

RAM BADAN SHARMA

v.

STATE OF BIHAR

AUGUST 21, 2006

[S.B. SINHA AND DALVEER BHANDARI, JJ.]

Penal Code, 1860: Sections 304—B and 201.

Dowry death—Parents of deceased-wife failed to give dowry articles—The deceased was harassed and was ultimately killed by administering poison to her by her husband and in-laws—The deceased died after eating 'Prasad' and thereafter she was neither taken to any doctor nor any treatment was given to her—The news of the death of the deceased was not sent to the parents of the deceased—They came to know of the death only after three days—The accused persons clandestinely, secretly and hurriedly cremated the deceased without informing the factum of death to the parents of the deceased—Trial court convicted the accused persons under Ss. 304-B and 201—High Court affirmed the conviction—Correctness of—Held: There has been a persistent demand of dowry and harassment, humiliation and physical violence and beating by the husband and her in-laws—The deceased died under unnatural circumstances within seven years of the marriage—The aforementioned incidents necessarily attract Section 304-B IPC—Hence, the presumption of dowry death under S. 113-B of the Evidence Act clearly arose—The accused persons secretly and clandestinely cremated the deceased to wipe out the entire evidence of murder—This clearly attracted Section 201 IPC also—Hence, conviction upheld—Evidence Act, 1872, S. 113-B—Dowry Prohibition Act, 1961.

According to the prosecution, the husband and in-laws of the deceased had been persistently demanding a colour TV, motor cycle and cash. Due to the failure of her parents to give dowry articles, the deceased was harassed and was ultimately killed by administering poison to her by the accused persons. The deceased died after eating 'Prasad' and thereafter she was neither taken to any doctor nor any treatment was given to her. The news of the death of the deceased was not sent to the parents of the deceased who were living only a few miles away from the village of the accused. The accused

A persons clandestinely, secretly and hurriedly cremated the deceased without informing the factum of death to the parents of the deceased. Only from a barber, after three days, the parents of the deceased came to know about the death of the deceased.

B The trial court convicted the accused persons under Sections 304-B and 201 of the Penal Code, 1860. The High Court affirmed the conviction. Hence the appeal.

The following questions arose before the Court:-

- C** (i) Whether the prosecution was able to prove the demands of dowry?
- (ii) Whether the deceased had died because of the harassment and cruelty meted out at the hands of the accused persons in connection with the demands of dowry?
- (iii) Whether the death had occurred within seven years of the
- D** marriage?

Dismissing the appeals, the Court

E HELD: 1. When the evidence of the instant case is closely examined, then the conclusion regarding the guilt of the accused persons becomes irresistible. There is an overwhelming evidence to establish that there has been persistent demand of dowry and because of non-fulfillment of the said demand, there was harassment, humiliation and continuous beating of the deceased by the accused persons. The most suspicious circumstance which supported the story of the prosecution was that the news of the death of the

F deceased was not sent to the parents of the deceased who were living only a few miles away from the village of the accused. The accused persons clandestinely, secretly and hurriedly cremated the deceased without informing the factum of death to the parents of the deceased. Only from a barber, after three days, the parents of the deceased learnt that the deceased was killed by administering poison to her. The deceased's brother and other relatives

G rushed to the village where they learnt that the deceased was killed by administering poison. [806-H, 807-A-D-E]

2. There are three main ingredients of the offence under Section 304-B of the Penal Code, 1860; (a) that, there is a demand of dowry and harassment by the accused on that count; (b) that, the deceased died; and (c) that, the death is under unnatural circumstances within seven years of the marriage. When

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these factors were proved by reliable and cogent evidence, then the presumption of dowry death under Section 113-B of the Evidence Act, 1872 clearly arose. The aforementioned ingredients necessarily attract Section 304-B IPC. Section 304-B is a special provision which was inserted by an amendment of 1986 to deal with a large number of dowry deaths taking place in the country. In the instant case, if the circumstances of the case are analyzed on the touchstone of Section 304-B, all the three basic ingredients of Section 304-B IPC are present. There has been a persistent demand of dowry and harassment, humiliation and physical violence and beating by the husband and her in-laws. The deceased died under unnatural circumstances within seven years of the marriage. [808-B-E]

3. The deceased was killed by administering poison to her. Neither the deceased was taken to any doctor nor any doctor was called to examine her nor was any kind of medical treatment given to the deceased. This is extremely unnatural human conduct. The dead body was secretly and clandestinely cremated causing disappearance of evidence of offence, without even intimating the parents of the deceased who were living only a few miles away from their village. They learnt about the murder of the deceased from a barber after about three days. The appellant secretly and clandestinely cremated the deceased to wipe out the entire evidence of murder. This clearly attracted Section 201 IPC also. [809-E-F-H]

