

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CrI.A.No.339-41/2005

% Reserved on: 23rd February, 2010
Date of Decision: 02nd March, 2010

HANS RAJ SHARMA & ORS. Appellant
! Through: Mr. A.K. Srivastava, Adv.
versus

\$ STATE GOVT. OF N.C.T. OF DELHI Respondent
^ Through: Mr.Jaideep Malik, APP

* **CORAM:**
HON'BLE MR. JUSTICE V.K. JAIN

1. Whether the Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

: V.K. JAIN, J.

1. This is an appeal against the Judgment dated 14th March, 2005 and Order on Sentence dated 16th March, 2005, whereby the appellants alongwith Naresh Kumar Sharma, son of the appellants Hans Raj Sharma and Satya Devi and elder brother of the appellant Suresh Kumar Sharma were convicted under Section 498-A & 304-B of IPC read with Section 34 thereof and were sentenced to undergo RI for one year each and to pay fine of Rs.500/- each or to undergo RI for 15 days each under Section 498-A/34 IPC and were

further sentenced to undergo RI for 7 years each and to pay fine of Rs.1000/- each or to undergo RI for 30 days each in default under Section 304-B/34 IPC. The sentences were directed to run concurrently.

2. The convict Naresh Kumar Sharma has been released from jail after his having undergone the sentence awarded to him. He has already withdrawn the appeal filed by him on the ground that having undergone the sentence, he did not want to pursue it further.

3. In the night of 1st May, 1997 deceased Lovely was brought dead to St. Stephen Hospital, Tis Hazari, Delhi at about 10.45 pm, by her husband Naresh. The dead body had scar marks of injury on her neck. On receipt of information in this regard, SI Vijay Singh went to St. Stephen Hospital and called SDM Kotwali. The statement of brother and mother of the deceased was recorded by the SDM. In his statement to SDM, Subhash Chand, brother of the deceased, stated that Lovely was married on 18th January, 1995. He further stated that at the time of marriage, there was no demand of dowry and necessary items had been given to the in-laws of Lovely, without any pressure or demand. He

alleged that in March, 1995, Lovely came to his house and informed that her husband Naresh had to purchase a shop at Lawrence Road. She further informed that Naresh was a heavy drinker and used to beat her. He also claimed that sometimes Naresh had beaten Lovely in front of his mother as also before him under influence of liquor. He further alleged that on 1st May, 1997, at about 11.00 am, Lovely came to Madangiri and stated that her husband Naresh Kumar, mother-in-law, father-in-law and son-in-law were harassing her and demanding Rs.50,000/-. He told Lovely that he would meet Naresh next day. Lovely, thereupon, returned to the house of her in-laws at about 7.00 pm on the same day. On 2nd May, 1997, at about 5.00 am, he received a telephonic message from an unknown person informing him that Lovely had expired. Subhash expressed suspicion that father-in-law, mother-in-law, husband and brother-in-law of Lovely had killed her. Smt. Subhadra Devi, mother of the deceased, in her statement to the SDM stated that at the time of marriage, there was no demand of dowry though necessary items were given willingly. She also expressed her full agreement with the statement given by her son Subhash and

sought legal action against the father-in-law, mother-in-law, brother-in-law and husband of the Lovely. FIR was registered on the basis of the aforesaid statement, recorded by the SDM.

4. Subash Chand, brother of the deceased came in the witness Box as PW-1 and stated that after marriage, there was no demand of dowry for about two months, but thereafter her sister was harassed by the appellants, who demanded more dowry of cash amounting to Rs.1 lakh on the pretext that Naresh had to purchase a shop. He further stated that Naresh used to beat his sister, after taking drinks, at the instance of other accused persons, as his sister did not bring the required amount of dowry. He claimed that two-three times, Naresh had beaten his sister at his residence when she came there to meet them. At that time, he was under influence of liquor. He further stated that on 1st May, 1997, Lovely came to their house at about 11.00 am and told him that her husband and in-laws had sent her to bring Rs.50,000/- since they had to purchase a shop, but he could not give that amount as he was not able to arrange it. He asked his sister to return to her matrimonial home and assured that he would arrange the money on the next day

and would talk to her in-laws. Thereafter, his sister returned home. He also stated that her sister was harassed and tortured mentally and physically by all the accused persons for not bringing the dowry and cash amount.

