and therefore, it was not possible to harass the deceased soon before her death. However, the trial Court held that the deceased had committed suicide because of the ill-treatment meted out to her by the appellant and his family members and held the appellant guilty of the offence under Section 306 IPC as also under Section 498-A IPC and Section 4 of the Dowry Prohibition Act.

24. The learned counsel for the appellant has submitted that there was a matrimonial discord between the parties due to which the deceased was living separate from the appellant with her father and siblings.

25. The complainant PW-1 stated that the deceased was harassed for demanding dowry, an air conditioner was demanded and by demanding small amounts, Rs.1.5 Lakh had been taken away from her father. Thereafter, the accused persons demanded Rs.10 Lakhs for purchasing a flat.

Her father gave Rs.6,00,000/- after selling a plot in the name of the complainant and the deceased but he could not give the balance amount of Rs.4,00,000/- for which she was harassed. PW-1 stated that the deceased committed suicide after coming to her father's house on 02.10.2010.

26. During cross-examination, PW-1 stated (at page 7 of her cross examination) that the sale consideration of the plot sold by herself and the deceased, was received in cash and her father had purchased a property in the year 2011 by paying the entire sale consideration in cash. She also stated that she was a housewife whereas the deceased remained in service. She further stated (at page 15) that appellant wanted to get his marriage with the deceased dissolved by divorce but the deceased did not want it. She stated that the deceased stopped living with the appellant since the year 2008. PW-1 stated that it was not that the deceased was depressed because of her separation from the appellant or that she was mentally upset because of the divorce suit filed by the appellant.

27. Gulshan Kapoor, the father of the deceased, was examined as PW-2. He stated that he had spent Rs.9-10 lakh Rupees in his daughter's marriage with the appellant. 2-3 months after the marriage, she started telling him while crying that all the accused persons used to harass her for demanding dowry, but PW-2 used to tell her that as she had got married she had to live in her matrimonial home. Thereafter, the appellant and his family members started demanding Rs. 10 lakhs for purchasing a flat and she was threatened to be killed. He gave Rs.6,00,000/- after selling a plot and he had promised to give the balance Rs.4,00,000/-. The accused persons used to harass her and the appellant's friend Abhijeet used to ask them to kill the deceased and also used to state that he would get the appellant married to a rich and beautiful girl. He stated that the appellant had sent a notice for divorce in which he had levelled allegations assailing her character, this caused so much mental agony to his daughter that she committed suicide.

28. Sunny Kapoor, younger brother of the deceased was examined as PW-3 and he gave a statement similar to that of his father (PW-2).

29. The aforesaid statements reveal that the deceased and the appellant used to work together, a loving relationship developed between them due to which the appellant's mother went to the father of the deceased with a proposal of their marriage. Their marriage was solemnised on 04.12.2004. It is alleged that she was harassed for demanding dowry since 2-3 months after her marriage. The complainant PW-1 alleged in her testimony that small amounts and things like an air conditioner were demanded as dowry and her father gave Rs.1.5 Lakhs in pursuance of the demands but the deceased's father PW-2 did not say so.

30. It is alleged that a plot of land in the name of the deceased and the complainant was sold by their father. They did not disclose the particulars of the plot, the date of execution of its sale deed and the amount of sale consideration but they stated that the entire sale consideration was received in cash and out of that Rs.6,00,000/- were given in cash to the appellant without disclosing the date when this amount was given. It is also stated that the father of the deceased had purchased some property in the year 2011 and that transaction was also done in cash.

