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## A STUDY OF DOWRY DEATH IN THE DIGITAL AGE: RETHINKING EVIDENTIARY PRESUMPTIONS UNDER BNS

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Tushti Sachdeva, Jamia Millia Islamia

### ABSTRACT

India records thousands of dowry deaths annually, yet conviction rates remain abysmally low; a failure that persists not for want of legislative intent, but for want of a legal infrastructure capable of operationalising it. This paper examines Section 80 of the Bharatiya Nyaya Sanhita, 2023, which re-enacts the offence of dowry death, and interrogates whether its evidentiary architecture remains functionally adequate in the age in which the crime now predominantly occurs.

The paper argues that Section 80 BNS is a sound provision rendered progressively ineffective by its surrounding legal ecosystem. The nature of matrimonial cruelty has transformed dramatically since the enactment of Section 304B IPC in 1983 migrating from the physical domain into digital spaces, where dowry demands, threats, and harassment are now routinely documented across WhatsApp conversations, voice notes, email threads, and social media platforms. This digital evidence, paradoxically, while more contemporaneous and tamper-resistant than witness testimony, is rendered inaccessible by the very authentication requirements designed to ensure its integrity.

Through an analysis of the five essential elements of Section 80 BNS, the companion offences under Sections 85 and 86 BNS, the mandatory evidentiary presumption under Section 118 of the Bharatiya Sakshya Adhiniyam, 2023, and the transition from Section 65B of the Indian Evidence Act to Section 63 BSA, this paper identifies a critical structural gap: the presumption under Section 118 BSA can only be triggered upon proof of prior cruelty, and where that proof exists exclusively in digital form, investigative inadequacy in electronic evidence authentication collapses the entire evidentiary edifice before the presumption is even engaged.

Drawing on Supreme Court jurisprudence from *State of Punjab v. Iqbal Singh* through *Satbir Singh v. State of Haryana*, the paper identifies three lacunae in existing judicial guidance the absence of authority on purely digital cruelty, inadequate authentication standards for dowry death contexts, and judicial silence on metadata as evidence and proposes three targeted legislative and judicial reforms to address them.

**Keywords:** Dowry Death, Section 80 BNS, Section 118 BSA, Digital Evidence, Electronic Authentication, Evidentiary Presumption, Matrimonial Cruelty, Bharatiya Nyaya Sanhita

## INTRODUCTION

A married woman in India dies every ninety minutes in circumstances that the law categorises as dowry death.<sup>1</sup> As per RTI data from five Delhi district courts, of 9,950 section 85 of BNS trials between 2021 and 2024, only 23 (0.2%) ended in conviction, while nearly 47% were quashed and another 736 resulted in acquittal. This data underscores the urgent need for reform.<sup>2</sup> This is not a statistic from a dark chapter in social history that the law has since remedied. It is the current, unbroken, forty-year toll of a practice that persists because the legal apparatus constructed to combat it has never fully worked. The Bharatiya Nyaya Sanhita, 2023 re-enacts the offence in Section 80.<sup>3</sup> This paper holds Section 80 BNS up to the light and asks a precise question: is this offence functionally sufficient capable, in practice, of being proved and punished in the age in which it now operates?

That question is both legal and moral. The law's moral claim is unimpeachable. A woman who marries should not become an instrument of financial extraction, and a state that fails to prosecute her killing in connection with such extraction abandons its equal-protection obligation to its female citizens. Feminist legal scholars have long and rightly argued that the neutral operation of ordinary evidentiary rules cannot deliver justice in a crime that occurs in the domestic privacy of the matrimonial home, witnessed only by those who benefit from concealment.<sup>4</sup> The legislature responded to this argument in 1983 with Section 304B IPC, and again in 2023 with Section 80 BNS. The question is whether that response, preserved in its verbal formulation has been preserved in its practical force.

