

HIGH COURT OF CHHATTISGARH, BILASPUR
Criminal Revision No. 175 of 2004

Narmada Prasad Sahu

---- Applicant

Versus

Ramavtar and others

---- Non-Applicants

For Applicant	:	None present.
For Non-Applicant Nos. 1 to 4	:	Mr. A.K. Yadav, Advocate
For Non-Applicant No.5 / State	:	Ms. Pushpa Dwivedi, Panel Lawyer

Hon'ble Shri Justice T. P. Sharma and
Hon'ble Shri Justice Inder Singh Uboweja

JUDGMENT

25/03/2015

Per T.P. Sharma, J

1. When the case, listed at Sl.No.7 in the second list of final hearing commencing from 23.03.2015, is regularly called out for hearing and is again called out for hearing, no representation is made on behalf of the applicant.
2. This is a revision against the order of acquittal dated 29.11.2003 passed by the 3rd Additional Sessions Judge, Bilaspur in Sessions Trial No.122/2003, whereby the trial Court has acquitted respondent Nos. 1 to 4 of the charges of Section 498A and 304-B of the IPC on the ground that prosecution has failed to prove its case beyond shadow of doubt.
3. As per case of prosecution, unfortunate deceased – Ratibai was married to Laxminarayan Sahu (R-2) relative of other accused/respondents. She died under abnormal circumstances on 07.07.2000 as a result of

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suspected poisoning. FIR was lodged, matter was investigated and finally chargesheet was filed on the ground that soon before her death, respondent Nos. 1 to 4 have committed torture and cruelty in connection with demand of dowry and thereby committed offence of dowry death punishable under Section 304-B and offence of commission of torture and cruelty punishable under Section 498A of the IPC.

4. In order to substantiate the charges, prosecution has examined as many as sixteen witnesses. Accused were examined under Section 313 of the Code, in which they denied the circumstances appearing against them, pleaded innocence and false implication in crime in question was claimed.
5. After providing opportunity of hearing to the parties, learned Additional Sessions Judge has acquitted respondent Nos. 1 to 4 of the charges on the ground that prosecution has failed to prove its case beyond shadow of doubt.
6. We have heard learned counsel for the respondents and perused the judgment impugned and record of trial Court.
7. As per evidence of Shambhuran Sahu (PW-1), elder brother of father of deceased Ratibai, Narmada Prasad Sahu (PW-2), father of deceased, Ku. Rita Sahu (PW-3) & Ku. Sarita Sahu (PW-4), sisters of deceased, Chameli Bai (PW-5), Rambati Sahu (PW-6) and Migan Ram Sahu (PW-7), deceased – Ritabai was married to Laxminarayan (R-2) relative of other accused / respondents. Attitude of respondent Nos. 1 to 4 with the deceased was not normal. They were committing torture and cruelty, they demanded money and she died as a result of suspected poisoning. After scrutiny of evidence, trial Court arrived at a finding that prosecution

has failed to prove its case beyond shadow of doubt.

8. This is criminal revision at the instance of private party. The State having right to file appeal against the judgment of acquittal has not chosen to file appeal against the judgment of acquittal. Although the revisional Court is competent to set aside the judgment of acquittal, as held by the Supreme Court in the matter of **K. Chinnaswamy Reddy v. State of A.P.**¹, but this jurisdiction should be exercised by the High Court only in exceptional cases. While dealing with same question, the Supreme Court in the matter of **Bindeshwari Prasad Singh v. State of Bihar**² has held that in revision against acquittal at the instance of a private party, the Court would not re-appreciate evidence.
9. Admittedly, the scope of revision at the instance of a private party against the judgment of acquittal is limited and is required to be exercised in exceptional cases.
10. In the light of aforesaid proposition of law and examination of evidence, we have perused the evidence of prosecution and judgment impugned. Evidence adduced on behalf of prosecution is not up to the standard for drawing an inference that only view convicting respondent Nos. 1 to 4 would be possible i.e. view taken by the Court below is also not illegal or erroneous. Even otherwise, the trial Court has not rejected the case of the prosecution, but it was dismissed on the ground that prosecution has failed to prove its case beyond shadow of doubt. In the light of substantial discrepancy and in absence of demand of dowry trial Court has acquitted respondent Nos. 1 to 4.
11. On close scrutiny of the evidence, we do not find any ground requiring

¹ AIR 1962 SC 1788

² AIR 2002 SC 2907

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interference in exercising revisional jurisdiction against the judgment of acquittal.

12. Consequently, the revision, being devoid of merit, is liable to be and is hereby dismissed.

JUDGE

JUDGE