Soni Devrajbhai Babubhai v. State of Gujarat, [1991] 4 SCC 298, *Satvir Singh v. State of Punjab*, [2001] 8 SCC 633, *Hira Lal v. State (Govt. of NCT), Delhi*, [2003] 8 SCC 80, *Dhian Singh v. State of Punjab*, [2004] 7 SCC 759, *Sarajini v. State of M.P.*, [1993] Supp. 4 SCC 632, *State of Karnataka v. M.V. Manjunathgowda*, [2003] 2 SCC 188, *Muthu Kutty v. State*, [2005] 9 SCC 113, *Harjit Singh v. State of Punjab*, [2006] 1 SCC 463, *Kamesh Panjiyar v. State of Bihar*, [2005] 2 SCC 388 and *State of Punjab v. Iqbal Singh*, [1991] 3 SCC 1, relied on.

Hem Chand v. State of Haryana, [1994] 6 SCC 727, referred to.

4. The trial court was wholly justified in convicting the appellants under Sections 304-B and 201 IPC. The High Court was also justified in affirming the judgment and order of the trial court. [809-G]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1493 of 2004.

A From the Judgment and Order dated 26.2.2004 of the High Court of Judicature at Patna in Criminal Appeal No. 64 of 2002.

WITH

CrI. A. No. 333 of 2005.

B Kumar Parimal, P.V. Yogeswaran, Y.P. Singh, A.C., C. Siddharth and Prakriti Purnima for the Appellant.

Gopal Singh and Anukul Roy for the Respondent.

C The Judgment of the Court was delivered by

DALVEER BHANDARI, J. These appeals are directed against the judgment of the High Court of Patna in Criminal Appeal No.64 of 2002.

Brief facts of this case are as follows:

D On 20th November 1993, at 4.30 p.m., the brother of the deceased Chandra Bhushan Chaudhary, PW2 filed a written complaint at the Police Station Chandī alleging that his sister Sanju Kumari (who was married in the year 1989) was poisoned by her husband Surya Kant Sharma, her father-in-law Ram Badan Sharma and mother-in-law Saraswati Devi. It was also alleged
E that at the time of marriage, Surya Kant Sharma, Ram Badan Sharma and Saraswati Devi demanded a colour TV, Yamaha motor-cycle and cash of Rs.20,000/-. The informant and his family could not fulfill their dowry demands. The customary 'Durgaman' (second marriage) had taken place on 26.10.1993 and at that time, the same demands were repeated by the accused persons.

F In the report, it was also mentioned that on 17.11.1993, brother-in-law of the deceased (sister's husband) Ramakant Chaudhary, PW1, visited Lodipur on the request of the deceased's mother to meet the deceased. The accused persons told PW1 that no one would be permitted to meet Sanju Kumari unless their dowry demands are fulfilled by the parents of the deceased. On
G persuasion for sometime, he was permitted to meet Sanju Kumari. She wept before him and narrated that she was harassed and tortured by the accused persons for not getting motor-cycle, colour TV and Rs.20,000/- from her parents. On return from the house of the deceased, PW1 narrated to his mother-in-law and brother-in-law the entire story of harassment of the deceased on account of non-fulfillment of dowry demands. It is further stated in the
H report that only after a few hours, on the intervening night of 17th and 18th

of November, poison was administered to the deceased in the 'Prasad' and consequently she died. A

On 20.11.1993, a Barber from Lodipur brought a letter which disclosed that Sanju Kumari had died on the intervening night of 17/18.11.1993. The informant rushed to the village Lodipur where he came to know that the accused persons had killed his sister by administering poison to her. The FIR was filed at the Chandi Police Station by the brother of the deceased. On completion of the investigation, the Investigating Officer submitted a charge-sheet against the accused persons Surya Kant Sharma and Ram Badan Sharma. The case was committed to the Court of Sessions. Initially, no charge-sheet was filed against Saraswati Devi, mother-in-law of the deceased. However, after examination of the witnesses, Saraswati Devi was also summoned by the Court under Section 319 Cr.P.C. to face the trial. B C

