HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Criminal Appeal No. 720/2002

State

----Appellant

Versus

Ramdin And Anr

----Respondent

For Appellant(s)	:	Mr. C.S. Ojha
For Respondent(s)	:	Mr. B.S. Rathore

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MADAN GOPAL VYAS

Judgment

Reportable

Reserved on 16/10/2024

Pronounced on 05/12/2024

Per Dr. Pushpendra Singh Bhati, J:

1. This Criminal Appeal under Section 378 of the Code of Criminal Procedure has been preferred by the appellant-State laying a challenge to the judgment of acquittal dated 11.04.2002, claiming the said relief:

> *"It is, therefore, most respectfully prayed that leave to appeal may kindly be granted, appeal may kindly be allowed, impugned judgment dated 11.04.2002 may kindly be quashed and set aside and the accused respondents may kindly be punished and sentenced for the offence under Section 498-A, 201 & 304-B and in alternative Section 302/34 IPC".*

2. The matter pertains to an incident which had occurred in the year 2001 and the present appeal has been pending since the year 2002.

3. Brief facts of the case, as placed before this Court by learned counsel appearing on behalf of the appellant-State, are that on 03.10.2001, a written report was submitted by PW.17 Ramswaroop at Bhopalgarh Police Station, stating therein that his younger sister Kaushalya (deceased) was married to one Rajuram, son of Ramdin (accused-respondent herein) 3 years ago and that the dowry was given in the said marriage as per social status and standard. The deceased informed her family regarding the dowry demands and the incessant harassment in connection with the same from last 7-8 months by her father-in-law and mother-in-law on the pretext that her family gave insufficient dowry at the time of marriage. Upon being informed, her brother (PW-17) and her mother, Smt. Bhanwari (PW-15) advised her to wait for her father's return from his posting, and that they will talk to her in-laws about the same.

3.1. It was further stated that the deceased's father-in-law i.e., Ramdin, visited them few days prior to the ritual of Balunda, where the deceased's parents requested accused-Ramdin not to harass her and that their demands would be fulfilled in the said ritual; consequently, the family of the deceased gave 2.25 *tola* gold, a television, 10 *tola* silver jewelry along with other articles in the said ritual. However, in the morning of 03.10.2001 at about 7-8 AM, the family of the deceased was informed that on the previous day i.e., on 02.10.2001, accused Ramdin (father-in-law)

and Vidyadevi (mother-in-law) murdered their daughter-in-law Kaushalya and cremated her hurriedly in order to destroy the evidence.

3.2. On the basis of the aforementioned report, a case was registered under Sections 304-B, 498-A and 201 of the Indian Penal Code, 1860 and the investigation commenced accordingly, in connection with which accused persons-Ramdin and Vidyadevi were arrested, the place of incidence was inspected, statements of witnesses were recorded, burnt clothes, clay from the place of incident and plastic container were seized, photography of the place of incident was done, list of articles received in dowry was prepared and also the persons involved in cremation of the deceased were arrested, who were later released on Bail.

3.3. After the necessary investigation, on 05.01.2002 a charge-sheet was filed against accused Ramdin and Vidyadevi under Sections 498-A, 304-B, and 201 IPC and against accused Sahiram, Gulab Singh, Hinduram, Bhagwangiri and Om Prakash under Section 201 IPC in the Court of Judicial Magistrate, Pipar City from where the case was committed to the Sessions Court and thereafter transferred in the Court of ADJ, Fast Track, Jodhpur.

3.4. The learned Trial Court framed the charges against the accused respondents Ramdin and Vidyadevi under Sections 498-A and 304-B IPC and; in alternative under Sections 302/34 and 201 IPC; the same were read out and explained to the accused-respondents, which they denied and claimed to stand due trial and the trial commenced accordingly.