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<sup>1</sup>National Crime Records Bureau, *Crime in India 2022* (Ministry of Home Affairs, Government of India, 2023) 148. The Bureau recorded 6,450 dowry death cases in 2022 alone, a number that has remained virtually unchanged since the provision's first enactment in 1983, testifying to the inadequacy of the legal response over four decades.

<sup>2</sup>Pratik Tiwari, "Cooling-Off and Committees: New Path for Section 85 BNS Reform," *LiveLaw* (10 August 2025), available at: <<https://www-livelaw-in-nalsar.knimbus.com/articles/coolingoff-committees-new-path-section85-bns-reform-300442>> (last visited on April 2, 2026)

<sup>3</sup>Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023), s 80. The provision replicates the essential elements of Indian Penal Code 1860 (Act 45 of 1860), s 304B, inserted by the Criminal Law (Second Amendment) Act 1983 (Act 46 of 1983), with effect from 26 December 1983.

<sup>4</sup>Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford University Press, 1999) 78–81. Agnes demonstrates that the matrimonial home functions as a legal blind-spot deliberately insulated from evidentiary scrutiny, making ordinary rules of proof systematically inadequate to prosecute offences that occur within it.

The paper does not argue that Section 80 BNS is a bad provision. It argues that Section 80 BNS is a good provision being rendered progressively less effective by a surrounding legal ecosystem that has not kept pace with the medium through which the crime now overwhelmingly occurs. When Section 304B IPC was enacted, matrimonial cruelty left its marks on the victim's body, in the testimony of neighbours who heard shouting through thin walls, and in the accounts of parents who saw their daughter return home bruised. Today, matrimonial cruelty also leaves its marks on a WhatsApp conversation, a voice note, an email demanding money, a social media post designed to humiliate the victim's family into compliance.<sup>5</sup> The offence in Section 80 BNS is designed to address both categories of cruelty. The law of evidence, and the investigative infrastructure through which that evidence is collected, must be equally capable of addressing both.<sup>6</sup>

Section 80 BNS does not stand alone. It operates as the centre of a legal system in which three components must function together: the substantive offence (Section 80 BNS itself), the evidentiary presumption that makes the offence prosecutable from within a closed domestic space (Section 118 of the Bharatiya Sakshya Adhiniyam, 2023), and the investigative framework that generates the evidence on which the presumption depends (the Bharatiya Nagarik Suraksha Sanhita, 2023). The evidentiary presumption in BSA Section 118 is the mechanism through which Section 80 BNS achieves its purpose.<sup>7</sup> Parliament enacted it for Section 304B IPC and preserved it for Section 80 BNS because the offence cannot function without it. Understanding Section 80 BNS therefore requires understanding what the presumption does, how it is triggered, and what threatens its operation.

## THE ANATOMY OF SECTION 80 BNS: THE OFFENCE AND ITS ELEMENTS

### The Five Essential Elements

Section 80 of the Bharatiya Nyaya Sanhita, 2023 defines dowry death as the death of a woman caused by burns, bodily injury, or by any circumstance other than under normal circumstances,

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<sup>5</sup>Information Technology Act 2000 (Act 21 of 2000), s 2(1)(t). The expanded definition of 'electronic record' in Bharatiya Sakshya Adhiniyam 2023, s 63 accommodates all forms of digital communication WhatsApp, email, social media, voice notes that now constitute the primary medium of matrimonial coercion in many cases.

<sup>6</sup> Adv. Abhijeet Singh, "Section 80 of Bharatiya Nyaya Sanhita (BNS): Dowry Death," *EzyLegal* (2024), available at: <https://www.ezylegal.in/blogs/section-80-of-bharatiya-nyaya-sanhita-bns-dowry-death> (last visited on April 4, 2026)

<sup>7</sup>Bharatiya Sakshya Adhiniyam 2023 (Act 47 of 2023), s 118

occurring within seven years of marriage, where it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any of his relatives in connection with a demand for dowry.<sup>8</sup> The minimum punishment is seven years' rigorous imprisonment; the maximum is imprisonment for life.<sup>9</sup>

The first element: death by unnatural circumstance, is typically established through the post-mortem report. This is the element least complicated by the digital revolution, and it is the element most straightforwardly proved. The forensic pathologist's evidence converts the fact of death into admissible testimony about its probable cause. But it says nothing about the circumstances that led to that death, and it is those circumstances that Section 80 BNS is actually about.