The accused persons denied the allegations and a defence was taken that Sanju Kumari had died due to stomach pain. It was alleged on behalf of the defence that she complained of stomach pain on 16.11.1993 and that she was taken to the clinic where she was treated by Dr. K.N. Singh and Dr. B.K. Jain. It was also stated that the informant and his relatives attended the 'Shradh' of Sanju Kumari. The informant wanted to get back all the ornaments given to Sanju Kumari at the time of her marriage but when the accused persons did not agree, this false case was filed against them. It was also asserted that during the relevant period, Saraswati Devi was under treatment at Calcutta. D E

The prosecution examined six witnesses, namely, Ramakant Chaudhary PW1, brother-in-law of the deceased, Chandra Bhushan Chaudhary PW2, brother of the deceased, who proved the FIR (Ext.1), Gautam Chaudhary PW3, the cousin of the deceased, Malti Devi PW4, mother of the deceased. Malti Devi proved one letter (Ext.2) written by the deceased Sanju Kumari to her. In the letter, she wrote that she was facing harassment and humiliation by the accused persons because their demands for dowry had not been fulfilled. Anita Devi, sister-in-law (Bhabhi) of the deceased was examined as PW5. All these witnesses had supported the case of the prosecution. Pawan Kumar Singh, Assistant Sub-Inspector of Police, Police Station Amash, District Gaya, who was the Investigating Officer of the case, was examined as PW6. F G

On behalf of the defence, five witnesses were examined. Sudama Singh DW1 and Ram Chhabila Singh DW2 were examined to support the defence version. Dr. B.K. Jain DW3 proved medical certificates dated 15.11.1993 and H

A 16.11.1993. Jagat Narayan Singh DW4, a Public Relation Inspector of post office Arrah brought one register of Kisan Vikas Patra. Accused Ram Badan Sharma was examined as DW5. He proved the signature of Sanju on the application brought by DW4 from the post office.

B Careful analysis of the evidence by the trial court led to a clear conclusion that the marriage of the accused Surya Kant Sharma was solemnized with the deceased in 1989 and the deceased died suddenly on the intervening night of 17/18.11.1993 in unnatural circumstances within seven years of the marriage.

C On the basis of evidence on record, we are called upon to adjudicate following questions:

- D
- (I) Whether the prosecution was able to prove the demands of dowry?
 - (II) Whether the deceased had died because of harassment and cruelty meted out at the hands of the accused persons in connection with the demands of dowry?
 - (III) Whether the death had occurred within seven years of the marriage?

E The informant, Chandra Bhushan Chaudhary PW2 brother of the deceased, in his statement categorically stated that at the time of marriage of the deceased, the accused persons demanded a colour TV, Yamaha motorcycle and a sum of Rs.20,000/- and because of the financial inability, the dowry demands of the accused persons could not be fulfilled. He further stated that on 26.10.1993, when the deceased was sent to her in-laws at Lodipur, same demands of dowry articles were repeated. He had also stated F in his statement that his brother-in-law, the accused Surya Kant Sharma was not willing to take his sister (the deceased) back to her matrimonial home for the want of dowry but on the request and persuasion of the family members of the deceased, the accused ultimately took Sanju Kumari back on 26.10.1993. PW2 further stated in his statement that the brother-in-law of the deceased, G Ramakant Chaudhary, went to meet the deceased at Lodipur on 17.11.1993 on the request of his mother-in-law. On return, Ramakant informed them that the deceased's husband, mother-in-law and father-in-law demanded same dowry articles and threatened that in case, dowry articles were not given, they would kill Sanju (deceased). He further stated that they received the news of the death of Sanju Kumari from a Barber after three days of the death i.e. on H 20.11.1993. The informant Chandra Bhushan, Ramakant, Gautam Chaudhary

and few villagers went to Lodipur, where they were informed that Sanju Kumari was poisoned by Surya Kant Sharma, Ram Badan Sharma and Saraswati Devi. In the cross-examination, he again reiterated that there was demand of colour TV, Yamaha motor-cycle and Rs.20,000/- when Ramakant PW2 had gone to meet the deceased Sanju on 17.11.1993. A

The prosecution had examined Ramakant Chaudhary, brother-in-law of the deceased (sister's husband) as PW1. He categorically stated that on the request of his mother-in-law, he had gone to the house of the deceased Sanju on 17.11.1993. At that time, Surya Kant Sharma and his father Ram Badan Sharma were present in the house. They clearly stated that nobody would be allowed to meet Sanju unless the demands of colour TV, motor-cycle and cash amount of Rs.20,000/- were fulfilled by the parents of Sanju. PW1 explained the position and on persuasion, ultimately he was allowed to meet Sanju (deceased). Sanju Kumari wept before him and asked him to go and ask her father to send a colour TV and a motor-cycle. He returned and narrated the entire story to his brother-in-law Chandra Bhushan PW2 and his mother-in-law Malti Devi PW4. B C D

