

Precedents on Dowry death and harassment of married woman

[1]

(i) Indian Penal Code, 1860:- Section 304-B Dowry death- Deceased got married to appellant on 25/-2/1996 died on 30/03/1999 in her matrimonial house – Death was due to intake of aluminium phosphite poisoning – Appellant and his parents were tried on the charge under but trial court convicted appellant alone – High Court upheld conviction and maintained sentence of 10 years imprisonment but enhanced fine from Rs. 2,000/- to 2 lacs – Appeal – Dowry death ingredients – Only controversy in the case was whether soon before death deceased was harassed and was subjected to cruelty on account of demand of dowry – FIR even mentioned that informant, father of deceased, was informed by deceased on 26/03/1999 on telephone that accused were harassing her for dowry and might kill her – No substance in defence contention that interested evidence of parents was not supported by independent evidence of locality – Appellant could not rebut the presumption under S. 113-B of Evidence Act – Conviction called for no interference.

(ii) Indian Penal Code, 1860 – Section 304-B – Dowry death – Court is not empowered to impose fine as a punishment – Trial Court's judgment imposing fine Rs. 2,000/- with substantive sentence and order of High Court enhancing fine to Rs. 2 lacs were unsustainable.

Criminal Procedure Code.

Criminal Procedure Code, 1973 – Section 357(3) – Enabling provision by which Court could give direction to pay fine amount as compensation – Section 357(3) contemplates a situation where complainant has suffered any loss or injury and for which accused has been found prima facie responsible – Direction to pay compensation under S. 357(3) [Cr.P.C.](#) is on assumption of basic civil liability on party of person who committed offence to redress the victim or his dependents by payment of compensation.

Arun Garg Vs. State of Punjab & Anr.

2004 (4) Crimes 233 (SC)

[2]

Indian Penal Code

Indian Penal Code, 1860 – Sections 143, 147, 148, 452, 325 and 304 Part II r/w 149 – 14 accused persons members of striking group of employees in factory came to guest house of Company armed with Lathis, chains and attached supervisors – Conviction of six accused by trial Court for offences – High Court set aside conviction on ground that witnesses including injured had no previous acquaintance with accused and their identification was doubtful – Appeal – Identification of accused was not established by Investigating Officer by showing photographs of accused to witnesses while recording statement under S. 161 [Cr.P.C.](#) – Procedure adopted by police was not justified under law – If witness had given identifying features of assailants, same could be confirmed by investigating officer by showing photographs – If suspect was available for identification, photograph shall not be shown to witness in advance – No illegality in judgment of acquittal.

D. Gopalakrishnan Vs. Sadanand Naik & Ors.

2004(4) Crimes 241 (SC)

[3]

Indian Penal Code

Penal Code (45 of 1860), S. 306 Abetment - Suicide by wife – Married life of husband and wife quarrelsome – Leading to dejection and mortification of wife – Evidence of neighbours not trustworthy and not corroborated – Mere quarelling with wife do not amount to abetment – Acquittal of husband proper.

State of Gujarat Vs. Sunilkumar Kanaiyalal Jani
1997 CRI.L.J. 2014 (Gujarat High Court)

[4]

Dowry Prohibition Act (1961)

Dowry Prohibition Act (1961), S. 3 – Dowry - Meaning – Mere allegation of giving of cash to bride-groom in absence of soruce from which cash was brought and discrepancy as to exact amount paid – Does not prove acceptance of dowry.

Criminal Procedure Code

Criminal P.C. (2 of 1974), S. 154 – FIR – Omission of particular event – Not always fatal.

Indian Penal Code

Penal Code (1860), S. 498-A – Cruelty – Proof – Mere statement that deceased wife was not happy with her husband, the deceased, is not sufficient, particularly in absence of any direct evidence, oral or documentary about the illtreatment – One or two incidents of assault by accused husband, is not likely to drive wife to commit suicide – Conviction of husband under S. 498-A Penal Code – Not proper.

Penal Code (1860), S. 306 – Suicide by married woman – Presumption of abetment under S. 113-A Evidence Act – Is not mandatory.

Nilakantha Pati Vs. State of Orissa

1995 Cri.L.J. 2472 (Orissa High Court)

[5]

Indian Penal Code

Penal Code (45 of 1860), S. 300 – Murder – Accused alleged to have burnt his wife by pouring kerosene oil – There was no reliable and trustworthy evidence on record – Conviction of accused – Illegal.

Evidence Act

Evidence Act (1 of 1872), S. 113-A – Presumption under – Requisite – It must be proved that wife was subjected to cruelty as defined under S. 498-A, IPC – Husband taking liquor daily despite constant protests from wife and in habit of coming late at night – Essential ingredients of cruelty not fulfilled – Alleged cruelty cannot be taken into consideration for raising presumption.

Jagdish Chander Vs. State of Haryana

1988 Cri.L.J. 1048 (Punjab & Haryana High Court)

[6]

Criminal Procedure Code

Criminal P.C. (2 of 1974), Ss. 432 and 433-A – Commutation and remission of sentence – Govt. has no power to commute sentence of imprisonment for life to a term less than 14 years – This power has nothing to do with power of remission envisaged by S. 432.

Pavitar Singh Vs. State of Punjab and another

1988 Cri.L.J. 1052 (Punjab & Haryana High Court)

[7]

Indian Penal Code

Penal Code (1860), S. 498-A – Offence under – Proof – It is not every harassment or every type of cruelty that would attract S. 498-A – It must be established that beating and harassment was with a view to force wife to commit suicide or to fulfil illegal demands of husband and in-laws.