The second element: death occurred within seven years of marriage is established by marriage records and, commonly in contemporary India, digital records such as matrimonial registration databases, digital photographs, and social media posts marking the marriage.

The third element: cruelty or harassment 'soon before death' in connection with a demand for dowry is the operative heart of Section 80 BNS and the element that generates by far the largest body of litigation.<sup>10</sup> It is also the element most directly transformed by the digital age. What counts as "soon before death," what constitutes "cruelty," and what connection to a "dowry demand" suffices; these questions are answered by decades of Supreme Court jurisprudence that this paper analyses, and they are questions the digital age has complicated without yet resolving.

The fourth element: accused being the husband or a relative of the husband is typically established by relationship and identity evidence.

The fifth element: the demand for dowry engages the definition in Section 2 of the Dowry Prohibition Act, 1961, which encompasses any property or valuable security given or agreed to be given in connection with a marriage.<sup>11</sup> In the digital age, dowry demands are recorded in text

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<sup>8</sup>Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023), s 80. The provision requires: (i) death of a woman by burns, bodily injury or otherwise than under normal circumstances; (ii) within seven years of marriage; (iii) shown that soon before death she was subjected to cruelty or harassment; (iv) by husband or his relatives; (v) in connection with demand for dowry. The minimum sentence is seven years' rigorous imprisonment extendable to life imprisonment.

<sup>9</sup> Ibid.

<sup>10</sup> *Kans Raj v State of Punjab* (2000) 5 SCC 207, 215–16

<sup>11</sup> Dowry Prohibition Act 1961 (Act 28 of 1961), s 2. The definition encompasses any property or valuable security given or agreed to be given directly or indirectly in connection with a marriage, broad enough to cover demands communicated through electronic channels.

messages and voice notes, creating direct and contemporaneous evidence that the demand element is satisfied.

The Supreme Court in *State of Punjab v Iqbal Singh*<sup>12</sup> established that all five ingredients must be independently established before the Section 113B presumption is engaged.

### **The Companion Offence: Sections 85 & 86 BNS**

Section 80 BNS does not operate in a legislative vacuum. It is flanked by the companion offence of cruelty by a husband or his relatives, now codified in Sections 85 and 86 of the BNS, which correspond to Section 498A of the Indian Penal Code.<sup>13</sup> The only difference between the two acts is that in BNS, cruelty is defined separately in section 86.<sup>14</sup> Section 85 deals with cruelty committed by a husband or a relative of a husband to his wife. According to this provision, if a husband or his relatives commit any cruelty towards the wife, they will be imprisoned for a minimum of 1 year, which may extend up to 3 years. In addition to this, they will also have to pay a fine.

Further the word “cruelty” is defined in section 86 of the act as -

*“(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or*

*(b) 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 is on account of failure by her or any person related to her to meet such demand.”<sup>15</sup>*

A conviction under the said section of BNS or, more commonly, a finding that its elements are established on the evidence provides directly relevant proof that the “cruelty or harassment soon before death” element of Section 80 BNS is satisfied.

The definition of cruelty is broad enough to accommodate digitally-mediated cruelty. Sustained harassment through messaging applications, social media campaigns designed to humiliate the victim or her family, and the use of intimate images as leverage for financial coercion, each falls

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<sup>12</sup>*State of Punjab v Iqbal Singh* AIR 1991 SC 153

<sup>13</sup>Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023), s 85,

<sup>14</sup>Shivangi Bansal v Sahib Bansal 2025 LiveLaw (SC) 735(2025 SCC OnLine SC 1494)

<sup>15</sup> Bharatiya Nyaya Sanhita 2023 (Act 45 of 2023), s 86

within the ambit of conduct “likely to cause grave mental harm” or “harassment with a view to coercing the woman to meet an unlawful demand.”