PW2 also stated about demands of dowry and specifically named the accused persons. He also stated that he received the news of death of his sister from a Barber on 20.11.1993. Immediately thereafter, he along with others left for Lodipur village. There, people informed that his sister was killed by administering poison to her by the accused persons. E

Gautam Chaudhary was also examined by the prosecution as PW3. He stated that the deceased was his cousin. He categorically stated that the deceased's husband and in-laws demanded motor-cycle and an amount of Rs.20,000/-. He further stated that the treatment given to the deceased by her husband and in-laws was not good. On 26.10.1993, on persuasion from all of them, the husband of the deceased had taken the deceased. He further informed that on 20.11.1993, he got the information that Sanju Devi was killed by administering poison to her by her husband, mother-in-law and father-in-law. F G

The prosecution also examined Malti Devi, mother of the deceased as PW4. She also reiterated that at the time of marriage, accused persons Surya Kant Sharma, Ram Badan Sharma and Saraswati Devi demanded a colour TV, motor-cycle and a sum of Rs.20,000/-. She further stated in her statement that after a week of marriage, the deceased returned from her in-laws house and she informed that she was beaten by her mother-in-law, father-in-law and H

A husband for not bringing the colour TV, motor-cycle and a sum of Rs.20,000/- She also stated that after a lot of persuasion, her daughter was taken back by her in-laws on 26.10.1993. She further stated that the accused persons tortured her for not bringing dowry articles. She also stated that her elder son-in-law Ramakant Chaudhary was sent to the house of Sanju to enquire about her welfare. She further stated in her statement that initially the accused did not allow Ramakant to meet Sanju but after some persuasion, Ramakant was permitted to meet her. The deceased told Ramakant that she was being tortured in different ways by the accused persons for not bringing the dowry articles. Accused persons also threatened to kill her in case she failed to bring the dowry articles.

C On 20.11.1993, a Barber came from Lodipur to her house and informed that Sanju had died. Immediately thereafter, her son Chandra Bhushan PW2, Ramakant Chaudhary PW1, Gautam PW3 and few villagers went to the house of the deceased at Lodipur. On arrival, they were informed that the deceased was killed by administering poison to her and the dead body was hurriedly cremated. She stated that she received a letter (Ext.2) by post written by the deceased Sanju in her own signature. She also stated that her daughter complained about the torture and harassment by the accused persons. She stated that thereafter they met the accused persons and told them that they would further give Rs.18,000/- to them. She further stated that she was not even informed about the death of her daughter by the family members of the deceased.

F The prosecution also examined Anita Devi, sister-in-law of the deceased as PW5. She stated that after the marriage, her sister-in-law (deceased) came back to her house after eight days. The deceased told them that her husband and in-laws were giving her beatings for not bringing TV, motor-cycle and an amount of Rs.20,000/-. She also stated that on persuasion, the husband of the deceased had taken her back. She also stated that her sister-in-law was killed by administering poison to her.

G The prosecution also examined Pawan Kumar Singh, Assistant Sub-Inspector of Police as PW6. He stated that the FIR Ext.3 was in his handwriting and he proved the same. He also stated that he recorded the statement of Chandra Bhushan Pandey, Mukhiya, who had stated that it was wrong to say that the dowry items were demanded by the accused persons. He gave a medical certificate to show that Saraswati Devi, mother-in-law of the deceased had been sick from 5.11.1993 to 3.12.1993 and was under treatment at Calcutta.

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He also stated that the deceased Sanju was treated by Dr. K.N. Singh and Dr. B. K. Jain of Arrah on 15.11.1993 and 16.11.1993. In his statement, he tried to lay the foundation that there had been no demand of dowry articles by the accused persons. A

The appellants in defence had examined Sudama Singh, DW1, Ram Chhabila Singh, DW2, Dr. B.K. Jain, DW3 and Jagat Narayan Singh, DW4. The accused Ram Badan Sharma was also examined as DW5. B

The Additional Sessions Judge, Bhojpur, Arrah carefully examined the entire evidence on record. The prosecution had examined six witnesses. The trial court after analyzing the entire evidence on record came to the categorical finding that the prosecution was able to prove that Sanju Kumari was killed within seven years of her marriage for not fulfilling the demands of dowry articles. C

