

(1995) 03 BOM CK 0082
In the Bombay High Court
Case No : Criminal Appeal No. 175 of 1992

Punjab Sakharam Raut and another

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 15-03-1995

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 174
Evidence Act, 1872 — Section 113A
Penal Code, 1860 (IPC) — Section 107, 306, 34, 498A

Citation : (1995) CriLJ 4021

Hon'ble Judges : B.U. Wahane, J

Bench : Single Bench

Advocate : Smt. K.V. Sirpurkar, for the Appellant; Shri Mishra, Assistant Public Prosecutor, for the Respondent

Judgement

B.U. Wahane, J.—This criminal appeal is directed by the appellants/accused against the judgment and order dated 27th March, 1992, passed by the Addl. Sessions Judge, Washim convicting both the accused for the offence punishable under Ss. 306, 498A read with S. 498A of the Indian Penal Code and sentencing both the appellants/accused to suffer R.I. for 5 years for the offence punishable under S. 306 and for 2 years for the offence punishable under S. 498A r/w S. 34 of the Indian Penal Code, in Sessions Trial No. 83/91. The learned trial Judge ordered the substantive sentences to run concurrently.

2. The facts giving rise to the prosecution of the appellants/accused and the present appeal, in brief, are as follows :

The appellant/accused No. 2 is the mother of the appellant/accused No. 1 Punjab Sakharam Raut. Both the appellants are residing at village Bhera. Both were joint in mess and were residing along with other members of the family. Deceased Sunita was married to the appellant/accused No. 1 Punjab Raut. The marriage was solemnised on 26-5-1991. According to the prosecution, the father of deceased Sunita viz. Trimbak s/o Kalu Surve had given Rs. 1000/- in cash and

cloths to bride-groom in the marriage. During the period from 26th May 1991 till the last breath of deceased Sunita i.e. 4-8-1991, twice or thrice she had been to her parents' place. Firstly, after the marriage, she stayed at the matrimonial house for about 12 days. Ramchandra - the brother of the deceased brought her at Borgaon. She stayed with her parents at Borgaon for 2 to 4 days. Kaluji Surve (PW 4) - grand-father of the deceased Sunita reached her to her matrimonial house. Deceased Sunita was again brought to her parents' house at the time of Akhadi i.e. in the month of Ashadi. She stayed for 10 days. Then she was reached to her matrimonial house and after about 8 days, the message of her death was received by her parents.

3. According to the prosecution, on both the occasions, deceased Sunita complained to her parents and brother that she is being ill-treated and taunted for paying less amount of dowry and that she is not well versed in preparing food. Deceased Sunita specifically told her parents that her mother-in-law used to ill-treat her by taunting and her husband by beating. Shri Trimbak Surve the father of deceased Sunita tried to convince his daughter by saying that she should go to her matrimonial house and he would talk to both the accused and persuade them to treat her well.

4. On 4-8-1991, the appellant/accused Punjab Raut had been to village Borgaon and informed Trimbak Surve (PW 2) the father of deceased Sunita, that Sunita is missing. Shri Trimbak Survey and other relations immediately went to village Bhera. The relations of deceased Sunita initially had been to the house of the accused and thereafter at the spot where the dead body of Sunita was found in well.

5. At about 11.00 a.m. while Shri Ramesh Deshmukh (PW 1) - the Police Patil of the village Bhera was working in his field, one Madhav Annaji Raut of the village came to him and told that the dead body of Sunita wife of Punjab Raut, aged about 18 years, was lying in the well of the Gram Panchayat. Thereupon, Ramesh Deshmukh - the Police Patil immediately rushed to the spot along with other villagers. The Police Patil found the dead body of Sunita hooked with draghook. He immediately sent the report vide Exh. 28 to the Police Station Officer, Police Station, Shirpur. Police came to the spot and took out the dead body of Sunita from the well. On the basis of the report lodged by Ramesh Deshmukh - Police Patil, the accidental death was registered vide Death No. 17/91 under S. 174 of Cr.P.C. at 1.55 p.m. The dead body of Sunita was examined before the Panchas including lady Panch and inquest Panchanama was prepared by police, vide Exh. 34.

