

**IN THE COURT OF MS. NEENA BANSAL KRISHNA:  
DISTRICT & SESSIONS JUDGE,  
SOUTH-EAST DISTRICT, SAKET COURT, NEW DELHI**

**SC No. 1437/2016 (Old SC No. 122/2010)**  
**FIR No. 585/2007**  
**P.S New Friends Colony**  
**U/s 498A/304B/34 IPC**  
**State vs. Ruchin Rastogi & Another**

**STATE**

**Versus**

- 1. RUCHIN RASTOGI**  
S/o Late Sh. Lakhmi Chand  
R/o: 194-A, Pocket-C,  
Sidhartha Extension,  
New Delhi.
- 2. SACHIN RASTOGI**  
S/o Late Sh. Lakhmi Chand  
R/o: 50-D, Pocket-C,  
Sidhartha Extension,  
New Delhi.

**First date before this Court: 30.07.2013**

**Date of Decision : 21.12.2019**

**JUDGMENT:**

- 1. A charge-sheet under Sections 498-A/304-B/34 IPC has been filed against the accused Ruchin Rastogi and Sachin Rastogi on account of suicidal death of Ms. Rachna w/o Ruchin Rastogi allegedly because of cruelty and dowry harassment.**

*State vs. Ruchin Rastogi & Another*

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*PS New Friends Colony; U/s 498A/304B/34 IPC*

**2. The facts in brief** are that on 27.11.2007 at 09.47 P.M Rachna, a young 23 years old girl committed suicide by hanging at House No.194-A, Pocket-C, Sidhartha Extension, New Delhi. On receiving this information from PCR, DD No.29 was recorded. Investigations were taken over by SI Shambhu Shah who along with Const. Pappu, reached the scene of incident where other staff was already present. The door of the inside room of the flat was found locked but one girl hanging from the fan with a chunni was visible from the window. The door was broken open and her dead body brought down. Investigations were undertaken and the photographs of the scene of crime were taken. The deceased was sent to the mortuary for her postmortem. Inquiries were made from the neighbours. Sh. Kuldeep Kumar Sharma, father of the deceased along with his wife Smt. Narender Sharma came to the Police Station and their statements were recorded by the SDM. Sh. Kuldeep Sharma gave a statement that his daughter Rachna had got married to Sh. Ruchin Rastogi against their wishes. After the marriage, Rachna (since deceased) used to talk to her mother Smt. Narender Sharma, who in turn used to inform him about the conversations. He came to know that Ruchin was not doing any work and used to demand money and car. He along with his brother once came to their house and had a fight. Police was called and then they all apologized and admitted their fault. His wife had told him that Ruchin and his brother Sachin gave her beatings and demanded car and money. Sh. Kuldeep Kumar Sharma gave Rs. 20,000/- on one occasion and Rs. 30,000/- on

another occasion. Despite this, deceased used to complain about being ill-treated. In the morning of the fateful day he came to know that Rachna had committed suicide. He expressed his suspicion to the SDM that she has been murdered by Ruchin her husband and his brother Sachin. Similar statement was given by Smt. Narender, mother of deceased Rachna. FIR was registered on the statement of Sh. Kuldeep Kumar Sharma.

3. During investigations, the statements of the witnesses were recorded. In the postmortem, the cause of death was given as asphyxia. On completion of investigations, the charge sheet was filed in the Court.
4. The cognizance was taken by Ld. M.M and the case was then committed to the Court of Sessions.
5. **Charges under Sections 498A/304B read with Section 34 IPC were framed on 25.03.2009** against both the accused, to which the accused pleaded not guilty.
6. The prosecution in support of its case examined **19 witnesses in all**.
7. **PW-1 Sh. L.S. Yadav**, Assistant Commissioner was posted as SDM in the year 2007 and had recorded the statement of Sh. Kuldeep Kumar Sharma and Smt. Narender Sharma parents of the deceased on 28.11.2007 which are **Ex. PW-1/A** and **Ex. PW-1/B**. On the basis of statements, Sh. L.S. Yadav directed for registration of FIR vide his letter **Ex. PW-1/C**. A copy of his request letter along with the relevant papers referred to AIIMS for conducting the postmortem is **Ex. PW-1/D**. **PW-8 Sh. Ramesh** took the

photographs of scene of crime which are collectively **Ex. PW-1/E**.

