

Reserved on : 10.12.2024
Pronounced on : 22.01.2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

CRIMINAL PETITION No.2730 OF 2024

BETWEEN:

- 1 . VIKAS C V
S/O VASANTH KUMAR B.,
AGED ABOUT 32 YEARS,
RESIDING AT NO. 338, 3RD CROSS,
GRUHALAKSHMI LAYOUT,
NAGASANDRA,
BENGALURU – 560 073.
- 2 . SAVITHA
W/O VASANTH KUMAR,
AGED ABOUT 51 YEARS,
RESIDING AT NO. 338, 3RD CROSS,
GRUHALAKSHMI LAYOUT,
NAGASANDRA,
BENGALURU – 560 073.
- 3 . VASANTH KUMAR
S/O B.S.THIMME GOWDA,
AGED ABOUT 61 YEARS,
RESIDING AT NO. 338, 3RD CROSS,
GRUHALAKSHMI LAYOUT,

NAGASANDRA,
BENGALURU – 560 073.

... PETITIONERS

(BY SRI NARASIMHA RAJESH K.S., ADVOCATE)

AND:

1 . STATE BY PEENYA P.S.,
BENGALURU
REPRESENTED BY SPP,
HIGH COURT OF KARNATAKA,
BENGALURU – 560 001.

2 . RAMAKRISHNA REDDY
S/O LATE RAMA RANGAPPA
AGED ABOUT 62 YEARS,
RESIDING AT AGALI VILLAGE,
AGALI MANDALA,
MADAKASHIRA TALUK,
ANANTHAPURA DISTRICT,
ANDRA PRADESH – 515 301.

... RESPONDENTS

(BY SRI B.N.JAGADEESHA, ADDL.SPP A/W
SRI HARISH GANAPATHY, HCGP FOR R-1;
SRI MANJUNATH K., ADVOCATE FOR R-2)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF CR.P.C., PRAYING TO CALL FOR THE RECORDS; QUASH THE ENTIRE CHARGE SHEET DATED 14.01.2021 FILED IN CR.NO.294/2020 OF PEENYA P.S., AGAINST THE PETITIONERS FOR THE ALLEGED OFFENCES P/U/S.498-A AND 304-B R/W 34 OF IPC AND SEC.3 AND 4 OF DP ACT PENDING BEFORE THE LEARNED LXXI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY (CCH-72) AS PER S.C.NO.697/2021.

THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 10.12.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioners are before this Court calling in question proceedings in Special case No.697 of 2021 arising out of Crime No.294 of 2020 registered for offences punishable under Section 498A, 304B r/w Section 34 of the IPC and Sections 3 and 4 of the Dowry Prohibition Act, 1961.

2. Facts in brief germane are as follows:

Before embarking upon noticing the facts, I deem it appropriate to notice the relationship between the parties. The 2nd respondent is the complainant, father of one Smt.R.Roja. Smt.R.Roja is the wife of the 1st petitioner/accused No.1, daughter-in-law of accused Nos.2 and 3. The accused No.1 and the daughter of the complainant get engaged on 02-06-2019 and about four months later, on 24-10-2019 get married. After marriage, it is an

admitted fact that the petitioners and the daughter of the complainant stayed under one roof. A few months after marriage, the relationship between all these accused and the daughter of the complainant is said to have been strained and on the strained relationship, barely after 13 months of marriage, daughter of the complainant dies by committing suicide. On the death of his daughter, the complainant registers a complaint on 24-10-2020 which becomes a crime in Crime No.294 of 2020. The police, after investigation, file a charge sheet. Since the offence in the charge sheet was the one punishable under Section 304B of the IPC, the matter is committed to the Courts of Sessions and is registered as Spl. Case 697 of 2021. 3 years thereafter comes the present petition by these accused calling in question proceedings in Spl.Case No.697 of 2021.

3. Heard Sri Narasimha Rajesh K.S., learned counsel appearing for petitioners, Sri.B. N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 and Sri Manjunath K., learned counsel appearing for respondent No.2.

4. The learned counsel appearing for the petitioners would vehemently contend that the daughter of the complainant, while committing suicide has left a death note. In the death note she blames none, but herself. It is therefore, the contention that neither the offence under Section 498-A nor 304-B of the IPC or even the offence under the Dowry Prohibition Act is met in the case at hand. The learned counsel taking the Court through the statement of witnesses would seek to demonstrate that the 1st petitioner himself was very well off, there was no necessity for these petitioners to demand dowry from the hands of the family of the 2nd respondent. Therefore, the proceedings ought to be quashed is the submission.

5. Per-contra, the learned counsel representing the 2nd respondent would refute the submission to contend that the daughter of the complainant dies under mysterious circumstances. The offence, in fact, should have been under Section 302 of the IPC and not only dowry death. He would take this Court through the charge sheet and the documents appended to the charge sheet to *prima facie* demonstrate that the daughter of the complainant has hanged herself in the bathroom and the reason for such hanging or

commission of suicide is the action of the accused in harassing the daughter of the complainant for demand of dowry or otherwise. They have undoubtedly abetted the suicide of the daughter of the complainant, is the submission of the learned counsel for the complainant.

6. The learned Additional State Public Prosecutor has placed the report of the forensic science laboratory to contend that the handwriting of the deceased which is the death note is confirmed. Though the death note does not indicate blameworthiness against any accused, he would contend that it is a matter of trial, as attendant circumstances that led to the death of the daughter of the complainant is to be tested in evidence. He would contend that the death has happened one year after the marriage. Therefore, such proceeding should not be quashed under Section 482 of the CR.P.C.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts, link in the chain of events, the dates of the incidents are all a matter of record. The marriage between the accused No.1/the 1st petitioner and the daughter of the complainant takes place on 24-10-2019. Between 24-10-2019 and 24-10-2020 the date of the incident, it transpires that several disputes persisted between all the members of the family and the daughter of the complainant. On the death of the daughter, which according to the complainant was under mysterious circumstances, the father registers a crime in Crime No.294 of 2020. It becomes germane to notice the complaint and it reads as follows:

“ಇಂದ

ಆರ್.ರಾಮಕೃಷ್ಣ ರೆಡ್ಡಿ, ಬಿನ್ ಲೇಟ್ ರಾಂ ರಂಗಪ್ಪ
60 ವರ್ಷ, ಅಗಲಿ ಗ್ರಾಮ, ಅಗಲಿ ಮಂಡಲ್, ಮಡಕಶೀರಾ

ತಾಲ್ಲೂಕು, ಅನಂತಪುರ ಜಿಲ್ಲೆ – 515 301.

ಆಂಧ್ರಪ್ರದೇಶ ರಾಜ್ಯ, ಜಾತಿ – ವಕ್ಕಲಿಗ

ಪೋನ್ ನಂ.-9701262675, 6305918983

ರವರಿಗೆ,

ಮೋಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್

ಪೀಣ್ಯ ಮೋಲೀಸ್ ಠಾಣೆ

ಬೆಂಗಳೂರು ನಗರ.

ವಿಷಯ: ವರದಕ್ಷಿಣೆ ಹಣಕ್ಕಾಗಿ ಕಿರುಕುಳ ನೀಡಿ ನನ್ನ ಮಗಳಾದ ಆರ್ ರೋಜಾ ರವರ ಸಾವಿಗೆ

ಕಾರಣರಾದಂತಹ ಗಂಡ ವಿಕಾಸ್, ಅತ್ತೆ, ಸವಿತಾ, ಮತ್ತು ಮಾವ ವಸಂತ್ ಕುಮಾರ್

ರವರ ವಿರುದ್ಧ ದೂರು.

ನಾನು ಮೇಲ್ಕಂಡ ವಿಳಾಸದಲ್ಲಿ ವಾಸವಿದ್ದುಕೊಂಡು ವ್ಯವಸಾಯ ಮಾಡಿಕೊಂಡಿರುತ್ತೇನೆ. ನನ್ನ ಪತ್ನಿ ಶಾಂತಮ್ಮ ರವರು ಗೃಹಿಣಿಯಾಗಿರುತ್ತಾರೆ. ನಮಗೆ ಇಬ್ಬರು ಮಕ್ಕಳಿದ್ದು ಮೊದಲನೆಯವಳು ರೋಜಾ ಎರಡನೇಯವನು ಮಗ ಕಿಶೋರ್ ಗೌಡ ರವರಾಗಿರುತ್ತಾರೆ.