Smt. Sarla Prabhakar Waghmare V. State of Maharashtra and others,
1990 CRI.L.J. 407 (Bombay High Court)

[8]

Indian Penal Code

Indian Penal Code, 1860 – Sections 304-B, 306, 498-A – Cruelty, abatement of suicide, Dowry death – Evidence considered in totality and accepted – Does not go beyond scolding and taunting by appellant, mother-in-law to her daughter-in-law as well as own daughter- Death within 4 months of marriage – No clinching and reliable evidence – Possibility of suicidal death not ruled out – Conviction unsustainable – Set aside.

Haribai @ Hirabai Narayan Gaikwad Vs. The State of Maharashtra
I (1998) DMC 94 (DB) (Bombay High Court)

[9]

Indian Penal Code.

Penal Code (45 of 1860), S. 498-A, Expln. (a) – Cruelty – Proof of – Reasonable nexus between cruelty and suicide must be established – Mere proof of cruelty or suicide is not enough.

Penal Code (45 of 1860), S. 498-A, Expln. (b) – Harassment – Mere harassment or mere demand for property etc. is not 'cruelty'.

Ravindra Pyarelal Bidlan and others V. State of Maharashtra
1993 CRI.L.J. 3019 (Bombay High Court)

[10]

Indian Penal Code.

Indian Penal Code, 1860, Section 498-A – Cruelty – Suicide by wife – Demand of money not accompanied by harassment – Conviction of husband set aside.

Maulaali Yakub Jamadar and others Vs. State of Maharashtra
[2001 (1) B.Cr.C. 481]

[11]

Indian Penal Code.

Penal Code, 1860 – Sections 306 and 107, 108 – Abetment of suicide – Proof of suicide a prerequisite – Normally direct evidence of suicide not available – Circumstances in which death took place, conduct of the accused persons and nature of the crime to be seen – Deceased wife died in her in-laws' house sustaining second to third degree burn injuries within seven months of her marriage- Accidental death by catching fire while cooking food on stove ruled out by trial court in view of absence of burn injuries on the fingertips of any of the members of the in-laws' family – Maternal uncle of the accused husband informing deceased's parents that the deceased committed suicide by sprinkling kerosene oil and setting herself on fire – Instigation in the form of constant dowry demands, taunts, insinuations, threats, ill-treatment and cruel behaviour by the husband and his parents found proved by the trial court – Other

circumstances such as failure on the part of the in-laws to attempt to save the deceased from burn injuries, taking her to hospital late in dead condition, great delay in informing deceased's parents about the death even though parents' house was not far off also found – Despite minor contradictions in statements of prosecution witnesses, prosecution case not shaken – On a proper evidence accused persons convicted under S. 306 and sentenced to five years' RI and fine of Rs. 2000/- by trial court – Held, trial court's view unexceptionable and the only view that could be taken in the circumstances – High Court erred in taking a contrary view and acquitting accused on a wrong appreciation of evidence – Evidence Act, 1872, Section 113-A – IPC, 1860, Section 498-A.

Gurbachan Singh V. Satpal Singh and others
(1990) 1 Supreme Court Cases 445

[12]

Indian Penal Code.

Penal Code (1860), Ss. 300, 302, 498-A – Bride burning – Evidence and proof – Traces of kerosene found on clothes of accused and deceased – C. A.'s report also confirming presence of kerosene on clothes of both – However, this is not substantive evidence but could be used as corroborative link to corroborate evidence of dying declaration or witness evidence – In the absence of any evidence conviction could not be sustained.

Evidence Act

Evidence Act (1872), S. 118 Child witness – Evidentiary value.

Baban S/o Bakayya Attre Vs. The State of Maharashtra
2002 ALL MR (Cri) 384 (Nagpur Bench)

[13]

Indian Penal Code.

Penal Code (1860), Ss. 307, 149 – Accused persons charged under – Prosecution case that two of the accused were armed with Barchha (spear) not proved – No incised wound found on victim or any of the prosecution witnesses – Participation of two accused doubtful – Their acquittal is proper.

Penal Code (1860), S. 307- Attempt to murder – Fight arising out of sudden quarrel – Conviction under S. 307 cannot generally be made – Accused armed with Ballam (spear) – Not using cutting edge of Ballam even though attacked – Accused do not have intention to murder – Acquittal of accused proper.

Penal Code (1860), Ss. 325, 323, 149, 148 – Accused acquitted of charge under Ss. 307, 149 but conviction under Ss. 325, 323 read with Section 149, 148 maintained – Sentence – Occurrence outcome of sudden flare up – No previous enmity between parties – Intention to murder absent – Accused entitled to benefit of probation.

Code of Criminal Procedure

Criminal P. C. (1974), S. 357 – Compensation to victims of offence – Power as to should be liberally exercised by courts to meet ends of justice – Considerations for determining compensation stated. (Compensation – Court's duty to award).

Criminal P. C. (1974), S. 357 – Compensation – Accused convicted under Ss. 325, 149, 148 of Penal Code – Occurrence outcome of sudden flare up – Power of speech of victim of offence impaired permanently – Compensation awarded to victim enhanced to Rs. 50,000/-.

Hari Kishan** and State of Haryana V. Sukhbir Singh and others**
AIR 1988 Supreme Court 2127

[14]

Indian Penal Code.

Indian Penal Code, 1860 – Section 498-A – Deceased got married to accused A1 in 1983 died on 22/07/1986 in matrimonial house – Post mortem report opined cause of death as to shock (neurogenic vegal inhibition) – Accused husband and his mother were tried only under section 498-A, Indian Penal Code and trial Court acquitted them – Appeal – Question whether offence under section 498-A, Indian Penal Code was attracted where husband failed to take care of his wife by providing proper food and clothing and thereby causing cruelty. - Overwhelming evidence of [P.W.2](#), brother of deceased, that A1 used to illtreat deceased and assaulted her several times – Sufficient evidence that deceased was subjected to cruelty by her husband by not providing basic necessities within his means – Trial Court committed grave error in acquitting A1 – Acquittal against A1 was liable to be set aside and A1 convicted under Section 498-A Indian Penal Code – Sentence of one year imprisonment and fine of Rs. 5,000/- awarded – Fine if recovered to be paid as compensation to mother of deceased.