## THE MACHINERY THAT MAKES SECTION 80 BNS WORK

### Relevance of Section 118 Bharatiya Sakshya Adhiniyam, 2023

Section 80 BNS is a substantive offence but it is one whose operation is entirely dependent on an evidentiary mechanism that lives in a different statute. The statutory presumption under Section 118 of the Bharatiya Sakshya Adhiniyam, 2023 is not a separate subject grafted onto Section 80 BNS from the outside; it is the instrument through which Parliament chose to make Section 80 BNS prosecutable from within the closed world of the matrimonial home.<sup>16</sup> Section 118 BSA has no independent existence: it is triggered by, and exclusively serves, the BNS Section 80 offence. Any analysis of Section 80 BNS that treats the presumption as peripheral to the offence misunderstands how the provision was designed and how it functions in practice.

It lays down the burden of proof on the husband to prove beyond reasonable doubt that he is innocent with regard to such an offence.<sup>17</sup> It may be presumed by the court that the husband or his relatives has abetted suicide if there was any history of cruelty in their matrimonial alliance except in cases of natural death or other relevant reason.<sup>18</sup> It enumerates: Presumption as to dowry death as to presumption of law. The legislature has chosen to use the expression ‘shall presume’ which indicates that it is mandatory for the courts to apply the same.<sup>19</sup> The presumption is rebuttable. It is mandatory because a discretionary presumption, leaving the court free to decline it, would restore the same evidential advantage to the accused that the provision was designed to eliminate. It is rebuttable because an irrebuttable presumption would offend principles of fair trial.

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<sup>16</sup> Aarushi, “Dowry Death and Presumptions under Section 113B Indian Evidence Act,” *LawyersClubIndia* (January 25, 2022), available at: <https://www.lawyersclubindia.com/articles/dowry-death-and-presumptions-under-section-113-b-indian-evidence-act-14596.asp> (last visited on March 24, 2026).

<sup>17</sup> Gurleen Kaur, “Misuse of Women-Specific Laws: An Ignominy for Indian Society,” (2024) 18.2 *UIJS Law Review* 272.

<sup>18</sup> *Ibid.*

<sup>19</sup> “Presumption of law and fact under section 113-A and 113-B of Evidence Act, 1872”, *available at:* <https://www.legalserviceindia.com/legal/article-6701-presumption-of-law-and-fact-under-section-113-a-and-113-b-of-evidence-act-1872.html> (Last retrieved on 2 April, 2026).

The critical point for the present analysis is that the presumption under Section 118 BSA is only as strong as the foundational facts that trigger it. If the prosecution cannot establish that the deceased was subjected to cruelty soon before her death because the evidence of that cruelty is digital and cannot be authenticated the presumption is never engaged.<sup>20</sup> Section 80 BNS then reverts to an ordinary charge, prosecutable only on the standard beyond-reasonable-doubt rule, under which conviction is rare given the inaccessibility of matrimonial evidence

### **Burden of Proof**

The presumption under BSA Section 118 operates within the general framework of BSA Sections 101–114. Once the prosecution establishes the foundational facts, the burden shifts to the accused to rebut the presumption on a balance of probabilities.<sup>21</sup> The accused need not prove innocence beyond reasonable doubt; the standard is the civil standard. But the accused must adduce actual evidence as mere denial is insufficient. The Supreme Court confirmed this in *Bachni Devi v State of Haryana*<sup>22</sup> under the identical language of the predecessor provision. The rebuttal standard travels across the legislative transition unchanged, because it inheres in the nature of the presumption rather than in any specific statutory language.<sup>23</sup>