ನಮ್ಮ ಮಗಳಾದ ರೋಜಾ ರವರು ಎಂ.ಕಾಂ ಪದವಿಧರೆಯಾಗಿದ್ದು, ಐ.ಬಿ.ಎಂ.ನಲ್ಲಿ ಕೆಲಸ ಮಾಡಿಕೊಂಡಿದ್ದರು. 2019 ನೇ ಸಾಲಿನಲ್ಲಿ ಈಕೆಗೆ ಮದುವೆ ಮಾಡಲು ಸೂಕ್ತ ವರನನ್ನು ಹುಡುಕುತ್ತಿದ್ದಾಗ ನಮ್ಮ ಸಂಬಂಧಿಕರೊಬ್ಬರ ಮೂಲಕ ನಾಗಸಂದ್ರ ಅಂಚೆ, ಗೃಹಲಕ್ಷ್ಮೀ ಲೇಔಟ್‌ನ ವಾಸಿ ವಸಂತ್ ಕುಮಾರ್ ಮತ್ತು ಸವಿತಾ ರವರ ಮಗ ವಿರಾಸ್ ಎಂಬವರು ಒಂದು ಒಳ್ಳೆಯ ಕೆಲಸದಲ್ಲಿ ಇದ್ದಾರೆ ಇವರಿಗೆ ಒಬ್ಬ ಮಗ ಮತ್ತು ಒಬ್ಬಳು ಮಗಳಿದ್ದು, ಇವನಿಗೆ ನಿಮ್ಮ ಮಗಳನ್ನು ಕೊಟ್ಟರೆ ಈಕೆಯು ಸುಖವಾಗಿರುತ್ತಾಳೆಂದು ತಿಳಿಸಿದರು. ಅದರಂತೆ ಹುಡುಗನ ಕಡೆಯವರು ಬಂದು ಹುಡುಗಿಯನ್ನು ನೋಡಿಕೊಂಡು ಹೋಗಲಿ ಎಂದು ಹೇಳಿದವು. ಅದರಂತೆ ಹುಡುಗ ವಿರಾಸ್, ಅವರ ತಂದೆ ವಸಂತಕುಮಾರ್, ತಾಯಿ ಸವಿತಾ ರವರುಗಳು ನಮ್ಮ ಮನೆಗೆ ನಮ್ಮ ಮಗಳನ್ನು ನೋಡಿ ಮದುವೆಗೆ ಒಪ್ಪಿದ್ದು, ನಾವೂ ಸಹ ನಮ್ಮ ಮಗಳು ಬೆಂಗಳೂರಿನಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದರಿಂದ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟರೆ ಚೆನ್ನಾಗಿರುತ್ತಾಳೆಂದು ಮದುವೆಗೆ ಒಪ್ಪಿದವು. ಮದುವೆಯ ಮಾತುಕತೆಯನ್ನು ಹುಡುಗನ ಮನೆಯಲ್ಲಿ 2019 ರ ಜುಲೈ ತಿಂಗಳಿನಲ್ಲಿ ನಡೆದಿದ್ದು, ಈ ಮದುವೆಯ ಮಾತುಕತೆಗೆ ನಾನು ನನ್ನ ಪತ್ನಿ ಶಾಂತಮ್ಮ ನನ್ನ ಹಿರಿಯ ಅಣ್ಣ ತಿಮ್ಮೇಗೌಡ, ತಮ್ಮ ಗೋವಿಂದರಾಜು ಮತ್ತು ಇವರಪತ್ನಿ ಗಂಗಮ್ಮ ಎಲ್ಲರೂ ಹೋಗಿದ್ದೆವು. ಮದುವೆಯ ಮಾತುಕತೆಯ ಸಮಯದಲ್ಲಿ ಹುಡುಗನ ಕಡೆಯವರು ವರದಕ್ಷಿಣೆಯಾಗಿ ಹುಡುಗನಿಗೆ ವರದಕ್ಷಿಣೆಯಾಗಿ ಚೆನ್ನದ ಸರ, ಉಂಗುರ, ಬಟ್ಟೆ ಬರೆ ಕೊಟ್ಟು ಅದ್ದೂರಿಯಾಗಿ ಮದುವೆ ಮಾಡಿಕೊಡಬೇಕೆಂದು ಬೇಡಿಕೆ ಇಟ್ಟರು. ನಾವು ಅಷ್ಟು ವರದಕ್ಷಿಣೆ ಕೊಟ್ಟು ಮದುವೆ ಮಾಡಿಕೊಡಲು ಸಾಧ್ಯವಿಲ್ಲ. ನಮ್ಮ ಆರ್ಥಿಕ ಸ್ಥಿತಿ ಉತ್ತಮವಾಗಿಲ್ಲ ಎಂದು ಹೇಳಿದಕ್ಕೆ ಅವರು ಮದುವೆ ಮಾತುಕತೆಯನ್ನು ಮುಂದುವರೆಸುವುದೇ ಬೇಡ ಎಂದರು. ಆದರೆ ನನ್ನ ಪತ್ನಿ ಮತ್ತು ನಮ್ಮ ಸಂಬಂಧಿಕರುಗಳು ಒಳ್ಳೆಯ ಸಂಬಂಧ ಎಂದು ಹೇಳಿದ್ದಕ್ಕೆ, ನಾನು ಅವರ ಬೇಡಿಕೆಯನ್ನು ತೀರಿಸುವ ಶಕ್ತಿ ನನ್ನಲ್ಲಿ ಇಲ್ಲದೇ ಇದ್ದರೂ ಒಪ್ಪಿಕೊಂಡೆನು. ನಮ್ಮ ಮಗಳಾದ ರೋಜಾ ಹಾಗೂ ವಿರಾಸ್ ರವರ ಮದುವೆಯ ನಿಶ್ಚಿತಾರ್ಥವನ್ನು ದಿನಾಂಕ-02-06-2019 ರಂದು ನಮ್ಮ ಮನೆಯಲ್ಲಿ ಮಾಡಿಕೊಟ್ಟು, ಮದುವೆಯ ದಿನಾಂಕವನ್ನು 24-10-2019 ಕ್ಕೆ ನಿಗದಿಪಡಿಸಿದೆವು.

ಮದುವೆಯ ನಿಶ್ಚಿತಾರ್ಥವಾದ ನಂತರ ಮದುವೆಯ ಸಮಯದಲ್ಲಿ ಹುಡುಗನ ಕಡೆಯವರ ಬೇಡಿಕೆಯಂತೆ ವರದಕ್ಷಿಣೆಯಾಗಿ ಹುಡುಗನಿಗೆ ಒಂದು ಚೆನ್ನದ ಸರ, ಉಂಗುರ, ಬಟ್ಟೆ ಇತ್ಯಾದಿಗಳನ್ನು ಮತ್ತು ಹುಡುಗಿಗೆ 30 ಗ್ರಾಂ ಚೆನ್ನದ ಸರ, ಓಲೆಗಳನ್ನು ಕೊಟ್ಟು ದಿನಾಂಕ: 24-10-2019 ರಂದು ಶಿರಾದಲ್ಲಿರುವ ಸೋಮೇಶ್ವರ ಕಲ್ಯಾಣ ಮಂಟಪದಲ್ಲಿ ಸುಮಾರು 10 - 15 ಲಕ್ಷ ರೂಪಾಯಿಗಳನ್ನು ಖರ್ಚು ಮಾಡಿ ಮದುವೆಯನ್ನು ಅದ್ದೂರಿಯಾಗಿ ಮಾಡಿ ಕೊಟ್ಟೆವು ಮದುವೆಯನ್ನು ಮಾಡಲು ನಮ್ಮ ಪೂರ್ವಜಿತವಾದ ಹೊಲವನ್ನು ಮಾರಾಟ ಮಾಡಿರುತ್ತೇನೆ ಮತ್ತು ನಮ್ಮ ಸ್ನೇಹಿತರ ಬಳಿಯಲ್ಲಿ ಸಾಲ ಮಾಡಿರುತ್ತೇನೆ.

ಮದುವೆಯಾದ ನಂತರ ನಮ್ಮ ಮಗಳಾದ ರೋಜಾ ರವರು ಹುಡುಗನ ಕಡೆಯವರು ವಾಸವಿದ್ದ ನಾಗಸಂದ್ರ ಗೃಹಲಕ್ಷ್ಮೀಲೇಔಟ್ 3ನೇ ಕ್ರಾಸ್‌ನ ಮನೆ ನಂ-338 ರಲ್ಲಿ ವಾಸವಿದ್ದರು. ಈ ಮನೆಯಲ್ಲಿ ನಮ್ಮ ಅಳಿಯ ವಿರಾಸ್, ಅವರ ತಂದೆ ವಸಂತಕುಮಾರ್ ಮತ್ತು ಅತ್ತೆ ಸವಿತಾ ರವರುಗಳು ವಾಸವಿದ್ದರು.

ಮದುವೆಯಾದ 15-20 ದಿನಗಳ ನಂತರ ನಮ್ಮ ಮಗಳನ್ನು ನೋಡಲು ಬಂದಾಗ "ನನ್ನ ಗಂಡ ನನ್ನನ್ನು ಇಷ್ಟಪಟ್ಟು ಮದುವೆಯಾಗಿಲ್ಲವಂತೆ, ತನ್ನ ತಾಯಿಯ ಬಲವಂತಕ್ಕೆ ಮದುವೆಯಾಗಿರುತ್ತೇನೆ, ನನಗೆ ಕೋಲುಮುಖದ ಹುಡುಗಿ ಬೇಕು, ನೀನು ಕೋಲು ಮುಖ ಹೊಂದಿಲ್ಲ, ಎಂದು ಚುಚ್ಚುವಂತೆ ಮಾತನಾಡುತ್ತಾರೆ. ಅಲ್ಲದೇ ನನ್ನ ಅತ್ತೆಯವರು ನಿಮ್ಮ ಮನೆಯವರು ನಾನು ಹೇಳಿದಂತೆ ಅದ್ದೂರಿಯಾಗಿ ಮದುವೆ ಮಾಡಲಿಲ್ಲ. ನೀನು ಇಷ್ಟು ವರ್ಷ ಕೆಲಸ ಮಾಡಿ ಕೂಡಿ ಇಟ್ಟ ಹಣವನ್ನು ಏನು ಮಾಡಿದೆ. ನಿನ್ನ ಸಂಬಳದ ಹಣವನ್ನು ನಿನ್ನ ತಂದೆ- ತಾಯಿಗಳಿಗೆ ಕೊಡಬಾರದು ಎಂದು ಹೇಳುತ್ತಾ, ಮಾನಸಿಕ ಕಿರುಕುಳ ನೀಡುತ್ತಾಳೆಂದೂ, ತಾನು ಕೆಲಸ ಮಾಡುವ ವೈಟ್‌ಫೀಲ್ಡ್ ಮತ್ತು ಗಂಡನ ಮನೆಗೆ ಹೋಗಿ ಬರಲು ದೂರವಾಗುತ್ತದೆ ಎಂದು ನನ್ನ ಗಂಡ ಮತ್ತು ಅವರ ಅತ್ತೆಯ ಅನುಮತಿ ಪಡೆದು ನಾನು ಹಾಲಿ ಪಿ.ಜಿ.ಯಲ್ಲಿಯೇ ವಾಸವಿದ್ದು, ವಾರಕ್ಕೊಮ್ಮೆ ಗಂಡನ ಮನೆಗೆ ಬರುತ್ತೇನೆ. ತನ್ನ ಗಂಡ ಹಾಲಿ ಮೈಸೂರಿನಲ್ಲಿ ಥಾಟ್ ಪೋಕಸ್ ಎಂಬ ಕಂಪನಿಯಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಾರೆ ಅವರು ಮೈಸೂರಿನಲ್ಲಿಯೇ ಇರುತ್ತಾರೆ. ಅವರೂ ಸಹ - ಶನಿವಾರ ಮನೆಗೆ ಬರುತ್ತಾರೆ ಎಂದು ನನಗೆ ತಿಳಿಸಿದರು. ನಮ್ಮ ಮಗಳಿಗೆ ನಾವು ಬುದ್ಧಿ ಹೇಳಿ ಮುಂದೆ ಎಲ್ಲ ಸರಿಹೋಗುತ್ತದೆ ಸ್ವಲ್ಪ ಅನುಸರಿಸಿಕೊಂಡು ಹೋಗು ಎಂದು ಸಮಾಧಾನಪಡಿಸಿದೆವು.

