

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.195 of 2015**

Ramkali Sahu, W/o Shri Paras Ram Sahu, aged about 38 years, R/o Village Sankara, Police Station Somani, District Rajnandgaon (Chhattisgarh)

---- Appellant**versus**

1. Brijlal Sahu S/o Late Shri Baldu Ram Sahu, aged about 50 years, R/o Village Bakal, Police Station Lalbag, District Rajnandgaon (Chhattisgarh)
2. State of Chhattisgarh, through Police Station Lalbag, District Rajnandgaon, Chhattisgarh

---- Respondents

For Appellant	: Shri Samir Singh, Advocate
For Respondent No.2/State	: Shri Avinash K. Mishra, Panel Lawyer

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****8/10/2015**

1. The present appeal has been filed questioning acquittal of Respondent No.1 from accusation under Sections 304B and 498A IPC, dated 2.7.2015 ordered by the Sessions Judge, Rajnandgaon in Sessions Trial No.30 of 2015.
2. Learned Counsel for the Appellant submits that the death has taken place approximately immediately after five months of the marriage. The law raises a presumption under Section 304B IPC read with Section 113B of the Evidence Act that it was a case of dowry death if the death was unnatural and within seven years of the marriage. The deceased died on account of consuming insecticide "Aluminum Phosphate". PW-1, Ramkali, mother of the deceased and PW-3, Parasram, father of the deceased in their Court deposition had mentioned dowry demands of Rs.15,000/- and a motorcycle. The acquittal was therefore not justified.
3. We have heard Learned Counsel for the State also.

4. The presumption under Section 304B IPC read with Section 113B of the Evidence Act arises after the prosecution establishes a *prima facie* case. If the prosecution is not able to establish a *prima facie* case of dowry death, the presumption in the law does not arise. Merely because death may have taken place within seven years of the marriage and may be unnatural, cannot lead to any absolute presumptive conclusion of it being a dowry death.

5. The evidence as discussed in the judgment of the Trial Court is that the deceased went to her matrimonial home on more than one occasion after marriage but never made any complaint. PW-1 and PW-3 also acknowledged that they had not lodged any police complaint earlier much-less sought to raise issues in the family, social surroundings in the village with regard to any ill-treatment to their daughter. On the contrary, in their police statement recorded one day after death, they did not make any statement with regard to dowry demands, but talked of the same only in their Court deposition for the first time. Interestingly, despite the fact that there was a demand for a motorcycle, husband of the deceased has not been made an accused. PW-3 has further acknowledged that his daughter was not in good health and he was having her treated by Dr.N.K.Sahu. Though PW-3 deposed of a mobile phone belonging to the deceased on which she had informed of ill-treatment being meted out by asking her to perform household chores and abuses, no number of the mobile phone was furnished by him. Additionally, PW-1 and PW-3 in their cross-examination have acknowledged that when the deceased died by consumption of the insecticide, the husband or her in-laws were not at home.

6. In conclusion, we find no reason to interfere with the order of acquittal as opining it to be a simple case of suicide for which there was no charge.

7. The appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE