

Precedents on Exploitation Of Woman

- S.498A-Wife committing suicide by burning herself- Letters written by wife disclosing cruelty to her at the hands of her husband. Handwriting of wife not disputed by husband. Oral evidence is available to corroborate contents of the letters-Evidence sufficient to prove charge u/s 498A.1998 CrLJ 4496 Del.
- No mention in FIR about any demand of dowry by husband. Evidence of prosecution witnesses vague. Offence not made out.1995 CrLJ 174 Orri.
- Cruelty=such treatment which causes reasonable apprehension in the mind of wife that her living with husband will endanger her life. 1995 CrLJ 341 Bom.
- Testimony of witnesses is that deceased was harassed by accused husband for noncompliance of unlawful demands. Statements in diary maintained by deceased corroborated by testimony of witnesses conviction of accused husband held proper.1995 CrLJ 2127.AP.
- Mere statement that the deceased wife was not happy with her husband is not sufficient evidence to prove cruelty, particularly in absence of any direct evidence. One or two incidents of assault by husband is not likely to drive wife to commit suicide .1995 CrLJ 2472.Orri.
- Allegations that husband and in-laws harassed deceased on ground of inadequate dowry as a result of which she committed suicide. Evidence of witnesses contradictory and inconsistent- Defence version that deceased committed suicide as she was fed up with disease she was suffering not unwarranted- Conviction not proper.1995 CrLJ 2380 AP.
- Allegation of dowry demand and mental torture. Material discrepancies in evidence regarding demand- Mother of deceased deposing that she got information from the person other than her daughter. Accused entitled for acquittal.1995 CrLJ 3049 Ori.
- Offence u/s 498A non-compoundable. Even invoking writ jurisdiction can't compound it. 1997 CrLJ 3263.
- Mental torture in given case would be sufficient to constitute cruelty. AIR 1998 SC 958.
- S.494-Operation of section not excluded by fact that offence of bigamy is punishable by H.M.Act 1997 (3) MhLJ 473.
- Second marriage of a Hindu after his conversion to Islam is void marriage in terms of S.494.1995 CrLJ 2926 SC.
- 376-r/w 511-When accused is responsible for more serious act than assault, he is responsible for attempt to commit rape. AIR 1998 SC 386.
- S.363-Medical evidence showing that Prosecutrix was below the age of 18 years at the time of incident. Prosecutrix was taken to particular place in tempo by the accused is not a disputed fact. Offence of kidnapping from lawful guardianship made out. AIR 1998 SC 2694.
- On Reading of explanation (b) of section 498A it is clear that all types of harassment of the woman are not covered by that section, but only such harassment, which is with a view to coercing her, or any person related to her, to meet any unlawful demand for any property or valuable security, or, is on account of failure by her or by any person related to her to meet the demand for any property or valuable is included. In the complaint no doubt the allegation is of harassment but it is not alleged that harassment was with a view to cause her or any person related to her to meet any unlawful demand. Ujwalabai v. State 1987 MhLR 58.
- In order to amount abatement there must be mens rea or community of intention. The mere fact that the deceased wife was treated by the accused husband and her mother-in-law with cruelty is not sufficient to prove that the accused abetted the commission of suicide by the deceased.1989 C.r.L J 38 Calcutta
- The standard of proof of cruelty are higher in degree in criminal law.

- (2). The intention of men's rea on the part of one spouse to injure the other is not a necessary element of cruelty in criminal law.
- It is enough if cruelty is proved by preponderance of probabilities in civil law while in criminal trial the conduct of cruelty has to be proved beyond all reasonable doubt
- (4). It is immaterial in civil law whether the respondent's conduct was aimed at the other spouse or due to unwarranted indifference attributable perhaps to selfishness or laziness, while it is very material in criminal proceedings
- (5) For the relief of matrimonial causes in civil law, the conduct of the spouse did not necessarily result in danger of life limb or health but a reasonable apprehension of such a danger is enough whereas section 498 AIPC contemplates such conduct beside being 'willful' to result in the likelihood of driving the woman to commence suicide ought to cause grave injury or danger to her life, limb or health *Veerulu v. State*. 1988(3) Crimes 549.
