

Dhan Singh and Another Vs. State of U.P.

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Court : Allahabad

Decided On : Mar-19-2012

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Judge : Vinod Prasad

Appeal No. : Criminal Appeal No.1486 of 2005

Appellant : Dhan Singh and Another

Respondent : State of U.P.

Judgement :

Vinod Prasad, J.

In these two connected appeals, a family consisting of father Dhan Singh (A-1), mother Smt. Makkhan (A-2) and their son Akhilesh Kumar (A-3), who were in-laws and husband of Geeta(deceased), have challenged their conviction under Section 304-B (2), 498A IPC and 4 D.P. Act and imposed sentences of ten years R.I. for the first charge, two years R.I. with Rs. 5000/- fine, on each of the appellants and in default of payment thereof to undergo three months simple imprisonment, for the second charge, and one year R.I. with fine of 2500/=-, the default sentence being two months further R.I., for the last charge imposed by Additional Session's Judge, court no.2, Jhansi in S.T. No.85 of 2004, State vs. Dhan Singh and others, relating to Police Station Baruwa Sagar, district Jhansi vide impugned judgement and order dated 23.3.2005.

Charges against the appellants, as was levelled and scribed by the informant Gunchi Lal (P.W.1), father of the deceased Geeta, in his written F.I.R., Ext. Ka-1, were that his said daughter, aged about 22 years, had married Akhilesh Kumar (A-3), according to Hindu marriage ceremonies, on 6.12.2001, which was solemnised according to the desire and economic means of the informant, yet the appellants were demanding a motorcycle of more than Rs.40,000/- as dowry.(A- 2) severely tortured the deceased because of non-fulfilment of said dowry demand. At all the times, whenever the informant visited appellant's house they restated the said demand. Colour T.V. and a Fridge, which was given in the marriage, was damaged by(A-2) as the appellants wanted them of LG Company. When informant's brother Rameshwar Dayal, had gone to bring back Geeta, he was abused and sent back.(A-2), in no uncertain terms, had informed deceased parents and other relatives that, unless their demand is fulfilled, they will not be allow them to meet Geeta and all the times whenever they ventured for it they were rebuffed.

On 23.11.2003, Gyasi Lal,one of informant's relatives from Baruwa Sagar had informed (P.W.1) that his daughter had expired in the night. Being convinced that Geeta was done to death by the appellants either by strangulating or poisoning her, because of non-fulfilment of dowry demand, that the father informant Gunchi Lal (PW1) scribed, Ext. Ka-1, went to the police station Baruwa Sagar and lodged it the same day at 3.10 p.m. as Crime No. 505 of 2003, under Sections 498A, 304 B 3 IPC.

Head Moharirr P. K. Chaturvedi (P.W.6) registered the F.I.R. by preparing Chik F.I.R. Ext. Ka-8 and GD entry Ext. Ka-9. A.S.P. Balwant Rai(P.W.8) commenced investigation into the crime, recorded statements of P.K. Chaturvedi(P.W.6) and witnesses Gayadeen Kushwaha, Pramila Jha, Priyanka Jha, and thereafter conducted spot inspection and prepared site plan map Ext. Ka-11 and thereafter recorded investigatory statements of the informant. I.O. thereafter copied inquest and post-mortem reports, interrogated accused appellants and recorded their statements and there after seized the marriage invitation card (material Ext.1) and prepared it's seizure memo Ext. Ka-2. I.O., thereafter interrogated inquest and recovery witnesses and penned down their statements. Dr. V.V. Arya (P.W.7), who

had conducted autopsy on the dead body of the deceased, was also interrogated and his statement was also inked. Marriage photographs (material Ext.-2 and 3) were also seized by him and it's seizure memo Ext. Ka-3 was slated. Concluding investigation on 28.12.2003, I.O. (P.W.8), had charge-sheeted accused appellants vide Ext. Ka-12.

On 23.11.2003 from 4.45 p.m. to 6.00 p.m., Mahendra Pratap Singh, Nayab Tehsildar, Garotha,(P.W.5) had performed inquest on deceased cadaver and had prepared inquest report Ext. Ka-2 and, simultaneously, had prepared other relevant papers of photo lash, challan lash, seal expression etc. as Ext. Ka-3 to Ka-7. Concluding inquest the dead body was sealed and dispatched for post-mortem examination through Constables Arvind Kumar and Ram Kishore of P.S. Baruwa Sagar.

Dr. V.V. Arya, Senior Medical Officer, district Jhansi(PW7) along with Dr. Pradeep Pandey, had conducted autopsy on deceased corpse on 24.11.2003 at 4 p.m. and had prepared post mortem examination report Ext. Ka-10, which was countersigned by doctor Pandey. In doctor's estimation, deceased was 22 years of age having an average built body. Her eyes were closed, mouth semi open and rigor mortis had passed off from her head and neck and upper extremities but was present in the lower extremities. Her brain, membranes, pleura, both lungs, oesophagus were congested, trachea was fractured and congested with clotted blood present. Her stomach contained 150 ml semi digested fluid, small intestine had chyme and gases and large intestine had faecal matter and gases. One and a half day had lapsed since her death and cause of her death was asphyxia due to anti-mortem strangulation. Doctors had also preserved her viscera for chemical analysis to confirm or rule out possibility of poisoning the deceased to death. Following ante-mortem injuries were noted by the doctor on the cadaver of the deceased:-

"Ligature mark size 11 cm x 1.5 cm over in front of neck 10 cm below from left ear, mark horizontal, below the thyroid, groove of 'L' mark radish. The first jar of viscera contained stomach with its content and pieces of small intestine and second jar contained pieces of liver with gallbladder half kidney both sides and full spleen."

Submitted Charge sheet, Ext.Ka-12, culminated in registration of case no. 42 of 2004, State Vs. Dhan Singh and others, against the appellants before CJM, Jhansi, who, finding disclosed offences Session's triable committed the case to Session's Court on 27.3.2004, and before Session's Judge, Jhansi, S.T. No. 85 of 2004, State Vs. Dhan Singh and others, was registered against the accused on 2.4.2004.