3.5. During the course of trial, the prosecution produced 19 witnesses on its behalf and the defence produced 3 witnesses to support its case, whereafter, the accused-respondents were examined under Section 313 CrPC, wherein they pleaded innocence and their false implication in the criminal case in question.

3.6. Thereafter, upon hearing the contentions of both the parties and considering the material and evidence placed on record, the learned Trial Court, acquitted the accused-respondents giving them the benefit of doubt, vide the impugned judgment dated 11.04.2002, against which the present appeal has been preferred by the appellant-State.

4. Learned Counsel Mr. C.S. Ojha appearing on behalf of the appellant-State submitted that the story of the prosecution regarding the demand of dowry by the in-laws and the resultant causation of death pursuant to the same is corroborated by the testimonies of PW-13, PW-14, PW-15 & PW-16 which confirms the occurrence of dowry death in question.

4.1. Learned Counsel further submitted that after commission of the crime in question by the accused-respondents, the funeral and last rites of the deceased were done in a hurried manner, without even informing the family members of the deceased, which in turn casts aspersions on their (accused-respondent’s) conduct and thereby puts onus upon them by virtue of Section 106 Indian Evidence Act, 1872 to prove the same.

5. On the other hand, while opposing the submissions made on behalf of the appellant-State, Mr. B.S. Rathore, learned counsel for

the accused-respondents submitted that the FIR neither highlights the fact regarding any sort of cruelty being meted out to the deceased soon before her death, nor does it mention anything about dowry. The factum of absence of any demand soon before the death of the deceased is further strengthened in absence of any evidence to prove the same otherwise, thereby taking the case outside the purview of the charges in the present case.

5.1. Learned counsel further submitted that the accused-respondents have provided complete explanation as to the allegations levelled and the evidences produced against them during the course of trial, in their statements under Section 313 Cr.P.C.

5.2. Learned counsel also submitted that the deceased informed her family members about the alleged demands of dowry much earlier in time and that after the same she did not visit her maternal home till her death which again casts doubt upon the prosecution story vis-à-vis the demand being made soon before her death.

5.3. Learned counsel further submitted that there is no medical evidence available to prove the factum of homicide or unnatural death, thereby tilting the case in favour of the accused-respondents.

6. Heard learned counsel for the parties as well as perused the record of the case.

7. This Court observes that the accused-respondents were charged with the offence of murder of their daughter-in-law on the pretext of her family's failure to satisfy their demands of dowry,

and after conducting the trial, learned Trial Court while giving them the benefit of doubt, acquitted them of the charges under Sections 304B, 498A, 302/34 and 201 IPC, vide the impugned judgment.

8. This Court observes that, since time immemorial Indian society has stood by and cherished the values imbibed in the age-old shloka:

"यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवता:।"

The aforementioned Sanskrit Shloka translates to: "Where women are honored, there the Gods are pleased." This Shloka highlights the importance of respecting and valuing women, emphasizing that their honor is intrinsically linked to the well-being of society as a whole.

8.1. However, in the culturally rich tapestry of Rajasthan, the insidious specter of dowry deaths looms large, casting a pall over the dignity and autonomy of women. The egregious practice of dowry reduces the worth of brides to mere commodities, assessed solely by the monetary gifts they bring into matrimony. As families grapple with societal pressures and the relentless pursuit of status, many young women find themselves ensnared in a web of violence and coercion, leading tragically to untimely demise. Such heinous acts not only extinguish the flickering hopes of countless daughters but also perpetuate a cycle of misogyny that devalues their very existence. The need for urgent societal transformation and stringent legal measures cannot be overstated, for the dignity

of women in Rajasthan—and indeed, across India—hinges on the dismantling of such archaic norms.

