

SURINDER SINGH

v.

STATE OF HARYANA

(Criminal Appeal No. 1791 of 2008)

NOVEMBER 13, 2013

[**RANJANA PRAKASH DESAI AND
MADAN B. LOKUR, JJ.**]

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Penal Code, 1860 – ss. 304B and 498A – Dowry death – Conviction of husband by courts below – On appeal, held: Prosecution successfully proved its case against the husband-accused – The deceased died on account of burns in the house of the accused otherwise than under normal circumstances within 94 days of her marriage – The PWs (brothers of deceased) proved that she was unhappy in the matrimonial house being ill-treated for having brought insufficient dowry – Conviction upheld.

Presumption – Dowry death – Presumption u/s. 113B of Evidence Act and s. 304B IPC – When can be raised – Held: Such presumption can be raised when it is shown that cruelty or harassment was caused soon before death of the deceased – ‘Soon before’ is a relative term – The time-lag may differ from case to case – In the present case, the bride died within 94 days of her marriage, the cruelty meted out to her any time during this period would be construed as ‘soon before’.

Interpretation of Statutes – Penal statutes – Interpretation of – Held: Penal statute, even if has to be strictly construed, must be so construed as not to defeat its purport – The provisions in ss. 113B of Evidence Act and 304B of IPC, being beneficent provisions, even though construed strictly, care will have to be taken to see that their object is not

A *frustrated* – Meaning to be applied to each word of these provisions, has to be in accord with the legislative intent.

Words and Phrases:

B '*Dowry*' – Meaning of, in the context of s. 304B IPC and Dowry Prohibition Act, 1961.

'*Soon before*' – Explained in the context of s. 113B of Evidence Act and s. 304B of Penal Code.

C Appellant-accused No.1 was tried alongwith his other relatives i.e. Accused Nos. 2, 3 and 4 for the offences punishable u/ss. 498A and 304B IPC for killing his wife.

D The prosecution case was that the accused were not satisfied with the dowry and on that account they used to ill-treat and harass the deceased. The deceased had informed her brothers (PWs 4 and 6) and her father about the same. On the day of the incident, accused No.3 came to the house of the parents of the deceased and informed E her brothers and father that the deceased had committed suicide by burning herself. After reaching the spot of occurrence, brother of the deceased lodged FIR narrating ill-treatment meted out to the deceased. The accused denied the allegations and stated that after her F abortion, the deceased was in depression and therefore, she committed suicide.

G Trial court convicted all the accused u/s. 304B IPC and sentenced them to 7 years RI, and further convicted them u/s. 498A IPC and sentenced them to RI for 2 years, and fine of Rs. 1000/- with default clause. High Court, in appeal, confirmed the conviction of appellant-accused and acquitted the other accused. Hence the present appeal by the appellant accused.

H Dismissing the appeal, the Court

HELD: 1. Penal statute, even if it has to be strictly construed, must be so construed as not to defeat its purport. Harassment of a married woman in an Indian household is a peculiar phenomenon. In most cases it is seen that the husband or the members of his family are never satisfied with what they get as dowry. The wife's family is expected to keep fulfilling this insatiable demand in some form or the other for some period of time after marriage. Such demands are also fulfilled by parents of the wife for fear of their daughter being ill-treated. The courts of law cannot lose sight of these realities. The presumption under Section 113B of the Evidence Act, 1872 and the presumption under Section 304B of the IPC have a purpose. These are beneficent provisions aimed at giving relief to a woman subjected to cruelty routinely in an Indian household. The meaning to be applied to each word of these provisions has to be in accord with the legislative intent. Even while construing these provisions strictly care will have to be taken to see that their object is not frustrated. [Para 19] [844-A-D]

Appasaheb and anr. vs. State of Maharashtra (2007) 9 SCC 721; 2007 (1) SCR 164; *Murlidhar Meghraj Loya vs. State of Maharashtra* (1976) 3 SCC 684; 1977 (1) SCR 1; *Kisan Trimbak Kothula vs. State of Maharashtra* (1977) 1 SCC 300; 1977 (2) SCR 102; *State of Maharashtra vs. Natwarlal Damodardas Soni* (1980) 4 SCC 669; 1980 (2) SCR 340 – relied on.