Additional Session's Judge/ F.T.C.-3, Jhansi charged accused appellants u/s 498-A, 304-B I.P.C. and 3/4 D.P. Act on 4.6.2008, which charges were read out and explained to them, who all denied the same and claimed to be tried and resultantly, to establish the charges and anoint their guilt trial procedure was under taken, during course of which prosecution relied upon oral testimonies of eight witnesses, out of whom informant Gunchi Lal(P.W.1), his son Ashish Kumar(P.W.2), brother Rameshwar Dayal(P.W.3) and wife Smt. Ram Murti(P.W.4) were the fact witnesses. Nayab Tehsildar M.P. Singh(P.W. 5), Head Moharirr P.K. Chaturvedi(P.W. 6), Dr. V.V. Arya(P.W.7) and I.O. ASP Balwant Rai(P.W.8) were examined as formal witnesses.

In accused statements u/s 313 Cr.P.C., accused appellants denied incriminating circumstances occurring against them in the prosecution evidences and pleaded their false implication. They had also filed certain letters alleged to have been written by the deceased. (A-1) had also filed his written statement, according to which, since prior to the marriage of his son,(A-1) was employed in LIU and was living in Orai District Jalaun. He had never demanded motor cycle and Rs. 40,000/- either from the deceased or her parents. Because of unemployment of (A-3) informant was annoyed with him and was not sending back Geeta after taking her to his house on 13.3.2003. Geeta had telephoned(A-3) in May 2003 and had called him at Gursarain. When Akhilesh(A-3) went to bring her back along with his brother-in-law then informant had misbehaved with them and had sent them back empty handed refusing to send his daughter. On intimation by(A-3), when(A-1) along with his brother went to bring back his daughter -in- law, they too were manhandled but due to intervention by the villagers that Geeta was sent with him to her in-laws house. In October, 2002, deceased suffered skin disease and was got treated by Dr. Govil. Being pregnant, she was also shown to Dr.

Dubey and was treated in District Hospital. Her delivery took place in Orai District Hospital because (A-1and2) reside there. After delivery, deceased came back to her husband along with the infant child and started residing with(A-3) at Baruasagar but, accidentally, she died or she committed suicide because of the taunt by the informant regarding unemployment of her husband. At the time of the incident,(A-1) had gone with agricultural work to village Tendeer and deceased was all alone in her room.(A-3) and deceased had affable relations and filed letters were written by her. After Geeta's demise informant demanded Rs. 3 lacs from (A-1) but when he was not obliged, then informant implicated accused appellants in present mendacious case.(A-2) also seconded the same defence as that of (A-1), but husband Akhilesh(A-3) filed a separate written defence and in that he had expatiated defence of (A-1) that he had loved the deceased very much and she used to write him filed letters. He further pleaded that he was unemployed without any independent source of income and was dependent upon his father, because of which, informant was annoyed and had misbehaved with him. Since March 2003, when informant had brought the deceased to his house, she was not being sent back. After having conversation with the deceased, when he had gone to bring her back along with his brother-in-law, informant had abused them and had refused to send her back with an unemployed husband. Geeta could not withstand such an abash. She had intimated(A-3) that during her gestation period she was not cared for well. After returning from in-laws house,(A-3) had informed(A-1) about the entire faux pas and then, in June 2003,(A-1), along with his brother had gone to bring back Geeta but was insulted by the informant. With difficulty, because of villager's intervention, Geeta was sent along with(A-1). She was treated in District Hospital, Jhansi and at the time of her delivery, she was brought to District Orai where(A-1) was posted and abiding with (A-2). She was admitted in the hospital on 13.10.2003 and the same day, she had attained motherhood, but her parents did not turn up to rejoice and nurse her. After being discharged from the hospital, wife and daughter were brought to Baruasagar by him(A-3). On the incident night, because of some consolidation and agricultural work he (A-3) had gone to his village and, following day, he received the message about death of his wife from the neighbours. According to his further defence, deceased Geeta, because of faux pas and taunting by his father, had died, because, either she had

committed suicide or expired accidentally. It was further stated that (A-3) had not murdered her and after her demise, informant had demanded money and, after remaining unsuccessful, had lodged a false report. To establish their defence, accused appellants had examined three defence witnesses Bhagwan Das(D.W.1), Ghansu Ram(D.W.2) and Rajesh Jha(D.W.3).

Learned trial Judge, vide impugned judgment and order, held that appellant's guilt, for the framed charges, were established beyond all reasonable doubt and, therefore, convicted them for the charged offences and sentenced them, as has already been mentioned in the opening part of this judgment. Challenge in this appeal is to the aforesaid judgment by the convicted appellants.

I have heard Sri J.S. Sengar and Sri Sunil Singh, learned Advocates for the appellants as well as Sri Patanjali Mishra, learned AGA for the State and have perused the material on record including oral and documentary evidences and testimonies of witnesses of either sides.

Assailing the impugned judgment of conviction, it was submitted that no demand of dowry was ever raised by the appellants and, according to the marriage ritual and custom, (A-3) had demanded a motor cycle and such a demand will not be within the ambit "dowry demand" and hence no offence under section 304- B I.P.C. can be anointed against the appellants. It was next submitted that(A-1and2) have been framed-in because of their relationship and there are significant omissions and contradictions in the testimonies of the witnesses. No details are mentioned in the FIR which is fabricated and outcome of deliberation, concoction and contains mendacious allegations. It was next submitted that deceased death was natural and by influencing the doctor, it was got mentioned, in the autopsy report, that the hyoid bone was fractured. Version by (P.W.1) is embellished, absurd and uncreditworthy. Next it was submitted that there is no evidence that soon before her death, deceased was tortured because of dowry demand and consequently, an important sine qua non ingredient for disclosing offence of dowry death did not exist and conviction u/s 304 B IPC is in- defensible. Elaborating last contention, it was submitted that after birth of the child, there was no demand of dowry and, therefore, conviction of the appellants, for offences under sections

498-A, 304-B I.P.C. read with section 4 D.P. Act are illegal, contrary to the evidences on record and deserves to be set aside. Primarily on the aforesaid submissions, it was contended that the appeal be allowed, appellants be acquitted and be set at liberty.

