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In The Court of Sessions Judge, Kannauj

Presiding Officer- Shri Chandroday Kumar (HJS)-UP06553

Session Trial Number-24 of 2025

State of Uttar Pradesh

... Prosecution

Versus

1. Rahul Pandey, son of Shri Dyashankar Pandey,
2. Dayashankar Pandey, son of Shivprasad
Both residents of village Kuwarpur Banwari, kotwali Chhibramau, District
Kannauj.

... Accused.

Crime Number-676/2024
Under Sections 85, 80(2), B.N.S. and
Section 4 D.P. Act.
Police Station- Chhibramau,
Distt. Kannauj.

Prosecution Counsel: Shri Tarun Chandra, DGC (Criminal),
Defence Counsel: Shri A.K. Katiyar, Advocate.

JUDGMENT

Introduction

1. The present judgment is delivered in the case of State vs. Rahul Pandey and Dayashankar Pandey, arising from the tragic death of Smt. Madhu Pandey (daughter of complainant PW1 Manoj Kumar Mishra), within six months of her marriage to accused Rahul Pandey. The accused have been charged with offences under Section 80 of the Bhartiya Nyaya Sanhita, 2023 (hereinafter “BNS”) – commonly known as dowry death, Section 85 BNS – cruelty by husband or relative of husband (equivalent to Section 498A of the Indian Penal Code), and Section 4 of the Dowry Prohibition Act, 1961 (punishment for demanding dowry). The prosecution alleges that the accused (husband and father-in-law of the deceased) harassed the deceased for additional dowry (a four-wheeler and ₹3,00,000) and ultimately caused her death on 14.11.2024 by hanging, making it appear as a suicide. An FIR (Ex. Ka-3) was lodged on 16.11.2024 by PW1 Manoj (father of the deceased), naming both accused and setting the law in motion. The accused were arrested and tried in the Court of Session.

2. The accused Rahul Pandey (husband) and Dayashankar Pandey (father-in-law) pleaded not guilty and claimed to be falsely implicated during their examination under Section 313 of the Code of Criminal Procedure, 1973.

They denied making any dowry demands or harming the deceased, offering the explanation that the allegations are concocted. No evidence was led in defence. The defence has suggested that the deceased committed suicide for personal reasons unrelated to dowry, and that a belated, false report was lodged due to family pressures and social embarrassment. The trial, therefore, turns on whether the prosecution has proven beyond a reasonable doubt that the accused subjected the deceased to dowry-related cruelty and caused her death, or whether the evidence supports the defence version of suicide without any unlawful conduct by the accused.

Points for Determination

3. From the rival contentions and the charges framed, the following Points for Determination arise for adjudication:

Point (i): Whether Smt. Madhu Pandey died an unnatural death (other than under normal circumstances) on 14.11.2024, within seven years of her marriage to accused Rahul Pandey?

Point (ii): If so, whether soon before her death the deceased was subjected to cruelty or harassment by the accused, or either of them, for or in connection with any demand for dowry? In other words, have the ingredients of dowry harassment and cruelty been established against the accused?

Point (iii): Whether the death of Smt. Madhu Pandey can be categorised as “dowry death” within the meaning of Section 80 BNS (analogous to Section 304B IPC), attributable to the accused, to invoke the legal presumption under Section 113B of the Indian Evidence Act, 1872?

Point (iv): Whether the accused are guilty of cruelty towards the deceased, punishable under Section 85 BNS (equivalent to Section 498A IPC), by willful conduct or harassment in connection with dowry demands?

Point (v): Whether the accused are guilty of demanding dowry from the deceased’s family, an offence under Section 4 of the Dowry Prohibition Act, 1961?

Point (vi): Final – Whether the prosecution has proven the charges against the accused beyond a reasonable doubt, and if not, what order should be passed?

These points will be examined through an appreciation of evidence on record and the application of the relevant legal provisions and precedents.

Evidence and Appreciation of Facts

4. **Undisputed Facts:** Before delving into contentious issues, certain facts are undisputed. It is not in dispute that the deceased Madhu Pandey married the accused Rahul Pandey on 18.04.2024 according to Hindu rites. It is also undisputed that on 14.11.2024, within about six to seven months of the marriage, Madhu died at her matrimonial home (village Kuwarpur Banwari, P.S. Chhibramau, Dist. Kannauj) under abnormal circumstances – her body

was found hanging, indicating death by asphyxia due to hanging. The post-mortem report (Ex. Ka-6) conducted on 15.11.2024 confirmed an antemortem ligature mark on the neck and opined the cause of death to be asphyxia as a result of hanging. Thus, Point (i) is answered in the affirmative – the death was unnatural and occurred within a year of marriage, fulfilling the temporal requirement of seven years under the dowry death law. What remains in controversy is how and why Madhu died, and specifically whether the accused had subjected her to dowry-related cruelty or foul play leading to her death.

5. Prosecution Witnesses: The prosecution examined four witnesses, all of whom are the close relatives of the deceased: PW1 Manoj Kumar Mishra (father of the deceased and the first informant/complainant), PW2 Smt. Sadhana Devi (mother of the deceased), PW3 Shri Gaurav Mishra (uncle of the deceased), and PW4 Shri Sudhir Kumar (another paternal uncle of the deceased). No other independent or official witness was examined. Notably, the Investigating Officer and the doctor who performed the post-mortem were not called, as the defence, in writing, admitted the genuineness of the documentary evidence under Section 294 CrPC. Thus, the case essentially hinges on the testimony of the family members of the deceased.

6. Hostile Turnaround by Key Witnesses: Upon careful scrutiny, it emerges that PW1, PW2 and PW3 – the parents and uncle of the deceased – have entirely resiled from their earlier accusations and did not support the prosecution's story of dowry demand or harassment in their sworn testimonies before the Court. In fact, all three materially retracted the allegations that were recorded in the FIR and their police statements, and instead exonerated the accused of any wrongdoing. This is a remarkable and decisive development in the trial, as these were the only eyewitnesses (to the extent of the events leading up to the death) and the prime movers of the case. The Court notes that the prosecutor declared these witnesses hostile and cross-examined them regarding their prior statements to the police under Section 161 CrPC and the written complaint (tahrir, Ex. Ka-1) given to the police. The substance of their testimonies is discussed below.