6. Shri Trimbak Surve (PW 2) lodged report (Exh. 30) on 4-8-91 with the police who were present near the well. In the report Exh. 30, it is specifically stated that husband and mother-in-law of deceased were ill-treating her saying that she does not know house-hold work, cooking food and that her father has given less amount of dowry in the marriage. It is further stated that the appellant/accused Punjab always used to beat deceased Sunita. According to Trimbak Survey - the

father of the deceased Sunita, the appellants/accused were not only harassing the deceased Sunita but were not providing food to her. In the report, he specifically stated that the harassment at the hands of the appellants being unbearable, deceased Sunita committed suicide or her husband might have pushed her into well. On the basis of the report Exh. 30, the offence was registered against the appellants/accused for the offence punishable under S. 498A, and 306 r/w S. 34 of the Indian Penal Code vide Crime No. 83/91. A Requisition Exh. 35 was sent to the Civil Surgeon with the dead body for the post-mortem. Exh. 38 is the post-mortem report.

7. During the investigation, the clothes of the deceased Sunita viz. Sari, Petticoat, Blouse, hairclips, chain of black-beads and bangles were seized vide Exh. 36. After the investigation the charge-sheet was filed to which the appellants/accused pleaded not guilty and claimed to be tried.

8. To substantiate the charge, the prosecution examined in all six witnesses as under :

(i) Shri Ramesh Deshmukh (PW 1) - the Police Patil who lodged initial report Exh. 28;

(ii) Shri Trimbak Surve - the father of deceased Sunita who lodged report on 4-8-91 vide Exh. 30 to the police who were present at the Gram Panchayat well at Bhera;

(iii) Smt. Gumfabai (PW 3) - the mother of deceased Sunita;

(iv) Shri Kaluji Surve (PW 4) - grand-father of deceased Sunita;

(v) Shri Subhash Bhagwan Wankar (PW 5) - Pancha witness to Panchanama Exh. 41;

(vi) Shri Sudhakar Yerme (PW 6) - the Investigating Officer.

9. The defense of the appellants/accused is that deceased Sunita accidentally fell in the well while fetching out the bucket which was already in the well and, thereby, the defence of the appellants/accused is of denial.

10. After scrutinising the evidence adduced by the prosecution and other materials on record, the learned Sessions Judge, held that the deceased was subjected to physical and mental torture by the appellants/accused and thereby both have committed the offences punishable under S. 498A and S. 306 r/w S. 34 of Indian Penal Code.

11. Smt. Sirpurkar, the learned counsel for the appellants/accused vehemently submitted that the learned trial court has taken un-reasonable view though there is no iota of evidence to substantiate that deceased Sunita has committed suicide, as also there is no cogent, reliable and unimpeachable evidence about the complicity of both the appellants/accused for the offence charged against them. The learned counsel for the appellants/accused made two fold submissions

as under :

Firstly, the suicide as alleged by the prosecution has not been proved and; Secondly, the cruelty as envisaged under the provisions of S. 498A of the Indian Penal Code has not been established.

12. The learned counsel for the appellants/accused submitted that there is no positive evidence led by the prosecution as to what time the deceased Sunita had been to the well. The well is of the Gram Panchayat and situated in front of the Primary School. It has a parapet wall of 2 ft. in height and pulleys are fitted at three places. The drag-hook was found tied with the end of the Sari which was on the person of deceased Sunita. One end of rope was tied with the drag hook and another end was tied to the pulley. This circumstance suggests that just early in the morning deceased Sunita might have gone to the well to fetch water but as the bucket fell into the well, she might have taken the drag-hook and tried to take out the bucket from the well. Thus, the possibility of falling in the well cannot be ruled out. According to the Medical Officer Rural Hospital, Washim, who performed autopsy on the dead body of Sunita opined that the probable cause of death is due to asphyxia and cardio respiratory failure because of drowning. The term asphyxia means reduction of oxygen to the blood and tissues appreciably below normal working level by some interference with respiration. The symptoms of drowning are the same whether the deceased jumped in, fell in or thrown into water. It is no doubt the suicide is fairly common especially amongst the women in well, river or canal as also in sea in a town. Similarly, accidental drowning is also quite common. Women may fall accidentally in the well while fetching water. However, injuries often are sustained during the accidental fall. The death by drowning whether is suicidal homicidal or accidental has to be decided in the circumstances of the individual cases.