Arguing to the contrary, learned AGA submitted that prosecution, by cogent, reliable and creditworthy evidences of the real family members of the deceased, has established the charges, conspicuously without any ambiguity, and therefore, appellants guilt is proved beyond all shadow of doubt and the impugned order is infallible and does not require any intervention by this Court. Next, it was argued that there was no reason for the parents, real brother and uncle of the deceased to fabricate a spurious story to implicate the appellants, especially after they had a grandchild. It was further argued, with vehemence, that medical report completely rules out the defence theory, as cause of deceased death was strangulation, which could not have been performed by the deceased herself. As an abandoned caution, viscera were also preserved to rule out possibility of deceased being also administered poison. Sniping appellant's contention, that the cause of death was not ascertainable, it was submitted that defence had failed to discredit doctor's statement that strangulation was the cause of her death. In that respect the testimony of the doctor is clear when he had ruled out the possibility of deceased dying because of hanging. Learned AGA harangued that marriage between the appellant and the deceased lasted for less than two years and the deceased was hale and hearty in her youth, aged about 22 years, and was blessed with motherhood and therefore, there was no reason for her to commit suicide. At the time of the marriage, informant had full knowledge about the unemployment of (A-3) and therefore, that could not have been the reason, for the parents, to cook up a case and nail in the appellants. It was further submitted that persistent and unrelenting demand of dowry of a motorcycle resulted in physical and mental torture of the deceased and ultimately she was murdered inside in-laws house and consequently, the appeal lacks merit and deserves to be dismissed in toto.

I have pondered over the rival submissions and have vetted the evidences and the relevant documents in the light of various submissions advanced by both the sides. Before examining rival contentions, a perusal of penal section 304B IPC

(dowry death) indicates that for successfully anointing the said charge on an accused, prosecution has to prove convincingly, free from all reasonable doubts, following sine qua non ingredients without ambiguity, by leading creditworthy and confidence inspiring evidences, either oral or documentary or both, and they are firstly, that seven years had not lapsed from the date of solemnisation of the marriage and death of wife, secondly, that soon before her death deceased was tortured for demand of dowry by her husband or his relatives, thirdly, that her death was due to burn or bodily injury or otherwise than under normal circumstances, fourthly that the deceased was tortured soon before her death for dowry demand. If these ingredients are proved convincingly, husband and/or his relatives cannot be absolved of the offence of causing dowry death. Explaining and elaborating ingredients of said offence apex court has held in Hira Lal versus State (Govt. of NCT) Delhi : AIR 2003 SC 2865 as under:-

“The provision has application when 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 relatives of her husband for, or in connection with any demand for dowry. In order to attract application of S. 304-B, I.P.C. the essential ingredients are as follows:-

- (i) The death of a woman should be caused by burns or bodily injury or otherwise than under a normal circumstance.
- (ii) Such a death should have occurred within seven years of her marriage.
- (iii) She must have been subjected to cruelty or harassment by her husband or any relative of her husband.
- (iv) Such cruelty or harassment should be for or in connection with demand of dowry.
- (v) Such cruelty or harassment is shown to have been meted out to the woman soon before her death.”

Subsequently also it has been held in Baldev Singh versus State of Punjab: AIR 2009 SC 213 as under:-

“6. In order to attract Section 304B IPC, the following ingredients are to be satisfied.

i) The death of a woman must have been caused by burns or bodily injury or otherwise than under normal circumstances.

ii) Such death must have occurred within 7 years of the marriage.

iii) Soon before her death, the woman must have been subjected to cruelty or harassment by her husband or any relative of her husband; and

iv) Such cruelty or harassment must be in connection with the demand of dowry.”

It will be worthwhile to note here that legislature in it's wisdom has enacted section 113 B in the Evidence Act providing further teeth to the prosecution in establishing charge of dowry death by providing a presumption in respect of that offence. This aspect has been considered by the apex court in Hira Lal (Supra) wherein it has been held as under:-

“Section 113-B of the Evidence Act is also relevant for the case at hand. Both S. 304-B, I.P.C. and S. 113-B of the Evidence Act were inserted as noted earlier by the Dowry Prohibition (Amendment) Act 43 of 1986 with a view to combat the increasing menace of dowry deaths. Section 113-B reads as follows :-

"113-B. Presumption as to dowry death.- When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation- For the purposes of this section 'dowry death' shall have the same meaning as in S. 304-B of the Indian Penal Code (45 of 1860)."

The necessity for insertion of the two provisions has been amply analysed by the Law Commission of India in its 21st Report dated 10th August, 1988 on 'Dowry Deaths and Law Reform.' Keeping in view the impediment in the pre-existing law in securing evidence to prove dowry related deaths, legislature thought it wise to insert a provision relating to presumption of dowry death on proof of certain essentials. It is in this background presumptive S.113-B in the Evidence Act has been inserted. As per the definition of 'dowry death' in S. 304-B, I.P.C. and the wording in the presumptive S. 113-B of the Evidence Act, one of the essential ingredients, amongst others, in both the provisions is that the concerned woman must have been "soon before her death" subjected to cruelty or harassment "for or in connection with the demand of dowry." Presumption under S. 113-B is a presumption of law. On proof of the essentials mentioned therein, it becomes obligatory on the Court to raise a presumption that the accused caused the dowry death. The presumption shall be raised only on proof of the following essentials :

- (1) The question before the Court must be whether the accused has committed the dowry death of a woman. (This means that the presumption can be raised only if the accused is being tried for the offence under S. 304-B, I.P.C.).
- (2) The woman was subjected to cruelty or harassment by her husband or his relatives.
- (3) Such cruelty or harassment was for, or in connection with any demand for dowry.
- (4) Such cruelty or harassment was soon before her death.