7. Testimony of PW1 (Complainant - Father of deceased): PW1 Manoj Kumar, the father who initiated the FIR, has completely disowned the allegations of dowry demand and foul play made in his own FIR. In his examination-in-chief, instead of supporting the prosecution, he stated on oath that he had given dowry in the marriage as per his capacity and that the accused (his son-in-law and the latter's father) were satisfied with the gifts given. Crucially, PW1 testified that after the marriage, neither Rahul (accused no.1) nor Dayashankar (accused no.2) ever demanded any four-wheeler vehicle or ₹3 lakhs or any additional dowry from his family, nor did they ever harass or beat his daughter Madhu for dowry. He further affirmed that Madhu never complained to him at any time before her death that her husband or in-laws had made any dowry demands or ill-treated her. These assertions directly contradict the FIR version, which alleged persistent dowry demands and harassment.

8. PW1 went on to describe the events surrounding the death: He deposed that on 14.11.2024 (the day of the incident) in the evening, he received a phone call from accused Dayashankar (his daughter's father-in-law) informing him that Madhu had died. He, his wife (PW2) and other family members rushed to the matrimonial home that night. On reaching, they found Madhu's body lying on a bed in her room; the accused and their family were notably absent from the scene, while the police and many villagers were present. The police conducted the inquest (Panchayatnama, Ex. Ka-7) at the spot in his presence and sent the body for post-mortem; after post-mortem, the last rites were performed on 15.11.2024. PW1 admitted that he did not lodge any report immediately - he was in shock due to his daughter's demise, and only two days later (on 16.11.2024), he went to the police station to lodge the written complaint (tahrir). He stated that the complaint (Ex. Ka-1) shown to him in court was the one he had dictated to some unknown person at the police station and then signed.

9. Retraction of Allegations by PW1: When confronted by the prosecution with the contents of his FIR and previous police statement (wherein he had accused Rahul and Dayashankar of dowry demands and of murdering and hanging his daughter), PW1 categorically denied giving such statements to the police. He expressed ignorance as to how the police recorded those allegations, implying that the incriminating portions were not his words. Under cross-examination (by the prosecutor as hostile), PW1 made several notable admissions:

He acknowledged that he named Rahul and Dayashankar as accused in the FIR at the instance of others, and that "when the report was written two days later, I got it written by a person at the police station as told by my family members". He conceded that the FIR was lodged after discussions in the family and was dictated to an unfamiliar person, not in his own writing.

PW1 then unveiled an alternate narrative behind his daughter's suicide: He stated that Madhu had been studying while living at her maternal grandparents' (nanihaal) and had developed a love affair with a boy named "Bholu" of another caste before marriage. When this came to light, the family hurriedly arranged her marriage to Rahul Pandey (who is physically handicapped) without any dowry expectation, hoping she would settle down. Even after marriage, Madhu remained obstinate and continued to be in touch with her boyfriend. The family (including PW1's sister Anita) tried to counsel and pressurise her to stay with her husband and not pursue the illicit relationship, but Madhu did not relent. According to PW1, Madhu, being of a stubborn nature, ultimately "in her obstinacy" committed suicide on 14.11.2024 due to her inability to be with the boy she loved.

PW1 explicitly testified that he holds no suspicion that Rahul or Dayashankar had any role in Madhu's death. He said, "Madhu ne apne aap...atmahatya kar li. Atmahatya karne mein Rahul Pandey va Dayashankar par koi shak nahi hai" - meaning Madhu took her own life, and there is no suspicion on Rahul and Dayashankar in her committing

suicide. This is a complete exoneration of the accused from the allegation of murder or abetment.

Importantly, PW1 admitted that the report (FIR) was lodged on the advice of some people two days after the incident to “save our honour (ijjat bachane ke liye)” after Madhu’s death. He stated that “we filed that report so that our social prestige would remain intact after Madhu’s death”. He even termed the report as “jhooti report” (false report) in this context. Thus, PW1 has flatly repudiated the truth of the dowry allegations in the FIR, attributing the complaint to social and family pressures rather than actual events.

PW1 further affirmed that the accused Rahul Pandey being disabled was a reason the marriage was done without any dowry. He reiterated that “Rahul Pandey and Dayashankar never asked for any additional dowry, nor demanded a four-wheeler or three lakhs”, and that at the time of lodging the FIR, he did not mention these truths because nobody asked him, and the person writing the complaint did so without questioning him. In essence, the complainant has completely nullified the prosecution’s core allegation of dowry demand and cruelty, and instead painted the FIR as an inaccurate account made under extraneous influences.

10. It is evident from the above that PW1 turned hostile, and his testimony in court supports the defence rather than the prosecution. He was cross-examined by the defence as well, but his stand remained that the accused had no involvement in any harassment or in the death, and that the case was the result of a family decision to lodge a complaint after the suicide. He denied suggestions that he was not telling the truth due to any compromise or under pressure, maintaining that he was speaking voluntarily and truthfully. (It may be noted that PW1 did acknowledge that a compromise (“sulah samjhauta”) had been reached with the accused and no dispute remained, but he refuted the notion that this was the reason for changing his version, insisting that he was not under any fear or pressure in deposing.) The Court must treat his entire testimony with caution, given that he has contradicted his own prior statements; however, for this trial, the evidence given on oath in court is what holds weight, and that evidence provides no incriminating material against the accused on the charge of dowry harassment or murder. On the contrary, it gives an alternative cause for the suicide (a personal love affair) unrelated to the accused.

11. Testimony of PW2 (Mother of deceased): PW2 Smt. Sadhana Devi, the mother of the deceased, similarly did not support the prosecution's case. She testified that they had spent according to their means for the daughter’s wedding and given sufficient gifts/dowry. Significantly, PW2 stated that she had never been asked for any car or cash by either accused, and that Madhu (the deceased) never made any complaint to her about her husband or father-in-law regarding any dowry demand or ill-treatment. She confirmed that after marriage, Madhu would visit her parental home normally, and nothing seemed amiss. Regarding the incident, PW2 said she got the news of her daughter’s death on the same day (14.11.2024), around 5

PM, from Dayashankar (accused) over the phone, and she went with her husband and relatives to the in-laws' house that night. On arrival, they found Madhu's body on a bed; the accused were not present at the scene, villagers were present, and the police were already investigating. The police did not take any statement from her at the scene (she too denied giving any statement to police that implicated the accused, when her purported Section 180 B.N.S.S. statement was read out).