2. Section 113B of the Evidence Act, 1872 states that 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. Section 304B of the IPC states that where the death of a

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. Thus, the words 'soon before' appear in Section 113B of the Evidence Act, 1872 and also in Section 304B of the IPC. [Para 13] [838-F-H; 839-A-B]

3. For the presumptions contemplated under these Sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words 'soon before' is, therefore, important. The question is how 'soon before'? This would obviously depend on facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, 'soon before' is a relative term. In matters of emotions one cannot have

fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death. [Para 13] [839-B-F]

Kans Raj vs. State of Punjab (2000) 5 SCC 207: 2000 (3) SCR 662 – relied on.

4. Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law. [Para 14] [840-G-H]

5. The evidence of brothers of the deceased show that after marriage, the deceased was unhappy in the matrimonial house because of the ill-treatment meted out to her. She died otherwise than under normal circumstances in her husband's house within three months and four days of marriage. It is, indeed, a very short period. The cruelty was spread over the short period covering the date of her marriage till her death displaying a course of conduct. In her case, cruelty caused to her on any day from the date of her marriage could be cruelty caused 'soon before' her death. Therefore, even if date of their visit to the appellant's house, when the demand was made, is not stated by her brothers in the court, that hardly makes any difference. In any case, the brothers have stated that on 05/07/1994 she came to their house and told them about the demand. She died shortly thereafter. [Para 15] [841-A-D]

6. Explanation to Section 304B of the IPC states that for the purpose of this sub-section, dowry shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961. Section 2 of the Dowry Prohibition Act, so far as it is material to the present case, states that dowry

A means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to the other party to the marriage at or before or at any time after the marriage in connection with the marriage of the said party. Thus, the emphasis is on property or valuable security given 'at or before' or 'at any time after' the marriage in connection with marriage. The amount or things demanded must, therefore, have a nexus with the marriage. In the present case, both the brothers of the deceased, have clearly stated that the accused were unhappy by the quality and quantity of the dowry and the deceased was being taunted and beaten-up for that. The words 'insufficient and inferior quality of dowry' are important. They indicate that the transaction of giving dowry was not complete. Sufficient quantity of dowry was not given and that transaction was sought to be completed by asking for Rs.60,000/- after the marriage for the business of the appellant. [Para 16] [842-B-F]

7. No medical record was produced to show that the deceased was in depression and she was taking medicine for the same. There is nothing on record to show that the deceased was told that she will never conceive a child. It is not, therefore, possible to say that the deceased committed suicide because she was in depression. Reliance was placed on a letter, allegedly written by the deceased to her husband's brother-in-law. It was submitted that this letter does not indicate that the deceased was tortured or harassed. In fact, in this letter the deceased has fondly referred to the members of the appellant's family. PW-6 and PW-7 (brothers of the deceased) have not admitted that this letter was written by their sister. It is also improbable that the deceased would write a letter to the brother-in-law of her husband. Assuming that she wrote such a letter, she would never complain him about the ill-treatment meted out to her in her matrimonial house. In any case, even if this letter is

held to be genuine, that does not dilute the evidence of PW-6 and PW-7. This submission, therefore, is rejected. [Para 21] [845-C-G]

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8. The prosecution has successfully proved its case against the appellant. The trial court and the High Court have concurrently held the appellant guilty of offences punishable under Sections 304B and 498A of the IPC. [Para 26] [847-E-F]

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Surinder Kaur and anr. vs. State of Haryana (2004) 4 SCC 109; Durga Prasad and anr. vs. State of Madhya Pradesh (2010) 9 SCC 73: 2010 (7) SCR 104; Geeta Mehrotra and anr. vs. State of Uttar Pradesh and anr. (2012) 10 SCC 741: 2012 (9) SCR 641; Vipin Jaiswal (A-I) vs. State of Andhra Pradesh represented by Public Prosecutor (2013) 3 SCC 684: 2013 (3) SCR 449 – distinguished.

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9. It is true that the relatives of the appellant have been acquitted on the ground that there are no specific allegations against them. There is a great difference between the allegations levelled against the relatives of the appellant and the appellant. The entire prosecution story revolves around the appellant. The demand of Rs.60,000/- relates to the appellant. The witnesses are specific on this point. PW-7 (brother of the deceased) has stated so in the FIR also. Therefore, the appellant's case stands on a different footing. [Para 11] [838-A-D]

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Case Law Reference:

2000 (3) SCR 662	relied on	Para 14
2013 (3) SCR 449	distinguished	Para 17
2007 (1) SCR 164	relied on	Para 17
1977 (1) SCR 1	relied on	Para 18
1977 (2) SCR 102	relied on	Para 18

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A	1980 (2) SCR 340	relied on	Para 18
	(2004) 4 SCC 109	distinguished	Para 22
	2010 (7) SCR 104	distinguished	Para 23
B	2012 (9) SCR 641	distinguished	Para 24

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1791 of 2008.