- If the prosecutrix is not examined there being no substantive evidence there was nothing to conform or corroborate and as such statements or complaint could not be proved. *AI R. 1931 Mad 233*.
- F. I. R. by itself is not substantive piece of evidence. It can be used either to corroborate or contradict the evidence of the first informant recorded in the court. The statement made at a bearing can be as evidence unless it falls within the purview of section 32. *State v. Chakradhar* AIR 1964 Ori 262.
- The only allegation in the FIR led the wife was insulted and harassed but that was no allegation that she was harassed with a view to coerce wife or any person related to her to meet any unlawful demand. Allegations not sufficient to make out offence under section 498A. *Ujwala v. state* 1987 MhLR 58.
- Mere harassment of a wife by her husband is not sufficient to make out offence. It must be shown to have been linked to a demand of property or valuable security which demand must further be shown to be unlawful. Unlawful means contrary: or punishable/forbidden by some law. *have Sarla v. state* 1991 DMC 310.
- After marriage husband purchased the flat in the name of wife. Husband insisting to dispose it of as he was in need of money. It was held that wife's reaction in such a situation would be not anything objectionable in such demand by her husband or in-laws of the disposal of the flat, which was an acquisition of their own. The demand for the disposal of the flat would, therefore, not be unlawful within the contemplation of clause b of section 498A. *A.Rakesh v. state of Maharashtra* 1992(2) CCR 2176.
- Two incidents of abusing and beating by husband to the wife were proved. It was held that as for the social conditions of that part of the country from which husband and wife came, this could not be said to be unusual and beating followed by such abuses were not an extraordinary feature in their families. In the background of the circumstances in which the incident of beating were committed it could not be said to be constituting willful conduct on the part of the accused to drive the wife to commit suicide. *Verulu v. State of A.P.* 1983 (3) Crimes 549.
- Leveling an unfounded allegation by the husband about his wife's chastity and that she was carrying in her womb a child of someone else amounts to cruelty under section 498 A. *Rishikumar v. State* 1988(1) Cri.L.C.378.
- The Supreme Court fully agreed with a finding and observation of the trial court to the effect, "the worst part of cruelty was that she was even taunted for carrying an illegitimate child. A respectable lady cannot bear this kind of false allegations leveled against her. This must have mentally tortured her." *Gurcharan v. satpalsingh* 1990 CrLJ 562.SC.

- Harassment by instituting Court proceedings on false and defamatory averments and repeating them in various courts and in various proceedings is the worst type of harassment by the husband of the wife and if such harassment is for meeting unlawful demand for any property, it falls within the provisions of section 498 A read with explanation b of the Indian penal code.1989 MhLJ 58.
- Leveling up allegations by the husband as to the inability of wife to conceive child amount to mental cruelty under section 498 A of the Indian dinner Code.1990 (3) crimes 226.
- Conduct of accused in taking liquor almost daily despite constant protests by the wife and his habit of coming home late at night does not amount to cruelty under section 498 A.1988 CrLJ 1048. P & H 1989 CrLJ 1186.A.P.
- Scolding by mother in law made the victim to commit suicide could be construed as a willful conduct of such a nature as described in 1st part of the explanation to section 498 A.1988 MhLJ 641.
- Repeated demands for dowry articles and money of newly married life and her parents and the consequent harassment of the wife and her parents by the husband & his relatives amounts to cruelty under section 498 A of the Indian penal code. AIR 1989 SC 378.
- It is clear from the definition of cruelty that mere ill treatment would not be sufficient to level the charge of cruelty within the meaning of the explanation under section of 498A. The conduct of the accused must be such that it would drive the wife to commit suicide or cause grave injury or danger to life, limb or health.1985 ILR 2086.
- It is obvious that it is not all and every type of cruelty by the husband or his relatives which is sought to be covered by section 498 A. On the other hand, the scope of the section has been limited to particular type of cruelty referred to in the two categories of explanation to that section. It was held that reprimanding his wife by the husband for her objectionable conduct did not amount to cruelty.1987 (1) crimes 76.P & H.
