

KARKARDOOMA COURTS : DELHI

Under Section 498-A/306 IPC

Behind Sudha Nursing Home, Jhansi, UP

Date of judgment : 24.9.2019

JUDGMENT:

Complainant Smt. Girja Devi W/o Shri Harcharan Kushwaha alleged that her daughter Preeti Kushwaha was married to accused Mithun Kushwaha on 16.2.2010 and sufficient dowry articles like TV, fridge, cooler, bed, sofa-set, washing machine and car as well as gold and silver jewellery articles were given in the marriage. She alleged in the complaint that the accused as well as father-in-law and mother-in-law of her daughter were not satisfied with the dowry and used to taunt Preeti, on which she had given money to the family members of the accused through Preeti, without disclosing anything to her own family. Complainant further alleged in her complaint that since the accused was working with HCL, Noida, he alongwith her daughter shifted to Janta Flat No. 385, in front of GTB Hospital Gate No. 9, after about 15 days of the marriage. However, Preeti came to her parents house and took money

from the complainant from time to time for giving to her inlaws, stating that the accused and his brother Aakash used to abuse her and taunt her whenever she objected to their demands. It was further alleged in the complaint that it came to the notice of Preeti after about five months of marriage that the accused was having illicit relations with a girl even before marriage and he still used to talk with her. The complainant had always tried to persuade Preeti from time to time, but the behaviour of the accused and his family members did not change. Preeti also complained about it to her cousin Vishakha that the accused do not have physical relations with her since he was having illicit relations with another girl.

On 10.10.2010, accused informed the complainant on phone that Preeti had consumed acid. Thereafter, on 12.10.2010, Preeti died at Max Hospital during her treatment.

The complainant raised suspicion that since the accused was having illicit relations with another girl and he did not maintain physical relations with Preeti, the accused might have killed Preeti by forcing her to consume acid or she might have herself consumed it on being abetted by the accused.

The statement of the complainant was recorded by the SDM on 26.10.2010, who had earlier conducted the inquest proceedings on 12.10.2010 and 13.10.2010. An endorsement was made by the SDM on the said complaint and on the basis of the said endorsement, the SHO PS GTB Enclave directed for the registration of the FIR. The FIR was registered only on 26.11.2010 and that too, under Section 498-A/34 IPC. Accused was arrested on 15.12.2010. After completion of investigation, charge sheet was filed before the Court against the accused for the

offences punishable under Section 498-A/306 IPC.

2. Copies were supplied to the accused as required under Section 207 Cr. PC and case was committed to the Sessions Court. After hearing arguments, charge for the offence punishable under Section 498-A/306 IPC was framed against the accused vide order dt. 14.11.2014.

3. At the trial, prosecution examined 16 witnesses in all.

PW1 SI Mariamma was the Duty Officer. She proved DD No. 17A dt. 10.10.2010 as Ex.PW1/A regarding admission of Preeti at Max Hospital and another DD No. 13A dt. 12.10.2010 as Ex.PW1/B regarding death of Preeti. She also proved copy of FIR as Ex.PW1/C and her endorsement made on the ruqqa as Ex.PW1/D.

PW2 Shri Harcharan Kushwaha was the father of the deceased and he proved his statement given to the SDM as Ex.PW2/A. He was declared hostile and in his cross-examination by Ld. Addl. PP for the State, he was read over his said statement and he admitted the facts contained therein. He proved the arrest memo and personal search memo of accused as Ex.PW2/B and PW2/C respectively. He further proved the marriage card of the accused and the deceased as Ex.PW2/D and photographs of their marriage as Ex.PW2/E.

PW3 Dr. Anita Rawat proved the MLC of the deceased as Ex.PW3/A .

PW4 Shri Pramod Kushwaha was the brother of the deceased. He levelled allegations against the accused and his brother Akash regarding the harassment given by them to his deceased sister. In his cross-examination by Ld. Addl. PP for the State, he admitted the contents of his statement Ex.PW4/A.

