IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1074/2015

NEERAJ KUMAR **Appellant(s)**

VERSUS

SURAJ PRAKASH & ORS. **Respondent(s)**

O R D E R

1. This is a complainant's appeal against the judgment and order of the High Court[1] dismissing the revision of the complainant against the judgment and order of the Trial Court[2] whereby the respondents were acquitted of the charge of dowry death, punishable under Section 304B of the Indian Penal Code, 1860 (IPC), and of cruelty, punishable under Section 498A IPC.

2. The Trial Court while acquitting the respondents had found that the evidence in respect of demand of dowry and harassment in connection therewith was not reliable and except ante-mortem burn injuries, no other injury referable to use of force was found. It

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KAVITA PAHUJA
Date: 2023.11.23
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Reason:

1 High Court of Delhi at New Delhi
2 Additional Sessions Judge

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also took into consideration the financial position of the complainant-party as also the statement of the employer of the brother of the deceased, who was the only earning member in the complainant's family, that the brother of the deceased was drawing a meagre salary of Rs.2,300/- per month, to disbelieve the allegations of demand of a handsome amount towards dowry. Based upon consideration of the entire evidence on record as also the fact that initially there were differences between the husband and wife on account of some suspicion in the mind of the husband that the wife had been pregnant since before marriage and husband had also filed for divorce, though later withdrawn, the Trial Court concluded that harassment for demand of dowry was not proved and there was no cogent evidence to convict the accused for dowry death by raising a presumption under Section 113B of the Evidence Act.

3. **Aggrieved by the acquittal of the accused i.e. respondents, the complainant preferred a revision. Notably, there was no State appeal against the order of acquittal. The High Court scrutinized the evidence, particularly of PW-1 (i.e. mother of the**

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deceased), PW-2 (i.e. elder brother of the deceased) and PW-8 (i.e. younger brother of the deceased) to observe that none of them stated that there had been a demand of dowry at the time of marriage; besides there had been some improvement in the testimony of PW-1 from what she had stated during investigation. The Court also took notice of the fact that a panchayat was held earlier to resolve the differences between husband and wife, and documents prepared in connection therewith do not reflect any demand of dowry.

4. **Having regard to the evidence brought on record as also the financial position of the complainant family, the High Court was of the view that there was no perversity in the assessment of evidence by the Trial Court while rendering the decision of acquittal, and therefore, no case for interference in revisional jurisdiction was made out.**

5. **Impugning the aforesaid judgments, the learned counsel for the complainant has submitted that the courts below have committed an error in taking a view that PW-1 i.e. mother of the deceased had improved upon her previous statement. It has been submitted that, firstly, the previous statement of PW-1 has not been**

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extracted while recording her testimony and, secondly, there is no improvement pointed out except that earlier she had not made a statement to that effect. It has been submitted that if the statement of PW-1 is read in its entirety it would indicate that she is consistent about demand of dowry and that demand was repeated soon before the death of the deceased. This is clear from her statement where she stated that just two days before death of her daughter, she had gone to the house of her daughter to give certain gifts on the eve of Ganga Snan. PW-1 stated that then her daughter had asked her whether she had brought money or not and when PW-1 replied in the negative, her daughter started weeping and requested PW-1 to take her back home. She also stated that husband of the deceased had slapped the deceased two or three times in her presence. PW-1 also stated that she had called her son (PW-8), namely, Sanjay, who then came to take her back home. However, during cross-examination PW-1 stated that she did not remember whether she had told the police that on 08.06.1995, she had come to her daughter's house. Further, she stated that she had not stated to the police that husband of the deceased had slapped the deceased two or three times. She had also

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not stated that she had called over her younger son Sanjay to fetch her. These circumstances, according to the appellant's counsel, were not such which could completely discredit the testimony of PW-1.

6. **Appellant's counsel further submitted that the Court had failed to consider the recital in the inquest report to the effect that an incised wound was present on the forehead of the deceased. This, according to him, was a relevant piece of evidence which was completely overlooked by the Trial Court as well as the High Court and, therefore, their decision is liable to be set aside.**

7. **Additionally, it has been submitted that it is not necessary to prove that the relative upon whom demand is made had the capacity to meet the demand. What is required to be proved is that there had been harassment in connection with demand of dowry. It has been submitted that the evidence led by the prosecution had clearly established that there was harassment in connection with demand of dowry therefore, the benefit of the presumption was available to the prosecution, which the Trial Court as well as the High Court failed to provide.**

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8. It has also been submitted that besides the aforesaid three witnesses, PW-11, who was mediator in the marriage, had also supported the prosecution case though not much weightage was attached to his testimony.

