



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Appeal No. 1344/2003

1. Tilaram s/o Chogaram by caste Mali, aged 49 years
2. Paaras s/o Shri Tilaram by caste Mali, aged 26 years
3. Bhanwarlal @ Ganeshram s/o Shri Tilaram by caste Mali, aged 28 years
4. Smt. Tulchhidevi w/o Shri Tilaram by caste Mali, aged 45 years

----Appellant

Versus

State of Rajasthan

----Respondent

For Appellant(s) : Mr. H.M. Saraswat
For Respondent(s) : Mr. Rajesh Bhati, AGA

**HON'BLE MR. JUSTICE FARJAND ALI
HON'BLE MR. JUSTICE ANUROOP SINGHI**

Judgment

Judgment Reserved On ::: **29/07/2025**
Judgment Pronounced On ::: **20/09/2025**

BY THE COURT:-

1. The instant appeal under Section 374 of the Code of Criminal Procedure (hereinafter to be referred as "CrPC") has been preferred by the appellants assailing the judgment dated 29.11.2003 passed by the learned Additional Sessions Judge (Fast Track No.1), Jodhpur in Sessions Case No. 90/2003, State vs. Tilaram & Ors. By the said judgment, the learned trial court convicted the appellants for the offence under Section 498-A of the Indian Penal Code (hereinafter to be referred as IPC") and sentenced each of them to undergo rigorous imprisonment for a



period of three years along with a fine of ₹500/-, and in default of payment of fine, to further undergo rigorous imprisonment for one month. The appellants were also convicted for the offence under Section 304-B of the IPC and were sentenced to undergo imprisonment for life.

1.1 It would be worthwhile to mention that Tilaram (Appellant No.1), the father-in-law of the deceased, was also an appellant in the present appeal; however, he passed away, as verified from the order dated 14.12.2021 passed by co-ordinate bench this Court. Accordingly, the present judgment is confined to the remaining three appellants before this Court.

2. Briefly stating the facts of the case are that on 21.02.2003, PW-2 Nemaram lodged a written report (Ex.P-1) at Police Station Luni alleging that his sister, Shiva, who was married to the appellant Paarasram about five years prior, was subjected to persistent cruelty and harassment on account of dowry demands. It was alleged that despite a Panchayat being convened, the appellants continued to demand ₹20,000/- in cash and a gold locket of two tolas, and threatened to kill her if the demand was not fulfilled. Three days prior to the incident, the demand was assured to be met yet it was alleged that her father-in-law Tilaram, mother-in-law Tulsi Devi, and husband Paarasram administered poison to her, pursuant to a conspiracy in which elder brother-in-law Bhanwarlal also participated.

2.1 On the basis of the report, a case under Section 304-B IPC was registered and after investigation, a charge-sheet was filed





against the accused-appellants. The case was committed to the Court of the learned Additional Sessions Judge (Fast Track), Jodhpur, who framed charges under Sections 498-A and 304-B IPC. The prosecution examined 28 witnesses and exhibited 18 documents, while the defence examined 7 witnesses and exhibited 13 documents. Upon conclusion of trial, the learned trial court found the charges proved and convicted and sentenced the appellants accordingly, giving rise to the present appeal.

3. Heard learned counsel appearing on behalf of the petitioner and learned AGA appearing on behalf of the State as well as perused the material available on record.

4. This Court has carefully examined the material available on record. Upon such perusal, it becomes apparent that the testimonies of the prosecution witnesses, which formed the very foundation of the trial court's findings, suffer from serious inter se contradictions. In fact, their depositions are not only inconsistent with one another but also have the effect of demolishing the veracity of each other's testimony.

4.1 Now advertent to the testimonies of the relatives of the deceased, which include her mother, brothers and sisters and relatives, this Court finds that their statements are neither consistent nor reliable so as to inspire confidence.