Indian Penal Code, 1860 – Section 498-A – Cruelty – Cruelty has a wider meaning and is not confined to only demand of dowry – Word “cruelty” has wider ramifications and depends on facts of each case.

State of Karnataka Vs. Veerabhadrapa and Anr.
2001 (4) Crimes 590

[15]

Indian Penal Code.

Penal Code, S. 498-A – Mere harassment does not amount to cruelty as defined in the Explanation to section 498-A Indian Penal Code – It must be established that the beating or harassment was with a view to force the wife to commit suicide.

Bhagwan Sakharb Said and others Vs. State of Maharashtra
[2000 (4) [Mh.L.J.](#) 410]

[16]

Indian Penal Code.

Penal Code (1860) , S. 300 – Murder – Evidence – Circumstantial evidence – No eye-witness – Circumstantial evidence suffering from a number of infirmities – Doctor unable to find the

cause of death because the dead bodies were in decomposed state – Held that it could not be said that the death of the persons whose bodies were recovered was homicidal.

Penal Code (1860), S. 300 – Murder – Appreciation of evidence- Dead bodies in a decomposed state – Doctor did not send the dead bodies to an anatomy expert – Failure of doctor cannot be a ground for drawing an inference adverse to accused – Accused cannot be made to suffer because of that omission – Accused and not the prosecution would be entitled to get benefit of any gap of lacuna in prosecution evidence.

Evidence Act

Evidence Act (1872), S. 24 – Extra judicial confession – Value of.

The evidence of extra judicial confession in the very nature of things is a weak piece of evidence.

Evidence Act (1872), S. 3 – Appreciation of evidence – Suspicion against accused – Suspicion, by itself however strong it may be, is not sufficient to take place of proof and warrant a finding of guilt of accused.

Constitution of India

Constitution of India, Art. 136 – Appeal by special leave – Appeal against acquittal – Interference .

The State of Punjab V. Bhajan Singh and others **AIR 1975 Supreme Court 258**

[17]

Contract Act

Contract Act (1872) S. 56 – Doctrine of frustration – Applicability – Agreement of lease – Demise in praesenti – Doctrine will not apply – Mysore Rent Control Act (22 of 1961) S. 31 – Effect – (Specific Relief Act (1963) S. 13). Decision of Mys. H. C. Reversed.

H.V. Rajan V. C.N. Gopal and others **AIR 1975 Supreme Court 261**

[18]

Criminal Procedure Code

Criminal Procedure Code, 1973, section 154 – Delay in lodging first information report – Remained unexplained – Possibility of false insinuation and allegations being made in FIR cannot be ruled out.

Indian Penal Code.

Indian Penal Code, 1860 , Sections 498-A and 306 – Conviction under – Prosecution failed to establish illtreatment and demand of money by the appellant – The informant i.e. Brother of deceased received financial and other help from the accused and his family members – Unexplained belated FIR – PW 3 not supporting the prosecution case – Held, it is unsafe to rely upon the evidence of the brother and other relatives of the deceased – Conviction and sentence is unsustainable and liable to be quashed.

Khemraj Hiralal Agarwal V. State of Maharashtra
[1995 (2) B.Cr.C. 472]

[19]

Indian Penal Code.

Indian Penal Code, 1860, Sections 304-B and 498-A – Conviction under – ill-treatment and dowry death – Production of two letters by the prosecution to establish the charge – Letters do not reveal any sort of ill-treatment or demand of dowry – No independent witness was examined – Close relatives of the deceased were examined only – Held, prosecution failed to establish the offences against the accused beyond reasonable doubt – Conviction and sentence quashed and set aside.

Satish Shankarrao Ghogre Vs. State of Maharashtra
[1999 (1) B.Cr.C. 294 (Bombay High Court)]

[20]

Dowry Prohibition Act

Dowry Prohibition Act (28 of 1961), S. 4 – Dowry – Demand of – Suicide committed by woman within eight months of marriage – Father of deceased had agreed to give said ornaments to her in marriage – Letters written by deceased to her parents showing that ornaments demanded were of silver – Dying declaration of deceased did not reveal that demand of dowry compelled her to end her life – Mere reminder of small things – Does not amount to demand of dowry.

Indian Penal Code.

Penal Code (45 of 1860), S. 498-A – Cruelty – Remarks passed by accused, mother-in-law that deceased was not beautiful, was not of such a nature to drive her to commit suicide – No grave and serious provocation caused by accused – Letters written by deceased showing that she was very emotional, of low tolerance and unstable mind – There was no indication or evidence of physical assault or torture – Accused cannot be said to have subjected the deceased to cruelty.

Smt. Annaapurnabai alias Bhoori V. State of M.P.
1999 CRI.L.J. 2696

[21]

Indian Penal Code.

Penal Code (45 of 1860), Ss. 376(2) (g), - 302/34 – Rape and murder – Proof – Allegations that accused persons raped and murdered complainant's minor daughter when she was alone in

her house and threw her dead body in septic tank – Evidence showing that both accused were working in house of complainant on day of incident- Both accused gave false explanation to witnesses about whereabouts of victim – Recovery of blood and seminal stains bed sheets and weapon of offence at instance of accused proved – Medical evidence showing that victim had resisted but accused with their brutal force had overpowered her and after misusing her, snuffed out life from her – Involvement and active participation of both accused in alleged crime proved – Conviction of accused under S. 376 (2) (g) and Ss. 302/34, proper.

