
(2013) 12 PAT CK 0040

In the Patna High Court

Case No : Criminal Appeal (SJ) No. 126 of 2010

Jagbandhu Bin, Swaminath Bin and Ramakant Bin

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 12-12-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 156(3)
Penal Code, 1860 (IPC) — Section 201, 304B, 34

Citation : (2014) 2 DMC 460

Hon'ble Judges : Rajendra Kumar Mishra, J

Bench : Single Bench

Advocate : S.K. Lal and Javed Aslam, for the Appellant; S.N. Prasad, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Rajendra Kumar Mishra, J.—This Criminal Appeal is directed against the Judgment/Order dated 22.12.2009/23.12.2009 passed by the 2nd Additional Sessions Judge, Gopalganj, in Sessions Trial No. 331 of 2008/69 of 2009, whereunder the above named, appellants have been convicted under Sections 304-B /34 and 201 /34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years for the offence under Sections 304-B /34 of the Indian Penal Code and rigorous imprisonment for three years for the offence under Sections 201 /34 of the Indian Penal Code with direction to run both the sentences concurrently. The prosecution case, as set out in the Complaint Case No. 148 of 2008 of the complainant-informant, Jagarnath Bin (P.W. 6) as forwarded u/s 156(3) of the Code of Criminal Procedure to the Officer Incharge of Fulwaria Police Station, Gopalganj, to institute and investigate the case, is that he performed the marriage of his daughter, Bidanti Devi, in the month of Baisakh, in the year 2005, with appellant No. 1, Jagbandhu Bin, according to Hindu rites and customs giving the cash Rs. 50,000/-, furniture, ornaments etc. as gift and dowry. He could not perform the Bidai of his daughter due to some dispute on some point at the time of marriage. Later on, on 12.2.2007, the

accused persons took her daughter in Bidai and her daughter started living with her husband, Jagbandhu Bin (appellant No. 1). After sometime, mother-in-law, father-in-law, Swaminath Bin (appellant No. 2) and Nanad of his daughter started to torture her for not providing proper dowry. After 10 days of Bidai of his daughter, his son, Ram Pravesh (not examined) went to village-Sonegarhwa, the matrimonial village of his daughter, Bidanti Devi, where she told his son about the demand of motorcycle, cash Rs. 20,000/- and refrigerator and also for torturing her about the same. His daughter also asked his son, Ram Pravesh, to inform the parents. Swaminath Bin (appellant No. 2) and his wife also pressed his son, Ram Pravesh to fulfill the demand of cash Rs. 20,000/-, motorcycle and refrigerator within one month otherwise they would not keep his sister. His son came to house and informed about the same. After one month, appellant No. 1, Jagbandhu Bin, came to the house of the complainant-informant and told that his father, mother and sister are pressurizing him for the demand of dowry saying that one month time was given to fulfill the demand but still the demand has not been fulfilled and Jagbandhu Bin asked the complainant-informant to come and take back to his daughter. The informant told him that after improvement of financial condition he would fulfill the demand. Thereafter, in the year 2007, in the month of Kunwar, his grand son (not examined) went to the matrimonial house of Bidanti Devi with some edible materials then her mother-in-law, father-in-law and sister-in-law threw the same and also gave threatening that if the dowry, as demanded, would not be given then the dead body of his Aunt (Phua), Bidanti Devi, would be sent to his house. Bidanti also narrated all the stories to the grand son of the complainant-informant. Thereafter, the complainant-informant alongwith the witnesses went to the matrimonial house of his daughter but there was no change in the behavior of the accused. Thereafter, on 3.1.2008, an unknown person of Sonegarhwa came and informed him about the serious illness of his daughter, then he rushed to the matrimonial village of his daughter, Sonegarhwa but he found the in-laws of his daughter absent at the house. He also came to know from villagers that his daughter was not ill rather the accused persons burnt to death his daughter by sprinkling kerosene oil and also cremated her dead body.