- 8. PW-5 Smt. Binod Bala** is the maternal aunt of deceased Rachna who deposed that Rachna used to visit her home and told her about Sachin demanding a flat to help Ruchin to start some business.
- 9.** Likewise, **PW-6 Smt. Sunita**, the paternal aunt of the deceased, has deposed on similar lines of she being told by Rachna about her husband being unemployed and alcoholic. She on the instructions of father of Rachna, had arranged for a flat on rent at B-Block, Jangpura and paid rent and also purchased grocery out of Rs.12,000/- given to her by the father of the deceased and she had given the balance to Rachna. It is also deposed that she had also given Rs. 20,000/- on one occasion and Rs. 25,000/- to Rs. 30,000/- on another occasion to Rachna. She further deposed that Rachna had told her that she was being harassed by both the accused, who used to beat her and her life had become a hell.
- 10.PW-7 Smt. Narender Sharma**, mother of the deceased, deposed about the deceased having informed her that she was being harassed by the accused persons who were making demands of money, car and flat.
- 11.PW-10 Sh. Kuldeep Kumar Sharma** father of the deceased had deposed on similar lines as the allegations made by him in the statement **Ex. PW-1/A** given to SDM.
- 12.PW-18 Retired ASI Karanveer Singh** had recorded the DD No.29 **Ex. PW-2/A**.
- 13.PW-2 SI Shambhu Shah** registered **DD No. 36 Ex. PW-2/B**. He

then along with Const. Pappu went to the scene of crime and brought down the deceased who was found hanging from the fan with a dupatta. He got the photographs of the scene of crime taken. He also called the SDM to the scene of crime. The proceedings under Section 176 Cr.P.C Ex. PW-2/B were conducted. After the registration of FIR, he and PW-3 ASI Ram Babu accompanied the SDM for postmortem. The dupatta Ex. P-1 of the deceased was handed over to the Doctor which was sealed in an envelope and seized vide memo Ex. PW-2/C. Letter for preservation of dead boy for postmortem is Ex. PW-2/D.

**14.PW-11 Dr. Sushil Sharma** Senior Resident, AIIMS Hospital, had received 12 inquest papers in regard to deceased Rachna. He conducted the postmortem vide Report Ex. PW-11/A and gave the cause of death as asphyxia.

**15.PW-9 Sh. Dayanand Sharma**, Priest in Arya Samaj Mandir, South Moti Bagh, New Delhi had performed the marriage of the deceased with Ruchin on 25.03.2004 according to Arya Samaj rites. The Marriage Certificate is Ex. PW-9/1.

**16.PW-16 Inspector Bishwajit Kumar** was the initial I.O who had reached the scene of crime on receipt of DD No.29. He conducted the investigations and got the scene of crime photographed and also subsequently got the site plan prepared from PW-13 Inspector Mahesh Kumar, Draftsman. He collected the statement of the parents of the deceased recorded by the SDM which are Ex. PW-

1/A and Ex. PW-1/B and got the FIR Ex. PW-16/C registered through PW-17 ASI Mange Lal Meena. He collected the Postmortem Report and arrested the accused Sachin on 07.01.2008

**17.PW-14 Inspector Ashok Kumar Singh** took over the investigations from the previous IO SI Bishwajeet on 26.01.2008. During investigations, he seized the Marriage Certificate Ex. PX vide memo Ex. PW-14/A. The copy of the Marriage Certificate is Ex. PW-14/B, payment slip is Ex. PW-14/C and the photocopies of the affidavits of Ruchin Rastogi and Rachna Sharma are Ex. PW-14/D and Ex. PW-14/E. The application forms are Ex. PW-14/F and Ex. PW-14/G which were seized vide memo Ex. PW-14/H.

**18.PW-19 Sh. Mahavir Singh**, Retired ACP had deposed that he had taken over the investigations of this case from SI Biswajeet.

**19.Statements of Accused persons were recorded under Section 313 Cr.P.C.** wherein they pleaded their innocence.

**20.**The accused **Ruchin Rastogi** examined himself as **DW-1** in his defence and accused **Sachin Rastogi** as **DW-2**. They both deposed that Rachna deceased was working with them in their business under the name and style of Oasis Resources Management and was dealing with her clients independently, the details of which is mentioned in the emails Ex. DW-1/C. During her course of business payment of about \$20447 which is nearly Rs.10 lacs in INR, got struck in regard to which she had sent an email dated 03.11.2017 which is part of Ex. DW-1/C. She had also sent reminder dated 14.11.2007. Finally,

she sent two emails dated 25.11.2017 for recovery of payment. She was depressed on account of non-payment of such huge amount at initial stage of her business. She had even called her client Platinum Corporation, Dubai and others for the above said payments, but she failed to secure the same.