4.2 To begin with, the complainant PW-2 Nemaram, real brother of the deceased, in his FIR mentioned that the marriage of the deceased took place nearly five years ago. However, during his examination, he gave the precise date as 27.04.1996. This itself





creates a material contradiction, for if the date is reckoned from 27.04.1996 to the date of lodging of the FIR, the duration comes close to seven years, whereas in the FIR it is written as five years. Thus, the version given by Nemaram is not free from doubt. To substantiate the marriage date, the prosecution produced Ex.P-6, a Sawa Patra. However, the same does not disclose before whom and on what date it was produced in the course of investigation. It is also noteworthy that Ex.P-6 is written by a Pandit, who has not been examined by the prosecution. The Investigating Officer, in his cross-examination, candidly admitted that he made no inquiry in relation to the said Pandit. Consequently, the authenticity of Ex.P-6 remains unproved and the date of marriage continues to stand in conflict.

4.3. The testimony of PW-1 Poosaram, another real brother of the deceased, also suffers from infirmity. When a suggestion was put to him that the marriage had been performed in 1994, he responded that he did not know whether it was so or not. On the other hand, PW-2 Nemaram admitted in his cross-examination that the marriage was solemnised on 27.04.1994 then he instantly stated, it has taken place on 27.04.1996. These statements are irreconcilable and cast serious doubt on the prosecution's case.

4.4 The contradictions further deepen when the issue of dowry is considered. In the FIR, Nemaram had alleged that dowry was given at the time of marriage. However, the mother of the deceased candidly stated that no dowry was given to any of her daughters.





4.5 PW-1 Poosaram in his chief examination also deposed that no dowry was given to Shiva except clothes, though he added that she was harassed after the birth of a child. In his cross-examination, he clarified that dowry was given only to their sister Roopa, not to Shiva or others. According to him, the deceased's daughter was aged 4 to 4½ years, meaning thereby that the alleged harassment for dowry commenced after three years of marriage.

4.6 In contrast, PW-2 Nemaram asserted that gold, silver, and clothes were given at the time of marriage. PW-3 Dhanraj, yet another brother, admitted that except clothes, nothing was given in dowry to Shiva. He added that the first demand of dowry was raised after 17-18 months of marriage. PW-4 Khiyaram stated that after one year she was beaten, while PW-5 Omaram claimed she was harassed after the birth of her daughter. PW-7 Moolaram, cousin of the deceased, said she was harassed within 6-7 months of marriage but admitted that he came to know of it only through Nemaram. Similarly, PW-8 Bhikharam and PW-10 Kamlesh (uncle-in-law and brother-in-law of the deceased's sister Leela, respectively) both confirmed that neither Shiva nor her close relatives ever told them about dowry harassment, nor was any such gossip prevalent in the village.

4.7 The testimonies of PW-9 Hamiraram and PW-11 Pukhraj also add little value. PW-9 admitted his ignorance about the behaviour of the in-laws, while PW-11 conceded that his knowledge was only based on what Nemaram had told him. PW-12 too admitted that





the dates mentioned in his deposition were reported to him by Nemaram. PW-13 Keshuram, though claiming that Shiva narrated incidents of harassment, later admitted that in seven years he had no direct conversation with her on the subject. PW-16 Dhalibai, the sister-in-law of the deceased, also admitted that Shiva never personally disclosed anything to her and her version was based only on hearsay.

4.8 PW-17 Leela, the real sister of the deceased, made contradictory assertions. At one stage, she said Shiva was happy for six months after marriage, later that harassment began after the birth of her first daughter. In her cross-examination, she stated that till two years, when the first child was born, Shiva had not complained of any dowry demand. Significantly, her husband and uncle-in-law, PW-8 and PW-10, did not support her version. These glaring contradictions make it evident that the prosecution witnesses are not unanimous on the core issues. On the aspect of what exactly was demanded in dowry, their statements are mutually destructive. While Ex.P-1 mentions a demand of ₹20,000 and two tolas of gold, PW-1 Poosaram vaguely referred only to "dowry" without specifying items. PW-3 Dhanraj spoke of ₹20,000 for a broken vehicle and three tolas of gold. PW-15 Smt. Maadu referred to a refrigerator, T.V., cooler, and motorcycle. PW-16 Smt. Dhalibai spoke of four tolas of gold and ₹20,000. Thus, the alleged demands range from cash, gold, and clothes to vehicles and household appliances. Such divergent versions cannot stand together and make the prosecution case highly doubtful.