ಇದೇ ವರ್ಷದ ಮಾರ್ಚ್ ತಿಂಗಳಿನಲ್ಲಿ ನಮ್ಮ ಮಗಳು ನಮ್ಮ ಮನೆಗೆ ಬಂದಿದ್ದು, ಆ ಸಮಯದಲ್ಲಿ ಕರೋನಾ ಲಾಕ್‌ಡೌನ್ ಆಗಿದ್ದರಿಂದ ನಮ್ಮ ಮನೆಯಲ್ಲಿಯೇ ಇದ್ದರು. ಈ ಸಮಯದಲ್ಲಿ ನಮ್ಮ ಮಗಳು ತಿಳಿಸಿದ್ದೇನೆಂದರೆ, "ನನ್ನ ಅತ್ತೆ ಮತ್ತು ಮಾವ ರವರುಗಳು ನಮ್ಮ ಮಗನಿಗೆ ಬೇರೆ ಕಡೆ ಮದುವೆಮಾಡಿಕೊಂಡಿದ್ದರೆ, 4 ಲಕ್ಷ ರೂ. ಗಳನ್ನು ವರದಕ್ಷಿಣೆ ಕೊಡುತ್ತಿದ್ದರು ನೀನು ಯಾವ ತರಹದ ಹಣ ಐಶ್ವರ್ಯ ತಂದಿಲ್ಲ, ನಿನ್ನನ್ನು ಮದುವೆಮಾಡಿಕೊಂಡು ನಮಗೆ ದರಿದ್ರ ಬಂತು ಎಂದು ಹೀಯಾಳಿಸಿ ಮಾತನಾಡಿ ಕಿರುಕುಳ ನೀಡುತ್ತಾರೆ. ನನ್ನ ಗಂಡನು ಸಹ ಅವರೊಂದಿಗೆ ಸೇರಿಕೊಂಡು ನೀನು ನನ್ನ ಜೀವನಕ್ಕೆ ಬರಬೇಡ ಎಂದು ಬೈಯುತ್ತಾರೆ." ಎಂದು ಹೇಳಿಕೊಂಡು ಅತ್ತುಬಿಟ್ಟಳು. ಕರೋನಾ ಲಾಕ್‌ಡೌನ್ ಮುಗಿದ ನಂತರ ಈಗ್ಗೆ ಒಂದೂವರೆ ತಿಂಗಳ ಹಿಂದೆ ನಾನು ನನ್ನ ಮಗಳಾದ ರೋಜಾ ರವರನ್ನು ಗಂಡನ ಮನೆಗೆ ಕರೆತಂದು ಪಂಚಾಯಿತಿ ಮಾಡಿ ಬುದ್ಧಿ ಹೇಳಿ ಬಿಟ್ಟು ಹೋದೆನು.

ದಿನಾಂಕ:19-10-2020 ರಂದು ನಮ್ಮ ಮಗಳು ನನ್ನೊಂದಿಗೆ ಮಾತನಾಡಿ ತಾನು ಗರ್ಭಿಣಿಯಾಗಿರುತ್ತೇನೆಂದು ತಿಳಿಸಿದಳು, ಮಗಳ ಗಂಡ, ಅತ್ತೆ ಮಾವ ರವರುಗಳ ಬಗ್ಗೆ ವಿಚಾರಿಸಿದ್ದಕ್ಕೆ ಅವರು ಅದೇ ರೀತಿ ಆಗಾಗ್ಗೆ ಮಾತನಾಡಿ ಮನಸ್ಸಿಗೆ ನೋವುಂಟು ಮಾಡುತ್ತಾರೆ ಎಂದು ಹೇಳಿದರು. ಆದರೂ ನಾನು ನನ್ನ ಮಗಳಿಗೆ ಮಗು ಆದ ಮೇಲೆ ಎಲ್ಲಾ ಸರಿಯಾಗುತ್ತದೆ ಸಮಾಧಾನವಾಗಿ ಇರು ಎಂದು ಬುದ್ಧಿ ಹೇಳಿದ್ದೆನು.

ದಿನಾಂಕ: 24/10/2020 ರಂದು ಬೆಳಗಿನ ಜಾವ 5-14 ಗಂಟೆಯಲ್ಲಿ ವಿಕಾಸ್ ರವರ ತಂದೆ ನನಗೆ ಕರೆ ಮಾಡಿ ನಿಮ್ಮ ಮಗಳು ನೇಣು ಹಾಕಿಕೊಂಡು ಮೃತಳಾಗಿರುತ್ತಾಳೆಂದು ತಿಳಿಸಿದರು. ಅದರಂತೆ ನಾವು ಬೆಳಿಗ್ಗೆ ಸುಮಾರು 09-30 ಗಂಟೆಗೆ ನಮ್ಮ ಮಗಳು ವಾಸವಿದ್ದ ಗಂಡನ ಮನೆಗೆ ಬಂದು ನೋಡಿದಾಗ, ಇವರ ಮನೆಯ ಮೊದಲ ಮಹಡಿಯ ಶೌಚಗೃಹದಲ್ಲಿ ನಮ್ಮ ಮಗಳು ವೇಲಿನಿಂದ ತನ್ನ ಕುತ್ತಿಗೆಗೆ ಬಿಗಿದುಕೊಂಡು ಮೃತಳಾದ ಸ್ಥಿತಿಯಲ್ಲಿ ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ನಮ್ಮ ಮಗಳಾದ ರೋಜಾ, 28 ವರ್ಷ ರವರ ಸಾವಿಗೆ ಈಗಿನ ಗಂಡ ವಿಕಾಸ್, ಅತ್ತೆ ಸವಿತಾ ಮತ್ತು ಮಾವ ವಸಂತ ಕುಮಾರ್ ರವರುಗಳು ವರದಕ್ಷಿಣೆಗಾಗಿ ನೀಡುತ್ತಿದ್ದ ಕಿರುಕುಳವೇ ಕಾರಣವಾಗಿರುತ್ತದೆ.

ಆದರೂ ತಾವುಗಳು ನಮ್ಮ ಮಗಳ ಸಾವಿನ ಬಗ್ಗೆ ತನಿಖೆ ನಡೆಸಿ ನಿಖರವಾದ ಕಾರಣವನ್ನು ತಿಳಿಯಬೇಕೆಂದು ಈ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ. ಇವರುಗಳ ವಿರುದ್ಧ ಮುಂದಿನ ಕಾನೂನು ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ಈ ಮೂಲಕ ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ.”

The police, conduct investigation and file a charge sheet against these accused for the afore-quoted offences in C.C. in 1863 of 2021. The summary of the charge sheet as obtaining in column No.7 reads as follows:

“ಈ ದೋಷಾರೋಪಣಾ ಪತ್ರದ ಕಾಲಂ.ನಂ.6ರ ಸಾಕ್ಷಿ-1 ರವರ ಮಗಳಾದ ಆರ್ ರೋಜಾ (ಮೃತೆ) ಈಕೆಯನ್ನು ಕಾಲಂ.ನಂ.3ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ1.ಆರೋಪಿಯೊಂದಿಗೆ ದಿನಾಂಕ:24-10-2019ರಂದು ಹಿರಿಯರ ನಿಶ್ಚಯದಂತೆ ತುಮಕೂರು ಜಿಲ್ಲೆಯ ಶಿರಾಟಾನ್‌ನ “ಸೋಮೇಶ್ವರ ಕಲ್ಯಾಣ ಮಂಟಪದಲ್ಲಿ ಮದುವೆ ಮಾಡಿಕೊಟ್ಟಿರುತ್ತಾರೆ. ಮದುವೆಯ ಸಂದರ್ಭದಲ್ಲಿ ಎ1 ರಿಂದ ಎ3 ಆರೋಪಿಗಳ ಒತ್ತಾಯದಂತೆ ಸಾಕ್ಷಿ-1 ರವರು ಎ1 ಆರೋಪಿಗೆ ಒಂದು ಚೆನ್ನದ ಉಂಗುರ ಮತ್ತು ಚೆನ್ನದ ಚೈನನ್ನು ವರ ದಕ್ಷಿಣೆಯಾಗಿ ನೀಡಿರುತ್ತಾರೆ.