Smt. Sirpurkar, the learned counsel for the appellants/accused further submitted that as the Medical Science is not yet so perfect as to determine the exact time of death nor can the same be determined in computerisation or mathematical fashion so as to determine the accurate time of death on the basis of the food particles digested or semi digested found in the stomach, only on the basis of the opinion given by the Medical Officer in the post-mortem report (Exh. 38), one cannot jump to the conclusion that the deceased Sunita had gone to either jump into the well or fell in the well at about 3 or 4 a.m. In the instant case, deceased Sunita being a young girl of 18 years of age and it is very common in the villages, the women folk have the habit of going to the well in the early morning to fetch water and, therefore, it is very probable that deceased Sunita might have gone to the well to fetch water and thereafter to take bucket from the well.

It is very difficult to accept the submission of the learned counsel for the appellants/accused in view of the evidence otherwise. Shri Ramesh Deshmukh (P.W. 1) - the Police Patil specifically deposed that on being informed on 4-8-1991 at about 11 a.m. while he was working in the field, that the wife of the appellant Punjab is floating in the well, he went to the well and interrogated the

accused Punjab. In reply to the interrogation, the accused Punjab told him that when he got up at 3 to 4 a.m. Sunita was not there on the bed. Further, the Police Patil was informed that the accused Punjab searched for her and ultimately found the dead body of Sunita lying in the well. On the basis of the narration from the appellant/accused, the Police Patil lodged report Exh. 28 with Police Station Officer, Sirpur.

13. According to Shri Trimbak Surve (P.W. 2) the father of deceased Sunita, accused Punjab had been to his village on 4-8-1991 at about 8.00 a.m. and told him that Sunita had gone somewhere since night. This finds place in Exh. 30 - the oral report lodged by Trimbak Survey at village Bhera near the well where the dead body of deceased Sunita was floating. According to the doctor who performed the post-mortem vide Exh. 38, specifically opined in column No. 21, to the effect that;

"The patient may had taken meal 6 hours before the death."

This opinion is based on the observation of stomach and its contents. Small intestine and its contents, large intestine and its contents. Doctor found

"inner coat congested and contains partially digested food particles and water about 200 ml without peculiar smell congested and contains water."

14. It being a rainy season, generally the village folk return early to their houses and take the night meal by 7.30 to 8.00 p.m. Therefore, deceased Sunita might have left the house to commit suicide in between 2 to 4 p.m. Besides this circumstances, it is difficult to digest the suggestion that the deceased Sunita might go for a call of nature at a long distance of 100 ft. i.e. distance between her residence and the well and that too on the outskirts of the village particularly in the rainy season. Similarly, it appears like weaving fiction that a young girl will go to the well to fetch water or to attend the call of nature at such odd hours, as also to try to take out the bucket from the well by drag-hook. If really she had been to the well in the dead hours of the night to fetch water and in her attempt the bucket fell in the well, then the natural conduct would be to return back and to inform the inmates of the house, particularly to her husband. No women folk and particularly newly married one of an age of deceased Sunita will go to the well again at the outskirts of the village to take out the bucket with the help of drag-hook. Therefore, the only conclusion available and rightly accepted by the learned trial Court is that due to physical and mental torture and constant harassment suffered at the hands of the appellants/accused, being unbearable, she committed suicide leaving the house at about 3 or 4 a.m.