PW5 Ins. Netrapal Singh made his endorsement Ex.PW5/A on the complaint made by the complainant and directed for registration of FIR.

PW6 Ct. Sandeep collected one sealed parcel from the doctor at Max Hospital and handed it over to SI Suman Kumar who seized it vide memo Ex.PW6/A.

PW7 Smt. Girja Devi was the mother of the deceased and complainant of this case. She deposed on the lines of her complaint and proved it as Ex.PW7/A.

PW8 Smt. Kavita Goyal – Asst. Director, FSL proved the examination report as Ex.PW8/A.

PW9 Ms. Vishakha Kushwaha was the cousin of the deceased and she deposed about the phone call made by deceased Preeti stating that the accused was having a girl friend and he was not giving her time.

PW10 Dr. Manjari Gupta proved the death summary of the deceased as Ex.PW10/A.

PW11 Dr. Gyanchand was the Radiologist and he proved the ultrasound report of the deceased as Ex.PW11/A.

PW12 Shri Vipin Garg was working as SDM Seemapuri on 10.10.2010. He proved the request for postmortem, Form 25.35.(1)(B) and 25.35.(1)(C) as Ex.PW12/A to PW12/C respectively. He also proved dead body identification statements of Pramod Kushwaha and Harcharan Kushwaha as Ex.PW12/D and PW12/E as also the statements of Girja Devi and Vishakha as Ex.PW12/F and PW9/A respectively.

PW13 Ins. Arun Kumar had filed the charge sheet of this case alongwith FSL Report Ex.PW8/A .

PW14 SI Mohd. Raziq (Retd.)was the first IO and he deposed

about the part investigation conducted by him regarding arrest of accused on 15.12.2010.

PW15 Shri Harish Chandra Pandey – Technical Assistant from GTB Hospital proved the postmortem report as Ex.PW15/A prepared by Dr. Juthika Debbarma and the initials made by her at point X on various documents.

PW16 SI Suman was the main IO and he deposed about the investigation conducted by him and proved the relevant documents.

4. Statement of the accused was recorded under Section 313 Cr. PC and entire incriminating evidence was put and read over to him who denied the same and pleaded innocence. While choosing to lead evidence in his defence, he stated that he had never quarreled with the deceased nor had ever beaten or harassed her and she always remained happy with him.

5. DW1 Smt. Sajida Khatoon and DW2 Wazid Ali were the landlord of the accused and the deceased at Janta Flat No. 385, GTB Enclave, Delhi and they deposed that accused and the deceased resided happily.

DW3 Jagannath was previous landlord of the accused where he was residing as tenant in the year 2007 and he deposed that the accused vacated his house in the year 2009 since he was to be married. He further deposed that he attended the marriage of accused with the deceased and also met them after marriage once in a week on the day of weekly market and never noticed any tension between the accused and his deceased wife. He further deposed that during the stay in his house as tenant, accused used to leave for work at about 10 am and used to return at about 7 pm.

DW4 Shakuntla Devi was the wife of DW3 and she deposed

similar facts, as deposed by him.

DW5 Anoop Verma was a friend of the accused since 2009. He deposed that he visited the house of the accused several times after his marriage but did not notice any kind of dispute or tension between him and his wife, though he remained at the house of the accused sometimes for 5-6 hours at a stretch.

All the defence witnesses were duly cross-examined by Ld. Addl. PP for the State.

6. I have heard Shri Mukul Kumar – Ld. Addl. PP for the State, Shri RD Singh – Ld. Counsel for the accused and have carefully gone through the records of the case.

7. The material witnesses examined by the prosecution were PW2, PW4, PW7 and PW9, who were respectively the father, brother, mother and cousin of the deceased. Hence, their testimonies require discussion .

