



3. On 14.07.1998, Sarita Bai (hereinafter referred to as 'deceased') committed suicide at her in-laws' (respondents) place by consuming poison. Thereafter, investigation was conducted by the police and respondents were charged under Sec. 498-A/34, 304-B/34 of IPC and alternatively under Sec. 306/34 of IPC. Trial Court after examining the witnesses and evidence available on record, found the respondents guilty for committing offence under Sec. 498-A/34 and Sec. 306/34 of IPC. Therefore, vide order dated 22.11.1999, respondents were convicted and sentenced to undergo rigorous imprisonment of 3 years for offence committed under Sec. 498-A/34 and rigorous imprisonment of 5 years for offence committed under Sec. 306/34 of IPC. The sentences were ordered to run concurrently.

4. Thereafter, respondents filed a criminal appeal in the High Court against the order passed by Trial Court. By the judgment impugned herein, the High Court observed that the Trial Court proceeded on assumptions against the respondents, without giving them any opportunity under Sec. 313 of Cr.P.C to defend themselves. High Court ruled that there was no cogent or positive evidence on record to prove that the respondents subjected the deceased to mental or physical cruelty or harassment, so as to force

her to commit suicide. Thus, presumption under Sec. 113-A of Indian Evidence Act could not be drawn against the respondents. Therefore, High Court vide order dated 05.11.2009, acquitted the respondents from all charges and set aside the order of conviction and sentence passed by the Trial Court.

5. Heard learned counsel for both the parties and perused the evidence available on record.

6. After examining the depositions of PW-2 & PW-3, it becomes amply clear that they have tried to make improvements in their evidence which suffer from several contradictions. PW-2 made improvements regarding demand of five thousand rupees in lieu of the vehicle and allegations pertaining to pressurizing the deceased by respondents, to come at the matrimonial home along-with the new & bigger vehicle like rajdoot and not otherwise. The evidence of PW-2 is contrary to his own statement given to the police (Ex. D-1). Further, PW-3 admitted in his cross examination at Para-7 of his deposition that he disclosed it for the first time before the Court that the Respondents used to ask for a bigger vehicle and addressed the deceased as 'kali kaluti' etc. Therefore, allegations made by PW-2 & PW-3 against the respondents regarding ill-treatment or harassment of the deceased for vehicle and other things, cannot be

accepted as correct and true, beyond any doubt. It is to be noted, that these allegations were made for the first time by PW-2 & PW-3, before the Court and not earlier to the police in the *merg intimation report* (Ex. P-3) or in any other report.

7. Further, It is to be noted that there is no evidence to prove that the deceased was subjected to physical torture or beating by the respondents. There is no evidence on record to show that the deceased made any complaint to her parents (PW-2) or brother (PW-3) about any physical assault or torture caused by the Respondents. Further, no physical injury was found by PW-5 (Dr. Azad Kumar Saravagi) in the postmortem examination of the deceased.

8. Lastly, it is to be observed that the deceased committed suicide by consuming poison at her in-laws place/matrimonial home, would not itself lead to the presumption that deceased was subjected to physical-mental cruelty, so as to force her to commit suicide. Herein, prima facie burden lies on the prosecution to prove the guilt of the accused/respondents beyond all reasonable doubts. However, there is no cogent or positive evidence on record to prove that the respondents subjected the deceased to any such mental or physical cruelty, so as to force her to commit suicide. Thus,

presumption under Sec. 113-A of the Indian Evidence Act cannot be drawn against the respondents in this case.

9. In the light of above-stated findings and reasons, the case is devoid of merits. Accordingly, the appeal is dismissed.

.....J  
(N.V. RAMANA)

.....J  
(MOHAN M. SHANTANAGUDAR)

**NEW DELHI,  
5<sup>th</sup> SEPTEMBER, 2018.**