Penal Code (45 of 1860), S. 201 – Causing disappearance of evidence – Gang rape and murder case – Evidence showing that accused persons threw dead body of victim and cycle belonging to victim in septic tank – Further accused persons concealed clothings having blood and semen marks and also concealed weapon of offence – Their conviction under S. 201, proper.

Penal code (45 of 1860), Ss. 376, 302 – Death sentence – Accused persons working in house and expected to take care of victim raped and killed her and threw her dead body in septic tank – No cause for accused to rape victim except a depraved lust – Entire offence was extremely brutal in character and carried out in a demonic manner suggesting extreme depravity of character on their part – No condoning or mitigating factors in favour of accused persons – Death sentence confirmed.

State of M.P. Vs. Molai

1999 CRI.L.J. 2698 (M.P.High Court)

[22]

Indian Penal Code

Penal Code (1860), Ss. 498-A, 306 – Evidence and proof – Wife receiving hundred percent burn injuries – One witness stating that she told him in hospital that while extinguishing stove she caught fire and her husband tried to save her – Investigating Officer's testimony not reliable as he omitted to say that appellant was also burnt and was admitted in hospital – No evidence of illtreatment of wife on account of suspicion about her character produced – On the contrary evidence supporting that he love her and he took all the care of her during her pre-mature delivery and the child was also staying with him – Held there was no proof of ill-treatment compelling her to commit suicide and consequently his conviction was liable to be set aside.

Pradeep Dadu Sawant Vs. The State of Maharashtra

2000 ALL MR (Cri) 1463

[23]

Indian Penal Code

Penal Code (1860), Ss. 320 Cl. Eighthly and 326 – Accused throwing acid on his wife – Injuries sustained by victim on her chest and waist – Victim's version corroborated by other evidence – Panchnama under which victim's clothes were attached also supportive evidence – Victim suffering severe burn injuries which required her hospitalisation for five months – It would amount to grievous hurt within S. 320 Cl eighthly and accused can be convicted under S. 326.

Ramesh Bhagwandas Chhavariya Vs. The State of Maharashtra

2000 ALL MR (Cri) 1470

[24]

Indian Penal Code

Penal Code (45 of 1860), S. 306 – Abetment to commit suicide – No dependable evidence in regard to actual abetment by any of the accused – Accused entitled to be acquitted. Decision of Punj. & Har. High Court, Reversed.

Chanchal Kumari and others Vs. Union Territory, Chandigarh.

AIR 1986 Supreme Court 752

[25]

Evidence Act

Evidence Act (1 of 1872), S. 113-A – Presumption under – Wife committing suicide within 5 years from date of marriage – She was living with her parents for about 2 – 3 years – Within one month of returning to matrimonial home she jumped in well – Harassment by husband and her in-laws during this months not proved beyond doubt – No presumption can be raised against husband.

Dhobilal Vs. State of M.P.

1998 CRI.L.J. 4108

[26]

Indian Penal Code

Penal Code (45 of 1860), S. 498-A – Dowry death- Dying declarations, a statement of deceased recorded by doctor in hospital and another statement by her recorded by Investigating Officer – Failure of Doctor and Investigating Officer to requisition services of the Magistrate – No reasons were assigned by them – Cause of death of deceased being different than what is stated by her in statement made to doctor it loses its credence altogether – Cause of death of deceased was a natural death – Thus both the statements made by her do not fall within ambit of dying declaration within meaning of S. 32 of Evidence Act – Conviction of accused on that basis – Liable to be set aside.

Uppagala Sathish Kumar and others V. State of A. P.

1999 CRI.L.J. 3906

[27]

Criminal Procedure Code

Criminal P.C. (20 of 1974) Ss. 156(3), 482 – Investigation – Powers of Magistrate – Complaint for offence under S. 167, Penal Code – Averments in complaint cryptic and not disclosing alleged offence – Order of Magistrate directing investigation under S. 156(3) without applying his mind to allegations made in complaint – Is without jurisdiction – High Court either under S. 482 or under Art. 226 of Constitution empowered to quash investigation.

Guruduth Prabhu and others V. M.S. Krishna Bhat and others.

1999 CRI.L.J. 3909

[28]

Indian Penal Code

Penal Code (45 of 1860), Ss. 306, 498-A – Abetment of suicide – Dying declaration – Credibility – Declaration recorded by Executive Magistrate in narration form and not in question and

answer form – Sequence of events viz. Beating to deceased – wife and thereafter her jumping into well in declaration not corroborated by sequence of events as narrated in complaint – Doctor also admitted in his cross-examination that deceased was not in fit viable state to give any declaration – Such dying declaration cannot be relied upon to base conviction of accused in absence of any further corroboration – Conviction liable to be set aside.

Chehraj Chhagnaji Koli V. State of Gujarat
1998 CRI.L.J. 2573

[29]

Indian Penal Code

Penal Code (45 of 1860), Ss. 306, 498-A – Cruelty to wife and abetment of suicide- Proof – Allegation of illicit relations between two accused persons and maltreatment to deceased by accused – Not supported by evidence – Single instance of accused stating that he had received meagre dowry – It cannot be inferred there from that he demanded dowry and maltreated deceased on that count – Deceased though had time did not disclose cause of her committing suicide – Nor connected accused with it – Ingredients of offence of cruelty and abetment of suicide not established – Presumption under S. 113-A – Evidence Act would not arise – Conviction set aside.

Prem Dass and another V. State of H.P.
1996 CRI.L.J. 951

[30]

Indian Penal Code

Penal Code, S. 304-B, Dowry Prohibition Act (28 of 1961), S. 2 and Evidence Act, S. 56 – Sine qua non for attracting section 304-B , Indian Penal Code is being guilty of cruelty or harassment which has a nexus with demand for dowry – Demand on part of husband or his relatives for property after marriage in conformity with existing custom is not demand for dowry – Where wife commits suicide due to constant pressure for customary presents, her death cannot be called a dowry death and section 304-B, Indian Penal Code will not apply.