4.9 The defence evidence, including Ex.D-6 to Ex.D-13 (ration cards and electricity bills), supports the plea that the accused persons were living separately, whereas the prosecution tried to portray that all resided jointly. Even prosecution witnesses PW-10 Kamlesh and PW-21 Munnial confirmed that Paarasram and Shiva were living separately from the other accused. In such circumstances, roping in the other appellants appears to be a false implication. It is also significant that the name of appellant Bhanwarlal @ Ganesh was interpolated in Ex.P-1 after its preparation and no allegation was originally levelled against him. Furthermore, documentary evidence proved that some of the accused, namely Tilaram, were not even present at the place of occurrence at the relevant time. Despite this, the learned trial court proceeded to convict them, which reflects a grave error both in fact and in law. What emerges from the above is that the prosecution witnesses have made exaggerations, overstated facts, and contradicted each other on material particulars. Their testimony is neither cogent nor trustworthy. The substratum of the prosecution case thus crumbles, and the conviction recorded by the learned trial court on such shaky evidence cannot be sustained.

5. This Court considers it apposite to recapitulate the governing principles of law. For ready reference, Section 304B of the IPC, which deals with the offence of dowry death, is reproduced as under:





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

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

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

5.1 From a bare perusal of Section 304B of the IPC, it becomes manifest that for a case to fall within the mischief of this provision, three essential ingredients must co-exist.

(I) Firstly, the death of a woman must have occurred otherwise than under normal circumstances.

(II) Secondly, such death must have taken place within seven years of her marriage.

(III) And lastly, it must be shown that the woman was subjected to cruelty or harassment by her husband or his relatives, soon before her death, and such cruelty must have been in connection with the demand of dowry.

5.2 The word “*dowry*” has not been defined in the IPC and for the purpose of getting its connotation, we can understand it by going through the definition contained under Section 2 of the Dowry Prohibition Act, 1961 which reads as under:-





"2. Definition of "dowry".—In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly—

- (a) by one party to a marriage to the other party to the marriage; or
- (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I -- [omitted by Act 63 of 1984 w.e.f. 02.10.1985]

Explanation II.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860)."

5.3 A cursory examination of the definition provided under the Dowry Prohibition Act, 1961 elucidates that dowry has an intrinsic connection with the institution of marriage, being a consideration demanded or given before, at the time of, or after marriage in connection with the marriage. The Act categorizes the demand or acceptance of dowry into three temporal phases:-

- (a) Prior to the marriage;
- (b) At the time of the marriage;
- (c) At any point after the marriage;

5.4 In legal parlance, the condition for something to qualify as "dowry" is that there must be a clear agreement between the parties involved, where the giving or taking of dowry is a prerequisite to the solemnization of marriage. The Hon'ble Supreme Court, in the landmark case of **Satvir Singh and**



**Others v. State of Punjab and Another, AIR 2001 SC 2828,**

has elaborately discussed this aspect and this court is guided by the proposition laid down therein.

5.5 At this stage, it becomes imperative to advert to Section 113B of the Indian Evidence Act. For the sake of ready reference, the said provision is reproduced hereinbelow:-

“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 had 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.”

5.6 A plain and careful reading of this provision makes it evident that the statutory presumption of dowry death comes into play only upon the satisfaction of all its foundational requirements. The section unequivocally lays down that where it is established that, soon before her death, a woman was subjected to cruelty or harassment by her husband or any of his relatives, and such cruelty or harassment was in connection with or attributable to a demand for dowry, the Court shall draw a presumption that such person had either caused the dowry death or was complicit in its commission.

Whether the cruelty alleged against the deceased was in connection with the Demand of Dowry, the nature of such demand, and the time of its alleged occurrence.

