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**Vijayan Vs. State Represented by Deputy Superintendent of Police Kiranur Division, Pudukottai District (Viralimalai) Police Station, Crime No. 193/90**

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**Court : Chennai**

**Decided On : Feb-06-2001**

**Reported in : II(2001)DMC93**

**Judge : R. Balasubramanian, J.**

**Acts : [Evidence Act, 1872](#) - Sections 3 and 101 to 103; [Indian Penal Code \(IPC\), 1860](#) - Sections 304-B and 498-A; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 174 and 313**

**Appeal No. : Criminal Appeal No. 76 of 92**

**Appellant : Vijayan**

**Respondent : State Represented by Deputy Superintendent of Police Kiranur Division, Pudukottai District (Viralima**

**Advocate for Pet/Ap. : Mr. R. Sriramalu, ;Senior Counsel for Mr. C. Mayilvahana Rajendran**

**Judgement :**

**ORDER**

1. The Appellant in this appeal is A.1 in S.C.No.13 of 1991 on the file of Court of Sessions, Pudukottai. He was tried along with his brother and mother array as A.2

and A.3 in that sessions case. A.2 and A.3 were acquitted of all the offences for which they were charged and tried and that judgment had become final since the State had not filed any appeal against acquittal. A.1 alone stands convicted for offences under Sections 498-A and 304-B of the Indian Penal Code and sentenced to three years rigorous imprisonment and seven years rigorous imprisonment respectively. In fact, all the three accused were tried only in respect of the above referred two offences only. Aggrieved over his conviction for the offences referred to earlier, A.1 is before this Court. Heard Mr.R. Sriramalu, learned Senior Counsel for the appellant and Mr.R. Karthikeyan, learned Government Counsel for the State for the respondent.

2. I briefly state hereunder the case of the prosecution.

The deceased by name Padmini is the wife of A.1 . P.Ws. 1 and 3 are her brothers and P.W.2 is her father. They were all residing at Sarananapatti. A.1 is a resident of Edayapatti. Padmini died in an unnatural circumstance on 4.6.1990. Padmini was given in marriage to A.1 five years prior to her death. A.1 was having a grocery shop and he was lending amplifier and systems attached to amplifier on hire. A.1's place and the place of the deceased is separated by a distance of 2 k.m. A.2 is the younger brother of A.1 and A.3 is their mother. A.3 is the second wife of the father of A. 1 and A.2. She has no children. In other words, A.3 is the step mother of A.1 and A.2. P.W.2 had totally seven children including P.Ws.1, 3 and the deceased. Padmini and A.1 lived happily for about four of five months after marriage. Thereafter, quarrel arose between the spouses on the ground that Padmini had not brought along with her enough presentation during marriage. However, P.W.2 had provided her everything that will be provided as per the caste custom. Six months after marriage Padmini told P.W.2 that A.1 wanted money. Accordingly, P.W.2 gave a sum of Rs.500 to Padmini. Five months after that, Padmini told P.W.2 that her husband/A.1 wanted a sum of Rs.1,000 to buy an amplifier which sum was also provided. Even thereafter, the first accused asked his wife/Padmini to get some more money to buy some more articles and accordingly Padmini went and asked her father P.W.2 for a further sum of Rs.2,500. P.W.2 replied that though he is having the stock of chillies; since the market price during that time was low, he will wait for the appropriate season, sell

the chillies for a good price and then give her money. Padmini went back to the house of A.1. To days later, P.W.1 was informed by one Muthu that her sister Padmini committed suicide by hanging. Immediately P.Ws. 1 to 3 went to the house of A.1 where they found the dead body of Padmini kept on a cot. None of the accused were there. The neighbouring relatives were enquired and they showed a tree nearby stating that Padmini committed suicide by hanging herself in the tree. P.Ws. 1 and 3 went near the tree and saw the blood-stain under the tree. They also saw on the branch of the tree an impression of a rope.

