

**(2017) 08 KAR CK 0013**  
**In the Karnataka High Court**  
**Case No : 3692 of 2010**

The State by

APPELLANT

Vs

Mallikarjun Reddy

RESPONDENT

**Date of Decision :** 08-08-2017

**Acts Referred:**

[Code of Criminal Procedure, 1973](#), [Section 313](#), [Section 207](#), [Section 357\(4\)](#), [Section 357\(1\)\(c\)](#) - Power to examine the accused - Supply to the accused o

**Citation :** (2017) 08 KAR CK 0013

**Hon'ble Judges :** B.V. Nagarathna, B. A. Patil

**Bench :** DIVISION BENCH

**Advocate :** Prakash Yeli, Chaitanya Kumar

## Judgement

1. This appeal is filed by the State, assailing the judgment and order of acquittal dated 24.02.2010 passed in S.C.No.236/2002, by the Principal Sessions Judge, Gulbarga.

2. The genesis of the case of the prosecution is that, marriage of deceased Kavita with the accused was performed on 21.04.2000. At the time of marriage, accused received cash of Rs.50,000/- and four tolas of gold as dowry and even after marriage, accused insisted upon the deceased to bring cash and gold from her parents, apart from claiming half share in the properties of her parents and he used to ill-treat and harass the deceased. As such, she filed a divorce petition before the Family Court, Gulbarga, in M.C.No.52/2000 and she also filed a criminal case bearing No.155/2000. Thereafter, accused forcibly took her to his house and on 08.05.2002 at about 5.00 p.m., took the deceased into the kitchen and there he assaulted her demanding property. When the deceased resisted, he abused her and poured kerosene on her and thereafter, set her ablaze. Immediately, family members of the accused shifted her to a hospital and there, statement of the deceased was recorded by the police and a case was registered against the accused in Crime No.87/2002. When the deceased was undergoing

treatment in the hospital, her dying declaration was also recorded by Tahsildar. Subsequently, on 15.05.2002 at about 9.45 a.m., deceased succumbed to burn injuries. Thereafter, police investigated the case and filed the charge sheet against the accused. After filing of the charge sheet, by following due procedure laid down under Section 207 of the Criminal Procedure Code, 1973 (hereinafter referred to as "the Cr.P.C."), the Committal Court committed the case to the Sessions Court. After committal, the Sessions Court took cognizance of the case, secured the presence of accused and after hearing before charge, framed the charge against the accused. Since accused pleaded not guilty and claimed to be tried, the case was set down for trial.

3. In order to prove the case, prosecution got examined twenty nine witnesses as PWs.1 to 29 and got marked 34 documents as Exs.P-1 to P-34 and also got marked M.Os.1 to 8. On behalf of the accused, no evidence was let-in, but however, during the course of cross-examination of the prosecution witnesses, they got marked Exs.D-1 and D-2. After closure of the prosecution evidence, statement of accused came to be recorded under Section 313 of Cr.P.C., by putting forth the incriminating material against him and he denied the same. After hearing both sides and on evaluation of the material on record, the trial Court passed the impugned judgment, acquitting the accused. Hence, the State has preferred this appeal.

4. We have heard learned Additional State Public Prosecutor, Sri Prakash Yeli, appearing for the appellant-State and learned counsel Sri Chaitanyakumar Chandriki, appearing for respondent - accused and perused the original records.

5. It is contended by learned Additional State Public Prosecutor that the Trial Court without assigning any valid reason and without drawing proper presumptions as contemplated in law, has passed the impugned judgment, which is perverse, capricious and not sustainable in law. He contended that marriage of the deceased had taken place on 21.04.2000 and the alleged incident had occurred on 08.05.2002 and subsequently, the deceased died on account of burn injuries on 15.05.2002. As such, death of Kavita was within seven years after her marriage and as such, the Trial Court ought to have drawn a statutory presumption that the deceased had died because of demand for dowry. He further contended that before death, if ill-treatment and harassment caused by the accused is established, then the Court is duty bound to draw the presumption under Section 113B of the Indian Evidence Act, 1872 (hereinafter called "the Act" for short). He further contended that once the prosecution discharges its initial burden to show that the deceased died because of ill-treatment and harassment caused by the accused on account of demand for dowry and property, then the Court has to draw the presumption and thereafter, the burden shifts upon the accused to rebut the said presumption on preponderance of probabilities. He further contended that the Court below without considering all these aspects has erroneously acquitted the respondent/accused. He further contended that the statement of deceased Ex.P-19 and the dying declaration

Ex.P-34, clearly show that it is the accused, who poured kerosene on her and set her ablaze. This evidence has not been properly considered and appreciated by the Trial Court. In order to substantiate his arguments, he relied upon various decisions of the Hon'ble Supreme Court. On these grounds, he prayed for allowing the appeal by setting aside the impugned judgment and order of acquittal.

6. Per contra, learned counsel for respondent/accused has vehemently contended that the basic foundation for initiation of the case is the statement of deceased Ex.P-19. It clearly indicates that the deceased herself poured kerosene and lit fire and accused had nothing to do with the said act. He further contended that, Exs.P-19 and P-34 cannot be relied upon for the reason that the said statements have been recorded when the deceased had suffered 95% burn injuries. The prosecution has not established the fact that the deceased was in a sound state of mind while making such statements. He further contended that the doctor, who examined the deceased had not certified that the deceased was capable of giving the statement that she was mentally fit. He further contended that the cause of dispute is not the demand of dowry or property, but the evidence clearly goes to show that the deceased was to be given in marriage to her cousin, but the mother of the deceased got her married to the accused and as such, a false case was registered by the complainant. He further contended that the records of the hospital clearly go to prove that the said burn injuries are accidental burn injuries and subsequently, the complainant and the police, only with an intention to harass the accused, got prepared the statement as per Ex.P-19 and dying declaration as per Ex.P-34 and filed a false charge sheet against the accused. He further contended that the prosecution has utterly failed to prove that before the death of Kavita, there was ill-treatment and harassment by the accused to her. He further contended that the deceased had stayed in her parents' house and she had filed the divorce petition as well as a criminal case. Under such circumstances, illtreatment and harassment of the deceased for dowry does not arise at all. In the absence of such material, the trial Court has rightly acquitted the accused. He further contended that the State has not made out any good ground so as to interfere with the order of acquittal and therefore, the same is liable to be confirmed by this Court. On these grounds, he prayed for dismissal of the appeal.