According to the requirement of Section 304-B IPC and Section 113-B of the Indian Evidence Act, the trial court also examined whether there was evidence that the deceased soon before the death was subjected to harassment and cruelty in connection with the demands for dowry. On this issue also, the trial court carefully analysed the evidence and came to a definite finding that the prosecution was able to prove the fact that due to demands of dowry, the deceased was subjected to harassment before her death. The trial court also examined the manner in which the death had occurred. D E

Section 113-B of the Evidence Act has been inserted with regard to presumption of dowry death. The Section reads as under:-

“113-B. *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. F

Explanation—For the purposes of this section “dowry death” shall have the same meaning as in section 304-B of the Indian Penal Code (45 of 1860).” G

The accused persons in their defence examined the evidence of Dr. B.K. Jain and Dr. K.N. Singh. Dr. B.K. Jain, DW3, stated that he treated the deceased for the disease of appendix and she remained in his treatment from 15.11.1993 H

A to 16.11.1993. He referred her to Surgeon but in the cross-examination, he admitted that after 15.11.1993, he had not examined the deceased. The defence failed to give any explanation why she was not examined by any Surgeon after she was referred to by DW3. The trial court after examining the entire evidence came to the conclusion that the death had not occurred in the normal circumstances. The trial court observed that on the day of 'Chhath' B i.e. on 17.11.1993, the deceased had gone to the house of accused Ram Badan Sharma for taking 'Prasad'. This is indicative of the fact that till then the deceased was physically in good health. DW1 further stated that after taking the 'Prasad', she started having acute pain in stomach and thereafter she died.

C The deceased's parents were admittedly not even informed about this unfortunate incident. Only on 20.11.1993, they learnt about it from a Barber and then they rushed to Lodipur. On reaching Lodipur, they heard that the deceased was administered poison in the Prasad. DW1 clearly mentioned that the deceased had died after taking the Prasad. According to the trial court, D immediately after the death, the dead-body was hurriedly disposed of and there was no autopsy of the dead body. This is a very vital circumstance which according to the trial court clearly led to the conclusion that the deceased died in unnatural circumstances. DW1 also admitted that after giving the Prasad, the deceased was not given any medical treatment. E The trial court also observed that under the provisions of Section 113-B of the Evidence Act, the prosecution has proved the presumption of dowry death. The trial court discarded the story of return of ornaments by DW1 and DW2 as being not convincing. The trial court observed that the deceased died in the circumstances narrated by DW1. According to the trial court, either it was a case of homicide or suicide, in both the cases, the accused would be held F guilty for the offence under Section 304B IPC.

The trial court observed that admittedly the death had occurred on the intervening night of 17/18.11.1993. The FIR was lodged at 7.00 a.m. on 20.11.1993. The parents and other family members of the deceased learnt G about her death from a Barber after three days of the death. The dead body was cremated hurriedly without even giving any information to her parents and this circumstance strengthens the case of prosecution that the death had occurred in suspicious circumstances. According to the trial court, involvement of Saraswati Devi in this case was not established beyond reasonable doubt. She was not present on 17.11.1993 when PW1 visited the deceased. DW1 H stated that Saraswati Devi was in Calcutta and there was no evidence that

from 26.10.1993 to 17/18.11.1993, she remained in her house. In view of the evidence of PW1 that he remained for two hours on the doors of the accused and only met the accused Surya Kant Sharma and Ram Badan Sharma. Thereafter, he met the deceased Sanju Kumari and he remained there for an hour. He did not state that he even saw Saraswati Devi in the house. The trial court was of the opinion that reasonable doubt arose with regard to the involvement of mother-in-law of the deceased Sanju Devi and, therefore, gave her benefit of doubt. A B

The trial court came to a definite conclusion that the prosecution had been able to prove the charges under Sections 304-B and 201 IPC against the husband and father-in-law of the deceased and convicted them under Sections 304-B and 201 IPC. The trial court sentenced the accused to undergo 10 years rigorous imprisonment for the offence under Section 304-B I.P.C. They were also sentenced to undergo rigorous imprisonment for two years for the offence under Section 201 IPC. The Court further directed that both the sentences shall run concurrently. C D

The appellants aggrieved by the judgment of the learned Addl. Sessions Judge, Bhojpur, Arrah, preferred an appeal before the High Court. The High Court analysed the judgment of the learned Addl. Sessions Judge and the entire evidence on record. It is not necessary to repeat the findings of the High Court in detail. According to the findings of the trial court, it was a clear case of demands of dowry and harassment on account of not fulfilling the said demands and ultimately the poison was administered to the deceased in the 'Prasad' within seven years of her marriage. E