31. The first time the allegation of demand of dowry was levelled in writing in FIR bearing Case Crime No. 34 of 2010 in Mahila Thana, Lucknow on 20.04.2010 against the appellant, his mother, younger brother and wife of his younger brother, under Sections 498-A, 323, 406, 504, 506 IPC and 3/4 Dowry Prohibition Act. Prior to it, the appellant had filed Complaint No. 9194 of 2007 in the Court of C.J.M (Custom) against his wife Monika Tandon, mother-in-law Shanta Rani Kapoor, sister-in-law Neha Kapoor (the complainant) and brother-in-law Sunny Kapoor stating that he had married Monika Tandon out of love on 14.12.2004; that soon after the marriage, she had started pressurizing him to live separate from his mother and brother and under her pressure he started living separate from his mother and brother under a written agreement dated 06.01.2007 but she went away along with all her documents and valuable articles on 27.07.2007. The appellant wrote in the complaint that his wife used to mentally harass him by showing him a suicide note and by threatening that she would commit suicide at his home

and would get the appellant and his family members implicated in a dowry death case due to which he was afraid and these actions of her made out offences under Sections 384, 504, 506 IPC. On 06.04.2010, the C.J.M. (Custom) Lucknow passed an order on the appellant's complaint summoning the appellant's wife for facing trial for the offences under Sections 504 and 506 IPC.

32. The appellant had filed Regular Suit No. 2253 of 2009 in the Court of Principal Judge, Family Court, Lucknow under Section 13 of the Hindu Marriage Act, wherein he pleaded that he got married to the deceased on 14.12.2004 and they resided in his widow mother's apartment, along with his mother and brother, for one year. He pleaded that his wife used to oppose the appellant spending time with his mother and she even alleged that he had illicit relations with his mother. Thereafter, he moved out of his mother's house and on 01.04.2006, he and his wife had shifted to a rented apartment in Indira Nagar. On 27.08.2006, the appellant's wife went away to her father's home and she took with her all her documents and jewellery items. When the appellant went to her, she and her parents abused and humiliated him.

33. The appellant also pleaded in the suit for divorce that the deceased came to his office on 08.11.2009, abused him and demanded Rs.20,000/- and he gave her Rs.7,000/-. She also called him from Rohini, New Delhi through her mobile No. 9958952442, which was a Delhi number issued in her name, and demanded Rs.50,000/- and she threatened to get him incarcerated. The appellant's company was sending him abroad on 09.08.2009 but on 06.08.2009, the deceased took away the appellant's documents and threatened that in case he went abroad, he would be sent behind the bars. The appellant pleaded that the aforesaid facts constituted cruelty and sought divorce on this ground.

34. Although PW-2 had stated in his cross examination that the appellant had sent a notice for divorce wherein he had assailed the character of the deceased and it caused so much mental agony to the deceased that she committed suicide by hanging on 02.10.2010 but the appellant had not made

any pleading in the suit for divorce assailing the character of the deceased. On the contrary, he had pleaded that the deceased had assailed the character of the appellant and his mother by falsely alleging that the appellant had illicit relations with his mother.

35. The deceased had lodged FIR bearing Case Crime No. 34 of 2010 in Mahila Thana, Lucknow on 20.04.2010 against the appellant, his mother, younger brother and the wife of his younger brother, under Sections 498-A, 323, 406, 504, 506 IPC and 3/4 Dowry Prohibition Act wherein she alleged for the first time that the accused persons used to harass her for demanding dowry. She also alleged that the appellant had deceitfully given her some medicine which caused her miscarriage but there is no material to substantiate this allegation and although PW-1, PW-2 and PW-3 have alleged that the appellant used to harass his deceased wife, none of them have alleged that he had caused her miscarriage. The deceased had alleged in the FIR that her mother-in-law had asked her to bring her Rs.2,00,000/- to enable the appellant to do some business and her father had fulfilled the demand by borrowing the money but her father has not said so when he was examined as PW-2.

36. The deceased also alleged in the FIR that her father used to keep on paying dowry amounts in cash day in and day out and the appellant used to deposit the same in his bank account and the bank account of his mother and thus the appellant had extracted Rs.1.5 Lakhs from her father but her father PW-1 has not said so in his deposition.