3. P.W.1 went to the police station, Viralimalai at about 6.30 a.m, and gave a written complaint Ex.P.1 before P.W.8 sub- Inspector of Police who registered it in Crime No.93 of 1990 for an offence under Section 174 of the Code of Criminal Procedure. Since the death of Padmini had occurred within five years after her marriage, he sent the material records to the Revenue Divisional Officer to conduct inquest. Ex.P.7 is the printed First Information Report prepared by him. P.W.11 is the Revenue Divisional Officer. On receipt of Exs.P.1 and P.7, he reached the scene of occurrence at 6.30 a.m. on 6.6.1990. In the presence of Panchayatdars, he conducted inquest over the body of the deceased and Ex.P.9 is the inquest report. He examined A.1 and recorded his statement which is Ex.P.10 in this case. He also examined P.W.1 and recorded his statement which is Ex.P.11 in this case. Ex.P.12 is the report sent by him to the Deputy Superintendent of Police. He sent the dead body for post-mortem to the Government Hospital, Manappari through P.W.10. On receipt of Ex.P.7, from P.W.8 at about 6.00 p.m. on 5.6.1990, P.W.12 went to the scene of occurrence and was there till P.W.11 arrived there. After P.W.11 completed the inquest, P.W.12 commenced the investigation. At 8.45 a.m. on 6.6.1990 in the presence of P.W.5 and another he prepared Ex.P.12 observation mahazar and Ex.P.13 plan. He directed P.W.6 the Photographer to take photos of the scene of occurrence as well as the dead body which P.W.6 accordingly did. M.O.4 series are the photographs and M.O.5 series are the negatives of the dead body. M.O.6 series and M.O.7 series are the photographs and negatives of the scene of occurrence. At 10.15 a.m, P.W.12 recovered from the scene of occurrence M.Os.1 and 3 under Ex.P.3 attested by witnesses. P.W.12 examined P.Ws.1 to 5 others and recorded their statements. He sent the case properties to the court on 7.6.1990.

4. P.W.7 is the Doctor who did post-mortem on the body of the deceased at 11.00 a.m. on 6.6.1990.

During post-mortem he found the following symptoms:

The body first seen by the undersigned at 11.00.am. On 6.6.1990. Its condition then was rigor mortis passed away decomposition sets in. Post-mortem commenced at 11.00 a.m. on 6.6.90 appearance found at the post-mortem of a body of a female lies on back.

External Injuries: Ant bite marks seen over left shoulder.

2. An abrasion with echymosis 6 x 7 cm. over right thigh.

3. An abrasion with echymosis 9 x 3 cm. over left thigh.

Internal Injuries: encircling the neck 1 cm width in front of Neck goes obliquely upwards on both sides upto the occipital region. Knot mark seen over nape of neck; Oesophageal Haemorrhage on either side and feed like parchment. Hyoid broken and preserved. Eyes closed. Tongue protruded. Salivary mark could not be made.

Stomach: 100 ml to partially digested food particles grey colour present all other viscera decomposed viscera sent for chemical analysis. Uterus normal, Blood stain inside. Vault intact. Brain liquified.

Hyoid Bone' Bone case No.90/90 dt.13.7.90 from Police Surgeon and prof. of Forensic Medicine, Stanley Medical College, Madras.

'No opinion could be given as the bits decomposed.

Viscera PSD. Ref.T.No.1230/90 Tax.H.1216/90 dt.21.11.1990 from the Regional Forensic Science Lab. Medical College, Thanjavur.

'Poison was not detected.'

Ex.P.4 is the post-mortem certificate. The Doctor is of the opinion that the deceased died of Asphyxia due to hanging, 30-36 hours prior to autopsy. Ex.P.5 is the report regarding the bone and it shows that as the hyoid bone is saline and

was in a decomposed state, no opinion could be given as the been bits are decomposed. P.W.7 would also state that death in the instant case could be possible due to hanging. After post- mortem, P.W.10, the Police Constable recovered M.O.s 8 to 13, from the body of the deceased and handed over the same at the Police-station.

5. P.W.12 received Exs.P.9 to P.12 from P.W.11 at 9.00 p.m. on 9.6.1990 and altered the section of offence into one under section 478-A of the Indian Penal Code. Ex.P.8 is the altered printed First Information Report which is sent to the court as well as to the higher officials through P.W.9, the police constable. He sent Ex.P.14 requisition to the Court to send the case properties for chemical analysis. On receipt of Ex.P.8, P.W.13, the Deputy Superintendent of police took up further investigation. He examined P.W.11. He arrested the accused on 11.6.1990 at about 11.30.a.m. in Madurai Trichy Road and sent them for judicial remand. P.W.14 continued the investigation and after completing the investigation he filed the final report against the accused in court for the offence under sections 498-A and 304-B of the Indian Penal Code.

6. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the basis of the incriminating materials made available against them, they denied each and every circumstance put up against them as false and contrary to facts. They also contended that they were innocent. The first accused had filed a written argument contending in substance as follows:

' His marriage with the deceased took place about seven years prior to her death; even before marriage, Padmini was related to him very closely; in the community to which they belong there is neither custom nor practice to give dowry; some time after marriage, his wife was complaining abdominals pain during her menstrual cycle during which time she always used to quarrel for no justifiable cause; she also used to quarrel is pettymatters and go to her father's house; on all those occasions, he and the members of his family would go to the house of P.W.2 and bring Padmini to their house; one year prior to the occurrence Padmini picked up a quarrel with him and went to her father's house and stayed there for many days; this necessitated Panchayat to be conveyed which was presided over by one

Thangaraj, a responsible community person; Panchayatdars pacified Padmini and she was sent with the first accused; even thereafter, Padmini on trivial cases used to pick up quarrel; A-1 never asked his wife to bring money or asked for anything else; he never treated her cruelty; his father-in-law and brother-in-laws have magnified the trivial quarrel between the deceased and her husband resulting in the foisting of the case on him, with his own money he is doing business and with the money borrowed, he had purchased cycle and carrying on business by lending them on hire. Likewise he is also having an amplifier sound system; he and all the other accused were in the house on the day when Padmini died; he was taken to the police station on 5.6.1990 and kept there till 10.6.1990.

On the side of the defence, a witness was examined as D.W. 1 and his evidence in sum and substance is as follows:

' During the relevant time, he was the President of the Panchayat; he participated in the Panchayat that took place one year before between the family of P.W.1 and the family of A.1; the accused was not liking Padmini going for work as a coolie and he actually prevented her; annoyed over that attitude of the first accused Padmini used to go to her father's house and A.1 had complained D.W.1 about that; accordingly, D.W.1 convened the Panchayat and settled the matter; in their community, there is neither custom nor practice to give and accept dowry; Padmini married A.1 seven or eight years before her death.'

7. Mr.R. Sriramalu, learned senior counsel appearing for the appellant would contend that the prosecution miserably failed to establish that the deceased in this case was subjected to any cruelty either as contemplated under Section 498-A of the Indian Penal Code or as contemplated under Section 304-B of the same Code. The prosecution case is that, the deceased committed suicide unable to bear the cruelty to which she was exposed to by the accused pestering her to get dowry from her father. Therefore, it is essential that before a conviction could be sustained for the offences referred to above, the prosecution must place acceptable and reliable materials that the accused in fact had exposed the deceased to such amount of cruelty to meet the unlawful demand (as in this case 'dowry demand'). Unless it is established, the prosecution cannot succeed. The

learned senior counsel by taking me elaborately through the materials placed by the prosecution as spoken to by P.Ws. 1 to 3 would contend that, their evidence even if accepted as true and without contradiction the same in any manner, would not establish that the first accused had treated his wife cruelty as referred to in the two sections earlier mentioned. The Learned senior counsel would also contend that the materials on record show that the deceased was having considerable medical problem during her menstrual cycle and that was the reason which made her to commit suicide, she being unable to bear the severe abdominal pain. Learned senior counsel also invited my attention to the fact that the prosecution itself would admit that a Panchayat was convened to sort out the problem between the deceased and the first accused. That problem is only with reference to her matrimonial unhappiness between the spouse and not in the context of the accused making any demand for dowry which the prosecution party were compelled to part with. The prosecution ought to have examined the people who participated in the Panchayat, but however they have done it. Therefore, it is clear that the prosecution is not willing to place the entire materials on record. In the context of the above, the evidence of D.W.1 who participated in the Panchayat referred to earlier clearly established that the demand for dowry was never in the mind of any of the parties. Therefore, the learned senior counsel would contend that the prosecution definitely failed to establish the ingredient of any of the offences (i.e) under Sections 498-A or Section 304-B of the Indian Penal Code. The conduct of the accused being present around the house itself at the time when padmini was found dead would show that it would be a point indicating their innocence. The non-examination of any of the neighbours who according to P.Ws.1 to 3 knew about the ill-treatment meted out by A.1 to his wife is fatal. The non-examination of P.Ws.2 and 3 also by P.W.11 during inquest should also be taken into account in holding that their evidence before Court is not free from doubt. The learned senior counsel would sum up his argument by stating that there is practically no legal evidence to connect the accused with the crime. The learned Government Counsel would respond to all these points by stating when that those evidence of P.Ws. 1 to 3 is found to be trustworthy, then there is no compelling need to examine any independent witnesses though the neighbours are also aware of the attitude of A.1 towards his wife. The learned Government