- Section 304 and section 498-A of the Indian Penal Code are not mutually exclusive. These provisions deal with two distinct offences. It is true that “cruelty is a common essential to both the sections and that has to be proved. Having regard to the common background to these offences we have to take that the meaning of “cruelty or harassment” in section 304-B will be the same as defined in the explanation to section 498-A. **Shanthi V. State Haryana AIR 1991 Sc 1226.**
- A person charged and acquitted under section 304-B the Indian Penal Code can be convicted under section 498-A without charge being there, if such a case is made out. Conduct not to send a wife to her parent’s house and driving out her brother or Father complaining that sofa and television have not been given as dowry, amount to cruelty. **Shanthi V. State Haryana AIR 1991 Sc 1226.**
- There is a situation where husband or his relative by his willful conduct creates a situation, which he knows will drive the woman to, commits suicide and she actually does so, the case would squarely fall within the ambit of sections 306 of the Indian Penal Code. In such a case, the conduct of person would tantamount to inciting or provoking or virtually pushing the woman into a desperate situation of no return which would compel her to put an end to her miseries by committing suicide. **State of Punjab v. Iqbal Singh AIR 1991 SC 1532.**
- In surcharged atmosphere of hostility, the institution of malicious & veracious litigation could have harsh consequences particularly when search warrants, attachment executed with a degree of sadistic vengeance. Cruelty has no definable parameters. It involves acts, the region of which cause hurt and often times agony to the opposite party, be it mental or physical, which in turn has further damaging consequences, the most serious of which is an ultimate suicide. Where the wife is at receiving end, she would be justified in prosecuting the husband

for an offence under section 498-A of the Indian Penal Code, when the harassment and torture, which she went through in the course of those unjustified proceedings, were sufficient to drive her into a state of desperation or push her to suicide. **Madhuri v. Mukund 1992 CrLJ 111 (Bom).**

- The woman who goes to the marital home of her husband, with a fond hope and expectation that she would have not only a happy but also peaceful conjugal society with her husband, found that her husband is unable to perform sexual obligation, which is one of the important factors to cement bondage of affection and cordial relationship in marital home, it would be perpetual agony for the wife to continue to live in the conjugal home. Cruelty is a ground for divorce or judicial separation in civil law. Under the circumstances wife is well justified to live separately from the husband and at the same time keep maintaining marital status. **Ashok Kumar v. sixth additional Sessions Judge AIR 1996 S. C. 333.**
- The bride died in her in-laws home within seven months of her marriage. Evidence ruled out accidental death, thus confirming the prosecution version of suicide. The court observed, “the prosecution witnesses clearly testified to the greedy and lustful nature of the husband and others in that they persistently taunted the deceased and tortured her for not having brought sufficient dowry from her father. It is also in evidence that they taunted her for carrying illegitimate child. All this caused depression in her mind and drove her to take the extreme step of putting an end to her life. Circumstantial evidence of unexplained delay in providing treatment and informing her parents living not far away and evidence of prosecution witnesses that the accused instigated and abetted suicide. (Bachan Singh v. Satpal Singh AIR 1990 S C 209)
- There must be a clear proof of the fact and that the death in question was a suicidal death. There was only possibility of accidental burning of the newly married woman though she was being victimized for insufficient dowry and there is no chance of an accident being abetted. The husband and in-laws were, however found guilty under section 498-A of the Indian Penal Code. **Wazir Chand v. State of Haryana AIR 1989 Supreme Court 378)**
- The accused husband, a drunkard, always ill-treated his wife, beat her and imputed unchastity. The wife in a quarrel set herself ablaze and died. The husband along with others attempted to stamp flames. The conviction of the accused for murder was set aside and he was convicted under section 306. (Jeevan Babu v. State of Maharashtra 1992 CriLJ 2996 Bombay)
- Where a newly married girl committed suicide due to being cruelly treated by the accused husband and mother-in-law by way of counting and beating. Conviction of the accused under section 306 and 498 A was held to be proper. (Punjab Saktham v. State of Maharashtra 1995 CriLJ 4021 Bombay)
- The mere fact that the husband had performed second marriage and first wife, who was living separately, and who committed suicide, had to struggle for existence, were held to be not sufficient grounds to convict the husband for the offences under section 306 and 498-A. **(Supchand v. v. State of Maharashtra 1995 CriLJ 3939 Bombay)**
