IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal No. (SJ) 1790 of 2017

(Against the judgment of conviction and order of sentence dated 13.09.2017 and 15.09.2017 respectively, passed by learned Additional Sessions Judge-V-cum-F.T.C, Dhanbad in Sessions Trial No.205 of 2014)

1.
2.

.... **Appellants**

Versus

The State of Jharkhand ..... **Respondent**

P R E S E N T

HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

.....

For the Appellant : Mr. Pratiush Lala, Advocate
For the State : Mr. Bishambhar Shastri, APP

.....

C.A.V. on 14/09/2026 ***Pronounced on 29/10/2026***

Per Sujit Narayan Prasad, J.:

1. At the outset, it is pertinent to note that the present appeal was heard analogous to Criminal Appeal (DB) No. 1876 of 2017, preferred by the husband of the deceased, namely Ratan Bauri, who had been convicted for the offence punishable under Section 304-B of the Indian Penal Code and sentenced to undergo rigorous imprisonment for a period of ten years.

2. The aforesaid Criminal Appeal (DB) No. 1876 of 2017 has already been disposed of by this Court vide order dated 14.09.2026 as not pressed, in view of the fact that the

appellant therein, Ratan Bauri, had already undergone and completed the sentence of ten years imposed upon him by the learned Trial Court.

3. On the same date, after hearing the learned counsel appearing on behalf of the parties at considerable length, the present appeal was reserved for judgment.

Prayer

4. The instant appeal has been filed under Section 374 (2) of the Code of Criminal Procedure against the judgment of conviction and order of sentence dated 13.09.2017 and 15.09.2017 respectively, passed by learned Additional Sessions Judge-V-cum-F.T.C, Dhanbad in Sessions Trial No.205 of 2014 arising out of Nirsa Police Station Case No.141 of 2012 corresponding to G.R. Case No.2107 of 2012, by which the appellants have been convicted under section 304(B) of IPC and sentenced to undergo RI for a period of 7 years (seven years).

Prosecution Case:

5. This Court, before proceeding to examine the legality and propriety of the judgment of conviction and order of sentence, deems it fit and proper to refer the background of institution of prosecution case.

6. The prosecution case, in brief, is based on fardbeyan of Alta Devi [PW 5] recorded near BGH Mortuary (postmortem house) by ASI Anjani Kumar Tiwary of Sector-IV

Police Station Bokaro on 23.05.2012 at about 3:30 P.M. As per said fardbeyan, daughter of namely (Deceased) was married with and she was residing in her matrimonial house with in-laws' family. She was being tortured by committing assault by the accused persons due to dowry demand of Rs. 50,000/- and a motorcycle and pressure were putting to bring such dowry but informant was unable to fulfill the said demand due to financial problem.

7. It has further been alleged that on 22.05.2012 at about 7:00 A.M. mother-in-law and husband Ratan Bauri with consent of "bhainsur" poured kerosene oil and set fire by matchstick due to which burnt seriously then due to fear of society and legal action accused persons brought her for treatment at BGH, Bokaro at 10:30 A.M. and after admitting her in-laws family fled away.

8. It is further stated in the fardbeyan that from villagers she could get information about burning and admitting of her daughter in hospital then she along with her son went to BGH and saw her daughter and then her daughter said that husband, mother-in-law, (appellant herein), and (appellant herein) all poured kerosene oil and set fire by matchstick. It has also made specific that mother-in-law has poured kerosene oil and

husband set fire by matchstick. It is further stated that during treatment she succumb to death.

9. On the basis of said fardbeyan Nirsa P.S. Case No. 141/12 was registered on 28.05.2012. After investigation charge-sheet has been submitted against all accused persons u/s. 304(B) of the I.P.C. and later on cognizance was taken and then case has been committed to the court of Sessions in which accused Bijali Devi has been shown as absconder and vide order dated 02.07.2015 and her case was split up.

10. The charge against the appellants was framed under section 304B IPC to which they pleaded not guilty and claimed to be tried.

11. The prosecution in order to bring home charges has adduced altogether eight witnesses and thereafter prosecution evidence was closed.

12. The statement of the accused persons has been recorded under section 313 of the Cr. P.C in which the accused persons have denied to commit such offence as alleged by the prosecution.

13. The defence of the accused persons is that they are innocent and [deceased] died due to accidental fire while she was lighting oven.

14. The trial Court, after recording the evidence of witnesses, examination-in-chief and cross-examination,

recorded the statement of the accused persons and found the charges levelled against the appellants under Section 304B IPC proved beyond all reasonable doubts.

15. Accordingly, the appellants have been held guilty and convicted and accordingly sentenced as stated above, which is the subject matter of instant appeal.

Submission on behalf of appellants:

16. The learned counsel appearing for the appellants has assailed the impugned judgment of conviction and order of sentence on the following grounds:

I. Prosecution has miserably failed in proving the charge leveled against the appellants and learned trial court has committed error of law in evaluating and analyzing the evidence in coming to the conclusion.

II. Submission has been made that there is no independent witness who has supported the prosecution case. The appellants are the in-laws of the deceased and they have nothing to do with the life of the deceased and her husband as the appellants have their separate mess and kitchen, but this fact has not been taken into consideration by learned trial court.

III. Further submission has been made that the learned trial court has over looked the fact that there was no complaint regarding any torture or dowry demand against these appellants but when the deceased

got burnt accidently during lighting of oven then she was brought to hospital for treatment but unfortunately, she died then under anger the mother of deceased has lodged this case with false allegation of dowry demand of Rs.50,000/- and a motorcycle.

IV. Further submission has been made that it is false to say that the deceased, has told her mother about the specific role of these appellants in occurrence of pouring kerosene oil or setting fire by matchstick.

V. Further submission has been made that the learned trial court has failed to consider that the prosecution could not produce the materials of circumstantial evidence as there was no direct evidence.

VI. Further submission has been made that there is major contradiction in the testimonies of witnesses, which has not been taken care by the learned Trial Court in the impugned judgment.

VII. Learned counsel for the appellants, in the backdrop of aforesaid grounds, has submitted that the judgment of conviction and order of sentence since is not based upon cogent evidence and as such it cannot be said that the prosecution has been able to prove the charge beyond all reasonable doubt.

Submission of the learned APP for the State:

17. P*er Contra*, learned Addl. Public Prosecutor appearing on behalf of State has defended the impugned judgment of conviction and order of sentence taking the ground that the impugned judgment has been passed based upon the testimony of witnesses who have supported the prosecution version.