2. On the basis of the aforesaid complaint petition of the complaint-informant, Jagarnath Bin (P.W. 6), Fulwaria P.S. Case No. 12 of 2008 was instituted under Sections 304-B /201 /34 of the Indian Penal Code against the appellants, above named, and three others, namely, Suganti Devi, Chandrawati Kumari and Som Narain Bin.

3. After investigation of the case, police submitted the chargesheet under Sections 304-B /201 /34 of the Indian Penal Code. Thereafter, cognizance of the offence was taken and the case was committed to the court of sessions for trial, where charges under Sections 304-B /34 and 201 /34 of the Indian Penal Code were framed against the appellants and other accused, Suganti Devi, Chandrawati Kumari and Som Narain Bin.

4. After trial, the trial court found the appellants, above named, guilty, under Sections 304-B /34 and 201 /34 of the Indian Penal Code and sentenced them as indicated above through the impugned Judgment and Order. However, the other accused were not found guilty and were acquitted of the charges.

5. During trial, the prosecution has examined altogether 8 witnesses to prove its case, out of them, P.W. 1, Sukhram Prasad alias Sukhram Bin, is the co-villager of the informant, Jagarnath Bin (P.W. 6), P.W. 2, Juit Prasad, is the brother of the informant, Jagarnath Bin (P.W. 6), P.W. 3, Asha Devi, is the wife of the informant, Jagarnath Bin (P.W. 6), P.W. 4, Satyadeo Pandey, is the co-villager of the informant, Jagarnath Bin (P.W. 6), P.W. 5, Lal Chand Bin, is the nephew of the informant, Jagarnath Bin (P.W. 6), P.W. 6, Jagarnath Bin, is the informant of the case, P.W. 7, Rajeshwar Prasad and P.W. 8, Jay Narain Yadav, are the Investigating Officers of the case.

6. On the other hand, the defence has also examined altogether three witnesses, who are Shambhu Yadav (D.W. 1), Raj Kishore Yadav (D.W. 2) and Vijay Kumar Srivastava (D.W. 3).

7. Now, I have to consider the evidence of the prosecution witness to see whether the prosecution has been able to prove its case against the appellants beyond all reasonable doubts or not.

8. P.W. 1, Sukhram Prasad alias Sukhram Bin, who is the co-villager of the informant, Jagarnath Bin (P.W. 6), has stated in his evidence that the occurrence took place about 1 year earlier. At that time Jagarnath Bin (P.W. 6) and his brother, Baij Nath, were weeping. At that time, he came to know that Bidanti Devi had died but he did not know the cause of the death.

9. P.W. 4, Satyadeo Pandey, is the co-villager of the informant, Jagarnath Bin (P.W. 6). He has stated in his evidence that he knows to Jagarnath Bin (informant) and the marriage of the daughter of Jagarnath Bin (informant) was performed with Jagbandhu Bin of village-Sonegarhwa. He received information about one year earlier in the morning that the daughter of Jagarnath Bin has died but he did not know as to what happened thereafter.

10. P.W. 6, Jagarnath Bin, is the informant of the case. He has stated in his evidence that he has lodged the case. He performed the marriage of his daughter with Jagbandhu Bin and after 2 ? years, she was sent to her sasural in Bidai. Thereafter, her in-laws started misbehaving with her. His grand son, Ram Pravesh, went to the sasural of his daughter, where the accused persons made demand of motorcycle and cash of Rs. 50,000/-. This witness has further stated that he and others went to the sasural of his daughter and convinced her in-laws and, thereafter, returned to his house. This witness has further stated that Ram Pravesh again went to the sasural of Bidanti with edible articles but her in-laws did not keep the articles and threw the same. After some days, he came to know that his daughter is ill then he went to the sasural of his daughter but none was present there. He made query in the village and came to know that his daughter