The High Court also came to the conclusion that the husband and in-laws of the deceased had been persistently demanding a colour TV, motorcycle and cash of Rs.20,000/-. Due to the failure of her parents to give dowry articles, the deceased was harassed and was ultimately killed by administering poison to her by the accused persons. According to the High Court, clear offences under Section 304-B and 201 I.P.C. were made out against the accused persons. F G

The High Court observed that there was perceptible nexus between the death of Sanju and dowry related harassment or cruelty inflicted on her. The High Court also independently came to the conclusion that the evidence of the prosecution witnesses manifestly reflected that shortly after Sanju Kumari went to her in-laws house after the marriage and returned to her parents H

A house only after eight days, she had been complaining to her parents about torture and beating by the husband and in-laws for not getting the dowry articles. The husband and in-laws of the deceased were not even prepared to take the deceased back to their house for her not bringing the dowry articles and it was after much entreaties that the deceased was taken back to their house. The High Court gave particular reference to the statement of B Ramakant Chaudhary PW1 when he visited Sanju Kumari's house on the request of his mother-in-law on 17.11.1993. Sanju Kumari had narrated her woes to him apprehending danger to her life and this must be construed to be cruelty and/or torture. Though other witnesses state about assault on Sanju Kumari, even if that be not there, a definite conclusion can be drawn C that there was evidence of torture to the deceased immediately preceding her death. The interval elapsed between infliction of such harassment or cruelty and her death was too narrow to be widened any more. The High Court after carefully examining the entire evidence on record came to the definite conclusion regarding the guilt of the accused persons and upheld the judgment of the learned trial court. Consequently, the appeal filed by the appellants was D dismissed.

The appellants aggrieved by the impugned judgment of the High Court have approached this Court in two separate appeals.

E The learned counsel appearing for the appellants submitted that there was no evidence to sustain the conviction of the appellants under Sections 304-B and 201 IPC. The learned counsel also submitted there was no material on record to attract Section 113-B of the Evidence Act. It was also submitted on behalf of the appellants that the High Court erred in not applying the strict test before relying on the circumstantial evidence to pass the verdict of F conviction. It was also argued on behalf of the appellants that the High Court was not correct in rejecting the testimony of Dr. B.K. Jain DW3.

In these appeals, it was prayed that the Court must consider the case sympathetically and on humanitarian consideration, it was also prayed that G the sentence of the appellants be reduced to the period already undergone.

The appellants have challenged the impugned judgment of the High Court on the plea that they have been erroneously convicted under Sections 304-B and 201 IPC.

H When the evidence of the instant case is closely examined, then the conclusion regarding the guilt of the accused persons becomes irresistible.

There is an overwhelming evidence to establish that there has been persistent demand of dowry and because of non-fulfilment of the said demand, there was harassment, humiliation and continuous beating of the deceased by the accused persons. In the instant case, as late as on 17.11.1993, Ramakant Chaudhary, PW1, at the instance of his mother-in-law PW5, had visited the deceased to enquire about her welfare. When he reached the house of the deceased initially the accused persons did not even permit him to meet the deceased on the ground that until their demands for dowry were fulfilled, they would not permit any one to meet the deceased. On persuasion, Ramakant Chaudhary, PW1, was ultimately allowed to meet the deceased. The deceased narrated to her brother-in-law, PW1, that she was being harassed because the demands of dowry were not fulfilled. Immediately thereafter, PW1 went and narrated the entire story to the brother and mother of the deceased. It is extremely significant that within a few hours, poison was administered to the deceased in the Prasad and she died on the intervening night of 17/18.11.1993. According to the statement of PW1, the deceased died after eating the 'Prasad' and thereafter she was neither taken to any doctor nor any treatment was given to her. The most suspicious circumstance which supported the story of the prosecution was that the news of the death of the deceased was not sent to the parents of the deceased who were living only a few miles away from the village of the accused. The accused persons clandestinely, secretly and hurriedly cremated the deceased without informing the factum of death to the parents of the deceased. This circumstance strongly proved and lent immense credibility to the prosecution version. Only from a Barber, on 20.11.1993 (after three days), the parents of the deceased learnt that Sanju Kumari was killed by administering the poison to her. The deceased's brother and other relatives rushed to the village where they learnt that the deceased was killed by administering the poison.