15. Shri Mishra, the learned A.P.P. for the State has rightly stated that though the Gram Panchayat well is situated in front of the School, it is not a public well in use for fetching water. When the dead body of Sunita was found floating in the well by the appellant Punjab, till then one end of rope was tied with one of the pulley and another end was tied with the drag-hook attached to the end of the Sari of the deceased Sunita. If really the Well was in use to fetch water, naturally

this aspect would have attracted the attention of the women folk who might have gone to fetch water. It is a natural tendency of the women folk of the village to make a mountain of mole hill. If really anybody from the village would have seen the rope tied with one of the pulley, he would have raised hue and cry to attract the attention of other villagers. It is clear from the facts and circumstances of the case that till 11.00 a.m. neither the dead body of Sunita floating on the surface of the water of the Well nor the rope tied with one of the pulley was seen by anybody else than the appellant Punjab. Thus, considering the facts and circumstances as discussed above, the accidental death is ruled out. The only irresistible conclusion is that deceased Sunita has committed suicide in the Well in the dead hours of night.

16. As to the second limb of submission of Smt. Sirpurkar the learned counsel for the appellant/accused, whether there is a evidence of cruelty to attract the provisions of Section 498A and 306 r/w 34 of the Indian Penal Code, according to the learned counsel for the appellant, though Shri Trimbak Surve (P.W. 2), Smt. Gumfabai (P.W. 3) and Shri Kaluji Surve (P.W. 4) - father, mother and grant-father respectively of deceased Sunita stated in their evidence that she was beaten and harassed, taunting that she has not brought sufficient amount of dowry and that she does not known how to do domestic work and to cook food. The allegations are not sufficient to attract the provisions of Section 498A of I.P.C. The evidence is not only of the close relations but no specific date or month has been disclosed about the ill-treatment and mental torture to deceased Sunita where of she was instigated to commit suicide. The evidence of the blood relations cannot be considered as cogent, reliable and unimpeachable as neither the neighbours nor any other independent witnesses have been examined in the instant case. Mere quarrel or ill-treatment would not be sufficient to level the charge of cruelty within the meaning of explanation of Section 498A of the Indian Penal Code. The degree to the conduct of the husband and his relations must be such that it would drive the wife to commit suicide or would cause grave injury or danger to her life, limb or health.

17. The learned counsel for the appellant has submitted that the presumption raised in newly inserted Section 113A in the Indian Evidence Act is not available to the prosecution in the instant case because the prosecution has failed to prove the true ingredients of the said section in this case. According to the learned counsel, the prosecution has failed to prove that deceased Sunita has committed suicide by jumping in the Well. According to the learned counsel the IInd ingredient is also not satisfied because other requirement of Section 113A that deceased Sunita was subjected to cruelty as understood u/s 498A of the Indian Penal Code, was also not proved in this case.

18. Section 498A of the Indian Penal Code provides that;

"When the husband or relative of husband of a woman subjecting her to cruelty, he shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine."

The term Cruelty has been defined in Explanation (b) of Section 498A. The Explanation (b) of Section 498A of the Indian Penal Code provides that;

"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 is on account of failure by her or any person related to her to meet such demand."

It is, therefore, submitted that sub-clause (b) does not make each and every harassment cruelty.

Explanation (a) to Section 498A of the Indian Penal Code provides that;

"cruelty means 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."

Thus, sub-section (b) of section 498A of the Indian Penal Code does not make each and every harassment cruelty. The harassment has to be with a definite object namely to coerce the woman or any person related to her to meet any unlawful demand. Hence, harassment by itself is not cruelty. Mere demand for property etc. is also not cruelty. It is only where harassment is shown to have been meted for the purpose of coercing a woman to meet the demands, that is meant cruelty and this is made punishable under the section.