Penal Code S. 498-A and Explanation – Even if demand for property or valuable security is in conformity with custom or usage and a woman is harassed with a view to coerce her to meet such demand, it will amount to cruelty punishable under section 498-A – Concept of cruelty contemplated by section 498-A is wide.

Dowry Prohibition Act

Dowry Prohibition Act (28 of 1961), S. 2 – Where demand for property or valuable security has no connection with the consideration for marriage, it will not amount to a demand for dowry.

Arjun Dhondiba Kamble and others V. State of Maharashtra
1993 Mh.L.J. 1007

[31]

Bombay Rents, Hotel and Lodging House Rates Control Act

Bombay Rents, Hotel and Lodging House Rates Control Act (57 of 1947), Ss. 28 and 5 (8) – Land used for cultivating and cutting grass and other produce not being premises within the meaning of section 5 (8) provisions of the Bombay Rent Act are not applicable to such property and Small Causes Court has no jurisdiction to deal with suit relating to such property.

Vinod Parshuram Mahajan and others Vs. Abdul Rehman Kashmiri and others
1993 Mh.L.J. 1013

[32]

Indian Penal Code

Indian Penal Code, 1860, Section 498-A – Cruelty – The willful conduct must be of such a nature as is likely to drive the woman subjected to cruelty to commit suicide or to cause great injury or danger to life and health of woman to warrant conviction under S. 498-A.

Suresh Haribhau Pharande Vs. State of Maharashtra
[1998 (1) Mah. LR 130]

[33]

Evidence Act

Evidence Act, 1872, Section 114-G – Adverse inference – Assault by stones alleged by the prosecution – No injury report or medical evidence is forthcoming – Adverse inference under S. 114-G should be drawn against the prosecution.

Kashinath Bhau Khalse and others Vs. State of Maharashtra
[1998 (1) Mah. LR 134]

[34]

Indian Penal Code

Penal Code (45 of 1860), S. 304-B – Dowry death – Prosecution alleged that kerosene was poured all round and thereafter with lighted match stick the bride was burnt to death alive – High Court looked into original FIR and found that allegation with regard to demand of dowry was added by making interpolation – Acquittal of accused persons – Not interfered with even though High Court did not examine issue of non-examination of investigating officer.

Penal Code (45 of 1860), Ss. 302, 304-B – Bride burning – Conversion of charge against husband from S. 304-B to S. 302 – Ground that only motive of murder could be attributed to husband “who must be interested in committing such offence so that he can perform another marriage” – Said assumption not supported by cogent evidence available on record – Not tenable – Conversion of charge against accused husband under S. 304-B to S. 302, not permissible.

Penal Code (45 of 1860), S. 304-B – Bride burning – Burden of proof – Allegations of pouring kerosene and setting wife on fire against husband and others – Husband being companion in bedroom ought to be able to explain as to the circumstances- But there exist an obligation on part of prosecution to prove the guilt of the accused beyond reasonable doubt.

Penal Code (45 of 1860), S. 498-A – Cruelty to wife – Proof – No evidence tendered to suggest the same – Only hold interpolated allegations made in FIR – Not sufficient to bring home charge under S. 498-A.

Evidence Act

Evidence Act (1 of 1872), S. 32 – Dying declaration – Bride burning – Deceased alleged to have made declaration to her mother just before few minutes of her death – Naming her in-laws along with husband who poured kerosene to burn her alive – No medical certification that deceased was in fit state of mind at time of making declaration – Uncorroborated testimony of mother to whom deceased made the declaration – Held, not worth acceptance.

Arvind Singh V. State of Bihar
2001 CRI.L.J. 2556.

[35]

Indian Penal Code

Indian Penal Code, 1860 – Section 306 – Deceased died because of fall in a well – No positive medical opinion about suicidal death – Father of deceased did not allege the suicidal death as accidental – No evidence of any disturbed mental condition or any depression so as to force deceased to commit suicide – Conviction cannot be sustained.

Indian Penal Code, 1860 – Section 498-A/34 – Harassment or cruelty must be established was with a view to force wife to commit suicide or to fulfill illegal demands of husband & in-laws – Deceased died because of fall in a well while staying at her parents house – General evidence that whenever deceased visited the parental house she was complaining about illtreatment and harassment by accused – No case of prosecution that there was any demand of any article or money – No cogent evidence in respect of suicidal death – Conviction cannot be sustained.

Vithal & Ors. Vs. State of Maharashtra
1996 (1) Crimes 285 (Bombay High Court)

[36]

COFEPOSA ACT

COFEPOSA Act, 1974 – Section 9 – Detention order – Detenue not apprised of fact that he could make a representation against declaration to declaring authority as well – Declaration violates Art. 22 (5) of the Constitution – Opinion of Advisory Board was sent beyond period of three months – Detention becomes illegal.

Gurmit Singh Ghotra V. Union of India & Ors.
1996 (1) Crimes 290 (Delhi High Court)

[37]

Indian Penal Code

Penal Code (45 of 1860), Ss. 306, 498-A – Offence of abetment of suicide – Ingredients- Mere allegation of harassment made by deceased in her dying declaration against accused – Not sufficient to constitute the offence – Accused already undergoing sentence – Substitution of charge under S. 498-A for harassment likely to cause prejudice to him – Appeal disposed of as infructuous.

Mahendra Singh and another Vs. State of Madhya Pradesh
1996 CRI.L.J. 894

[38]

Code of Criminal Procedure

Criminal P.C. (2 of 1974), S. 320 – Compounding of offence – Offence under Penal Code – Is not compoundable offence – It cannot be compounded even as special case.

Criminal P. C. (2 of 1974), Ss. 320 (9), 482 – Compounding of offence – Statutory bar under S. 320 (9) – Cannot be overcome by resorting to inherent powers under S. 482.