**21.**The detailed testimony of all the witnesses shall be considered subsequently.

**22.**I have heard the arguments from Chief Public Prosecutor and Ld. Counsel for the accused persons and perused the record and the evidence recorded therein. **My observations are as under:**

**23.**Accused No. 1 Ruchin Rastogi husband of the deceased Rachna @ Ruchi, and Accused No. 2 Sachin Rastogi the brother of the Accused No. 1 Ruchin Rastogi have been charged with the offences punishable under **Sections 498-A/304-B/34 IPC.**

**24.**It is a matter of common knowledge that the matrimonial litigation is unfortunately rapidly increasing in our country, which is a reflection of discontent and unrest in a family life of a large number of people of the society. Huge number of cases are emanating from Section 498-A IPC which defines the crime of the husband and/or relatives of husband subjecting a woman to cruelty and provides for imprisonment for a term which may extend to 03 years and also fine.

**25.****Explanation to Section 498-A IPC** defines **cruelty** to mean **any wilful conduct** which is of the nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman; or **harassment** of the woman where such

harassment 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 on account of her failure or any person related to her to meet such demand.

**26. Section 498-A IPC** was inserted in the Indian Penal Code by way of Criminal Law (Amendment) Act, 1983. Its statement of objects and reasons mentioned that the increasing number of dowry deaths were a matter of serious concern. Cases of cruelty by the husband and relatives of the husband which culminate in suicide by or murder of the helpless woman concerned constitute only a small fraction of the cases involving such cruelty. The amendment of Indian Penal Code, Code of Criminal Procedure and Indian Evidence Act was proposed to be suitably amended to deal effectively not only with the cases of dowry deaths but also cases of cruelty to married women by their in-laws.

**27.** Though **Section 498-A IPC** was inserted to deal with the alarming situation of cruelty and crime on woman on account of dowry, but it has been noted that over a period of time, most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without proper deliberations. Large number of such complaints are not even bonafide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment are also a matter of serious concern as has been observed by the Hon'ble High Court of Delhi in *Shivendra Raizada & Others vs. State of UP & Another in case No. 1046/2005* decided



on 06.12.2018 wherein it was noted that there is enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. It must be ensured that the exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on the advice of family members or with their concurrence. Every complaint under Section 498-A IPC should be treated as a basic human problem and serious endeavour must be made to help the parties in arriving at an amicable resolution of that human problem in order to ensure that social fibre, peace and tranquillity of the society remains intact.

**28.**In *State of Andhra Pradesh vs. M. Madhusudhan Rao* arising out of *SLP (Criminal) No. 3426/2007*, decided on 24.12.2008, the Hon'ble Apex Court after making reference to the **Explanation to Section 498-A IPC**, defining cruelty and harassment, observed that new dimension to the concept of cruelty has been given in **Clause-A Explanation to Section 498-A IPC**, which postulates that any willful conduct would constitute cruelty as similar nature of injury as is likely to drive a woman to commit suicide or cause grave injury or danger to her life, limb or health. **Clause-B of the Explanation** provides that **harassment** of the woman should be with a view to coerce the wife to meet any unlawful demand for any property or valuable security.

**29.**For the purpose of **Section 498-A IPC** simplicitor cruelty would not be sufficient; it has to be of an extent that may drive an individual to

cause bodily harm to herself. Likewise, it is only when harassment is committed for the purpose of coercing a woman or any other person related to her to meet an unlawful demand for property or valuable security which amounts to cruelty punishable under Section 498-A IPC.

**30.** The ingredients of bringing home offence under **Section 304-B IPC** were explained by the Hon'ble Apex Court in *G. V. Siddaramesh vs. State of Karnataka, Criminal Appeal No. 160/2006* decided on 05.02.2010, and in *Girish Singh vs. The State of Uttarakhand, Criminal Appeal No. 1475/2009* decided on 23.07.2019 by the Apex Court, which are as follows:

- i. Death is caused in unnatural circumstances.
- ii. Death must have occurred within seven years of the marriage of the deceased
- iii. It needs to be shown that soon before her death, the deceased was subjected to cruelty or harassment by her husband or any relative of her husband for or in connection with any demand for dowry.

**31.** It may be noted that the word "dowry" has not been mentioned in **Section 498-A IPC** and "dowry death" also does not find mention in **Section 304-B IPC**. It is only in **Section 113-B of the Indian Evidence Act** that the presumption can be raised by the woman being subjected to crime of cruelty in the case of dowry death. It is also significant to note that while dealing with the offences under

Section 498-A IPC harassment can be related to meeting any unlawful demand of the husband or his family members. It need not be connected to dowry to bring home the offence under Section 498A IPC.

**32. Section 304-B IPC** however talks on cruelty and harassment which is linked to dowry demand. It is not any kind of cruelty or harassment but only that which can strictly be linked to demand of dowry, which would be relevant for the purpose of Section 304-B IPC. In *Shivendra Raizada & Others (Supra)* it was observed that for establishment of case of demand of dowry, it must co-relate with the marriage or pre-marriage stage and not every demand made by the applicants after marriage will come within the purview of dowry. It may be to meet some other financial scarcity or to meet some emergent family expenses. Such allegations would not be sufficient to bring home offence under **Section 304-B IPC**.