12. Under cross-examination (by defence and prosecution), PW2 essentially echoed the sequence described by PW1 regarding the deceased's prior love affair and the motivation behind the FIR: She admitted that the family discovered Madhu's affair with a boy of another caste, which led them to hurriedly marry her to Rahul Pandey (who, being handicapped, agreed to marry without dowry). She stated that they had to "apply a lot of pressure" on Madhu to continue in the marriage, but Madhu did not give up her relationship with the other boy even after marriage. According to PW2, Madhu ultimately took her own life due to this situation. Most crucially, PW2 corroborated PW1's hostile account that a false report was lodged to protect the family's honour. She testified that her brother-in-law ("जेठ") went to the police station after some deliberation and "lodged a false report (jhooti report likha di) so that our honour would be saved". She explicitly stated: "We instituted this case so that by filing the report, our reputation would be saved. In that, my son-in-law Rahul and Dayashankar had no hand in Madhu's death". PW2 thus flatly exonerated the accused: "the accused had no role; they also wanted that Madhu should stay, but she kept running away to her maternal side; when, despite being told she did not obey, Madhu committed suicide". Like PW1, PW2 also denied that her testimony was motivated by any pressure, compromise or fear, asserting that she was telling the truth freely.

13. In effect, PW2 completely sided with the defence version. She did not allege any dowry harassment by the accused. Instead, she painted the deceased as a willful girl who took her life for personal reasons, and admitted the falsity of the dowry allegations in the FIR. This again is devastating to the prosecution's case, as the mother of the deceased, who ordinarily would be a natural witness to any complaints by her daughter, denied any such complaints and disowned the accusation that the accused demanded dowry.

14. Testimony of PW3 (Maternal Uncle of deceased): PW3 Gaurav Mishra is a close relative (described as a family bhateeja/nephew of PW1). He testified that he did not attend the wedding in April 2024 as he was out of station, but he used to meet Madhu whenever she visited her parental home after marriage. PW3 stated that Madhu never made any complaint to him about her husband or in-laws; he never heard of any dowry demands or harassment from her. He confirmed that news of Madhu's death came, and he went to the matrimonial home with others, finding the police present and the body on a cot; he learned there that Madhu had died by hanging herself

(suicide). PW3 clearly deposed, “to my knowledge, Rahul Pandey or Dayashankar Pandey did not demand any additional dowry from us, nor did they ever torture Madhu.” This statement again flatly negates the prosecution's story and aligns with PW1 and PW2.

Under cross-examination, PW3 described visiting Madhu’s marital home 2-3 times and never seeing any sign of her being troubled; he noted only the two accused lived with her (no other in-laws) and whenever he met Madhu in the presence of her husband and father-in-law, she appeared normal and raised no grievances. He also stated that the family had given whatever dowry they could at the wedding, and there were no complaints by the in-laws then. The police did not record any statement from PW3 during the investigation (which he confirmed when his supposed 161 CrPC statement was read out, denying having ever made any such statement). Like the others, PW3 too denied that he was hiding the truth due to a settlement or under pressure, insisting that he was telling the truth and was not influenced by the accused.

15. Significantly, PW3 also corroborated the love affair and false dowry case narrative. In his defence-side cross-exam, he affirmed that Madhu had been living with her maternal uncle (at her nanihaal) and had fallen in love with a boy from a different community. When this came to light, the family quickly arranged her marriage with Rahul Pandey, who, being physically challenged, was willing to marry without dowry. After marriage, Madhu allegedly kept trying to contact that boy, which Rahul and his father discovered. They called Madhu’s brother and informed him; the family attempted to persuade her, but she chose to live separately (left her in-laws) due to her continued attachment to the boyfriend. PW3 stated that as a result, “Madhu, due to loving the previous boy, committed suicide on her own.” He asserted, “No one is at fault. Out of misunderstanding, my brother (PW1) filed this report to save his honour.”. This is an explicit acknowledgement by PW3 that the case against the accused is a result of a misunderstanding and an attempt by the family to cover up the actual reason for the suicide.

16. In sum, PW3’s testimony, like that of PW1 and PW2, completely undermines the prosecution’s case. He provides no evidence of any dowry demand or cruelty by the accused. Instead, he supports the version that the deceased’s own actions (stemming from a pre-marital affair) led to her suicide, and that the dowry allegations were a subsequent smokescreen. He too exonerated the accused of any involvement, stating “kisi ka koi dosh nahin” (no one is to blame) for the death except the deceased’s own circumstances.

17. **Testimony of PW4 (Paternal Uncle of deceased):** PW4 Sudhir Kumar is the real younger brother of PW1 (thus paternal uncle of Madhu). His testimony is slightly distinct in that he did not overtly narrate the love affair story or false case motive in his chief examination, but he also did not confirm any dowry harassment by the accused. PW4 stated that the

marriage of Madhu with Rahul Pandey took place on 18.04.2024 and that the family gave sufficient dowry according to their capacity. He mentioned that he lives separately (though in the same village as PW1) and, being a professional driver, he is often away from home, so he “could not get to know what trouble she had at her in-laws”. He frankly admitted that because of his frequent absence, he lacked complete information about Madhu’s marital life. On the day of the incident (14.11.2024), he received a phone call (actually his brother PW1 received it while they were together in the fields) from their brother-in-law, informing them of Madhu’s death. PW4 accompanied PW1 and others to the matrimonial village, arriving around 7 PM that evening. He corroborated that on reaching, they found Madhu’s body lying in the house on a bed, police and villagers present, but both accused were not present (they had fled). The inquest was done in his presence, and the body was sent for a post-mortem. PW4 observed a ligature mark on Madhu’s neck but stated that no villager present was willing to tell him anything about how she died. He thus did not know the cause initially. He noted that Madhu was healthy, of sound mind, and had no illness; he also said she was generally happy with everyone at her maternal home and had no issues there.