C From the Judgment & Order dated 01.11.2007 of the High Court of Punjab & Haryana at Chandigarh in Criminal Revision No. 635-SB of 1998.

Nidhesh Gupta, Tarun Gupta, M.K. Ghose (for S. Janani) for the Appellant.

D Kamal Mohan Gupta, Mohd. Zahid Hussain for the Respondent.

The Judgment of the Court was delivered by

E (SMT.) RANJANA PRAKASH DESAI, J. 1. In this appeal judgment and order dated 01/11/2007 passed by the Punjab and Haryana High Court is under challenge.

F 2. The appellant is original accused no. 1. He was tried along with Hazura Singh—original accused no. 2, Narata Singh—original accused no. 3 and Kaushalya – original accused no. 4 for offences punishable under Sections 498A and 304B of the IPC by the Additional Sessions Judge Yamuna Nagar in Sessions Case No. 60 of 1994. Appellant is the husband of deceased Anita (“the deceased” or “Anita”). Accused no. 2 is his father, accused no. 3 is his uncle and accused no. 4 is his mother.

G 3. The deceased was daughter of Ram Lal. Admittedly, she was married to the appellant on 24/04/1994. According to the prosecution, the accused were not satisfied with the quality

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and quantity of the dowry given at the time of marriage. They used to taunt and beat the deceased. At times, they used to keep her hungry. She had informed her brothers and father about this ill-treatment and harassment. Her brother Ashok Kumar and his brother-in-law Pawan Kumar went to the house of the accused and protested. At that time the accused told Ashok Kumar that if he had so much affection for his sister he should give Rs.60,000/- for the business of the appellant. Ashok Kumar expressed his helplessness to meet the demand. Ashok Kumar sent his younger brother Satish Kumar to bring the deceased home, but, the accused told him that he should take the deceased home after some days. On 22/07/1994 the uncle of the appellant i.e. accused no. 3 - Narata Singh went to the house of the parents of the deceased and told them that Anita-the deceased had committed suicide by burning herself. Ashok Kumar accompanied by his father, brother Satish Kumar and brother-in-law Pawan Kumar went to the house of the accused. The burnt dead body of Anita was found kept on a cot in the verandah. Ashok Kumar, then, went to P.S. Yamunanagar and lodged FIR Exhibit-PK. On completion of investigation the accused came to be charged as aforesaid.

4. The prosecution examined, *inter alia*, PW-6 Satish Kumar and PW-7 Ashok Kumar, who unfolded the prosecution story about the ill-treatment meted out to the deceased. PW-9 Dr. V.K. Nagpal conducted the post-mortem and gave report Exhibit-PH. PW-11 Maharaj Singh, DSP, who conducted the investigation, gave details of investigation.

5. The accused denied the allegations of demand of dowry and harassment to the deceased. The appellant in his statement recorded under Section 313 of the Cr.P.C. stated that the deceased was well looked after. Lot of affection was shown to her. When she was carrying, proper medical treatment was given to her. She developed complications and pregnancy had to be terminated. The doctors told her that whenever she conceives she will have problem of bleeding. The deceased

A was last examined on 19/07/1994. After her abortion the deceased was in depression and, therefore, she committed suicide. The accused examined three doctors. They are DW-1 Dr. Mrs. Iqbal Kaur, DW-2 Dr. Fitu Mago and DW-3 Dr. C. Vijayendra. DW-4 Anil Kumar, the brother-in-law produced letter Exhibit-DF received by him from the deceased.

6. The trial court by its judgment and order dated 01/08/1998 convicted the appellant and other accused for offence punishable under Section 304-B of the IPC and sentenced them to undergo RI for seven years each. The accused were also convicted for offence punishable under Section 498A of the IPC and sentenced to suffer RI for two years each. They were ordered to pay a fine of Rs.1,000/- each, in default, they were directed to undergo RI for six months. The substantive sentences were ordered to run concurrently.