Indian Penal Code

Penal Code (45 of 1860), S. 498-A – Cruelty – Proof – No evidence to prove alleged acts of cruelty by accused husband – Nothing on record to prove demand for cash or valuables – Case was built up during course of evidence – Non-examination of independent witnesses – Case against accused not proved beyond reasonable doubt – Accused entitled to acquittal.

State of Karnataka Vs. H. S. Srinivas

1996 CRI.L.J. 3103

[39]

Indian Penal Code

Penal Code, S. 498A – Mere harassment does not amount to cruelty as defined in the Explanation to section 498-A, Indian Penal Code – It must be established that the beating or harassment was with a view to force the wife to commit suicide.

Bhagwan Sakharan Said & anr. Vs. State of Maharashtra

[2000(4) Mh.L.J. 410

[40]

Indian Penal Code

Indian Penal Code, 1860 – Sections 306 and 498A – Deceased married to appellant No. 1 met with suicidal death at the place of her father – A chit under her hand-writing was found in her blouse which was treated to be dying declaration – Father and sister of deceased spoke about cruelty, harassment and ill-treatment by accused persons on account of dowry demand – Conviction by trial court – Appeal – Evidence to show that in order to rope in all appellants in the offence suicide note (chit) was prepared – Only witness P. W. 6 examined to identify suicide note as an handwriting of deceased admitted in cross that she had no occasion to read handwriting of deceased earlier – Prosecution failed to prove handwriting and signature of deceased on suicide note – There was no primary or direct evidence of cruelty and nature of evidence examined by prosecution was hear-say - Conviction could not be sustained.

Deepak Bhimrao Bharné & Ors. Vs. State of Maharashtra

2004 (4) Crimes 500

[41]

Evidence Act

Evidence Act (1872), S. 3 – Appreciation of evidence – Accused charged under Ss. 304B, 306, 498A IPC – Evidence of illtreatment and demand of money – Evidence of mother and brother of

deceased lady cannot be accepted as corroborative evidence – It has to be from independent witnesses.

Satish Shankarrao Ghorge Vs. The State of Maharashtra
1998 ALL MR (Cri) 1501

[42]

Indian Penal Code

Penal Code, S. 498A Explanation (b) – Harassment of woman – It would not constitute cruelty in absence of evidence that such harassment was with a view to coerce her to meet any unlawful demand for dowry.

Penal code, S. 498A – Wilful act or conduct ought to be proximate cause in order to bring home charge under section 498 A and not de hors the same.

Penal Code, Ss. 306 and 498A – Charges under sections 306 and 498A are independent of each other – Acquittal of one does not lead to acquittal on the other.

Evidence Act

Evidence Act (1 of 1872), S. 32- Dying declaration – Corroboration through not essential is expedient to strengthen its evidential value.

Constitution of India

Constitution of India, Art. 136 – Criminal appeal – Appreciation of evidence by Supreme Court – Not barred when there is total mis-appreciation of evidence leading to utter perversity.

Girdhar Shankar Tawade Vs. State of Maharashtra
2002 (4) Mh.L.J. 5 (SC)

[43]

Indian Penal Code

Penal Code (45 of 1860), Ss. 302, 306, 498-A – Cruelty and abetment of suicide – Acquittal of accused of charge under Section 302 which was only charge framed against him – Sessions Court could not have convicted him of offence under Sections 306 and 498-A.

Penal Code (45 of 1860), Ss. 306, 498-A – Cruelty and abetment of suicide – Proof – Death of deceased wife by hanging – No evidence showing wilful conduct of accused husband of such nature as is likely to drive his wife to commit suicide as defined in explanation to Section 498A – No witness spoke about positive step taken by accused or instigation by accused to commit suicide – Each and every misunderstanding of petty quarrel between husband and wife – Cannot be sought to be brought within term of “Cruelty” – No evidence showing any harassment of deceased by accused on account of dowry / property – No plausible explanation given for non-examination of material witness present at time of occurrence – Accused acquitted of offence under Sections 306 and 498A.

Thangappandian V. State by Deputy S.P. Mettur P.S.
1998 CRI.L.J. 993 (Madras High Court)

[44]

Code of Criminal Procedure

Criminal P. C.)2 of 1974), S. 24 (8) – Special Public Prosecutor – Not to be appointed in ordinary circumstances – Order appointing Special Public Prosecutor without disclosing special reasons – is Illegal.

Rajendra Vs. State of M.P.
1998 CRI.L.J. 998

[45]

Indian Penal Code

Penal Code (45 of 1860), Ss. 304-B, 498-A – Dowry Prohibition Act (28 of 1961), S. 2 – Dowry death – Term 'dowry' as defined – Periphery of, not restricted to agreement or demand for payment of dowry before and at the marriage – But, also includes demands made subsequent to marriage.

Penal code (45 of 1860), S. 304-B – Dowry Prohibition Act (28 of 1961), Ss. 2, 4, 3 – 'Demand for dowry' – By itself, is punishable- Agreement for dowry not sine qua non for seeking conviction – Inference can be drawn from circumstantial evidence.

Penal code (45 of 1860), S.304-B – Evidence Act (1 of 1872), S. 113-B – Dowry death – Presumption for – Essential ingredient for drawing presumption stated – No definite period is indicated to define expression 'soon before' – There must be existence of a proximate and live link between effect of cruelty based on dowry demand and concerned death.

Penal code (45 of 1860), Ss. 304-B, 498-A – Evidence Act (1 of 1872), S. 113-B – Dowry death – Death occurred within very few months of marriage – Clear, cogent evidence of prosecution witness that shortly before deceased committed suicide, demand of dowry was made – Plea that no demand was made 'soon before death', not tenable – Accusations stand established only so far brother-in-law of deceased is concerned – Accused-husband, acquitted – Conviction of brother-in-law, proper.