18. Regarding dowry harassment, PW4 did not claim any direct knowledge of it. He stated, “I have no information that her in-laws, after marriage, taunted her for bringing less dowry or physically or mentally harassed her, or that they were demanding a four-wheeler and ₹3 lakh extra, or that they beat her for not getting it”. He specifically said he did not know if the accused were making dowry demands or harassing her. This amounts to PW4 not supporting the prosecution’s allegation of dowry harassment – he neither witnessed nor heard of any such demands.

19. However, PW4’s testimony did include some ambivalent statements under cross-examination by the prosecutor, likely reflecting what he might have stated during the investigation. Notably, he confirmed that upon reaching the scene, the accused Rahul and Dayashankar were absconding (had fled) and remained absconding until after the post-mortem and funeral, after which police arrested them. The fact of the accused fleeing the scene was emphasised, presumably to cast suspicion on them. PW4 also stated that PW1 (his brother) lodged the FIR. He described the deceased as a cheerful and skilled housewife who did her duties happily.

20. When asked about dowry demands, PW4 responded that he did not know “after how many days of marriage Rahul started demanding extra dowry” and that “being often away, I cannot say when Rahul and Dayashankar taunted her for dowry or beat her”. These responses suggest that he was not in a position to verify if such demands occurred, as he lacked firsthand knowledge. He further added, somewhat inconsistently, that because the additional dowry (four-wheeler and ₹3 lakh) was not arranged, his brother (PW1) could not give it to Rahul and Dayashankar. This appears to be hearsay or assumptions, possibly derived from what PW1 had initially alleged to him. It is important to note that PW4 did not claim to

witness any demand or harassment personally; he is merely stating that the demanded items were not given.

21. PW4's police statement under Section 161 CrPC was partly confronted with him. He conceded that the police had asked him some questions and some to PW1, and that he told the police whatever he knew, and he correctly stated those things to the police. However, he did not elaborate in court what those things were. He then affirmed that Madhu's death occurred by being hanged by a noose (consistent with suicide or homicidal hanging). He maintained that the testimony he gave in court was of his own will, telling what actually happened, and that he was under no pressure or tutoring. He professed ignorance about the terms or existence of any compromise between his family and the accused, claiming he was not involved in any such talks because he was often away.

22. Under cross by the defence, PW4 distanced himself from the "love affair" narrative to an extent, saying he did not know if Madhu had any love affair at her nanihaal, or if she wanted to marry someone else, or if the parents pressured her to marry Rahul due to Rahul's handicap. He also said he did not know whether Rahul and Dayashankar had any role in Madhu's suicide, or if the parents/in-laws discovered her affair, leading to her suicide and PW1 filed a false report to save honour. Essentially, PW4 answered "I have no information" to all these suggestions. This indicates that PW4, unlike the other PWs, did not personally endorse the love affair explanation or the claim of the FIR being false to save honour – he remained non-committal, likely because he genuinely lacked personal knowledge of those aspects.

23. **Analysis of PW4's stance:** PW4 did not strengthen the prosecution's case in any meaningful way; at best, he provided a neutral account with some hints of the initial allegation (via hearsay). He did not testify to any specific incident of cruelty or demand by the accused. The only potentially adverse fact he highlighted was the accused's absconding after the death, which raises suspicion but is not proof of guilt. His acknowledgement that he told the police some things (which presumably included that there were dowry demands as per what others told him) does not constitute substantive evidence in court. Notably, he too stated that he had no direct knowledge of any dowry harassment and that he personally cannot say whether the accused taunted or harassed Madhu. In essence, PW4's evidence does not establish the prosecution's allegations; at most, it fails to confirm the defence's love-affair story, but that does not amount to proof of the prosecution's version. It leaves the court with no positive evidence of guilt.

24. **Documentary Evidence:** The prosecution's documentary exhibits (all admitted under Section 294 CrPC) include the written complaint (Ex. Ka-1), FIR (Ex. Ka-3), site plan of place of occurrence (Ex. Ka-5), inquest report (Panchayatnama, Ex. Ka-7), post-mortem report (Ex. Ka-6), etc.. These documents have been perused. The FIR (Ex. Ka-3) lodged by PW1 contains detailed allegations that after marriage, the accused demanded a four-wheeler and ₹3 lakhs, harassed Madhu for it, and on 14.11.2024, they killed

her and hanged her to make it look like suicide. However, this version, as seen, has been retracted by PW1 in court. It is settled law that an FIR is not substantive evidence of the facts unless confirmed by the maker in court ([GOVERDHAN & ANR. VERSUS STATE OF CHHATTISGARH: 2025 INSC 47](#)). Here, the maker (PW1) not only failed to support it but labelled it as false and driven by extraneous reasons. Thus, the FIR's contents have no evidentiary weight by themselves in proving the charges. The post-mortem report (Ex. Ka-6) confirms the cause of death as hanging (asphyxia due to antemortem hanging) and notes a ligature mark on the neck with no other significant injury on the body. The medical evidence, therefore, is consistent with death by hanging, which could be suicide. It does not point conclusively towards homicidal strangulation (for instance, no multiple injuries or clear signs of struggle were documented). In fact, the doctor's opinion does not contradict the possibility of suicide; if anything, it lends support to the defence claim that the death was self-inflicted, since apart from the ligature mark, no other external ante-mortem injuries were recorded. The inquest (Ex. Ka-7) likewise would have noted the preliminary cause of death as hanging; however, since none of the panch witnesses or the Executive Magistrate conducting the inquest were examined, those notings have limited use.

25. Absence of Independent Witnesses: No neighbour, no member of the in-laws' village, and no officer who investigated the crime has been examined. Therefore, the prosecution's case stands solely on the testimony of the deceased's family. As discussed, that foundation has crumbled since the family members turned hostile. There is no eyewitness or direct evidence of any cruelty or assault by the accused. There is also no circumstantial evidence produced (such as proof of prior incidents of demand, letters or messages from the deceased, recovery of any evidence of struggle, etc.) that could corroborate the initial allegations. The accused's conduct of fleeing the scene, while suspicious, cannot by itself establish guilt in the absence of any supporting evidence of a crime – mere abscondence is not conclusive of guilt (it may be motivated by fear or panic) and cannot take the place of proof. Our courts have consistently held that suspicion, however grave, cannot substitute for evidence of offence. Here, what remains against the accused is not even a substantial suspicion, but only the fact that the deceased died an unnatural death in their home – a fact which triggers scrutiny, but does not on its own prove the offence without evidence of dowry harassment “soon before death.”