- FIR-Unexplained delay in lodging FIR-Unsafe to rely on the testimony of brother and other relatives of the deceased. **K. H. Agrawal v. state of Maharashtra 1995 Cri LJ 2271 Bom**
- FIR –the entire fabric of the prosecution case would collapse if the FIR is held to be fabricated or brought into existence long after the occurrence and any number of witnesses added without there being anything to check the authenticity of their evidence. **Marudanal v. state of Kerala AIR 1980 SC 638.**
- Nexus- Reasonable nexus between cruelty and suicide must be established. Mere proof of cruelty or suicide is not enough. Mere demand of property or mere harassment is not enough. They both must coexist together for proof of offence u/s 498-A. **Ravindra v. State of Maharashtra 1993 CriLJ 3019 Bom.**

- Not providing basic necessities of life to the wife by husband amount to cruelty. 2000(4) Crimes 590
- Cruelty- the expression cruelty postulates, such a treatment as to cause reasonable apprehension in the mind of wife that her living with the husband will be harmful and injurious to her life. To decide the question of cruelty the relevant factors are the matrimonial relationship between the husband and wife, their cultural and temperamental state of life, state of health and their interaction in daily life. *State of Karnataka v. H.S.Srivastava* 1996 CriLJ 3103 SC.
- Essentials for the offence u/s 304-B. 1.the death of a woman should be caused by burns or bodily injury or otherwise than under normal circumstances, 2. Such death should have occurred within the period of 7 years of her marriage, 3. She must have been subjected to cruelty or harassment by her husband, 4. Such cruelty or harassment should be for or in connection with demand for dowry. *Smt. Shanti & others v. State of Haryana* AIR 1991 SC 1226
- Corroboration - Evidence of ill-treatment and demand of money – Evidence of mother and brother of deceased lady cannot be accepted as corroboration evidence – It has to be from independent witness. *Satish v. State of Maharashtra* 1998 All MR(Cri) 1501.
- Dying declaration – Unless the statement of dead person would fall under the purview of section 32 (1) of the Evidence act, there is no other provision under which the same can be admitted in evidence to make the statement of a dead person admissible in law. The statement must be as to the cause of her death or as to any of the circumstance of the transactions, which resulted in her death, in cases in which the cause of death comes into question. When we are dealing with an offence under s. 498-A disjunctured from an offence u/s 306 the Indian Penal Code, the question of her death is not an issue for consideration. On that premises also section 32(1) of the Evidence act will stand at bay so far as these materials are concerned. *Inderpal v. State of MP* 2001(1) DMC 481 SC
- The prosecution apparently gave up its case of death by poison and did not pursue it for the reasons best known to it. It instead rested the case on death being caused by asphyxia due to strangulation. The absence of any external injury or marks of ligature creates a doubt about the correctness of theory of death by strangulation. Some of the symptoms noticed by the doctors are common both if death is caused due to asphyxia caused by poisoning as well as asphyxia caused by strangulation. There is thus considerable doubt about the cause of death of the deceased. 2001 (1) DMC 473 SC
- Oral Dying declaration-Even though an oral dying declaration can form basis of conviction in a given case, but such a dying declaration has to be trustworthy and free from every blemish and inspire confidence. The reproduction of exact words of the oral declaration in such cases is very important. The difference in exact words of the declaration in the present case detract materially from the value of the present dying declaration. *Darshana Devi v. State of Punjab*.1996 SCC(Cri) 38.
- Fitness to give dying declaration –the doctor who performed postmortem stated that the injured sustained 90% burn injuries. The prosecution case was solely rested on the dying declaration. It was, therefore, necessary for the prosecution to prove the dying declaration as being genuine true and free from all doubts and it was recorded when the injured was in a fit state of mind. In the absence of medical certification that the injured was in a fit state of mind, at the time of making the declaration, it would be very much risky to accept the subjective satisfaction of a Magistrate, who opined that the injured was in a fit state of mind at the time of making a declaration. *Paparambaka v. State of AP* 1999 SCC (Cri) 1361

- FIR- failure of the prosecution to examine the informant- FIR cannot be relied upon – The contents of the FIR which are not proved cannot be considered as evidence against the accused. *Raju Shinde v. state of Maharashtra* 1998 (2) B.Cr.C. 1651.