7. Before proceeding to consider the facts of the case, we wish to put on record the checkered history of this case. Prior to passing of the impugned order, this case was heard and decided by the Principal Sessions Judge, Gulbarga and by order dated 02.09.2004, the Sessions Judge had acquitted the accused. Being aggrieved by the said order, the State had preferred Criminal Appeal No.573/2005. This Court, after hearing the parties to the lis, by judgment dated 23.06.2009, allowed the appeal in part and remanded the matter to the trial Court permitting the prosecution and the defence to recall witnesses already examined for the purpose of further examination-in-chief and cross-examination. After remand, Charge under Section 302 of Indian Penal Code, 1860 (hereinafter

referred to as "the IPC") was also framed and an opportunity was given to the prosecution as well as the defence. The prosecution did not choose to lead any evidence and even the learned counsel for the accused also did not cross-examine any of the witnesses. Thereafter, after hearing both sides, the impugned judgment has been passed. Being aggrieved by the order of acquittal, the State is once again in appeal before this Court.

8. There are some undisputed facts, which are to be noted at the outset. It is not in dispute that the accused was the husband of deceased, Kavita and their marriage was performed on 21.04.2000. Thereafter, they lived happily together for sometime. Thereafter, she filed M.C.No.52/2000, before the Family Court, Gulbarga, and also a criminal case was registered in C.C.No.155/2000. It is also not in dispute that deceased Kavita sustained burn injuries when she was in the house of the accused and died on account of the same.

9. Before proceeding further, it is useful to briefly note the evidence tendered by each witness. PWs.1 to 3 are the witnesses from the place of accused, who knew that the accused demanded cash, gold and half share in the property of parents of the deceased and thereby used to harass and ill-treat her. They are also the witnesses, who knew that accused and his men brought deceased Kavita forcibly in a jeep to their place and there again she had been ill-treated and harassed. These witnesses have turned hostile, but PW.1 has deposed that he was called to Belagerie for a "Panchayat" and the accused and his men were there and at that time accused asked deceased Kavita to live in the marital home with him, but she refused.

10. PWs.4 and 5 are the witnesses, who knew that the accused was harassing and ill-treating Kavita by demanding her to bring cash, gold and half share in the property of her parents and they had also seen Kavita with burn injuries. These witnesses have also not supported the case of the prosecution and they have been treated as hostile witnesses.

11. PW.6 is a witness, who has deposed that during negotiations of marriage, accused's brother demanded cash and gold as dowry and parents of the deceased also agreed to give cash of Rs.50,000/- and four tolas of gold. He has deposed that, he attended the marriage and at the time of marriage, cash and gold were given to the accused. He has deposed that for about six months to one year she was living happily. Thereafter, the accused used to beat the deceased and was demanding a share in her father's land. He has further deposed that he advised the accused not to beat Kavita and that after a month, a "Panchayat" was held and at that time deceased Kavita refused to go with her husband. He has deposed that at the time of "Panchayat", Kavita was living in her parents' house. He has stated that she filed the divorce petition against the accused before the Family Court, Gulbarga, but the accused has not attended to that case. He has deposed that subsequently, Kavita was taken forcibly in a jeep. That he received a message that she had sustained burn injuries and thereafter, he came to Basaveshwar Hospital. He has deposed that she was in a position to talk

and she mentioned that her husband, by pouring kerosene on her, had set her on fire. During the course of his cross-examination, he has stated that after the incident, he has not been enquired by the police about dowry demands made by the accused and his brother and he was only asked about "Panchayat" and other suggestions have been denied by the witness. It has been further elicited that seven or eight months after the marriage, "Panchayat" was held. By that time, divorce petition was already filed by the deceased.

12. PW.7 is a witness, who acted as a mediator and attended the marriage. But this witness has not supported the case of the prosecution and he has been treated hostile.

13. PW.8 is the Tahasildar, who has recorded the dying declaration of deceased-Kavita as per Ex.P-10. In his evidence, he has deposed that he received a requisition from Sedam Police to record the dying declaration of Kavita, who was admitted in Basaveshwar Hospital, Gulbarga. He has deposed that he went to that hospital at about 1.00 p.m. and he met the Casualty Medical Officer and asked whether Kavita could speak. He has deposed that after examining Kavita, the doctor said that she was able to speak and thereafter, he recorded her dying declaration as per Ex.P-10 and sent the same to JMFC Court, Sedam. The dying declaration was recorded in the prescribed format as per the directions issued by the Government of India. He has further deposed that Kavita mentioned that she just wanted to threaten her husband, that she would die by setting fire on herself and she made an attempt to light a match stick, but her husband by pouring kerosene on her actually set her on fire. He has deposed that Kavita also said that she was harassed, illtreated and beaten by her husband by insisting upon her to bring cash, gold and property from her parents. During the course of cross-examination, it has been elicited that he was not knowing as to which doctor was treating Kavita. Regarding Ex.P-10-dying declaration, question No.13 was "what was the motive of the accused?" answer, "property and farm land" were uttered and noted, whereas the words "cash" or "gold", have not been specifically written. Except this, nothing has been elicited from this witness.

14. PW.9 is the Deputy Tahasildar, who conducted the inquest mahazar over the dead body of deceased Kavita as per Ex.P-8. During the course of cross-examination, nothing has been elicited to discard the evidence of this witness.

15. PW.10 is the father of the deceased. He has deposed that about two years ago, marriage of his daughter was performed with accused and during the marriage talks, accused and his brother Vithal Reddy as well as his other family members were present. He has deposed that there was great demand for cash and gold. But, he agreed to give cash of Rs.50,000/- and four tolas of gold, to which accused and his family members agreed. He has deposed that he had paid Rs.5,000/- for purchasing clothes. He has further deposed that after marriage, Kavita went to live with her husband. That, one year after marriage, harassment, ill-treatment and beating was done by the accused to Kavita insisting upon her to bring cash, gold and property. He has deposed that, Kavita mentioned about

such harassment and he expressed his inability to meet their demands. He has deposed that they brought Kavita to their house and she was in their house for about 15 to 20 days and she said that it was not possible for her to live with her husband due to such ill-treatment and harassment and she filed the divorce petition against her husband. He has further deposed that a "Panchayat" was held in their village. Jagannathreddy, Mahadevreddy, Somanathreddy, Vishwanathreddy and four to five other persons were present in the "Panchayat". He has deposed that before the "Panchayat", Kavita mentioned that she is not ready to go to her husband's house and as such Panchayatadars went back and about fifteen or twenty days later Kavita was taken forcibly by Vishwanathreddy, Channareddy, Mahadevreddy, Hanumreddy and Mallikarjunreddy (accused) in a Jeep, and in their presence deceased Kavita did not say anything and she simply wept. He has further deposed that he wanted to give a complaint, but in the meanwhile a letter was received that Kavita was doing well in her husband's house. But, six months thereafter, again harassment and ill-treatment recommenced. He has deposed that within one year of taking Kavita forcibly, the incident occurred. He has further deposed that after receiving information about Kavita sustaining burn injury, he went to Basaveshwara Hospital, Gulbarga. Kavita was in Burns Ward. They spoke to her. She said that her husband, by pouring kerosene on her, had set her on fire. That she died within eight days thereafter.