9. A conjoint reading of S. 113-B of the Evidence Act and S. 304-B, I.P.C. shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment. Prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances.' The expression 'soon before' is very relevant where S. 113-B of the Evidence Act and S. 304-B, I.P.C. are pressed into service. Prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates. Evidence

in that regard has to be led by prosecution. 'Soon before' is a relative term and it would depend upon circumstances of each case and no straitjacket formula can be laid down as to what would constitute a period of soon before the occurrence. It would be hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under S. 113-B of the Evidence Act. The expression 'soon before her death' used in the substantive S. 304-B, I.P.C. and S.113-B of the Evidence Act is present with the idea of proximity test. No definite period has been indicated and the expression 'soon before' is not defined. A reference to expression 'soon before' used in S. 114. Illustration (a) of the Evidence Act is relevant. It lays down that a Court may presume that a man who is in the possession of goods 'soon after the theft, is either the thief has received the goods knowing them to be stolen, unless he can account for his possession.' The determination of the period which can come within the term 'soon before' is left to be determined by the Courts, depending upon facts and circumstances of each case. Suffice, however, to indicate that the expression 'soon before' would normally imply that the interval should not be much between the concerned cruelty or harassment and the death in question. There must be existence of a proximate and live link between the effect of cruelty based on dowry demand and the concerned death. If alleged incident of cruelty is remote in time and has become stale enough not to disturb mental equilibrium of the woman concerned, it would be of no consequence.”

For clarity it will be appropriate to take note of what is meant by expression “Dowry”. The definition of “Dowry” under Dowry Prohibition Act is as follows:-

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

applies.

Explanation II.-The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860)."

This expression has been subjected to various judicial pronouncements, which were taken note of by the apex court in Hira Lal(Supra) as under:-

“11. From the above definition it is clear that, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly by one party to another, by parents of either party to each other or any other person at, before, or at any time after the marriage and in connection with the marriage of the said parties but does not include dower or mahr under the Muslim Personal Law. All the expressions used under this Section are of a very wide magnitude. The expressions 'or any time after marriage' and 'in connection with the marriage of the said parties' were introduced by amending Act 63 of 1984 and Act 43 of 1986 with effect from 02.10.1985 and 19.11.1986 respectively. These amendments appear to have been made with the intention to cover all demands at the time, before and even after the marriage so far they were in connection with the marriage of the said parties. This clearly shows the intent of the legislature that these expressions are of wide meaning and scope. The expression 'in connection with the marriage' cannot be given a restricted or a narrower meaning. The expression 'in connection with the marriage' even in common parlance and on its plain language has to be understood generally. The object being that everything, which is offending at any time i.e. at, before or after the marriage, would be covered under this definition, but the demand of dowry has to be 'in connection with the marriage' and not so customary that it would not attract, on the face of it, the provisions of this section.

12. At this stage, it will be appropriate to refer to certain examples showing what has and has not been treated by the Courts as 'dowry'. This Court, in the case of Ram Singh v. State of Haryana [(2008) 4 SCC 70] : (AIR 2008 SC 1294 : 2008 AIR SCW 1342), held that the payments which are customary payments, for example, given at the time of birth of a child or other ceremonies as are prevalent in the society or families to the marriage, would not be covered under the expression 'dowry'. Again, in the case of Satbir Singh v. State of Punjab [AIR 2001

SC 2828] : (2001 AIR SCW 3793), this Court held that the word 'dowry' should be any property or valuable given or agreed to be given in connection with the marriage. The customary payments in connection with birth of a child or other ceremonies are not covered within the ambit of the word 'dowry'. This Court, in the case of Madhu Sudan Malhotra v. K.C. Bhandari [(1988) Supp 1 SCC 424], held that furnishing of a list of ornaments and other household articles such as refrigerator, furniture and electrical appliances etc., to the parents or guardians of the bride, at the time of settlement of the marriage, prima facie amounts to demand of dowry within the meaning of Section 2 of the Act. The definition of 'dowry' is not restricted to agreement or demand for payment of dowry before and at the time of marriage but even include subsequent demands, was the dictum of this Court in the case of State of Andhra Pradesh v. Raj Gopal Asawa.

13. The Courts have also taken the view that where the husband had demanded a specific sum from his father-in-law and upon not being given, harassed and tortured the wife and after some days she died, such cases would clearly fall within the definition of 'dowry' under the Act. Section 4 of the Act is the penal Section and demanding a 'dowry', as defined under Section 2 of the Act, is punishable under this section. As already noticed, we need not deliberate on this aspect, as the accused before us has neither been charged nor punished for that offence. We have examined the provisions of Section 2 of the Act in a very limited sphere to deal with the contentions raised in regard to the applicability of the provisions of Section 304-B of the Code.

14. We have already referred to the provisions of Section 304-B of the Code and the most significant expression used in the Section is 'soon before her death'. In our view, the expressions 'soon before her death' cannot be given a restricted or a narrower meaning. They must be understood in their plain language and with reference to their meaning in common parlance. These are the provisions relating to human behaviour and, therefore, cannot be given such a narrower meaning, which would defeat the very purpose of the provisions of the Act. Of course, these are penal provisions and must receive strict construction. But, even the rule of strict construction requires that the provisions have to be read in conjunction with other relevant provisions and scheme of the Act. Further, the interpretation given

should be one which would avoid absurd results on the one hand and would further the object and cause of the law so enacted on the other.

15. We are of the considered view that the concept of reasonable time is the best criteria to be applied for appreciation and examination of such cases. This Court in the case of *Tarsem Singh v. State of Punjab* [AIR 2009 SC 1454] : (2009 AIR SCW 928), held that the legislative object in providing such a radius of time by employing the words 'soon before her death' is to emphasize the idea that her death should, in all probabilities, has been the aftermath of such cruelty or harassment. In other words, there should be a reasonable, if not direct, nexus between her death and the dowry related cruelty or harassment inflicted on her. Similar view was expressed by this Court in the case of *Yashoda v. State of Madhya Pradesh* where this Court stated that determination of the period would depend on the facts and circumstances of a given case. However, the expression would normally imply that there has to be reasonable time gap between the cruelty inflicted and the death in question. If this is so, the legislature in its wisdom would have specified any period which would attract the provisions of this Section. However, there must be existence of proximate link between the acts of cruelty along with the demand of dowry and the death of the victim. For want of any specific period, the concept of reasonable period would be applicable. Thus, the cruelty, harassment and demand of dowry should not be so ancient whereafter, the couple and the family members have lived happily and that it would result in abuse of the said protection. Such demand or harassment may not strictly and squarely fall within the scope of these provisions unless definite evidence was led to show to the contrary. These matters, of course, will have to be examined on the facts and circumstances of a given case.”