**33.** The term “dowry” has not been explained in Section 304-B IPC, but is defined in Dowry Prohibition Act, 1961 to be any property of valuable security given to a person or before or at any time after the marriage in connection with the marriage of the parties.

**34.** In *Shanti vs. State of Haryana (1991) 1 SCC 371* the Apex Court had observed that the suicide is one of the greatest death within the purview of Section 304-B IPC.

**35.** In *Satvir Singh vs. State of Punjab, 2001 (8) SCC 633* it was held that there can be three occasions related to dowry. One is before the marriage, second is at the time of marriage and the third is at any

time after the marriage. The third occasion may appear to be an unending period. But the crucial words are “**in connection with**” the marriage of the said parties. This means that giving or agreeing to give any property or valuable security on any of the above three stages should have been in connection with the marriage of the parties.

**36.**In *Geeta Mehrotra & Another vs. State of UP & Another, (2012) 10 SCC 741* decided on 17.10.2012, the Apex Court stated that the courts are expected to adopt a cautious approach when dealing with the matrimonial disputes and must consider whether the FIR discloses the commission of offence or is a case of over-implication by involving the entire family of the accused at the instance of the complainant to settle her scores arising out of the teething problem of domestic bickering while settling down in her new matrimonial surrounding. Merely by making a general allegation that accused persons were involved in physical and mental torture of the wife without mentioning even a single incident against them may not be sufficient to bring home the offence.

**37.**Now coming to the facts of the present case, it is an unfortunate case where a young girl of merely 23 years of age within less than four years of marriage, committed suicide by hanging on 27.11.2007 leaving behind two small children, aged about 03 years and 01 year. Suicidal deaths while on one hand reflect the frailty of human mind, on the other hand it leaves one completely flummoxed about the factors that drive a person to such extreme step of taking away one's

own life which is the most precious gift of nature. In cases like present where there is no suicide note, it is a herculean task to weave back the events of the life of the deceased to ascertain the surrounding circumstances and this burden lies solely with the prosecution.

**DEMAND FOR MONEY:**

**38.** The first aspect of significance is the circumstances in which Rachna got married to accused Ruchin as it was not with the concurrence of the parents. According to the testimony of **PW-10** Sh. Kuldeep Kumar Sharma, father of the deceased Ms. Rachna on 20.01.2005 at about 01.45 pm he had gone to Kamla Nehru College where she was studying to pick her up. However, he kept on waiting for about half an hour but she did not come. He made numerous phone calls to her, but she did not answer the same. Then someone called him on mobile phone and informed that Rachna had got married in the Court with one Ruchin Rastogi and has shifted to his house. He was shocked and informed his wife **PW-7** Smt. Narender Sharma about the incident on phone. He as well as his wife then kept trying to call Rachna, but with no response. He then called up the informant, but his phone was switched off. Finally, at about 11.00 pm or 11.30 pm the phone was answered by accused Sachin Rastogi, who informed that Rachna got married with his elder brother Ruchin Rastogi and that they both had gone out of Delhi. Helpless with the situation as Rachna had already attained the age of majority and also being concerned about the bad name it would bring to him in the society,

he and his wife decided to not lodge a complaint. His testimony on this aspect is fully corroborated by his wife **PW-7 Smt. Narender Sharma**.

**39.** Their testimony establishes that Rachna had got married clandestinely to the accused Ruchin Rastogi on 25.03.2004 according to Hindu Arya Samaj Rites in Arya Samaj Mandir and the marriage was performed by PW-9 Sh. Dayanand Sharma, Priest. He also issued the Marriage Certificate **Ex. PW-9/A** in proof of their marriage. She however continued to live in her parental home and did not inform her parents about the marriage till 20.01.2005 on which date she left with accused Ruchin after her college without informing the parents.

**40.** PW-7 Smt Narender and PW-10 Sh. Kuldeep had further deposed that they were confused about the marriage of their daughter with accused Ruchin Rastogi as it was Sachin Rastogi who was the classmate of their daughter Rachna and it appeared that their daughter Rachna had been misguided. She had explained in her cross-examination that they used to celebrate the birthday of their daughter Rachna and Sachin Rastogi also used to come. She also deposed that when Rachna visited her house on the occasion of Rakshabandhan in 2004, she had told that she was threatened by accused Sachin Rastogi that he would not let her get married elsewhere except with his elder brother Ruchin Rastogi.

