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HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 361 of 2006

- Smt. Sail Sahu, W/o Manharan Shahu, aged about 45 years, R/o Kosha, P.S. Pamgraha, Distt. Janjgir, Chhattisgarh, At present R/o New Katni Near Diesel Shed, Distt. Katni, M.P.

---- Petitioner

Versus

1. State Of Chhattisgarh
2. Firtin Bai W/o Pavan Kumar Sahu, aged 48 years, R/o Village Sarkho Chouki, Naila, P.S. Janjgir.
3. Lalu @ Umesh Kumar S/o Pavan Kumar, Aged 24 years, R/o Village Sarkho Chouki, Naila, P.S. Janjgir.
4. Kishore Sahu S/o Purshottam Sahu, Aged 28 years, R/o Sarkho, P.S. Janjgir, Distt. Janjgir.

---- Respondent

For Petitioner	: Smt. Renu Kochar, Advocate.
For Respondent No.1/State	: Shri Adhiraj Surana, Govt. Adv.
For Respondent No.2 to 4	: Shri V.C. Ottalwar, Advocate.

Hon'ble Shri Justice Pritinker Diwaker

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

Judgment On Board By Justice Pritinker Diwaker

17/11/2016

Present revision has been filed by Smt. Sail Sahu, mother of the deceased Premlata, assailing the judgment dated 20.4.2006 passed by Additional Sessions Judge, Janjgir, Sessions Block - Bilaspur, in ST No.152/2005, acquitting respondents No. 2 to 4 of the charges under Sections 498A and 304B of IPC.

02. Brief facts of the case are that marriage of respondent No.3 Lalu @



Umesh Kumar was solemnized with deceased Premlata on 2.5.2004 and she died after hanging herself on 14.2.2005 in her matrimonial house. Merg intimation Ex.P/10 was lodged on 14.2.2005 at 12 noon by Ravindra Kumar, uncle-in-law of the deceased. Inquest over the dead body was conducted on the same day vide Ex.P/2 and thereafter the dead body was sent for postmortem which was conducted by PW-4 Dr. Amrit Lal Soni vide Ex.P/5 who noticed congestion in brain, lungs, larynx, trachea, liver and spleen. In his opinion, the cause of death was asphyxia due to hanging and the death seemed to be suicidal in nature. After merg enquiry, FIR (Ex.P/11) was registered on 15.2.2005 against the respondents/accused under Section 304B/34 of IPC. After investigation, charge sheet was filed against the respondents/accused and while framing charge, the trial Judge framed charges under Sections 498A and 304B of IPC against them.

03. So as to hold the respondents/accused guilty, the prosecution examined 12 witnesses in all. Statements of the accused were 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 three witnesses.

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.

05. State has chosen not to assail the judgment of acquittal and this revision is on behalf of the complainant, who is mother of the

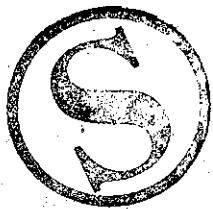


deceased.

06. Counsel for the petitioner submits as under:

- that from the statements of witnesses, in particular PW-1 Smt. Shail Sahu, PW-6 Shravan Kumar & PW-10 Manharan, prima facie offence under Sections 498A and 304B of IPC has been duly made out and therefore, the trial Court has erred in law in acquitting the respondents/accused.
- that all the ingredients of Section 304B of IPC are made out against the accused persons.
- that the trial Court has erred in law in believing the statements of the defence witnesses while recording finding of acquittal in favour of the accused persons.
- the postmortem report suggests that the deceased was first killed by the accused persons and thereafter she was hanged and thus, charge under Section 302 of IPC ought to have been framed against the accused persons.

07. On the other hand, supporting the impugned judgment it has been argued on behalf of the respondents/accused that the basic ingredients of Sections 498A and 304B of IPC are completely missing in this case. PW-10 Manharan, father of the deceased, has categorically stated that the deceased was very affectionate to her husband and mother-in-law and she had no grudge against the accused persons. Likewise, this witnesses has also stated that only on the basis of assumption he is making allegation against the accused persons that her daughter was subjected to cruelty by them in connection with demand of dowry. He submits that the trial Court after due appreciation of the entire evidence

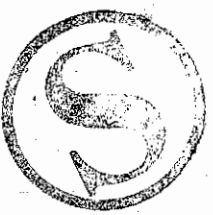


on record has rightly acquitted the respondents/accused of all the charges. Even otherwise, it is a settled principle of law that if two views are possible on the face of the material on record, one favouring the accused and another pointing towards his guilt, the one favourable to the accused should be adopted and that is what has been done by the trial Court, which needs no interference by this Court in exercise of revisional jurisdiction.

