
(2025) 12 JH CK 1857

In the Jharkhand High Court

Case No : Criminal Appeal (D.B.) No. 180 Of 2003

Hargauri Mandal Son of Bameshwar Mandal

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 02-12-2025

Acts Referred:

Indian Penal Code, 1860 — Section 34, 120B, 201, 304B

Citation : (2025) 12 JH CK 1857

Hon'ble Judges : Rongon Mukhopadhyay, J; Pradeep Kumar Srivastava, J

Bench : Division Bench

Advocate : Arvind Kumar Choudhary, Pratik Singh, Manoj Kumar Mishra

Final Decision : Dismissed

Judgement

Pradeep Kumar Srivastava, J.

1. We have already heard Mr. Arvind Kumar Choudhary, learned counsel appearing for the appellant and Mr. Manoj Kumar Mishra, learned A.P.P. appearing for the State.

2. Instant criminal appeal has been preferred by above named sole appellant for setting aside the judgment of his conviction dated 27.01.2003 and order of sentence dated 28.01.2003 passed by Additional Sessions Judge, Fast Track Court No.I, Deoghar in Sessions Case No.182 of 1996 / 425 of 2002, whereby and whereunder the appellant has been held guilty for the offence under Section 304B of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life.

FACTUAL MATRIX

3. Factual matrix giving rise to this appeal is that on 15.01.1996 at about 11:00 a.m., informant Rameshwar Mandal got information that his daughter Anita Devi had fallen into a well and lying unconscious at her matrimonial home situated at Village Jagatpur. The informant along with his sons and other family members

went to the matrimonial home of his daughter and saw the dead body of his daughter under suspicious circumstances. It is alleged that just prior to the occurrence, on 12.01.1996, his deceased daughter was brought by her husband, Hargauri Mandal, from her paternal home to join the matrimonial home under threat. She was frequently subjected to torture and harassment on account of additional demand of ornaments and cash which could not be fulfilled. It is further alleged that the deceased Anita Devi was also pregnant at the time of occurrence having three years' old child also. It is further alleged that the informant tried to inform the matter to the police but he was locked in the room by the appellant and his family members. Thereafter, he submitted a complaint to the Superintendent of Police, Deoghar on the basis of which, the F.I.R. was lodged as Mohanpur P.S. Case No.14 of 1996 dated 15.01.1996 for the offences under Sections 304B, 120B and 201/34 of the I.P.C. and 3/4 of the Dowry Prohibition Act.

4. After completion of investigation, charge-sheet was submitted against the appellant for the aforesaid offences. Accordingly, the case was committed to the Court of sessions, where Sessions Case No.182 of 1996 / 425 of 2002 was registered. The accused/appellant denied the charges levelled against him and claimed to be tried.

5. In the course of trial, altogether 12 witnesses were examined by the prosecution.

Apart from oral testimony of witnesses, following documentary evidence has been adduced :-

Exhibit 1 : Written report to S.P. Deoghar by informant

Exhibit 2 : Post-mortem report of deceased Anita Devi

Exhibit 3 : Certified copy of voter list of Village Jagatpur P.S. No.921, P.S. Mohanpur District Deoghar, Vidhan Sabha year 1988

6. On the other hand, no oral or documentary evidence has been adduced by defence. The case of defence is denial from occurrence and false implication. According to the accused, the deceased had gone to fetch water from the well and she fell into the well and died.

7. The learned trial court after examining the evidence available on record found the appellant guilty for commission of offence under Section 304B of the I.P.C. and sentenced him as stated above which has been assailed in this appeal.

8. Learned counsel for the appellant has vehemently argued that out of 12 witnesses examined in this case not even a single witness has stated that the appellant had been seen assaulting the deceased and most of the witnesses are interested witnesses. It is clear from the evidence of P.W.8 that except an abrasion, no external injury has been found on the body of deceased. No incriminating article has been recovered from the place of occurrence. No

independent witnesses and Investigating Officer have been examined in this case. The entire case of prosecution rests on circumstantial evidence. The learned trial court has committed serious error of law in convicting the appellant on uncorroborated testimony of interested witnesses, whose evidences itself suffers from material contradictions and discrepancies. Therefore, impugned judgment and order of conviction and sentence of the appellant is not sustainable under law and fit to be set aside. The appellant deserves acquittal from the charges levelled against him.