**41.** Similarly, PW-10 Sh. Kuldeep Kumar Sharma explained that accused Sachin Rastogi used to come to visit their house on

birthdays of their daughter Rachna. Sachin thus, came to know about their financial status and had also seen Rachna spending lavishly in school. Accused Sachin Rastogi developed proximity with her and subsequently threatened her that if she did not get married with his elder brother Ruchin Rastogi, he would ensure that she does not marry elsewhere and would also defame her. He has further explained that accused **Ruchin Rastogi was convicted under Section 377 IPC** and had suffered a sentence and so accused Sachin Rastogi instead of himself getting married to Rachna, influenced her to marry his elder brother Ruchin Rastogi. The certified copy of the judgment was exhibited as **Ex. PW-10/X-1**. Although, PW-10 Sh. Kuldeep Kumar Sharma has deposed that he had accepted the marriage of his deceased daughter Rachna with Ruchin Rastogi as he had no choice since the deceased was an adult, but the consequence was that he did not have any contact with the deceased Rachna, which is brought forth from his statement **Ex. PW-1/A** recorded by the SDM. He had stated that his daughter had got married with accused Ruchin Rastogi against their wishes and after the marriage the deceased used to essentially talk to his wife PW-7 Smt. Narender Sharma who in turn used to inform him about the conversations. From the statement of Sh. Kuldeep Kumar Sharma to the SDM, it is quite evident that his conversations with deceased were practically nil and his depositions are largely conjectural based on his own interpretation or on the basis of what he was told by his wife i.e. is based on hearsay.

42. In so far as, accused Sachin Rastogi, being classmate of deceased Rachna in school and being aware of their financial status is concerned, it was admitted by PW-10 Sh. Kuldeep Kumar Sharma in his cross-examination that accused Sachin Rastogi was not in the same school as his daughter though he came to know about this only after the recording of evidence of his wife as PW-7 in this case. It is thus proved that Sachin Rastogi was not a schoolmate of Rachna. Also there is no evidence except bald assertions that Sachin Rastogi used to visit their house on birthdays of the deceased. If this was the truth then PW-7 & PW10, the parents would not only have known Sachin Rastogi but also that he was not in the same school as Rachna. The whole edifice of their claim that accused Sachin Rastogi was enamoured by their wealth and affluence and deceased Rachna and Sachin Rastogi were the classmate, crumbles. The testimony of PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma does not prove that it was on account of their affluence or financial status that accused Sachin Rastogi became instrumental in the marriage of his elder brother Ruchin Rastogi with the deceased Rachna. Also, their assertion that because of conviction, Sachin coerced Rachna to marry his brother is not logical. Moreover, the marriage lasted for about four years and she had two children from this marriage. If she had been forced into this marriage there was nothing preventing her to subsequently walk out of this marriage. Also, no parent would sit silent if told by the daughter about being forced into marriage. The very fact that



Rachna continued to reside with her husband proves that there was no coercion and she had married the accused by choice.

**43.**In *Vipin Jaiswal vs. State of Andhra Pradesh 2013 (20) JIC 377*

decided on 13.03.2013, Hon'ble Supreme Court has observed that in order to hold the accused guilty of offence punishable under Sections 304-A/498-A IPC, the Prosecution is required to prove beyond reasonable doubt that the deceased was subjected to cruelty or harassment by the accused as envisaged under this section. Some general allegations without any specific act of cruelty or harassment would not be sufficient to bring home to these offences.

**44.**To prove specific instances of cruelty/harassment both the parents of the deceased i.e. PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma have deposed that demand of car, money and flat was being made from the deceased Rachna by accused Ruchin Rastogi and Sachin Rastogi. To corroborate this, PW-7 Smt. Narender Sharma had deposed that on the occasion of Rakshabandhan in the year 2005, deceased was 08 months pregnant when she had visited her house and she looked in pitiable condition. Rachna told her that accused Ruchin Rastogi used to consume alcohol and beat her and was also exhorting her to demand two flats from her father. She also requested for financial help to pay rent of the house and that if she did not pay the rent, accused Sachin would beat her and throw her out of the house. She further deposed that thereafter they started giving financial help to Rachna. On the day of Rakshabandhan, Rs. 10,000/- and other gifts were given to her and

she returned back to her matrimonial home on the next day. However, she admitted in her cross examination about not having told the SDM that the deceased was found in pitiable condition on the occasion of Rakshabandhan in the year 2005 when she visited them. PW-10 Sh. Kuldeep Kumar Sharma, also affirmed that she stayed overnight on the occasion of rakshabandhan and was given Rs. 10,000/- and gifts when she returned. What is evident from their testimony is that customary money and gifts were given on the occasion of rakshabandhan and not pursuant to any demands by the accused persons.