ಮದುವೆ ನಂತರ ಆರ್.ರೋಜಾ(ಮೃತೆ) ಈಕೆ ಕಾಲಂ. ನಂ.3 ಮತ್ತು ನಂ.4ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಎ1 ರಿಂದ ಎ3 ಆರೋಪಿಗಳೊಂದಿಗೆ ಪೀಣ್‌ಯ ಪೊಲೀಸ್ ಠಾಣಾ ಸರಹದ್ದಿಗೆ ಬರುವ ನಾಗಸಂದ್ರ ಅಂಚೆ ಗೃಹಲಕ್ಷ್ಮಿ ಬಡಾವಣೆ, 3ನೇ ಕ್ರಾಸ್, ಮನೆ.ನಂ.338ರಲ್ಲಿ ವಾಸವಾಗಿದ್ದು, ಎ1.ಆರೋಪಿ ಆರ್.ರೋಜಾ(ಮೃತೆ) ಈಕೆಗೆ “ನಾನು ನಮ್ಮ ತಂದೆ-ತಾಯಿಯ ಬಲವಂತಕ್ಕೆ ನಿನ್ನನ್ನು ಮದುವೆಯಾಗಿದ್ದೇನೆ, ನನಗೆ ಕೋಲುಮುಖದ ಹುಡುಗಿಬೇಕು, ನಿನಗೆ ಕೋಲುಮುಖ ಇಲ್ಲ, ನೀನು ನನ್ನ ಜೀವನಕ್ಕೆ ಬರಬೇಡ” ಎಂದು ಚುಚ್ಚು ಮಾತುಗಳನ್ನಾಡಿ ಹಿಂಸಿಸಿದ್ದು, ಎ2 ಆರೋಪಿತ ಆರ್.ರೋಜಾ (ಮೃತೆ)ಳಿಗೆ "ನಿಮ್ಮ ಮನೆಯವರು ನಾನು ಹೇಳಿದಂತೆ ಅದ್ದೂರಿಯಾಗಿ ಮದುವೆ ಮಾಡಲಿಲ್ಲ, ನೀನು ಇಷ್ಟು ವರ್ಷ ಕೆಲಸಮಾಡಿ ಕೂಡಿಟ್ಟ ಹಣವನ್ನು ಏನು ಮಾಡಿದೆ, ನಿನ್ನ ಸಂಬಳದ ಹಣವನ್ನು ನಿನ್ನ ತಂದೆ ತಾಯಿಗೆ ಕೊಡಬಾರದು" ಎಂದು ಮಾನಸಿಕ ಕಿರುಕುಳ ನೀಡಿ, ಎ2 ಮತ್ತು ಎ3 ಆರೋಪಿಗಳು ಸೇರಿ ರೋಜಾಳಿಗೆ "ನೀನು ಇಲ್ಲಿವರೆಗೆ ಸಂಪಾದನೆ ಮಾಡಿರುವ ಹಣ ತಂದುಕೊಡು, ನಿಮ್ಮ ಅಪ್ಪನ ಮನೆಯಿಂದ 4-5 ಲಕ್ಷ ರೂ ತರಬೇಕು, ಇಲ್ಲದಿದ್ದರೆ ಮನೆಯೊಳಗೆ ಬರಬೇಡ" ಎಂದು ಹೆಚ್ಚಿನ ವರದಕ್ಷಿಣೆ ಹಣಕ್ಕಾಗಿ ಮಾನಸಿಕವಾಗಿ ಹಿಂಸಿಸುತ್ತಿದ್ದರಿಂದ, ಈ ಹಿಂಸೆಯನ್ನು ತಾಳಲಾರದೆ ಆರ್.ರೋಜಾ ಈಕೆ ದಿನಾಂಕ:24-10-2020 ರಂದು ಬೆಳಗಿನಜಾವ 5-14 ಗಂಟೆ ಸಮಯದಲ್ಲಿ ತನ್ನ ಗಂಡನ ಮನೆಯ ಮಹಡಿಯ ರೂಂನಲ್ಲಿರುವ ಟಾಯ್ಲೆಟ್ ವೆಂಟಿಲೇಟರ್ ಕಿಟಕಿಯಸರಳಿಗೆ ವೇಲ್‌ನಿಂದ ಕುತ್ತಿಗೆಗೆ ನೇಣು ಬಿಗಿದುಕೊಂಡು ಮೃತಪಟ್ಟಿರುವುದು ಲಭ್ಯ ಸಾಕ್ಷಾ ಧಾರಗಳಿಂದ ದೃಢಪಟ್ಟಿರುತ್ತದೆ.

ಎ1- ರಿಂದ ಎ3 ಆರೋಪಿಗಳು ಹೆಚ್ಚಿನ ವರದಕ್ಷಿಣೆ ಹಣಕ್ಕಾಗಿ ನೀಡಿದ ಮಾನಸಿಕ ಹಿಂಸೆಯಿಂದ ಬೇಸತ್ತು ಆರ್.ರೋಜಾ ಈಕೆ ಬೇರೆ ದಾರಿ ದಾರಿ ಕಾಣದೆ, ಆಕೆ ವಾಸವಿದ್ದ ತನ್ನ ಗಂಡನ ಮನೆಯ ಮಹಡಿಯ ರೂಂನ ಟಾಯ್ಲೆಟ್‌ನ ವೆಂಟಿಲೇಟರ್ ಕಿಟಕಿ ಸರಳಿಗೆ ವೇಲ್‌ನಿಂದ ನೇಣು ಬಿಗಿದುಕೊಂಡು ಮೃತಪಟ್ಟಿರುತ್ತಾಳೆ.”

ಆದ್ದರಿಂದ ಎ-1 ರಿಂದ ಎ-3 ಆರೋಪಿಗಳು ಭಾರತೀಯ ದಂಡ ಸಂಹಿತೆಯ ಕಲಂ.498(ಎ), 304(ಬಿ) ಸಹಿತ 34 ಮತ್ತು ಕಲಂ.3 & 4 ವರದಕ್ಷಿಣೆ ನಿಷೇಧ ಕಾಯ್ದೆ ರೀತ್ಯಾ ಶಿಕ್ಷಾರ್ಹರಾಗಿರುತ್ತಾರೆ.”

The concerned Court commits the case to the Court of Sessions and the matter is pending in S.C.No.697 of 2021. With the facts being as afore-said and the summary of the charge sheet the allegation is, the daughter of the complainant was being harassed on demand of dowry of Rs.4-5 lakhs on every occasion and used to hurl abusive comments upon the looks of the daughter of the complainant. The daughter of the complainant, at the time of commission of suicide, leaves behind a death note. In the death note she scribes that no one is responsible for her death and further narration is that the husband was not happy with her. The handwriting of the daughter of the complainant is also confirmed. In such circumstances, whether presumption of innocence can be drawn against these petitioners/husband, mother-in-law and father-in-law and quash the proceedings is what is required to be considered.

9. At the outset, I deem it appropriate to consider whether the death note can be relied upon, to quash the proceedings in exercise of jurisdiction under Section 482 of the Cr.P.C., in the peculiar facts of this case. Identical issue is considered by the Apex Court in the case of **NARESH KUMAR V. STATE OF HARYANA**¹, wherein the Apex Court has held as follows:

“ ”

11. We may now refer to the suicide note. It, inter alia, states:

“All the doors are closed for me. Besides this, no other way is available to me and I adopted the way which I liked.”

The tenor of the suicide note clearly shows that the deceased was in helpless condition and she found no other way to come out of the situation. The suicide note cannot be taken to be encyclopaedia of the entire situation in which the deceased was placed. It is not possible to infer from the said note that the deceased was happy in her matrimonial home. Mere mention that nobody may be held responsible, while also stating that all the doors were closed for her and she had no other way available (except to leave the world), is not enough to exonerate the appellant. When a young married girl finds herself in helpless situation and decides to end her life, in absence of any other circumstance, it is natural to infer that she was unhappy in her matrimonial home. A suicide note cannot be treated as conclusive of there being no one responsible for the situation when evidence on record categorically points to harassment for dowry.

¹ 2015 (1) SCC 797

12. One cannot lose sight of the fact that unfortunately the menace of dowry deaths still exists in our society and has been the subject of expert studies. The Law Commission, in its 91st Report dated 10-8-1983, recommended reform of the law to deal with the situation which led to incorporation of Section 304-B IPC, making "dowry death" an offence and Section 113-B in the Evidence Act which provides for raising a presumption as to dowry death in case of an unnatural death within seven years of marriage when it is shown that a woman was subjected to harassment for dowry soon before her death. These aspects have been considered by this Court in *Hira Lal v. State (Govt. of NCT of Delhi)* [(2003) 8 SCC 80 : 2003 SCC (Cri) 2016] and other judgments.

13. The circumstances have thus to be appreciated in the light of the above social and legislative background. As already noted, in the present case, there is plethora of evidence to prove the demand of dowry "soon before the death" giving rise to the presumption against the appellant.

14 [Ed. : Para 14 corrected vide Official Corrigendum No. F.3/Ed.B.J./2/2015 dated 19-1-2015.] . As regards the claim for parity of the case of the appellant with his mother and brother who have been acquitted, the High Court has rightly found his case to be distinguishable from the case of his mother and brother. The husband is not only primarily responsible for safety of his wife, he is expected to be conversant with her state of mind more than any other relative. If the wife commits suicide by setting herself on fire, preceded by dissatisfaction of the husband and his family with the dowry, the inference of harassment against the husband may be patent. Responsibility of the husband towards his wife is qualitatively different and higher as against his other relatives.

15. On proof of the essential ingredients mentioned in Section 113-B, if the statutory presumption arises against the accused which shifts the burden on the accused, the accused must give cogent explanation. Failure to give an explanation or giving of false explanation can be taken as an additional circumstance against him. The requirement of allegations of demand of dowry against the relatives of the husband may have

to be more specific and the Court may be more cautious in dealing with such allegations, if there is any doubt about overimplication, but responsibility of the husband may be obvious from the circumstances. In these circumstances, the case of the appellant cannot stand on a par with his mother and brother who have been acquitted by the High Court, by way of caution against overimplication, as well as for want of cogent evidence against them. The case of the husband stands on a different footing.

16. Thus, we have no hesitation in upholding the conviction and sentence of the appellant as we do not find any reason to interfere with the concurrent orders of the courts below in convicting and sentencing the appellant.”

(Emphasis supplied)

The Case before the Apex Court was against an order of conviction on a death note. The death note indicated that no one was responsible for the death of the victim therein. The Apex Court holds in an offence under Section 304B of the IPC merely because the deceased had scribed that no one is responsible, it should not quash the proceedings.