In *Tarsem Singh v. State of Punjab*:AIR 2009 SC 17 1454 it has been held by the apex court as under:-

“Presumption in terms of Section 113B is one of law. On proof of the essentials mentioned therein, it becomes obligatory on the court to raise a presumption that the accused caused the dowry death. The presumption shall be raised only on proof of the following essentials :

(1) The question before the court must be whether the accused has committed the dowry death of a woman. (This means that the presumption can be raised only if the accused is being tried for the offence under Section 304B, IPC.)

(2) The woman was subjected to cruelty or harassment by her husband or his relatives.

(3) Such cruelty or harassment was for, or in connection with, any demand for dowry.

(4) Such cruelty or harassment was soon before her death.”

Analysed in the light of the above expounded law regarding dowry death crime, when facts of the present appeal are being analysed it becomes evident that regarding some of these ingredients, there is no discord between the prosecution and the accused. Firstly, that the marriage of the deceased was solemnised within seven years of her death on 6.12.2001. Under section 313 Cr.P.C. statements, in an answer to question No.1, marriage date has been admitted by the accused. Deceased died on 23.11.2003 has also not been questioned by the accused. Prosecution, on its part, had tendered cogent reliable and trustworthy evidences on this score. No challenge has been made by the defence to this aspect of the offence. Thus, time elapsed since marriage, which is well within seven years, place of the incident, date and time of death, all these aspects, because of admission by the defence, stands proved, clear of all doubts, and therefore, the first ingredient for making out offence u/s 304 IPC, that death had occurred within seven years of the marriage, stands established, as it is trite law that a fact admitted need not be proved.

Adverting now towards another ingredient that as to whether her death was because of burn or bodily injury or otherwise than under normal circumstances, prosecution has established it by oral evidences of all the fact witnesses which has been convincingly corroborated by post mortem examination report, doctor's evidences and facts discovered during inquest. All these witnesses have withstood test of their cross examination on this aspects of the matter. Defence of the appellants itself are that of deceased death being abnormal. According to the

defence case she died because, either she committed suicide or due to accident, when nobody was present in the house. (A-1and2) had pleaded, u/s 313 Cr.P.C., that they were at Orai and not present in the house when deceased had expired and therefore, they claimed alibi, without offering any explanation about the cause of her death.(A-3) pleaded that he had gone to his village in connection with consolidation and revenue work and was also not present in the house, and therefore, he too pleaded alibi, without intimating how his wife had died. This defence, which appellants had brought forth before the learned trial Judge, through their slated statements, establishes unambiguously, that deceased death was otherwise than under normal circumstances. Defence of the appellants has thus absolved the prosecution of discharging it's initial burden of proof in establishing two most significant ingredients for making out offence u/s 304 B IPC, regarding time and cause of death. These aspects, which are further countenanced and corroborated by the evidences of the doctor and deceased inquest and autopsy reports, leaves no room for doubt that prosecution allegations on these aspects are well founded and creditworthy. Post-mortem examination on the cadaver of the deceased was performed by a panel of the two doctors, who had concurred in their opinions that the deceased was strangled to death. As an abundant caution, they had preserved her viscera also to rule out the possibility of her being also poisoned as the FIR had expressed such a hypothesis. This precaution by the doctors, by no stretch of prudent imagination, can be prolixed to puerile and facetious submissions that the doctor was not sure about the cause of deceased death. Doctor (P.W.7) was clear and emphatic in his deposition that deceased was strangled to death and he, in no uncertain terms, had repelled defence suggestion that death could have been because of hanging. Doctor was emphatic in testifying that the deceased hyoid bone was fractured. Defence had cross-examined(P.W.7) thoroughly and searchingly on the said aspect but the doctor V.V. Arya had not budged at all from his opinion that deceased was strangled to death. Findings recorded by Dr. Arya was seconded by Dr. Pradeep Pandey, as has been stated by (P.W.7), who had further proved various apparels, ornaments and bangles of the deceased as material Ext. Ka-1 to 16. No challenge at all was made by the defence on these recovery aspects. It is noted here that the bangles were broken. It has further been evidenced by (P.W.7) that

he had come to the conclusion that the deceased was strangled to death because of the ligature mark found on her neck, fractured hyoid bone, congestion of lungs, oesophagus, pleura etc. His opinion of strangulation being cause of death was seconded by the discovered facts of congestion of membranes, brain, pleura etc. He had testified that although hyoid bone is a soft bone, but without pressure, it will not fracture. He had denied the defence suggestion that the same was not fractured and because of political pressure, he had written strangulation as the cause of death. Be that as it may, from the prosecution evidence and defence plea, it was conclusively established that the deceased had died an unnatural death, which was otherwise than under normal circumstances. On such evidences the second ingredient required to establish for proving charge of dowry death that the death of the deceased was than under normal circumstances also stand proved to the hilt.

From the above discussion, now what is required to be determined is as to whether there was a demand of dowry and the deceased was tortured because of the said demand soon before her death?