**45.** PW-7 Smt. Narender Sharma had also deposed that in the month of September, 2007 when the elder son of the deceased Rachna was born, she had given cash of Rs. 20,000/- to the mother of accused Ruchin Rastogi towards the child delivery expenses and she also gave cash & gifts to all the relatives of the accused Ruchin Rastogi. She further deposed that on every festival and occasion she gave cash and gifts to all relatives of accused Ruchin Rastogi. PW-10 Sh. Kuldeep Kumar Sharma also reaffirmed that the money and the gifts were not given on account of demand, but were given as customary gifts and in token of the occasion of birth of the elder son of the deceased. There is nothing to show that there was any demand for any money.

**46.** The testimony of prosecution witnesses proves that there were no demand being made by the accused persons, rather gifts and money was given on ceremonial occasions. Such gifts do not qualify as

dowry demand as was held in *Satvir Singh vs. State of Punjab, 2001 (8) SCC 633*. It was explained that there can be many other instances for payment of money or giving property as between the spouses. For example, some customary payments in connection with birth of a child or other ceremonies are prevalent in different societies. Such payments are not enveloped within the ambit of dowry. Thus, the dowry mentioned in Section 304-B IPC should be any property or valuable security given or agreed to be given in connection with the marriage.

47.PW-10 Sh. Kuldeep Kumar Sharma deposed that he had given the amount of Rs.20,000 and Rs. 30,000 to Rachna on two occasions through his sister. PW-6 Smt. Sunita (bua of deceased) had corroborated that she had given an amount of Rs. 20,000/- and Rs. 30,000/- to the deceased Rachna. She further deposed that on the occasion of Dhanteras in the year 2007, she had met the deceased Rachna in Bhogal Market who was accompanied by a girl. She looked upset and was crying as both the accused persons had made demand of Rs. 2,50,000/- from her father, which he refused and thereafter life of deceased Rachna had been made hell. PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma have corroborated that both the accused persons had demanded Rs. 2,00,000/- to settle the business of accused Ruchin Rastogi. PW-10 Sh. Kuldeep Kumar Sharma has further deposed that he had informed that he would give financial assistance only when accused Ruchin Rastogi started to work again.

48. What gets proved from the evidence of these three witnesses is that accused persons were seeking help for Ruchin Rastogi to start business, but there is no cogent evidence of any kind to show that deceased Rachna was being harassed or subjected to any cruelty on account of such demand or that this amount was ever paid.

**DEMAND FOR FLAT:**

49. The other allegations against the accused persons are that they used to harass the deceased to bring Flat from her parents. To prove this, PW-10 Sh. Kuldeep Kumar Sharma has deposed that in May-June, 2006 Rachna along with Ruchin Rastogi had gone to the matrimonial home, but the co-accused Sachin Rastogi did not allow them to enter the house and thus accused Ruchin Rastogi called him and made a request to arrange for accommodation. He told accused Ruchin Rastogi to collect keys of Rohini Flat and assured him that he would instruct his sister to give money for initial expenses. When he did not get any response for about two hours he called up his sister who informed that accused Ruchin Rastogi had expressed his inability to manage from Rohini Flat as he intended to start some work in South Delhi. PW-10 Sh. Kuldeep Kumar Sharma has further explained that since none of his flats in East of Kailash were vacant, he told his daughter Rachna to take a house on rent and that he would bear the rent. Accordingly, a flat was taken on rent in Jangpura which was suitable for accused Ruchin Rastogi which was finalized by PW6 Smt. Sunita, paternal aunt (bua) of the deceased, who lived in the vicinity. PW-10 Sh. Kuldeep Kumar sent

Rs. 12,000/- to deceased Rachna through Smt. Sunita as advance rent was being demanded by the landlord. He has further deposed that Rachna stayed in the rented accommodation at Jangpura for about 2 ½ months. PW-10 Sh. Kuldeep Kumar Sharma in his cross-examination has admitted that though he had offered keys of Rohini Flat to Ruchin Rastogi, but he did not accept the same. Similar is the testimony of PW-7 Smt. Narender Sharma who also deposed that her husband i.e. PW-10 Sh. Kuldeep Kumar Sharma had offered accused Ruchin Rastogi to purchase furniture, computer etc. for his new business and had assured that he would bear the expenses, despite which accused Ruchin Rastogi did not start his work. She admitted in her cross-examination that in her statement before the SDM (Ex. PW-1/B) she had nowhere told that a demand of two flats had ever been made by the accused persons.

**50.** PW-6 Smt. Sunita has fully corroborated their testimony and had further deposed that after vacating the house in Jangpura, Rachna and accused Ruchin Rastogi shifted to their mother's house at Sidharth Enclave. PW-5 Smt. Vinod Bala, maternal aunt (mami) of the deceased has also deposed that deceased Rachna came to her twice or thrice and every time she requested for some money, she gave her whatever amount she had saved. She was once told that accused Sachin had demanded a flat from her to help accused Ruchin Rastogi to start some business. PW-5 Smt. Vinod Bala informed her brother about the demand, who told her that the keys of Rohini Flat may be handed over to accused Ruchin Rastogi and in

so far as help for business is concerned, he would give only if Ruchin Rastogi started some work. But subsequently, deceased Rachna told her that accused Ruchin Rastogi had refused to shift to flat in Rohini.