18. Submission has been made that it is evident from the testimony of the witnesses that there was demand of dowry of Rs.50,000/- and motorcycle and in view of such illegal demand of dowry and assault, 'Panchayati' was done.

19. Further submission has been made that the deceased was completely burnt rather her upper neck, head and hair was not burnt and even the another accused in his statement recorded under Section 313 Cr.P.C has stated that during treatment his wife was speaking and the deceased has stated about the role of the present appellants in alleged commission of crime.

20. Further submission has been made that even if there are minor discrepancies in the testimonies of the witnesses that cannot wash away the case of the prosecution.

21. Learned State counsel, based upon the aforesaid ground, has submitted that the prosecution has been able to prove the guilt of the appellant beyond all reasonable doubt and as such the impugned judgment requires no interference by this Court.

Analysis

22. We have heard learned counsel for the parties, perused the documents available on record and the testimony of witnesses as also the finding recorded by learned trial Court in the impugned order.

23. This Court, on the basis of aforesaid factual aspect vis-à-vis argument advanced on behalf of parties, is now proceeding to examine the legality and propriety of impugned judgment of conviction and order of sentence.

24. However, before proceeding further it needs to refer herein the testimonies of the witnesses.

25. PW-1 has deposed that since after marriage was being tortured by her husband and in- laws family members. As per this witness accused persons were demanding Hero Honda Motorcycle and regarding the said demand and torture panchayati was also arranged and after panchayati was sent to matrimonial home. She has further deposed that on 31.07.2011, information was received regarding torture then brother of namely had gone to pacify the said matter. In Para-4 this witness has stated that on 23.05.2012 when she heard about the occurrence and admission of in hospital then she went there but till that time was died and, in her presence, panchnama of dead body was made upon which she has put

signature. On her identification, her signature on the Panchnama has been marked as Ext.-1.

26. During cross-examination she has deposed that police had recorded her statement at Bokaro when she had gone to see

27. PW-2 is brother of the deceased bride. He has deposed that was married and after three to four months of the marriage demand of Rs. 50,000/- and a motorcycle was made and she was being assaulted. He also deposed that he tried to pacify the said matter but on 22.05.2012 all of sudden telephone call was received about admitting his sister in BGH then he along with other went to BGH and his sister (deceased) told that due to non-fulfillment of demand of money all accused sprinkled kerosene oil and set fire by matchstick. He also deposed that on the same day she died during treatment. He identified his signature on the fardbeyan which has been marked as Ext.2.

28. During cross-examination he could not say who informed by phone but when he arrived at BGH then her treatment was going on and bandage was up-to neck and neck and face were not burnt. He also deposed that on that day people suggested that treatment be continued and thereafter police will be informed tomorrow. In para 9 he deposed that mouth and hair was not burnt. He denied the suggestion of defence that she was not able to speak. He also

denied the suggestion of defence that it was accidental reason of death. In para-12 he clarified that what he has stated before the court that is based on as stated by his sister (deceased).

29. PW-3 is villager of parental house of deceased . She deposed that after marriage of deceased, Rs. 50,000/- and motorcycle was being demanded by husband, mother-in-law, and for that she was subjected and killed by setting fire. In para 4 she has deposed that deceased has told at BGH that her mother-in-law poured kerosene and husband set fire by matchstick and rest people did not save.

30. During cross-examination in Para-7 she deposed that she reached hospital then was weeping and she told about the occurrence. She also deposed that her mouth and head was not burnt. She denied the suggestion of defence that she was fully burnt and she was not able to speak. She also denied the suggestion of defence that no dowry or torture was made and it is accidental burning death.

31. PW-4 Ala Devi has deposed that Rinku Devi was married in 2010 with and after 1 to 2 months dowry demand was being made and for that she was beaten and Rs. 50,000/- and motorcycle was demanded but that was not fulfilled. In Para 3 she has specifically stated that on 22.05.2012 deceased told her that her mother-in-law poured

kerosene oil and set fire by matchstick. She also added that "jeth, jethani and nanad" were also involved in the occurrence. In Para 6 she deposed that she also went to see her in hospital and she was fully burnt but in speaking situation. During cross-examination in Para - 9 she deposed that sometimes used to comes her parental home and her husband accompanied her in coming.

32. PW-5 Alta Devi is mother of the deceased bride as well as informant of this case. She deposed that her daughter has been married in 2010 with and after two months her husband and other accused began to demand dowry of Rs. 50,000/- and motorcycle but she could not fulfill the said demand then all accused killed her by setting fire. This witness has also deposed that mother-in-law poured kerosene oil and husband set fire by matchstick and other accused persons were seeing the occurrence and they did not save. In Para 4 she deposed that when she reached hospital then *sline* was running and deceased was conscious and talking and she said that all accused have set fire and no one saved her. Again, she said that her mother-in-law poured kerosene oil and husband set fire by matchstick and other accused were involved in the conspiracy of occurrence and silently they were watching and they did not save.

33. During cross-examination in Para-14 she deposed that her daughter comes and goes to "maike" with her husband. In Para 15 she deposed that she went to matrimonial house of her daughter for two to three times due to reason of disputes. In Para-16 she deposed that she had not lodged any case prior to this occurrence but -panchayti was held regarding those disputes. In Para-18 she accepted that nanad is married lady having children and her matrimonial home is in West Bengal Lalpur and Nanad always resides in her "maike". In Para 20 she further deposed that she had given her daughter coconut water and she was in light conscious. In Para - 24 she deposed that head and hair of her daughter was not burnt. She denied the suggestion of defence that there was no demand of dowry or torture. She also denied the suggestion of defence that it was accidental injury but under emotion lodged false case.

34. PW-6 Srimant Bauri has deposed that mother of the deceased Rinku told on phone that in-laws family killed her daughter by setting fire then he and his wife and Ram Prasad Bauri went to see her and when they reached at BGH till that time Rinku Devi had died. Thereafter they went sector-IV Police station and statement of mother of Rinku Devi was recorded upon which he also put his signature. He identified his signature on the fardbeyan which was marked as Ext.-2/1. He further deposed that police came and

postmortem was done. In Para 5 he deposed that in-law's family and husband always tortured Rinku Devi for dowry. He also deposed that prior to occurrence about 8 to 9 months a panchayati was also conveyed in which he and his wife who is member of District Board, were also present and this Panchavati was convened in which husband and mother-in-law of Rinku Devi had had assured not to commit any assault and they will keep Rinku Devi happily.

35. During cross-examination he deposed that he cannot say on which date panchayati was convened. He also deposed that there was no written complaint for panchayti rather it was oral request to resolve the dispute and after pacifying both sides bride was sent to her matrimonial home. In Para-18 he stated that he and his wife went to hospital separately in separate vehicle where mother and brother of deceased were already present in the hospital but from the side of husband no one was there. He denied the suggestion of defence that for political gain he is giving false evidence in favour of adjacent villager.

36. PW-7 Choudhary Mehra retired S.I. is Investigating Officer of this case. He deposed that he was entrusted with investigation of Nirsa P.S. Case No. 141/12 on 28.05.2012. He identified the endorsement upon which it was marked as Ext.-2/2. He also proved formal F.I.R. as Ext. 3. He further deposed that during investigation he recorded statement of

informant Alta Devi and also recorded the statement of Fatik Bauri, Kajal Bauri, Ala Devi at police station. Thereafter he inspected the place of occurrence which was bed room of the deceased Rinku Devi wherefrom smell of kerosene oil was coming. He also recorded the statement of Suraj Bauri, Mukesh Bauri, Punam Devi and Srimant Bauri. He further deposed that he received postmortem report from Sector-IV Police station and thereafter he submitted charge-sheet showing the accused persons absconder.

37. During cross-examination in Para-12 he clarified that at the place of occurrence he recorded the statement of Suraj Bauri and Mukesh Bauri and he accepted that other witnesses are of parental village of deceased. In Para - 13 he deposed that in the case diary he has not mentioned about smell of kerosene oil coming from the bed room of deceased. In Para 15 he deposed that no panchayti paper was given to him but he was said about oral panchayati. In Para 16 he accepted that he did not visit Bokaro General Hospital, nor recorded statement of any doctor.

38. PW-8 Dr. Vikash Kumar is a Medical Officer who has conducted the postmortem of deceased. He had stated that in general examination he found as follows: (i) Rigor mortis was present in all four limbs. Eyes closed, mouth partially opened. Tongue inside. (ii) 100% burn over scalp hair, all over face, front and back of the neck, front and back of the

chest both sides, all over abdomen, pelvic region, both sides of the shoulder, both sides of the arm and forearm, both sides of the thighs and both sides of the legs.

39. As per this witness cause of death was caused due to shock leading to Cardio-respiratory failure due to burn injury. On his identification postmortem report has been marked as Ext. 4. During cross-examination in para-8 he deposed that above mentioned burn injuries may be possible due to accidental fire and it may be homicidal also. In para-9 he deposed that entire body including lips had been burnt. He accepted that cause of fire has not been mentioned in the report.

40. As per the prosecution case and testimonies available on record, it is admitted fact that marriage of the deceased-Rinku Devi was solemnized with Ratan Bauri in the year 2010 and the deceased-Rinku Devi succumbed to burn injuries allegedly the mother-in-law poured kerosene oil and husband Ratan Bauri set fire by matchstick and other accused persons (appellants) were seeing the occurrence and they did not save.

41. The prosecution has led evidences to establish that the deceased-Rinku Devi was burnt by the accused persons, including the appellants within two years of marriage due to non-fulfillment of dowry demand.

42. While the appellant, in his defence, has taken the ground that the interested persons concocted the story out of emotion and it was an accidental case of burning.

43. So far, the present appellants are concerned, it is submitted that none of the witnesses have cited their specific role rather they have deposed that while the incident occurred the appellants did not make any effort to save the deceased. Further, there is no specific demand of dowry against these appellants. It has further been submitted that that there is no cogent evidence available against these appellants.

44. In the backdrop of the aforesaid factual aspect and on consideration of the rival submissions and the materials evidence available on the record, the following points arise for determination:

(i) Whether the prosecution has established the essential ingredients of Section 304-B IPC in relation to present appellants.

(ii) Whether the alleged demand for dowry and cruelty or harassment soon before the death have been established by reliable evidence against the present appellants.

(iii) Whether the present appellants are entitled to the benefit of reasonable doubt.

45. This Court before proceeding further needs to refer herein the provision of law as mentioned under Section 304B IPC under which they have been convicted:

> ***304B. Dowry death.—***
>
> *(1)Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.*
>
> ***Explanation**.— For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).*
>
> *(2)Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.*

46. The implied connotation of Section 304B IPC is that if a woman dies within seven years of marriage by any burns or bodily injury or it was revealed that before her marriage, she was exposed to cruelty or harassment by her husband or any other relative of the husband in connection to demand dowry then the death of the woman will be considered as dowry death. Meaning thereby the death of a woman must be caused within by burns or bodily injury or otherwise than under normal circumstances. The death must occur within 7 years of marriage. Further, the woman [deceased] must have been subjected to cruelty or harassment by her husband or

his relatives. It further says that cruelty or harassment should be in connection with the demand of dowry and soon before death. Such cruelty or harassment is shown to have been meted out to the woman soon before her death. Under the provisions of Section 304-B (2) of Indian Penal Code, 1860(IPC) whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than 7 years, but which may extend to imprisonment for life.

47. Thus, it is evident that there are three conditions in the aforesaid statute and if those three conditions are fulfilled then the case will come under the purview of Section 304-B. Three conditions which culled out from section 304-B are as follows:

i. The death caused by burn or bodily injury or occurs otherwise within under normal circumstance.

ii. Death was occurred within seven years of her marriage.

iii. It has been shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry.

48. It needs to refer herein that in order to sustain the conviction under Section 304B of the IPC, it is

mandatory to establish that soon before death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with any demand for dowry and death caused by burn or bodily injury or occurs otherwise within under normal circumstance within seven years of victim's marriage.

49. In the case of **Major Singh v. State of Punjab, (2015) 5 SCC 201** a three-Judge Bench of the Hon'ble Apex Court has laid down the guideline wherein it has been specifically observed that in order to sustain the conviction under Section 304-B IPC, cruelty or harassment is shown to have been meted out to the woman soon before her death. For ready reference the relevant paragraph of the aforesaid judgment is being quoted as under :

> *"10. To sustain the conviction under Section 304-B IPC, the following essential ingredients are to be established:*
>
> *(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; and (v) such cruelty or harassment is shown to have been meted out to the woman soon before her death."*

50. It needs to refer herein that the cruelty or harassment differs from case to case. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be depriving her of economic resources or essential amenities of life. The list is illustrative and not exhaustive. 44. Physical cruelty could be actual beating or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain, etched in her memory for a long time.