7. The accused carried an appeal to the Punjab and Haryana High Court. The High Court acquitted accused nos. 2 to 4 on the ground that allegations made against them were vague and that they were living separately from the appellant. The High Court, however, confirmed the conviction and sentence of the appellant, hence, this appeal to this Court.

8. Learned senior counsel for the appellant Mr. Nidhesh Gupta submitted that since on the same set of evidence all the other accused have been acquitted the appellant should also have been acquitted because no part of the evidence involves the appellant alone. Counsel submitted that there is nothing on record to establish that the deceased was subjected to cruelty or harassment by the appellant. Counsel submitted that, in any case, the prosecution has failed to establish that the alleged cruelty and harassment was in connection with dowry. The allegations are too general and vague. No specific allegations are made against the appellant therefore Section 304B of the IPC is not attracted. Presumptions under Section 304B of the IPC and Section 113B of the Indian Evidence Act, 1872 also do not arise in this case. The witnesses have made only bald

statements. No independent witnesses like neighbours have been examined to prove that the deceased was treated with cruelty. Thus, the conviction of the appellant under Section 304B of the IPC is not sustainable. In this connection counsel relied on *Surinder Kaur and anr. v. State of Haryana*¹, *Durga Prasad and anr. v. State of Madhya Pradesh*² and *Geeta Mehrotra and anr. v. State of Uttar Pradesh and anr*³. Counsel further submitted that so far as demand of Rs.60,000/- is concerned, no date of demand is mentioned, therefore, it is not possible to say that this alleged demand was made soon before the death. Moreover, the demand was made for business of the appellant, therefore, it cannot be called a dowry demand. In this connection counsel relied on *Vipin Jaiswal (A-I) v. State of Andhra Pradesh represented by Public Prosecutor*.⁴ Drawing our attention to letter Exhibit-DF dated 16/07/1994 counsel submitted that this letter was written by the deceased just 15 days before the date of incident to DW-4 Anil Kumar, who is brother-in-law of the appellant. In that letter she has made no grievance about the alleged harassment or cruelty. In fact, she has made fond reference to the members of the appellant's family. This shows that allegations of harassment and cruelty are false. Counsel also drew our attention to the evidence of the doctors examined by the appellant in support of his defence. He submitted that it is clear from their evidence that while the deceased was pregnant she was bleeding and, therefore, her pregnancy had to be terminated. The deceased was told that she may not conceive a child. Thereafter, the deceased went into depression. She appears to have committed suicide while in depression. In the circumstances, the appellant cannot be convicted under Section 304B and 498A of the IPC. His conviction and sentence deserves to be set aside.

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1. (2004) 4 SCC 109.
2. (2010) 9 SCC 73.
3. (2012) 10 SCC 741.
4. (2013) 3 SCC 684.

A 9. Learned counsel for the State of Haryana Mr. Kamal
Mohan Gupta submitted that PW-6 Satish Kumar and PW-7
Ashok Kumar, brothers of the deceased, have unfolded the
prosecution case. They are reliable and trustworthy witnesses.
They have described the ill-treatment meted out to the
B deceased and the demand of dowry made by the appellant.
Counsel submitted that the demand of Rs.60,000/- related to
the appellant's business. The evidence of PW-6 Satish Kumar
and PW-7 Ashok Kumar makes reference to the specific date
of demand and specific amount, which was demanded by the
C appellant. Counsel submitted that deceased Anita died within
94 days of marriage. There can be no doubt that her death
caused by burns was otherwise than under normal
circumstances. The conviction of the appellant is legal and
perfectly justified and, therefore, the appeal be dismissed.

D 10. The evidence of PW-6 Satish Kumar and PW-7 Ashok
Kumar, brothers of the deceased, gives us the prosecution
story. PW-7 Ashok Kumar is the complainant, hence, we shall
first advert to his evidence. He stated that the deceased was
married to the appellant on 20/04/1994. The accused were not
E satisfied with the quality and the quantity of the dowry given by
them at the time of marriage. They used to taunt the deceased
and the deceased had told him about this many times. The
accused used to demand Rs.60,000/- for the business of the
appellant or for getting him some job. PW-7 Ashok Kumar
F further stated that once he and his brother-in-law Pawan Kumar
visited the house of the appellant to request the accused to
treat the deceased properly. According to him, the accused told
him that if he had so much affection for his sister he should pay
Rs.60,000/- to them. He expressed inability to do so. On 05/
G 07/1994 the deceased came to their house and even at that
time she told them about the demand of Rs.60,000/-. PW-7
Ashok Kumar further stated that on 21/07/1994 they received
a message that Anita should be taken home. He sent his
brother PW-6 Satish Kumar to bring his sister home but the
H accused did not send her. On 22/07/1994 Narata Singh, uncle