5. PW-5 Smt. Kamlesh is the neighbour of the appellants. She has stated that she had been residing in this very building for the last about 40 years and had been seeing the appellants since birth. She further stated that she had never seen them to quarrelling with and beating Lovely at any point of time.

6. PW-6 Subhadra Devi is the mother of deceased. She has stated that at the time of marriage of Lovely, there was no demand of dowry by the accused persons, but, after two months of marriage, they started harassing her daughter for dowry and demanded Rs.1 lakh for purchasing a shop. She could not arrange this amount, though her son Subhash gave Rs.10,000/- three times, through her daughter Lovely. She further stated that Naresh used to take liquor and give beating to Lovely and on two occasions, he gave beating to her at their house. She alleged that Naresh had also tried to strangulate her daughter on these occasions. She further

stated that on the date of occurrence, her daughter came to their house at about 11.00 am-12.00 noon and told her that the accused were demanding Rs.50,000/- in cash. She advised her to go back and assured her that Subhash would come to her house and would ask accused persons to mend their ways. Though her daughter was not willing to go at her matrimonial home, apprehending that she would be killed by them, she returned on the advice and assurance given by her.

7. PW-9 Kuldeep Kumar is the cousin of the deceased. He stated that relation between Lovely and accused persons were normal for about 5-6 months. Thereafter, he was informed by his aunt that the in-laws of Lovely harassing her and demanding money for purchasing a shop. He further stated that 1½ years ago, when he was present there, Naresh came there under influence of liquor, quarrelled with Lovely and tried to strangulate her.

8. In their statement under Section 313 of Cr.P.C., the appellants denied the allegations against them and stated that Lovely used to remain depressed since she did not have an issue after marriage.

9. DW-1 Shambhu Dayal Shama claims to be the

neighbour of the appellants and has stated that Lovely used to be perturbed, as she was not having a child. DW-2 Phoolwati is also a neighbour of the appellants. She has corroborated the testimony of DW-1 and has stated that Lovely used to remain depressed as she was not having a child. DW-3 Daulat Ram claims to have purchased land measuring 100 sq. yards from the appellant Satya Devi and claims to have paid Rs.30,000/- to her in January, 1996. DW-4 Baldev Chand has stated that he had purchased the land measuring 100 sq. yards from Satya Devi in 1996.

10. In order to succeed in charge under Section 498-A IPC, the prosecution was required to prove that the appellants had subjected deceased Lovely to cruelty, as defined in the explanation to the Section. It is not every cruelty which is punishable under Section 498-A of IPC. The cruelty, as defined in the explanation to 498-A of IPC, is altogether different from the cruelty, which can be subject matter of proceedings, under the provisions of Hindu Marriage Act. The cruelty, so as to attract penal provisions, contained in Section 498-A of IPC, has necessarily to be a willful conduct which is of such a nature that it is likely to drive a woman to

commit suicide or cause grievous injury or danger to her life or health. The use of the expression 'willful' in the explanation to Section 498-A of IPC indicates that the conduct attributed to the accused, in order to be culpable, needs to be deliberate, aimed at causing injury to the health of the woman or bringing misery to her. If the accused knows or is reasonable expected to know that his conduct is likely to cause injury to the life, limb or health of the aggrieved woman or if his conduct is of such a nature, that causing injury to the life, limb or health can be a natural consequence for the woman, who is recipient of such a conduct, it will attract criminal liability on the part of the husband or his relative, as the case may be. Everyone is presumed to intend the natural consequences of his act and such a presumption must necessarily be drawn even if there is no intention to cause any injury or harm to the woman. Whether the conduct in question is likely to drive the woman to cause injury to her life, limb or health, will depend upon a number of factors such as social and economic status of the parties, the level of awareness of the aggrieved woman, her temperament, state of her health, physical as well as mental and how she is likely to

perceive such a behavior. If a woman is harassed with a view to coerce her or any of her relatives to meet any unlawful demand for any property or valuable security, it will also constitute cruelty, as defined in the explanation to Section 498-A of IPC. Of course, the expression 'cruelty' would take in its ambit mental cruelty as well as physical torture of the woman. If the conduct of the accused with a woman is likely to cause a reasonable apprehension in her mind that her living with the husband will be harmful and injurious to her life and safety, such a conduct would attract criminal liability, envisaged in Section 498-A of IPC.