Analyzing prosecution evidences from the said angle, it is found that from the very beginning, it is clear and unambiguous allegation that during marriage and soon after that there was a demand of motor cycle worth more than Rs. 40,000/-. In the FIR, such an allegation is mentioned without any uncertainty. It is further mentioned that (A-2) used to torture the deceased for non-fulfillment of the said dowry demand. Informant's version was that whenever he was sent for by the appellants, only the said demand was repeated. It is further mentioned that the colour TV and the Fridge, which was given in the marriage, were damaged by throwing them at the ground. On the said aspect, all the fact witnesses have corroborated each other without any incongruity and inconsistency.(P.W.1) when entered into the witness box made specific assertions that the demand of motor cycle was made additionally although the same was not agreed as a dowry article. At the time of the marriage, all the three appellants had raised the said demand although informant had expressed his inability to fulfill it. One month after the marriage when (P.W.2) had brought back the deceased from her in-laws house, at that time also the deceased had informed her parents regarding the demand made

by the appellants. This statement by the deceased is admissible under section 32 of the Evidence Act as it relates to the cause of her death and hence is in the nature of her dying declaration.(A-1) along with his elder brother Bhagwati, when had come to informant's house to take back the deceased, even at that time,(A-1) had raised the demand for giving the motor cycle. When(P.W.2) had gone for the second time to bring his sister back then she was not sent along with him because of non-fulfillment of the said demand. At that point of time,(A-1) and(A-3) had also reiterated their motor cycle demand. It was also told to(P.W.3) that the fridge and the TV was not of a good company and it should be exchanged with that of LG company.(P.W.2) had to return back without the deceased. Two days thereafter, informant had approached (A-1), at his house, but initially he was also refused to meet his daughter because of the earlier reason. At that time with persuasion, informant could meet his daughter, who then had informed him that because of non-fulfillment of the demand, she was being physically assaulted and was not given victuals. Deceased was not sent back along with the informant. A week thereafter when(P.W.3), Rameshwar Dayal, brother of the informant and uncle of the deceased, had gone to bring her back, his endeavour also was thwarted by the appellants for the aforesaid reasons. On the date of the incident, Gyasi Lal had informed(P.W.1) that his daughter had expired and appellants are taking her for cremation. On this telephonic message, informant requested Gyasi Lal to stop them from cremating the dead body but, on inability being shown, that the informant had rushed to P.S. Gursarain and requested S.O. Gursarain to inform P.S. Barausagar that his daughter had been murdered and the accused are trying to dispose off her body and it was at the behest of the police that last rites of the deceased could not be performed before informant's arrival along with his brother-in-law and cousin brother at deceased death place. There he had found corpse on the first floor of the house in a room with red and black ligature mark on her neck. Such depositions by the informant, (P.W.1) could not be dislodged at all by the accused, in spite of very tiring, searching and lengthy cross examinations running into many pages.(A-1) was employed in a police department and, according to his own defence, was posted in LIU. In such a view, nobody could have mustered the courage to lodge a false report against him.(P.W.1) was questioned on the letters alleged to have been written by the deceased but he categorically and specifically

stated that, after the marriage, no exchange of letters took place between him and the deceased although he admitted that Geeta was a graduate. (P.W.1) further was candid in stating that none of the neighbours had helped him nor they had accompanied him to the place of the incident. He had further testified that when the neighbours of appellants tried to persuade them to send the deceased along with the informant, they were also rebuked.

(P.W.1), on the aforesaid aspects of the incident, has been corroborated by rest of the three fact witnesses, without any significant contradictions. (P.W.2), brother of the deceased, when was in the witness box, further testified that the letters shown to him were not in the hand writing of his sister nor contained her signature. He denied the defence suggestion that he had posted those letters at the instance of the deceased. He had also deposed that it was (A-2) and (A-3), who had denied his access inside the house when he had gone to bring his sister back.

(P.W.3), Rameshwar Dayal, brother of the informant, also corroborated both the witnesses and testified that it was (A-2), who had told him to exchange the TV and the Fridge with that of LG company and had reiterated the demand of motor cycle or Rs. 40,000/-. It is his deposition that the TV was thrown on the ground by (A-2), where it was kept, and he had arranged for a loader to bring TV and the Fridge back. Deceased was also brought in the said loader by this witness. It is his deposition that, at that time, he had advised (A-2) not to return the Fridge and TV as it were of good company but she did not pay heed to him. This witness was also shown the letters filed by the accused and in reply to the questions, he deposed categorically that those letters were not in the hand writings of the deceased. In such a view, all the prosecution witnesses are consistent and creditworthy in stating that the demand of motor cycle or Rs. 40,000/- was made by the appellants and non-fulfillment of it resulted in deceased death, which was unnatural. Thus what has been established beyond any shadow of doubt is that there were persistent and continuous demand of dowry, without snapping its link, and the deceased was tortured for non-fulfillment of the said demand soon before her death.

At this juncture, I would like to divert to the argument of Sri Sengar that as a custom, motor cycle was demanded by the husband when he had gone to perform a ritual during marriage and that cannot be termed as dowry demand. The contention has no substance at all. Dowry is demand made either during marriage or in relation thereto. Demand so made by the husband (A-3) was in relation to the marriage during it's ceremony and consequently cannot fall apart from it's purview. Concept of 'Dowry' and it's definition imbibes in itself every demand raised in or in connection with the marriage. In the present case, motor cycle was demanded by(A-3) for taking the deceased as his wife in the marriage. This is nothing but dowry demand. Human nature and activity cannot be circumscribed within a specified area. Each case has to be judged and decided on it's own merits. What will constitute dowry demand has to be judged in the background of involved each facts and circumstances which depends upon facts to facts. There cannot be any rigid formula for demarcating dowry demand. Legislature has fixed time span of making such a demand up to seven years from the date of the marriage. To hold that a demand made by a, would be, husband during marriage, would fall outside purview of dowry demand is to hold otherwise than what has been prescribed by the legislature and such an exposition of law will defeat the very purpose of Dowry Prohibition Act. It will amount to giving a new definition to the word "Dowry" sans all common sense. Any demand made by the husband or his relatives because of the relationship of tying nuptial knot, which they have entered or likely to be entered, is "Dowry demand". This has to be under stood conceptually in a given set of facts. The concept of "Dowry" has been subjected to various judicial interpretations and remains no longer res intergra. It will be appropriate to refer some of those decisions at this juncture.

In Ashok Kumar Vs. State of Haryana, AIR 2010 Supreme Court 2839, it has been held by the Apex Court as under:-

"9. At the very outset, we would proceed to deal with the legal submissions made on behalf of the appellant. But before that, we must notice that the appellant was neither charged with the offence under Section 4 of the Act nor he has been found guilty of the said offence. Thus, the submissions have to be examined only from the point of view that the appellant has been convicted for an offence under

Section 304-B of the Code and the provisions of the Act are relevant only for examining the merit or otherwise of the contention raised that the expression 'dowry', as per explanation to the provisions of Section 304-B of the Code, has to be given the same meaning as in Section 2 of the Act.