was burnt to death. This witness has further stated that the accused are Jagbandhu Bin (appellant No. 1), his father (Swaminath Bin) appellant No. 2, uncle (Ramakant Bin) appellant No. 3, sister and mother of the accused. This witness has further stated that he went to the police station but his case was not lodged. Thereafter, he went to the Civil Court, Gopalganj, and filed the case in the court. This witness has further stated in paragraph-4 of his cross examination that at the time of filing of the case, Sukhdeo and Lalji were present and in connection with lodging the case he had gone to the court of Chief Judicial Magistrate. This witness has further stated in paragraph-5 of his cross examination that he never met his daughter after her Bidai. This witness has also stated that he knows all the villagers of the village-Sonegarhwa. This witness has further stated in paragraph-6 of his cross examination that he had gone to the police station, but the date and time is not in his memory. He came to know about the occurrence after ten days. This witness has also stated that his two sons are residing at Lucknow. This witness in paragraph-7 of his cross examination has denied the suggestion of the defence that his daughter, Bidanti Devi, was suffering from abdominal pain, so she was carried from Government Hospital to Lucknow, where she died and his two sons participated in her funeral ceremony at Lucknow.

11. P.W. 2, Juit Prasad is the brother of the informant, Jagarnath Bin (P.W. 6). He has stated in his evidence that the marriage of Bidanti, the daughter of Jagarnath Bin (P.W. 6), was performed with Jagbandhu Bin (appellant No. 1) of village-Sonegarhwa. After marriage, she was sent in Bidai to her sasural. Thereafter, she was subjected to torture at her sasural for demand of dowry and gift. His grand son, Ram Pravesh, went to the house of Bidanti, and then Bidanti told him about her torturement for the demand of motorcycle and cash in dowry. This witness has further stated that Jagbandhi Bin (appellant No. 1) burnt Bidanti to death. This witness has further stated that he knows only Jagbandhu Bin (appellant No. 1). This witness has further stated that he and others had gone to the sasural of Bidanti. This witness has further stated in his cross examination at paragraph-3 that he had not gone to the house of Jagbandhu Bin (appellant No. 1). Jagbandhu Bin (appellant No. 1) is poor person and doing the work of labourer. This witness has further stated in paragraph-4 of his cross examination that he does not know the place where Bidanti had died. Ram Pravesh had told him that the in-laws of Bidanti were calling. He did not hear about the illness of Bidanti. This witness has further stated in paragraph-5 of his cross examination that a man of Sonergarhwa had come and informed that Bidanti has been burnt to death, he came to know the said fact from Jagarnath Bin (P.W. 6). This witness has denied the suggestion of the defence in paragraph-6 of his cross examination to the effect that Bidanti was suffering from abdominal pain, then she was taken to the Referral Hospital and from there she was carried to Lucknow, where she died and her funeral ceremony was performed there. This witness has further stated in paragraph-7 of his cross examination that two sons of Jagarnath Bin (P.W. 6) are residing at Lucknow but he could not say whether

both had participated in the funeral ceremony or not.

12. P.W. 3, Asha Devi, is the wife of the informant. She has stated in her evidence that the marriage of her daughter, Bidanti, was performed with Jagbandhu Bin. The in-laws of her daughter were making demand of cash Rs. 50,000/-, motorcycle and television but due to poorness she could not fulfill the demand. Her son-in-law, Jagbandhu Bin, demanded the cash etc. but she could not give the same to him and after ten days her daughter was burnt to death by Jagbandhu Bin (appellant No. 1), Swaminath Bin (appellant No. 2) and Ramakant Bin (appellant No. 3) and three other family members. Regarding the occurrence, the people of the sasural of her daughter informed then her grand son went there and he found the family members of the sasural of her daughter absent and they were absconding since four months. She has further stated that she knows to Jagbandhu Bin, Ramakant and Swaminath (appellant Nos. 1, 3 and 2 respectively), who were involved in burning to her daughter. She does not know to others. This witness in paragraph-3 of her cross examination has stated that Ramakant (appellant No. 3) and Swaminath Bin (appellant No. 2) respectively are uncle and father of Jagbandhu (appellant No. 1) but she does not know whether both are living separate or not. She has further stated that her sons have constructed the house at Lucknow. The name of her Gotni was Budha Devi, who had died at Lucknow and her funeral ceremony was performed there. This witness has further stated in paragraph-4 of her cross examination that her house is thatched hut and she has no landed property and she is leading her life by doing the work of labourer. Jagbandhu has also a thatched hut. Jagbandhu is matric but she is unable to say about the landed property of Jagbandhu Bin. She has further stated that she does not know the name of the person of Sonegarhwa, who had informed about the death of her daughter. This witness has further stated that her son had come from Lucknow after 15 days. This witness has further stated in paragraph-5 of her cross examination that her son had no knowledge about the occurrence. Her brother-in-law, Lalji Bin, had lodged the case in the court. This witness has denied the suggestion of the defence in paragraph-6 of her cross examination to the effect that Bidanti was suffering from abdominal pain and she was carried to Bhorey Hospital and from there she was referred to Lucknow and she died at Railway Station, Lucknow, while, her daughter was carried to P.G.I., Lucknow but she was declared dead by the doctor. This witness has also denied the suggestion of the defence to the effect that her both sons had participated in the funeral ceremony of her daughter at Lucknow.