- Suspicion however strong cannot take the place of proof. No dependable evidence in regard to the actual abetment by accused. Accused entitled for acquittal *Chanchal & others v. Union Territory Chandigarh* AIR 1986 SC 752
- Abetment – deceased died because of fall in a well. No positive evidence about her death and even father of the deceased did allege that his daughter died of suicidal death while filing the report. He referred her death as accidental. No evidence of any mental condition or depression so as to force deceased to commit suicide. Conviction u/s 306 cannot be sustained. *Vithal & Others v. State of Maharashtra* 1996 (1) Crimes 285 Bom.
- FIR –FIR is extremely vital and valuable piece of evidence for the purpose of corroboration the oral evidence adduced at the trial. Delay in lodging the first information report quite often results in embellishment, which is a creature of afterthought. On account of delay the report not only gets bereft of the advantage of spontaneity, danger creeps in the introduction of coloured version, exaggerated account or concocted story as a result of deliberation and consultation. It is therefore essential that the delay in lodging FIR should be satisfactorily explained. *Thulla Kali v. State of Tamilnadu* AIR 1973 SC 501
- When the married life of the husband and the wife was quarrelsome and it led to the dejection and mortification of the wife resulting into her committing suicide. The evidence of the neighbors and the prosecution witnesses were not trustworthy and was not corroborated, it could not be said that husband abetted wife to commit suicide. Merely that the husband was not treating the wife properly and treated her with cruelty was not sufficient to establish abetment. *State of Gujrat v. Sunilkumar* 1997 CriLJ 2014 Guj.
- Evidence Act Section 32 - executive magistrate not recorded it in the language of the deceased. He has not mentioned that the statement was recorded in her own language. Statement not contains the certificate of the doctor she was conscious to give a statement. For implementation on her statement was not verified. Held, prosecution failed to prove the dying declaration, which cannot be relied upon. *Madhukar v. State of Maharashtra* 1999(1) Mah LR 3791 Bombay.
- Appreciation of evidences - Section 304- B - No evidence that the dowry was demanded before or at a time of marriage. Deceased in fact married at the instance of her in-laws. No mention of ill treatment in a letter written by deceased to her friend. Finding that the evidence of parents and friend of deceased was not reliable was proper. *Meka Ramaswamy v. Dasari Mohan* AIR 1998 SC 774
- Rape-if the court disbelieve her version then it will be insult to a lady who is sexually exploited and thus the responsibility is on the judge to deal with the case of sexual molestation with alert mind and the evidence of the prosecutrix shall be appreciated in this background. AIR 1981 supreme court 559
- Rape -in sexual offences delay in lodging the FIR can be due to a variety of reasons particularly the reluctance of the prosecutrix are her family members to go to the police and complain about the incident which concerns the reputation of the prosecutrix and the honor of family. It is only after giving it a cool thought that the complaint of sexual offence is generally lodged. Even if there is some delay in lodging the FIR in respect of offence of rape, if it is probably explained and the explanation is natural in the facts and circumstances of the case, such delay would not matter. AIR 1996 Supreme Court 1393.
- Rape-corroboration as a condition for judicial reliance on the testimony of the prosecutrix is not a matter of law, but the guidance of prudence under given circumstances. In deed, from place to place, from age to age, from varying lifestyles and the behavioral complexes, inferences

from a given set of facts, oral and circumstantial, may have to be drawn not with the dead uniformity but realistic diversity. Least rigidity in the shape of rule of law in this area be introduced to a new type of precedential tyranny. The same observation holds good regarding the presence or absence of injuries on the person of the aggressor or aggrieved. AIR 1981 Supreme Court 559.