### **Electronic Evidence: Section 65B Evidence Act to Section 63 BSA**

The most consequential translation for the digital age concerns electronic evidence. Section 65B of the Indian Evidence Act governed the admissibility of electronic records, requiring a certificate from the person responsible for the computer system producing the record. Section 63 of the Bharatiya Sakshya Adhiniyam substantially expands this framework.<sup>24</sup> The BSA defines “electronic record” more broadly, accommodates cloud-based storage, and streamlines the mandatory character certification requirement. The Supreme Court's decision in *Arjun Panditrao*

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<sup>20</sup> Keerthan M. Murali & Arya R., “A Study on Presumption of Dowry in Indian Evidence Act,” (Year not available) *International Journal of Pure and Applied Mathematics* V120(5)

<sup>21</sup> *Hem Chand v State of Haryana* (1994) 6 SCC 727, 733

<sup>22</sup> *Bachni Devi v State of Haryana* (2011) 4 SCC 427, 432

<sup>23</sup> Arshita Vashisht, “Unraveling the Nuances of Dowry Death: Bachni Devi v. State of Haryana,” *Lawful Legal* (July 19, 2024), available at: <https://lawfullegal.in/unraveling-the-nuances-of-dowry-death-bachni-devi-vs-state-of-haryana/> (last visited on April 4, 2026)

<sup>24</sup> Bharatiya Sakshya Adhiniyam 2023 (Act 47 of 2023), s 63, defining 'electronic record' expansively to include data generated, stored or transmitted in any electronic form, including through cloud-based platforms, and streamlining the certification pathway while retaining mandatory authentication.

*Khotkar v Kailash Kushanrao Goratyal*<sup>25</sup> had made the Section 65B certificate indispensable; Section 63 BSA retains this requirement while extending it to the full range of digital communications that now constitute the evidentiary landscape of matrimonial cruelty.

## DOWRY DEATH IN THE DIGITAL AGE

### The Changed Texture of Matrimonial Cruelty

Traditional dowry in India originated as *stridhan* voluntary gifts to the bride for her security, but evolved into a coercive groom-price system, particularly post-Independence. Demands typically involved cash, gold, household goods, or property, exchanged publicly during rituals in rural and semi-urban settings. These were often one-time transactions tied to marriage ceremonies, reinforced by caste, class, and patriarchal norms.<sup>26</sup>

In the modern digital age (post-2010s), dowry has transformed in scale, form, and delivery. Urbanisation, rising groom “market value” (based on education, jobs, or migration prospects), and consumerism have inflated demands to include luxury cars, apartments, foreign holidays, and high-end gadgets. Payments are frequently electronic, say bank transfers, UPI, or instalments demanded post-marriage. Dowry now functions as an ongoing financial extraction rather than a one-off gift, often disguised as “gifts” or “settlements” to evade legal scrutiny. The result is evidence is fragmented across devices.

Moreover, the nature of matrimonial cruelty has been transformed since the 1983 enactment of Section 304B. Although dowry prohibition act, 1961 existed but it largely confined itself to penalising exchange of the dowry and not the different kinds of cruelty that married women had to face.<sup>27</sup> Physical violence within the home remains tragically prevalent, but the mechanisms of harassment have expanded dramatically. forms of coercion, harassment, and demand associated with dowry now extend deeply into digital space. A husband who once delivered a dowry demand through intermediaries or in person now sends a WhatsApp voice note. A family that once

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<sup>25</sup> *Arjun Panditrao Khotkar v Kailash Kushanrao Goratyal* (2020) 7 SCC 1

<sup>26</sup> Anukriti, Nishith Prakash & Sungoh Kwon, “The Evolution of Dowry in Rural India: 1960–2008,” *World Bank Blogs* (June 30, 2021), available at: <https://blogs.worldbank.org/en/developmenttalk/evolution-dowry-rural-india-1960-2008> (last visited on April 2, 2026)

<sup>27</sup> Pratik Tiwari, “Cooling-Off and Committees: New Path for Section 85 BNS Reform,” *LiveLaw* (10 August 2025), available at: <https://www-livelaw-in-nalsar.knimbus.com/articles/coolingoff-committees-new-path-section85-bns-reform-300442> (last visited on April 2, 2026)



assembled at the matrimonial home to threaten and intimidate now coordinates harassment through a family messaging group. Threats of social humiliation are carried out through social media rather than through word of mouth in the local community.