10. In yet another judgment the Apex Court in the case of **V.K. MISHRA v. STATE OF UTTARAKHAND**² refuses to acquit the husband, mother-in-law and father-in-law who had sought such acquittal, only on the score that the deceased at the time of

² (2015) 9 SCC 588

commission of suicide had left a death note which blamed none.

The Apex Court holds as follows:

“....

28. Vijay Kumar Sharma (PW 6), tenant neighbour of the accused, has stated that he never heard any shouting, screaming from the house of the appellants and the couple was living happily. Placing reliance upon the evidence of this witness, appellants contended that had there been any dowry demand, there would have been disharmony among the couple which would have definitely been known to neighbours like PW 6. It is to be noted that in a case where demand of dowry is alleged such demands are confined within the four walls of the house and known only to the members of both sides of the family. In such cases, independent and direct evidence with regard to the occurrences is ordinarily not available. That is why the legislature has introduced Sections 113-A and 113-B in the Evidence Act by permitting presumption to be raised in certain circumstances. Evidence of PW 6, in our view, does not in anyway advance the case of the appellants.

29. The defence placed much reliance upon three documents: (i) the suicide note written by the deceased; (ii) inland letter allegedly found in the trunk and lapses in the investigation; and (iii) the letter said to have been written by the deceased victim to her brother-in-law. The appellants vehemently contended that PW 14 investigating officer failed to carry out fair investigation regarding the above three documents and submitted that those three documents become more vital on account of belated and self-contradictory evidence with regard to demand of dowry.

30. Mr Mukesh Giri, learned Additional Advocate General appearing for the State, and Mr Ratnakar Dash, learned Senior Counsel appearing for the informant submitted that the appellants have fabricated three letters probably on legal advice and produced the same at a belated stage while making application for bail and the appellants have not taken any steps

to prove the genuineness of the documents and rightly those documents were rejected by the trial court as well as by the High Court.

31. So far as the suicide note is concerned, Archana is said to have stated that she is taking the step "suicide" because her mental condition is not good and that nobody should be held responsible for her act. It is pertinent to note that suicide note was not discovered during investigation but it was later produced by the appellants. When PW 1 (father of Archana) was confronted with the suicide note, PW 1 denied it to be in the handwriting of Archana. Appellants have not taken steps to prove the suicide note to be in the handwriting of Archana. Even assuming the suicide note to be true, the fact remains that the death of Archana was unnatural. The contents of the suicide note does not affect consistent version of PW 1 and PW 2."

(Emphasis supplied)

Therefore, the submission of the learned counsel for the petitioner that the death note blames none and the law cannot blame them, is noted only to be rejected, as it is for the petitioners to come out clean in a full blown trial.

11. The other issue would be, whether there is a *prima facie* case made out by the petitioners in their favour seeking quashment of the proceedings. The relationship between the accused No.1 and the daughter of the complainant, after marriage, lasted only for one

year. Therefore, the death happens barely after a year of marriage. The emphasis that is laid by the counsel learned for the petitioners is, that they are themselves well off and there was no necessity to demand dowry. This is a pure question of fact, which undoubtedly requires evidence. In identical circumstances of seriously disputed questions of facts, in a case concerning dowry death, as obtaining under Section 304-B of the IPC, this Court in the case of ***NIRANJAN HEGDE vs. STATE OF KARNATAKA***³ had held as follows:

" "

9. The marriage between the petitioner and the daughter of the complainant who is now dead is not in dispute. The contention of strained relationship between the petitioner and the deceased is also borne out from the records. The complaint itself narrates that the deceased had left the matrimonial house and was residing at her parental house. *Whether this can be enough circumstance to drive home any of the allegations under Sections 304B, 498A or Section 313 of the IPC is what falls for consideration at this juncture in the case at hand?* The daughter of the complainant commits suicide on 12-06-2022. The complainant on 13-06-2022 registers the complaint / report of death before Sanjay Nagar Police Station, Bangalore. The report so registered on that date is germane to be noticed and it reads as follows:-

"It is to report that my daughter S.V.Raksha has committed suicide by hanging in my house. She was married to a planter Mr.Niranjan Hegde of Thannodi, Chikkamagalur Dist. in the year 2017 Dec. She was not

³ CrI.P.No.5657 of 2022 disposed on 08.07.2022

finding her life comfortable with him eversince she got married. His parents and we too have had workedout to make the life of the couple happy but was still unresolved. My daughter Raksha was working for Infosys. She use to be in pains all through. Her in-laws also had tried to make the couple happy they too have not succeeded.

Raksha was working from home living in her room was seen not in mood last evening.

Today 13th Jun 2022 around 9.30 a.m. our made Nirmala had gone to her room to call for her tea and found Rakshas body was hanging from ceiling of her bed room in the I floor. As she started crying we asked her what happened she showed us the hanging body of the Raksha. I saw the dead body with my wife Dr.Ambujakshi and it was a shock and unexpected death. Raksha was unhappy in her life although had studied B.E., M.Tech and MBA. Her married life misery could have driven her to take the ultimate step to end her life. I have tried to inform her in-laws but the calls were not reachable, however, informed her husband Mr .Niranjan Hegde about his wifes suicide. She might have committed her suicide last night i.e.12th Jun 22 after 09=00 pm.

Please take necessary legal action deem necessary."

The narration in the complaint by the father of the complainant herein is that though she married in the year 2017; she was not finding her life comfortable ever since she got married; has serious problems with her husband and narrates that she had died by hanging herself from the ceiling of her bedroom in the parental house. This was the initial report that was made to the police by the father of the deceased. On the next day, a detailed complaint is registered on getting to know several facts. The further complaint is registered on 14-06-2022, which is in detail and reads as follows:

14-6-2022

ಇಂದ

ಎಸ್.ಆರ್.ವಿಜಯಕುಮಾರ್
ನಂ.283, 4ನೇ ಕ್ರಾಸ್, ವಯಸ್ಸು 69

ಕೆ.ಇ.ಬಿ.ಕಾಲೋನಿ
ಸಂಜಯನಗರ, ಬೆಂ-94.
ಮೊ.956505010, ಕಾಸ್ಟ್ ವಕ್ತರಿಗ

ಮೊಲೀಸ್ ಇನ್ಸ್‌ಪೆಕ್ಟರ್ ಠಾಣಾಧಿಕಾರಿರವರಿಗೆ
ಸಂಜಯನಗರ ಮೊಲೀಸ್ ಠಾಣೆ
ಬೆಂಗಳೂರು ನಗರ.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ನನ್ನ ಮಗಳಾದ ಶ್ರೀಮತಿ.ಎಸ್.ವಿ.ರಕ್ಷಾರವರ ಆತ್ಮಹತ್ಯೆಯ ಬಗ್ಗೆ ಸೂಕ್ತ ಕಾನೂನು
ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿ ದೂರು.

ನಿನ್ನ ದಿನಾಂಕ 13-06-2022 ರಂದು ನನ್ನ ಮಗಳಾದ ಶ್ರೀಮತಿ ಎಸ್.ವಿ.ರಕ್ಷಾ ಕೋಂ ನಿರಂಜನ್ ಹೆಗ್ಡೆ ಕನೂಡಿ ಗ್ರಾಮ ಮೂಡಿಗೆರೆ ತಾ|| ಚಿಕ್ಕಮಗಳೂರು ಜಿಲ್ಲೆ, ಇವರು ಕಳೆದ ಸುಮಾರು 2ವರ್ಷಗಳಿಂದ ಕರೋನಾ ಖಾಯಿಲೆ ಕಾಣಿಸಿಕೊಂಡಾಗಿನಿಂದಲೂ ನನ್ನ ಮನೆಯಲ್ಲಿಯೇ ವಾಸವಾಗಿದ್ದ ಏಟಿಜಿಠಿ ಛಿಟಿಚಿಟಿಠಿ ಘಟಕ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದಳು. ದಿನಾಂಕ 13-6-2022 ರಂದು ಕಂಪನಿಯ ಸಭೆಗೆ ಹೋಗಬೇಕೆಂದು ಸಿಹಿ ವಸ್ತುಗಳನ್ನು ಸಹಪಾಠಿಗಳಿಗೆ ಹಂಚಲು ಸಹ ಸಿದ್ಧಳಾಗುತ್ತಿದ್ದಳು.

ನನ್ನ ಮಗಳ ವಿವಾಹವು ಕನೋಡಿಯ ಶ್ರೀ ರವೀಂದ್ರ ಹೆಗಡೆ ಹಾಗೂ ಶ್ರೀಮತಿ ಪೂರ್ಣಿಮಾ ಹೆಗಡೆಯವರ ಮಗ ಶ್ರೀ ನಿರಂಜನ್ ಹೆಗ್ಡೆ ಜೊತೆ ದಿನಾಂಕ 11-12-2017 ಸೋಮವಾರದಂದು ಕನೋಡಿಯ ಶ್ರೀ ದುರ್ಗಾ ಪರಮೇಶ್ವರಿ ದೇವಾಲಯದಲ್ಲಿ ಹಿಂದೂ ಸಂಪ್ರದಾಯದಂತೆ ನೆರವೇರಿತು.