16. During the course of his cross-examination, it has been elicited that for thirty eight years, there has been dispute between the complainant and parents of the accused. It started from the time of his marriage. It has been further elicited that in order to end that dispute, his daughter was given in marriage to the accused. It has also been elicited that on 9.5.2002, he went to Basaveshwara Hospital, at about 3.00 or 4.00 p.m. He alone went there, his wife came after two days, his daughter, Laxmi came earlier to him and his brother-in-law, Devendrappa had visited the hospital earlier to him. It has been further elicited that on 9.5.2002 no police met him in the hospital. It has been further elicited that he got filed the said divorce petition. It has been further elicited that the said divorce petition might have been filed within eight months of marriage of Kavita. It has been further elicited that his wife might have intended to give Kavita in marriage to her brother's son, Mallu, but subsequently when it has been suggested that his wife and Devendrappa were frequently quarrelling with him to bring back Kavita from the house of the accused so that she could be married to Mallu, the said suggestion has been denied. Except that, nothing has been elicited from this witness.

17. PW.11 is a witness, who attended the marriage of Kavita with the accused and was having knowledge of giving dowry and filing the divorce petition and taking Kavita into the Jeep forcibly. PW.12 is also a witness, who has spoken about demand of dowry, illtreatment and harassment and filing of the divorce petition.

18. PW.13 is the witness to the spot mahazar, Ex.P-17. PW.14 is the witness to the seizure mahazar in whose presence, kerosene tin and burnt pieces of saree and blouse were seized as per Ex.P-18.

19. PWs.11 to 14 have not supported the case of the prosecution and they have been treated as hostile. Even during the course of cross-examination, nothing has been elicited so as to substantiate the case of the prosecution.

20. PW.15 is a photographer, who took the photographs of the dead body of Kavita.

21. PW.16 is the ASI. He has deposed that on 9.5.2002 at 9.00 a.m., a MLC report was received from M.B. Nagar Police Station. Thereafter, he went to Basaveshwar Hospital, Gulbarga and recorded the statement of injured Kavita as per Ex.P-19. He has further deposed that Kavita has affixed her thumb impression on Ex.P-19 and no doctor was present when her statement was recorded. He has further deposed that a requisition was sent to the Tahsildar, Gulbarga, requesting him to record the dying declaration of Kavita. Thereafter, he went to the police station and submitted the statement of Kavita to PSI of Sedam PS. During the course of cross-examination nothing has been elicited so as to discard the evidence of this witness.

22. PW.17 is the Doctor, who has conducted the autopsy over the dead body of deceased Kavita. He has deposed that he conducted the autopsy examination on 15.5.2002 from 5.00 p.m. to 5.30 p.m. and he noticed no external injuries and there were burn injuries to an extent of 95%. He has also deposed that puss and slough were also seen on the burnt areas. He has further deposed that the cause of death was due to septicemia as a result of 95% superficial burns and he has issued the post mortem report as per Ex.P-21. This witness has not been cross-examined.

23. PW.18 is the Police Constable, who carried the dead body from Basaveshwar Hospital to Civil Hospital, Gulbarga for post mortem examination.

24. PW.19 is the Police Inspector. He has deposed that on 9.5.2002 at 9.20 a.m., when he was on duty, he received a wireless message that a lady was admitted in Basaveshwar Hospital, Gulbarga, with burn injuries. He deputed P.W.16 ASI Rajshekhar to go to that hospital and collect the MLC report and to record the statement of the injured. He has further deposed that P.W.16 returned to the police station at 4.00 p.m., after recording the statement of injured as per Ex.P-19 and on the basis of the same, he registered a case in Crime No.87/2002 and issued the FIR. He has further deposed that he has visited the spot of the incident and drawn the mahazars and recorded the statement of the witnesses and thereafter handed over further investigation to Dy.S.P., Chincholi on 16.5.2002. During the course of cross-examination, nothing has been elicited from this witness.

25. PW.20 is the Police Inspector working in COD. He has deposed that he took

up further investigation of the case on 2.7.2002 from DSP, Chincholi and after collecting the materials and recording the statement of witnesses, including the dying declaration, after completing the investigation filed the charge sheet.

26. PW.21 is the Medical Officer, who admitted injured Kavita to hospital and he has also deposed that Kavita breathed her last on 15.5.2002, at about 9.45 a.m. It has been elicited in the cross-examination that in Ex.P-32, it was written that the patient was not in a position to talk, but it is struck off and written as 10.20 p.m., and the said endorsement has been made by him. He has further deposed that there is a difference between a patient being conscious and being in a position to make a statement. He has further deposed that at present he cannot say for what reason that portion was struck off.

27. PW.22 is the mother of the deceased. She has also reiterated the evidence of PW.10. During the course of cross-examination, it has been elicited that after marriage, how Kavita was in her husband's house was not known to her. It has been further elicited that Bhimavva had gone to the house of the accused to see Kavita three months prior to her death. Bhimavva had said that she had stayed for a day in the house of accused and saw Kavita and accused happy. Except that, nothing has been elicited from this witness.

28. PW.23 is the elder sister of the deceased. She has also reiterated the evidence of PWs.10 and 22. During the course of cross-examination, it has been elicited that Kavita stayed in her parents' house for one and half years. PW.24 is another elder sister of the deceased. She has also reiterated the evidence of PW.23. During the course of cross-examination, nothing has been elicited so as to discard the evidence of this witness.

29. PW.25 is the witness, who has deposed that ten months earlier to the incident, mother of Kavita had asked her to go and see Kavita in her husband's house and she had gone to Kavita's house and spoken to her. She told that she was well and happy. A year after her visit, Kavita died.

30. PW.26 is the Dy.S.P., who also partly investigated the case and thereafter handed over further investigation to PW.20. PW.27 is the PSI, who took up further investigation in Criminal Case No.155/2000 and after investigation filed the charge sheet against the accused.