37. The trial Court has rejected the appellant's contention that although the prosecution case is that the father of the deceased had given Rs.6,00,000/- to him as dowry whereas no such amount has been deposited in his bank account or in the account of his mother, by stating that such amounts are not deposited in Bank accounts, whereas the deceased herself had alleged that the amount extracted from her father was deposited in the bank accounts of the appellant and his mother.

38. The deceased further alleged in the FIR that she had appeared before the Family Court in the suit for divorce filed by the appellant but thereafter she again went back to her matrimonial home. The appellant used to drop her at her parents' home for demanding Rs.10,00,000/- for purchasing a flat which allegation appears to be highly unnatural and improbable. She alleged that the appellant badly assaulted her on 18.04.2010 and the police intervened in the matter. There is no material to establish that the deceased cohabited with the appellant as his wife after lodging of the FIR No. 34 of 2010 dated 20.04.2010.

39. The trial Court has not taken into consideration the defence set up by the appellant and the documentary evidence filed by him. The appellant had requested the trial Court to call upon the prosecution to admit or deny the documents filed by him. The prosecution did not deny the documents filed by the appellant.

40. In **Anand Ramachandra Chougule v. Sidarai Laxman Chougala:** (2019) 8 SCC 50, the Hon'ble Supreme Court held that: -

“10. The burden lies on the prosecution to prove the allegations beyond all reasonable doubt. In contradistinction to the same, the accused has only to create a doubt about the prosecution case and the probability of its defence. An accused is not required to establish or prove his defence beyond all reasonable doubt, unlike the prosecution. If the accused takes a defence, which is not improbable and appears likely, there is material in support of such defence, the accused is not required to prove anything further. The benefit of doubt must follow unless the prosecution is able to prove its case beyond all reasonable doubt.”

41. In **Vaibhav v. State of Maharashtra:** (2025) 8 SCC 315, the Hon'ble Supreme Court held that: -

“31. In law, there is a significant difference in the evidentiary burden to be discharged by the prosecution and the accused. Whereas, the former is expected to discharge its burden beyond reasonable doubt, the latter is only required to prove a defence on the anvil of preponderance of probabilities. If the accused leads defence evidence in the course of a criminal trial, the same ought to be tested as probable or improbable in the facts and circumstances of the case.”

42. In the present case, there are serious discrepancies in the version of the deceased in the FIR lodged by her on 20.04.2010 and the statements of the prosecution witnesses, which raise a serious doubt against the prosecution case alleging demand of dowry and harassment for this reason. The complainant and her father have alleged having given Rs.6,00,000/- in cash to the appellant as dowry. Besides the fact that this Court has come to a conclusion that they have failed to prove this allegation beyond reasonable doubt, if found true, this allegation would amount to a confession regarding commission of under Section 3 of the Dowry Prohibition Act, which provides as follows: -

“3. Penalty for giving or taking dowry. - (1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

(2) Nothing in sub-section (1) shall apply to, or in relation to,—

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act;

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.”

43. Thus, not only taking dowry, but also giving dowry is an offence under Section 3 of the Dowry Prohibition Act. However, as I have come to a conclusion that the allegation that the father of the deceased had given Rs.6,00,000/- to the appellant as dowry, has not been proved, neither the offence of taking dowry nor the offence of giving dowry is made out. The allegation of harassment for demand of dowry levelled for the first time in FIR No. 34 of 2010 lodged on 20.04.2010 and, as has been mentioned above, there are serious discrepancies in the statements of the witness regarding the demand of dowry and harassment therefor. The appellant has set up a reasonable defence that there were serious disputes between the appellant and his deceased wife since the year 2007 when he had filed a criminal complaint against her on which the trial Court had summoned the deceased. There are allegations and counter allegations. The prosecution was required to prove the allegations beyond reasonable doubt, which it failed to do, whereas the appellant was not required to prove the correctness of his allegations beyond reasonable doubt, he was merely required to raise a doubt against the prosecution case on the basis of mere preponderance of probabilities, which he has succeeded to do. Therefore, I am of the considered view that the prosecution has failed to establish the ingredients of Section 498-A IPC and Section 4 of the Dowry Prohibition Act.