This transformation creates both opportunities and challenges for the prosecution. Digital communications, unlike witness testimony, cannot be intimidated or bought into silence after the fact. A WhatsApp conversation documenting a demand for additional dowry and threatening consequences if the demand is not met is direct, contemporaneous, and timestamped evidence. The challenge lies entirely in admissibility: the law must be able to receive this evidence, and once received, it must be sufficient to trigger the presumption under Section 118 BSA.

### **Digital Evidence as Proof of “Cruelty”**

For the presumption under BSA Section 118 to be triggered, the prosecution must first establish that the deceased was subjected to cruelty or harassment “soon before her death.” Digital evidence can provide direct, contemporaneous, and irrefutable proof of this cruelty. A WhatsApp conversation in which the accused demands additional dowry and threatens consequences constitutes direct evidence of both the demand and the harassment.<sup>28</sup> Voice recordings of threatening calls, if properly authenticated, establish the pattern of coercion that the law requires.<sup>29</sup> Email threads demonstrate sustained psychological harassment over time, building the case for a “continued course of conduct” sufficient to satisfy the *Kans Raj*<sup>30</sup> formulation of “soon before death.” The challenge however lies entirely in authentication.

### **The Authentication Problem and BSA Section 63**

Section 63 of the BSA requires that electronic records be accompanied by a certificate identifying the record, the manner in which it was produced, and the device on which it was stored. In dowry death cases, the victim’s smartphone is typically the primary source of evidence. Extracting messages from this device, preserving the chain of custody, and obtaining the required certification

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<sup>28</sup> Sumedha Pradhan, “Analysing Dowry Death in the New BSA Provision,” (2024)

<sup>29</sup> Ibid.

<sup>30</sup> *Kans Raj v State of Punjab* (2000) 5 SCC 207, 215–16. The Court held that ‘soon before’ must be assessed in reference to the proximate and live link between effect and cause, having regard to the facts and circumstances of each case.

presents logistical challenges that many investigating agencies across India are not yet systematically equipped to meet.

The Constitution Bench in *Arjun Panditrao Khotkar v Kailash Kushanrao Goratya*<sup>31</sup> held that the certificate is mandatory and that its absence is fatal to admissibility as secondary evidence. In dowry death cases, where the prosecution's ability to trigger the statutory presumption depends on establishing prior cruelty which may be documented exclusively in digital form, the failure of electronic evidence authentication can collapse the entire evidentiary edifice before the presumption is even engaged. The authentication requirement thus functions, paradoxically, as a new form of the very evidentiary opacity that the original presumption was enacted to overcome. So basically, the harassment is documented, the record exists, but the 'law' cannot see it.

### **Social Media, Cyber Harassment, and the Expanded Definition of Cruelty**

The BNS does not explicitly codify cyber cruelty or digital harassment as a specific category within Section 85. However, the definition of cruelty under Section 85 BNS as conduct "likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical)" is broad enough to accommodate cyber harassment.<sup>32</sup> The systematic humiliation of a woman's family on social media in pursuit of dowry demands, the use of intimate images as leverage for financial coercion (digital sextortion), or the orchestrated online vilification of the victim, each of these falls within the statutory definition of cruelty and when occurring soon before death, constitutes a valid predicate for the Section 118 presumption.

The Cyber Crime cells operating under the Ministry of Home Affairs represent an investigative resource not envisaged by the original Section 304B framework. Integrating the digital forensic capabilities of these cells into the standard dowry death investigation protocol from the very first hour of investigation would significantly enhance the prosecution's capacity to establish the foundational facts required by Section 118 BSA.<sup>33</sup> The BNSS and BSA make this integration legally possible but do not mandate it. This is a reform gap that legislative amendment or Supreme Court direction should address without delay.