In the alternative, it is argued that the occurrence is of the year 1996, the appellant was all along in custody and has undergone more than 10 years substantive sentence of imprisonment and including remission, he has suffered imprisonment for 14 years 6 months and 7 days. The appellant was released on bail on 22.08.2013 and thereafter has mend himself and living a peaceful life without involving in any criminal activities. It was not an exceptional case where the appellant has to be awarded maximum sentence of life imprisonment prescribed under law. Although, the offence under Section 304B of the I.P.C. prescribes the punishment as under :-

"[304B. Dowry death. - (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

Explanation. – For the purposes of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961(28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life."

The learned trial court has not recorded any special reasons or any extenuating circumstances aggravating the nature of offence to impose the maximum sentence of imprisonment prescribed under law. The imprisonment already undergone by the appellant is sufficient punishment in the facts and circumstances of the case, which is based upon only circumstantial evidence and presumptions and assumptions. Therefore, maintaining the conviction of the appellant, sentence is fit to be reduced to the extent of imprisonment already undergone.

9. On the other hand, Mr. Manoj Kumar Mishra, learned A.P.P. for the State has defended the conviction of appellant on merits but so far quantum of sentence is concerned, he could not satisfy the conscience of the Court to award maximum sentence of life imprisonment in this case and requested to pass appropriate order of conviction.

10. We have gone through the evidence available on record, it appears that altogether 12 witnesses were examined by the prosecution out of them P.W.3 Jagdish Mandal and P.W.4 Ghanshyam Mandal have been declared hostile by the prosecution and have not supported the prosecution case. P.W.6 Sahdeo Mandal and P.W.11 Devendra Mandal are tendered witnesses. P.W.9 Biranchi Mandal has identified the dead body of Anita. P.W.10 Dinesh Kumar Mandal has informed the informant regarding death of Anita. P.W.12 Md. Gafur is a witness of inquest.

P.W.8 Dr. P. Chandra who has conducted autopsy on the dead body of the deceased Anita Devi on 16.01.1996 at about 10:40 a.m. had found following ante mortem injuries :-

(i) Abrasion on the right side of the chest 2½" lateral to the right nipple size 3½" x 1½".

(ii) Old infected wound over lower 3rd of the left leg.

On dissection :-

Skull – Blood came out from the anterior part of the forehead as soon as scalp removed from the anterior part of skull. There was fracture of frontal bone horizontal in direction 2" long (rib fracture). There were blood and clots over meninges and brain matter. Brain was pale.

Cause of death opined to be shock and haemorrhage due to head injury caused by hard and blunt substance. Time elapsed within 48 hours. This witness has proved post-mortem report marked as Ext.2.

P.W.7 Rameshwar Mandal is the informant-cum-father of the deceased. According to him, his daughter was married with the appellant on 25.05.1991 at Village Jagatpur. The informant stated that after marriage, Anita (deceased) lived with her in-laws. A dowry of Rs.10,000/- cash, four tola of silver and one tola of gold was agreed upon, but remained unpaid. The informant has further stated that his daughter had come to her parental home fifteen days before the incident and three days before the incident, her husband Hargauri (appellant) came, demanded the remaining dowry, abused the informant and his wife and threatened them with dire consequences, if their demand was not met. It is further stated that the appellant then took Anita back to his house at Jagatpur. It is further stated that three days later, two men from Jagatpur came and informed him that Anita had died. When the informant, his wife and sons reached Jagatpur, they found Anita lying dead on a cot, covered with a bedsheet. On removing it, they saw blood was oozing from her forehead and a fractured chest bone. When they protested, Hargauri Mandal and his relatives forcibly confined the informant and his family members in a room till evening. After being released, the informant submitted a typed written complaint to the Superintendent of Police, Deoghar with his signature, on the basis of which the case was registered.

On recall by defence, this witness has stated that there has never been a quarrel

between his daughter and her in-laws in front of him and they never demanded dowry in front of him.

P.W.5 Dewanti Devi is the mother of the deceased. According to her evidence, Dinesh Mandal and Inder Mandal came from Jagatpur and informed her that her daughter, Anita Devi, had been killed by her husband and in-laws. It is further stated that she along with her husband and two sons, Satyanarayan and Kailash, went to Jagatpur where the accused locked them inside a house. They saw Anita lying dead on a cot. She has further stated that Anita was married to Hargauri Mandal (appellant) about four and a half years before her death. In the marriage, Rs.10,000/-, forty tolas of silver and one tola of gold were promised, but some items remained unpaid. Because of this, the accused used to harass Anita and threaten of dire consequences, if not given, they would kill her. She has further stated that three days prior to incident, Hargauri Mandal had come and demanded the dowry again and threatened to kill Anita, if the demand is not fulfilled and took her back to his home. Three days later, the incident occurred.