of the appellant, came to their house and told them that Anita had committed suicide. PW-7 Ashok Kumar went to the house of the accused along with his brother PW-6 Satish Kumar, his father and brother-in-law Pawan Kumar. He saw the dead body of his sister kept in a verandah. He, then, lodged FIR Exhibit-PK. It is pertinent to note that in the FIR also PW-7 Ashok Kumar has stated that the accused demanded Rs.60,000/-, for the business of the appellant or for getting him some job. PW-6 Satish Kumar corroborates PW-7 Ashok Kumar. PW-6 Satish Kumar also stated that accused were not satisfied with the dowry and they used to taunt his sister for bringing less and inferior quality of dowry. He stated that the accused used to beat the deceased and keep her hungry and the deceased used to tell them about the misbehaviour of the accused whenever she came home. He further stated that on 05/07/1994 the deceased told him that the accused are demanding Rs.60,000/- for investing in the business of the appellant. They expressed their helplessness to pay the amount. The accused continued to beat the deceased. He further stated that on 21/07/1994 PW-7 Ashok Kumar received a message from his sister that she should be brought to their house. He, then, went to the appellant's house to bring the deceased home. The accused asked him to fulfill their demand before taking his sister with him to his house. He returned home alone. PW-6 Satish Kumar further stated that on 22/07/1994 Narata Singh, uncle of the appellant came to their house and informed them that Anita had committed suicide. He went to the house of the appellant along with his father and brother and found that the dead body of Anita was kept in the verandah. Thus, the evidence of these two witnesses establishes that the deceased was treated with cruelty. She was subjected to harassment in the appellant's house because the dowry given in the marriage was inadequate and not of good quality. It is also established that the accused wanted Rs.60,000/- for investing in the appellant's business or for getting him some job.

11. The fact that the marriage took place on 20/04/1994

A is not disputed. Anita died on account of burns in the appellant's house. Her death was otherwise than under normal circumstances. She died just within 94 days of the marriage. It is true that the relatives of the appellant have been acquitted on the ground that there are no specific allegations against them. It is argued that, therefore, the appellant should also be acquitted because the allegations are general as against him also. We are unable to agree with this submission. There is a great difference between the allegations levelled against the relatives of the appellant and the appellant. The entire prosecution story revolves around the appellant. The demand of Rs.60,000/- relates to the appellant. The witnesses are specific on this point. PW-7 Ashok Kumar has stated so in the FIR also. Therefore, the appellant's case stands on a different footing.

D 12. It is further argued that neither PW-7 Ashok Kumar nor PW-6 Satish Kumar have stated the exact date on which they went to the house of the accused when the demand for Rs.60,000/- was made and, therefore, it is not possible to locate the date on which demand for Rs.60,000/- was made. E Resultantly, it is not possible to say whether the demand was made soon before the death of Anita. We have no hesitation in rejecting this submission.

F 13. Section 113B of the Indian Evidence Act, 1872 states that 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. G Section 304B of the IPC states that 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 H

for dowry, such death shall be called 'dowry death', and such husband or relative shall be deemed to have caused her death. Thus, the words 'soon before' appear in Section 113B of the Indian Evidence Act, 1872 and also in Section 304B of the IPC. For the presumptions contemplated under these Sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words 'soon before' is, therefore, important. The question is how 'soon before'? This would obviously depend on facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain etched in her memory for a long time. Therefore, 'soon before' is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death.

14. In this connection we may refer to judgment of this Court in *Kans Raj v. State of Punjab*⁵ where this Court considered the term 'soon before'. The relevant observations are as under:

"... .. "Soon before" is a relative term which is required

5. (2000) 5 SCC 207.