ನನ್ನ ಮಗಳಾದ ರಕ್ಷಾ ವಿವಾಹವಾದ ನಂತರ ತನ್ನ ಗಂಡನ ಮನೆಯಲ್ಲಿ ವಾಸವಿದ್ದಳು ಕ್ರಮೇಣ ತನ್ನ ಗಂಡನಿಂದಾಗುತ್ತಿದ್ದ ಹಿಂಸೆ, ಕಿರುಕುಳ, ಅವಮಾನಗಳನ್ನು ತಿಳಿಸುತ್ತಿದ್ದಳು. ನಾನು ಮತ್ತು ನನ್ನ ಪತ್ನಿ ಡಾ|| ಅಂಬುಜಾಕ್ಷಿ ಮಗಳಿಗೆ ಪ್ರತಿ ಸಲ ಹೇಳಿದಾಗಲೆಲ್ಲಾ ತಾಳ್ಮೆಯಿಂದ ಸಂಸಾರದಲ್ಲಿ ಅತ್ತೆ ಮಾವ ಗಂಡನೊಂದಿಗೆ ಬಾಳಬೇಕೆಂದು ತಿಳುವಳಿಕೆ ಹೇಳುತ್ತಿದ್ದವು. ನಿರಂಜನ ಮಧ್ಯ ಪಾನ ವ್ಯಸನಿ ಅವನನ್ನು ಸರಿಮಾಡಲು ದೇವರಿಂದಲೂ ಸಾಧ್ಯವಿಲ್ಲ. ಇವನ ವರ್ತನೆ, ಭಾಷೆ ನನಗೆ ಸಹಿಸಲು ಆಗುತ್ತಿಲ್ಲವೆಂದು ಗೋಳಾಡುತ್ತಿದ್ದವಳು.

ಬೆಂಗಳೂರಿಗೆ ನಮ್ಮ ಮನೆಗೆ ಬಂದು ನಮ್ಮೊಂದಿಗೆ ಇದ್ದುಕೊಂಡು ಏಟಿಜಿಠಿ ಛಿಟಿಚಿಟಿಠಿ ಘಟಕ ಕೆಲಸ ಮಾಡುತ್ತಿದ್ದವಳು ಗಂಡನಿಂದ ನಿರಂತರ ಮಾನಸಿಕ ಹಿಂಸೆಯನ್ನು ಅನುಭವಿಸುತ್ತಿದ್ದಳು. ದೂರವಾಣಿ ಕರೆ ಮಾಡಿದಾಗಲೆಲ್ಲಾ ನನ್ನ ಮಗಳ ಕಣ್ಣೀರು ಬಂದಾಗುವವರೆಗೂ ಅವಳಿಗೆ ಕೆಟ್ಟ ಭಾಷೆಯಿಂದ ಬೈಯುವುದು ನಿನ್ನ ಕೆ.ಐ. ಒ. ಖಜಿಫಿ ಒಂ ಗೆ ನನ್ನ ಸಮಾನ ನಿನ್ನ ಡಾ|| ಚಿಟಿಚಿಟಿಠಿ ಛಿಟಿಚಿಟಿಠಿ ನೀನೇ ಇಟ್ಟುಕೋ ಇತ್ತಾದಿಯಾಗಿ ಅವಳ ದಿನದ ಬಾಳು ಹಾಗೂ ನಮ್ಮೊಂದಿಗೆ ಅಘಾತ ಉಂಟು ಮಾಡುತ್ತಿದ್ದನು. ನಾನು ನನ್ನ ಪತ್ನಿ ಅವರಿಬ್ಬರ ದೂರವಾಣಿ ಕರೆಗಳನ್ನು ಆಗಾಗ ಮಗಳು ಕೇಳಿಸಿಕೊಳ್ಳುವಂತೆ ಹೇಳಿದಾಗ ಕೇಳಿಸಿಕೊಂಡು ಅವಳಿಗೆ ಸದಾ ಸಮಾಧಾನವನ್ನೇ ಹೇಳುತ್ತಿದ್ದವು. ನನ್ನ ಮಗಳ ಹೆಸರಿನಲ್ಲಿ ಇರುವ ಸ್ವರಾಶ್ರಿಗಳನ್ನು ಮಾರಿ ಹಣ ಸಾಲ ತೀರಿಸಲು ತಂದುಕೊಡುವಂತೆ ಹಿಂಸೆ ಮಾಡುತ್ತಿದ್ದಾನೆಂದು ಈಗಾಗಲೇ ನನ್ನಿಂದ ಅನೇಕ ಸಲ ನನ್ನ ಹಣವನ್ನು ಪೀಡಿಸಿ ಖರ್ಚಿಗೆ ಕುಡಿಯೋದಕ್ಕೆ ಕ್ಲಬ್‌ಗಳಲ್ಲಿ ಕುಡಿಯೋದಕ್ಕೆ ಕೇಳುತ್ತಿದ್ದ. ನಾನು ವಿಧಿಯಿಲ್ಲದೆ ಕೊಡುತ್ತಿದ್ದೆ ಎಂದು ಹೇಳುತ್ತಿದ್ದು ನನ್ನ ಮಗಳು 2019 ರಲ್ಲಿ ಗರ್ಭಿಣಿಯಾದಾಗ ಜನವರಿ ತಿಂಗಳಲ್ಲಿ ಅವಳನ್ನು ಮಂಗಳೂರಿನ ನರ್ಸಿಂಗ್ ಹೋಂಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿ ಬಲವಂತವಾಗಿ ಅಬಾರ್ಷನ್ ಮಾಡಿದ್ದಲ್ಲದೆ ಆ ಆಸ್ಪತ್ರೆಯ ಖರ್ಚು ನನ್ನಿಂದಲೇ ಕಟ್ಟಿದನು. ಕರುಣೆ ಇಲ್ಲದವನು ನನ್ನ ಗಂಡ ನಾನು ಹೇಗೆ ಇವನ ಹತ್ತಿರ ಬಾಳಿ ಬದುಕುವುದು ಎಂದು ನಮಗೆ ಹೇಳಿದಾಗ ಅದಕ್ಕೂ ನಾವು ಅವಳಿಗೆ ಕಾಲ ಒಳ್ಳೆಯದು ಬರುತ್ತೆ ಸುಖವಾದ ಜೀವನ ಸಿಗುತ್ತೆ. ನಿನ್ನ ಅತ್ತೆ ಮಾವ ಗೌರವಸ್ಥರು ನಿನ್ನ ಪರ ಅವರಿದ್ದಾರೆ ಅಲ್ಲದೆ ಅವರ ಹಿರಿಯಣ್ಣ ಜಗದೀಶ ಹೆಗ್ಡೆರವರಿದ್ದಾರೆ ದೈರ್ಯವಾಗಿರು ಎಂದು ಬುದ್ಧಿವಾದ ಹೇಳುತ್ತಿದ್ದವು. ತನ್ನ ಗಂಡನ ಸಾಲಗಳು ಮತ್ತು ಅವರ ಆರೆ ಕುಡಿತದ ದುರಭ್ಯಾಸ ನಂತರ ಅವರ ಸಹ ಜೀವನ ವೈಯಕ್ತಿಕವಾಗಿ ನನಗೆ ತುಂಬಾ ನೋವು ತರುತ್ತಿದೆ ಅವನು ಕಂಠಪೂರ್ತಿ ಕುಡಿದು ಮೈಮರೆತ ಮೇಲೆ ಅವನ ಬಾಯಲ್ಲಿ ಬರುವ ಭಾಷೆಯನ್ನು ಕಿವಿಯಲ್ಲಿ

ಕೇಳಲಾಗುವುದಿಲ್ಲ. ಆ ರೀತಿಯಲ್ಲಿ ನನ್ನನ್ನು ನನ್ನ ವಿದ್ಯೆ ಬಗ್ಗೆ, ನನ್ನ ಸಂಸ್ಕೃತಿಯ ಬಗ್ಗೆ ಅವಹೇಳನ ಮಾಡ್ತಾನೆ ಕನೋಡಿಯಲ್ಲಿ ಇರಲು ಆಗೋಲ್ಲ ಎಂದು ಅಳುತ್ತಿದ್ದವಳು ಸಹ ದೈರ್ಯವಾಗಿರುತ್ತಿದ್ದಳು.

ನನ್ನ ಅಳಿಯ ಬೆಂಗಳೂರಿಗೆ ಆಗಾಗ್ಗೆ ಬಂದಾಗ ನನ್ನ ಮನೆಯಲ್ಲಿ ಹೆಂಡ್ತಿ ಜೊತೆ ಜಗಳ ಮಾಡಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದನು.

ತನ್ನ ಗಂಡ ನನಗೆ ದೈಹಿಕವಾಗಿ ಹೊಡೆದಾಗ ಬಂದ ದಿನ ರಾತ್ರಿ ಕಳಸ ಪೊಲೀಸ್ ಠಾಣೆಗೆ ದೂರು ನೀಡಿದ್ದಾರೆಂದು ಆ ಬಗ್ಗೆ ಪೊಲೀಸರು ಭೀಮಾರಿ ಹಾಕಿದರೆಂದು ಹೇಳಿದ್ದಳು.