8. PW2 deposed about the marriage of the deceased with the accused. He also deposed that the brother of the accused, namely Akash also used to reside with them. He further deposed that the deceased used to tell his wife, i.e. her mother, that the accused used to come back late in the night and that the deceased had also told her cousin Vishakha (PW9) that the accused was having a girl friend. Thereafter, he deposed about the information received by him on 10.10.2010 from the accused that deceased had consumed acid, hearing which he came to Delhi with his son.

In the cross-examination by the Ld. Addl. PP for the State, he admitted that the deceased used to tell that her brother-in-law Akash used

to quarrel with her and used to complain against her to her mother-in-law. He also admitted that accused used to quarrel and rebuke the deceased without any reason for which she used to remain tense and that these facts were told by the deceased to her friend. He also admitted that his brother Rajender Prasad had informed him that he was told by accused regarding a quarrel between him and Preeti a night before the incident.

In the cross-examination on behalf of the accused, he also admitted that on 20.10.2010, he had taken back all the dowry articles from the accused after execution of a compromise deed (Ikrarnama) Ex.PW2/D1 and admitted his signatures thereupon at point A on both pages. He also admitted that a complaint was made to the police about the incident by his wife on 26.10.2010. He also deposed that the deceased had never told the name of the girl with whom the accused was allegedly having an affair but added that she had told that the said girl was the daughter of a pandit. PW2 also admitted that the accused used to have night shift in HCL Company where he was working and further that Akash, the brother-in-law of the deceased was minor at the time of incident. He also deposed that all the expenses of the treatment were borne by the accused. He further deposed that the deceased never told him that she was not happy or was having any kind of problem at her matrimonial home.

A Court question was put to the witness and he was asked if he had executed any writing Mark PX stating that his daughter had no problem or that he had no complaint. PW2 replied that he had not executed any such writing but admitted the document Mark X to be in his handwriting and bearing his signatures at point A.

9. PW4 Pramod Kushwaha was the brother of the deceased

who also deposed about the marriage between the accused and the deceased as also the information about the attempted suicide by the deceased on 10.10.2010 and thereafter, his visit to Delhi with his father/PW2. Thereafter, he deposed that the accused and his brother Akash used to harass his sister who used to be kept alone in the house with no chance to travel. He also deposed that hot words used to be exchanged between the deceased and Akash on minor issues and that the mother of the accused used to harass the deceased on phone.

In the cross-examination by Ld. Addl. PP for the State, he admitted that he came to know about the illicit relations of the accused with another woman. He also admitted that once Akash had left the LPG gas in open condition and further deposed that the deceased was forced to consume acid.

In the cross-examination by Ld. Counsel for the accused, he deposed that his mother informed him that the accused used to harass and torture the deceased and that she also told her directly about the harassment caused to her by Akash. In his further cross-examination, he also deposed that once a pressure cooker got burst but no complaint about it was made to the police. He explained that the deceased was being harassed by the accused by ignoring her and by not talking with her. However, he admitted that no demand for dowry was ever made by the accused from him. In his further cross-examination, he admitted 90 photographs placed in an album (Ex.PW4/D1-D90) and deposed that they were of the period within three months of marriage of the deceased. In his later cross-examination, he deposed that he had seen certain photographs of the accused with other females but was unable to produce them. He

further deposed that he was unable to remember whether those photographs were only of the accused and a female or were group photographs.