In the instant case, the appellants were convicted under Sections 304-B and 201 IPC. Section 304-B IPC reads as follows:

"S.304-B. Dowry Death.—(1) Where the death of a woman is caused by any burns or bodily injury or 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" H

A shall have the same meaning as in s. 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.”

B This Section was inserted in the Indian Penal Code by an Act 43 of 1986 on 19.11.1986.

C There are three main ingredients of this offence; (a) that, there is a demand of dowry and harassment by the accused on that count; (b) that, the deceased died; and (c) that, the death is under unnatural circumstances within seven years of the marriage. When these factors were proved by reliable and cogent evidence, then the presumption of dowry death under section 113-B of the Evidence Act clearly arose. The aforementioned ingredients necessarily attract Section 304-B IPC. Section 304-B is a special provision which was inserted by an amendment of 1986 to deal with a large number of dowry deaths taking place in the country. In the instant case, if the circumstances of the case are analyzed on the touchstone of Section 304-B IPC, all the three basic ingredients of Section 304-B I.P.C. are present in the instant case. There has been persistent demand of dowry and harassment, humiliation and physical violence and beating by the husband and her in-laws. The deceased died under unnatural circumstances within seven years of the marriage.

F In our considered opinion, the trial court has properly analyzed the evidence and justly convicted the appellants under Section 304-B I.P.C. The High Court also examined the entire evidence on record and came to the same conclusion. No infirmity can be found with the impugned judgment of the High Court.

G Looking to the seriousness of the matter, we also independently examined the entire evidence on record. On critical examination of the evidence, we also arrived at the same conclusion. The trial court was justified in convicting the accused persons under Section 304-B IPC and that the conviction of these two appellants has been rightly upheld by the High Court.

The appellants have also been convicted under Section 201 IPC. Section 201 reads as under:

H “S. 201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having

reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; A

if a capital offence—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; B

if punishable with imprisonment for life—and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; C

if punishable with less than ten years' imprisonment—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.” D

In the instant case, according to the prosecution, the deceased was killed by administering poison to her on the intervening night of 17/18.11.1993. Neither the deceased was taken to any doctor nor any doctor was called to examine her nor any kind of medical treatment was given to the deceased. This is extremely unnatural human conduct. The dead body was secretly and clandestinely cremated causing disappearance of evidence of offence, without even intimating the parents of the deceased who were living only a few miles away from their village. They learnt about the murder of the deceased from a Barber on 20.11.1993 after about three days. The appellants secretly and clandestinely cremated the deceased to wipe out the entire evidence of murder. This clearly attracted Section 201 IPC. The trial court was wholly justified in convicting the appellants under Section 201 IPC also. The High Court was also justified in affirming the judgment and order of the trial court. E F G

We deem it appropriate to refer some of the important cases dealing with Section 304-B IPC and Section 113 of the Indian Evidence Act.

In *Soni Devrajbhai Babubhai v. State of Gujarat & Ors.*, [1991] 4 SCC H

- A 298, this Court dealt with the objects and philosophy behind enactment of Section 304-B IPC. In this case, it has been mentioned that Section 304-B and the cognate provisions are meant for eradication of the social evil of dowry which has been the bane of Indian society and continues unabated. For eradication of social evil, effective steps can be taken by the society itself and social sanctions of community can be more deterrent, yet legal sanctions in the form of its prohibition and punishment are some steps in that direction.

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C The Dowry Prohibition Act, 1961 was enacted for this purpose. The report of the Joint Committee of Parliament quoted the observation of our first Prime Minister Pt. Jawaharlal Nehru to indicate the role of Legislation in dealing with the social evil as under:

D “Legislation cannot by itself normally solve deep-rooted social problems. One has to approach them in other ways too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape.”

E Prime Minister Nehru proved prophetic because despite various Legislations the menace of dowry deaths is unfortunately increasing at an alarming speed. Ordinarily, Legislations are based on public opinion, but at times even Legislations also create public opinion. Regrettably, despite many Legislations, we have not been able to control dowry deaths. Perhaps greater social awareness and more severe legislative measures are urgently required to curb the menace of dowry related deaths. To our information, in no other civilized country similar problem of this magnitude exists. This is indeed a slur on our great heritage, ancient cultural and civilization.