44. Now I proceed to examine the validity of the appellant's conviction for the offence under Section 306 IPC, which reads as under: -

“306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

45. “Abetment of a thing” has been defined under Section 107 of the Code in the following words: -

“107. Abetment of a thing.—A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.'

Explanation 2 which has been inserted along with Section 107 reads as under:

'Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.'

46. In **State of W.B. v. Orilal Jaiswal**: (1994) 1 SCC 73, the Hon'ble Supreme Court has cautioned that: -

"17. ...the Court should be extremely careful in assessing the facts and circumstances of each case and the evidence adduced in the trial for the purpose of finding whether the cruelty meted out to the victim had in fact induced her to end the life by committing suicide. If it transpires to the Court that a victim committing suicide was hypersensitive to ordinary petulance, discord and differences in domestic life quite common to the society to which the victim belonged and such petulance, discord and differences were not expected to induce a similarly circumstanced individual in a given society to commit suicide, the conscience of the Court should not be satisfied for basing a finding that the accused charged of abetting the offence of suicide should be found guilty..."

(Emphasis added)

47. In **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)**: (2009) 16 SCC 605, the Hon'ble Supreme Court held that there should be intention to provoke, incite or encourage the doing of an act by the latter. Each person's suicidability pattern is different from the others. Each person has his own idea of self-esteem and self-respect. Therefore, it is impossible to lay down any straitjacket formula in dealing with such cases. Each case has to be decided on the basis of its own facts and circumstances.

48. In **Ude Singh v. State of Haryana**: (2019) 17 SCC 301, the Hon'ble Supreme Court held that: -

"15. Thus, "abetment" involves a mental process of instigating a person in doing something. A person abets the doing of a thing when:

(i) he instigates any person to do that thing; or

(ii) he engages with one or more persons in any conspiracy for the doing of that thing; or

(iii) he intentionally aids, by acts or illegal omission, the doing of that thing.

These are essential to complete the abetment as a crime. The word “instigate” literally means to provoke, incite, urge on or bring about by persuasion to do anything.

16. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act(s) of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the court would be looking for cogent and convincing proof of the act(s) of incitement to the commission of suicide. **In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.**

16.1. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. **If the persons who committed suicide had been hypersensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 IPC.** If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding factors having bearing on the actions and psyche of the accused and the deceased.

16.2. *We may also observe that human mind could be affected and could react in myriad ways; and impact of one's action on the mind of another carries several imponderables. Similar actions are dealt with differently by different persons; and so far a particular person's reaction to any other human's action is concerned, there is no specific theorem or yardstick to estimate or assess the same. Even in regard to the factors related with the question of harassment of a girl, many factors are to be considered like age, personality, upbringing, rural or urban set-ups, education, etc. Even the response to the ill action of eve teasing and its impact on a young girl could also vary for a variety of factors, including those of background, self-confidence and upbringing. Hence, each case is required to be dealt with on its own facts and circumstances."*

49. In **Prakash v. State of Maharashtra**: (2026) 6 SCC 251, the Hon'ble Supreme Court held that: -

"18. *Section 306 IPC has two basic ingredients—first, an act of suicide by one person and second, the abetment to the said act by another person(s). In order to sustain a charge under Section 306 IPC, it must necessarily be proved that the accused person has contributed to the suicide by the deceased by some direct or indirect act. To prove such contribution or involvement, one of the three conditions outlined in Section 107IPC has to be satisfied.*

19. *Section 306 read with Section 107 IPC, has been interpreted, time and again, and its principles are well established. To attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear mens rea to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide.*