10. PW7 was the complainant and mother of the deceased namely Smt. Girja Devi, who too deposed about the marriage between the accused and the deceased and giving of dowry articles in the marriage. She deposed that the deceased told her that her mother-in-law, father-in-law, brother-in-law and husband used to harass her and taunt her for bringing insufficient dowry. She further deposed that the accused used to come late in the night and give beatings to her. She also deposed that during her lifetime, the deceased stayed at her matrimonial home and came to stay with them on three occasions, i.e. Holi, Raksha Bandhan and Mori Chhatt. It was also deposed by her that whenever the deceased used to come to their house, she used to tell that accused used to harass her, used to come late in night and used to remain busy with his computer and TV and did not pay any attention to her. She further deposed that on the occasion of Raksha Bandhan, she gave Rs.10,000/- in cash to her from her house and on one more occasion she paid Rs.10,000/- her but could not remember the occasion. She also deposed that when the deceased came to her on Mori Chhatt, she told that the accused was having illicit relations with some female and when she objected, she used to be beaten by the accused. She also deposed that the deceased had told about the illicit relations of the accused to Vishakha, her cousin. Thereafter, she deposed about the telephonic message of the accused on 10.10.2010 about the deceased having consumed acid.

In the cross-examination on behalf of the accused, she deposed that

the accused never demanded money from her directly but only from the deceased and at the time of Raksha Bandhan when she gave Rs.10,000/- to the deceased, the latter told her that it was demanded by the accused but did not tell the purpose of the demand. She admitted that the amount was not given in the presence of her husband and her son (PW2 and PW4). She further deposed that her husband had not told about any compromise Mark PX or that all the dowry articles have been received by her husband and her son.

In her further cross-examination, she was unable to tell the duty timings of the accused but deposed that he was working in HCL Company. She also deposed that no complaint was ever made to the police before 26.10.2010 against the accused for his alleged harassment or cruelty nor the complainant got herself medically examined. She also deposed that the deceased never disclosed the name of any female with whom the accused was having illicit relations. She admitted that all the hospital expenses were borne by the accused and that Akash was a minor. She also admitted that inlaws of the deceased were residing in Jhansi.

11. PW9 Vishakha was the cousin of the deceased. She deposed that the deceased had told her that her husband was not giving her time and that she used to remain alone in her house while her husband, outside the house. She further deposed that the deceased told her that quarrel used to take place between the deceased and the accused due to the behaviour of her devar (Akash) and further that her husband was having a girl friend and that even after coming from office, the accused did not give her time.

In cross-examination, she admitted that Akash was studying in Class 10 at that time. She deposed that Akash used to tell about her every

mistake to mother-in-law of the deceased. She further deposed that her father was in depression and had also committed suicide by consuming acid. She further deposed that the deceased never informed her about the name of girl friend of the accused but that he was having affair prior to the marriage. She further deposed that the deceased never told her any specific reason for quarrel between him and the deceased. She also deposed that she never inquired from the deceased any reason why her husband, i.e. the accused, used to remain outside whole night.

12. PW12 the SDM, in his cross-examination deposed that he came to know about the compromise between the parties vide Ex.PW12/DA.

13. Thus, from the testimony of above material witnesses, it has flown down that the basic allegations against the accused for attracting the charges are that he used to work late and return home late in the night; that he did not used to give time to the deceased and the deceased had an apprehension that the accused was having extra-marital affair.

14. The accused has been charged for the offences under Section 306 IPC and under Section 498-A IPC.

Section 306 IPC 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.”

15. The term 'abetment' has been defined in Section 107 IPC as under:-

***“107. Abetment of a thing – A person abets the doing of 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 1 - A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procure, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

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 facilitate the commission thereof, is said to aid the doing of that act.”

It is thus, clear from plain reading of the Sections that there should be an overt act on part of the accused of instigating or facilitating the victim to commit suicide.

16. In *Ramesh Kumar vs State of Chhatisgarh (2001) 9 SCC 618*, the Hon'ble Apex Court elucidated the term 'instigation' and stated that

“Instigation is to goad, urge forward, provoke, incite or encourage to do an act”.

17. To satisfy the requirement of instigation, though it is not necessary, that actual words must be used to that effect or what constitutes instigation must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be capable of being spelt out.