11. If the woman has harassed on account of her failure or the failure of her relatives to meet an unlawful demand for property or valuable security, that also constitutes cruelty, within the meaning of Section 498-A of IPC. The expression 'harassment' has not been defined in Section 498-A of IPC, but its dictionary meaning is to subject someone to continuous vexatious attacks, questions, demands or other unpleasantness, etc. But, it is not harassment of every nature which is punishable under Section 498-A of IPC. In order to attract criminal liability, there should be torture physical or

mental, by positive acts. Such acts should be aimed at persuading or compelling the woman or her relatives to meet an unlawful demand of any property or valuable security or it should be actuated by the failure of the woman or her relative to meet such a demand.

12. Coming to the charge under Section 304-B of IPC, before a person can be convicted under this Section, which deals with what is described as 'dowry death', the prosecution must necessarily prove the following ingredients:-

- i. The death of a woman must have been caused by burn or bodily injury or otherwise than under normal circumstance;
- ii. Such death must have occurred within seven years of her marriage;
- iii. Soon before her death, the woman must have been subjected to cruelty or harassment by her husband or by relatives of her husband;
- iv. Such cruelty or harassment must be for or in connection with demand for dowry;
- v. Such cruelty or harassment is when to have been meted out to the woman soon before her death.

13. The term 'dowry' has not been defined in Section 304-B of IPC, but, since this expression has been defined in Section 2 of Dowry Prohibition Act, it is required to be given the same meaning for the purpose of under Section 304-B IPC as held by Hon'ble Supreme Court in **Satvir Singh & Ors. Vs. State of Punjab and Anr.** 2001 (4) Crimes 45.

14. Section 2 of Dowry Prohibition Act defines dowry as under:

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

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

at or before ³[or any time after the marriage] ⁴[in connection with the marriage of the said parties, but does not include] dower or *mahr* in the case or persons to whom the Muslim Personal Law (*Shariat*) applies."

15. A careful analysis of the above-referred definition would show that dowry would include that property or valuable security which is actually given or which is agreed to be given, in relation to the marriage of person in question. The property or valuable security may be given or may be agreed to be given before marriage or at the time of marriage or at

any time after the marriage, so long as it is connected with the marriage. But, there has to be a link between the property given or agreed to be given and the marriage. If at any time before or at the time of or even during marriage, the parents of a woman or any other person related or connected to her agree to give some cash, valuable security or property to her husband or in-laws after marriage, that also would be covered within the definition of dowry as the agreement or promise in such a case would be attributable to the marriage or proposed marriage and if there is demand for any cash property, valuable security etc. which is promised, but not given, it would constitute demand for dowry. If the husband of the girl or any other person related or connected to him, demands something from the girl or her parents or any other person related to or connected with her, saying that the article being demanded by them was expected to be given or ought to have been given in marriage, that also, to my mind, would constitute demand of dowry because even though such an article may not have been agreed or promised to be given by the girl or her family members, it might have been in the contemplation of the boy and/or his family members, on

account of the expectation that such an article would be given at the time of marriage. Therefore, such demand would be considered to be a demand in connection with the marriage though made after the marriage has been solemnized. Even demand of articles such as T.V., fridge, jewellery, clothes, furniture, etc. which usually are given or expected in marriages in our country, would, considering the objective sought to be achieved by incorporating Section 304-B in Indian Penal Code and enacting Dowry Prohibition Act, 1961 fall within the purview of Section 304-B of IPC. In fact, in **Pawan Kr. & Ors. Vs. State of Haryana** AIR 1998 SC 958, the Hon'ble Supreme Court has specifically held demand of T.V., Fridge, etc. though not agreed to be given or promised or even demanded prior to or at the time of marriage, to be a demand for dowry for the purpose of Section 304-B of IPC. If cash or some property, etc. is demanded by the boy or his family members, after marriage, saying that they were expecting such cash, property, etc. to be given in marriage, and the girl, or her parents or any other person related or connected to her promise to fulfil such a demand, that also may fall within the purview of dowry, as the promise though

made after marriage, would nevertheless be referable to the marriage, having been made with a view to preserve the marriage. But, if the demand is made after marriage and it is in respect of a property or valuable security, which was not demanded, was not expected to be given and also was not in contemplation at any time up to solemnization of marriage, demand of such cash, property or valuable security, etc. cannot be said to be in connection with the marriage and, therefore, would not constitute demand of dowry.