9. At this juncture this Court is conscious of the judgment of the Hon'ble Apex Court passed in the case of ***Chabi Karmakar & Ors. v. State of West Bengal, (Criminal Appeal No. 1556 OF 2013***, decided on 29 August 2024), wherein the Hon'ble Court has highlighted the essential ingredients of the offence under Section 304-B IPC and the relevant portions of the said judgment are reproduced as follows:

> *"In paragraph 9 of Rajinder Singh (Supra), this Court had discussed the ingredients of Section 304B of IPC as follows:*
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> *9. The ingredients of the offence under Section 304-B IPC have been stated and restated in many judgments. There are four such ingredients and they are said to be:*
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> *(a) death of a woman must have been caused by any burns or bodily injury or her death must have occurred otherwise than under normal circumstances;*
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> *(b) such death must have occurred within seven years of her marriage;*
>
> *(c) soon before her death, she must have been subjected to cruelty or harassment by her husband or any relative of her husband; and*
>
> *(d) such cruelty or harassment must be in connection with the demand for dowry."*

10. This Court observes that the instant case is also a glaring example which highlights the factum of existence of dowry deaths in this ostensibly developing country. In the present case, the learned Trial Judge has disbelieved the testimonies of witnesses PW-13, PW-14, PW-15, PW-16 and PW-17 and also the story of the prosecution regarding specific demand of dowry soon before

her death and thereby acquitted the accused-respondents by giving them benefit of doubt, vide the impugned judgment.

11. This Court further observes that the learned Trial Court in the impugned judgment has observed it to be a noteworthy fact that the cremation of the victim was done much before the presentment of the report, vis-à-vis the offence in question, to the police. Resultantly, her dead body was not available at the time of investigation and therefore could not be examined.

11.1. This Court also observes that from the evidence available on record and testimonies of PW-13 (Kamala), PW-14 (Baya), PW-15 (Bhanwari), PW-16 (Shrawan), PW-17 (Ramswaroop), DW-1 (Sagtaram), DW-2 (Babudevi) and DW-3 (Soorjaram), it has been proved that the death of the victim was caused due to burning after 3 years of her marriage. The same, therefore, **satisfies the first and second ingredient** of the offence under Section 304-B, i.e., death of the victim was caused otherwise than under normal circumstances by burns and within 7 years of her marriage.

11.2. This Court further observes that it is clear from Ex.P-5 (Report dated 03.10.2001) that the victim was subjected to taunts and harassment in connection with the demand of dowry by her mother-in-law and father-in-law from last 7 to 8 months. Pursuant to this, certain demands of dowry were also satisfied by the family of the deceased during the ritual of Balunda by way of giving 2.25 *tola* gold, a television, 10 *tola* silver jewelry along with other articles.

11.3. This Court also observes that post the Balunda ritual, during the Raksha Bandhan festivities also, the deceased-victim upon her

visit to her maternal home informed her parents about the further demands of dowry by her in-laws. This factum of further demand of dowry is also corroborated by the testimony of PW-14 (Baya) who stated that the deceased-victim upon her arrival during the Raksha Bandhan festivities, informed her about the disappointment shown by her father-in-law regarding the insufficient quantum of dowry, i.e., the gold and silver so given were very less and that they will kill her. The same is further corroborated by the testimony of PW-15, who stated that the in-laws were harassing the deceased in the same manner again.

11.3.1. This Court observes that in light of the aforementioned factual matrix and the testimonies of the relevant prosecution witnesses, it is clear that the victim was consistently subjected to dowry demand and harassment pursuant to the same by the accused-respondents in order to meet the unlawful demand. Thus, the learned Trial Court should not have adopted a hyper-technical approach in finding unwarranted faults in the testimonies of the relevant prosecution-witnesses merely due to absence of exactitude in their statements. In light of the aforementioned, the **fourth essential ingredient of Section 304-B** is also satisfied i.e., cruelty or harassment so committed was in connection with the demand for dowry.