A to be considered under specific circumstances of each
case and no straitjacket formula can be laid down by fixing
any time-limit. This expression is pregnant with the idea
of proximity test. The term “soon before” is not synonymous
with the term “immediately before” and is opposite of the
B expression “soon after” as used and understood in Section
114, Illustration (a) of the Evidence Act. These words would
imply that the interval should not be too long between the
time of making the statement and the death. It
contemplates the reasonable time which, as earlier
C noticed, has to be understood and determined under the
peculiar circumstances of each case. 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.
D Such conduct may be spread over a period of time. If the
cruelty or harassment or demand for dowry is shown to
have persisted, it shall be deemed to be “soon before
death” if any other intervening circumstance showing the
non-existence of such treatment is not brought on record,
before such alleged treatment and the date of death. It
E does not, however, mean that such time can be stretched
to any period. 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
F demand and the date of death should not be too remote
in time which, under the circumstances, be treated as
having become stale enough.”

Thus, there must be a nexus between the demand of
G dowry, cruelty or harassment, based upon such demand and
the date of death. The test of proximity will have to be applied.
But, it is not a rigid test. It depends on facts and circumstances
of each case and calls for a pragmatic and sensitive approach
of the court within the confines of law.

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15. The evidence of brothers of Anita show that after marriage Anita was unhappy in the matrimonial house because of the ill-treatment meted out to her. Anita died otherwise than under normal circumstances in her husband's house within three months and four days of marriage. It is, indeed, a very short period. The cruelty was spread over the short period covering the date of her marriage till her death displaying a course of conduct. In her case, in our opinion, cruelty caused to her on any day from the date of her marriage i.e. 20/04/1994 till the date of her death i.e. 22/07/1994 could be cruelty caused 'soon before' her death. Therefore, even if date of their visit to the appellant's house, when the demand was made, is not stated by Anita's brothers in the court, that hardly makes any difference. In any case, the brothers have stated that on 05/07/1994 Anita came to their house and told them about the demand. Anita died shortly thereafter.

16. That takes us to the next submission that Rs.60,000/- were demanded after the marriage for the business of the appellant, and, therefore, it is not a dowry demand. In this connection, reliance is placed on *Vipin Jaiswal*. In that case the appellant therein was married to the deceased on 22/02/1996. The case of the prosecution was that ever since the marriage, the deceased was subjected to physical and mental torture by the appellant and others for not getting sufficient dowry. The trial court convicted all the accused under Sections 304B and 498A of the IPC. The High Court acquitted the relatives of the appellant-husband, but, confirmed his conviction. It is pertinent to note that while acquitting the appellant this Court took note of the fact that the deceased had left a suicide note in which she had stated that nobody from her husband's family was responsible for her death. The High Court while noting that the allegations against the appellant were general in nature stated that the demand of Rs.50,000/- was made six months after the marriage and that was for enabling the appellant therein to purchase a computer and for setting-up his own business. This Court held that demand made for purchasing a computer, six

A months after the marriage, was not a demand in connection with marriage and was not a dowry demand within the meaning of Section 2 of the Dowry Prohibition Act, 1961. *Vipin Jaistwal* is not applicable to the present case. Explanation to Section 304B of the IPC states that for the purpose of this sub-section,

B dowry shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961. Section 2 of the Dowry Prohibition Act, 1961, so far as it is material to this case, states that dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party to a marriage to

C the other party to the marriage at or before or at any time after the marriage in connection with the marriage of the said party. Thus, the emphasis is on property or valuable security given 'at or before' or 'at any time after' the marriage in connection with marriage. The amount or things demanded must, therefore,

D have a nexus with the marriage. In this case both the brothers i.e. PW-6 Satish Kumar and PW-7 Ashok Kumar, brothers of the deceased, have clearly stated that the accused were unhappy by the quality and quantity of the dowry and the deceased was being taunted and beaten-up for that. The words 'insufficient and inferior quality of dowry' are important. They

E indicate that the transaction of giving dowry was not complete. Sufficient quantity of dowry was not given and that transaction was sought to be completed by asking for Rs.60,000/- after the marriage for the business of the appellant. This demand has a connection with the marriage. Therefore, in our opinion *Vipin*

F *Jaiswal* is not applicable to the present case.