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<sup>31</sup> Ms. Siddhi Kamlakar Phatkare, "Case Comment on *Arjun Panditrao Khotkar v. Kailash Kushanrao Goratya & Others*, [2020] 7 S.C.R. 180," (2025) 5(2) *Indian Journal of Legal Review* (IJLR) 21–27.

<sup>32</sup> *Supra* n. 13

<sup>33</sup> *Supra* n.20

## JUDICIAL PRONOUNCEMENTS

*State of Punjab v Iqbal Singh (supra)* established the canonical formulation of Section 304B elements, holding that all five ingredients must be independently proved before the Section 113B presumption is engaged. The Court's insistence on independent proof of each element rather than inference from death alone was correct in principle: the presumption is a powerful tool and its trigger must be carefully defined. This formulation applies without modification to Section 80 BNS, the elements of which are identical.

*Smt Shanti v State of Haryana*<sup>34</sup> clarified the phrase “soon before her death,” holding that it does not mean “immediately before” but refers to a proximate and live link between the harassment and the death. In *Kans Raj (supra)* the Court elaborated that “soon before” is to be assessed contextually, with reference to a continued course of conduct that provides the proximate cause for the death. The Court rejected an interpretation requiring strict temporal proximity, which would have effectively immunised any perpetrator who allowed a brief interval of days or weeks between the final act of harassment and the death.

The leading criminal law treatises by Gaur<sup>35</sup> and Pillai<sup>36</sup> affirm that the proximate-cause interpretation is the only construction that gives the provision meaningful operation and is consistent with the legislative intent of 1983.

*Hem Chand v State of Haryana*<sup>37</sup> elaborated the mechanics of the Section 113B presumption. Once the foundational facts are proved, the burden shifts to the accused. The accused cannot discharge this burden through bare denial or the assertion of an innocent explanation; he must adduce actual evidence through his own testimony or other witnesses demonstrating that the death was not caused in connection with dowry demands. The standard is balance of probabilities, not proof beyond reasonable doubt.

*Trimukh Maroti Kirkan v State of Maharashtra*<sup>38</sup> advanced this jurisprudence significantly. The Court held that where the accused was the last person seen with the deceased in

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<sup>34</sup>*Smt Shanti v State of Haryana* AIR 1991 SC 816.

<sup>35</sup>KD Gaur, *A Textbook on the Indian Penal Code* (Universal Law Publishing, 6th edn, 2019) 421–425.

<sup>36</sup>PSA Pillai, *Criminal Law* (LexisNexis, 13th edn, 2017) 612–618.

<sup>37</sup>*Hem Chand v State of Haryana* (1994) 6 SCC 727, 733.

<sup>38</sup>*Trimukh Maroti Kirkan v State of Maharashtra* (2006) 10 SCC 681, 690–92

the matrimonial home, an obligation arises to explain the circumstances of death. Absence of explanation or provision of a demonstrably false explanation justifies an adverse inference. This principle acquires acute relevance in the digital age: an accused who has access to the victim's devices and digital accounts and who deletes communications in the hours or days following death assumes a heightened evidential burden.

*Vipin Jaiswal v State of Andhra Pradesh*<sup>39</sup> represents the Court's first significant engagement with electronic communications as evidence of matrimonial harassment. The Court recognised that such communications could establish a pattern of harassment while cautioning against reception of digital records without authentication. The judgment reflects judicial awareness of the twin risks: exclusion of reliable evidence through technical formalism on one hand, and uncritical reception of potentially fabricated digital records on the other.

*Satbir Singh v State of Haryana*<sup>40</sup> represents the Supreme Court's most comprehensive and recent statement on the dowry death framework. The Court reaffirmed the proximate-cause, confirmed the mandatory character of the statutory presumption, and held that procedural lapses in inquest proceedings do not automatically prejudice the prosecution though they may be weighed in the overall evidential assessment. Importantly, the Court directed that trial courts must not approach the presumption with diffidence; once the foundational facts are proved, the presumption must be raised and the accused must answer it with evidence, not argument.