19. Smt. Sirpurkar, the learned counsel for the appellants\\accused placed reliance on a case of Sukhdeo Dagdu Thakre v. The State of Maharashtra ILR 1985 Bom 2086 Nagpur Bench Shri Dhabe, J.) and in a case of Ravindra Pyarelal Bidlan and others Vs. State of Maharashtra, (Bombay High Court Ashok Agarwal, J.). In the case of Ravindra Bidlan cited supra it is observed that;

"If cruelty is by itself established and the fact of suicide is also established; it would not be sufficient to bring home the guilt of committing cruelty as defined in Explanation (a). A reasonable nexus has to be established between the cruelty and the suicide in order to make good the offence of cruelty. Alternatively, the cruelty established has to be of such a gravity as is likely to drive a woman to commit suicide. If suicide is established it has further to be established that it was occasioned on account of cruelty which was of sufficient gravity so as to lead a reasonable person placed in similar circumstances to commit suicide."

It is further observed that;

"Mere harassment or mere demand for property etc. is not "cruelty". The harassment has to be with a definite object namely to coerce the woman or any person related to her to meet any unlawful demand. Hence, mere harassment by itself is not cruelty. Mere demand for property etc. by itself is also not cruelty. It is only where harassment is shown to have been committed for the purpose of coercing a woman to meet the demands that is cruelty and this is made punishable under the section."

A reliance has been placed on a case of Wazir Chand and Another Vs. State of Haryana, in which Their Lordships observed that;

"Reading Sections 306 and 107 together it is clear that if any person instigates any other person to commit suicide and as a result of such instigation the other person commits suicide, the person causing the instigation is liable to be punished u/s 306 of the Penal Code for abetting the commission of suicide. A plain reading of this provision shows that before a person can be convicted of abetting the suicide of any other person, it must be established that such other person committed suicide."

20. Smt. Sirpurkar, the learned counsel for the the appellants/accused further submitted that considering the facts and circumstances merely alleging that she has brought less amount of dowry as also she is not cooking properly will not amount to cruelty and thereby there seems no mens-rea of the appellants\ \accused that deceased Sunita should commit suicide.

The prosecution has to prove wilful conduct and mens-rea which is a necessary ingredient. A reliance has been placed on a case of Veerulu v. State of Andhra Pradesh, 1988 (3) Crimes 549 (Andhra Pradesh High Court) in which at para No. 12, it is observed that;

"Adverting to the standard of proof for "cruelty" in civil and criminal law, it is to be noted that "cruelty" is one of the grounds for grant of relief of "judicial separation" or "divorce" under the Hindu Marriage Act. The word cruelty as such is not defined in the Hindu Marriage Act. However, Courts have interpreted it from time to time as of two categories, viz. physical cruelty and mental cruelty. In *Ruselve*. *Ruselve* cruelty was defined as the conduct of such a character to have caused danger to life, limb or health, body or mental, or to have given rise to a reasonable apprehension of such danger. Therefore, the conduct need not practically result in the danger and it is enough if it gives rise to a reasonable apprehension of such a danger. Human relations are so diverse that it is rather difficult to lay down with finality the classes of acts that constitute cruelty. In one case commission of a certain act may result in cruelty while in another non-commission of that act may cause cruelty. Again cruelty may be direct or indirect. At one time it may be intended with an objective while on another occasion it may be quite unintended and with no objective. Thus, as has been the majority view in *Gollins. v. Gollins* intention on the part of one spouse to injure the other is not a necessary element of cruelty. Where two spouses are of normal physical and mental health and the conduct of the respondent spouse so considered is so bad that the other should not be called on to endure it, cruelty is established; it does not then matter what the respondent's state of mind was, for it is immaterial whether the respondent's conduct was aimed at the other spouse or due to unwarranted indifference attributable, perhaps to selfishness or laziness. *Lored Pearce* in *Gollins. v. Gollins* supra said :

In the light of the vital fact the Court has then to decide whether the sum total of

the reprehensible conduct was cruel. That depends on whether the cumulative conduct was sufficiently weighty to say that from a reasonable person's point of view, after a consideration of any excuses which the respondent might have in the circumstances, the conduct is such that the petitioner ought not to be called on to endure it."