31. PW.28 is the Chief Medical Officer of Basaveshwar Hospital, Gulbarga. He has deposed that on 9.5.2002, in Basaveshwar Hospital in Burns Ward, Taluka Executive Magistrate, Gulbarga, recorded the dying declaration of Kavita. At that time, he was present and endorsed on the dying declaration. He has further deposed that he has endorsed that the patient was able to give her statement. During the course of cross-examination, he has deposed that his qualification is MBBS and he is not qualified to treat patient suffering from burns and Dr. Arunkumar Badasheshi, was incharge doctor of Burns Ward.

32. PW.29 is also a Doctor and Head of the Department of House Surgery. He has



deposed that he was in-charge of the burns ward in May 2002. He has further deposed that before admitting the patient to burns ward, the patient will be first examined by the Casualty Medical Officer and thereafter by the Resident Officer. Then on the recommendation of Casualty Medical Officer, the patient would be admitted to burns ward as an inpatient. He has further deposed that the same procedure was followed in this case also. Before he examined Kavita, other junior doctors had examined her and he also examined the injured during his rounds and he scrutinized the treatment given to the patient by the junior doctors and he was satisfied with the treatment.

33. During the course of his cross-examination, it has been elicited that the case sheet of the patient says that history of the injury was due to stove burst causing burns. He has further admitted that the patient, Kavita was once discharged and was again readmitted to the hospital. He has further admitted that even in her readmission case sheet also, the same history of burns is repeated. He has further admitted that any Police Officer or the Taluka Executive Magistrate before recording the statement of the patient in the burns ward is required to obtain permission from the Unit head or the Medical Superintendent. He has further admitted that there are two endorsements in the case sheet stating that the attendants of the patient did not supply blood and prescribed drugs to enable to treat the patient.

34. Though several contentions have been taken up by the respondent/accused, on careful and thorough scrutiny of the evidence of PWs.1, 6, 8, 10, 16 and 22, we find that they have consistently deposed before the Court below that at the time of marriage talks, PW.10 and his brothers were present and on behalf of accused his family members were present. There was much demand made for cash and gold, but he agreed to give cash of Rs.50,000/- and four tolas of gold only, for which accused and his family members agreed and that apart he gave Rs.5,000/- for buying new clothes and at the time of marriage, cash and gold were also given to the accused. It is further deposed that one year after marriage, the respondent/accused started harassing, ill-treating and beating his daughter Kavita by insisting upon her to bring cash, gold and property and she had mentioned about such harassment. They have also deposed that a divorce petition had also been filed by the deceased Kavita in M.C.No.52/2000 in the Family Court, at Gulbarga and also a Criminal case in No.155/2000. They have further deposed that a "Panchayat" was also held in their village and at that time Jagannathreddy, Mahadevreddy, Somanathreddy, Vishwanathreddy and four to five other persons were present before the "Panchayat", Kavita said that she was not ready to go to her husband's house. They have further deposed that fifteen or twenty days thereafter Kavita was taken forcibly by Vishwanathreddy, Channareddy, Mahadevreddy, Hanumreddy and Mallikarjuna reddy-the accused in a Jeep. Immediately thereafter, the alleged incident has taken place. During the course of cross-examination of these witnesses, nothing has been brought on record to discard their evidence.

35. It is an admitted fact that the deceased Kavita had filed the divorce petition as well as a criminal case against the accused on grounds of demand for dowry and the consequent harassment. When the records reveal that there was demand for dowry in the form of gold and property and because of that the accused used to beat, ill-treat and harass the deceased, then the said evidence which has been led by the prosecution proves that there was ill-treatment and harassment by the accused on account of demand for dowry. When there was a persistent demand by the accused for property, cash and gold, due to which deceased Kavita filed divorce petition and a criminal case. Further progression of events, just prior to the marriage till the unnatural death of Kavita, not only provides an inseverable link interse, but also unambiguously demonstrates the build up of intolerable mental and physical torture thrust upon deceased-Kavita, drove her to put herself in a perilous situation.

36. When once the prosecution establishes that within seven years of marriage the deceased has died an unnatural death and she has been subjected to cruelty and harassment by her husband or accused persons on account of demand for dowry or property, then the legislative mandate of drawing a statutory presumption under Section 113B of the Act would apply.

37. The rule of presumption, is a rule that the Court "May" or "shall", draw a particular inference from a particular set of facts or evidence until the substance of such inference is rebutted. Drawing a statutory presumption is a technique, which treats facts as proved by proof or admission of certain other facts. Presumptions are drawn connecting the co-existence of facts and circumstances. This proposition of law has been laid down in the case of M/s. Sodhi Transport Company vs. State of U.P. reported in AIR 1986 SC 1099.

38. During the course of argument learned counsel for the respondent/accused contended that the deceased had been to her parental house and she was staying there for a period over one year and it is the accused who brought her back. But the deceased was not willing to stay with the accused, as the mother of the deceased was intending to give her in marriage to her brother. As such, there was no ill-treatment and harassment soon before her death. Though the learned counsel for the respondent/accused contended that soon before the death of deceased there was no illtreatment and harassment by the accused, but the expression "soon before her death" does not mean mere lapse of sometime, which would by itself would provide the accused a defence. If the course of conduct relating to cruelty or harassment is shown to have existed earlier in time, not too late and not too stale, before the date of death of the deceased, then the ill-treatment and harassment can be said to be soon before death. The above proposition has emanated from Section 113B of the Act, which reads as under: "113B. Presumption as to dowry death.- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall

presume that such person had caused the dowry death."

39. In *Kans Raj vs. State of Punjab* reported in (2000) 5 SCC 207, the Hon"ble Supreme Court dealt with the presumption available in terms of Section 113B of the Act and its effect on finding persons guilty in terms of Section 304B of the IPC in the following words: "9. The law as it exists now provides that where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within 7 years of marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative for or in connection with any demand of dowry such death shall be punishable under Section 304-B. In order to seek a conviction against a person for the offence of dowry death, the prosecution is obliged to prove that:

- (a) the death of a woman was caused by burns or bodily injury or had occurred otherwise than under normal circumstances;
- (b) such death should have occurred within 7 years of her marriage;
- (c) the deceased was subjected to cruelty or harassment by her husband or by any relative of her husband;
- (d) such cruelty or harassment should be for or in connection with the demand of dowry; and
- (e) to such cruelty or harassment the deceased should have been subjected soon before her death."

