

CASE NO.:
Appeal (crl.) 849 of 2004

PETITIONER:
Taiyab Khan & Ors.

RESPONDENT:
State of Bihar (Now Jharkhand)

DATE OF JUDGMENT: 23/11/2005

BENCH:
K.G. Balakrishnan & Arun Kumar

JUDGMENT:
JUDGMENT

ARUN KUMAR, J.

This is an appeal against a judgment of conviction under Section 304B of the Indian Penal Code passed by the VIth Additional Judicial Commisisioner, Ranchi and confirmed by the High Court of the State of Jharkhand at Ranchi. The three appellants were sentenced to 10 years R.I. each. The appellant No.1 Taiyab Khan is the husband of the deceased while appellants No.2 and 3 are his parents. The deceased was named Noorjahan. Marriage of appellant No.1 with Noorjahan took place in April, 1991. The incident leading to death of Noorjahan is of 9th February, 1994. Death of Noorjahan is said to have been caused by poisoning. The main ingredients of Section 304B IPC are:

- (a) Death of a woman;
- (b) By burns or bodily injury or occurrence otherwise than under normal circumstances;
- (c) Within seven years of her marriage;
- (d) Soon before her death the victim was subjected to cruelty or harassment by her husband or any relative of her husband in connection with demand for dowry.

Present is a case of death of a woman having taken place within three years of her marriage. It is a case of an unnatural death, that is, death which occurs otherwise than under normal circumstances. The first three ingredients are clearly established. The only other ingredient which needs to be considered is the harassment of the woman by the husband or his relatives in connection with demand for dowry. The prosecution examined seven witnesses. PW1 and PW2 were the brothers of the deceased, PW3 was her maternal uncle while PW4 was the mother of the deceased, PW 5 was a villager, PW6 was the Investigating Officer of the case and PW7 was the doctor who examined the deceased in the hospital. PW 1 to PW 5 have spoken about the dowry demands made by the appellants and the harassment of the deceased on account of such demands by the appellants. It is clear from the evidence of these witnesses that the deceased was being constantly harassed for demands on account of dowry. The deceased was being asked to bring further cash and gold/silver ornaments and on account of non-compliance of such demands, she was being denied food. On the fateful day she had been removed to hospital in an unconscious state. PW 2, one of the brothers of the deceased was also the informants to the police at whose instance the FIR was recorded. He works in a garage where he was informed that his sister was lying unconscious in the Mandar Hospital. He went home and informed other family members and they all went to the hospital to find out about the condition of the deceased. The defence tried to suggest that the deceased took poison on her own and committed suicide. However, this was disbelieved by both the courts

below. It is a case of unnatural death. The learned counsel for the appellant argued that the vicera report would have shown as to whether the death occurred on account of consumption of poison. This report was never received and therefore, it cannot be said to be a case of death by poisoning. In our view, the absence of vicera report does not make any difference to the fate of the case. The fact remains that it is a case of unnatural death. Section 304B IPC refers to death which occurs otherwise than under normal circumstances. It cannot be said to be a case of normal death. No other point was urged. We find no merit in this appeal. The same is dismissed. After holding them guilty of the offence under Section 304B, the courts below have sentenced the three accused to imprisonment for ten years each. Keeping in view the advance age of appellants 2 and 3, who are parents of appellant No.1, we consider it appropriate that their sentences be reduced. Accordingly in case of appellants 2 and 3 the sentence of ten years awarded by the courts below is reduced to seven years. The appeal is disposed of accordingly.