F This Court in *Hem Chand v. State of Haryana*, [1994] 6 SCC 727, dealt with the basic ingredient of Section 304-B IPC and Section 113-B of the Evidence Act. This Court, in this case, observed as follows:

G “A reading of Section 304-B IPC would show that when a question arises whether a person has committed the offence of dowry death of a woman what all that is necessary is it should be shown that soon before her unnatural death, which took place within seven years of the marriage, the deceased had been subjected, by such person, to cruelty or harassment for or in connection with demand for dowry. If that is shown then the court shall presume that such a person has caused the dowry death. It can therefore be seen that irrespective of the fact

H

whether such person is directly responsible for the death of the deceased or not by virtue of the presumption, he is deemed to have committed the dowry death if there were such cruelty or harassment and that if the unnatural death has occurred within seven years from the date of marriage. Likewise there is a presumption under Section 113-B of the Evidence Act as to the dowry death. It lays down that the court shall presume that the person who has subjected the deceased wife to cruelty before her death caused the dowry death if it is shown that before her death, such woman had been subjected, by the accused, to cruelty or harassment in connection with any demand for dowry. Practically this is the presumption that has been incorporated in Section 304-B I.P.C. also. It can therefore be seen that irrespective of the fact whether the accused has any direct connection with the death or not, he shall be presumed to have committed the dowry death provided the other requirements mentioned above are satisfied.”

In cases where it is proved that it was neither a natural death nor an accidental death, then the obvious conclusion has to be that it was an unnatural death either homicidal or suicidal. But, even assuming that it is a case of suicide, even then it would be death which had occurred in unnatural circumstances. Even in such a case. Section 304-B IPC is attracted.

In *Satvir Singh & Ors. v. State of Punjab & Anr.*, [2001] 8 SCC 633, this Court examined the meaning of the words “soon before her death”. The Court observed that the legislative object in providing such a radius of time by employing the words “soon before her death” is to emphasize the idea that her death, should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a close and perceptible nexus between death and the dowry-related harassment or cruelty inflicted on the deceased.

This Court in *Hira Lal & Ors. v. State (Govt. of NCT), Delhi*, [2003] 8 SCC 80 reiterated that Section 304-B IPC and Section 113-B of the Evidence Act were inserted with a view to combat the increasing menace of dowry deaths. Perhaps the Legislations are outcome of public opinion and a comprehensive 91st Report on “Dowry Deaths and Law Reform: Amending the Hindu Marriage Act, 1955, the Indian Penal Code, 1860 and the Indian Evidence Act, 1872” submitted on 10.8.1983 by the Law Commission of India. In the introductory chapter of the report, it is mentioned that the last few

A months have witnessed an alarming increase in the number of cases in which married women die in circumstances which, to say the least, are highly suspicious. In the popular mind, these deaths have come to be associated with dowry, which is why, in popular parlance, they have come to be called “dowry-deaths”. Even after more than two decades of submitting the said report and enactments of new Legislations, unfortunately cases of dowry deaths are increasing. In the report, deep concern has been shown that once a serious crime is committed, detection is a difficult matter and still more difficult is successful prosecution of the offender. Crimes that lead to dowry deaths are almost invariably committed within the safe precincts of a residential house. The criminal is a member of the family other members of the family are either guilty associates in crime, or silent out conniving witnesses to it. In any case, the shackles of the family are so strong that truth may not come out of the chains. There would be no other eye witnesses, except for members of the family. Perhaps to meet a situation of this kind, the Legislature enacted Section 304-B IPC and Section 113-B of the Evidence Act.

D In *Hira Lal's* case (supra), this Court observed that the prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the ‘death occurring otherwise than in normal circumstances’. The expression ‘soon before’ is relevant for invoking Section 304-B IPC and Section 113-B of the Evidence Act. (See also: *Dhian Singh & Anr. v. State of Punjab*, [2004] 7 SCC 759, *Sarojini v. State of M.P.*, [1993] Supp. 4 SCC 632, *State of Karnataka v. M. V. Manjunathgowda & Anr.*, [2003] 2 SCC 188, *Muthu Kutty & Anr. v. State*, [2005] 9 SCC 113, *Harjit Singh v. State of Punjab*, [2006] 1 SCC 463, *Kamesh Panjiyar v. State of Bihar*, [2005] 2 SCC 388 and *State of Punjab v. Iqbal Singh & Ors.*, [1991] 3 SCC 1).

F On consideration of the law as crystallized in the decided cases of this Court and evidence on record, we are, therefore, satisfied that the prosecution has successfully proved its case against the appellants. We, therefore, concur with the view of the courts below and affirm the conviction and sentence of the appellants. These appeals are accordingly dismissed.

G V.S.S.

Appeal’s dismissed.