

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/CRIMINAL APPEAL (AGAINST ACQUITTAL) NO. 1423 of 2013****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE CHEEKATI MANAVENDRANATH ROY
and
HONOURABLE MR.JUSTICE D. M. VYAS**

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Approved for Reporting	Yes	No

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STATE OF GUJARAT
Versus
NATUBHAI GOLANBHAI KHUMAN & ORS.

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Appearance:

MR BHARGAV PANDYA, APP for the Appellant(s) No. 1

MR PAVAN BAROT for MR P B KHANDHERIA(5228) for the Opponent(s)/Respondent(s) No.
1,2,3,4

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**CORAM: HONOURABLE MR. JUSTICE CHEEKATI
MANAVENDRANATH ROY
and
HONOURABLE MR.JUSTICE D. M. VYAS**

Date : 26/06/2025**ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE CHEEKATI MANAVENDRANATH ROY)**

1. This appeal arises out of judgment dated 6.7.2013 rendered in Sessions Case No.79 of 2011 on the file of the Additional Sessions Judge, Amreli, whereby the respondents herein, who are accuses nos.1 to 4 in the said case, were acquitted of the charges under Sections 304(B), 306, 498(A) and 114 of the Indian Penal Code, 1860.

2. Briefly stated, it is the case of the prosecution that the deceased-Vandanaben, is the legally wedded wife of Aniruddhsinh. Their marriage was solemnized on 16.1.2011. Thereafter, both of them led happy marital life. While so, about six months after the marriage, i.e. on 16.7.2011, a criminal case was registered against her husband, her father-in-law, who is accused no.1 in this case, and her brother-in-law in relation to fabrication of a document pertaining to land in a transaction with third party. So her husband, her father-in-law, accused no.1, and her brother-in-law were arrested in connection with said crime in the month of July 2011. They were in judicial custody. So it is stated that accused no.1, who is the father-in-law, has directed accused nos.2 to 4, who are mother-in-law, sister-in-law and brother-in-law of the deceased to insist the deceased to arrange for Rs.50,000/- from her father to meet the legal expenses for obtaining bail for accused no.1 in the said criminal case. Accordingly, on the request made by the deceased, it is stated that, her father has arranged Rs.10,000/-, but the accused are not satisfied with the same and insisted the deceased to arrange for remaining sum of Rs.40,000/- to meet the legal expenses to apply for bail to accused no.1, and her brother-in-law etc. When she could not arrange for the same, and unable to bear the harassment caused in the said connection, it is stated that she has taken poison and committed suicide on 29.8.2011.

3. The family members of her husband informed her father, who is PW-5, that as she was not feeling well that she was taken to the hospital. Immediately PW-5 and PW-8 reached the hospital and found her lying on a bench in the hospital in an

unconscious state. Thereafter, she was shifted to another hospital where she was declared dead. Her father, PW-5, got doubt regarding her death. Therefore, autopsy was held over her dead-body. The doctor, who conducted autopsy, initially opined that she died due to failure of heart and lung and viscera was preserved for final opinion. Inquest was also held over her dead-body. On intimation of her death, police has initially registered a case under Section 306 and 498(A) of IPC against the respondents herein, who are accused nos.1 to 4. As her husband was in judicial custody, no case was registered against him. Case was registered against accused no.1, who is the father-in-law, accused no.2, who is the mother-in-law, accused no.3, who is the sister-in-law and accused no.4, who is the brother-in-law of the deceased. After completion of investigation, charge-sheet was filed by the police for the offence punishable under Sections 306, 498(A) and 114 of IPC.

4. After the charge-sheet was filed, the committal Court has committed the said case to the Court of Sessions Division as the offence under Section 306 is exclusively triable by the Court of Sessions. Therefore, it was made over to learned Additional Sessions Judge, Amreli, for trial. The trial Court has framed the charge under Section 304(B), 306, 498(A) and 114 of IPC. The same were read over and explained to the accused. They denied the charges and claimed to be tried.

5. During the course of trial, PW-1 to PW-13 witnesses were examined and fourteen exhibits were marked to prove the case of the prosecution against the accused.

6. At the end of the trial, after considering the evidence on record and on appreciation of the same, learned trial Judge has acquitted all the accused of all the aforesaid charges on the ground that the prosecution has failed to prove the case against the accused for any of the charges that were levelled against them.

7. Aggrieved, the State has preferred the present appeal assailing the legality and validity of the impugned judgment of acquittal.

8. When the appeal came up for hearing, we have heard learned APP, Mr.Bhargav Pandya, for the State and Mr.Pavan Barot, learned counsel for the respondents.

