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HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 565 of 2006

- Latel Sahu S/o Sakharu Sahu, aged about 60 years, R/o Village and Post - Rohasi, Tahsil - Baloda Bazar, Distt. Raipur (CG)

---- Petitioner

Versus

1. Vinay Kumar @ Madho, s/o Kala Ram Sahu, aged about 24 years, R/o Dhobghatti, P.S. Nandghat, Distt. Durg (CG)
2. Gaukaran S/o Narayan Prasad Sahu, aged about 23 years, R/o Village Khairtal, P.S. Bhatapara, Distt. Raipur (CG)
3. Narayan Prasad S/o Late Latel Sahu, aged about 44 years, R/o Khairtal, P.S. Bhatapara, Distt. Raipur (CG)
4. State of Chhattisgarh through Police Station Nandghat, Distt. Durg (CG)

---- Respondent

For Applicant : Shri YC Sharma, Advocate.

For Respondent No.1 to 3 : None.

For Respondent No.4/State : Shri Vaibhav Goverdhan, PL.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice R.C.S. Samant

Judgment On Board By Justice Pritinker Diwaker

10/11/2016

This revision arises out of the judgment and order dated 16.12.2004 passed by the Additional Sessions Judge, Bemetara, Distt. Durg, in ST No.99/2004 acquitting the respondents No.1 to 3/accused of the charges under Sections 304B, 306, 498A of IPC and Section 4 of Dowry Prohibition Act.



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02. In the present case, name of the deceased is Krishnabai, wife of respondent No.1, their marriage was solemnized on 15.5.2003 and she died on 12.1.2004 in her matrimonial house after consuming some poisonous substance. Respondent No.2 is brother-in-law whereas respondent No.3 is uncle-in-law in relation of the deceased. After death of the deceased, unnumbered merg (Ex.P/18) was recorded on 13.1.2004 at the instance of Kalaram, father of respondent No.1. On the next day, numbered merg Ex.P/9 was recorded. In the meanwhile, inquest on the dead body was conducted vide Ex.P/4 and thereafter, the body was sent for postmortem which was conducted on 13.1.2004 vide Ex.P/7 by PW-9 Dr. AR Banjare, who opined the cause of death to be asphyxia due to suspect ingestion of poison, but he advised for chemical examination of the visceral organs preserved by him for confirmation. After about 20 days of the incident, on 3.2.2004 a written complaint Ex.P/5 was lodged by PW-4 Latel Sahu, father of the deceased, alleging in it that as her daughter was subjected to cruelty from the beginning, he apprehends that she might have been killed. Based on this written complaint, FIR (Ex.P/6) was registered on 3.2.2004 against the respondents/accused under Section 306/34 of IPC. After filing of charge sheet, the trial Court framed charges against respondent No.1 under Sections 304B, 306, 498A of IPC and Section 4 of Dowry Prohibition Act and against respondents No. 2 & 3 under Sections 304B/109 & 306/109 of IPC and Section 3 of Dowry Prohibition Act.

03. So as to hold the respondents/accused guilty, the prosecution examined 14 witnesses in all. Statements of the accused were



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recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication. In their defence, they examined one Mohan as DW-1.

04. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment acquitted the respondents of all the charges. Hence this revision.

05. Counsel for the applicant submits as under:

- that the trial court has erred in law in acquitting the respondents/accused merely on the ground of delay in lodging the report by PW-4.
- in most of the cases where the daughter dies in her matrimonial house under unnatural circumstances, her family members being under the grief usually take some time in making any report against the suspects and therefore, the trial court ought to have taken into account this aspect of the case.
- that no reason has been assigned by the defence as to why the deceased committed suicide in less than one year of her marriage.

06. State counsel has duly assisted the Court.

07. Heard counsel for the respective parties and perused the material on record.

08. PW-1 Sitabai, aunt-in-law of the deceased, has stated that she is



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not aware as to why the deceased committed suicide. However, in para-6 she has stated that the deceased and respondent No.1 were living well; during her lifetime respondents No. 2 & 3 used to visit her house and they too had good relations with the deceased. She states that the accused persons never raised any demand of dowry from the deceased. When the deceased consumed poison, she was taken to hospital but she expired.

