

(2025) 01 GUJ CK 0026
In the Gujarat High Court
Case No : Criminal Appeal No. 897 of 2003

State of Gujarat Versus

APPELLANT

Vs

Modi Dahyalal Shankarlal & Ors.

RESPONDENT

Date of Decision : 02-01-2025

Acts Referred:

Code of Criminal Procedure, 1973 — Section 378(1)((3)
Indian Penal Code, 1860 — Section 114, 304(B), 306, 498A

Citation : (2025) 01 GUJ CK 0026

Hon'ble Judges : A.S. Supehia, J;Gita Gopi, J

Bench : Division Bench

Advocate : Hardik Soni, Prakash K Jani

Final Decision : Dismissed

Judgement

A.S. Supehia, J

1. The present appeal filed under Sections 378(1)((3) of the Code of Criminal Procedure, 1973 is directed against the judgment and order dated

31.03.2003 passed by the learned Additional Sessions Judge, (Third Fast Track Court) Mahesana, acquitting the respondents accused for the offences

punishable under Sections 498A, 306, 304(B) read with section 114 of Indian Penal Code.

2. The case of the prosecution, as per the charge at Exh.4 is that the daughter of the complainant committed suicide along with her infant child aged

about six months, on 20.03.2001 due to the harassment meted out to her by the respondents accused. Respondent No.1 is the father of accused No.2,

who is husband of the deceased and respondent No.3 is the mother of the accused No.2, who is mother-in-law of the deceased. The accused Nos.1

and 3 i.e. the father and mother of accused No.2 have passed away hence, the

appeal is confined to the accused No.2, who is husband of the deceased. Thus, the specific case of the prosecution is with regard to meeting out harassment by demanding dowry by the accused from the daughter of the complainant.

3. To establish the charge, the prosecution has primarily examined five witnesses. As per the establish facts from the pleadings, the marriage between the respondent No.2 and the deceased was solemnized on 21.02.2000, and out of the said marriage the daughter of the complainant had given birth to

a baby boy on 30.09.2000. On 20.03.2001, the deceased along with her infant child committed suicide leaving behind a suicide note, Exh.26.

4. The Trial Court after examining the documentary as well as oral evidence has acquitted the respondents accused, which has given rise to the present appeal filed by the State.

5. Learned APP Mr. Hardik Soni appearing for the appellant-State has submitted that the judgment and order passed by the Trial Court is required to

be quashed and set aside since, the Trial Court has failed to appreciate the evidence in its true perspective. He has referred to the evidence of the

father of the victim (deceased daughter) P.W.2, who was examined at Exh.16, and has submitted that his evidence categorically reveals that the

accused had demanded Rs.50,000/- as a dowry from the deceased, which ultimately resulted into commission of suicide by her. He has further

referred to the depositions of the neighbours, P.W.3 â?" Shantaben Jaswantbhai Patel examined below Exh.37 and also P.W.4 â?" Hansaben Jitubhai

Patel examined below Exh.38. It is submitted that their evidence also reveals that the deceased daughter of the complainant was being harassed by

the respondents accused.

6. Learned APP has further submitted that the Trial Court has failed to appreciate the evidence of the father, who has categorically alleged that his

daughter was being harassed constantly by the accused. Thus, it is submitted that since the deceased has committed suicide within a span of seven

years, as per the provisions of section 304(B) of I.P.C., a presumption has to be drawn against the respondents accused that they were demanding

dowry from the deceased and ultimately she was left with no other alternative, but to commit suicide along with the infant child. Thus, it is submitted

that the judgment and order passed by the Trial Court may be quashed and set

aside.

7. Per contra, learned senior advocate Mr. Prakash K.Jani appearing for the respondents-accused has submitted that the impugned judgment and order passed by the Trial Court does not require interference, as the same is appropriately passed. Learned senior advocate Mr. Jani while pointing out to the contents of the suicide note left by the deceased at Exh.26, has submitted that in fact, her suicide note, which has been proved that it was written in the handwriting of the deceased, does not in any manner implicate any of the accused. It is submitted that the evidence does not in any manner implicate the accused in the offence and there was no harassment or instigation on the part of the accused, which would ultimately compel the deceased to commit suicide.

8. Learned senior advocate Mr. Jani has submitted that the independent witnesses or neighbours, which have been examined as P.W.3 and P.W.4, were residing at the parental home of the deceased and their evidence does not in any manner implicate the accused in the offence. It is further submitted that the mother of the deceased was not examined as a witness by the prosecution.

9. Learned senior advocate Mr. Jani has invited our attention to the letters written by the deceased to the accused No.2 before marriage, in which she has specifically expressed that she would die. It is submitted that the evidence of the father also established that the financial condition of the accused was better than their in-laws and hence, there was no reason of demand of dowry. It is submitted that the complainant has for the first time before the police, mentioned about the demand of dowry of Rs.50,000/-, and this has been specifically admitted by him in his evidence before the Trial Court.

10. In support of his submissions, learned senior advocate Mr. Jani has placed reliance on the judgment of Supreme Court in the case of Murugesan

S/o. Muthu Vs. State through Inspector of Police, 2012 (10) SCC 383, and has urged that the present appeal may not be entertained and acquittal may not be reversed.

11. We have heard the learned advocates appearing for the respective parties at length. We have also perused the impugned judgment and order passed by the Trial Court along with the evidence, which have been established on record. The case of the prosecution entirely hinges on the

allegations made by the father of the deceased P.W.1, who has been examined below Exh.10. From his evidence, it reveals that he has alleged that

the accused used to demand Rs.50,000/- as a dowry from the deceased, which was the ultimate cause of committing suicide along with the infant.

12. At this stage, it would be apposite to refer to the suicide note at Exh.26 written by the deceased. The forensic report categorically reveals that the

suicide note has been written by the deceased in her own handwriting. A bare perusal of the suicide note indicates that the deceased had committed

suicide because of some ailment suffered by her. The suicide note reads thus â?? I am committing suicide because of my ailment and no one is

responsible for it and for me all are goodâ??. Thus, the suicide note does not remotely connect the accused with the offence.

13. The Trial Court after examining the provisions of Section 304(B) and 306 as well as section 498A of I.P.C., has categorically recorded that the

prosecution has miserably failed to prove the ingredients of the sections more particularly, section 304(B) of the I.P.C. The prosecution in order to

bring home the charge against the accused, has placed reliance on two witnesses i.e. P.W.3 and P.W.4, who are the neighbors of the deceased,

however, they were residing at her parental homes. Their testimony do not inspire confidence, and will pale into insignificance in view of the contents

of the suicide note. Their evidence does not in any manner implicate the accused in the offence and the same is not further corroborated by any other

evidence . The evidence of the mother of the deceased, would have been very vital for proving the charges however, the prosecution has failed to

examine her as a witness. It is also coming on record that for the first time before the police, the complainant has mentioned about the demand of

dowry of Rs.50,000/-. This has been categorically admitted by him before the Trial Court.

14. We have also perused the letter written by the deceased to the accused No.2 prior to her marriage. A bare perusal of the contents of her letter

reveals that she was in constant fear of death, as she was suffering from some ailment.

15. On an overall appreciation of the facts and evidence , we are not inclined to disturb the findings recorded by the Trial Court, as the Trial Court has

not committed any perversity or illegality in acquitting the accused. The prosecution has miserably failed to prove the charge against the accused.

16. Hence, the present appeal fails. The same stands dismissed. Record & Proceedings shall be returned to the concerned Trial Court forthwith.