18. In *SS Cheena vs Vijay Kumar Mahajan & Anr. (Crl. Appeal No. 1503 of 2010, arising out of SLP (Crl.) No. 6811 of 2009. Judgment dated 12.08.2010)*, the Hon'ble Apex Court ruled as under:-

- *Abetment involves a mental process of*

instigating a person or intentionally aiding a person in doing of a thing.

- *Without a positive act on the part of the accused to instigate or aid in committing suicide, conviction cannot be sustained.*
- *There has to be a clear mens rea to commit the offence.*
- *It also requires an active act or direct act which led the deceased to commit suicide seeing no option and that act must have been intended to push the deceased into such a position that he committed suicide.*

19. In Gurcharan Singh vs State of Punjab (2017) 1 SCC 433,

the Hon'ble Supreme Court observed as under :

“The basic ingredients of Section 306 of IPC are suicidal death and the abetment thereof. To constitute abetment, the intention and involvement of the accused to aid or instigate the commission of suicide is imperative. Any severance or absence of any of these constituents would mitigate against this indictment. Remoteness of the culpable acts or omissions rooted into the intentions of the accused to actualize the suicide would fall short as well of the offence of abetment essential to attract the punitive mandate of Section 306 of IPC. Contiguity, continuity, culpability and complicity of the indictable acts or omissions are the concomitant indices of abetment. Section 306 of IPC, thus, criminalizes the sustained incitement for suicide”.

20. In State of West Bengal vs Orilal Jaiswal (1994) 1 SCC 73,

the Hon'ble Supreme court observed that :

“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. It was further observed that the victim committing suicide was hypersensitive to ordinary petulance, discord and

differences in domestic life quite common to the society to which the victim belong 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 the finding that the accused charged of abetting the offence of suicide should be found guilty.”

21. In the instant case, as already observed herein above, there is absolutely no evidence on record that the accused instigated or abetted the deceased to commit suicide in any manner whatsoever, either by his conduct or by any words spoken or written. The only allegation is that he was not giving sufficient time to her. In this context it has to be observed that the deceased was married to the accused on 16.02.2010 and she committed suicide on 10.10.2010 that is, within about eight months of the marriage. The photographs admitted by PW-4 and Ex. PW-4/D-1 to D-90 depict the accused and the deceased in a very happy state. These photographs are of various places which show that the accused had been taking the deceased for outings and places of recreation. Though PW4 deposed that these photographs were of the first three months of marriage, but this fact cannot be assessed from the said photographs. In any case, when the marriage lasted only for eight months, even the period of three months was material which was spent happily by the couple.

22. It has been admitted by PW2 and PW7 that the accused was working with M/s HCL Ltd. at the relevant time. It has also been admitted by PW2 in his cross examination that the accused used to have night shift duties in the said company. It is well understood that the employees of multi-national companies like HCL have to devote extra hours of work apart from their regular working hours to meet the requirements of the

company. It cannot be expected from any person of young age and at the beginning of his career with such a reputed company to put his career at stake just to please his wife. Similarly, the allegation that the accused used to work also at his house till late hours cannot amount to any instigation or abetment or could have been a ground for the deceased to commit suicide.

23. Apart from the aforesaid, PW2 in his cross examination by the Ld. Addl. PP deposed that the accused used to quarrel and rebuke the deceased without any reason and that he was informed by his brother Rajender Prasad that a quarrel took place between the two, a night before the incident. Petty tit-bits between the husbands and wives, that too, when they are newly married are quite common but again, that cannot be taken as an instigation by the accused for the deceased to commit suicide, as observed in *Orilal Jaiswal's* case (*supra*). Furthermore, Rajender Prasad was never examined to prove that any quarrel took place between the husband and wife on the night preceding the incident and thus, to that extent, the testimony of PW2 is only hearsay. Hence, it is hard to accept that the accused had in any manner abetted the deceased to commit suicide and therefore, the charge u/s 306 IPC cannot be sustained against him. There is a degree of remoteness between the allegations and the suicide [refer to Gurcharan's case (*supra*)].

