#### **Supreme Court Judgments on IPC-498a**

### 1 Satyajit Banerjee and others v. State of West Bengal and others (SUPREME COURT OF INDIA) Date of Judgment: 23/11/2004

Indian Penal Code, ss. 498A, 306 - Trial Court acquitted accused but High Court set aside acquittal and directed a de novo trial - Whether High Court right in directing examination of additional witnesses under s. 311 in revision?; whether direction of High Court to trial court to record further evidence and take a 'fresh decision from stage one' is without jurisdiction? - Held, direction for retrial should not be made in all or every case where acquittal of accused is for want of adequate or reliable evidence - Even if a retrial is directed in exercise of revisional powers by High Court, evidence already recorded at initial trial cannot be erased or wiped out from record of case - Trial Judge has to decide case on basis of evidence already on record and additional evidence which would be recorded on retrial - Clarified and reiterate that trial Judge, after retrial, shall take a decision on basis of entire evidence on record and strictly in accordance with law....

## 2 Ruchi Agarwal v. Am<mark>it Kumar A</mark>grawal and Others (SUPREME COURT OF INDIA) Date of Judgment: 5/11/2004

Quashing of criminal complaint - Alleging offences under ss. 498A, 323 and 506 IPC, and ss. 3 and 4 of Dowry Prohibition Act - Quashing on ground of lack of territorial jurisdiction - Whether quashing of criminal complaint sustainable? - Held, that appellant having received relief she wanted without contest on basis of terms of compromise, cannot now accept argument of appellant - Conduct of appellant indicates that criminal complaint from which this appeal arises was filed by wife only to harass respondents - It would be an abuse of process of court if criminal proceedings from which this appeal arises is allowed to continue....

## 3 Rajkumar v. State of Madhya Pradesh (SUPREME COURT OF INDIA) Date of Judgment: 14/9/2004

Indian Penal Code. 1860, s.302 - duty of the prosecution to establish that the accused had or necessarily would have remained at the house around the time when the attack took place - barring the evidence of PW8 who claimed to have seen the accused at 9.00 a.m. at his house, there is no other evidence to establish the presence of the accused in the house proximate to the time of occurrence - vital link in this behalf is missing in the case - no motive has been proved or seriously suggested for inflicting fatal injuries on the pregnant wife whom the accused married a year back - in a case based on circumstantial evidence, this factor also should be kept in view - no reason to set aside findings of trial court - appeal allowed....

#### 4 Y. Abraham Ajith and others v. Inspector of Police, Chennai and another (SUPREME COURT OF INDIA)

Date of Judgment: 17/8/2004

Code of Criminal Procedure, 1973, s. 482 - Prayer for quashing proceedings - Single Judge of the Madras High Court rejected prayer - Whether judgment of Single Judge sustainable? - Held, in factual scenario disclosed by complainant in complaint petition, inevitable conclusion is that no part of cause of action arose in Chennai and, therefore, concerned magistrate had no jurisdiction to

deal with matter - Proceedings are guashed....

#### 5 Sushil Kumar v. State of Haryana (SUPREME COURT OF INDIA)

Date of Judgment: 10/8/2004

Indian Penal Code, ss. 304B, 498A - Conviction - Appeal against conviction - Whether conviction sustainable? - Held in absence of any evidence to show that victim was subjected to cruelty or harassment soon before death, no offence under s. 304B is made out - Absolutely no evidence of coercion, conviction under s. 498A becomes unwarranted - Convictions and sentences of appellant set aside...

#### 6 Sakatar Singh and Others v. State of Haryana (SUPREME COURT OF INDIA) Date of Judgment: 13/4/2004

IPC, ss.306, 498A r/w s.34 - Prosecution has not established allegation of demand - Based on erroneous inferences drawn on unproved facts and placing reliance on statements of interested witnesses trial court came to a wrong conclusion as to guilt of accused persons - High Court failed to notice its legal responsibility of discussing evidence independently and recording its findings on basis of such independent assessment of its own, because it is first court of appeal on facts - Appeal allowed...