13. P.W. 5, Lal Chand Bin, is the nephew of the informant (P.W. 6). This witness has stated in his evidence that the marriage of his cousin sister, Bidanti, was performed with Jagbandhu Bin (appellant No. 1), resident of village-Sonegarhwa in the year 2005. Thereafter, she was taken in Bidai to her matrimonial house. After ten days, Jagbandhu (husband/appellant No. 1), Ramakant (cousin father-in-law/appellant No. 3) and her father-in-law (Swaminath Bin), appellant No. 2, and the other family members of her sasural people started to torture her. Jagbandhu Bin and his father asked her to bring Rs. 20,000/- and a motorcycle

from her Mayaka giving threatening otherwise she would be left. His son, Ram Pravesh (not examined), was sent to the matrimonial house of Bidanti then Bidanti narrated him all the matters and also asked him to inform at the house. Thereafter, he, Baijnath (not examined), Jagarnath (P.W. 6) and Ram Pravesh (not examined) went to the matrimonial house of Bidanti, where her in-laws again repeated the demand of cash Rs. 20,000/- and a motorcycle in dowry giving threatening otherwise she would not be kept. After 10-15 days, an information regarding the illness of Bidanti was received from the sasural of Bidanti then he alongwith Baijnath (not examined), Jagarnath (P.W. 6) and Ram Pravesh (not examined) went to the sasural of Bidanti where they came to know that Bidanti has been burnt to death by sprinkling kerosene oil and none was present at the sasural house of Bidanti. This witness has further stated in his cross examination at paragraph-4 that he does not know that Ramakant has how many sons. This witness has further stated in paragraph-6 of his cross examination that he had not gone to the house of Ramakant Bin (appellant No. 3). He has further stated that Bidanti is his cousin sister and before her marriage, he and Jagarnath, father of Bidanti, were living separate. This witness has further stated in paragraph-6 of his cross examination that he does not know the name of own father-in-law of Bidanti. Jagbandhu is poor person and is leading his life by doing the work of labourer. This witness has further stated in his cross examination at paragraph-8 that at the time of second marriage of Bidanti, he was outside of the village and, thereafter, he did not meet to Bidanti. This witness has further stated in paragraphs-9 and 10 of his cross examination that his son, Ram Pravesh, used to visit the sasural house of Bidanti at the interval of 3-4 days and one day before her death Ram Pravesh had gone to her sasural. When his son went to sasural of Bidanti at that time Bidanti was not at house and on query her mother-in-law told him that she has gone for treatment with his Phupha (Jagbandhu), appellant No. 1. This witness has further stated in paragraph-11 of his cross examination that his cousin brother and full brother of Bidanti used to reside at Lucknow constructing the house there. This witness has denied the suggestion of the defence to the effect that Bidanti had gone to Lucknow for her treatment with her husband, Jagbandhu and she died at Railway Station at Lucknow. This witness has further denied the suggestion of the defence in paragraph-12 of his cross examination to the effect that funeral ceremony of Bidanti was performed at Lucknow.