16. In **Satvir Singh** (supra) while dealing with this issue, the Hon'ble Supreme Court, inter alia, observed as under:

“Thus, there are three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is "at any time" after the marriage. The third occasion may appear to be an unending period. But the crucial words are "in connection with the marriage of the said parties". This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties. There can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not

enveloped within the ambit of "dowry". Hence the dowry mentioned in Section 304B should be any property or valuable security given or agreed to be given in connection with the marriage."

17. In **Appasaheb and Anr. Vs. State of Maharashtra**, AIR 2007 SC 763, the Hon'ble Supreme Court observed as under:

"In view of the aforesaid definition of the word "dowry" any property or valuable security should be given or agreed to be given either directly or indirectly at or before or any time after the marriage and in connection with the marriage of the said parties. Therefore, the giving or taking of property or valuable security must have some connection with the marriage of the parties and a correlation between the giving or taking of property or valuable security with the marriage of the parties is essential. Being a penal provision it has to be strictly construed. Dowry is a fairly well known social custom or practice in India. It is well settled principle of interpretation of Statute that if the Act is passed with reference to a particular trade, business or transaction and words are used which everybody conversant with that trade, business or transaction knows or understands to have a particular meaning in it, then the words are to be construed as having that particular meaning.....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.

The evidence adduced by the prosecution does not, therefore, show that any demand for "dowry" as defined in Section 2 of the Dowry Prohibition Act was made by the appellants as what was allegedly asked for was some money for meeting domestic expenses and for purchasing manure."

18. Demand for something which has not been agreed to be given at any time before or at the time of marriage and which is not in the contemplation of the boy and/or his family members and which is neither expected by them to be given in the marriage, nor which is an article of the nature usually given in a marriage, cannot be said to be connected with the marriage. The use of the expression 'in connection with the marriage of the said parties' leaves no room for the interpretation that any and everything demanded after marriage, without anything more, would constitute demand of dowry. Such an interpretation would render the expression 'in connection with the marriage of the said parties' totally redundant and, therefore, cannot be said to be have been intended by the Legislature. It is settled proposition of law that penal statutes need to be strictly construed and even if two views in the matter are reasonably

possible, the interpretation, which would favour the accused, needs to be given by the Courts. No doubt, Section 304-B of IPC is a social legislation aimed at preventing dowry deaths which is a social evil that needs to be eradicated at any cost. It is also difficult to deny that in our society there are demands other than those covered under the definition of dowry are made after the marriage and such demands do result in subjecting the girl to cruelty and/or harassment if she or her parents or relative are unable to fulfil the demand. Such a demand, if followed by cruelty or harassment would constitute offence punishable under Section 498-A of IPC. But, it is difficult to accept that the demands which are not at all referable to the marriage, would also constitute dowry demand punishable under Section 304-B of IPC in case the woman is subjected to cruelty or harassment for or in connection with such a demand. The remedy, to my mind, lies in the Legislature stepping in and making even such demands subject matter of offence punishable under Section 304-B of IPC.

19. The first allegation against the appellants, which has come in the deposition of PW-4 Subhash Chand, is that

Naresh, husband of the deceased Lovely, used to give beatings to her at their instance, because she did not bring the amount of Rs.1 lakh demanded from her for purchasing a shop for Naresh. A perusal of the statement made by Subhash Chand before the SDM would show that he did not say before the SDM that Naresh used to beat his sister at the instance or instigation of the appellants. Though Subhash claimed before the SDM that Naresh used to beat his sister, he did not say that Naresh used to do so at the instance of or when instigated by the appellants. PW-6 Subhadra Devi, mother of the deceased, also did not say either before the SDM or when she was examined during trial that Naresh used to beat Lovely at the instance of the appellants though she did say that Naresh used to take liquor and give beatings to her daughter Lovely. Subhash does not say that his sister has told him at any point of time that the appellants used to instigate Naresh to give beating to her. Subhash does not claim that the appellants, at any point of time, instigated Naresh, in his presence, to give beating to his sister Lovely. PW-6 Subhadra also does not say that Lovely had complained to her that the appellants used to instigate Naresh to beat her