26. Credibility of Witnesses: The Court is conscious that PW1, PW2, and PW3 have effectively retracted their earlier stands, and their credibility is tainted by the fact that either their FIR/police statements or their testimony in court must be false. There is an obvious indication that a compromise within the family and the in-laws (accused) has taken place, as hinted by PW1's admission of a *sulah* and by all family members closing ranks to exonerate the accused. The possibility that these witnesses were “won over” or pressured to turn hostile cannot be ruled out. However, the Court cannot

conjecture or convict on that basis. The legal position is clear that the prosecution has to prove its case through admissible evidence, and the burden never shifts unless foundational facts are established. In this case, the prosecution had the opportunity to cross-examine its hostile witnesses, which it did, but ultimately, even that cross-examination did not yield any admission supporting the charges. Each hostile witness stuck to the version that the accused did nothing to demand dowry or hurt the deceased. The prior statements to police (under Section 161 CrPC) of these witnesses have no probative value as substantive evidence – they can only impeach credibility, not prove the truth of the allegations. Similarly, the FIR's allegations, unsubstantiated in court, cannot form the basis of a conviction. The net result is that there is no reliable evidence before the Court to indicate that the accused subjected the deceased to cruelty or dowry demands. On the contrary, all available testimonies from those who would know (her parents and uncles) say that no such cruelty or demand ever took place. This effectively absolves the accused of the allegations in the eyes of the law.

27. In light of the foregoing discussion, the Court finds that the prosecution's evidence is wholly insufficient to establish the charges. Not only has the prosecution “miserably failed to substantiate the demand of dowry by the accused persons” ([Ashok Prasad Sah and Ors. Vs. The State of Bihar - \(High Court of Patna\) \(20 Jun 2018\): MANU/BH/1271/2018](#)), but its own star witnesses have reversed their stance, leaving the Court with affirmative evidence that dowry demands or harassment were absent. This is an extraordinary situation where the prosecution's case has effectively been destroyed by its own witnesses.

Legal Analysis

28. Having marshalled the facts, the Court now proceeds to apply the relevant legal provisions to determine whether any offence is made out. The accused face three sets of charges: (A) Dowry Death under Section 80 BNS, 2023 (which mirrors Section 304B of the IPC); (B) Cruelty by husband or his relative under Section 85 BNS (mirroring Section 498A IPC); and (C) Dowry demand under Section 4 of the Dowry Prohibition Act, 1961. Each of these charges requires specific ingredients to be proved beyond a reasonable doubt.

A. Dowry Death (Section 80 BNS / 304B IPC):

29. Section 304B of IPC (and correspondingly Section 80 of BNS, 2023) defines dowry death with the following essentials: (a) the death of a woman caused by burns, bodily injury, or occurring in unnatural circumstances, (b) within seven years of her marriage, (c) and it is shown that “soon before her death” she was subjected to cruelty or harassment by her husband or his relative (d) “for or in connection with the demand for dowry.” If these elements are proved, such death is termed dowry death, and by legal fiction, the husband or relative is deemed to have caused her death. Section 80

BNS(1) reproduces this definition, and Section 80(2) BNS prescribes the punishment (minimum 7 years up to life imprisonment).

To secure a conviction under this section, all the above ingredients must be established: the factum of unnatural death within 7 years of marriage, and the fact that shortly prior to death, the deceased endured cruelty/harassment for dowry by the accused. Crucially, the requirement of “soon before her death” means there must be a perceptible nexus between the alleged dowry-related harassment and the death – a proximity in time and continuity of harassment such that it can be inferred the death was a consequence of that harassment. This is a fact-specific inquiry; the phrase “soon before” does not imply an immediate or exact time frame, but it does demand that the interval between the last incident of dowry harassment and the death not be too long, and that the cruelty be of such nature and pattern that it led up to the death.

30. Statutory Presumption (Section 113B, Evidence Act): If the prosecution proves the foundational facts for dowry death (as above), Section 113B of the Evidence Act, 1872 comes into play, which mandates that the Court “shall presume” the death to be a dowry death caused by the husband or relative. In effect, the law shifts a part of the burden onto the accused to rebut this presumption once the prosecution has shown: (1) unnatural death within 7 years of marriage, and (2) cruelty/harassment for dowry soon before death. However, it is well-settled that this presumption is not automatic or absolute. It arises only if the prosecution first proves that the woman was subjected to such dowry-related cruelty or harassment shortly before her death. The Supreme Court has repeatedly emphasised that mere proof of an unnatural death in the matrimonial home within seven years of marriage is not by itself sufficient for a conviction under Section 304B. There must be tangible evidence of the dowry demand and consequent cruelty to trigger the presumption. If such evidence is lacking, the presumption under Section 113B does not get activated, and the burden does not shift to the accused. In the absence of proof of the essential element of dowry-linked cruelty, the accused cannot be called upon to explain the death and must be given the benefit of doubt.

31. Application to Present Facts – Dowry Death: In the present case, as discussed in detail, while the fact of an unnatural death within 7 years is established (Madhu died by hanging just ~6 months into marriage), the prosecution has entirely failed to prove that “soon before her death” she was subjected to any cruelty or harassment for dowry by the accused. On the contrary, all the material witnesses have testified that no such harassment or demands ever occurred. There is zero evidence of any dowry demand being made by the accused at any time – no oral testimony, no written letters, no independent account. The deceased’s parents, who would have been the primary recipients of any such demand, have expressly denied that any demand for a four-wheeler, cash or any additional dowry was raised by the accused. They also denied that the accused ever ill-treated or assaulted the deceased. The deceased herself, tragically, is not alive to tell her tale, but

notably, none of the witnesses recalled her ever complaining about dowry harassment, which strongly indicates that she likely never made such complaints (else it is unlikely a mother or father would forget or fail to mention it).