14. P.W. 7, Rajeshwar Prasad, is the Investigating Officer of the case. This witness has stated in his evidence that on 14.2.2008, he took the charge of the investigation of Fulwaria P.S. Case No. 12 of 2008 of which formal F.I.R. was drawn by the then Officer Incharge, Jai Prakash Singh and this witness has proved the formal F.I.R. as Ext. 1. This witness has further stated in his evidence that after taking over the charge of investigation of the case, he went to the place of occurrence. The house of the accused, Jagbandhu, was thatched house facing south. There was no gate in the main door and on entering inside the house, there was courtyard and in east to the courtyard there were two rooms,

in the northern room, there were pieces of woods and in southern room, there was bamboo door in which Jagbandhu used to reside with his wife. It is said that Bidanti, wife of Jagbandhu, was killed in the said room by pressing her neck and her dead body was removed, as informed by the witnesses. In the north of the place of occurrence, there was field of Bhagirath Singh, in the south there was bathan of Subh Narayan Bin, in east, there was field of maize and potatoes of Ram Narayan Singh and in west, there was a village road. Thereafter, he recorded the statements of the witnesses, Dharmnath Singh (not examined), Ram Narayan Singh (not examined) and Ish Narayan Singh (not examined). Thereafter, he visited the house of the informant (P.W. 6), where he recorded his statement and also the statement of the witnesses, Asha Devi (P.W. 3) and Lal Chand Bin (P.W. 5). Thereafter, due to his transfer, he handed over the charge of the investigation to the Officer Incharge of Fulwaria Police Station. This witness has further stated in his cross examination that he did not mention in the case diary that as to who had introduced the place of occurrence.

15. P.W. 8, Jay Narain Yadav, is also the Investigating Officer of the case. He has stated in his evidence that on transfer of Rajeshwar Prasad (P.W. 7), he took the charge of investigation of Fulwaria P.S. Case No. 12 of 2008 and went to the place of occurrence village-Sonegarhwa, where he recorded the statement of Ram Nath Prasad (not examined). Thereafter, he obtained the supervision notes of S.D.P.O. and S.P. and submitted the chargesheet under Sections 304-B /201 /34 of the Indian Penal Code against the accused in the court. This witness has proved the endorsement and handwriting of the then Officer Incharge of Jai Prakash Singh on the written complaint petition of the informant (P.W. 6) as Ext. 2 about the institution of the case.

16. Learned counsel for the appellants made submission that there is specific case of the prosecution that the informant, Jagarnath Bin (P.W. 6), performed the marriage of his daughter, Bidanti, in the month of Baisakh in the year 2005 with appellant No. 1, Jagbandhu Bin, and she was sent in Bidai on 12.2.2007. After ten days of the Bidai, his son, Ram Pravesh (not examined) went to the matrimonial house of Bidanti at village-Sonegarhwa, where she told him about the demand of motorcycle, cash and refrigerator by her in-laws and torturing for the same to her and she also asked Ram Pravesh to inform her parents. Appellant No. 1, Jagbandh Bin, also came to the house of the informant (P.W. 6) and made complaint about the non-fulfillment of demand saying that while one month was given to fulfill the demand. The informant assured to fulfill the demand after improvement of the financial condition. Thereafter, in the year 2005 in the month of Kunwar, the grand son of the informant went to the sasural of Bidanti with edible materials but the same were thrown by her in-laws and again demand was repeated. Thereafter, the informant (P.W. 6) alongwith witnesses went to the sasural house of his daughter and tried to convince the in-laws of Bidanti. Similar statements have also been given by P.Ws. 2, 3, 5 and also the informant (P.W. 6) but neither the son and grand son of the informant have been examined to support the prosecution case regarding subjecting to