or that she used to be beaten by Naresh at their instance. In fact, it has come in the deposition of not only PW-4 Subhash, but also in the deposition of his mother and his cousin Kuldeep Kumar that Naresh not only gave beatings to Lovely but also tried to strangulate her at the house of her parents in their presence and that while beating Lovely at the house of her parents, Naresh used to be under influence of liquor. The appellants were never present at the time of these incidents. This indicates that Naresh used to beat Lovely of his own and not on being instigated by any of the appellants. Therefore, this part of the deposition of Subhash, where he claimed that Naresh used to beat Lovely at the instance of the appellants, appears to be an improvement and after thought and, therefore, cannot be believed. Thus, there is no evidence to prove any role of any of the appellants in beating of deceased Lovely at the hands of her husband Naresh.

20. The only other evidence, which has come against the appellants during trial, is that they used to ask deceased Lovely to bring money from her parents, so that Naresh could buy a shot at Lawrence Road. In his statement to the SDM made soon after death of Lovely, PW-4 Subhash did not say

that prior to 1.5.1997 any of the appellants had asked Lovely to bring money from her brother or mother for purchase of a shop for Naresh at Lawrence Road, though he alleged that his sister had come to his house in March, 1995 and had stated that Naresh had to purchase a shop at Lawrence Road. Even PW-4 Subhadra Devi did not impute any demand of money to the appellants though she agreed with the statement given to SDM by Subhash.

21. In their deposition in the Court, neither Subhash nor his mother Subhadra Devi claimed that any of the appellants had asked Lovely in their presence to bring money for purchase of a shop for Naresh at Lawrence Road. Neither of them says that any such demand was made directly to them by any of the three appellants before this Court. Neither of them claimed, even during trial, that Lovely had told them, prior to 1st May 1997, that the appellants also were demanding Rs.1 lakh, for purchasing a shop for Naresh. PW-9 Kuldeep Kumar has no personal knowledge of the alleged demand and nor does he claim that Lovely had complained to her about any such demand on the part of the appellants. Since PW-4 and PW-6 did not witness any demand of money

for purchase of a shop for Naresh and there is no evidence of deceased Lovely having complained to them at any time before 1st May, 1997 about demand of money by any of the appellants, the inevitable conclusion is that there is no evidence of any demand of money by the appellants at any point of time prior to 1st May, 1997.

I find it rather difficult to accept that Lovely was sent to her house not by her husband Naresh alone, but also by the appellants, to bring a sum of Rs.50,000/- from them for purchase of a shop. The case of the prosecution is that the shop was to be purchased for Naresh. Therefore, primarily, it will be Naresh alone who would pressurize his wife to bring money from her brother/mother so that he was in a position to purchase a shop at Lawrence Road. This is not the case of the prosecution that the shop at Lawrence Road was proposed to be purchased for the benefit of the entire family and not for Naresh alone.

22. In **Kans Raj vs. State of Punjab and others** AIR 2000 SC 2324 the Hon'ble Supreme Court , inter alia, observed as under:-

“In cases where such accusations are made, the overt acts attributed to persons other than husband are required to be proved beyond reasonable doubt. By mere conjectures and implications such relations cannot be held guilty for the offence relating to dowry deaths. A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their over enthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case.”

23. There is growing tendency these days to take revenge from the husband, by implicating all his family members, by making allegations of general nature against all of them, though the husband alone may be responsible for the cruelty inflicted to the woman. The Courts, therefore, need to carefully analyze the evidence and need to separate the chaff from the grain, so as to arrive at a just and fair conclusion.

24. Another noteworthy circumstance here is that according to Subhash when his sister came to him on 1st May, 1997 and conveyed the demand of Naresh and the appellants for

Rs.50,00/-, he assured her that he would arrange the money by next day and would come to her matrimonial home. If that was so, there could normally have been no reason for the appellants to react negatively after Lovely returned to the matrimonial home. If Lovely was assured by her brother that the demand of her husband and in-laws would be fulfilled by next day, she would naturally have conveyed this to her husband and in-laws and if that be so, they would be rather happy and would at least wait till next day for the promise made by the brother of Lovely to be fulfilled. In that case, there could have been no reason for them to say anything adverse to Lovely on that day and consequently there would be no provocation for Lovely to commit suicide on that very day.