09. PW-2 Dhannuram Thakur, Patwari, prepared the spot map Ex.P/1. PW-3 Akshay Kumar is a formal witness. PW-4 Latel Sahu, father of the deceased, who made written complaint to the police, in his examination-in-chief has stated that his daughter was subjected to cruelty for demand of dowry. However, in para-14 he states that after the death of the deceased, he did not inform anything to the police as he was in great grief. He states that even at the time of inquest and last rites of the deceased, he did not make any complaint to the police about the demand of dowry by the respondents/accused. He further states that even he did not complain to the Village Kotwar or any other person in the village. He states that the complaint Ex.P/5 was drafted by Ishwar, his brother-in-law, who was an Ex-Army man. He states that he only knows writing his name and had signed the written complaint Ex.P/5 without reading the same. Later on he has stated that earlier also he had made an attempt to lodge report with the police, but the same was not recorded as medical report of the deceased was not available.

Contrary to his statement, investigation officer (PW-12) has stated that no such report was ever lodged by this witness with the



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police or he ever came to lodge such report.

10. PW-5 Kuntibai, mother of the deceased, PW-6 Yashodabai, sister of the deceased and PW-8 Ishwarlal, uncle of the deceased, have made some allegations against the respondents for demand of dowry. PW-6 in cross-examination has stated that she is contesting the case against her father for family partition of the property. PW-9 Dr. AR Banjare conducted postmortem on the body of the deceased on 13.1.2004 vide Ex.P/7. In his opinion, the cause of death was asphyxia due to suspect ingestion of poison, and he had advised for chemical examination of the visceral organs preserved by him for confirmation. PW-12 KPS Paikra, investigating officer, though has supported the prosecution case but admitted the fact that prior to lodging of written complaint by PW-4, this witness had never come to the police raising his grievance. PW-13 Victor Tirkey, Police Inspector, helped in the investigation. DW-1 Mohan, neighbour of the accused persons, has stated that he has never heard any such quarrel or dispute between the respondents/accused and the deceased in connection with demand of dowry.

11. Evidence has also come that respondent No.1 was residing at Village - Dhobghatti whereas respondents No. 2 & 3 were residing at Village - Khairtal and it takes one hour to reach from one village to another.

12. Close scrutiny of the evidence makes it clear that relatives of the deceased were though present at the time of inquest but none of them made any allegations against the respondents regarding harassment

or torture to the deceased in connection with dowry by them. Though father, mother and sister of the deceased have made certain allegations in their Court statements against the respondents/accused for demand of dowry but other witnesses have not made any such allegations. The independent witnesses have not supported the prosecution case. This apart, PW-1 Sitabai has categorically stated that relations between the deceased and the respondents were cordial and they were living happily. This witnesses has not been declared hostile by the prosecution.

Most importantly, there is inordinate delay of 20 days in lodging the FIR by PW-4 Latel Sahu, father of the deceased, and the said delay has not been explained satisfactorily by him. Further, PW-4 has admitted that he knows only writing his name whereas the entire written complaint, based on which FIR was registered, was drafted by his brother-in-law, who is an Ex-Army man, and he had not read the said report. This shows that the said written complaint was nothing but an afterthought. Yet another important aspect of the case is that respondents No. 2 & 3 were residing in different place from that of respondent No.1.

13. For the aforesaid reasons, we are of the considered opinion that the prosecution on the basis of evidence adduced by it has utterly failed to prove that it is the respondents/accused who used to harass or torture the deceased in connection with demand of dowry or that soon before her death she was subjected to such cruelty or that they in any manner abetted commission of suicide by the deceased. In this view of the matter, the findings of acquittal recorded by the trial Court



being based on proper and due appreciation of the entire evidence call for no interference by this Court.

14. Even otherwise, it is a well settled principle of law that interference with the judgment of acquittal is permissible only when there are compelling and substantial reasons for doing so. What the Court has to see is whether the reasonings of the trial Court are well founded and acceptable with sound reasoning, and if it is so, then the question of reversing the finding of the trial Court does not arise. It is only in case, if the evidence on record has not been properly appreciated by ignoring the material facts, it is open to the Court to interfere with such judgment of the trial Court. If there are two possible views on the basis of evidence on record in the case, the one favouring the accused should be adopted and that is what the trial Court has done.

15. On the basis of aforesaid analysis, we are of the view that the trial Court has not committed any illegality while passing the impugned judgment acquitting the respondents of all the charges. Accordingly, the instant revision being bereft of any substance is liable to be dismissed and is hereby dismissed.

Sd/-
Pritinker Diwaker
Judge

Sd/-
R.C.S. Samant
Judge