counsel would contend that the materials placed on record do not lead to the conclusion that the deceased could have committed suicide on her own, unable to bear the abnormal abdominal pain which she suffered during her menstrual cycle but the suicide was on account of she being subject to cruelty at the hands of the accused. The learned Government counsel would lastly contend that the learned Sessions Judge had correctly appreciated the entire materials on record and arrived at a just conclusion and as such no interference is called for.

8. Having regard to the arguments advanced by the learned senior counsel for the appellant and the learned Government counsel, I perused the entire records. P.W.7 is the doctor who did post- mortem on the body of the deceased. Ex.P.3 is the post- mortem certificate. It established beyond doubt that the death of the deceased was due to unnatural circumstances. Even in this context it may be notice that the doctor had noticed even in the post- mortem certificate that the uterus of the deceased contained blood stain. She had stated so in her oral evidence about that fact. The case of the defence is that the deceased in this case during her menstrual cycle used to suffer abdominal pain which would be unbearable. The further case of the defence is that the deceased had committed suicide only during one of such menstrual cycle. The presence of blood stain in the uterus of the deceased in my opinion probalises that the deceased would have been undergoing her menstrual period on the day she died. I am having this aspect in my mind at this stage so that I would be in a better position to appreciate the defence at a later point of time when it really comes up for consideration. Keeping that in mind and also keeping in mind the deceased died due to unnatural circumstances, the question that follows is whether, the prosecution had succeeded in their attempt in pinning down the accused as the persons directly responsible for the deceased committing suicide.

9. To sustain their case that the first accused was always demanding dowry from the deceased which resulted in she being exposed to cruelty and as a chain reaction there of, the deceased committed suicide, the prosecution had examined three witnesses namely P.Ws. 1 to 3. P.W.2 is the father of the deceased and P.Ws. 1 and 3 are brothers of the deceased. One Muthu had given an information P.W.1 that the deceased committed suicide. Ex.P.1 is the complaint lodged by

P.W.1 with P.W.3, the Sub-Inspector of Police. That Muthu had not been examined. The evidence of P.Ws.1 to 3 is that on receiving the news about the deceased Padmini, they all went to her house. The village where the deceased had her house is at a distance of 2 K.M. from the village where P.Ws. 1 to 3 reside. The evidence of P.Ws.1 to 3 uniformly show that when they reached the house of the deceased, they enquired the neighbouring relatives and they had informed them that the accused committed suicide by hanging herself in a tree and even they pointed out the tree to them. Therefore, the neighbours, who have passed on the information to the witnesses about the deceased committing suicide by hanging herself, would be in a better position to speak before Court as to the circumstances under which the deceased had come to commit suicide. The evidence of P.W.1 is to the effect that the neighbours of the deceased knew about the accused subjecting the deceased to cruelty at all point of time. P.Ws.1 to 3 do not claim any personal knowledge about the deceased being put to cruelty by any of the accused and their source is only the statement stated to have been made by the deceased herself about the attitude of the first accused whenever she had gone to the house of P.W.2. Therefore, there can be no difficulty in holding that the evidence of P.Ws. 1 to 3 cannot be taken as the evidence of persons who personally know about the accused subjecting the deceased to any cruelty or can they claim as persons witnessing personally any such demand stated to have been made by the accused to the deceased not even once Accused No.1 had made any demand in their presence. In other words, the reliability of the evidence of P.Ws.1 to 3 in my considered opinion has to be subjected and analysed only on the basis of any other evidence in the nature of corroboration. Only in the context above referred to I have expressed my view that the examination of the neighbours of the deceased not only about the cruelty to which the deceased was put to and also the circumstance under which the deceased came to commit suicide would be more important in this case.