11.4. This Court further observes that the final ingredient of Section 304-B to be satisfied in the instant case, is:

> *"(c) **soon before her death**, she must have been subjected to cruelty or harassment by her husband or any relative of her husband;"*

11.4.1. This Court is further conscious of the judgment rendered by the Hon'ble Apex Court in the case **Satbir Singh and Anr. v. State of Haryana, *(Criminal Appeal Nos. 1735-1736 of 2010,*** *decided on 28.05.2021)* relevant paras of which interpreting the term "soon before her death" are reproduced as follows:

> *"In the case of **Kans Raj v. State of Punjab, (2000) 5 SCC 207**, wherein the three-Judge Bench held that: "15. … "Soon before" 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. … In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. **Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution**. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.*
>
> *Therefore, Courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term "soon before". What is pivotal to the above determination, is the establishment of a **"proximate and live link"** between the cruelty and the consequential death of the victim."*

11.4.2. This Court observes that in the present case, from the evidence available on record and the testimonies of the witnesses examined above, it is clear that the victim was being subjected to harassment pursuant to the dowry demand and the same

continued even after the fulfillment of such unlawful demands during Balunda ritual. The victim visited her family last during Raksha Bandhan and informed her family regarding the harassment owing to the demand of dowry. The same even though occurred 2 months before the actual causation of death is not too long a time period sufficient enough to make the claim stale, especially in light of the previous instances of prolonged cruelty vis-à-vis dowry demand by the in-laws, which was continuous in nature, thereby establishing a "proximate and live link" between the cruelty and the consequential death of the victim.

12. This Court also observes that in the instant case, the crime in question took place within the four-walls of the victim's matrimonial house and therefore, in such a circumstance the burden is upon the in-laws who were present in the house to explain the facts and the circumstances under which the incident in quesetion has taken place, by virtue of Section 106 of the Indian Evidence Act.

12.1 This Court is also conscious of the judgment rendered by Hon'ble Apex Court in the case of ***Balvir Singh v. State of Uttarakhand, (Criminal Appeal No. 301 of 2015****, decided on October 6, 2023),* relevant paras of which are reproduced as follows:

> *"PRINCIPLES OF LAW GOVERNING THE APPLICABILITY OF SECTION 106 OF THE EVIDENCE ACT*
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> *33. Section 106 of the Evidence Act, states as under:*
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> *"106. Burden of proving fact especially within knowledge— When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him."*

*34. Section 106 of the Evidence Act referred to above provides that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. The word "**especially**" means facts that are pre-eminently or exceptionally within the knowledge of the accused. The ordinary rule that applies to the criminal trials that the onus lies on the prosecution to prove the guilt of the accused is not in any way modified by the rule of facts embodied in Section 106 of the Evidence Act**. Section 106 of the Evidence Act is an exception to Section 101 of the Evidence Act.** Section 101 with its illustration (a) lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible or at any rate disproportionately difficult for the prosecution to establish the facts which are, "especially within the knowledge of the accused and which, he can prove without difficulty or inconvenience".*

*35. In Shambhu Nath Mehra v. The State of Ajmer, AIR 1956 SC 404, this Court while considering the word "especially" employed in Section 106 of the Evidence Act speaking through **Vivian Bose, J.,** observed as under:*

*"11. … The word "especially" stresses that. **It means facts that are pre-eminently or exceptionally within his knowledge.** If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that that cannot be the intention & the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried.*

*36. The aforesaid decision of Shambhu Nath (supra) has been referred to and relied upon in **Nagendra Sah v. State of Bihar, (2021) 10 SCC 725**, wherein this Court observed as under:*

"22. Thus, Section 106 of the Evidence Act will apply to those cases where the prosecution has succeeded in establishing the facts from which a reasonable inference can be drawn regarding the existence of certain other facts which are within the special knowledge of the accused. When the accused fails to offer proper explanation about the existence of said other facts, the court can always draw an appropriate inference.

23. When a case is resting on circumstantial evidence, if the accused fails to offer a reasonable explanation in discharge of burden placed on him by virtue of Section 106 of the Evidence Act, such a failure may provide an additional link to the chain of circumstances.