*Rajinder Singh v State of Punjab*<sup>41</sup> confirmed that the presumption is triggered by proof of a continued course of conduct of harassment, not merely an isolated incident. This formulation is directly hospitable to digital evidence, which creates a timestamped record of repeated communications that can demonstrate a course of conduct with greater precision, completeness, and temporal specificity than witness testimony alone.

### **Critical Assessment: Where the Judiciary Has Fallen Short**

Despite this substantial jurisprudential edifice, three significant lacunae remain. First, no Supreme Court judgment has directly addressed whether exclusively digital harassment satisfies the cruelty

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<sup>39</sup>*Vipin Jaiswal v State of Andhra Pradesh* (2013) 3 SCC 684, 691–92

<sup>40</sup>*Satbir Singh v State of Haryana* (2021) 6 SCC 1

<sup>41</sup>*Rajinder Singh v State of Punjab* (2015) 6 SCC 477, 484

soon before death element. All existing case law was developed in the context of physical or verbal harassment that left a physical or testimonial trace. The extension to purely digital cruelty is analytically defensible but has not been authoritatively established.

Second, the courts have provided no guidance on what constitutes adequate authentication of electronic evidence in the specific context of dowry death investigations. The general principles of *Arjun Panditrao Khotkar* do not address the specific challenges of extracting evidence from a deceased victim's device, preserving chain of custody in a police station without digital forensic facilities, or obtaining cloud storage records from foreign-incorporated technology companies.

Third, no judgment has addressed the admissibility of metadata, the digital information embedded in electronic records that establishes the time, location, device, and sender of a communication as standalone or corroborative evidence of dowry harassment. Metadata can establish facts that the message text itself does not reveal: the location of the accused at the time of a threatening voice note, the device from which a demand was sent, the frequency of communications in the period preceding death. The courts' silence on metadata leaves trial courts without direction in an area of growing practical and forensic significance.

## CONCLUSION

The journey from Section 304B IPC to Section 80 BNS, and from Section 113B Evidence Act to Section 118 BSA, is one of formal continuity and substantive stasis. The legislature has preserved the architecture of dowry death law while leaving it unequipped for the evidentiary challenges of the age in which the crime now predominantly occurs. The presumption survives in text; its utility depends on the ability to trigger it through proof of prior cruelty, proof that increasingly lives in digital spaces the law navigates without confident direction. The moral foundation of this area of law is unimpeachable. A woman who marries should not become an instrument of financial extraction, and a state that tolerates her killing in pursuit of that extraction fails its most fundamental obligation to equal citizenship. The legal architecture must match this moral commitment without equivocation or delay. This requires three immediate reforms. First, explicit legislative recognition within the BNSS of a specialised digital evidence protocol for dowry death investigations, mandatory engagement of Cyber Crime cell resources from the first hour of investigation. Second, Supreme Court guidelines addressing the authentication standards applicable to electronic records in the specific context of Section 80 BNS prosecutions, clarifying

whether substantial compliance suffices when the authenticity of the record is not genuinely disputed. Third, mandatory training, at both the investigative and prosecutorial levels, in the preservation, certification, and presentation of digital evidence in matrimonial offence cases.

The Bharatiya Nyaya Sanhita represents an opportunity to bring Indian criminal law into correspondence with the twenty-first century in which its subjects live and die. Dowry death demands a legal response adequate to the digital age in which it now occurs and is now documented. The statutory weapon exists; the task that remains is to ensure it can be loaded with the evidence that this age produces. This analysis seeks to highlight the relevance of Section 118 and the challenges in its implementation, particularly in the context of evolving forms of cruelty including purely digital harassment, which, though analytically defensible, has not yet been authoritatively established by the higher judiciary in dowry death and cruelty cases.

Ultimately, this remains a modest effort to fortify women's rights, restore their dignity and equality with men, and promote a culture of accountability. Only by addressing these systemic gaps through judicial clarity and responsible implementation can we hope to build a safer and more just society.