20. *The law on abetment has been crystallised by a plethora of decisions of this Court. Abetment involves a mental process of instigating or intentionally aiding another person to do a particular thing. To bring a charge under Section 306 IPC, the act of abetment would require the positive act of instigating or intentionally aiding another person to commit suicide. Without such mens rea on the part of the accused person being apparent from the face of the record, a charge under the aforesaid section cannot be sustained. Abetment also requires an active act, direct or indirect, on the part of the accused person which left the deceased with no other option but to commit suicide.*

* * *

33. *This Court in Mohit Singhal [Mohit Singhal v. State of Uttarakhand, (2024) 1 SCC 417] reiterated that the act of instigation must be of such intensity and in such close proximity that it intends to push the deceased*

to such a position under which the person has no choice but to commit suicide. This Court held that the incident which had allegedly driven the deceased to commit suicide had occurred two weeks prior and even the suicide note had been written three days prior to the date on which the deceased committed suicide and further, there was no allegation that any act had been done by the accused-appellant therein in close proximity to the date of suicide. This Court observed as follows:

“11. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. **The said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in close proximity to the date of suicide. By no stretch of imagination, the alleged acts of the appellants can amount to instigation to commit suicide. The deceased has blamed the third respondent for landing in trouble due to her bad habits.**

12. Therefore, in our considered view, the offence punishable under Section 306IPC was not made out against the appellants. Therefore, the continuation of their prosecution will be nothing but an abuse of the process of law.”

(emphasis supplied by the Supreme Court)

34. This Court in *Naresh Kumar v. State of Haryana* [(2024) 3 SCC 573], observed as follows:

“20. This Court in *Mariano Anto Bruno v. State* [(2023) 15 SCC 560], after referring to the above referred decisions rendered in context of culpability under Section 306 IPC observed as under:

‘45. ... It is also to be borne in mind that in cases of alleged abetment of suicide, there must be proof of direct or indirect acts of incitement to the commission of suicide. **Merely on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused which led or compelled the person to commit suicide, conviction in terms of Section 306IPC is not sustainable.**”

(emphasis supplied by the Supreme Court)

50. In **Balaji Jaiswal v. State of Chattisgarh**: 2026 SCC OnLine SC 602, the Hon’ble Supreme Court referred to some precedents on the point in issue and held that: -

“11. From the aforesaid decision, it becomes clear that for sustaining a charge under Section 306 of the Penal Code, it has to be shown that the

*accused persons had contributed to the suicide by the deceased through some direct or indirect act. Section 107 of the Penal Code has thereafter been referred to hold that there ought to be some instigation or incitement that would reveal a clear mens rea to abet the commission of suicide, thus, leading the victim to such a position that he/she would have no other option but to commit suicide. **There ought to be some material to indicate a positive act of instigation, which is a crucial component of abetment. Instigation or incitement on the part of the accused person has been held to be the gravamen of the offence of abetment to suicide. The act of instigation also has to be in close proximity to the act of suicide so as to form the nexus or a chain to indicate that the act of suicide was the direct result of the act of instigation by the accused person....***"

51. In the present case, the trial Court has acquitted the appellant as well as all the accused persons of the charge under Section 304-B IPC as the deceased and her husband were not in contact with each other since 20.04.2010, when the FIR bearing Case Crime No. 34 of 2010 under Section 498-A, 323, 406, 506 of IPC and 3/4 Dowry Prohibition Act was registered in Mahila Thana and, therefore, it was not possible to harass the deceased soon before her death. The deceased committed suicide on 02.10.2010, i.e. 5 months and 12 days since she had lodged an FIR against the appellant and his family members. When the trial Court has held that the appellant had no contact with the deceased for the past 5 months and 12 days before the incident it cannot be said that the appellant abetted the deceased to commit suicide even without there having been any contact or communication between them.