Later, on recall by defence, she has also stated that accused persons never quarreled with her daughter and never demanded dowry and both lived in harmony.

P.W.2 Satyanarayan Mandal is the brother of the deceased. According to him on 15.01.1996, around 10–11 a.m., while he was at home, two persons came and informed him that his sister Anita Devi had drowned in a well at her in-laws' house in Jagatpur. He along with his father and brother Kailash Mandal went to Jagatpur and saw Anita's body near the well, partially covered with a cloth. When they tried to uncover her face, appellant along with his family members locked them in a nearby house until evening, after which they returned home. He has further stated that three days before the incident, Anita's husband had taken Anita from their house, demanding Rs.10,000/- and jewelry that were still due as dowry and Anita was often quarreled with and harassed by her in-laws over money and ornaments.

In his cross-examination, he has admitted that his sister had a son of three years.

This witness was further recalled by the defence for cross-examination then this witness has stated that there was no quarrel or fight between Anita Devi and accused persons and the accused persons never demanded dowry in front of him.

P.W.1 Takdhu Mandal is the uncle of the deceased. According to his evidence, Anita married to Hargauri Mandal (appellant) of Jagatpur according to Hindu rites and customs. Some dowry was given at the time of marriage, but part of it remained unpaid. It is further stated that about 8–9 days prior to the incident, Anita had come to her father's house. Later on, her husband Hargauri came there and demanded the remaining cash, silver and gold. He stayed the night but did not eat and the next morning, after arguing with Anita's parents, took her back to his house. It is further stated that on Makar Sankranti (Monday), two men from Jagatpur came and informed that Anita had been killed and thrown

away. It is further stated that his brother and sister-in-law went to Jagatpur, and later on, he also went to Hargauri Mandal's house, and saw Anita's body lying on a cot with an injury on her head. They were only allowed to see her face. It is further stated that Anita's marriage had taken place about six and a half years earlier, she had a three years' old son and was pregnant at the time of her death.

11. It appears that as per evidence of P.W.1, P.W.2, P.W.5 and P.W.7 corroborated by evidence of P.W.8 Dr. P. Chandra, there are ample evidence on record to substantiate the charge under Section 304B of the I.P.C. against the appellant. It is proved beyond doubt that the deceased has been died otherwise than under normal circumstances within 7 years of her marriage at her matrimonial home. It is also proved that soon before her death, she was subjected to cruelty and harassment by her husband (appellant) on account of non-fulfillment of additional demand of dowry. Therefore, we do not find any reason to interfere with the impugned judgment and order of conviction of the appellant for the offence under Section 304B of the I.P.C.

So far quantum of sentence is concerned, a report was called for from the concerned authority through learned A.P.P. Mr. Manoj Kumar Mishra which goes to show that the appellant had gone 10 years 7 months and 7 days imprisonment and also earned the remission of 3 years 11 months, accordingly, the total period of imprisonment comes to 14 years 6 months and 7 days. The circumstances of the case do not disclose that there was any brutal act of assault or physical assault to the deceased on the date of occurrence or prior to the occurrence. The post-mortem report shows only one injury that was abrasion on right side of chest 2½" lateral to the right nipple size 3½" x 1½" and another injury is old infected wound over lower third of the left leg. No history of consistent demand of dowry and torture meted with the deceased, has been brought on record. Therefore, we find no justification for awarding maximum sentence prescribed for the offence under Section 304B of the I.P.C. by the learned trial court.

12. Considering the facts and circumstances of the case, nature of offence committed by the appellant and the circumstances under which the offence was committed, we are of firm view that the imprisonment already undergone by the appellant is sufficient to meet the ends of justice in this case. Accordingly, conviction of the appellant for the offence under Section 304B of the I.P.C. is confirmed but sentence passed against him is reduced to the imprisonment already undergone. Accordingly, this appeal is dismissed on merits with modification in sentence as stated above.

13. The appellant is on bail, he is discharged from the liability of bail bond and sureties are also discharged.

14. . Pending I.A., if any, stands disposed of.

15. Let a copy of this judgment along with trial court record be sent back to concerned trial court for information and needful.