# 7 The State of Andhra Pradesh v. Raj Gopal Asawa and Another (SUPREME COURT OF INDIA) Date of Judgment: 17/3/2004

IPC, 1860, ss. 304 B and 498 A and IEA, 1872, s. 113 B - conjoint reading shows that there must be material to show that soon before her death the victim was subjected to cruelty or harassment prosecution has to rule out the possibility of a natural or accidental death so as to bring it within the purview of the 'death occurring otherwise than in normal circumstances' - expression 'soon before' is very relevant - prosecution is obliged to show that soon before the occurrence there was cruelty or harassment and only in that case presumption operates -'Soon before' is a relative term and it would depend upon circumstances of each case and no strait-jacket formula can be laid down as to what would constitute a period of soon before the occurrence - hazardous to indicate any fixed period, and that brings in the importance of a proximity test both for the proof of an offence of dowry death as well as for raising a presumption under Section 113-B of the Evidence Act - held on facts that in view of the death occurring within the very few months of the marriage, and the evidence of PWs 2, 3, 4 and 6 that shortly before the deceased committed suicide, demand of dowry was made, the plea in untenable. The accusations clearly stand established so far as A-1, respondent no.1 is concerned. So far as accused A-3 is concerned, there is no evidence that he ever made any demand of dowry -- custodial sentence of 7 years would meet the end of justice for respondent no.1 - appeal partly allowed....

#### 8 Hans Raj v. State of Haryana (SUPREME COURT OF INDIA) Date of Judgment: 26/2/2004

[A] Advocates & Judges - judgments of the learned Additional Sessions Judge and the High Court - constrained to observe that the High Court while disposing of the appeal did not even apply its mind to the facts of the case - disturbing feature noticed by us is that the High Court merely repeated paragraphs after paragraphs from the judgment of the learned Additional Sessions Judge as if those conclusions were its own, reached on an appreciation of the evidence on record - many

of the paragraphs are word from word borrowed from the judgment of the learned Additional Sessions Judge without acknowledging that fact - practice deprecated. [B] Deceased committing suicide within seven years of marriage - held, under Section 113-A of the Indian Evidence Act - prosecution has first to establish that the woman concerned committed suicide within a period of seven years from the date of her marriage and that her husband (in this case) had subjected her to cruelty - even if these facts are established the Court is not bound to presume that the suicide had been abetted by her husband - section gives a discretion to the Court to raise such a presumption, having regard to all the other circumstances of the case - allegation is of cruelty, nature of cruelty to which the woman was subjected, having regard to the meaning of word cruelty in Section 498-A I.P.C. to be considered - no automatic presumption that the suicide had been abetted by her husband - held on facts, offence under s.306 not made out - conviction under s.498A ordered....

# 9 Nallam Veera Stayanandam and Others v. Public Prosecutor, High Court of Andhra Pradesh (SUPREME COURT OF INDIA)

Date of Judgment: 24/2/2004

Two dying declarations - if the first is accepted all other evidence led by the prosecution would not help the prosecution to establish a case under section 304B IPC because of the fact that even a married woman harassed by demand for dowry may meet with an accident and suffer a death which is unrelated to such harassment - it is for the defence to satisfy the court that irrespective of the prosecution case in regard to the dowry demand and harassment, the death of the deceased has not occurred because of that and the same resulted from a cause totally alien to such dowry demand or harassment - deceased died within 3 years of her marriage - presumption under section 113B of the Evidence Act is available to the prosecution, - first dying declaration accepted - presumption stands rebutted - unless the prosecution is able to establish that the cause of death was not accidental by evidence other than the dying declarations, the prosecution case under section 304B IPC as against the appellants must fail - on facts convicted under s.498A, IPC....

# 10 Rishi Anand and another v. Government of N.C.T. of Delhi and others (SUPREME COURT OF INDIA)

Date of Judgment: 20/3/2002

The High Court, in exercise of its jurisdiction under Section 482 Cr.P.C., ought to have quashed the criminal proceedings against the appellant as there were no allegations, much less of specific nature, even to remotely connect the appellant with the alleged offence under Section 406 IPC.

# 11 Baburam v. State of Madhya Pradesh (SUPREME COURT OF INDIA) Date of Judgment: 29/1/2002

It is extremely dangerous to rely upon the prosecution evidence to base a conviction against the appellant when the prosecution has failed to establish the case against the appellant beyond all reasonable doubt and when there is no motive whatsoever for the appellant to have caused the death or abetted the suicide of the deceased because she failed to bring in sufficient dowry....

# 12 Satvir Singh and otherswith Tejinder Pal Kaur v. State of Punjab and another (SUPREME COURT OF INDIA)

Date of Judgment: 27/9/2001

Under Section 304 B, it is not enough that harassment or cruelty was caused to the woman with a demand for dowry at some time, but it should have happened.

# 13 G. Raj Mallaiah and Another v. State of Andhra Pradesh (SUPREME COURT OF INDIA) Date of Judgment: 27/4/1995

JUDGMENT: J U D G M E N T S. Rajendra Babu, J. Leave granted. The appellants were chargesheeted for offences arising under Section 304 I.P.C. and Sect ion 3 and 4 of the Dowry Prohibition Act read with section 498A, I.P.C. The allegation made in ...