17. We are mindful of the fact that in *Vipin Jaiswal* this Court relied upon *Appasaheb and anr. v. State of Maharashtra*⁶. In that case the accused was convicted under

G Section 304B read with Section 34 of IPC. The incident had taken place on 15/09/1991. The deceased was married to the accused about 2 ½ years prior to the date of the incident. The deceased consumed poison and died in the house of the accused. The allegations were that there was a demand for

H 6. (2007) 9 SCC 721.

money and consequent beating of the deceased. The evidence disclosed that the demand was made for defraying expenses of manure etc. This Court held that a demand for money on account of some financial stringency or for meeting some urgent domestic expenses or for purchasing manure cannot be termed as a demand for dowry as the said word is normally understood. This Court held that being a penal provision Section 2 of the Dowry Prohibition Act, 1961 will have to be construed strictly.

18. It is true that penal provisions have to be construed strictly. However, we may mention that in *Murlidhar Meghraj Loya v. State of Maharashtra*⁷ this Court was dealing with the Prevention of Food Adulteration Act, 1954. Speaking for this Court, Krishna Iyer, J. held that any narrow and pedantic, literal and lexical construction of food laws is likely to leave loopholes for the offender to sneak out of the meshes of law and should be discouraged and criminal jurisprudence must depart from old canons defeating criminal statutes calculated to protect the public health and the nation's wealth. Similar view was taken in *Kisan Trimbak Kothula v. State of Maharashtra*⁸. In *State of Maharashtra v. Natwarlal Damodardas Soni*⁹, while dealing with Section 135 of the Customs Act and Rule 126-H(2)(d) of the Defence of India Rules, a narrow construction given by the High Court was rejected on the ground that that will emasculate these provisions and render them ineffective as a weapon for combating gold smuggling. It was further held that the provisions have to be specially construed in a manner which will suppress the mischief and advance the object which the legislature had in view.

19. While we reiterate what this Court has said in *Appasaheb* that a penal statute has to be construed strictly, in light of *Kisan Trimbak* and *Natwarlal Damodardas*, we are of

7. (1976) 3 SCC 684.

8. (1977) 1 SCC 300.

9. (1980) 4 SCC 669.

A the opinion that penal statute, even if it has to be strictly
 construed, must be so construed as not to defeat its purport.
 Harassment of a married woman in an Indian household is a
 peculiar phenomenon. In most cases it is seen that the husband
 or the members of his family are never satisfied with what they
 B get as dowry. The wife's family is expected to keep fulfilling this
 insatiable demand in some form or the other for some period
 of time after marriage. Such demands are also fulfilled by
 parents of the wife for fear of their daughter being ill-treated.
 C The courts of law cannot lose sight of these realities. The
 presumption under Section 113B of the Indian Evidence Act,
 1872 and the presumption under Section 304B of the IPC have
 a purpose. These are beneficent provisions aimed at giving
 relief to a woman subjected to cruelty routinely in an Indian
 household. The meaning to be applied to each word of these
 D provisions has to be in accord with the legislative intent. Even
 while construing these provisions strictly care will have to be
 taken to see that their object is not frustrated.

20. As stated by this Court in *Appasaheb* a demand for
 meeting financial stringency may not fall within the ambit of the
 E term 'dowry' as defined under the Dowry Prohibition Act.
 Similarly, a demand of money made six months after marriage
 for setting-up computer business of the husband may not be
 covered by the term dowry as stated in *Vipin Jaiswal*. But, in
 this case, the demand is made to complete and fulfill the
 F demand of dowry made prior to the marriage. The appellant's
 grievance was about the inferior and insufficient dowry given
 by the deceased's family and after marriage that was sought
 to be fulfilled by asking for Rs.60,000/- for setting-up appellant's
 business or for getting him some job. Insufficient dowry given
 G to the appellant was sought to be supplemented by the demand
 of Rs.60,000/-. The present case, therefore, stands on a
 different footing. Section 304B of the IPC is clearly attracted
 to this case.