10. P.W.11 is the Revenue Divisional Officer, who conducted inquest over the body of the deceased. The case of the prosecution is that all the accused were not available on the date when Padmini was found dead according to the investigating officer they were arrested on 10.6.1990. P.W. 11 did inquest at 6.30 am. On 6.6.1990. The evidence of P.W.12 is that on receipt of the material records in this

case he went to the scene of occurrence and he waited till P.W.1 is arrived. P.W.11 in his evidence would state that besides examining P.W.1 he also examined A.1 and recorded their statements. Ex.P.10 is the statement of A.1 and Ex.P.11 is the statement of P.W.1. P.W.12 would state that he commenced his investigation only after the inquest was completed by P.W. 11. Therefore, there cannot be any doubt in the mind of the court that all the accused were present, during inquest itself and under these circumstances I am not prepared to accept the evidence of P.Ws.1 to 3 that none of the accused were present by the side of the body. If really of the body on 5.6.1990, then there is no reason at all for them to be present by the side of the body when P.W.10 did inquest over the body of the deceased. Therefore, it is clear to my mind that all the accused being present around the scene of the occurrence at the time and making themselves available for being examined during inquest is definitely a fact which may be taken into account as a probable fact leading to their innocence. Even in Ex.P.10 the first accused had categorically stated that he had not subjected his wife to any cruelty. He had also stated therein that there was a petty quarrel between him and his wife and on all those occasions she used to leave for her father's house and a Panchayat had been convened. He had also stated therein that the deceased came back to his house on 4.6.1990 and complained that she is having stomach pain. The first accused had also categorically stated in Ex.P.10 that he had not made any demand for money. Ex.P.11 is the statement of P.W.1 given before the Revenue Divisional Officer. He also refers to some petty quarrel between the husband and wife. He had added during that quarrel once the accused beat the deceased with a Chappal and A.2 also beat, the deceased with hands. Even at this juncture, I am immediately want to mention that P.W.1 had not spoken about this aspect in his oral evidence. P.W.1 had also stated in Ex.P.11 only during those quarrels, the deceased used to go to their house and after she being pacified she would be sent back and a Panchayat was convened. It is no doubt true that Ex.P.1 contained reference to the accused asking the deceased to get a sum of Rs. 1,000 Rs.500 and Rs.2,500 in three different occasions. I will discuss about this demand stated to have been made by the accused in the later portion of the judgment. P.W.1 in his statement marked in this case as Ex.P.11 had more or less stated as stated by the first accused himself in Ex.P.10 that there was often

petty quarrel between the husband and wife. P.W.11 had admitted that besides examining P.W. and A.1, he had not examined anybody else. It is obviously because others may not know about the dispute between the parties as otherwise P.W.11 would not have failed to examine P.Ws.2 and 3. The non-examination of P.Ws.2 and 3 would not have been present during the time when P.W.11 conducted inquest. Ex.P.12 is the report of P.W.11.

11. Having regard to the documents that have come into existence namely Exs.P-10 and P.11 and P.12, I perused the entire evidence of P.Ws.1 to 3 as to whether their evidence establishes beyond about that the first accused is guilty of demanding any dowry from the deceased. Even assuming the first accused is shown to have made some demand, would they partake the character of the demand being made in the nature of dowry or would it be a demand from a son-in-law to the father-in-law to tide over any crisis. Having this broad principle in mind, I perused the evidence of P.Ws.1 to 3. P.W.2 is aged about 70 years and he is the father of the deceased. His evidence with reference to the demand stated to have been made by the first accused in substance is that six months after marriage, the deceased came home and said that the accused was complaining that nothing was provided during marriage and therefore the deceased must get money (the expression stated to have been used by the deceased at that time is no 'Seer' was provided). The expression 'Seer' in common parlance means customary presentations to be given out of love and affection by the parents to the bride at the time of marriage to the groom. Provision of 'Seer' is always voluntary and unless it is shown that any particular item was demanded as dowry, the act of the parents of the bride providing the 'Seer' at the time of marriage by itself will not show that they have given the same only in compliance to any demand of dowry. There is absolutely no evidence to show that at or about the time of the marriage there was any talk regarding any demand for dowry made by the accused which was either to be given before or at the time of marriage or agreed to be given at a later point of time. In other words, there is absolutely no evidence to show that the accused asked for any dowry to be given either before his marriage or at the time of his marriage or after his marriage. In the context, of the above, the question that arises is whether the three sums of money stated to have been demanded by the accused would be in the nature of a dowry demand or it would be a cry for help by

the accused from his in-law.