24. The accused has also been charged for the offence u/s 498A IPC. Section 498-A IPC reads as under:-

“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 purpose 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.”

25. There are general allegations which have come in the testimony of three main witnesses that is PW2, PW4 and PW7 that the accused used to harass the deceased alongwith his younger brother Akash, but no explanation has come forward from them as to the manner in which the said alleged harassment was meted out to the deceased. PW2 and PW4 have specifically deposed that Akash used to quarrel with the deceased and PW4 also deposed that hot words used to be exchanged between the deceased and Akash on several minor issues and further that mother of the accused also used to harass the deceased on phone.

26. Mere simple and bald allegation of harassment is not sufficient to constitute cruelty. To attract the gravamen of the said Section, it is necessary that the said harassment or cruelty should be in relation to demand of dowry. Admittedly, the brother of the accused namely Akash was a young boy and was a student of class 10 as deposed by PW9. Thus, he must be about 15-16 years of age. The deceased was about 23 years of age at the time of her death, as reflected from her postmortem report. Therefore, some bickering between the two can be understood considering the age gap as well as the age group of the two as also their relation, but that would not amount to cruelty within the

meaning of Section 498-A IPC. Reference can again be made to *Orilal Jaiswal's* case (*supra*).

27. PW7 in her deposition alleged that the deceased used to tell her that her mother-in-law, father-in-law, brother-in-law and husband used to harass her and taunt her for bringing insufficient dowry and that her husband used to come late at night and give beatings to her. This fact was never deposed by either PW2 or PW4. On the contrary, PW4 admitted in his cross examination that no dowry was demanded by the accused from him. Similarly, PW2 also deposed that the deceased never told him that she was not happy or was in any kind of problem in her matrimonial home at Delhi. Hence, the testimony of material witnesses is self contradictory regarding the allegations of cruelty. Apart from that, it is also to be observed that PW2 admitted in his cross examination that after the death of the deceased and on 20.10.2010, he had taken back all the dowry articles from the accused under a written compromise. It shows that the accused was not greedy of retaining the stridhan of the deceased.

28. The other allegation against the accused is that he was having some extra-marital affair. However, that was only an apprehension and no evidence could be led to that effect. None of the witnesses as aforesaid were able to provide the name or other particulars of any such girl. Mere suspicion cannot take place of proof and no person can be convicted only on suspicion. The IO/PW14 deposed that during the investigation carried out by him, the allegations of illicit relationship between the accused and some girl could not be substantiated and no evidence could come on record in this regard. He also deposed that he could not get any CDRs of the accused regarding his relationship with

any girl.

29. There is also an allegation that an incident of blast of the pressure cooker took place in the house during the lifetime of the deceased and that accused used to leave naked electric wires in the house. However, these allegations could also not be substantiated during investigation as deposed by PW14 who also deposed that no evidence of any mental torture of the deceased by the accused could also be found.

30. Ld. Addl. PP for the State submitted, pointing out to the first part of Section 498A IPC, that any wilful conduct on part of the accused which is likely to drive a woman to commit suicide would constitute the commission of the offence, as in the instant case. I fail to differ with this contention as in the instant case, none of the wilful conduct alleged against the accused and discussed herein above could be proved, which could have led the deceased to commit suicide.

31. In one of the judgment relied upon by the Ld. Counsel for the accused and reported as **KV Prakash Babu vs State of Karnataka (VIII (2016) SLT 225 SC**, the deceased committed suicide as she suspected extra-marital relations of her husband. It was observed by the Hon'ble Apex Court that :

“Extra-marital relationship, per se, or as such would not come within the ambit of Section 498A IPC. It would be an illegal and immoral act, but other ingredients are to be brought home so that it would constitute criminal offence. Solely because the husband is involved in extra-marital relationship and there is some suspicion in the mind of wife, that cannot be regarded as mental cruelty which would attract mental cruelty for satisfying the ingredients of Section 306 IPC”.