ಇಷ್ಟಾದರೂ ನಮ್ಮ ಮನೆತನದ ಗೌರವ, ತಂದೆ ತಾಯಿಯವರಿಗಾಗಿ ಅವನೊಂದಿಗೆ ಬದುಕಲು ಇನ್ನು ಪ್ರಯತ್ನ ಮಾಡ್ತೇನೆಂದು ಹೇಳುತ್ತಿದ್ದವಳು ದಿನಾಂಕ:12/6/22 ರಂದು ಭಾನುವಾರ ತನ್ನ ಗಂಡ ಬರುತ್ತಿದ್ದಾನೆಂದು ಹೇಳಿದಳು ಪೊಲೀಸರಲ್ಲಿ ಗಂಡನೊಂದಿಗೆ ಮದ್ಯಾಹ್ನ ಮಾತನಾಡುತ್ತಿರಬೇಕಾದರೆ ಬಹಳ ದುಃಖದಿಂದ ಅವನೊಂದಿಗೆ ಮಾತನಾಡಿ ಏನೂ ಬುದ್ಧಿವಾದ ಹೇಳುತ್ತಿದ್ದಳು. ಅವನು ಬಹಳ ಕೆಟ್ಟದಾಗಿ ಭೈದು ಅವಳ ಕಣ್ಣಲ್ಲಿ ನೀರನ್ನು ಹಾಕಿದನು ನಾವು ಬೇಸರ ಬೇಡಮ್ಮ, ತಾಳ್ಮೆ ಇರಲಿ ಎಂದು ಹೇಳಲಾಗಿ ಅಮ್ಮಾ ಅಪ್ಪ ನನ್ನ ತಾಳ್ಮೆಗೆ ಬೆಲೆನೇ ಇಲ್ಲಾ ನನಗೇನಾದರೂ ಆದರೆ ಆ ದೇವರೆ ನೋಡಿಕೊಳ್ಳಲಿ ನಾನು ಅವನ ಮೇಲೂ ನಿಮ್ಮ ಮೇಲೂ ಕೆಟ್ಟದನ್ನು ಬಯಸೋದಿಲ್ಲ. ನನಗೆ ನೀವು ಹೆಚ್ಚು ವಿದ್ಯೆ, ಸಂಸ್ಕಾರ ಕೊಟ್ಟಿದ್ದೀರಿ ಕಾಯುತ್ತೇನೆ. ಕೆಲಸ ಮಾಡುತ್ತೇನೆ ನನ್ನ ಕಾಲುಗಳ ಮೇಲೆ ನಾನು ನಿಂತು ನಿಮ್ಮನ್ನೆಲ್ಲಾ ಸಂತೋಷ ಪಡಿಸ್ತೀನಿ ಎಂದು ಹೇಳಿದಳು. ಭಾನುವಾರ ರಾತ್ರಿ 11-00 ಗಂಟೆಯಲ್ಲಿ ನಮ್ಮೊಂದಿಗೆ ಇದ್ದವಳು ರಾತ್ರಿ ಸಮಯದಲ್ಲಿ ತನ್ನ ಬೆಡ್ ರೂಂನಲ್ಲಿ ರೂಫ್ ಸೀಲಿಂಗ್‌ಗೆ ನೇಣು ಹಾಕಿಕೊಂಡು ಮೃತಪಟ್ಟಿದಾಳೆ. ಇವಳ ಆತ್ಮಹತ್ಯೆಗೆ ಈಕೆಯ ಗಂಡ ನಿರಂಜನ ಒಬ್ಬನೇ ಕಾರಣನಾಗಿದ್ದಾನೆ. ಈ ನನ್ನ ಮಗಳ ಆತ್ಮಹತ್ಯೆಯ ಬಗ್ಗೆ ಸರಳ ದೂರನ್ನು ನೀಡಿದ್ದು, ನಿಮ್ಮ ಠಾಣೆಯಲ್ಲಿ ಯುಡಿಆರ್ 16/22 ದಾಖಲಾಗಿದೆ. ನಾನು ಆ ದೂರನ್ನು ನೀಡುವಾಗ ನನ್ನ ಮನಸ್ಸು ಭಿದ್ರವಾಗಿದ್ದು ವಿವರಗಳನ್ನು ಅದರಲ್ಲಿ ಬರೆದಿರುವುದಿಲ್ಲ. ನನ್ನ ಅಳಿಯನ ಕುಡುಕುತನ, ದುರ್ವರ್ತನೆ, ದುರಾಸೆ, ಅವನು ಹೆಂಡತಿಗೆ ನೀಡುತ್ತಿದ್ದ ನಿರಂತರ ಮಾನಸಿಕ ಹಿಂಸೆ ಮತ್ತು ದೈಹಿಕ ವರ್ತನೆ ಕಾರಣವಾಗಿದ್ದು ನನ್ನ ಮಗಳು ಅವರ ಕಿರುಕುಳ ತಡೆದು ಕೊಳ್ಳಲಾರದೆ ತನ್ನ ಜೀವನವನ್ನು ಆತ್ಮಹತ್ಯೆಯನ್ನು ಮಾಡಿಕೊಂಡು ಮುಗಿಸಿ ಕೊಂಡಿರುತ್ತಾಳೆ. ಕಾನೂನು ರೀತ್ಯ ಕ್ರಮ ಕೈಗೊಳ್ಳಲು ಕೋರಿ ಪಿಠ್ಯಾದನ್ನು ನೀಡಿದ್ದಾನೆ.

ತಮ್ಮ ವಿಧೇಯ

ಸಹಿ/-

ವಿಜಯಕುಮಾರ್

14/6/22."

(Emphasis added)

A perusal at the complaint registered on 14-06-2022 would indicate circumstances which would touch upon the ingredients of the offence, as the father narrates on 12-06-2022 the petitioner and the deceased were in long conversation and after the conversation it is the narration in the complaint that the daughter was in deep mental stress and tears. The complaint also narrates that when the daughter was pregnant in the year 2019, the petitioner husband takes her to a hospital and gets forcible abortion to her. The complaint also narrates transfer of certain money at intermittent intervals to the son-in-law. In the teeth of this complaint, it is germane to notice the allegations

made *qua* the offences punishable under the IPC. Section 304B of the IPC which is the crux of the allegations reads as follows:

*"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 purposes 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."

(Emphasis supplied)

Section 304B of the IPC directs that when a death of a woman is caused by burns or bodily injury or otherwise occurs under normal circumstances within seven years of her marriage and it is shown that *soon before her death* she was subjected to cruelty by her husband or any relative of her husband 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. The daughter of the complainant commits suicide on the night of 12-06-2022. The complaint narrates that on the night of 12-06-2022 just before the fateful incident she was in conversation with her husband. Whether the conversation with the husband before her death has led to commission of suicide or it was collective harassment for years that has exploded in the said commission of suicide is a matter to be necessarily tried, as *prima facie* the complaint narrates such instances which could become ingredients of Section 304B of the IPC.

10. The learned counsel appearing for the respondent No.2 has placed on record the transactions between the account of the father of the deceased and the son-in-law which narrates certain amounts being transferred intermittently. So are the amounts transferred from the account of the husband/petitioner to his wife. But, nonetheless from the father-in-law, there are transfers of amounts to the son-in-law. The quantum of amount is not the issue, but the transfer of amounts would require evidence as to whether it was demand of dowry or otherwise. The phrase '**soon before**' as obtaining under Section 304B IPC has been interpreted by the Apex Court while interpreting Section 304B of the IPC. A three Judge Bench of the Apex Court in the case of **KANS RAJ v. STATE OF PUNJAB**⁴ has held as follows:

*"15. It is further contended on behalf of the respondents that the statements of the deceased referred to the instances could not be termed to be cruelty or harassment by the husband soon before her death. "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,***

⁴ (2000) 5 SCC 207

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."

(Emphasis supplied)

The Apex Court holds that there cannot be straight jacket formula for interpretation of the phrase 'soon before'. It is a relative term which is required to be considered under specific circumstances of each case. 'Soon before' is not synonymous with the term 'immediately before'. The Apex Court in a later judgment in the case of ***SURINDER SINGH v. STATE OF HARYANA***⁵ while again dealing with Section 304B of the IPC has held as follows:

"15. Section 113-B of the Evidence Act, 1872 states that:

"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."

16. Section 304-B IPC states that:

"304-B.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."

17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B

⁵ (2014) 4 SCC 129

IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words "soon before" is, therefore, important. The question is how "soon before"? This would obviously depend on 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* [(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)

11. The Apex Court also considers Section 113B of the Evidence Act, 1872 wherein the presumption as to dowry death is against the accused unless otherwise proved. The Apex Court also interprets the phrase 'soon before' as obtaining in Section 304B of the IPC. The Apex Court in a later judgment in the case of **STATE OF MADHYA PRADESH v. JOGENDRA AND ANOTHER**⁶ has again interpreted the phrase 'soon before' as not to be synonymous of the phrase 'immediately before'. Any limited interpretation given to the word 'soon before' will defeat the very spirit of the statute itself. The Apex Court has held as follows:

"9. The most fundamental constituent for attracting the provisions of Section 304-B IPC is that the death of the woman must be a dowry death. The ingredients for making out an offence under Section 304-B have been reiterated in several rulings of this Court. Four prerequisites for convicting an accused for the offence punishable under Section 304-B are as follows:

- (i) that the death of a woman must have been caused by burns or bodily injury or occurred otherwise than under normal circumstance;*

⁶ (2022) 5 SCC 401

- (ii) *that such a death must have occurred within a period of seven years of her marriage;*
- (iii) *that the woman must have been subjected to cruelty or harassment at the hands of her husband, soon before her death; and*
- (iv) *that such a cruelty or harassment must have been for or related to any demand for dowry.*

10. As the word "dowry" has been defined in Section 2 of the Dowry Prohibition Act, 1961 (for short "the Dowry Act"), the said provision gains significance and is extracted below:

"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 parents 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-I. * * *

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

11. In a three-Judge Bench decision of this Court in *Rajinder Singh v. State of Punjab* [*Rajinder Singh v. State of Punjab*, (2015) 6 SCC 477 : (2015) 3 SCC (Cri) 225] , Section 2 of the Dowry Act has been split into six distinct parts for a better understanding of the said provision, which are as follows : (SCC p. 485, para 8)

"8. A perusal of Section 2 shows that this definition can be broken into six distinct parts:

(1) **Dowry must first consist of any property or valuable security— the word "any" is a word of width**

and would, therefore, include within it property and valuable security of any kind whatsoever.

(2) Such property or security can be given or even agreed to be given. The actual giving of such property or security is, therefore, not necessary.

(3) Such property or security can be given or agreed to be given either directly or indirectly.

(4) Such giving or agreeing to give can again be not only by one party to a marriage to the other but also by the parents of either party or by any other person to either party to the marriage or to any other person. It will be noticed that this clause again widens the reach of the Act insofar as those guilty of committing the offence of giving or receiving dowry is concerned.

(5) Such giving or agreeing to give can be at any time. It can be at, before, or at any time after the marriage. Thus, it can be many years after a marriage is solemnised.

(6) Such giving or receiving must be in connection with the marriage of the parties. Obviously, the expression "in connection with" would in the context of the social evil sought to be tackled by the Dowry Prohibition Act mean "in relation with" or "relating to".