- Dying declaration-wife taken to hospital with burns her statement recorded by police as complaint. on account of her death thereafter same was treated as dying declaration whether police could have recorded by declaration or not, was matter to be determined of the cross-examination of investigating officer in absence of his cross-examination, in the absence of his cross-examination, it could not have in any bearing on correctness of statement recorded. The military non-announcement of statements by Dr. as CM was treated as complaint. No ground to doubt the genuineness of buying declaration. Jai Prakash and others v. State of Haryana AIR 1999 Supreme Court 3361
- Dying declaration-in order to pass the test of reliability, the dying declaration has to be subjected a very close scrutiny, the fact that the statement is made in the absence of the accused who has no opportunity of testing the veracity of the statement by cross-examination. But once it court has come to the conclusion that the dying declaration was the to the conversion truthful version as to the circumstances of the death, there is no question of further corroboration. If, on the other hand, the Court, after examining the dying declaration in all its aspects, and testing its veracity, the court has come to the conclusion that it is not reliable by itself, and that it suffers from an infirmity, then without corroboration it cannot form the basis of a conviction. Thus, the necessity for corroboration arises not from any inherent weakness of a dying declaration , but from the fact that the court, in the event is, has come to conclusion that that particular dying declaration was not free from the infirmities. Khusalrao verses of state of Bombay AIR 1958 Supreme Court 22
- Section 154 CrPC-first information report is a vital and a valuable piece of evidence. The object of prompt lodging of the FIR is to obtain a clear information regarding circumstances in which crime was committed. Delayed FIR may be suspected, as it is likely to contain embellishment. 1997 (1) BCrC 334.
- 306 - deceased died because of fall in a well. No positive was forthcoming medical opinion about suicidal death. Farther of deceased did not allege the suicidal death while filing a report but treated what her death as accidental. No evidence of any the disturbed mental condition or any depression so as to force deceased to commit suicide. Conviction cannot be sustained. 1996(1) crimes 285
- Dying declaration - investigation officer a recorded statement of the injured as FIR. The same has been treated as dying declaration after his death. It cannot be said that such statement, be treated as the dying declaration of the deceased merely because the investigation officer had not taken all precautions are required to be taken while recording a dying declaration. 1996(1) BCrC 546
- No dependable evidence in regard to actual abetment by any of the accused. Accused entitled to be acquitted. Chanchal Kumari v. Union Territory AIR 1986 SC 752
- Dying declaration – Omission of the person who recorded dying declaration to question the deceased regarding the state of mind to make the statement is a serious lacuna. Smt. Rajrani V. State of Haryana 1993 (2) Crimes 67 P &H
- Dying declaration- ASI recorded dying declaration. Thumb mark appearing on 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. Benefit of doubt goes to the accused. State of Punjab v. gyan kaur 1998 SCC (Cri) 942.

- Dying declaration- Dying declaration should preferably be recorded in question and answer form. Rabi chandra v. State of Orissa AIR1980 SC 1738
- Abetment- In order to prove the charge it must be proved that accused intentionally aided the deceased to commit suicide. Presence of mens- rea essential to prove offence of abetment of suicide. Mere statement in dying declaration that husband uses to give physical assault to deceased, which made her fade up with life not sufficient to hold husband guilty of abetment of suicide. Shankar v. State Of Maharashtra 2000(2) B.Cr.C. 456
- Dying declaration – So called dying declaration not in language of deceased. It was neither read over to her nor she admitted its correctness. Thumb impression of deceased not certified. There was no statement of magistrate that he recorded statement of deceased in her own words. No certificate of doctor that deceased was conscious to give statement. Scribe of statement was not examined. Held dying declaration was not proved. 1998 ALL MR(Cri) 1508
- Dying declaration - In case of written dying declaration the most important requirement is the satisfaction of the scribe that the declarant is fit and conscious to give the declaration. When the declarant is in the hospital the certificate of the Medical officer attending that the patient is fit before recording and throughout the time taken for recording it. Dilip v. State of Maharashtra 1997 (1) BCrC 290
- For an offence u/s 498-A THE INDIAN PENAL CODE prosecution must establish that harassment or cruelty must with a view to force the wife to commit suicide or to fulfill illegal demand of husband and in-laws. 1996(1) Crimes 285 Bombay