25. In the present case, even if I believe the deposition of PW-4 and PW-6 to the effect that on 1st May, 1997 deceased Lovely had come to their house and informed them that she had been sent by all the accused, including the appellants to bring Rs.50,000/- for purchasing a shop for her husband Naresh at Lawrence Road, such a demand will not amount to a demand of dowry within the meaning of Section 304-B IPC.

Thus, the Hon'ble Supreme Court did not accept demand made from the girl and her parents for money to meet domestic expenses and purchase of manure to be demand of dowry. Demand for money to purchase a shop, which, admittedly was never demanded or promised prior to, at the time of or after marriage of Lovely with Naresh, which was not expected when Naresh was married to Lovely and which was not even in contemplation of Naresh or his family members, it not being something usually given or expected in marriage, also cannot be said to be something demanded in connection with marriage. Consequently, it would not constitute demand for dowry.

26. Assuming that the demand of Rs.50,000/- in order to purchase shop for Naresh constitutes demand of dowry within the meaning of Section 304-B IPC, the appellants are still not liable to be convicted either under Section 304-B or under Section 498-A IPC, since there is no evidence of any of the appellants having subjected deceased Lovely to any kind of cruelty or harassment for or in connection with demand of Rs.50,000/- for purchase of a shop. There is no allegation that any of the appellants had subjected deceased Lovely to

any kind of physical or mental cruelty. There is no allegation of any of the appellants mal-treating, torturing or taunting the deceased for not bringing Rs.50,000/- from her family for purchase of a shop for her husband. As noted earlier, the prosecution has failed to prove that the husband of the deceased used to give beatings to her at the instigation of the appellants. There is no other allegation constituting any kind of harassment or cruelty on the part of any of the appellants.

27. In fact, in the circumstances of a given case, even persistent demand may amount to cruelty within the meaning of Section 498-A of IPC and in case, the demand is in relation to dowry, it may also amount to cruelty and/or harassment also for the purpose of Section 304-B thereof. When there is a demand made to a woman or someone related to her, the person to whom the demand is made, will either meet the demand in which case there would be no occasion for its repetition, or he may either express his inability to meet the demand or may promise to meet it, but may not be able to honour his promise. If, despite inability of the woman or his relative, as the case may be, to meet it, there is persistent repetition of the demand it is bound to

cause mental agony and misery to the aggrieved woman and such persistent demands by themselves have the potential of driving the woman to cause injury to her life, limb or health. But, in this case, there is no evidence even of persistent demand of Rs.50,000/- on the part of the appellants. The only evidence against them, if believed, is of sending Lovely to the house of her parents on 1st May, 1997 to bring Rs.50,000/- from them for purchase of a shop for her husband. The prosecution has failed to establish any such demand on the part of the appellants at any time prior to 1st May, 1997. One solitary instance of asking the deceased to bring Rs.50,000/- from her parents on 1st May, 1997 even if true will not constitute dowry death punishable under Section 304-B of IPC or cruelty or harassment punishable under Section 498-A thereof, when it is not followed by any cruelty or harassment, as defined in Section 498-A of IPC.

28. It is true that a young woman has lost her life in the house of the appellants. But, then it was for the prosecution to prove that she committed suicide on account of a cruelty or harassment meted out to her by the appellants in connection with demand for dowry. The case of the appellants

is that the deceased Lovely committed suicide as she was unable to have a child after marriage. PW-4 Subhash, brother of the deceased, has specifically admitted in his cross-examination that Lovely was not physically fit to bear a child and there was some deficiency in Lovely as well as in her husband and both of them were taking treatment to overcome these deficiencies. Be that as it may, the prosecution has miserably failed to establish the charges attributed to the appellants, beyond reasonable doubt.

For the reasons given in the preceding paragraphs, all the three appellants are hereby acquitted. The file of the Trial Court be sent back alongwith a copy of the judgment.

(V.K.JAIN)
JUDGE

MARCH 2, 2010
BG/