The above position is strengthened in view of Section 114 of the Evidence Act, 1872. It empowers the court to presume the existence of any fact which it thinks likely to have happened. In that process, the courts shall have regard to the common course of natural events, human conduct, etc. in addition to the facts of the case. In these circumstances, the principles embodied in Section 106 of the Evidence Act can also be utilised.

38. In Trimukh Maroti Kirkan v. State of Maharashtra, (2006) 10 SCC 681, this Court was considering a similar case of homicidal death in the confines of the house. The following observations are considered relevant in the facts of the present case:

"14. If an offence takes place inside the privacy of a house and in such circumstances where the assailants have all the opportunity to plan and commit the offence at the time and in circumstances of their choice, it will be extremely difficult for the prosecution to lead evidence to establish the guilt of the accused if the strict principle of circumstantial evidence, as noticed above, is insisted upon by the courts. ***A Judge does not preside over a criminal trial merely to see that no innocent man is punished. A judge also presides to see that a guilty man does not escape. Both are public duties.*** *(See Stirland v. Director of Public Prosecutions [[1944] A.C. 315 : [1944] 2 All ER 13 (HL)] — quoted with approval by Arijit Pasayat, J. in State of Punjab v. Karnail Singh [(2003) 11 SCC 271 : 2004 SCC (Cri) 135].)* ***The law***

does not enjoin a duty on the prosecution to lead evidence of such character which is almost impossible to be led or at any rate extremely difficult to be led. The duty on the prosecution is to lead such evidence which it is capable of leading, having regard to the facts and circumstances of the case

15. Where an offence like murder is committed in secrecy inside a house, the initial burden to establish the case would undoubtedly be upon the prosecution, but the nature and amount of evidence to be led by it to establish the charge cannot be of the same degree as is required in other cases of circumstantial evidence. ***The burden would be of a comparatively lighter character. In view of Section 106 of the Evidence Act there will be a corresponding burden on the inmates of the house to give a cogent explanation as to how the crime was committed. The inmates of the house cannot get away by simply keeping quiet and offering no explanation on the supposed premise that the burden to establish its case lies entirely upon the prosecution and there is no duty at all on an accused to offer any explanation.***

This Court took note of the provisions of Section 106 of the Evidence Act, and laid down the following principles in paras 31 to 34 of the report: "31. The pristine rule that the burden of proof is on the prosecution to prove the guilt of the accused should not be taken as a fossilised doctrine as though it admits no process of intelligent reasoning. The doctrine of presumption is not alien to the above rule, nor would it impair the temper of the rule. On the other hand, if the traditional rule relating to burden of proof of the prosecution is allowed to be wrapped in pedantic coverage, the offenders in serious offences would be the major beneficiaries and the society would be the casualty."

12.2. This Court is further conscious of the judgment rendered by the Hon'ble Apex Court in the case of **Uma and anr. v. The State Represented by the Deputy Superintendent of Police,**

(Criminal Appeal No. 757 of 2015, *decided on October 22, 2024)*, wherein the Hon'ble Apex Court while laying down the jurisprudence vis-à-vis applicability and scope of Section 106 of the Indian Evidence Act, 1872 in deciding a criminal case, laid down the rule concerning burden of proof as follows:

> *"24. In the case of Trimukh Maroti Kirkan v. State of Maharashtra, [2006] Supp. (7) S.C.R. 156, this Court has pointed out that there are two important consequences that play out when an offence is said to have taken place in the privacy of a house, where the accused is said to have been present.* ***Firstly, the standard of proof expected to prove such a case based on circumstantial evidence is lesser than other cases of circumstantial evidence. Secondly, the appellant would be under a duty to explain as to the circumstances that led to the death of the deceased.*** *In that sense, there is a limited shifting of the onus of proof. If he remains quiet or offers a false explanation, then such a response would become an additional link in the chain of circumstances. In terms of Section 106 of the Evidence Act, the Appellants have not discharged their burden that the injuries sustained by the deceased were not homicidal and not inflicted by them."*
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> *"The demand for dowry or money from the parents of the bride has shown a phenomenal increase in the last few years. Cases are frequently coming before the courts, where the husband or in-laws have gone to the extent of killing the bride if the demand is not met. These crimes are generally committed in complete secrecy inside the house and it becomes very difficult for the prosecution to lead evidence. No member of the family, even if he is a witness of the crime, would come forward to depose against another family member. The neighbours, whose evidence may be of some assistance, are generally reluctant to depose in court as they want to keep aloof and do not want to antagonise a neighbourhood family.* ***The parents or other family members of the bride being away from the scene of commission of crime are not in a position to give direct***

evidence which may inculpate the real accused except regarding the demand of money or dowry and harassment caused to the bride. But, it does not mean that a crime committed in secrecy or inside the houses should go unpunished.”

12.3 This Court is also conscious of the judgments rendered by the Hon’ble Apex Court in ***State of Rajasthan v. Jaggu Ram (Crimnal Appeal No. 1133 of 2000****, decided on 04.01.2008)* and ***Birendra Sao, Shankar Sao, Shila Devi v. State of Bihar (Criminal Appeal No. 7 of 2003,*** *decided on 01.04.2007)* wherein the Hon’ble Court highlighted the conduct of the accused as follows:

“The conduct of the accused and his family members in not informing the parents of the deceased about the injuries caused on her head and consequential death and the fact that the cremation of the dead body was conducted in the wee hours of 30.3.1993 without informing the parents or giving an intimation to the Police so as to enable it to get the post-mortem of the dead body conducted go a long way to show that the accused had deliberately concocted the story that Shanti @ Gokul was suffering from epilepsy and she suffered injuries on her head by colliding against the door bar during the bout of fits. The disposal of dead body in a hush-hush manner clearly establish that the accused had done so with the sole object of concealing the real cause of the death of Shanti @ Gokul. 19.In our considered view, this was a fit case for invoking Section 106 of the Evidence Act, which lays down that when any fact is especially within the knowledge of the any person, the burden of proving that fact is upon him.”

12.4. This Court observes that in the present case the accused-respondents upon the death of the victim, performed her cremation in a hurried manner without informing her family members or police and thereby also preventing the post-mortem

of her dead body being conducted which speaks volume of their conduct and manifests intention on their part to concoct the story and to destruct the evidence to shield themselves.

12.5 This Court further observes that the incident took place within the four walls of the accused-respondents' house and the factum of death of the victim by burns is a circumstance which is specially within the knowledge of the accused-respondents. Further, the prosecution in the present case, has discharged its initial burden by proving the essential ingredients Section 304-B IPC, thereby shifting the onus on the accused-respondents under Section 106 of the Indian Evidence Act, 1872 to explain the circumstances within which the same took place. However, in the instant case the accused-respondents have remained silent and have not provided any cogent explanation on this point.

12.6. This Court also observes that, upon perusal of the Naksha Mauka (Ex.P. 4) it is clear that burnt clothes, clay and an empty plastic container were found at the place of incident. Further, the house had smell of kerosene in it. The same not just strengthens the prosecution's case, but it also puts onus upon the accused-respondents to explain the existence of the aforementioned in their house by virtue of Section 106 IEA, which in absence of any explanation from their side tilts the case against them.

12.7. This Court therefore, in light of the factual matrix and the precedent law cited above observes that in the present case the prosecution has discharged its initial burden and have thereby made out the case in its favour by proving the essential ingredients of the offence in question and at the same time, the

accused-respondents have failed to discharge the onus put upon them by virtue of Section 106 Indian Evidence Act, thereby tilting the case towards their conviction.