51. The phrase "soon before" as appearing in Section 304-B IPC cannot be construed to mean "immediately before". It is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. Proximate and live link between the effect of cruelty based on dowry demand and

the consequential death is required to be proved by the prosecution.

52. The aforesaid position was emphasized by the Hon'ble Apex Court in the case of ***Satbir Singh v. State of Haryana, (2021) 6 SCC 1*** wherein it has been held which reads as under:

> *"15. Considering the significance of such a legislation, a strict interpretation would defeat the very object for which it was enacted. Therefore, it is safe to deduce that when the legislature used the words, "soon before" they did not mean "immediately before". Rather, they left its determination in the hands of the courts. The factum of cruelty or harassment differs from case to case. Even the spectrum of cruelty is quite varied, as it can range from physical, verbal or even emotional. This list is certainly not exhaustive. No straitjacket formulae can therefore be laid down by this Court to define what exactly the phrase "soon before" entails.*
>
> *17. Therefore, courts should use their discretion to determine if the period between the cruelty or harassment and the death of the victim would come within the term "soon before". What is pivotal to the above determination, is the establishment of a "proximate and live link" between the cruelty and the consequential death of the victim."*

53. When the prosecution shows that "soon before her death such woman has been subjected to cruelty or harassment for, or in connection with, any demand for dowry", a presumption of causation arises against the accused under Section 113-B of the Evidence Act. Section 113-B of the Evidence Act reads as under:

> "113-B. Presumption as to dowry death.—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. Explanation.—For the purposes of this section, "dowry death" shall have the same meaning as in Section 304-B of the Indian Penal Code (45 of 1860)."

54. It is evident from the aforesaid provision that the word "shall" has been stipulated therein which provides mandatory application on the part of the court to presume that death had been committed by the person who had subjected her to cruelty or harassment in connection with any demand of dowry and as such onus lies on the accused to rebut the presumption and in case of Section 113-B relatable to Section 304-B IPC, the onus to prove shifts on the accused.

55. The Hon'ble Apex Court while relying on the provisions of Section 113-B of the Evidence Act, 1872 (for short "the Evidence Act") and Section 304-B IPC, where the *words* "soon before her death" find mention, the following observations have been made in the case of **Surinder Singh v. State of Haryana, (2014) 4 SCC 129**:

> **"**17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-BIPC. For the presumptions contemplated under these sections to

spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words "soon before" is, therefore, important. The question is how "soon before"? This would obviously depend on the facts and circumstances of each case. The cruelty or harassment differs from case to case. It relates to the mindset of people which varies from person to person. Cruelty can be mental or it can be physical. Mental cruelty is also of different shades. It can be verbal or emotional like insulting or ridiculing or humiliating a woman. It can be giving threats of injury to her or her near and dear ones. It can be depriving her of economic resources or essential amenities of life. It can be putting restraints on her movements. It can be not allowing her to talk to the outside world. The list is illustrative and not exhaustive. Physical cruelty could be actual beating *or causing pain and harm to the person of a woman. Every such instance of cruelty and related harassment has a different impact on the mind of a woman. Some instances may be so grave as to have a lasting impact on a woman. Some instances which degrade her dignity may remain, etched in her memory for a long time. Therefore, "soon before" is a relative term. In matters of emotions we cannot have fixed formulae. The time-lag may differ from case to case. This must be kept in mind while examining each case of dowry death. 18. In this connection we may refer to the judgment of this Court in Kans Raj v. State of Punjab [Kans Raj v. State of Punjab, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] where this Court considered the term "soon before". The relevant observations are as under : (SCC pp. 222-23, para 15)*

'15. … "Soon before" is a relative term which is required to be considered under specific circumstances of each case and no straitjacket formula can be laid down by fixing any time-limit. This expression is pregnant with the idea of proximity test. The term "soon before" is not synonymous with the term "immediately before" and is opposite of the expression "soon after" as used and understood in Section 114, Illustration (a) of the Evidence Act. These words would imply that the interval should not be too long between the time of making the

statement and the death. It contemplates the reasonable time which, as earlier noticed, has to be understood and determined under the peculiar circumstances of each case. In relation to dowry deaths, the circumstances showing the existence of cruelty or harassment to the deceased are not restricted to a particular instance but normally refer to a course of conduct. Such conduct may be spread over a period of time. If the cruelty or harassment or demand for dowry is shown to have persisted, it shall be deemed to be "soon before death" if any other intervening circumstance showing the non existence of such treatment is not brought on record, before such alleged treatment and the date of death. It does not, however, mean that such time can be stretched to any period. Proximate and live link between the effect of cruelty based on dowry demand and the consequential death is required to be proved by the prosecution. The demand of dowry, cruelty or harassment based upon such demand and the date of death should not be too remote in time which, under the circumstances, be treated as having become stale enough.' Thus, there must be a nexus between the demand of dowry, cruelty or harassment, based upon such demand and the date of death. The test of proximity will have to be applied. But, it is not a rigid test. It depends on the facts and circumstances of each case and calls for a pragmatic and sensitive approach of the court within the confines of law."

(emphasis supplied).

56. Further, the Hon'ble Apex Court in the case of State of ***M.P. v. Jogendra, (2022) 5 SCC 401*** has pithily summarized the law on Section 304-BIPC and Section 113-B of the Evidence. For ready reference the relevant paragraph is being quoted as under:

"17. In the above context, we may usefully refer to a recent decision of a three-Judge Bench of this Court in Gurmeet Singh v. State of Punjab [Gurmeet Singh v. State of Punjab, (2021) 6

SCC 108 : (2021) 2 SCC (Cri) 771] that has restated (at SCC pp. 111-12, para 9) the detailed guidelines that have been laid down in Satbir Singh v. State of Haryana [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , both authored by N.V. Ramana, C.J. relating to trial under Section 304-BIPC where the law on Section 304-BIPC and Section 113-B of the Evidence Act has been pithily summarised in the following words : (Satbir Singh case [Satbir Singh v. State of Haryana, (2021) 6 SCC 1 : (2021) 2 SCC (Cri) 745] , SCC p. 13, para 38)

"38.1. Section 304-B IPC must be interpreted keeping in mind the legislative intent to curb the social evil of bride burning and dowry demand.

38.2. The prosecution must at first establish the existence of the necessary ingredients for constituting an offence under Section 304-BIPC. Once these ingredients are satisfied, the rebuttable presumption of causality, provided under Section 113-B of the Evidence Act operates against the accused.