It was further observed that :

“If the husband gets involved in extra-marital affair, that may

not in all circumstances invite conviction u/s 306 IPC, but definitely can be a ground for divorce or other reliefs in matrimonial dispute”.

Thus, the conviction u/s 306 IPC and 498A IPC was set aside.

It was alleged by PW7 in her deposition that she had given Rs.10,000/- to the deceased on two occasions, once on Raksha-Bandhan and once on another occasion which she could not remember. However, in her cross-examination she deposed that the accused had never demanded money from her directly, explaining that he demanded through her daughter. Again , this fact was never deposed by PW2 or PW4. She also deposed that on the occasion of Raksha-Bandhan , the deceased told her that money had been demanded by her husband but did not tell her the purpose of the demand. She had not disclosed the source from where he paid the said amount and also deposed that the said payment was not made in the presence of her husband and her son and that the said amount was available in the house, belonging to her husband. It is not possible that such a big amount would have given by her to the deceased without the knowledge or permission of her husband/PW2.

The defence witnesses examined by the accused deposed that the accused and the deceased were residing happily. Their credibility could not challenged in their cross-examination. DW1 and DW2 were the landlord and landlady of the house where the couple resided lastly and they both deposed that they were happily residing there. Similarly, DW3 and DW4 were the previous landlord of the accused who also deposed that they had seen the two living happily. DW5 was a friend of the deceased and his testimony that he had seen the accused and deceased residing happily on his visits to their house remained unimpeached. Thus,

there is nothing on record to suggest that there was any grave differences between the deceased and the accused or the deceased was subjected to any cruelty for which she was compelled to commit suicide. It is quite possible that she came from Jhansi and found herself in an alien atmosphere in Delhi where she was alone and thus, did not feel comfortable. This could have been one of the reason of feeling depressed and making her ill-tempered or short-tempered, leading to suicide.

32. It is also to be appreciated that the deceased committed suicide on 10.10.2010 and this fact was informed to PW2 by the accused on the same day and he immediately came to Delhi. The SDM of the area was also informed on the same day and he conducted the inquest proceedings. He also recorded the statement of PW2 on 13.10.2010. On the said statement at point X, it is recorded separately at the side that after marriage, there had been no demand of dowry from the side of the boy and his family. The SDM deposed that the said writing might be in the hand of the father of the deceased. However, the statement of the mother of deceased was recorded on 26.10.2010 and there is no explanation for the delay in recording her statement after such a long time. Furthermore, the FIR was registered only on 26.11.2010 i.e. a month after recording of the said statement and again there is no explanation for the inordinate delay in registration of the FIR.

33. Before parting with the order, it may be noted that PW1 admitted that he entered into an agreement with the accused on 20.10.10, a copy of which is on record Ex. PW2/D1 and under it, he had received the entire stridhan including cash, ornaments, car etc. and had further agreed to withdraw all the proceedings initiated by the SDM. However,

despite that his wife PW7 gave a statement on 26.10.2010 on which the present FIR was registered. It is surprising to note that PW7 deposed that she was unaware if any compromise was entered between her husband (PW2) and the accused under which her husband had received all the dowry articles. This is not acceptable as dowry articles were not any small piece of paper which could have been hidden or concealed by PW2. Thus, the conduct of the parents of the deceased show that they are not worthy of credence.

34. In view of the above discussion, there is no hesitation to hold that the prosecution has failed to prove the charges against the accused either under Section 306 IPC or under Section 498A IPC. Accordingly, accused Mithun Kushwaha is hereby acquitted for the said offences and is set at liberty. His personal bonds and surety bonds are discharged.

File be consigned to Record Room.

*ANNOUNCED IN OPEN COURT
ON 24th day of September 2019*

**(SANJAY SHARMA-I)
Addl. Sessions Judge-05 (Shahdara)
Karkardooma Courts, Delhi**