13. This Court is conscious that the power of interference in the judgment of acquittal passed by the learned Trial Court is provided under Section 386 CrPC, as per which, the Appellate Court can reverse the finding of the learned Trial Court and convict the accused and award the sentence, as per law. The relevant portion of Section 386 is reproduced as hereunder :-

> "***386. Powers of the Appellate Court.***
>
> *—After perusing such record and hearing the appellant or his pleader, if he appears, and the Public Prosecutor if he appears, and in case of an appeal under section 377 or section 378, the accused, if he appears, the Appellate Court may, if it considers that there is no sufficient ground for interfering, dismiss the appeal, or may—*
>
> *(a) in an appeal from an order or acquittal, reverse such order and direct that further inquiry be made, or that the accused be re-tried or committed for trial, as the case may be, or find him guilty and pass sentence on him according to law;"*

14. In the cases of ***Mallappa & Ors. Vs. State of Karnataka (Criminal Appeal No. 1162/2011, decided on 12.02.2024)*** and ***Babu Sahebagouda Rudragoudar and Ors. Vs. State of Karnataka (Criminal Appeal No. 985/2010, decided on 19.04.2024),*** the Hon'ble Supreme Court held as under:

Mallappa & Ors. (Supra):

> "*36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All*

the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:

(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive inclusive of all evidence, oral or documentary;
(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;
(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;
(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;
(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;
(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

Babu Sahebagouda Rudragoudar and Ors. (Supra):

"39. Thus, it is beyond the pale of doubt that the scope of interference by an appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:
(a) That the judgment of acquittal suffers from patent perversity;
(b) That the same is based on a misreading/omission to consider material evidence on record;

(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record."

15. This Court observes that the scope of interference in the judgment of acquittal passed by the learned Trial Court is provided in aforequoted precedent law as well as in Section 386 Cr.P.C., and when the same is applied in the present case at hand, it is revealed, while passing the impugned judgment of acquittal, the learned Trial Court had misread the material evidence on record and has adopted a hyper-technical approach in interpreted the testimonies of the witnesses and the documents so exhibited, which is not desirable in the cases pertaining to the social-welfare provisions, especially when the menace of dowry deaths is deeply entrenched in the Indian society. Additionally, the accused-respondents have failed to provide any explanation vis-à-vis the circumstances under which the incident took place, thereby failing to discharge onus under Section 106 IEA. Thus, the impugned judgment of acquittal passed by the learned Trial Court suffers from illegality, perversity and errors of law and facts. This Court further observes that on the basis of evidence and material available on record, there could have been no other view in the present case, other than the one of convicting the accused-respondent (Ramdin and Vidyadevi) under Sections 498-A and 304-B and 201 IPC.

16. Thus, looking into the overall evidence and material on record the acquittal of accused-respondents under Sections 498-A, 304-B, and 201 IPC vide the impugned judgment is not sustainable in

the eye of law, and therefore, the present appeal filed by the appellate-State is ***allowed***, while quashing and setting aside the impugned judgment of acquittal dated 11.04.2002 passed by learned Trial Court.

16.1. Resultantly, the accused-respondents are awarded the sentence, as mentioned hereunder:

Offence under Section	Sentence	Fine
304-B IPC	7 years of Simple Imprisonment (each)	-
498-A IPC	2 years of Simple Imprisonment (each)	Rs. 2000/- each, in default of which to undergo further 15 days of simple imprisonment, each
201 IPC	2 years of Simple Imprisonment (each)	Rs. 1000/- each, in default of which to undergo further 10 days of simple imprisonment, each

The aforesaid sentences shall run concurrently.

16.2. The accused-respondents are on bail. Their bail bonds are cancelled/forfeited. They are ordered to be taken back into custody forthwith, to be sent to the concerned Jail, to serve out the sentence so awarded to them, by the present judgment.

16.3. All pending application stand disposed of. The record of the learned Trial Court be sent back forthwith.

(MADAN GOPAL VYAS),J (DR.PUSHPENDRA SINGH BHATI),J

Skant/-