38.3. The phrase "soon before" as appearing in Section 304-BIPC cannot be construed to mean "immediately before". The prosecution must establish existence of "proximate and live link" between the dowry death and cruelty or harassment for dowry demand by the husband or his relatives.

38.4. Section 304-BIPC does not take a pigeonhole approach in categorising death as homicidal or suicidal or accidental. The reason for such non-categorisation is due to the fact that death occurring "otherwise than under normal circumstances" can, in cases, be homicidal or suicidal or accidental."

(emphasis in original and supplied)

57. In the backdrop of the aforesaid settled position of law this Court has again delved into the prosecution case also the testimonies of the witnesses, in order to appreciate the aforesaid issues.

58. Alta Devi (P.W.5), the mother of the deceased and the informant of the case, whose fardbeyan has been

recorded by the ASI Anjani Kumar Tiwary of Sector IV Police Station, Bokaro near Bokaro General Hospital mortuary [Postmortem House]. As per the statement made by her, Rinku Devi [deceased] was married with Ratan Bauri and was residing in the matrimonial house with in-laws' family.

59. It has been alleged that the deceased was being tortured by committing assault by all accused persons due to dowry demand of Rs. 50,000/- and a motorcycle and for this pressure was being put to bring such dowry but it was not fulfilled due to financial problem and then on 22.05.2012 at about 7:00 A.M. her mother-in-law Bijali Devi and husband Ratan Bauri with consent of "bhainsur" poured kerosene oil and set fire by matchstick due to which she burnt seriously, but due to fear of society and legal action accused persons brought her for treatment at BGH, Bokaro at 10:30 A.M. and after admitting her in-laws family fled away.

60. It is further stated in the fardbeyan that from villagers the informant came to know about burning and admitting in hospital then she along with her son Fatik Bauri went to BGH and saw her daughter Rinku Devi, who told that her husband, mother-in-law, bhainsur namely Gautam Bauri(appellant herein) , Nanad Manju Devi and Gotani Chinta Devi (appellant herein) all poured

kerosene oil and set fire by matchstick. It has also categorically stated that mother-in-law has poured kerosene oil and husband Ratan Bauri set fire by matchstick. It is further stated that during treatment she succumb to death.

61. On the basis of the testimony of evidences following admitted fact emerged:

(i) The marriage of the deceased was solemanized with accused Ratan Bauri in year 2010.

(ii) The death of deceased Rinku Devi was occurred in 2012 i.e. within 7 years of marriage.

(iii) The present appellants are brother and sister-in-law of the husband of deceased.

(iv) Both these appellants have been convicted under Section 304 B IPC only and sentenced accordingly.

62. Now coming to the testimony of the witnesses. On perusal of the testimonies of the witnesses, it is evident that no specific overt act has been alleged against the present appellants. Further from perusal of the testimonies of witnesses, it is evident no specific allegation of demand of dowry has been made against these appellants.

63. Thus, so far these appellants are concerned there is vague and blanket accusation against them. Even if the testimony of the informant is accepted at face value, the

specific allegations are confined to the mother-in-law having poured kerosene oil and the husband, Ratan Bauri, having ignited the fire with a matchstick.

64. The role attributed to the appellants herein is merely that they were present at the scene, witnessed the occurrence, and failed to intervene or make any effort to rescue the deceased. Thus, the principal allegation against them is limited to passive conduct as bystanders without any active participation in the commission of the offence.

65. Furthermore, it is manifest from the record that the learned trial Court did not invoke or apply the provisions of Section 34 of the Indian Penal Code either at the stage of framing charges or while delivering the impugned judgment against the present appellants. In absence of any reference to or reliance upon Section 34 IPC, the principle of constructive liability through common intention has not been fastened upon them. Consequently, the culpability of these appellants in respect of the alleged heinous offence cannot be legally established, as no statutory foundation has been laid to attribute joint liability for the acts may committed by the other accused.

66. Moreover, it is evident from the record that no specific allegation of cruelty has been attributed to these

appellants by the prosecution rather the allegation is general in nature. The evidence on record do not disclose any overt act or conduct on their part which could amount to cruelty towards the deceased. It has not been the specific case of the prosecution that prior to her death the deceased was subjected to cruelty by these appellants. Thus, in absence of any distinct or particularized charge of cruelty, the appellants cannot be fastened with liability under that head.

67. It needs to refer herein that the Hon'ble Apex Court in the case of ***Monju Roy v. State of W.B.*****, (2015) 13 SCC 693** while referring the judgment of ***Kans Raj*** **vs. state of Punjab [(2000) 5 SCC 207** has observed that a tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits, for ready reference the relevant paragraph is being quoted herein which reads as under:

> **"8.** *While we do not find any ground to interfere with the view taken by the courts below that the deceased was subjected to harassment on account of non-fulfilment of dowry demand, we do find merit in the submission that possibility of naming all the family members by way of exaggeration is not ruled out. In Kans Raj [(2000) 5 SCC 207 : 2000 SCC (Cri) 935] , this Court observed: (SCC p. 215, para 5)*

"5. … A tendency has, however, developed for roping in all relations of the in-laws of the deceased wives in the matters of dowry deaths which, if not discouraged, is likely to affect the case of the prosecution even against the real culprits. In their overenthusiasm and anxiety to seek conviction for maximum people, the parents of the deceased have been found to be making efforts for involving other relations which ultimately weaken the case of the prosecution even against the real accused as appears to have happened in the instant case."

The court has, thus, to be careful in summoning distant relatives without there being specific material. Only the husband, his parents or at best close family members may be expected to demand dowry or to harass the wife but not distant relations, unless there is tangible material to support allegations made against such distant relations. Mere naming of distant relations is not enough to summon them in the absence of any specific role and material to support such role."

68. In ***Raja Lal Singh v. State of Jharkhand [(2007) 15 SCC 415*** it has been observed by the Hon'ble Apex Court as follows:

"14. No doubt, some of the witnesses e.g. PW 5 Dashrath Singh, who is the father of the deceased Gayatri, and PW 3 Santosh Kr. Singh, brother of the deceased, have stated that the deceased Gayatri told them that dowry was demanded by not only Raja Lal Singh, but also the appellants Pradip Singh and his wife Sanjana Devi, but we are of the opinion that it is possible that the names of Pradip Singh and Sanjana Devi have been introduced only to spread the net wide as often happens in cases like under Sections 498-A and 394 IPC, as has been observed in several decisions of this Court e.g. in Kamesh Panjiyar v. State of Bihar [(2005) 2 SCC 388 : 2005 SCC (Cri) 511] , etc. Hence, we allow the appeal of Pradip Singh and Sanjana Devi and set aside the impugned judgments of the

High Court and the trial court insofar as it relates to them and we direct that they be released forthwith unless required in connection with some other case."