Referring various cases in para No. 15 it is further observed that;

"On an analysis of the cases noted supra, it can be called out that (i) the standard of proof of cruelty are higher in decree in criminal law than in civil law under the matrimonial causes, (ii) the intention or mens are on the part of one spouse to injure the other is not a necessary element of cruelty in civil law for matrimonial causes while it is an essential element in criminal law, (iii) it is enough if cruelty is proved by preponderance of probabilities in civil law while in criminal trials the conduct of cruelty has to be proved beyond all reasonable doubt, (iv) it is immaterial in civil law whether the respondent's conduct was aimed at the other spouse or due unwarranted indifference attributable, perhaps to selfishness or laziness, while it is very much material in criminal proceedings, and (v) for the relief of matrimonial causes in civil law the conduct of the spouse need not necessarily result in danger of life, limb or health, but a reasonable apprehension of such a danger is enough, whereas Section 498A, IPC contemplates such a conduct besides being wilful to result in the likelihood of driving the woman to commit suicide or to cause grave injury or danger to life, limb or health."

The term "wilful misconduct" is discussed in para 25 which is as follows :

"The term wilful misconduct was the subject matter of interpretation in Lewis v. Great Western Rly. Co. It is held :

wilful misconduct means misconduct to which the will is a party something opposed to accident or negligence wilful misconduct must be that the person guilty of it should know that mischief will result from it.

Thus, the word, "wilful" in the term "wilful conduct" excludes a happening due to accident or inadvertence while taking with in its sold an act which is deliberate or intentional. Accordingly to constitute "wilful conduct" it should necessarily involve in itself an intention to do the act, a deliberate attitude or that the mind of the person doing the act should go along with that act."

21. In reply to the submissions made by Smt. Sirpurkar, the learned counsel for the appellants/accused, Shri Mishra, the learned A.P.P. for the State vehemently submitted that in the instant case the death of Sunita who committed suicide is a dowry death and that too in the custody of the husband and that too within 7 years from the date of marriage and hence the duty cast on the appellants/accused to explain the custody death.

Section 113A of the Indian Evidence Act reads as under :

"Presumption as to abetment of suicide by married women. - When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of 7 years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband."

22. Admittedly, in this case, deceased Sunita was married with the appellant No. 1 Punjab Raut on 26th May, 1991 and she committed suicide on 4th August, 1991 i.e. within 2 months and 8 days. The father, mother and grand-father of deceased Sunita in specific words have deposed that during her visits to her parents' house, deceased Sunita complained against her husband and mother-in-law that she has been subjected to physical and mental torture by taunting and beating on the ground that she has brought less dowry amount as also she is not cooking properly. Mr. Mishra - the learned A.P.P. for the State has rightly stated that except a stone hearted woman may not care of the taunting and harassment. It differs from person to person. In the instant case, deceased Sunita being hardly of 18 years of age, would be the last person to complain against her husband and mother-in-law at the earlier days of her marriage if there would not have been torture or cruelty of severe or grievous nature. None could dare to deny that in the life of female, marriage tie is the happiest day in her life and if she becomes mother, then it adds golden feather in her cap. Every female, irrespective of age, build castles of heavenly happiness in the matrimonial or husband's home and his arms as paradise on earth or heavenly bliss. It will not be out of place to mention that any incident of taunting or beating is preceded with abuses and it is a common experience of all irrespective of caste, creed and religion. The stray domestic quarrels, perfunctory abuses by mother-in-law in the Indian Society, crude and uncultured behaviour by the in-laws or the husband towards his wife being mundane matters of normal occurrence in the traditional joint Hindu Families, will not form and constitute "abetment" unless these acts or conduct signally or cumulatively, are found to be of such formidable and compelling natures as may lead to the commission of suicide or may facilitate in a singular and prima manner the commission of the same.