6. This Court has meticulously examined the testimonies of the prosecution witnesses as well as the relevant legal principles. A glaring inconsistency emerges with regard to the very date of





marriage of the deceased. The prosecution witnesses, including the members of her own family, have given conflicting versions. Some have deposed that the marriage took place seven years ago, while others claimed it was nine years ago. The deceased's own sister stated that they were married on the same date and hence, according to her, the marriage was solemnised seven years ago. Such contradictions create a cloud of doubt and confusion on a most fundamental aspect as to when the marriage in fact took place.

6.1 It is a settled principle of criminal jurisprudence that every essential facet constituting the offence must be proved beyond reasonable doubt. In cases under Section 304B of the IPC, three indispensable conditions must co-exist before the presumption of dowry death can be drawn: (i) the death of a woman must have occurred otherwise than under normal circumstances within seven years of marriage, (ii) she must have been subjected to cruelty or harassment, and (iii) such cruelty or harassment must be in connection with a demand of dowry. Unless these three conditions stand firmly established, no presumption can be invoked against the accused.

6.2 In the present case, the prosecution has failed to establish the date of marriage with certainty. The very foundation whether the death occurred within seven years of marriage remains unproven. Furthermore, the allegation of cruelty by the husband and his relatives, said to be connected with demand of dowry, has not been proved beyond reasonable doubt. On both these counts,





the prosecution has fallen short of the strict requirements of law. Consequently, this Court is constrained to hold that the charge of dowry death is not established against the accused.

6.3 It is apposite to refer to the law laid down by the Hon'ble Supreme Court in **Sunil Bajaj v. State of Madhya Pradesh** reported in (2001) 9 SCC 417. The principal issue before the Court was whether the appellant therein was guilty of causing dowry death under Section 304B IPC. Upon a careful appreciation of evidence, the Apex Court found that the essential ingredients for sustaining a conviction under Section 304B particularly the requirement that the deceased must have been subjected to cruelty or harassment for, or in connection with, demand of dowry soon before her death were not established. The Court noted material inconsistencies in the testimonies of the family members of the deceased and also took into account that the letters written by the deceased made no reference whatsoever to any demand of dowry. In these circumstances, the Hon'ble Supreme Court set aside the conviction recorded by the High Court, acquitted the appellant, and directed his release.

**NO AUTOMATIC CONVERSION OF CONVICTION FROM 304B
IPC TO 306 IPC**

7. Though the prosecution has not specifically pleaded, this Court, in discharge of its solemn duty, has also examined whether an offence under Section 306 IPC could be said to have been made out. For ready reference, Section 306 IPC is reproduced as under:-





"306. Abetment of suicide.—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine."

7.1. The essential ingredients of Section 306 IPC are that the fact of suicide by the deceased and the abetment thereof by the accused, which may take the form of instigation, conspiracy, or intentional aid. It is true that in the hierarchy of offences, Section 306 IPC is considered a lesser offence vis-à-vis Section 304B IPC. Jurisprudentially, however, the two provisions operate on distinct fields. While Section 304B deals with a dowry death occurring within seven years of marriage linked with cruelty or harassment for dowry, Section 306 specifically contemplates abetment of suicide. Thus, the failure to establish an offence under Section 304B does not automatically translate into a conviction under Section 306. To convert the same, the ingredients of Section 306 IPC must be proved beyond reasonable doubt.

7.2 This Court would like to emphasize that an offence under Section 306 of the IPC should not be invoked mechanically. It must be established that strong circumstances exist to show that the accused actively contributed to the suicide of the deceased. The term "abetment" is defined under Section 107 of the IPC, which includes instigating someone to commit suicide, conspiring with others to facilitate the act, or aiding the suicide through any act or omission. In such cases, the prosecution bears the burden of proving that the accused's actions of instigation or incitement were in close proximity to the act of suicide by the deceased.





In certain circumstances, the offence may be inferred from the overall situation, where the accused is shown to have placed the victim in a position of no escape, compelling them to end their life. However, this Court firmly believes that a prosecution under Section 306 IPC cannot be initiated casually or merely to appease the sentiments of the deceased's family. The Hon'ble Supreme Court has consistently held that abetment involves a mental process of instigating a person or intentionally aiding them in committing an act.