State of Andhra Pradesh Vs. Raj Gopal Asawai and another
AIR 2004 Supreme Court 1933.

[46]

Indian Penal Code

Penal Code (45 of 1860), Ss. 304-B, 498-A – 'Dowry death' – Demand of dowry – Suicide committed by wife of accused / appellant within seven years of marriage – Demands of dowry arising after marriage settled and got receded when deceased resumed cohabitation with accused/husband – No whisper thereafter of any demand of dowry – Harassment meted out to deceased / wife by accused / husband shortly before her suicidal death cannot be attributed to anything concerning demand of dowry – Accused / husband not guilty of offence under S. 304-

B – Cruelty, otherwise inflicted on deceased/wife by accused/husband – Is a relevant circumstance to maintain his conviction under S. 498-A.

Pyare Lal V. State of Haryana
AIR 1999 Supreme Court 1563

[47]

Maharashtra Agricultural Lands (Ceiling on Holdings) Act

Maharashtra Agricultural Lands (Ceiling on Holdings) Act (27 of 1961), S. 21- Surplus land – Determination of – Findings of fact recorded by Commissioner and High Court that disputed lands belonged to appellants and were rightly included in their holdings for determining surplus land – Not interfered with .

Jitendrasingh Jaysing Rawal V. State of Maharashtra and Ors.
AIR 1999 Supreme Court 1564

[48]

Indian Penal Code

Penal Code, 1860 – Ss. 302/34 and S. 304-B – Bride burning – Conviction based on dying declaration recorded by the ASI – Thumb mark appearing on the dying declaration having clear ridges and curves – Evidence of doctor who conducted post-mortem examination that the deceased had 100% burns and her both the thumbs were burnt – Held, the High Court justified in giving benefit of doubt to the respondents.

Evidence Act

Evidence Act, 1872 – S. 32 – Dying declaration – Thumb impression – Doubt where declarant had suffered cent per cent burns.

State of Punjab Vs. Gian Kaur and another
1998 Supreme Court Cases (Cri) 942

[49]

Indian Penal Code

Criminal Trial – Circumstantial evidence – Recovery of bloodstained shirts and chappals from the house of the accused – Panchnama not mentioning that there were bloodstains on the shirts – No human blood found on Chappals – Recovery of stone with which deceased allegedly killed doubted by the High Court – Place of incident not established – Acquittal upheld.

State of Maharashtra Vs. Madhukar Govind Pakhare
1998 Supreme Court Cases (Cri) 943

[50]

Indian Penal Code

Indian Penal Code, 1860 – Sections 498-A and 306 – Inordinate delay in lodging FIR – No plausible explanation for delay – False accusation can not be ruled out .

Indian Penal Code, 1860 – Sections 498-A & 306 – Death of wife of appellant and 4 years old son by drowning – Inordinate delay in lodging FIR – Evidence regarding demand of money by

appellant not probable as informant brother of deceased, had poor economic condition – No satisfactory evidence about demands from side of appellant or about any illtreatment of deceased – It would be unsafe to base conviction on such evidence.

Khemraj Hiralal Agarwal Vs. State of Maharashtra
VIII – 1995(3) Crimes 398

[51]

Constitution of India.

Constitution of India – Arts. 21 and 324 – Writ of Certiorari of quash general order published in News-paper, issued by District-Magistrate by which fire-arms of licence holders were directed to be deposited with Police Station in view of General Elections for Assembly in March 1995 – Impugned order issued pursuant to order issued by Chief Election Commissioner in exercise of powers under Art. 324 of Constitution of India – Conditions precedent in the order of Chief Election Commission not complied with – Impugned order of District Magistrate did not contain any reason curtailing fundamental right enshrined under Art. 21 of Constitution – Procedure under Arms Act directing forfeiture or impounding or deposit of fire-arms not followed- Impugned order is arbitrary, liable to be quashed.

Md. Khurshid Alam Vs. The Chief Election Commissioner & Ors.
1995 (3) 403

[52]

Dowry Prohibition Act

Dowry Prohibition Act (28 of 1961), S. 2 - “Dowry” - Demand made after solemnization of marriage – Would constitute dowry.

Indian Penal Code

Penal Code (45 of 1860), S. 304-B – Dowry death – Proof – Injuries found on person of deceased not sufficient to have caused her death – S. 304-B, not attracted.

Penal Code (45 of 1860), Ss. 306, 498-A- Abetment of suicide – Accused persons alleged to have demanded dowry and treated deceased with cruelty leading to suicide – No evidence showing deceased was harassed within meaning of Expl. (b) of S. 498-A – Presumption under S. 113-A of Evidence Act cannot be raised – Offence under S. 306 not made out.

Penal Code (45 of 1860), S. 324 – Hurt – Proof – Evidence showing accused mother-in-law causing injuries on person of deceased who committed suicide – Offence under S. 324 made out – On consideration of circumstances and fact that accused being 80 years of age- Sentence of fine of Rs. 3,000/- imposed.

State of Himachal Pradesh V. Nikku Ram and others.
AIR 1996 Supreme Court 67

[53]

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act (52 of 1974), S. 3 – Detention order – Delay in execution – Plea of detaining authority that detenu was staying abroad and evading arrest – No passport or an affidavit on basis thereof produced to substantiate said plea – Unusual delay in serving detention order to detenu, not satisfactorily explained- Detention vitiated.

P.M. Hari Kumar V. Union of India

AIR 1996 Supreme Court 70

[54]

Indian Penal Code

Indian Penal Code, 1860 – Section 304-B – Evidence Act, 1872 – Section 50 Proviso – Dowry Death: Proof of marriage: Applicability of Section 50 proviso, Evidence Act: Mere living together and having illicit relationship does not constitute marriage.