Section 113B of the Act has also been considered in the case of *Thakkan Jha and others vs. State of Bihar* reported in (2004) 13 SCC 348 as under:

"7. No presumption under Section 113B of the Evidence Act would be drawn against the accused if it is shown that after the alleged demand, cruelty or harassment the dispute stood resolved and there was no evidence of cruelty or harassment thereafter. Mere lapse of some time by itself would not provide to an accused a defence, if the course of conduct relating to cruelty or harassment in connection with the dowry demand is shown to have existed earlier in time not too late and not too stale before the date of death of the victim. This is so because the expression used in the relevant provision is "soon before". The expression is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. The expression is pregnant with the idea of proximity test. It cannot be said that the term "soon before" is synonymous with the term "immediately before". This is because of what is stated in Section 114 Illustration (a) of the Evidence Act. The determination of the period which can come within the term "soon before" is left to be determined by the courts, depending upon the facts and circumstances of each case. Suffice, however, to indicate that the expression "soon before" would normally imply that the interval should not be much between the cruelty or harassment concerned and the death in question.

There must be existence of a proximate and live link [see *Hira Lal v. State (Govt. of NCT), Delhi*]."

40. Once the prosecution discharges its initial burden of proving all the ingredients of dowry death as laid down under Section 304B of IPC by preponderance of probabilities, Section 113B of the Act mandatorily requires the Court to draw an adverse inference against the accused. Then, the burden shifts upon the accused to disprove the said presumption by preponderance of probabilities. This position of law has been laid down in the case of *Sher Singh Alias Partap vs. State of Haryana* reported in (2015) 3 SCC 7241 as under: "9. The legal regime pertaining to the death of a woman within seven years of her marriage thus has numerous features, inter alia:

(i) The meaning of "dowry" is as placed in Section 2 of the Dowry Prohibition Act.

(ii) Dowry death stands defined for all purposes in Section 304 IPC. It does exclude death in normal circumstances.

(iii) If death is a result of burns or bodily injury, or otherwise than under normal circumstances, and it occurs within seven years of the marriage and, it is "shown" in contradistinction to "proved" that soon before her death she was subjected to cruelty or harassment by her husband or his relatives, and the cruelty or harassment is connected with a demand of dowry, it shall be a dowry death, and the husband or relatives shall be deemed to have caused her death.

(iv) To borrow from Preventive Detention jurisprudence-there must be a link between the cruelty emanating from a dowry demand and the death of a young married woman, as is sought to be indicated by the words "soon before her death", to bring Section 304-B into operation; that live link will obviously be broken if the said cruelty does not persist in proximity to the untimely and abnormal death. It cannot be confined in terms of time; the query of this Court in the context of condonation of delay in filing an appeal-why not minutes and seconds remains apposite.

(v) The deceased woman's body has to be forwarded for examination by the nearest civil surgeon.

(vi) Once the elements itemised in (iii) above are shown to exist the husband or relative shall be deemed to have caused her death.

(vii) The consequences and ramifications of this "deeming" will be that the prosecution does not have to prove anything more, and it is on the husband or his relative concerned that the burden of proof shifts as adumbrated in Section 113-B, which finds place in Chapter VII of the Evidence Act. This Chapter first covers "burden of proof" and then "presumption", both being constant bed-fellows. In the present context, the deeming or presumption of responsibility of death are synonymous."

x x x

14. In Section 113-A of the Evidence Act, Parliament has, in the case of a wife's suicide, "presumed" the guilt of the husband and the members of his family. Significantly, in Section 113-B which pointedly refers to dowry deaths, Parliament has again employed the word "presume". However, in substantially similar circumstances, in the event of a wife's unnatural death, Parliament has in Section 304-B "deemed" the guilt of the husband and the members of his family.

xxx"

In yet another decision, in the case of M. Narayana vs. State of Karnataka reported in (2015) 6 SCC 465, after referring to Section 498-A of the IPC, the relevant portion of the observations of the Hon'ble Supreme Court can be culled out as under:

"Under Section 304-B defining "dowry death", there will be a statutory presumption against the husband for having caused the death of a woman resulting from burns or bodily injury or occurring otherwise than under normal circumstances within seven years of her marriage accompanied by the proof that soon before her death she had been subjected to cruelty or harassment by him or any of his relatives for, or in connection with, any demand for dowry. Not only Section 304-B enjoins a statutory presumption of the guilt of the husband on the proof of the eventualities as mentioned therein, Section 113-B of the Evidence Act, 1872 fortifies such presumption in the probative perspectives. Section 304-B IPC and Section 113-B of the Evidence Act, 1872, do supplement each other to effectuate the legislative mandate of statutory presumption of guilt, the contingencies warranted being present."

41. Keeping in view the above judicial precedent and on careful consideration of the evidence by us, it would clearly indicate that immediately after the marriage, for some period deceased Kavita and the accused led a happy marital life. Thereafter, accused started ill-treating and harassing her and also used to assault the deceased for dowry and he was also insisting upon her to get a share in the property of her father and as a result of the same, she went to her parents' house and she also filed a divorce petition in M.C.No.52/2000 and a criminal case in No.155/2000. They have been also marked as Exs.P-27 and P-29. It is also evident from the evidence of the witnesses that soon before Kavita's death accused along with other persons went to the house of the parents of the deceased and forcefully brought her to the house of the accused and the unnatural death took place in the house of the accused.

42. Keeping in view the aforesaid propositions of law, if the entire evidence is scanned, we find that there is corroboration in the evidence of all the witnesses. Though PW.1 has not supported the case of the prosecution, he has deposed about participation in the "Panchayat". That fact clearly indicates that there was a demand of dowry and a "Panchayat" was held as the accused had ill-treated and harassed the deceased. The said fact is also supported by Ex.P-29 - certified copy of the petition filed for divorce and Ex.P-27 being the criminal complaint.

43. When the entire prosecution evidence as considered above is credible, reliable, cogent and acceptable and if accused fails to disprove the said fact on the basis of preponderance of probabilities, under such circumstances, the Court has to presume that the death of the deceased was because of ill-treatment and harassment due to demand of dowry and property.

44. Further, it is the specific case of the prosecution that the accused took the deceased Kavita along with other persons to his village, thereafter on 8.5.2002 at about 5.00 p.m., he took the deceased into the kitchen, assaulted her with regard to dowry in the form of property and when she resisted, he abused her and thereafter poured kerosene and lit the fire and due to the burn injuries, she died on 15.05.2002. In order to prove its case, the prosecution has also relied upon the statement of the deceased-Kavita recorded by PW.16 as per Ex.P-19 and the dying declaration recorded by PW.8 - the Tahasildar, as per Ex.P-10.