- 494- Essential ingredients- The prosecution has to prove that both the marriages are legally solemnised. Accused in his statement u/s 313 admitted the marriage between him and the complainant, but no evidence was led in regard to the first was led on behalf of the complainant and that she failed to prove that her marriage with the accused was legal and valid. . the other question whether the second marriage was validly performed or not did not survive for consideration. Accused cannot be held guilty for the offence under section 494. Godawari v. State 1985 Mah LR 583
- 494- Admission of second marriage by the accused not sufficient. Second marriage must be proved as a fact besides proving the previous marriage. Lily Thomas v. Union 2000(2) MahLR 409 SC
- Dying declaration – Statement of accused relating to the circumstance of transaction relating to death. Section 32(1) is applicable to both homicide and suicide. Sharad v. State of Maharashtra AIR 1984 SC 1622
- Dowry death - Where the accused were charged for murder in furtherance of common intention due to non fulfillment of their demand for more dowry, it was for prosecution to establish the guilt. High court wrongly placed the burden on accused to prove his innocence. Lekhram v. State of Punjab 1992(2) Crimes 66
- Dying declaration – doctor at the end of certificate only stated that “patient is conscious while recording the statement”. Absence of certificate that the patient was in fit state of mind at the time of making declaration making dying unacceptable. Opinion of Magistrate recording declaration that injured was in fit state of mind at the time of making dying declaration cannot be relied upon.
- 498- A – No evidence to show that deceased was meted out ill treatment or there was dowry demand. Mere statement in dying declaration that she wanted to live separately from her relations but her husband accused beaten for on previous day. And her grand mother disliked her. The statement not sufficient to substantiate prosecution case that she was meted out with ill treatment defined in s. 498-A. Paparambaka V. State of AP 1999 CriLJ 4321 SC

- Dying declaration – When there are multiple dying declarations they must be consistent with each other. If there are inconsistencies the court has to examine the same in the light of the various surrounding facts and circumstances. If the dying declarations are inconsistent, Court cannot pick out one and base conviction upon it. *Kalyan V. State of Maharashtra* 1998 (2) B Cr C 66
- Section 304B – A reference to section 304B would show that where the death of a woman is caused by 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. This obviously doesn’t include accidental death and therefore merely because death was caused within seven years of the date of marriage no presumption could be raised under amended section 113 of the Indian Evidence Act. *Haribai V. State of Maharashtra* I(1998) DMC 94 DB Bombay
- Dying declaration – The dying declaration of burnt bride was recorded not by a magistrate but by the investigation officer. Without explaining the non-availability of the Magistrate and the doctor. It was not signed by the deponent although literate and not proved to be incapacitated to sign by the burn injuries. The time of statement was also not indicated in the document. At the time the declaration was recorded none of her relatives were present. The fitness of the deponent to make the statement was also doubtful. The dying declaration was not recorded in form of questions and answers. Held, the declaration was not acceptable. *State v. Laxman Kumar* AIR 1986 SC 250
- Cruelty – Mere harassment of a woman does not amount to cruelty as defined in the explanation clause of s. 498A. It must be established that the beating or harassment was with a view to force the wife to commit suicide or fulfill illegal demands of her husband or in-laws. *Bhagwan v. State* 2000(4) MhLJ 410
- Rape – Gang rape and murder – Prosecutor young girl of 15 years regularly attending some tailoring class situated at some distance. She used to travel by bus in company of her colleagues. Fact known to three accused who were young hotel boys on way to class. On fateful day victim who was alone was carried to near by pipe on the road and after raping murdered her. Dead body was recovered from pipe. Their guilt proved by circumstantial evidence and after comparing blood group. Abrasions also found on accused persons indicating stiff resistance by victims. Held that the accused proved to have committed offence. *Uday v. State* 2001 All MR(Cri) 324.
- **304-B**-dowry death-proof-no evidence of demand of dowry or subjecting the deceased for or in connection with dowry-only vague and inconsistent statements offering tested witnesses being parents and Brothers of deceased-no evidence of any relative or neighbors of parties-no demand of dowry at the time of marriage-no mention of demand of dowry in her letters issued before her death-material contradictions -serious omissions-order of conviction illegal. AIR 2001 SC 3020