Indian Penal Code, 1860- Sections 304-B and 498-A – Dowry death, Cruelty: One of the most important ingredients to constitute offence under Section 304-B of IPC i.e., marriage, not proved: Charges under Sections 304-B and 498-A IPC not proved beyond reasonable doubt.

Evidence Act

Evidence Act, 1872 – Section 32 – Dying declaration – Fardbeyan of victim girl cannot be treated as her dying declaration: Reasons.

Imtiyaz Khan @ Sonu & Ors. Vs. State of Jharkhand

II (2004) DMC 202 (Jharkhand High Court)

[55]

Indian Penal Code

Penal Code (1860), Ss. 306, 107 – Abetting commission of suicide – Conviction for – Proof that deceased committed suicide is condition precedent – Evidence on record not establishing with certainty that newly married wife committed suicide – Her husband and in-laws could not be convicted under S. 306. (Dowry death – Suicide by newly wedded wife – Abetment – Proof).

Penal Code (1860), S. 498-A – Harassment for dowry – Proof – Repeated demands for dowry articles and money on newly married wife and her parents by husband and his parents – Statements by wife after her marriage and till her death that her parents were harassed for dowry by in-laws – Large number of dowry articles taken back from husband's residence by wife's family members after her death – Husband and father-in-law liable to conviction under S. 498-A (Dowry – harassment for – Conviction).

Wazir Chand and another Vs. State of Haryana

AIR 1989 Supreme Court 378

[56]

Constitution of India

Constitution of India, Arts. 226, 136 – Rules regulating appointments of Housemen and House surgeons at the Hospital attached to Government Medical Colleges in State of Maharashtra, R. X (2) and (3) – Admission to post-graduate course in Medical Science – Supernumerary Housepost created for student considering her high merit – Student, a wife of Government servant and a student from University of A.P. Fulfilling all requirements of Rs. X

(2) – Subsequent refusal by authorities to issue admission form to her for post-graduate course – Not proper.

Dr.Mrs. Sheela Ashok Patwardhan V. The Dean.

AIR 1989 Supreme Court 382

[57]

Indian Penal Code

Penal Code (45 of 1860) S. 102:- Plea of private defence – Prosecution is not absolved of its duty of proving the case beyond reasonable doubt.

Penal Code (45 of 1860) S. 102: Right of private defence of body – Accused snatching crowbar from the hands of aggressor deceased – Deceased was accompanied by his wife and daughter who had sticks in their hands – Held right of self-defence did not come to an end on snatching the crowbar and it also extended to causing injuries to two ladies who were part of the aggressor party.

Penal Code (45 of 1860) Ss. 304, 307 – Murder case – Injuries on both sides not explained – Both sides coming out with only partial truth – Gainer is not the prosecution.

Evidence Act

Evidence Act (1 of 1872) , S. 3- Injuries on accused – Lacerated wound on the head which was bleeding when medically examined – Not explained by eye-witnesses – Is sufficient to acquit the accused.

Sarjerao Sahahdeo Gaikwad and anr. Vs. State of Maharashtra

1997 CRI.L.J. 3839

[58]

Indian Penal Code.

Indian Penal Code, 1860 – Section 306 – Dead body of wife of appellant found in a well, in vicinity of house of appellant – Deceased appeared committed suicide by – She was living with her parents and her father claimed to have brought her to house of appellant four days before the incident – Even assuming appellant gave beating to deceased, such behaviour might be a cause for her to commit suicide but appellant could not be assumed to have provoked or urged deceased to commit suicide – Conviction was unsustainable.

Tej Singh Vs. State of Madhya Pradesh

1999 (3) Crimes 576 (M.P. High Court)

[59]

Indian Penal Code

Indian Penal Code, 1860 – Section 302 – Appeal against conviction for offence – Culpable homicide not amounting to murder – Evidence must show that there was no premeditation, must have been caused in a sudden fight and that offender must not have taken undue advantage or acted in an unusual and cruel manner – Incident of case was a sudden fight when deceased demanded his wages – During quarrel stab injury was given from which intention to kill may not be inferred – Injuries caused were two on non vital parts, hands and

abdomen – Statement of doctor was silent if injury was sufficient in ordinary course to cause death – Appellant was liable to be convicted under S. 304 Part II, IPC.

Muqid Vs. State of U.P.

1999 (3) Crimes 578

[60]

Bombay Prohibition (Privilege Fees) Rules, 1954

Bombay Prohibition (Privilege Fees) Rules, 1954, Rules 5, 6, and 21 – Bombay Foreign Liquor Rules, 1953, Rules 4, 5 and 21 – Death of one of the partners of a partnership firm having licence in favour – Permission of the Collector to continue business till end of the year – Not liable to be construed to mean that the licence was not required to be transferred – Request of the surviving partner to hold the licence by deleting name of the deceased partner, amounts to an application for transfer of licence.

Collector of Bombay and others V. Meena Narayan Indani

[1996 (1) Mah. LR 113] (Bombay High Court)

[61]

Arms Act

Arms Act (1959), Ss. 3, 4, 5, 17(3) (b) – Arms licence – Can be suspended during pendency of proceedings for its revocation.

Balram Singh V. State of U.P.

1990 CRI.L.J. 409 (Full Bench)

[62]

Indian Penal Code

Penal Code (45 of 1860), S. 498-A – Cruelty – Proof – Allegations that accused husband and mother-in-law harassed deceased on ground of inadequate dowry as result of which she committed suicide. Evidence of witnesses contradictory and inconsistent – Statement of one of the witness that deceased was leading a happy life – Defence version that deceased might have committed suicide being fed up with disease she was suffering not totally unwarranted – No evidence showing that deceased was subjected to cruelty – Conviction not proper.

Pappala V. State of A.P.

1995 CRI.L.J. 2580