45. With regard to the above evidence, learned counsel for the respondent/accused contended that the deceased had sustained 95% burn injuries and she was under treatment, she would not have been able to speak and as such, there is no question of recording any dying declaration by PW.8 or the statement as per Ex.P-19 by PW.16. He further contended that the admission certificate issued by the Casualty Medical Officer of Basaveshwar Hospital, Gulbarga, which has been marked as Ex.P-32 clearly indicates that the deceased had sustained 95% burn injuries and it has been mentioned that patient was not able to give the statement and the same has been struck off. But however, what had been recorded earlier is legible. Under the circumstances, Exs.P-10 and P-19 are not admissible in evidence and the same cannot be looked into by the Court is the submission of respondent's counsel.

46. But it is seen from Exs.P-19 and P-10 being the statement of the deceased Kavita and the dying declaration recorded by the Tahasildar, they are consistent with the statement of the witnesses and also Exs.P-27 and P-29 - the divorce petition and the criminal case filed by the deceased. In her statement at Ex.P-19, the deceased has also stated about the illtreatment, harassment and assault by the accused and subsequently in order to take away her life, he took out the kerosene tin and poured kerosene on the body of the deceased and lit the fire. As per Ex.P-34 - the original dying declaration at Column Nos.5 and 12, the deceased has stated that on 8.5.2002 at about 5.00 p.m., when her husband was assaulting her as she was already upset, in order to threaten him, she said that she would burn herself and at that point of time the accused threatened her that he would light the fire, and immediately thereafter, accused himself lit the fire after pouring kerosene on his wife Kavita. While recording Ex.P-34, the Casualty Medical Officer was present. He has been examined as PW.28. In his evidence, PW.28 has deposed that on 9.5.2002, Taluka Executive Magistrate, Gulbarga, recorded the dying declaration of Kavita and at that time, he was present and has endorsed on the dying declaration with his signature and he has also endorsed that the patient was able to make the statement. His evidence is also

corroborated with the evidence of PW.8, who has recorded the dying declaration as per Ex.P-34. Even the other witnesses have also deposed that the deceased was able to speak when she was in the hospital.

47. Though learned counsel for the respondent/accused brought to our notice Ex.P-32 - the admission card, wherein it had been mentioned as patient is not able to give the statement and subsequently it is scored off, but as per Ex.P-19 - the statement of the deceased, at the spot of alleged incident, her mother-in-law, Channamma, brother's wife Mahadevamma and the brother-in-law came and extinguished the fire and they brought her to Basaveshwar Hospital and got her admitted. When that is the fact, under such circumstances, they might have given the information that Kavita was unable to speak. Accordingly, it might have been recorded that Kavita was unable to speak, but subsequently after coming to know that Kavita was able to speak, the same might have been scored out. Though the author of said document was examined as PW.21 in order to bring the truth, but nothing contrary to the above has been elicited. The witness has deposed that in Ex.P-32 it was written that the patient was not in a position to talk, but it was scored off at 10.30 p.m., and that he cannot say for what reason that portion was scored off in Ex.P- 32. Under the circumstances, it cannot be held that the deceased suffering from 95% burn injuries was unable to speak. Immediately after the incident, the members of the family took the deceased to the hospital. On being asked by the close relatives and the ASI, she disclosed that the respondent/accused had poured kerosene on her and lit fire with an intention to kill her. Immediately, ASI also went and recorded the statement of the injured and on the basis of the said statement, the complaint was registered. Thereafter, the Tahsildar also went to the hospital on the requisition of the investigating officer for recording the dying declaration of the victim. At that time, he asked the doctor about the mental state of the injured so as to record the statement of the injured i.e., dying declaration. The doctor has clearly stated in his evidence that at the time when the dying declaration was recorded, deceased was conscious and in a fit state of mind to make a statement. The doctor is an independent witness. There is no reason to discard his evidence. Thus the Doctor was present at the time of recording the dying declaration and he has made an endorsement that he was present and that Kavita was conscious and in a fit state of mind to make a statement. Under the circumstances, Ex.P-34 and the evidence of PW.28, inspires much confidence and we do not see any reason to doubt the veracity thereof. In this regard, under identical circumstances, in the case of Rama Krushna Roy vs. State of Orissa reported in (2012) 12 SCC 775 at para 9, the Hon''ble Supreme Court has observed as under: "9. xxx The fact that the deceased died of burn injuries has not been disputed by the appellant. According to him, the deceased committed suicide by setting herself on fire. Therefore, the fact that the deceased died of burn injuries cannot be ruled out. PW 20 Dr Bijayananda Padhi has clearly stated in his evidence that at the time when he recorded the dying declaration the deceased was conscious and in a fit state of mind. This doctor is an independent witness

and there is no reason to disbelieve his evidence. As such there is no escape from the conclusion that the deceased gave the statement while she was conscious and in a fit state of mind. The dying declaration clearly shown that the appellant had poured the kerosene oil and set his wife on fire which ultimately led to her death."

48. Further, before placing reliance upon a dying declaration, the Court must be satisfied that the dying declaration is true, voluntary and not as a result of either tutoring or prompting or a product of imagination. When once the Court is satisfied that the deceased was in a fit state of mind and capable of giving the statement, after satisfying that the said statement is true and voluntary, Court can base its conviction on the basis of the dying declaration without corroboration. This statement of law has been enunciated in the case of *Prempal vs. State of Haryana* reported in (2014) 10 SCC 336 as under: "12. When reliance is placed upon dying declaration, the Court must be satisfied that the dying declaration is true, voluntary and not as a result of either tutoring or prompting or a product of imagination. The Court must be further satisfied that the deceased was in a fit state of mind. In *State of U.P. v. Ram Sagar Yadav*, this Court held that if the Court is satisfied that the dying declaration is true and voluntary, it can base conviction on it without corroboration. In this context, the observations made in para 13 of the judgment are relevant to be noted: (SCC pp. 556-57, para 13)

13. It is well settled that, as a matter of law, a dying declaration can be acted upon without corroboration. (See *Khushal Rao v. State of Bombay*, *Harbans Singh v. State of Punjab*, *Gopalsingh v. State of M.P.*). There is not even a rule of prudence which has been hardened into a rule of law that a dying declaration cannot be acted upon unless it is corroborated. The primary effort of the Court has to be to find out whether the dying declaration is true. If it is, no question of corroboration arises. It is only if the circumstances surrounding the dying declaration are not clear or convincing that the Court may, for its assurance, look for corroboration to the dying declaration.

x x x

In the said decision, *Muthu Kutty vs. State* reported in (2005) 9 SCC 113 has been quoted as under in paragraph 13:

13. xxx This Court has laid down in several judgments the principles governing dying declaration, which could be summed up as under as indicated in *Paniben v. State of Gujarat* (SCC pp.480-81, paras 18-19)

(i) There is neither rule of law nor of prudence that dying declaration cannot be acted upon without corroboration. (See *Munnu Raja v. State of M.P.*)

(ii) If the Court is satisfied that the dying declaration is true and voluntary it can base conviction on it, without corroboration. (See *State of U.P. v. Ram Sagar Yadav and Ramawati Devi v. State of Bihar.*)



(iii) The Court has to scrutinise the dying declaration carefully and must ensure that the declaration is not the result of tutoring, prompting or imagination. The deceased had an opportunity to observe and identify the assailants and was in fit state to make the declaration. (See K.Ramachandra Reddy v. Public Prosecutor.)