**51.**The case of the prosecution was that deceased Rachna was being harassed for getting a flat from her father. However, it has been amply established from the testimony of PW-6 Smt. Sunita, PW-7 Smt. Narender Sharma & PW-10 Sh. Kuldeep Kumar Sharma that accused Ruchin Rastogi was unsettled in business and had financial crunch to set-up his own business. Therefore, assistance was sought by way of a flat only for the purpose of residence from the father of Rachna, who offered them a flat in Rohini for their stay but the same was refused by accused Ruchin Rastogi as flat in Rohini was not convenient for his business which he intended to set up in South Delhi. Moreover, it has been abundantly established that request of flat was only for the purpose of stay and not for its transfer in the name of accused Ruchin Rastogi. It is further proved that the parents gave money in the sum of Rs. 12,000/- initially only to support payment of the rent of the flat in Jungpura through PW-6 Smt. Sunita and also to pay for their day-to-day expenses. There is no evidence whatsoever to show that there was a demand of flat by way of dowry or on account of marriage of deceased with accused Ruchin Rastogi or that she was being harassed on this account.

**52.**The testimony of prosecution witnesses is consistent that Rachna and accused Ruchin wanted a place for stay in South Delhi and PW6

Smt Sunita arranged the flat on rent at Jungpura and the financial help by way of money had been given to the deceased and accused Ruchin Rastogi to enable them to pay the rent and also to meet their day to day household expenses. There is no evidence whatsoever that accused had an eye on about 22 flats owned by Sh Kuldeep Singh. If so was the case, then the accused would not have refused the Rohini Flat or settled for rented accommodation which also was vacated in about two and a half months. Infact, the entire evidence led by prosecution proves that no demand of Flat was ever made as dowry or otherwise and deceased was not harassed or subjected to any cruelty on this account. Also, the amount of Rs 20,000/- and Rs. 30,000/- that may have been given was also to enable the young couple to settle in their matrimonial life. In the Indian context, it can be well appreciated that parental support to newly married couple is not unknown; it becomes culpable only if it extracted by beating, demand or harassment, which the prosecution has miserably failed to prove.

**PHYSICAL CRUELTY:**

53.PW-7 Smt. Narender Sharma as well as PW-10 Sh. Kuldeep Kumar Sharma have deposed that accused Ruchin Rastogi was unemployed and alcoholic and used to frequently beat the deceased Rachna and harass her for bringing money. To corroborate this, they both have deposed that in the year 2005 two or three days after Bhai Dooj they received a phone call at about 11.30 pm from accused Ruchin Rastogi and they heard the deceased crying in the background. The

phone was attended by PW-7 Smt. Narender Sharma and accused Ruchin Rastogi handed over the phone to deceased Rachna, who told her that accused Ruchin Rastogi was drunk and beating her up. PW-10 Sh. Kuldeep Kumar Sharma, who was also hearing this conversation on parallel line suggested to his wife PW-7 Smt. Narender Sharma that they should immediately go to the house of Rachna, but was dissuaded by his wife on the ground that Rachna must be given time to settle in her family. PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma then reached the house of deceased Rachna on the next day early morning at about 07.00 am when the entire family was sleeping. On their knock, door was opened by accused Ruchin Rastogi and that was the first time when PW-10 Sh. Kuldeep Kumar Sharma saw the accused Ruchin Rastogi and Sachin Rastogi. Accused Sachin Rastogi pushed PW-10 Sh. Kuldeep Kumar Sharma while stating that strangers were not welcome. Her husband could not tolerate this and so a quarrel took place between her husband and accused Sachin Rastogi. Thereafter, PCR was called by accused Sachin Rastogi. In the meanwhile, mother and sister of the accused Sachin Rastogi asked them to go back as it was their family matter.

**54.**It is further deposed by PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma that thereafter deceased Rachna used to visit their house and at times stayed overnight in their house. She at once visited them in the month of May-June, 2006 with her infant child and informed them that she had been thrown out of the



matrimonial house after being beaten up by the accused persons.