9. In the instant case, it is relevant to note, at the very outset, that since the charge under Section 304(B) of IPC was framed against the accused relating to dowry death, the prosecution has to prove that the deceased died under unnatural circumstances, as required under Section 304(B) of IPC. Though it is the specific case of the prosecution that the deceased has consumed poison, unable to meet the demand made by the accused to arrange for Rs.50,000/- for the purpose of meeting the legal expenses to apply for bail for her husband, there is no proper medical evidence on record to prove with certainty that the deceased consumed poison and died. Even though the doctor, who has held autopsy over dead-body of the deceased, initially opined in the postmortem certificate, page 34, that cause of her death is shock due to cardio-respiratory failure and viscera is preserved for chemical

examination, he did not specifically state in the postmortem report that the said cardio-respiratory failure is due to taking poison by the deceased. However, in his examination in the Court, he stated that the said failure of lung and heart is due to poison but he clearly stated in his evidence that since viscera is not examined, he is not certain whether failure of lung and heart is due to poison or not. Therefore, there is no medical evidence on record to prove with certainty that the deceased died due to consumption of poison and failure of heart and lungs occasioned due to consumption of poison. Therefore, the prosecution has basically and miserably failed to prove that the deceased has taken poison and died, with any acceptable legal evidence to that effect. So, it cannot be said that she has consumed poison and died.

10. Be that as it may, a bare perusal of Section 304(B) of IPC makes it manifest that there must be harassment meted out to women within seven years of her marriage in connection with any demand for dowry as defined in Section 2 of the Dowry Prohibition Act, 1961. A perusal of the definition of "dowry", makes it manifest that it must be a demand made in connection with money or any valuable security in connection with marriage either before marriage, at the time of marriage or after the marriage. Admittedly, it is not the case of the prosecution that any demand for dowry or any valuable security or other property was made by the accused in connection with marriage by the accused. The admitted case of the prosecution is that they only demanded to arrange for money i.e. Rs.50,000/- to meet the legal expenses for the purpose of applying bail to the husband of PW-1 and her

father-in-law, who were in judicial custody. Strictly speaking, in our considered view, it does not come within the meaning of “dowry” as defined under Section 2 of the Dowry Prohibition Act, 1961 for the purpose of proving a case under Section 304(B) of IPC. Therefore, it cannot be said that there has been any harassment of the deceased at the hands of the accused to meet an illegal demand for dowry and unable to bear said demand that she has committed suicide or met with an unnatural death in connection with said demand.

11. From the evidence on record, there is also any amount of doubt regarding the said allegation of the prosecution that father-in-law i.e. accused no.1 or other accused nos.2 to 4 made any such demand to the deceased to arrange for Rs.50,000/- to meet the legal expense for the purpose of applying bail to her husband. The accused have produced bank account statements of accused nos.1 and 2 in their Section 313 examination. They are on record. A perusal of the same show that there are about Rs.2 to 3 Lacs in their account at the relevant time. So it is not as though that they are lacking money for the purpose of applying bail and to meet the legal expenses. Therefore, when they have sufficient money to meet the legal expenses to apply for bail, the allegations that they insisted the deceased to arrange for Rs.50,000/- from her father to meet the legal expenses to apply for bail for her husband and her father-in-law, is found to be doubtful. Therefore, when the prosecution failed to prove that the deceased died by consuming poison and when the prosecution also failed to prove that there was any demand made by the accused for dowry or for any valuable security or property and

when they failed to prove that she died under any unnatural circumstances, unable to bear alleged harassment said to have been caused by the accused, it is difficult to hold that any case under Section 304(B), 306, 498(A) and 114 of IPC was made out against any of the accused.

12. Even Section 306 of IPC is also not attracted to the present facts of the case. In order to prove an offence of abetment to commit suicide under Section 306 of IPC, necessary prerequisites contemplated under Section 107 of IPC of instigating the deceased to commit suicide or aiding her to commit suicide shall be proved and established. It is not at all case of the prosecution that any of the accused herein has instigated her, directly or indirectly, or aided her in any other way to commit suicide. Therefore, we have absolutely no hesitation to hold that no offence under Section 306 of IPC is made out from the facts of the case.

13. As we have already noticed that no demand for any dowry, valuable security or property is made and that she was not harassed in connection with any such demand. So, no case under Section 498(A) is also made out.

14. At any rate, as the prosecution failed to prove that the deceased consumed poison and died, unable to bear any such harassment, accused are at least entitled to benefit of doubt in the given facts and circumstances of the case.

15. The trial Court, after considering said evidence on record, and on proper appreciation of the same, has arrived at a right

conclusion and held that prosecution has failed to prove any of the charges levelled against them and thereby rightly acquitted them of the said charges. Upon considering the said evidence on record and, re-appraisal of the same, we are also of the view that the prosecution failed to prove any of the charges levelled against the accused and establish the case of the prosecution against the accused beyond all reasonable doubt. Therefore, the impugned judgment of acquittal calls for no interference in this appeal and the same is not liable to be set aside.

16. *In fine*, the appeal is dismissed. The impugned judgment dated 6.7.2013 rendered in Sessions Case No.79 of 2011 on the file of the Additional Sessions Judge, Amreli, acquitting the respondents-accused, is hereby confirmed. Record and Proceedings, be sent back to the trial Court concerned forthwith.

Sd/-
(CHEEKATI MANAVENDRANATH ROY, J)

Sd/-
(D. M. VYAS, J)

R.S. MALEK