10. The appellant was charged with an offence under Section 304-B of the Code. This penal section clearly spells out the basic ingredients as well as the matters which required to be construed strictly and with significance to the cases where death is caused by burns, bodily injury or the death occurring otherwise than under normal circumstances, in any manner, within 7 years of a marriage. It is the first criteria which the prosecution must prove. Secondly, that 'soon before her death' she had been subjected to cruelty or harassment by the husband or any of the relatives of the husband for, or in connection with, any demand for dowry then such a death shall be called 'dowry death' and the husband or the relative, as the case may be, will be deemed to have caused such a death. Explanation to this section requires that the expression 'dowry' shall have the same meaning as in Section 2 of the Act. The definition of dowry under Section 2 of the Act reads as under :

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

Explanation II.-The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code (45 of 1860)."

11. From the above definition it is clear that, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly by one party to another, by parents of either party to each other or any other person at,

before, or at any time after the marriage and in connection with the marriage of the said parties but does not include dower or mahr under the Muslim Personal Law. All the expressions used under this Section are of a very wide magnitude. The expressions 'or any time after marriage' and 'in connection with the marriage of the said parties' were introduced by amending Act 63 of 1984 and Act 43 of 1986 with effect from 02.10.1985 and 19.11.1986 respectively. These amendments appear to have been made with the intention to cover all demands at the time, before and even after the marriage so far they were in connection with the marriage of the said parties. This clearly shows the intent of the legislature that these expressions are of wide meaning and scope. The expression 'in connection with the marriage' cannot be given a restricted or a narrower meaning. The expression 'in connection with the marriage' even in common parlance and on its plain language has to be understood generally. The object being that everything, which is offending at any time i.e. at, before or after the marriage, would be covered under this definition, but the demand of dowry has to be 'in connection with the marriage' and not so customary that it would not attract, on the face of it, the provisions of this section.

12. At this stage, it will be appropriate to refer to certain examples showing what has and has not been treated by the Courts as 'dowry'. This Court, in the case of *Ram Singh v. State of Haryana* [(2008) 4 SCC 70] : (AIR 2008 SC 1294 : 2008 AIR SCW 1342), held that the payments which are customary payments, for example, given at the time of birth of a child or other ceremonies as are prevalent in the society or families to the marriage, would not be covered under the expression 'dowry'. Again, in the case of *Satbir Singh v. State of Punjab* [AIR 2001 SC 2828] : (2001 AIR SCW 3793), this Court held that the word 'dowry' should be any property or valuable given or agreed to be given in connection with the marriage. The customary payments in connection with birth of a child or other ceremonies are not covered within the ambit of the word 'dowry'. This Court, in the case of *Madhu Sudan Malhotra v. K.C. Bhandari* [(1988) Supp 1 SCC 424], held that furnishing of a list of ornaments and other household articles such as refrigerator, furniture and electrical appliances etc., to the parents or guardians of the bride, at the time of settlement of the marriage, prima facie amounts to demand of dowry within the meaning of Section 2 of the Act. The definition of 'dowry' is not restricted to agreement or demand for payment of dowry before and

at the time of marriage but even include subsequent demands, was the dictum of this Court in the case of State of Andhra Pradesh v. Raj Gopal Asawa.

13. The Courts have also taken the view that where the husband had demanded a specific sum from his father-in-law and upon not being given, harassed and tortured the wife and after some days she died, such cases would clearly fall within the definition of 'dowry' under the Act. Section 4 of the Act is the penal Section and demanding a 'dowry', as defined under Section 2 of the Act, is punishable under this section. As already noticed, we need not deliberate on this aspect, as the accused before us has neither been charged nor punished for that offence. We have examined the provisions of Section 2 of the Act in a very limited sphere to deal with the contentions raised in regard to the applicability of the provisions of Section 304-B of the Code."

In the decision of Baldev Singh Vs. State of Punjab AIR 2009 SC 913 it has been held as under:-

"11. The offence alleged against the accused is under Section 304-B IPC which makes "demand of dowry" itself punishable. Demand neither conceives nor would conceive of any agreement. If for convicting any offender, agreement for dowry is to be proved, hardly any offenders would come under the clutches of law. When Section 304-B refers to "demand of dowry", it refers to the demand of property or valuable security as referred to in the definition of "dowry" under the Act. The argument that there is no demand of dowry, in the present case, has no force. In cases of dowry deaths and suicides, circumstantial evidence plays an important role and inferences can be drawn on the basis of such evidence. That could be either direct or indirect. It is significant that Section 4 of the Act, was also amended by means of Act 63 of 1984, under which it is an offence to demand dowry directly or indirectly from the parents or other relatives or guardian of a bride. The word "agreement" referred to in Section 2 has to be inferred on the facts and circumstances of each case. The interpretation that the accused seek, that conviction can only be if there is agreement for dowry, is misconceived. This would be contrary to the mandate and object of the Act. "Dowry" definition is to be interpreted with the other provisions of the Act including Section 3, which refers to

giving or taking dowry and Section 4 which deals with a penalty for demanding dowry, under the Act and the IPC. This makes it clear that even demand of dowry on other ingredients being satisfied is punishable. It is not always necessary that there be any agreement for dowry."

It has further been held in Appa Sahib and another Vs. State of Maharashtra AIR 2007 SC 763 as under:-

"9. Two essential ingredients of Section 304-B IPC, apart from others, are (i) death of woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances, and (ii) woman is subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for "dowry". The explanation appended to sub-section (1) of Section 304-B IPC says that "dowry" shall have the same meaning as in Section 2 of Dowry Prohibition Act, 1961.

Section 2 of Dowry Prohibition Act reads 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 or any time after the marriage in connection with the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (shariat) applies.

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. (See *Union of India vs. Garware Nylons Ltd.* AIR 1996 SC 3509 and *Chemicals and Fibres of India vs. Union of India* AIR 1997 SC 558). 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. Since an essential ingredient of Section 304-B IPC viz. demand for dowry is not established, the conviction of the appellants cannot be sustained."