69. Moreover, ingredient of the offence under Section 304-B IPC is not mere demand of dowry but "cruelty or harassment" for or in connection with demand of dowry. In **Amar Singh v. State of Rajasthan (2010) 9 SCC 64** : it was observed by the Hon'ble Apex Court as follows:

"29. ... What is punishable under Section 498-A or Section 304-B IPC is the act of cruelty or harassment by the husband or the relative of the husband on the woman. It will be also clear from Section 113-B of the Evidence Act that only when it is shown that soon before her death a woman has been subjected by any 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 within the meaning of Section 304-B IPC. The act of subjecting a woman to cruelty or harassment for, or in connection with, any demand for dowry by the accused, therefore, must be established by the prosecution for the court to presume that the accused has caused the dowry death."

70. In the case of ***Monju Roy v. State of W.B (supra)*** the Hon'ble Apex Court has observed that the court has to adopt a pragmatic view and when a girl dies an unnatural death, allegation of demand of dowry or harassment which follows cannot be weighed in golden scales. At the same time, omnibus allegation against all family members particularly against the brothers and sisters and other relatives do not stand on the same footing as husband and parents. In such case, apart

from general allegation of demand of dowry, the court has to be satisfied that harassment was also caused by all the named members.

71. In the totality of circumstances, even if one were to assume that the appellants were, at some stage, involved in raising a demand for dowry, the prosecution has failed to adduce any cogent or reliable evidence to establish that such demand was accompanied by harassment of the victim which directly resulted in her death. The specific case of the prosecution, as borne out from the record, is confined to the allegation that the appellants stood by during the occurrence and did not make any effort to rescue the deceased. Thus, the imputation against them is essentially one of passive presence rather than active participation in the alleged ghastly crime, and in absence of substantive proof of cruelty or harassment, their culpability cannot be legally sustained.

72. Normally, it is the husband or parents of the husband who may be benefited by the dowry and may be in a position to harass and not all other relatives, though no hard-and-fast rule can be laid down in that regard. It is also true that till such an unfortunate event takes place, the family members may not disclose the demand of dowry being a private matter and under the hope that the relationship of the couple may improve. However, having

regard to the nature of their relationships, there being possibility of the appellants' having been named by way of exaggeration, we are of the view that the appellants deserve to be given benefit of doubt in that regard in the facts of the present case.

73. Further ground has been taken by the learned counsel that there is vital discrepancy in the testimony of the witnesses.

74. The law in this regard is well settled by Hon'ble Apex Court in case of ***Gangadhar Behera v. State of Orissa, (2002) 8 SCC 381*** and ***Bhargavan v. State of Kerala, (2004) 12 SCC 414,*** wherein it has been laid down that material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's case, material discrepancies do so. Paragraph-15 of judgment of ***Gangadhar Behera v. State of Orissa, (supra),*** is quoted herein below-

> ***75.*** *To the same effect is the decision in State of Punjab v. Jagir Singh [(1974) 3 SCC 277 : 1973 SCC (Cri) 886 : AIR 1973 SC 2407] and Lehna v. State of Haryana [(2002) 3 SCC 76 : 2002 SCC (Cri) 526] . Stress was laid by the accused-appellants on the non-acceptance of evidence tendered by some witnesses to contend about desirability to throw out the entire prosecution case. In essence prayer is to apply the principle of "falsus in uno,*

falsus in omnibus" (false in one thing, false in everything). This plea is clearly untenable. Even if a major portion of the evidence is found to be deficient, in case residue is sufficient to prove guilt of an accused, notwithstanding acquittal of a number of other co-accused persons, his conviction can be maintained. It is the duty of the court to separate the grain from the chaff. Where chaff can be separated from the grain, it would be open to the court to convict an accused notwithstanding the fact that evidence has been found to be deficient to prove guilt of other accused persons. Falsity of a particular material witness or material particular would not ruin it from the beginning to end. The maxim "falsus in uno, falsus in omnibus" has no application in India and the witnesses cannot be branded as liars. The maxim "falsus in uno, falsus in omnibus" has not received general acceptance nor has this maxim come to occupy the status of rule of law. It is merely a rule of caution. All that it amounts to, is that in such cases testimony may be disregarded, and not that it must be disregarded. The doctrine merely involves the question of weight of evidence which a court may apply in a given set of circumstances, but it is not what may be called "a mandatory rule of evidence". (See Nisar Ali v. State of U.P. [AIR 1957 SC 366 : 1957 Cri LJ 550]) Merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same does not lead as a necessary corollary that those who have been convicted must also be acquitted. It is always open to a court to differentiate the accused who had been acquitted from those who were convicted. (See Gurcharan Singh v. State of Punjab [AIR 1956 SC 460 : 1956 Cri LJ 827]). The doctrine is a dangerous one specially in India for if a whole body of the testimony were to be rejected, because a witness was evidently speaking an untruth in some aspect, it is to be feared that administration of criminal justice would come to a dead stop. Witnesses just cannot help in giving embroidery to a story, however, true in the main.

Therefore, it has to be appraised in each case as to what extent the evidence is worthy of acceptance, and merely because in some respects the court considers the same to be insufficient for placing reliance on the testimony of a witness, it does not necessarily follow as a matter of law that it must be disregarded in all respects as well. The evidence has to be sifted with care. The aforesaid dictum is not a sound rule for the reason that one hardly comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishment. (See Sohrab v. State of M.P. [(1972) 3 SCC 751 : 1972 SCC (Cri) 819] and Ugar Ahir v. State of Bihar [AIR 1965 SC 277 : (1965) 1 Cri LJ 256] .) An attempt has to be made to, as noted above, in terms of felicitous metaphor, separate the grain from the chaff, truth from falsehood. Where it is not feasible to separate the truth from falsehood, because grain and chaff are inextricably mixed up, and in the process of separation an absolutely new case has to be reconstructed by divorcing essential details presented by the prosecution completely from the context and the background against which they are made, the only available course to be made is to discard the evidence in toto. (See Zwinglee Ariel v. State of M.P. [(1952) 2 SCC 560 : AIR 1954 SC 15 : 1954 Cri LJ 230] and Balaka Singh v. State of Punjab [(1975) 4 SCC 511 : 1975 SCC (Cri) 601 : AIR 1975 SC 1962] .) As observed by this Court in State of Rajasthan v. Kalki [(1981) 2 SCC 752 : 1981 SCC (Cri) 593 : AIR 1981 SC 1390] normal discrepancies in evidence are those which are due to normal errors of observation, normal errors of memory due to lapse of time, due to mental disposition such as shock and horror at the time of occurrence and those are always there however honest and truthful a witness may be. Material discrepancies are those which are not normal, and not expected of a normal person. Courts have to label the category to which a discrepancy may be categorized. While normal discrepancies do not corrode the credibility of a party's