32. Given this state of evidence, the vital link of dowry-related cruelty “soon before death” is missing. Without this link, the chain of Section 304B is broken. Consequently, the presumption under Section 113B of the Evidence Act does not arise at all. The prosecution cannot invoke the presumption to fill the gap because it has not met the threshold requirement of showing dowry harassment. The Supreme Court’s pronouncements make it abundantly clear that courts must not leap to presume dowry death unless the prosecution first establishes the fact of cruelty/harassment for dowry. Here, rather than establishing it, the prosecution’s own witnesses negated it.

33. In fact, what the evidence indicates is that no offence under Section 304B/Section 80 BNS is made out, because one of the essential ingredients (dowry cruelty) is not proved at all. The presumption being inapplicable, the onus remains throughout on the prosecution, which it has utterly failed to discharge. At best, the trial has established an unexplained abnormal death (hanging) in the matrimonial home within 7 years, which by itself is a suspicious circumstance but not sufficient to convict for dowry death. The law does not permit a conviction for dowry death based on *res ipsa loquitur* (the fact of death alone) or based on surmise. There must be evidence of a proximate cruelty for dowry. In this case, not only is evidence lacking, but the only evidence (from family) affirmatively points to the absence of dowry harassment and provides an alternate reason for suicide (i.e. personal reasons of the deceased). Therefore, Point (ii) is answered in the negative – Madhu was not subjected to dowry-related cruelty or harassment before her death by the accused, as per the evidence on record. Accordingly, Point (iii) (dowry death and presumption) must also be answered in the negative – the death cannot legally be termed a “dowry death” attributable to the accused in the absence of proof of dowry harassment.

34. It is pertinent to cite here a guiding observation of the Hon’ble Supreme Court in dowry death cases: “Factum of unnatural death within 7 years of marriage is not ipso facto sufficient for conviction for dowry death. The prosecution must prove that the victim was subjected to cruelty or harassment for dowry soon before her death; only then can the presumption under Section 113B be applied”. In a recent decision (Feb 2025), the Supreme Court quashed a dowry death conviction where the prosecution had failed to establish specific instances of cruelty or harassment soon before death, and it reiterated that without such proof, the statutory presumption is not attracted ([KARAN SINGH versus STATE OF HARYANA: 2025 INSC 133](#)). In the same case, the Court emphasised that none of the prosecution witnesses had mentioned any specific acts of cruelty or demand, and therefore the ingredients of Sections 304B/498A IPC were not proved. That scenario is exactly mirrored here: there is a complete absence of any specific or general evidence of cruelty or dowry demand. Therefore, this Court must

hold that the offence of dowry death is not made out. The accused are entitled to an acquittal on that charge.

B. Cruelty by Husband/Relatives (Section 85 BNS / 498A IPC):

35. Section 498A IPC (now Section 85 of BNS) criminalises cruelty by the husband or his relatives towards a married woman. "Cruelty" under this provision includes: (a) any willful conduct which is of such nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health, or (b) harassment of the woman where it is with a view to coercing her or her relatives to meet any unlawful demand for property or valuable security (dowry), or is on account of failure to meet such demand. In the context of this case, the alleged cruelty was specifically dowry-related harassment, which falls under clause (b). The punishment under this section is up to 3 years and a fine.

36. To establish the offence of cruelty, the prosecution needed to prove that the accused engaged in either form of cruel conduct as defined above. Typically, in dowry harassment cases, Section 498A (Section 85 BNS) goes hand in hand with Section 304B IPC when the victim dies. However, it is a separate and independent offence – even if the death is not proved as dowry death, the accused could still be convicted under Section 498A if there is evidence of cruelty or harassment for dowry or otherwise.

37. In the present case, the very same evidence that failed to prove dowry harassment "soon before death" also fails to prove cruelty at any time during the marriage. The witnesses have uniformly stated that Madhu was not harassed or mistreated by the accused at all. PW1 and PW2 both stated that their daughter was treated well and that the accused never made any unlawful demands or inflicted any harassment. There is no allegation or proof of any other kind of cruelty (like physical abuse unrelated to dowry, or mental torture, etc.). In fact, the picture that emerges from the family's deposition is that the marital life was apparently normal from the in-laws' side, and the only issues were due to the deceased's own dissatisfaction. For instance, PW4 described the deceased as "khushmijaaz" (good-natured, cheerful) and adept in household work, doing everything happily, implying she was not in misery at the in-laws'. PW3 said whenever he met her, she did not seem upset and never complained. These accounts strongly negate any inference of cruelty by the husband or father-in-law.

38. The prosecution has not brought any evidence of even a single act or incident that could be labelled "cruelty" under the law. No neighbour or other relative recounted seeing injuries or hearing quarrels. The medical evidence does not show prior injuries or signs of abuse. The only prior written record of cruelty is in the FIR and police statements – which, as discussed, have been declared false by the very persons who made them. Therefore, those cannot be relied upon as proof. The net result is that the charge under Section 85 BNS (498A IPC) also collapses for want of evidence.

39. It is worth noting that even if the witnesses had remained hostile only partially, the Court could still look for corroboration in other evidence. But here, not only did the witnesses turn hostile, they provided positive proof that no cruelty occurred. There is nothing to corroborate the original allegation of cruelty. Thus, there is a total failure of proof on this count. In the absence of any credible evidence of willful, harmful conduct or dowry-related harassment by the accused, they cannot be convicted for cruelty.

C. Dowry Demand (Section 4, Dowry Prohibition Act):

40. Section 4 of the Dowry Prohibition Act, 1961 penalises the mere act of demanding dowry from the bride's family, etc., at any time (before, during or after marriage). To prove this charge, the prosecution had to establish that the accused directly or indirectly demanded dowry (any property or valuable security as defined in Section 2 of the Act) from the parents or relatives of the bride. The punishment can extend to 2 years imprisonment and a fine.

41. Here again, the evidence is unambiguous. Every prosecution witness has stated that no demand for dowry (whether a car, cash, or any additional gift) was ever made by the accused. PW1 clearly said, "Rahul Pandey and Dayashankar Pandey never asked for any four-wheeler or ₹3 lakhs from us". PW2 said the same. PW3 echoed that to his knowledge, there was no such demand. Even PW4, while less directly, did not assert any demand was made in his presence – he only alluded that the items were not given due to inability, but he admitted he was mostly away and didn't know of demands. Importantly, no witness testified to any conversation, letter, meeting or incident where either of the accused is said to have asked for dowry. The initial claim in the FIR that they "insisted on being given a four-wheeler and ₹3,00,000" stands unproven and in fact is repudiated by the complainant himself.