(iv) Where dying declaration is suspicious, it should not be acted upon without corroborative evidence. (See Rasheed Beg v. State of M.P.)

(v) Where the deceased was unconscious and could never make any dying declaration the evidence with regard to it is to be rejected. (See Kake Singh v. State of M.P.)

(vi) A dying declaration which suffers from infirmity cannot form the basis of conviction. (See Ram Manorath v. State of U.P.)

(vii) Merely because a dying declaration does not contain the details as to the occurrence, it is not to be rejected. (See State of Maharashtra v. Krishnamurti Laxmipati Naidu.)

(viii) Equally, merely because it is a brief statement, it is not to be discarded. On the contrary, the shortness of the statement itself guarantees truth. (See Surajdeo Ojha v. State of Bihar.)

(ix) Normally the Court in order to satisfy whether deceased was in a fit mental condition to make the dying declaration look up to the medical opinion. But where the eyewitness said that the deceased was in a fit and conscious state to make the dying declaration, the medical opinion cannot prevail. (See Nanhau Ram v. State of M.P.)

(x) Where the prosecution version differs from the version as given in the dying declaration, the said declaration cannot be acted upon. (See State of U.P. v. Madan Mohan.)

(xi) Where there are more than one statement in the nature of dying declaration, one first in point of time must be preferred. Of course, if the plurality of dying declaration could be held to be trustworthy and reliable, it has to be accepted. (See Mohanlal Gangaram Gehani v. State of Maharashtra.)"

x x x

20. A perusal of various judgments of this Court, some of which we have referred to above (in para 13), shows that if a dying declaration is found to be reliable, then there is no need for corroboration by any witness and conviction can be sustained on that basis alone."

49. Though learned counsel for the respondent/ accused has contended that no independent witness has supported the case of the prosecution and they have turned hostile in the instant case; that in the case of dowry death, the close relatives of the victim will try to involve all the family members in the commission of offence and there may be exaggerations and improvements to

implicate the accused, under such circumstances, the Courts are expected to undertake forensic exercise aimed at discovering the truth. This aspect has been enunciated in the case of *Ranjit Singh vs. State of Punjab and others* reported in (2013) 16 SCC 752. It has been further observed in the said case that the Courts must make an attempt to separate the grain from the chaff and truth from falsehood. In the instant case, when the entire evidence is perused carefully, we find that the said witnesses and the documents produced by the prosecution are clear and consistent. When the prosecution, in the instant case, has proved that the death of deceased-Kavita was unnatural and in the house of the accused, under such circumstances, the Court is duty bound to draw the presumption of initial burden, which falls on the prosecution would be discharged. Sections 113A and 113B of the Act are introduced so as to enable the Court to presume certain things in certain circumstances. Such circumstances, in our view are clearly forthcoming in the case at hand, so as to draw the necessary presumptions on the basis of evidence let-in by the prosecution. Hence, we find it appropriate to draw the presumption under Section 113B of the Act. This crucial legal aspect has not been properly understood and appreciated by the trial Court even in the earlier judgment, as well as in the impugned judgment, which has been passed by the trial Court subsequent to remand made by this Court.

50. As discussed above by us, when once the presumption has been drawn, then the onus shifts upon the accused to rebut the said presumption on the basis of preponderance of probabilities. It is the specific case of the accused that the deceased sustained burns due to stove burst as reported in the hospital while admitting her for treatment. The said fact has also been brought on record during the course of cross-examination of PW.29. If really there was a stove burst as contended by the accused, then, the same would have been noted in Ex.P-23 - the spot mazhar, which is said to have been recorded on 10.05.2002. The said incident has taken place in the kitchen measuring 10" X 12" and what has been recovered is a kerosene tin, a match box and burnt pieces of clothes of deceased Kavita. When the alleged incident has admittedly taken place in the house of the accused and if the injuries are sustained by the deceased was due to stove burst, then, definitely accused could have produced pieces of the stove and other materials to evidence the said fact, but the same have not been recovered and seized. Under the said circumstances, the contentions raised by the accused does not pass the test of truth or preponderance of probabilities.

51. Be that as it may, in the instant case, accused was examined under Section 313 of Cr.P.C., but in his statement, he has not come up with any explanation so as to substantiate his case. When the accused takes a false plea about the facts exclusively known to him, such fact becomes vital and an additional circumstance against the accused. This proposition of law has been laid down in the case of *State of Karnataka vs. Suvarnamma* and another reported in (2015) 1 SCC 323 as under: "10. The Court dealing with a criminal trial is to perform the task of ascertaining the truth from the material before it. It has to punish the guilty and protect the innocent. Burden of proof is on the prosecution and the prosecution

has to establish its case beyond reasonable doubt. Much weight cannot be given to minor discrepancies which are bound to occur on account of difference in perception, loss of memory and other invariable factors. In the absence of direct evidence, the circumstantial evidence can be the basis of conviction if the circumstances are of conclusive nature and rule out all reasonable possibilities of the accused being innocent. Once the prosecution probablises the involvement of the accused but the accused takes a false plea, such false plea can be taken as an additional circumstance against the accused. Though Article 20(3) of the Constitution incorporates the rule against selfincrimination, the scope and the content of the said rule does not require the Court to ignore the conduct of the accused in not correctly disclosing the facts within his knowledge. When the accused takes a false plea about the facts exclusively known to him, such circumstance is a vital additional circumstance against the accused."