7.3 It must also be borne in mind that in cases of alleged abetment of suicide, there must be proof either direct or circumstantial of an actual act of instigation leading to the suicide. Mere allegations of harassment, without any positive or overt act proximate to the time of occurrence, which directly led or compel the deceased to take their life, do not constitute a sustainable prosecution under Section 306 IPC. In the present case, no such circumstances have arisen; accordingly, the said provision cannot be invoked.

7.4 In the case of **Amalendu Pal Alias Jhantu v. State of West Bengal** reported in (2010) 1 SCC 707, it was held that before holding an accused guilty of offence of committing abetment of suicide under Section 306 of IPC, the Court must examine all the facts and circumstances of the case and should also assess the evidence in order to find out whether the cruelty and harassment was of such a nature that the victim was left with no option but to end his life.





7.5 The Hon'ble Supreme Court in **Harjit Singh v. State of Punjab** reported in (2006) 1 SCC 463 has clarified that an accused cannot automatically be convicted under Section 306 IPC when a charge under Section 304B IPC fails. Before invoking Section 306, it must be proved that (i) the deceased committed suicide, and (ii) she was subjected to cruelty within the meaning of Section 498A IPC. Only upon such proof can a presumption under Section 113A of the Evidence Act arise. The Court emphasised that the ingredients of Sections 304B and 306 of the IPC are distinct; while Section 304B IPC requires proof of cruelty or harassment "soon before death" in connection with dowry, Section 306 of the IPC read with Section 113A of the Indian Evidence Act applies where suicide follows cruelty as defined under Section 498A IPC, regardless of the time proximity. In absence of cogent evidence of instigation, incitement, or cruelty, conviction under Section 306 IPC cannot be sustained.

8. Now, moving on to the allegations pertaining to Section 498A of the IPC. Various precedents laid down by Hon'ble the Supreme Court related to the cases of misuse of Section 498A IPC. For ready reference the relevant parts of the precedents laid down by the Supreme Court are reproduced herein below:-

8.1 In the case of **Arnesh Kumar v. State of Bihar** reported in **(2014) 8 SCC 273**, the apex Court highlighted the rampant misuse of Section 498A. The relevant part is reproduced herein below:-

"6. There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered





in this country. Section 498-A of the Indian Penal Code was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested."

8.2 In a precedent setting case of **Preeti Gupta and Ors. v. State of Jharkhand and Ors.** reported in **(2010) 7 SCC 667**, the Supreme Court held that vague and omnibus allegations cannot form the basis of criminal prosecution against in-laws. The part relevant in this case is reproduced herein below:-

"30. It is a matter of common experience that most of these complaints under Section 498A IPC are filed in the heat of the moment over trivial issues without proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern.

31. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fiber of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fiber, peace and tranquility of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

32. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to





insurmountable harassment, agony and pain to the complainant, accused and his close relations.

33. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a herculean task in majority of these complaints. The tendency of implicating husband and all his immediate relations is also not uncommon. At times, even after the conclusion of criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinized with great care and circumspection. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

34. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislation. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases.

35. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society."

8.3 In another case of **Geeta Mehrotra and Ors. Vs. State of U.P. and Ors.** reported in **(2012) 10 SCC 741**, the Supreme Court stated that the FIR only contained casual references without any specific allegations of the wrongdoing which is the abuse of process of law. The relevant part of the judgment is reproduced herein under:-





"20. It would be relevant at this stage to take note of an apt observation of this Court recorded in the matter of G.V. Rao v. L.H.V. Prasad and Ors. reported in (2000) 3 SCC 693 wherein also in a matrimonial dispute, this Court had held that the High Court should have quashed the complaint arising out of a matrimonial dispute wherein all family members had been roped into the matrimonial litigation which was quashed and set aside. Their Lordships observed therein with which we entirely agree that:

"there has been an outburst of matrimonial dispute in recent times. Marriage is a sacred ceremony, main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate the disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their cases in different courts."

8.4 The above-mentioned decisions laid down by Hon'ble the Supreme Court at many instances expressed the concerns relating to the misuse of Section 498A IPC and vexatious prosecution against mother, father, brother and relatives of the husband who are usually dragged in the criminal proceedings just to exert pressure on the entire family.