12. P.W.1 in his evidence would stated that on his daughter telling him about the demand made by A.1 he replied stating that he had already given enough Seer. This portion of the evidence of P.W.2 about the deceased telling him about the first accused complaining about non-provision of Seer and demanding for money at the end of six months from the date of marriage is not spoken to by P.Ws.1 and 3. In other words, his evidence on that aspect stands by itself. Therefore, I am of the opinion that since there is no corroboration on that aspect in the evidence of P.Ws.1 and 3, I am of the considered opinion that it may not be safe to act upon this place of evidence of P.W.2 about the demand for money stated to have been made by A.1 at the end of six months from the time of marriage.

13. As far as the demand and payment of Rs.500, Rs. 1,000 and Rs.2,500 is concerned, the evidence of P.Ws.1 to 3 is inconsisnt. Therefore, I would refer hereunder in substance what exactly his demand in regard thereto.

'The accused wanted a sum of Rs.500 through his wife to buy provisions to be kept in the Grocery shop which was given five or six months later, the deceased asked P.W.2 that the first accused wanted some money for buying an amplifier, (it is on record that the first accused was also having a sound system at his disposal which he was lending on hire) P.W.2 paid a sum of Rs. 1000 for such purpose, six months later, the deceased asked P.W.1 to give a sum or Rs.2,500 and this sum was also paid some time later.

Accepting the evidence of P.Ws.1 to 3 that the deceased collected the above three payments from P.W.2 yet according to me those payments do not appear to be in the nature of dowry demand. The materials available on record show that the first accused was having the grocery shop besides having a sound system at his disposal. It is not as though the above three sums of money were negotiated as of demand during the time of marriage. These three payments are admittedly shown to have been almost 5 years after the marriage of the deceased with, A.1. There is no evidence to show that whenever the accused demanded the three sums above referred to, he subjected the deceased to anycruelty or put her in fear of constant threat, that unless she gets the money she will not lead a happy life. The son-in-

law carrying on business in provision and in sound system asking his father-in-law for a paltry sum of namely Rs.500, Rs.1,000 and Rs.2,500 especially when it is not shown to be in the nature of a dowry demand, I am of the considered opinion that those payments made by P.W.2 and as spoken to by P.Ws.1 and 3 would be only voluntary payments by the witnesses to the accused. I searched in vain, the entire records to find out whether there are any materials worth acceptance from which it would even be inferred that the first accused was in the habit of subjecting her to cruelty with a view to get dowry from his in-laws. Except the statement of P.W.1 marked in this case as Ex.P.11 I do not get any other material anterior in point of time to the death of deceased. Even in Ex.P.11 I do not find any material to conclude that the first accused may be held guilty of subjecting his wife to cruelty with a view to compel her to meet the unlawful demand. It is only the oral evidence of P.Ws.1 to 3 before Court and even assuming the entire evidence as true and assuming that the three payments have been made. I have no doubt in my mind that those payments were not given in compliance to any demand of dowry made by the first accused. In other words, the first accused himself would have sent some one to his in-law to help him in crisis as and when it arises and therefore the demand so made to P.W.2 must be only in the nature of son-in-law getting help from father-in-law and definitely not with a view to comply with any demand for dowry. The accused and the deceased were leading a marriage life for nearly five years till she met her and in an unnatural circumstances. If really she was subjected to any cruelty as spoken to by the witnesses now, then the witnesses close to her would speak about that fact. Though P.W.1 would state that the neighbours of the deceased knew about it, yet none were examined. P.Ws.2 to 3 have lost their dear one namely the daughter of P.W.2 and the sister of P.Ws.1 and 3. I do not know now one might respond to any given situation. The petty quarrel which the spouses were shown to have been often having deceased might have been in their mind. Therefore, the possibility of P.Ws.1 to 3 coming out with a case as put forth by them now, just to neg the first accused and his relatives cannot be totally ruled out in a grave crime like this. There should not be any suspicion but there should be positive materials for the Court to conclude that the accused is definitely guilty of such offence. It is well settled that mere suspicion can never take the place of proof. Looking from that angle, I am unable to find

even a single material from which the first accused could be held guilty of subjecting his wife to cruelty as set out in sections 498-A and 304-B of the Indian Penal Code. In these circumstances, I have no doubt in my mind that the conviction of the accused under challenge is purely based on surmises and conjectures. Accordingly, the judgment under challenge is set aside and the first accused is also acquitted for the offence for which he was tried and convicted. The bail bond if any executed by him will stand terminated forthwith.

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