52. That apart, it is the case of the prosecution that the accused quarreled with the deceased and took her into the kitchen and assaulted her and by pouring kerosene on her, he set her ablaze. On the other hand, it is the contention of learned counsel for the respondent/accused that the accused loved his wife - the deceased and that she threatened the accused by saying that she is going to die and poured kerosene on her and set herself ablaze. The said contention is also not acceptable to us. Assuming for a moment, he was really not involved in any manner in the alleged incident, as a loving husband, immediately after the incident, he ought to have taken the injured wife to the hospital and should have tried to extinguish the fire and in that event he may have also sustained some burn injuries. But presence of the accused is not whispered anywhere, immediately after the incident, either in the hospital records or in the police station. In fact, the records indicate that the accused was absconding immediately after the incident. But merely because he was absconding, no inference is being drawn. But on the other hand, the circumstances in the instant case clearly indicate that the accused was involved in the alleged crime and his conduct has also not been that of a prudent man. This conduct of the accused goes against him. Even the medical records, which are alleged to have been tampered, give different histories regarding the burn injuries sustained by the deceased as stated by her in-laws and others. In this context also, the contention of the learned counsel for the respondent/accused does not probablize the case of the accused so as to accept his contention and hold that the onus of proof has been discharged by the accused on the basis of preponderance of probabilities.

53. By giving our anxious and careful thought to the evidence on record, we are of the opinion that when the accused has not been successful in rebutting the presumption we have raised under Section 113B and he has not taken any steps to prove that the death of deceased was due to various other factors, other than dowry death, the only view which we can take is that the alleged death of Kavita was due to cruelty, harassment and torture on account of demand for money, gold and property from the parents of the deceased. Taking into consideration the aforesaid facts and materials, the respondent/accused is liable to be

convicted for the charges levelled against him.

54. It is seen from the order of the trial Court, that without considering the legal position of law, under Sections 113A and 113B of the Act and without proper appreciation of the evidence on record it has been swayed by the stray admissions of the witnesses and on wrong assumptions has acquitted the accused. This is for the second time, that order of acquittal in the instant case, which has been passed without bearing in mind the judgments of the Hon'ble Supreme Court, while weighing the material evidence on record. The said order on the face of it is perverse and capricious, which requires to be interfered with by this Court.

55. We are also at the same time conscious of the settled position of law that this Court being the appellate Court would not normally interfere with the order of the acquittal passed by the trial Court, if the trial Court has taken one of two possible views in the matter. But in the facts and circumstances of the case and evidence and documents produced creates no doubt in the case of prosecution. A second or alternative view is not possible as against the accused so as to give him the benefit of doubt to him. Having regard to the trustworthy, corroborative, coherent, consistent and compact evidence on record and there being no supervening circumstance to suggest that the deceased died for any other reason, the only view possible is that the accused had caused the death of the deceased by pouring kerosene and setting her ablaze. Therefore, he has to be convicted for the offences punishable under Sections 498A, 302, 304B of IPC and also under Sections 3,4 and 6 of the Dowry Prohibition Act, 1986. Accordingly, we pass the following :

#### ORDER

Appeal is allowed. The impugned judgment and order of acquittal dated 24.02.2010 passed by Prl. Sessions Judge, Gulbarga in S.C.No.236/2002, is set aside.

Accused Sri. Mallikarjunreddy s/o Somanathreddy Tippannanavar of Handarki, Tq.Sedam is convicted for the offences punishable under Sections 498-A, 302 and 304-B of IPC and also Sections 3, 4 and 6 of the Dowry Prohibition Act.

#### ORDER ON SENTENCE

Having arrived at the conclusion to convict the accused and after pronouncement of the judgment, we have heard learned Addl. State Public Prosecutor and learned counsel for the accused on the issue with regard to the sentence.

Learned Addl. SPP submitted that the accused is the person, who caused the death of a young married woman and as such he should be dealt with strictly and maximum punishment would have to be imposed in accordance with law.

Per contra, learned counsel for the respondent/ accused submitted that the respondent/accused after acquittal by the Sessions Court, got remarried and he

has begotton two children. He is the only earning member in the family and if he is convicted and sentenced, his wife and children would become destitutes, as nobody would be there to care for them. In that light he requested us to take a lenient view while awarding the sentence.

We have considered the submissions made by learned Additional State Public Prosecutor and learned counsel for the respondent/accused. At the time of imposition of sentence, the Court no doubt has to keep in mind the fact that, sending an accused behind bars is not only a just desert, but also for his reformation, as has been observed in appropriate cases. But, at the same time, the Court has to strike a balance keeping in view the gravity of the offence committed and the effect of punishment on the society at large and on victim's family. The sentence in a case should send a signal to the society about the guilty being punished. The Court has to strike a balance between reformatory as opposed to punitive theories of criminal law, as laid down by Parliament and as held by the Apex Court in the case of *Siddharama and others vs. State of Karnataka* reported in AIR 2006 SC 3265.

Further, it is the duty of the Court to impose proper punishment depending upon the degree of criminality and desirability to impose such punishment. As a measure of social necessity and also as a means of deterring other potential offenders, the sentence should be appropriate, befitting the crime as held by the Apex Court in the case of *Akram Khan vs. State of West Bengal* reported in 2012 PART-1 CRIMES P-5 (SC). In light of the above, we impose the following sentence on the accused:

(i) accused is sentenced to undergo imprisonment for life for the offences punishable under Sections 304-B and 302 of IPC and to pay a fine of Rs.50,000/-. In default of payment of fine, accused to undergo simple imprisonment for a period of one year;

(ii) accused is also sentenced to undergo imprisonment for a period of three years for the offence punishable under Section 498-A of IPC and to pay a fine of Rs.25,000/-. In default of payment of fine, he shall undergo simple imprisonment for a further period of six months;

(iii) accused shall undergo simple imprisonment for a period of five years for the offence punishable under Section 3 of the Dowry Prohibition Act and to pay a fine of Rs.10,000/-. In default of payment of fine, he shall undergo simple imprisonment for a further period of one month;

(iv) accused shall undergo simple imprisonment for a period of two years for the offence punishable under Section 4 of the Dowry Prohibition Act and to pay a fine of Rs.15,000/-. In default of payment of fine, he shall undergo simple imprisonment for a further period of one month;

(v) accused shall undergo simple imprisonment for a period of two years for the offence punishable under Section 6 of the Dowry Prohibition Act and to pay a fine

of Rs.25,000/-. In default of payment of fine, he shall undergo simple imprisonment for a further period of one month.

The aforesaid sentences imposed for each of the offences shall run concurrently.

Out of the fine amount deposited by the accused, an amount of Rs.1,00,000/- shall be paid to PW.10- Venkatreddy, father of the deceased, as compensation as per Section 357(1)(c) read with Section 357(4) of Cr.P.C., 1973.

The trial Court is directed to secure the accused and issue necessary Conviction Warrant to undergo the sentence forthwith.