9. This Court is of the conclusive and considered opinion that the strict onus lies squarely on the prosecution to prove beyond reasonable doubt that the death of the deceased occurred within seven years of her marriage. It is not for the defence to establish





otherwise. Where the prosecution fails to derive credible evidence from its own witnesses to conclusively establish that the death occurred within the specified period, the benefit must necessarily go to the appellant. It is imperative that all ingredients of Section 304B are independently proved beyond reasonable doubt before any presumption can be drawn. It is not sufficient that only a part of the case stands established; the offence under Section 304B must be made out in its entirety, free from any reasonable doubt.

9.1 The exoneration of the appellants is confined only to the charge under Section 304B IPC. As regards the allegation of cruelty under Section 498A of IPC, the law does not make it conditional upon the fulfilment of the ingredients of Section 304B of IPC. Section 498A of IPC, in its plain terms, encompasses any wilful conduct be it physical or mental which is of such a nature as is likely to drive a woman to commit suicide or to cause grave injury or danger to her life, limb or health. On an overall assessment of the evidence, it emerges that although the prosecution has failed to establish the essential requirements for an offence under Section 304B of IPC, albeit, the conduct of the husband towards the deceased was neither congenial nor humane. Being her lawful custodian, he was under a solemn duty to treat her with dignity and ensure her safety. It is by now well settled that the doctrine of *falsus in uno, falsus in omnibus* is not applicable in our jurisdiction. The courts in India do not discard the entire testimony merely because a part of it is unreliable instead, the settled approach is that the unreliable portion of





evidence is to be excluded, and the trustworthy part can safely be relied upon for arriving at a just conclusion. The record reflects acts of mental as well as physical cruelty. Even though the situation may not have escalated to the degree of instigation leading to suicide or the stringent ingredients of dowry death, the element of cruelty, as envisaged under Section 498A of IPC, clearly stands proved. Therefore, the conviction of the husband under Section 498A has rightly been sustained. Although the trial court has not delineated the special features in elaborate detail, its conclusion in this regard cannot be faulted.

9.2 In cases of this nature, the task before the Court becomes particularly arduous. Such proceedings often provide a convenient platform for family members to ventilate their personal vengeance under the guise of legal redressal. The Court, therefore, is duty-bound to carefully scrutinize the material on record so as to ascertain whether the allegations levelled are genuine or merely a product of exaggeration and animosity. In the present case, what does not stand established is that the death of the victim occurred within seven years of her marriage; nor is it proved that she was subjected to cruelty soon before her death, or that such cruelty had any nexus with the unlawful demands of dowry. Even if the evidence is insufficient to implicate the co-appellants, one undisputed fact stands out is that the deceased was not treated well in her matrimonial home. She was subjected to both physical and mental cruelty at the hands of her husband. Therefore, the essential ingredients to constitute the offence under Section 498-A





IPC are proved as against the husband. Insofar as the other appellants are concerned, the evidence falls short of establishing their guilt under the said provision. Upon a meticulous appraisal of the material brought on record, this Court finds that the conviction of the husband-appellant under Section 498-A IPC is well founded. To this extent, the learned trial court has committed no error in passing the impugned order, and its finding calls for no interference in appeal.

10. In the light of the foregoing discussion, the appeal is partly allowed:-

(i) The judgment of conviction and sentence dated 29.11.2003 passed by the learned Additional Sessions Judge (Fast Track No.1), Jodhpur in Sessions Case No. 90/2003 is set aside insofar as it relates to the offence under Section 304B IPC.

(ii) In respect of the conviction under Section 498A IPC:-

(a) All appellants, except the husband of the deceased, are acquitted of the said charge.

(c) So far as the husband is concerned, his conviction under Section 498A IPC is maintained; however, the sentence awarded to him is reduced to the period already undergone.

11. The appellant-husband is on bail and is not required to surrender. His bail bonds stand discharged.

12. Record be sent back.

(ANUROOP SINGHI),J

153-Mamta/-

(FARJAND ALI),J