case, material discrepancies do so. These aspects were highlighted recently in Krishna Mochi v. State of Bihar [(2002) 6 SCC 81 : 2002 SCC (Cri) 1220 : JT (2002) 4 SC 186] . Accusations have been clearly established against the accused-appellants in the case at hand. The courts below have categorically indicated the distinguishing features in evidence so far as the acquitted and the convicted accused are concerned.

(emphasis supplied)

76. Again, in case of ***Mohd. Jabbar Ali v. State of Assam*, (2023) 19 SCC 672,** Hon'ble Apex court reiterated the same, as to discrepancy of witnesses and laid down that material discrepancies corrode the credibility of the prosecution's case while insignificant discrepancies do not do so. Paragraph-53 of the judgment is quoted herein below-

"53. Further as already stated above, all the witnesses have given contradictory versions as to who gave the fatal blow to deceased Ekkabar Ali and the same amounts to material contradictions. It is reiterated that the testimony of PW 6 is inconsistent with the testimonies of PW 1, PW 2 and PW 5. This Court in State of Rajasthan v. Kalki [State of Rajasthan v. Kalki, (1981) 2 SCC 752 : 1981 SCC (Cri) 593] , distinguished between the normal discrepancies and material discrepancies. This Court held that the Courts have to label as to which category a discrepancy can be categorised. The material discrepancies corrode the credibility of the prosecution's case while insignificant discrepancies do not do so."

(emphasis suppled)

77. Hence, in view of the aforesaid proposition of law concerning discrepancies in the testimony of material

witnesses, this Court now proceeds to examine the evidence of the witnesses.

78. P.W. 1 has stated in Para-4 that when she heard about the occurrence and admission of deceased in hospital then she went there but till that time Rinku Devi had died and, in her presence, "panchnama" of dead body was made upon which she has put her signature.

79. PW-2 Phatik Bauri who is brother of the deceased had deposed that on 22.05.2012 all of sudden telephone call was received about admitting her sister (deceased) in BGH then he along with other went to BGH and his sister (deceased) told that due to non-fulfillment of demand of money all accused sprinkled kerosene oil and set fire by matchstick. He also deposed that on the same day she died during treatment.

80. PW-3 Kajal Devi is villager of parental house of deceased Rinku Devi, who at para 4 she has deposed that deceased had told that her mother-in-law poured kerosene and husband set fire by matchstick and rest people did not save.

81. During cross-examination in Para-7 she deposed that she reached hospital then Rinku was weeping and she told about the occurrence. She also deposed that her mouth and head was not burnt. She denied the

suggestion of defence that she was fully burnt and she was not able to speak.

82. PW-4 Ala Devi has deposed that Rinku Devi was married in 2010 with Ratan Bauri and after 1 to 2 months dowry demand was being made and for that Rinku Devi was beaten and demand of Rs. 50,000/- and motorcycle was made to her but that was not fulfilled. In Para 3 she has specifically stated that her mother-in-law poured kerosene oil and Ratan set fire by matchstick. She also added that "jeth, jethani and nanad were also involved in the occurrence. In Para 6 she deposed that she also went to see her in hospital and she was in light speaking situation.

83. PW-5 Alta Devi is mother of the deceased bride as well as informant of this case. This witness has also clarified that mother-in-law poured kerosene oil and husband Ratan Bauri set fire by matchstick and other accused persons were seeing the occurrence and they did not save. In Para 4 she deposed that when she reached hospital then sline was running and Rinku Devi was conscious and talking and she said that all accused have set fire and no one saved her. She has further deposed that Rinku Devi (deceased) told that her mother-in-law poured kerosene oil and husband set fire by matchstick and other accused were involved in the conspiracy of

occurrence and silently they were watching and they did not save her.

84. P.W. 6 has stated that when he reached hospital, the deceased had died till that time. However, the incidence was told to him by the mother of the deceased.

85. P.W. 7 the investigating officer of the case at Para - 13 he had deposed that in the case diary he has not mentioned about smell of kerosene oil coming from the bed room of deceased. In Para 15 he had deposed that no panchayti paper was given to him but he was told about oral panchayati. In Para 16 he accepted that he did not visit Bokaro General Hospital, nor recorded statement of any doctor.

86. While the appellants, in his defence, has taken the ground that the interested persons concocted the story out of emotion and so far, the present appellants are concerned, it is submitted that none of the witnesses have cited their specific role rather they have deposed that while the incident occurred the appellants did not make any effort to save the deceased.

87. Thus, in the present case, the fact that Rinku Devi died as a result of burn injuries is supported by the testimony of PW-8, Dr. Vikash Kumar, and the post-mortem report marked as Exhibit 4. The doctor attributed the cause of death to shock leading to

cardiorespiratory failure due to burn injuries. The unnatural nature of the death is, therefore, established, however no specific or cogent evidence led against these appellants by the prosecution in the death of deceased and it leaves doubt in the mind of the Court.