52. The trial Court has relied upon the provision contained in Section 113-A of the Evidence Act, which provides as follows: -

"113-A. Presumption as to abetment of suicide by a married woman.
-When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanation.—For the purposes of this section, “cruelty” shall have the same meaning as in Section 498-A of the Indian Penal Code (45 of 1860).”

53. Section 498-A of the Evidence Act provides that: -

“498-A. 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 wilful 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.”

54. In **Ram Pyarey v. State of U.P.**: (2025) 6 SCC 820, the Hon’ble Supreme Court held that: -

“14. *It is relevant to note that under Section 113-B, the court shall presume dowry death unlike Section 113-A where the provision says that court may presume abetment of suicide. This is the vital difference between the two provisions which raises presumption as regards abetment of suicide.*

15. *When the courts below want to apply Section 113-A of the Evidence Act, the condition precedent is that there has to be first some cogent evidence as regards cruelty and harassment. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the court cannot straightway invoke Section 113-A and presume that the accused abetted the commission of suicide.”*

55. The aforesaid ratio laid down in **Ram Pyarey v. State of U.P.** (supra) has been followed in **State of H.P. v. Madan Gopal**: 2025 SCC OnLine SC 191.

56. This Court has already held that the prosecution has failed to prove the charge under Section 498-A I.P.C. that the appellant had harassed the deceased for demanding dowry. In the absence of any cogent evidence as regards harassment or abetment in any form like aiding or instigating, the

appellant cannot be convicted for the offence under Section 306 I.P.C. by straightway invoking Section 113-A so as to presume that he has abetted the commission of suicide.

57. In **Nipun Aneja v. State of U.P.**: 2024 SCC OnLine SC 4091, the Hon'ble Supreme Court referred to numerous precedents on the point of what would constitute abetment to commit suicide and concluded that: -

*“21. The ingredients to constitute an offence under Section 306 IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide... **The problem is that the courts just look into the factum of suicide and nothing more. We believe that such understanding on the part of the courts is wrong.** It all depends on the nature of the offence & accusation. ...”*

58. The aforesaid observation squarely applies to the facts of the present case, where the trial Court has convicted the appellant for the offence under Section 306 IPC merely because the relations between the appellant and his wife had turned sour, both of them had levelled allegations and counter allegations against each other and the deceased committed suicide after writing that she could not tolerate the ill-treatment meted out to her by the appellant and his family members. While holding the appellant guilty of abetment of suicide of his wife, the trial Court has merely looked into the factum of suicide and has ignored the fact that when the trial Court has itself found that there was no contact between the appellant and his wife for more than five months, the appellant did not commit any act during this period of more than five months which may amount to instigating the deceased to commit suicide. Therefore, it is not proved that the deceased committed suicide because of abetment caused by the appellant and the prosecution has failed to prove the charge of offence under Section 306 IPC.

59. Accordingly, the appeal is **allowed**. The judgment and order dated 21.09.2024 passed by Sri. Rohit Singh, the learned Special Judge, Ayurveda Scam/CBI, Lucknow in Session Trial No.747 of 2012 arising out of Case Crime No.386 of 2010 under Sections 498-A, 304-B IPC and Section 3/4 of Dowry Prohibition Act registered at Police Station Alambagh, District

Lucknow, whereby the appellant has been convicted and sentenced for the offences under Sections 498-A and 306 IPC and Sections 3/4, Dowry Prohibition Act, is **set aside**. The appellant is **acquitted** of all the charges.

60. Consequently, the appellant shall be released from custody in connection with the present case upon his furnishing a personal bond and two sureties for his appearance before the Hon'ble Supreme Court in case any appeal is filed against this order and the Hon'ble Supreme Court issues notice of the appeal to the appellant, as per the provision contained in Section 437-A Cr.P.C. The amount of fine deposited by the appellant will be refunded to him.

(Subhash Vidyarthi,J.)

July 31, 2026

-Amit K-

Whether the judgment is speaking – Yes

Whether the judgment is reportable – Yes

(Subhash Vidyarthi,J.)