23. In the instant case, deceased Sunita a girl of 18 years of the age within a short period of 2 months of her marriage being prone to commit suicide, itself indicates that the torture physical and mental was of such a nature not only to make her life miserable but it was unbearable. On two occasions, when she was taken to her parents' place, she disclosed about cruel treatment but on the assurance of her parents and hoping good sense will prevail upon the members of her matrimonial house, she joined the society of her husband. It is not a case of the appellants/accused that deceased Sunita was a young girl of emotional nature irritating on the minor or petty reasons. It is also not the case that deceased Sunita was not happy because of the marriage with the appellants/

accused No. 1. It is also not the case of the appellants/accused that during her stay with the appellants/accused, deceased Sunita had expressed that she is not happy in the matrimonial house and that she does not want to continue her stay. Under the circumstances, it is crystal clear that unless until her life became unbearable because of physical and mental torture at the hands of the appellants, deceased Sunita would not have dared to end her life within such a short period of her marriage.

Giving conscious thought to the facts and circumstances of the case, according to me, the learned trial Judge has rightly held that there was such cruel treatment to deceased Sunita at the hands of appellants/accused, which resulting abetting her to commit suicide.

24. In the case of Ravindra Pyarelal Bidlan and others Vs. State of Maharashtra, this Court though observed that to bring the guilt at home under the provisions of Section 498A, mere harassment or mere demand for property is not sufficient and that there must be sufficient gravity so as to lead a reasonable person in a similar circumstance to commit suicide. However, the learned brother has not illustrated the examples which could be said of grievous nature or of the gravity which will amount to cruelty under the provisions of Section 498A of the Indian Penal Code. Whether to consider harassment, beatings, taunting and humiliation, as grievous or serious, depends on person to person. The stone-hearted woman may not care of the taunts while the young girls who are prone to be offended by such taunting, harassment beating and humiliation take it otherwise. The constant harassment and humiliation is nothing but an abetment to end life. Thus, the ratio of the case cited supra cannot be taken universally in all the cases.

25. I am fortified by the observations of Their Lordships of the Supreme Court in a case of State of West Bengal Vs. Orilal Jaiswal and another, . In this case Their Lordships of the Supreme Court relied only on the testimony of the mother of deceased who committed suicide during the span of 10 months from the date of her marriage. In that case the mother-in-law and husband were abusing saying that she should commit suicide. Similarly because there is a death in matrimonial family after her marriage, she was said to be a woman of evil luck or inauspicious .The ill-treatment was continued, and therefore, she committed suicide.

The facts of that case and the case in hand are more or less identical. In the instant case, the girl hardly lived in her matrimonial house for less than 2 months and during this period itself her life was made miserable and as she could not bear the same, she committed suicide.

26. Giving conscious thought to the facts and circumstances of the case and keeping in view of the observations made by Their Lordships of the Supreme Court in a recent case of State of West Bengal Vs. Orilal Jaiswal and another, , I am satisfied with the conviction and sentence awarded by the learned trial Court.

27. Smt. Sirpurkar, the learned counsel for the appellants/accused submitted that there is no cogent and reliable evidence against the appellant No. 2 i.e. the mother-in-law of deceased Sunita. I do not agree with the submission of the learned counsel for the appellants/accused because the father, mother and grandfather of deceased Sunita in clear terms deposed that deceased Sunita had been subjected to physical and mental torture by the appellants/accused. Thus, the case of mother-in-law cannot be separated from the appellant No. 1.

28. In the result, the instant appeal is dismissed. The judgment and order of conviction and sentence dated 27th March, 1992, passed by the Addl. Sessions Judge, Washim is confirmed. The appellants/accused are directed to surrender producing themselves in the Court of Addl. Sessions Judge, Washim by 15th April, 1995. In case the appellants/accused fail to surrender producing themselves before the Addl. Sessions Judge, Washim, the Addl. Sessions Judge, Washim is directed to issue the warrants of arrest and get the custody.

29. Appeal dismissed.