88. Further it needs to refer herein that the Hon'ble Apex Court in catena of decision has propounded the proposition that in the criminal trial, there cannot be any conviction if the charge is not being proved beyond all reasonable doubts, therefore, this Court has to see whether this case falls under the law, as propounded by Hon'ble Apex Court, in the case of ***Rang Bahadur Singh & Ors. Vrs. State of U.P.,*** [**(2000) 3 SCC 454]** or not, wherein it has been held that a criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable level of certainty that the appellants were the real culprits. For ready reference, paragraph-22 of the judgment is quoted as under:-

> *"22. The amount of doubt which the Court would entertain regarding the complicity of the appellants in this case is much more than the level of reasonable doubt. We are aware that acquitting the accused in a case of this nature is not a matter of satisfaction for all concerned. At the same time, we remind ourselves of the time-tested rule that acquittal of a guilty person should be preferred to conviction of an innocent person. Unless the prosecution establishes the guilt of the*

accused beyond reasonable doubt a conviction cannot be passed on the accused. ***A criminal court cannot afford to deprive liberty of the appellants, lifelong liberty, without having at least a reasonable level of certainty that the appellants were the real culprits.*** *We really entertain doubt about the involvement of the appellants in the crime."*

89. Likewise, the Hon'ble Apex Court in the case of ***Krishnegowda & Ors. Vrs. State of Karnataka (2017) 13 SCC 98,*** has held at paragraph-26 as under: -

*"**26.** Having gone through the evidence of the prosecution witnesses and the findings recorded by the High Court we feel that the High Court has failed to understand the fact that the guilt of the accused has to be proved beyond reasonable doubt and this is a classic case where at each and every stage of the trial, there were lapses on the part of the investigating agency and the evidence of the witnesses is not trustworthy which can never be a basis for conviction.* ***The basic principle of criminal jurisprudence is that the accused is presumed to be innocent until his guilt is proved beyond reasonable doubt."***

90. Further, the principle of 'benefit of doubt' belongs exclusively to criminal jurisprudence. The pristine doctrine of 'benefit of doubt' can be invoked when there is reasonable doubt regarding the guilt of the accused, reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of ***State of Haryana Vrs. Bhagirath & Ors., reported in (1999) 5 SCC 96***, wherein, it has been held at paragraph-7 as under: -

"7. The High Court had failed to consider the implication of the evidence of the two eyewitnesses on the complicity of Bhagirath particularly when the High Court found their evidence reliable. The benefit of doubt was given to Bhagirath "as a matter of abundant caution". Unfortunately, the High Court did not point out the area where there is such a doubt. Any restraint by way of abundant caution need not be entangled with the concept of the benefit of doubt. Abundant caution is always desirable in all spheres of human activity. But the principle of benefit of doubt belongs exclusively to criminal jurisprudence. The pristine doctrine of benefit of doubt can be invoked when there is reasonable doubt regarding the guilt of the accused. It is the reasonable doubt which a conscientious judicial mind entertains on a conspectus of the entire evidence that the accused might not have committed the offence, which affords the benefit to the accused at the end of the criminal trial. Benefit of doubt is not a legal dosage to be administered at every segment of the evidence, but an advantage to be afforded to the accused at the final end after consideration of the entire evidence, if the Judge conscientiously and reasonably entertains doubt regarding the guilt of the accused."

91. Likewise, the Hon'ble Apex Court in the case of ***Krishnegowda v. State of Karnataka*** (Supra) at paragraph- 32 and 33 has held as under:-

"32. --- --- The minor variations and contradictions in the evidence of the eyewitnesses will not tilt the benefit of doubt in favour of the accused but when the contradictions in the evidence of the prosecution witnesses proves to be fatal to the prosecution case then those contradictions go to the root of the matter and in such cases the accused gets the benefit of doubt.

33. It is the duty of the Court to consider the trustworthiness of evidence on record. As said by Bentham, "witnesses are the eyes and ears of justice.--- -

92. It needs to refer herein that The Hon'ble Apex Court, in the case of ***Allarakha K. Mansuri v. State of Gujarat*** reported in ***(2002) 3 SCC 57*** has laid down the principle that the golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted, for reference, paragraph 6 thereof requires to be referred herein which reads hereunder as :-

> *"6. ------The golden thread which runs through the web of administration of justice in criminal case is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. --"*

93. It needs to refer herein before laying down the aforesaid view, the Hon'ble Apex Court in the case of ***Sharad Birdhichand Sarda v. State of Maharashtra*** reported in ***(1984) 4 SCC 116*** has already laid down the same view at paragraph 163 which is required to be referred which read hereunder :

> *"163. We then pass on to another important point which seems to have been completely missed by the High Court. It is well settled that where on the evidence two possibilities are available or open, one which goes in favour of the prosecution and the other which benefits an*

accused, the accused is undoubtedly entitled to the benefit of doubt.---"

94. Upon a careful appraisal of the testimonies of P.W.3, P.W.4 and P.W.5, it emerges that the evidence of these witnesses is substantially consistent on the specific roles attributed to the mother-in-law and the husband in the commission of the act. So far as the present appellants are concerned, the evidence of the aforesaid witnesses does not attribute any overt act of pouring kerosene oil or setting the deceased on fire to them. The allegation against them is primarily that they were present at the place of occurrence, did not intervene to rescue the deceased. However, except for such general allegations, no specific act or conduct has been brought on record to demonstrate their active participation in the commission of the alleged crime.

95. It is well settled that suspicion, however strong, cannot take the place of legal proof. In the absence of any clear, cogent and specific evidence establishing active participation of the present appellants in setting the deceased ablaze and their conviction cannot be sustained merely on the basis of their alleged presence at the place of occurrence or their failure to rescue the deceased.

96. Thus, it is considered view of this Court that the prosecution has failed to adduce reliable and specific

evidence sufficient to prove beyond reasonable doubt the direct involvement or shared common intention of the present appellants in the commission of the alleged offence.

97. Accordingly, in the absence of any cogent, reliable and specific evidence establishing the active participation of the present appellants in the commission of the alleged offence, this Court is of the considered view that the prosecution has failed to prove the charges against them beyond all reasonable doubt. Consequently, the present appellants are entitled to the benefit of doubt.

98. This Court, having carefully considered the factual matrix of the case, the legal principles governing the field, the evidence available on record, and the findings recorded by the learned Trial Court, is of the considered view that, insofar as the present appellants are concerned, the learned Trial Court failed to properly appreciate the evidence in its correct perspective. The learned Trial Court, without adverting to the absence of any specific and cogent evidence establishing the involvement of the present appellants, erroneously arrived at the conclusion that the prosecution had succeeded in proving the charges against them beyond reasonable doubt.

99. In consequence thereof, the instant appeal stands allowed.

100. Since both the appellants are on bail, as such the appellants are acquitted of their criminal liability and discharged from the liability of their bail bonds.

101. Pending Interlocutory Applications, if any, stand disposed of.

102. Let the Lower Court Records be sent back to the Court concerned forthwith, along with a copy of this Judgment.

I Agree **(Sujit Narayan Prasad, J.)**

(Pradeep Kumar Srivastava, J.) **(Pradeep Kumar Srivastava, J.)**

29/10/2026
Jharkhand High Court, Ranchi
Alankar **/ A.F.R.**
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