42. Therefore, the very actus reus of the Section 4 DP Act offence – the demand – is not established. On the contrary, it is disproved by the prosecution's own witnesses. One cannot imagine more unmistakable evidence of the absence of demand than the complainant and his wife admitting in court that "the accused never demanded the car and cash that we had mentioned in the report". Thus, the charge under Section 4 of the D.P. Act is also not made out.

43. **Rebuttal of Potential Arguments:** The learned District Government Counsel (prosecutor), in final arguments, faced with a hostile witness scenario, argued that the Court should consider the initial version given by PW1 in the FIR and to the police, and the surrounding circumstances, to draw an inference of guilt. He submitted that the death occurred in the secrecy of the matrimonial home, and thus under Section 106 of the Evidence Act, the burden lies on the accused to explain how she died. He contended that the accused's absconding after the incident indicates a guilty mind, and that the subsequent compromise between the families should not

absolve the accused of the crime they initially appeared to have committed. He urged the Court not to be swayed by the retractions of the family, calling them the result of a compromise and hence unreliable.

44. The defence counsel, on the other hand, argued that the prosecution's case had fallen entirely flat due to a lack of evidence. He pointed out that all essential ingredients of each charge are unproven. He emphasised that the family of the deceased has absolved the accused, giving an alternative explanation of suicide for personal reasons unrelated to dowry. He submitted that even if the Court is disinclined to believe the defence story in its entirety, the fact remains that there is reasonable doubt on the prosecution's case, and the accused must benefit from that. He cited the legal principle that a conviction cannot be based on "moral conviction" or suspicion without legal evidence. He further cited precedents Karan Singh (Supra) wherein the Supreme Court acquitted accused in dowry death cases when witnesses turned hostile or proof of dowry harassment was not convincing.

45. Upon careful consideration, this Court finds considerable force in the defence submissions. As analysed, the evidence on record does not support the prosecution's charges. On the specific points raised:

FIR vs. Testimony: PW1's FIR indeed contained incriminating allegations. However, FIR is not substantive evidence, and given that PW1 did not corroborate it in court, the FIR's contents cannot be used to establish the facts. In fact, PW1 has explained the FIR away as a false implication. There is no other evidence to "prove by other circumstances" the FIR allegations. Therefore, the initial version stands effectively discredited.

Section 106, Evidence Act: The prosecution's invocation of Section 106 (which says that if a fact is especially within the knowledge of a person, the burden of explaining it may lie on him) does not override the presumption of innocence. While it is true that the circumstances of the death were within the matrimonial home, Section 106 cannot be used to relieve the prosecution of its primary burden to prove guilt beyond a reasonable doubt. The law (as clarified in many judgments) is that Section 106 is a rule of evidence that applies when the prosecution has established a prima facie case and a fact is within the accused's knowledge; it cannot be pressed into service to fill wholesale gaps in the prosecution's case. Here, the prosecution has not established even a prima facie case of dowry harassment or homicide. The mere fact that the accused did not explain how she died does not automatically incriminate them, especially when the medical evidence is consistent with suicide and the witnesses closest to the deceased attribute it to her own act. The accused, in their Section 313 CrPC statements, denied involvement. In the absence of any substantive evidence pointing to murder or abetment, the failure of the accused to provide an alternative explanation cannot turn the tide against them. Our legal system does not convict on account of silence or evasiveness of the accused if the prosecution has not proved its case.

Absconding of Accused: The fact that Rahul and Dayashankar were not present when the family arrived and were later arrested after the funeral is indeed suspicious. However, suspicion is not proof. The Court acknowledges that fleeing from one's home upon a death can indicate fear of being blamed, which might occur even if they were innocent (for example, fearing retaliation from the deceased's relatives or panic). There is no direct evidence about what the accused did or said immediately after the incident – whether they tried to get help, who found the body, etc., is not on record. The abscondance alone, without more, cannot sustain a conviction. The Supreme Court has cautioned that courts should not jump to conclusions of guilt merely because an accused absconded; such conduct is only one piece of circumstantial evidence and not conclusive. In the present case, with the core allegations unproven, absconding does not tilt the balance.

Compromise and Witness Credibility: It is apparent that a compromise likely took place (the witnesses admitted to reconciliation). However, whether due to compromise or genuine remorse at having made false allegations, the end result is that the prosecution witnesses did not support the charges. The Court cannot invent evidence to corroborate the initial claim. If a witness goes hostile, the remedy for the prosecution is to impeach and, if possible, bring independent evidence. That was not done here. Moreover, even a hostile witness's testimony can be accepted in parts if credible. Here, the witnesses' statements that no dowry demand occurred are actually against their earlier stance, but they have given detailed reasons (however unusual) for why the case was filed falsely. Their explanation that it was filed to save honour might appear self-serving, but any other evidence has not contradicted it. There is no evidence to the contrary (e.g., a neighbour or friend testifying that the deceased had indeed complained of dowry harassment), which might persuade the Court that the hostile turn is false. In this scenario, the Court is left with no option but to give the benefit of the doubt to the accused. The family's retraction may be morally questionable, but legally it creates a massive reasonable doubt about the prosecution's story.

46. Case Law and Precedent: This case underscores the principle laid down in [Baijnath And Ors vs State Of M P on 18 November, 2016 ABC 2016 \(II\) 273 SC](#), where the Supreme Court acquitted the accused of dowry death and cruelty because the prosecution failed to prove the essential elements of cruelty and dowry demand beyond a reasonable doubt. The Court in that case stressed that unless the prosecution's evidence firmly establishes the linkage between dowry demand, cruelty, and the death, the accused cannot be convicted merely on presumption. It was observed that a conviction cannot be sustained on weak or contradictory evidence, leading only to a "moral conviction" rather than a legal one. In our case, the evidence is not just weak – it outright favours the defence. The Supreme Court in *Karan Singh v. State of Haryana* (2022) similarly noted that if the witnesses do not support the prosecution and there is no evidence of cruelty soon before death, the accused must be acquitted. The 2023 Supreme Court ruling

(Charan Singh @ Charanjit Singh vs The State Of Uttarakhand Home on 20 April, 2023: 2023 INSC 404) highlighted by the defence reiterated that an unnatural death in the matrimonial home does not automatically lead to a dowry death conviction, and the courts must require clear evidence of dowry harassment “soon before” the death. The present case aligns with those scenarios where the courts have overturned convictions or acquitted the accused because the foundational evidence of cruelty was missing.