H 21. It was argued that the evidence of the doctors

examined by the appellant show that the deceased's pregnancy was terminated, that she was told that she may not conceive a child again and, that, thereafter, she was in depression. It is argued that, therefore, she committed suicide. It is not possible to accept this submission. Even if the pregnancy of the deceased was terminated, that would not necessarily lead to depression. In fact, DW-3 Dr. C. Vijayendra, who terminated the pregnancy of the deceased stated that it is not necessary that a patient may suffer from depression after termination of pregnancy. Neither DW-1 Dr. Mrs. Iqbal Kaur or DW-2 Dr. Mrs. Ritu Mago stated that the deceased was in depression. They stated that there was no imminent danger to the life of the deceased. No medical record was produced to show that the deceased was in depression and she was taking medicine for the same. There is nothing on record to show that the deceased was told that she will never conceive a child. It is not, therefore, possible to say that the deceased committed suicide because she was in depression. Reliance was placed on a letter, allegedly written by the deceased to her husband's brother-in-law. It was submitted that this letter does not indicate that the deceased was tortured or harassed. In fact, in this letter the deceased has fondly referred to the members of the appellant's family. PW-6 Satish Kumar and PW-7 Ashok Kumar have not admitted that this letter was written by their sister. It is also improbable that the deceased would write a letter to the brother-in-law of her husband. Assuming that she wrote such a letter, she would never complain about the ill-treatment meted out to her in her matrimonial house to the brother-in-law of her husband. In any case, even if this letter is held to be genuine, that does not dilute the evidence of PW-6 Satish Kumar and PW-7 Ashok Kumar. This submission, therefore, does not impress us and is rejected.

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22. None of the judgments relied upon by the appellant's counsel help the appellant. They turn on their own facts. In *Surinder Kaur* the demand was made 2 ½ years prior to the death of the deceased and, therefore, it was held that

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A allegations were not proximate to the death of the deceased
 hence, Section 304B of the IPC was not attracted. In that case
 the appellants before this Court were the relatives of Surinder
 Kumar, the husband of the deceased. There were no direct
 allegations against them. Considering all these circumstances
 B they were acquitted. This case will have no application to the
 present case.

23. In *Durga Prasad* the appellants were convicted under
 Sections 498A and 304B of the IPC. This Court acquitted them
 by giving benefit of doubt on the ground that except for certain
 C bald statements made by the witnesses alleging cruelty and
 harassment to the deceased-wife no other evidence was
 produced to prove that she committed suicide because of
 cruelty and harassment. This case is also not applicable to the
 instant case because here the demand of Rs.60,000/-
 D specifically relates to the appellant, therefore, it cannot be said
 that qua the appellant there are no specific allegations. Here
 the harassment and cruelty is inextricably linked to the appellant.

24. In *Geeta Mehrotra* the High Court had refused to quash
 E the complaint filed against the appellant(1), who was sister-in-
 law of the complainant and appellant(2), who was brother-in-
 law of the complainant, under Sections 498A, 323, 504 and 506
 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act,
 1961, on the ground that the question of alleged lack of territorial
 F jurisdiction cannot be decided by it under Section 482 of the
 Cr.P.C. The High Court left it open to the appellants to move
 the trial court. While quashing the proceedings this Court took
 note of the fact that the marriage between the complainant wife
 and her husband was dissolved by an ex-parte decree of
 divorce. This Court was of the view that in the circumstances
 G proceedings initiated prior to the divorce decree ought not to
 be prosecuted further. This Court also took into consideration
 the fact that there were no specific allegations against the
 appellants, who were relatives of the husband. It appears that
 in the complaint there was only a casual reference to the
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appellants. The instant case stands on different footing because here evidence is adduced and the appellant is convicted. The brothers of the deceased have stated on oath that Rs.60,000/- were demanded for the appellant's business and for that amount the deceased was harassed and treated with cruelty. That cruelty led to her death in unnatural circumstances.

25. Before closing, the most commonplace argument must be dealt with. In all cases of bride burning it is submitted that independent witnesses have not been examined. When harassment and cruelty is meted out to a woman within the four walls of the matrimonial home, it is difficult to get independent witnesses to depose about it. Only the inmates of the house and the relatives of the husband, who cause the cruelty, witness it. Their servants, being under their obligation, would never depose against them. Proverbially, neighbours are slippery witnesses. Moreover, witnesses have a tendency to stay away from courts. This is more so with neighbours. In bride burning cases who else will, therefore, depose about the misery of the deceased bride except her parents or her relatives? It is time we accept this reality. We, therefore, reject this submission.

26. We are, therefore, of the view that the prosecution has successfully proved its case against the appellant. The trial court and the High Court have concurrently held the appellant guilty of offences punishable under Sections 304B and 498A of the IPC. We have no hesitation in endorsing the view taken by the trial court which is confirmed by the High Court. The appeal is, therefore, dismissed. The appellant is on bail. His bail bonds stand cancelled. He shall surrender to the concerned court.