cruelty and harassment to Bidanti by her husband and in-laws for demand of dowry. The informant, Jagarnath Bin (P.W. 6), his brother, Juit Prasad (P.W. 2), and Lal Chand Bin (P.W. 5), the nephew of the informant, while have claimed in their examination-in-chief to go to the sasural house of Bidanti on receiving the complaint of torturement and harassment for demand of dowry demand to Bidanti but it would appear from paragraph-6 of the cross examination of the informant (P.W. 6) that he never met his daughter, Bidanti, after her Bidai. P.W. 2, Juit Prasad, the brother of the informant (P.W. 6) in paragraph-3 of his cross examination has stated that he never visited the sasural house of Bidanti. Similarly, Lal Chand Bin (P.W. 5), the nephew of the informant (P.W. 6), has also stated in paragraph-8 of his cross examination that at the time of second marriage of Bidanti, he was outside of the village and, thereafter, he did not meet Bidanti. In fact, there is no evidence to show that the deceased, Bidanti, was subjected to cruelty and harassment soon before her death for demand of dowry by her husband and in-laws. As such, the prosecution has not been able to prove the charge of dowry death u/s 304-B of the Indian Penal Code. Learned counsel for the appellants further made submission that while the informant (P.W. 6) has specifically stated in his complaint petition, which is the basis of the F.I.R. of Fulwaria P.S. Case No. 12 of 2008, that he came to know about the illness of his daughter, Bidanti, from a villager of village-Sonegarhwa, the sasural village of Bidanti, and similar statements have also been given by P.Ws. 2, 3 and 5 but P.W. 5 in his cross examination in paragraph-9 has stated that his son, Ram Pravesh (not examined) used to visit the sasural house of Bidanti at the interval of 3-4 days and he had also gone to the sasural house of Bidanti, one day before the death of Bidanti, and at that time Bidanti was not at the house and on query made by him, mother-in-law of Bidanti told him that she has gone for treatment with his Phupha, Jagbandhu Bin (appellant No. 1), which also falsifies the prosecution case about knowing the illness of Bidanti from a villager. It has further been submitted by the learned counsel for the appellants that, in fact, Bidanti was suffering from abdominal pain and she was treated at Bhoirey Hospital and due to serious condition, she was taken to Lucknow, where she died and both the brothers of Bidanti, who used to reside at Lucknow, had participated in her funeral ceremony, but the informant, Jagarnath Bin (P.W. 6), the father of Bidanti, with an ulterior motive, lodged this case only to give undue pressure.

17. On the other hand, learned A.P.P. for the State made submission that Ram Pravesh, the grand son of the informant (P.W. 6), to whom the deceased had informed about her torturement for demand of cash, motorcycle and refrigerator at the hands of her husband and in-laws, has not been examined and the informant (P.W. 6), his brother (P.W. 2) and nephew (P.W. 5) while have admitted in their cross examinations about not visiting the sasural house of Bidanti but the said witnesses and P.W. 3, Asha Devi, the mother of Bidanti, have specifically stated in their evidence that appellant No. 1, Jagbandhu Bin, had come to the house of the informant and had asked for fulfillment of the dowry demand. As

such, there is no illegality in the impugned Judgment and Order of the trial court.

18. In the light of the rival submissions of the parties, now, I proceed to discuss the prosecution case and the evidence of the prosecution witnesses in that regard.