9. *Per contra*, on behalf of the accused-respondents, it has been submitted that both Trial Court as well as the High Court considered the evidence of the prosecution in detail and found that the allegations of demand of dowry and harassment in connection therewith were not satisfactorily established by the prosecution. This being a finding of fact, based on appreciation of evidence, is not amenable to interference more so when such finding is rendered in a judgment of acquittal. It is submitted that only a perverse finding can be interfered with and not a finding which takes a possible view based on appreciation of evidence. It has also been submitted that so far as the allegation of presence of antemortem injury other than burn injuries on the body of the deceased is concerned, no such injury has been found during postmortem and a review opinion was also sought, which confirmed that there was no injury other

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than burn injuries on the body of the deceased. Besides, the person who sought to prove the inquest report had not disclosed about noticing any such injury. Moreover, in the event of there being a conflict between the autopsy report and the inquest report, it is the autopsy report which must prevail and, therefore, the argument that the presence of injury on the body of the deceased has been ignored is liable to be rejected. It has also been urged from the respondents' side that the evidence brought on record had clearly established that there were differences between husband and wife on account of the wife being found pregnant immediately after marriage. The husband suspected that she was carrying the pregnancy from before and in connection therewith a petition was filed for declaring the marriage void though it was later withdrawn. Besides, none of the witnesses has stated that there was any demand of dowry at the time of marriage. In such circumstances, having regard to the incapacity of the complainant-party to pay the kind of dowry allegedly demanded, if the allegations have been disbelieved, the findings rendered by the Trial Court, affirmed by the High Court, do not call for any interference. Hence, it is prayed that the

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appeal be dismissed.

10. We have considered the rival submissions and have perused the record carefully. Before we proceed further, we may observe that before the revisional court, during arguments, the learned counsel for the complainant had not pressed the charge of murder. Only the charge of dowry death and cruelty/ harassment in connection with demand of dowry was pressed. No doubt, death of the deceased was within seven years of her marriage. However, to raise a presumption either under Section 113A or Section 113B of the Indian Evidence Act, 1872, the necessary ingredients would have to be proved. The foundational fact regarding demand of dowry and harassment in connection therewith have not been found proved by the trial court; hence, the accused were acquitted.

11. We notice that the evidence on record substantiates that initially there were differences between husband and wife emanating from husband's suspicion that the wife had been pregnant since before marriage. This suspicion may be one of the reasons for the differences between husband and wife, though those differences got resolved over a period of time and two

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more children were born in the wedlock. In such circumstances, those differences cannot be considered sufficient as to raise a presumption under Section 113A of the Evidence Act for the purpose of recording conviction under Section 306 IPC.

12. Insofar as the benefit of presumption under Section 113B is concerned, there had to be cogent evidence in respect of demand of dowry and harassment in connection therewith soon before death. Here, the Trial Court had found that such demand of dowry was not established by cogent evidence and that the statement of the prosecution witnesses in that regard were not reliable. Moreover, lack of capacity to pay dowry, though by itself may not be sufficient to disbelieve the accusation of harassment in connection with demand of dowry, is relevant while assessing the correctness of the allegation. This we say so because why would a person raise a demand when he knows that the person to whom demand is made has no capacity to fulfil it. Thus, we do not find any perversity in the assessment of evidence. Once such is the position, and there is no cogent evidence either to prove murder or to make such an inference from the circumstances,

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taking into account that the Trial Court has taken a possible view of the matter, which by no means could be considered perverse, and no appeal was preferred by the State whereas the Revisional Court's jurisdiction is limited, no interference is called for with the impugned order dismissing revision against acquittal.

13. The appeal is, accordingly, dismissed.

14. Pending application(s), if any, shall stand disposed of.

……J
[MANOJ MISRA]

……J
[VIJAY BISHNOI]

New Delhi
November 19, 2026

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ITEM NO.101 COURT NO.9 SECTION II-D

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S). 1074/2015

NEERAJ KUMAR **Appellant(s)**

VERSUS

SURAJ PRAKASH & ORS. **Respondent(s)**

[PART HEARD BY : HON'BLE MANOJ MISRA AND HON'BLE VIJAY BISHNOI, JJ.]
IA No. 13074/2015 - EXEMPTION FROM FILING O.T.

Date : 19-11-2026 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Appellant(s) : Mr. Abinash Kumar Mishra- 1752, AOR

For Respondent(s) :Mr. Rajesh Mahajan, Sr. Adv.
Mr. M.L. Yadav, Adv.
Mr. Mukesh Kumar, Adv.
Mr. Srajan Shankar Kulshreshtha, Adv.
Ms. Adya Nanda, Adv.
Mr. Vishwa Pal Singh- 1391, AOR

UPON hearing the counsels, the Court made the following
O R D E R

1. **The appeal is dismissed in terms of the signed order which is placed on the file.**

2. **Pending application(s), if any, shall stand disposed of.**

(KAVITA PAHUJA) **(SAPNA BANSAL)**
ASTT. REGISTRAR-cum-PS **COURT MASTER (NSH)**

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