(emphasis supplied)

12. In the light of the above provision that defines the word "dowry" and takes in its ambit any kind of property or valuable security, in our opinion, the High Court fell into an error by holding that the demand of money for construction of a house cannot be treated as a dowry demand.

In Appasaheb case [Appasaheb v. State of Maharashtra, (2007) 9 SCC 721 : (2007) 3 SCC (Cri) 468] referred to in the impugned judgment [Jogendra v. State of M.P., Criminal Appeal No. 48 of 2004, decided on 10-9-2008 (MP)] , this Court had held that a demand for money from the parents of the deceased woman to purchase manure would not fall within the purview of "dowry", thereby strictly interpreting the definition of dowry. This view has, however, not been subscribed to in Rajinder Singh case [Rajinder Singh v. State of Punjab, (2015) 6 SCC 477: (2015) 3 SCC (Cri) 225] wherein it has been held that the said decision as also the one in Vipin Jaiswal v. State of A.P. [Vipin Jaiswal v. State of A.P., (2013) 3 SCC 684 : (2013) 2 SCC (Cri) 15] , do not state the law correctly. Noting that the aforesaid decisions were distinct from four other decisions of this Court viz. Bachni Devi v. State of

Haryana [*Bachni Devi v. State of Haryana*, (2011) 4 SCC 427 : (2011) 2 SCC (Cri) 280] , *Kulwant Singh v. State of Punjab* [*Kulwant Singh v. State of Punjab*, (2013) 4 SCC 177 : (2013) 2 SCC (Cri) 339] , *Surinder Singh v. State of Haryana* [*Surinder Singh v. State of Haryana*, (2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769] and *Raminder Singh v. State of Punjab* [*Raminder Singh v. State of Punjab*, (2014) 12 SCC 582 : (2014) 5 SCC (Cri) 116] , **the Court opined that keeping in mind the fact that Section 304-B was inserted in IPC to combat the social evil of dowry demand that has reached alarming proportions, it cannot be argued that in case of an ambiguity in the language used in the provision, the same ought to be construed strictly as that would amount to defeating the very object of the provision. In other words, the Court leaned in favour of assigning an expansive meaning to the expression "dowry" and held thus: (*Rajinder Singh case* [*Rajinder Singh v. State of Punjab*, (2015) 6 SCC 477: (2015) 3 SCC (Cri) 225] , SCC p. 491, para 20)**

"20. [**Ed.** : Para 20 corrected vide Official Corrigendum No. F.3/Ed.B.J./16/2015 dated 6-4-2015.] Given that the statute with which we are dealing must be given a fair, pragmatic, and common sense interpretation so as to fulfil the object sought to be achieved by Parliament, we feel that the judgment in *Appasaheb case* [*Appasaheb v. State of Maharashtra*, (2007) 9 SCC 721 : (2007) 3 SCC (Cri) 468] followed by the judgment of *Vipin Jaiswal* [*Vipin Jaiswal v. State of A.P.*, (2013) 3 SCC 684 : (2013) 2 SCC (Cri) 15] do not state the law correctly. **We, therefore, declare that any money or property or valuable security demanded by any of the persons mentioned in Section 2 of the Dowry Prohibition Act, at or before or at any time after the marriage which is reasonably connected to the death of a married woman, would necessarily be in connection with or in relation to the marriage unless, the facts of a given case clearly and unequivocally point otherwise."**

(emphasis supplied)

13. The Latin maxim "Ut res magis valeat quam pereat" i.e. a liberal construction should be put up on written instruments, so as to uphold them, if possible, and carry into effect, the intention of the parties, sums it up. Interpretation of a provision of law that will defeat the very intention of the legislature must be shunned in favour of an interpretation that will promote the object sought to be achieved through the legislation meant to uproot a social

evil like dowry demand. In this context, the word "dowry" ought to be ascribed an expansive meaning so as to encompass any demand made on a woman, whether in respect of a property or a valuable security of any nature. When dealing with cases under Section 304-B IPC, a provision legislated to act as a deterrent in the society and curb the heinous crime of dowry demands, the shift in the approach of the courts ought to be from strict to liberal, from constricted to dilated. Any rigid meaning would tend to bring to naught, the real object of the provision. Therefore, a push in the right direction is required to accomplish the task of eradicating this evil which has become deeply entrenched in our society.

14. In the facts of the instant case, we are of the opinion that the trial court has correctly interpreted the demand for money raised by the respondents on the deceased for construction of a house as falling within the definition of the word "dowry". The submission made by the learned counsel for the respondents that the deceased was also a party to such a demand as she had on her own asked her mother and maternal uncle to contribute to the construction of the house, must be understood in the correct perspective. It cannot be lost sight of that the respondents had been constantly tormenting the deceased and asking her to approach her family members for money to build a house and it was only on their persistence and insistence that she was compelled to ask them to contribute some amount for constructing a house. The Court must be sensitive to the social milieu from which the parties hail. The fact that the marriage of the deceased and Respondent 1 was conducted in a community marriage organisation where some couples would have tied the knot goes to show that the parties were financially not so well off. This position is also borne out from the deposition of PW 1 who had stated that he used to bear the expenses of the couple. Before the marriage of the deceased also, PW 1 had stated that he used to bear her expenses and that of her mother and brother (his sister and nephew) as her father had abandoned them. In this background, the High Court fell in an error in drawing an inference that since the deceased had herself joined her husband and father-in-law, the respondents herein and asked her mother or uncle to contribute money to construct a house, such demand cannot be treated as a "dowry demand". On the contrary, the evidence brought on record shows that the deceased was pressurised to make such a request for money to her mother and uncle. It was not a case of complicity but a case of sheer helplessness faced by the deceased in such adverse circumstances.

15. Now, coming to the second point urged by the learned counsel for the State that the High Court has overlooked the fact that Geeta Bai had been subjected to cruelty/harassment at the hands of the respondents soon before her death, which submission is strictly contested by the learned counsel for the respondents, we may note that the meaning of the expression "soon before her death" has been discussed threadbare in several judgments. In *SurinderSingh* [*Surinder Singh v. State of Haryana*, (2014) 4 SCC 129 : (2014) 4 SCC (Cri) 769], 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 pertinent observations have been made : (SCC pp. 137-39, paras 17-18)

"17. Thus, the words "soon before" appear in Section 113-B of the Evidence Act, 1872 and also in Section 304-B IPC. For the presumptions contemplated under these sections to spring into action, it is necessary to show that the cruelty or harassment was caused soon before the death. The interpretation of the words "soon before" is, therefore, important. The question is how "soon before"? This would obviously depend on 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)

16. In *Rajinder Singh* [*Rajinder Singh v. State of Punjab*, (2015) 6 SCC 477 : (2015) 3 SCC (Cri) 225] , falling back on the rulings in *Kans Raj v. State of Punjab* [*Kans Raj v. State of Punjab*, (2000) 5 SCC 207 : 2000 SCC (Cri) 935] , *Dinesh v. State of Haryana* [*Dinesh v. State of Haryana*, (2014) 12 SCC 532 : (2014) 6 SCC (Cri) 839] and *Sher Singh v. State of Haryana* [*Sher Singh v. State of Haryana*, (2015) 3 SCC 724 : (2015) 2 SCC (Cri) 422] , it has been emphasised that "soon before" is not synonymous to "immediately before" and the following observations have been made : (*Rajinder Singh* case [*Rajinder Singh v. State of Punjab*, (2015) 6 SCC 477 : (2015) 3 SCC (Cri) 225] , SCC p. 493, para 24)

"24. We endorse what has been said by these two decisions. Days or months are not what is to be seen. What must be borne in mind is that the word "soon" does not mean "immediate". A fair and pragmatic construction keeping in mind the great social evil that has led to the enactment of Section 304-B would make it clear that the expression is a relative expression. Time-lags may differ from case to case. All that is necessary is that the demand for dowry should not be stale but should be the continuing cause for the death of the married woman under Section 304-B."

(Emphasis supplied)

In the light of the contention of the learned counsel appearing for the petitioner that ingredients of Section 304B of the IPC are not satisfied in the case at hand is unacceptable. The contention is that it should be 'soon before death' and soon before death is required to be interpreted as 'immediately before death' and the deceased leaving matrimonial house two years ago would not mean immediately before death, are all repellable, as it is too far-fetched to be considered at this juncture. The FIR is registered for offences punishable under Section 304B of the IPC along with other offences. The complaint and the narration *prima - facie* indicate ingredients of Section 304B of the IPC."

(Emphasis supplied)

This Court in the afore-quoted judgment had considered several aspects which may become the ingredients of Section 304B of the

IPC. If not all, few of the findings are directly applicable to the facts obtaining in the case at hand.

12. Too much emphasis is laid on the death note of the daughter of the complainant. The Apex Court considers those very issues and convicts or affirms conviction of the husband and the members of the family, notwithstanding the death note blaming none. It is rather unfortunate that the age-old menace of dowry death still exists in our society today. Though progression has happened on every front, the cases of this kind which project the menace of dowry death is regressive. The offences are the ones punishable under Sections 498A and 304B of the IPC. Therefore, merely based upon the death note of the victim, which at all times would require evidence of circumstances in which the suicide happens or the death note is scribed, quashment of the proceedings under Section 482 of the Cr.P.C. is not a course available to this Court. Therefore, I decline to interfere to obliterate the proceedings against the petitioners.

13. Finding no merit in the petition, the petition should necessarily meet its dismissal and is accordingly ***dismissed***.

It is made clear that the observations made in the course of this order are only for the purpose of considering the case of the petitioners under Section 482 of the Cr.P.C. The same would not bind or influence any proceedings pending against the petitioners before any other *fora*.

Interim order of any kind operating shall stand dissolved. Consequently, I.A.No.2 of 2024 also stands disposed.

Sd/-

JUSTICE M.NAGAPRASANNA

Bkp
CT:MJ/SS