19. The prosecution case, as set out in the complaint petition, which is the basis of the F.I.R. of Sonegarhwa P.S. Case No. 12 of 2008, is that the informant performed the marriage of Bidanti in the month of Baishakh in the year 2005 with appellant No. 1, Jagbandhu Bin. Later on, on 12.2.2007, the informant sent to his daughter, Bidanti, in Bidai to her sasural. After ten days of the Bidai, his son, Ram Pravesh, went to the sasural village of Bidanti at Sonegarhwa, where Bidanti told him about the demand of motorcycle, refrigerator and cash Rs. 20,000/- and torturing for the same at the hands of her husband and in-laws. His grand son returned to the house and informed about the demand and harassment for the same to Bidanti. After one month, Jagbandhu Bin (appellant No. 1) came to the house of the informant (P.W. 6) and told to fulfill the demand, otherwise to bring back to Bidanti. The informant assured to fulfill the demand after improvement of the financial condition. In the year 2007, in the month of Kunwar, his grand son went to the sasural house of Bidanti with some edible materials but her in-laws threw the same and again repeated the demand. Thereafter, the informant alongwith the witnesses went to the village-Sonegarhwa, the sasural house of Bidanti, and tried to convince her in-laws but all in vain. On 3.1.2008, the informant came to know from an unknown person of village-Sonegarhwa about the illness of his daughter, Bidanti, then he alongwith the witnesses rushed to village-Sonegarhwa, the matrimonial house of Bidanti, and found the in-laws of his daughter, Bidanti, absent at the house and he came to know from the villagers that his daughter has been burnt to death by sprinkling kerosene oil by the accused persons and her dead body has been cremated. Similar statement has been given by the informant (P.W. 6) in his evidence but the informant (P.W. 6) in paragraph-6 of his cross examination has stated that after Bidai of his daughter, Bidanti, he never met with her. As such, he came to know about the torturement and harassment to Bidanti for non fulfillment of the dowry demand by his grand son, Ram Pravesh, who has not been examined by the prosecution. P.W. 2, Juit Prasad and P.W. 5, Lal Chand Bin, while have supported the prosecution case in their evidence in examination in chief about knowing the torturement and harassment to Bidanti due to non fulfillment of dowry demand by Ram Pravesh and also to go to the sasural house of Bidanti on receiving the said information with P.W. 6 but P.W. 2, Juit Prasad, in paragraph-3 of his cross examination has specifically stated that he had not gone to the sasural house of Jagbandhu Bin (appellant No. 1). P.W. 5, Lal Chand Bin, in paragraph-8 of his cross examination has stated that at the time of second marriage of Bidanti, he was outside of the village and, thereafter, he never met Bidanti. As such, both the witnesses never visited the sasural house of Bidanti and they came to know about the torturement and harassment to Bidanti for the demand of dowry soon before the death of Bidanti from Ram Pravesh. Ram

Pravesh has not been examined in this case. As such, evidence of P.Ws. 2, 3, 5 and 6 regarding the cruelty or harassment for or in connection with demand of dowry to the deceased, Bidanti, the daughter of the informant (P.W. 6) before her death, is hearsay evidence.

20. To prove the offence of the dowry death u/s 304-B of the Indian Penal Code, the following ingredients are required to be proved by the prosecution:-

(a). The death of a woman should be caused by burns or fatal injury or otherwise under normal circumstance.

(b). Such death should have occurred within seven years of marriage.

(c). The woman must have been subjected to cruelty or harassment by her husband or relative of her husband and such cruelty or harassment should be in connection with the demand of dowry.

21. In the present case, there is practically no evidence to show that there was any cruelty or harassment for or in connection with the demand of dowry to the deceased, Bidanti Devi as P.Ws. 2, 3, 5 and 6 came to know about cruelty and harassment for demand of dowry to Bidanti at the hands of her husband and in-laws from Ram Pravesh, who has not been examined by the prosecution. The deficiency of the evidence in this regard is fatal for the prosecution case. As such, the prosecution has not been able to bring home its case under the purview of Section 304-B of the Indian Penal Code. So far as the offence u/s 201 of the Indian Penal Code is concerned, in addition to the fact that the prosecution has not been able to prove the main offence u/s 304-B of the Indian Penal Code, there is also no evidence to attribute the offence u/s 201 of the Indian Penal Code against the appellants, by attributing the knowledge of the commission of the offence by the appellants.

22. Under the aforesaid facts and circumstances of the case and the discussions made above, I am of the view that the prosecution has not been able to prove its case against the appellants beyond all reasonable doubts and the appellants are entitled to get the benefit of doubt. In the result, the impugned Judgment/Order is set aside and the appeal is allowed. The appellants are acquitted of the charges levelled against them. The appellant No. 2, Swaminath Bin and appellant No. 3, Ramakant Bin, are on bail, so they are discharged from the liabilities of their bail bonds. The appellant No. 1, Jagbandhu Bin, who is in jail custody, is directed to be released forthwith, if not wanted in any other case.