47. As a matter of law, therefore, this Court concludes that:

The prosecution has failed to prove beyond a reasonable doubt that the accused Rahul Pandey or Dayashankar Pandey subjected Smt. Madhu Pandey to any cruelty or harassment in connection with dowry demands, at any time, let alone soon before her death.

In the absence of such proof, the offence of dowry death (Section 304B IPC / Section 80 BNS) is not established, and the statutory presumption under Evidence Act Section 113B cannot be applied. The death, though unfortunate and suspicious, cannot be legally attributed to the accused.

The prosecution has also not proven the offence of cruelty under Section 498A IPC / Section 85 BNS, since no willful, cruel conduct or dowry harassment by the accused is evidenced.

The charge of dowry demand under Section 4 D.P. Act likewise is not proved; on the contrary, it has been negated by all witnesses.

There is no other offence made out from the facts (for instance, abetment of suicide under Section 115 BNS / Section 306 IPC could have been a possibility if cruelty was proved, but here no cruelty is proved, so even that does not arise). Indeed, the evidence suggests the deceased's suicide was an independent act for personal reasons, not due to any instigation or cruelty by the accused.

The entirety of the evidence on record, when viewed in totality, fails to bring home the guilt of the accused for any of the charges. The accused, therefore, are entitled in law to a verdict of acquittal.

Findings on Points for Determination

48. Based on the above evidence and analysis, the Court records its findings on the Points enumerated in paragraph 3 as follows:

Point (i): Smt. Madhu Pandey died an unnatural death (hanging) on 14.11.2024 within seven years of her marriage – Found Proved. (This foundational fact of death by asphyxia due to hanging is established by the post-mortem and not disputed.)

Point (ii): Dowry harassment soon before death – Not Proved. It is not proved that, soon before her death, Madhu was subjected to any cruelty or harassment by the accused in connection with any demand for dowry. All

witnesses deny such harassment and no independent evidence exists to support this allegation.

Point (iii): Dowry Death (Section 80 BNS / 304B IPC) – Not Proved. In view of the above, it is not established that the death of Madhu Pandey was a “dowry death” caused by the accused. The essential ingredients of the offence are not fulfilled, and thus the statutory presumption of dowry death does not arise. The accused cannot be deemed to have caused her death under the dowry death law.

Point (iv): Cruelty (Section 85 BNS / 498A IPC) – Not Proved. There is no credible evidence that the accused Rahul Pandey or Dayashankar Pandey ever subjected the deceased to cruelty (either of the type likely to drive to suicide or in relation to dowry demands). On the contrary, evidence suggests no such cruelty occurred. Therefore, the charge of cruelty fails.

Point (v): Dowry Demand (Section 4 D.P. Act) – Not Proved. It has not been proved that any unlawful demand for dowry was made by either accused at any time. The prosecution's evidence unanimously indicates no dowry was demanded. Thus, this offence is not made out.

Point (vi): Overall Guilt of the Accused – Not Proved. The prosecution has failed to prove the charges under Section 80 BNS, Section 85 BNS, and Section 4 D.P. Act against the accused beyond a reasonable doubt. The accused are, therefore, entitled to acquittal.

In light of the hostile testimony of key witnesses and the lack of any other evidence, the only possible conclusion in law is that the prosecution has not established the accused's guilt. Any lingering suspicions cannot substitute for proof. The accused must be given the benefit of the doubt. This Court must also observe that this case appears to have been the result of a tragic personal situation mischaracterised initially as a dowry crime; when the truth came out in court, it became clear that the legal ingredients of the alleged offences are absent.

Conclusion and Order

49. For the reasons discussed above, this Court finds that the prosecution has not proved its case against the accused. The evidence on record not only fails to substantiate the charges but also affirmatively suggests an alternate scenario in which the accused had no involvement in any crime. In such circumstances, our criminal jurisprudence mandates that the accused be acquitted, as a matter of fairness and the rule of law. The standard of proof in criminal cases – proof beyond a reasonable doubt – is not even remotely met here.

50. Accordingly, I hereby acquit both accused, Rahul Pandey (A1) and Dayashankar Pandey (A2), of all charges under Section 80(2) of the Bhartiya Nyaya Sanhita, 2023 (dowry death), Section 85 of the Bhartiya Nyaya Sanhita, 2023 (cruelty by husband/relative), and Section 4 of the Dowry Prohibition Act, 1961. The accused are found not guilty and are acquitted.

51. The accused Rahul Pandey is in jail; he shall be released forthwith, if not required in any other case. The accused Dayashankar Pandey is on bail. His bail bonds are cancelled and sureties discharged. In compliance with Section 437-A of the Code of Criminal Procedure, both accused have furnished a personal bond of ₹20,000/- each and two sureties each in the like amount, binding them to appear before the higher court as and when called, should there be an appeal against this judgment. Such bonds shall remain in force for six months.

52. Before parting, the Court places on record that a young woman's life was lost under unhappy circumstances. While the outcome of this trial is an acquittal due to a lack of legal evidence of the crime, it is hoped that all parties have learned the importance of honest investigation and testimony. Filing false or exaggerated allegations (if that be the case) not only causes hardship to the accused but also derails the quest for truth and justice. Conversely, if there was any grain of truth initially which was later suppressed, that is equally concerning as it means a potential crime goes unpunished. Unfortunately, given the evidence (or the lack thereof), the Court had no legal option but to acquit. The benefit of doubt has to be given to the accused in accordance with the law.

53. Let a copy of this judgment be given free of cost to the accused forthwith. The file will be consigned to the record room after due compliance.

This judgment is signed, dated and pronounced in open court on this 26th day of August, 2025.

(Chandroday Kumar)

Sessions Judge, Kannauj.