In *Ashok Kumar*(Supra) it has been held by the apex court as under:-

"16. The cruelty and harassment by the husband or any relative could be directly relatable to or in connection with, any demand for dowry. The expression 'demand for dowry' will have to be construed ejusdem generis to the word immediately preceding this expression. Similarly, 'in connection with the marriage' is an expression which has to be given a wider connotation.

It is of some significance that these expressions should be given appropriate meaning to avoid undue harassment or advantage to either of the parties. These are penal provisions but ultimately these are the social legislations, intended to control offences relating to the society as a whole. Dowry is something which existed in our country for a considerable time and the legislature in its wisdom considered it appropriate to enact the law relating to dowry prohibition so as to ensure that any party to the marriage is not harassed or treated with cruelty for satisfaction of demands in consideration and for subsistence of the marriage."

In view of above exposition of law by the apex court, the contention of appellants counsel seems to be bereft of merits and is hereby repelled.

Now turning towards another harangued contention by appellant's counsel that there was no demand soon before deceased death and therefore charge u/s 304 must fail, is also devoid of merits. "Soon before her death" is a relative expression and cannot be circumscribed into a straightjacket formula. It has to be judged in the background of facts peculiar to each case and what will constitute it will depend upon evidences led in each trial.

When summated on the facts of the present appeal, said argument by appellant's counsel is also untenable. Period between marriage of the deceased and her death is less than two years. In between this period there has been persistent and unrelenting demand of dowry. All the fact witnesses have testified cogent and confidence inspiring evidences that accused continuously demanded motor cycle in dowry and they never eschewed the said demand. In spite of lengthy and cumbersome cross examination of these witnesses, defence has failed to dislodge their depositions. All the witnesses have corroborated each other and since there was no reason for the informant and other witnesses to fabricate a false story against the accused, there is no scope of any doubt that the said demand never ended and was persistent and continuous. At no point of time appellants resiled from raising such a demand. It is categorical case of the informant that each and every time whenever somebody from the parental relatives of the deceased, approached appellants they reiterated their motor cycle demand. Appellant's contentions that after birth of the child said demand had dissipated, is contrary to the material on record, because on this score none of the fact witnesses were cross-examined nor there is any evidence to that effect. Consistent case of the prosecution is that the demand of dowry of the motorcycle continued till it was frustrated by the demise of Geeta. If the accused wanted to take advantage of eschewing the said demand after the birth of the child, they should have cross-examined the witnesses specifically on that score when they were in the witness box. This was not done, intentionally and consciously, for the simple reason that accused were also conscious of the fact that there such a demand was never given up. In their statements under Section 313 Cr.P.C., no such pleas was

mentioned by them. The argument seems to have been raised only to be repelled and there is absolutely no foundation or basis for the same and resultantly appellant's contention is hereby negated. On this aspect, support can be had from the following decisions:-

In Ashok Kumar (Supra) it has been observed by the apex court as under:-

“14. We have already referred to the provisions of Section 304-B of the Code and the most significant expression used in the Section is 'soon before her death'. In our view, the expressions 'soon before her death' cannot be given a restricted or a narrower meaning. They must be understood in their plain language and with reference to their meaning in common parlance. These are the provisions relating to human behaviour and, therefore, cannot be given such a narrower meaning, which would defeat the very purpose of the provisions of the Act. Of course, these are penal provisions and must receive strict construction. But, even the rule of strict construction requires that the provisions have to be read in conjunction with other relevant provisions and scheme of the Act. Further, the interpretation given should be one which would avoid absurd results on the one hand and would further the object and cause of the law so enacted on the other.

15. We are of the considered view that the concept of reasonable time is the best criteria to be applied for appreciation and examination of such cases. This Court in the case of Tarsem Singh v. State of Punjab [AIR 2009 SC 1454] : (2009 AIR SCW 928), held that the legislative object in providing such a radius of time by employing the words 'soon before her death' is to emphasize the idea that her death should, in all probabilities, have been the aftermath of such cruelty or harassment. In other words, there should be a reasonable, if not direct, nexus between her death and the dowry related cruelty or harassment inflicted on her. Similar view was expressed by this Court in the case of Yashoda v. State of Madhya Pradesh [(2004) 3 SCC 98], where this Court stated that determination of the period would depend on the facts and circumstances of a given case. However, the expression would normally imply that there has to be reasonable time gap between the cruelty inflicted and the death in question. If this is so, the legislature in its wisdom would have specified any period which would attract the

provisions of this Section. However, there must be existence of proximate link between the acts of cruelty along with the demand of dowry and the death of the victim. For want of any specific period, the concept of reasonable period would be applicable. Thus, the cruelty, harassment and demand of dowry should not be so ancient whereafter, the couple and the family members have lived happily and that it would result in abuse of the said protection. Such demand or harassment may not strictly and squarely fall within the scope of these provisions unless definite evidence was led to show to the contrary. These matters, of course, will have to be examined on the facts and circumstances of a given case.”

In Uday Chakraborty and Ors. v. State of W. B.:AIR 2010 SC 3506 it has been held by the apex court as under:-

“The expression 'soon before her death' has to be given its due meaning as the legislature has not specified any time which would be the period prior to death, that would attract the provisions of section 304-B of IPC. The concept of reasonable time would be applicable, which would primarily depend upon the facts of a given case, the conduct of the parties and the impact of cruelty and harassment inflicted upon the deceased in relation to demand of dowry to the cause of unnatural death of the deceased. In our considered view, the marriage itself has not survived even for a period of two years, the entire period would be a relevant factor in determining such an issue.”

Above discussions leads me to conclude that there was a demand of dowry by the appellants and non-fulfilment of it resulted in annihilation of the deceased by strangulating her to death within seven years of her marriage and hence, prosecution charges against them is established beyond any shadow of doubt.

The gist of above discussion is that both the appeals, by all the appellants, lacks merit and are therefore dismissed in full. Appellants are on bail. Their personal and surety bonds are cancelled and they are directed to surrender immediately before the trial court failing which trial court is directed to get them arrested and lodge them in jail to serve out remaining part of their sentences.

Let a copy of this judgement be certified to the trial court for it's intimation.