55. The testimony of PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma in regard to this incident does not inspire much confidence. If at all deceased Rachna had been beaten up and harassed in the night after Bhai Dooj in the year 2005 and had called her mother while weeping and crying on the phone, it is difficult to believe that the parents would have stayed back home and not rushed immediately for the help of their daughter. Rather, it is the testimony of PW-7 Smt. Narender Sharma that she decided not to intervene in the night itself as they thought that deceased must be given time to settle in her matrimonial home. Admittedly, they went to the house of accused persons in the early morning but the PCR was not called by them, but was called by accused Sachin Rastogi but the PCR left on the asking of sister and mother of accused Sachin Rastogi. Had there been any kind of harassment and cruelty committed by the accused persons, it is difficult to accept that parents of deceased would have returned without taking any further steps or without bringing back to their home.

**DEMAND FOR SECOND HAND CAR:**

56. As per the prosecution, there was also allegedly a demand of second hand car made by the accused persons, but again it has been admitted by both PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma in their examination-in-chief that accused Ruchin Rastogi was seeking second hand car since it would help in his business. No person would demand a second hand car if it was

linked in any way to the marriage of accused Ruchin Rastogi with deceased Rachna.

**CONCLUSION:**

57. The evidence of the prosecution witnesses fails to prove that there was any demand made by way of dowry. Financial assistance was being sought by the accused Ruchin Rastogi to set-up his business for which purpose second hand car was also requested. A flat had been requested for the purpose of stay in South Delhi and to set-up a business of accused Ruchin Rastogi. None of these demands were ever linked in any way to the demand on account of dowry. The money, which has been given by the parents of the deceased to the accused was also to help them to establish their matrimonial life. The claim that deceased was being harassed or being subjected to cruelty or given beatings is not supported by any kind of cogent evidence. Only vague allegations have been made by PW-6 Smt. Sunita, PW-7 Smt. Narender Sharma and PW-10 Sh. Kuldeep Kumar Sharma without giving any specific incidents. It may be observed that deceased Rachna had got married against the wishes of her parents and her father had adopted a completely withdrawn attitude as per his own statement Ex. PW-1/A that was recorded by the SDM. It is essentially PW-7 Smt. Narender Sharma, mother of the deceased, who used to talk to the deceased Rachna or occasionally visit her at her matrimonial home only on special occasions like birth of the son of the deceased. There is no evidence whatsoever of deceased being harassed and pressurized by the

accused persons in any manner. This is more so as there is not an iota of evidence of any specific incident except generalized allegations. Also, if in fact the deceased was so unhappy and was being harassed and had informed her family members, then the parents and maternal aunt of the deceased would have not intended or taken any positive steps to resolve the situation. In fact PW-10 Sh. Kuldeep Kumar Sharma, father of the deceased had declined to give any help whether financial or of any kind on the pretext of accused Ruchin Rastogi to first start some work of his own.

**58.**It is axiomatic that deceased Rachna committed suicide by hanging but there was no letter left explaining reason for committing suicide by her. In such a case, it is confounding as to what weighed in her mind to take such a drastic step at such a young age of 23 years leaving behind two infants, but the circumstances and the evidence led by the prosecution do not prove any kind of cruelty or harassment whether related to dowry or otherwise, at the hands of the accused persons, which could have prompted her to take this extreme step.

**59.**Before concluding, it would be pertinent to refer to the testimony of **accused Ruchin Rastogi**, who appeared as **DW-1**. He had deposed that after the marriage, the deceased Rachna had joined him in his business under the name and style of ***Oasis Resources Management*** and was dealing independently with her clients. She had her own list of her clients vide **Ex. DW-1/C**. He further deposed that during her business dealings her payment of \$20,447 (approximately Rs. 10

lacs) got struck with her clients for which she had sent emails dated 03.11.2007 followed by reminder email dated 14.11.2007 vide Ex. DW-1/C. She had also called her clients namely Platinum Corporation, Dubai & others on 27.11.2007 at about 06.00 pm for making the said payment, but failed to secure the same. Finally, she sent two emails on 25.11.2007 claiming the outstanding payment but since the payment was not forth-coming she got depressed. Immediately, thereafter she committed suicide by hanging on 27.11.2007. This explanation may have been the reason for the deceased to commit suicide. However, irrespective of the defence, it was for the prosecution to establish that deceased Rachna had committed suicide on account of harassment or cruelty on account of dowry demands or otherwise to establish a case under **Section 304-B/498-A IPC** which the prosecution has failed miserably to prove.

**60.**In view of above, it is held that the prosecution has miserably failed to prove its case and benefit of doubt is given to both the accused persons. **Both the accused persons namely Ruchin Rastogi and Sachin Rastogi are hereby acquitted of the charges under Sections 498-A/304-B read with Section 34 IPC.**

**61.**Both the accused persons are directed to furnish Bail Bonds under Section 437-A Cr. P. C. File be consigned to Record Room.

Announced in open Court  
On 21.12.2019

(Neena Bansal Krishna)  
District & Sessions Judge, South-East,  
Saket Courts, New Delhi