08. State counsel has duly assisted the Court.

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

10. PW-1 Smt. Shail Sahu, mother of the deceased, has stated that at the time of marriage, Rs.1.30 lacs was demanded, out of which Rs.90,000/- was paid and for rest of the amount, her daughter was subjected to cruelty. She has stated that after about 2 ½ month of marriage, when the deceased came to her house, she informed her that the accused persons are harassing her and are demanding gold and silver. She has stated that only once the deceased had come to her after marriage and rest of the information was given by her on telephone. In her cross-examination she states that demand of money made by the accused persons was informed by her to the police but if the same is not recorded in her diary statement (Ex.D/1) she could not tell any reason. She has stated that in her lifetime, the deceased never wrote any letter to her; respondent No.3 had not come to take the deceased as he was in job and even the deceased had requested that she may be dropped to her matrimonial house as her husband may be

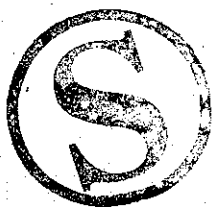


facing difficulty in cooking food and all that. She has further stated that considering the nature of complaint made by the deceased, the same was not reported to police or disclosed to anyone else in the society as such kind of disputes are quite often seen in almost every household.

11. PW-6 Shravan Kumar, maternal uncle of the deceased, has also stated that at the time of marriage it was agreed to give Rs.1.30 lacs to the accused persons, out of which Rs.90,000/- was paid and Rs.40,000/- was yet to be paid. He has stated that the deceased was being subjected to cruelty for demand of the balance amount. He has further stated that other household articles were also given to the deceased at the time of marriage. In para-5 he has stated that mediator in the marriage was Bihari Lal Sahu (DW-1) and at the time of settlement, Bihari Lal Sahu too was present. He also admits that when the accused persons demanded money, it was informed to the mediator Bihari and no complaint was made to the police.

12. PW-10 Manharan, father of the deceased, has stated that at the time of marriage settlement was arrived at Rs.1.30 lacs, out of which Rs.90,000/- was given in cash and rest was to be given after harvesting the crop. In cross-examination, he admits that the deceased was very caring for her mother-in-law and husband and while staying at his house, she herself had requested for dropping her at her matrimonial house so that her husband and mother-in-law could not face difficulty in cooking food etc. He further states that the deceased would never like to hear even a single word against her in-laws.

From paras 12, 13 & 14 of his cross-examination, it appears that



only on the basis of assumption that his daughter might have been subjected to cruelty, he made statement against the accused persons and he himself admitted this fact that he is making allegation against the accused persons only on the basis of suspicion.

13. PW-2 Luranlal Bareth, PW-3 Kishore Kumar Shyam, PW-5 Sakhiram Tiwari, PW-7 Kamal Kumar, PW-8 Kavita, PW-9 G.R. Mahilange and PW-12 J.P.N. Singh are formal witnesses. PW-11 Vijay Agrawal is the investigating officer. PW-4 Dr. Amrit Lal Soni conducted postmortem on the body of the deceased on 14.2.2005 vide Ex.P/5 and noticed congestion in brain, lungs, larynx, trachea, liver and spleen. In his opinion, the cause of death was asphyxia due to hanging and the death seemed to be suicidal in nature.

14. DW-1 Bihari Sahu, is a person who mediated between the two families for marriage of the deceased with respondent No.3. He has stated that no dowry was settled at the time of marriage and it was offered by PW-10 Manharan that he would give Rs. 1 lac. He has clarified that no amount was demanded by the accused persons. He has further stated that quite often he met the deceased after marriage but she never made any complaint against the accused persons and that she was living happily in her matrimonial house. DW-2 Lalaram Sahu, is also in relation to both the families. He has stated that Manharan (PW-10), of his own, had offered Rs.1 lac at the time of marriage and that no demand whatsoever was raised by the accused persons. DW-3 Hemlata Sahu has stated that she met the deceased prior to the incident, that relations between the deceased and her mother-in-law were cordial and she never heard any complaint from



the deceased.

15. Close scrutiny of the evidence makes it clear that though some of the witnesses have made allegations against the accused persons but the most important witness PW-10 Manharan admits that the deceased was very caring for her mother-in-law and husband; she would never like to hear even a single word against them and while staying at her parental house, she herself used to request to drop her at her matrimonial house. This witness also admits that only on the basis of assumption and suspicion he made allegation against the accused persons.

The other important piece of evidence is the statement of DW-1 Bihari Sahu, who mediated between the two families for marriage of the deceased with respondent No.3. He has categorically stated that no dowry was settled at the time of marriage, the amount of Rs. 1 lac was offered by PW-10 Manharan himself, the accused persons never raised any demand and that at no point of time the deceased made any complaint to him regarding demand of dowry by the accused persons. Evidence of this witness also finds support from the evidence of DW-2 & DW-3. In their cross-examination, these defence witnesses have remained firm and reiterated the fact that no demand was ever made by the accused persons.

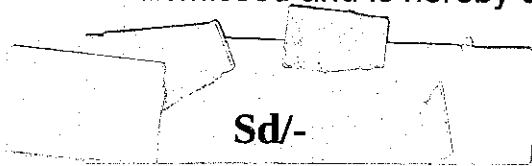
16. For the aforesaid reasons, we are of the considered opinion that the prosecution on the basis of evidence adduced by it has utterly failed to prove that it is the respondents/accused who used to harass or torture the deceased in connection with demand of dowry or that

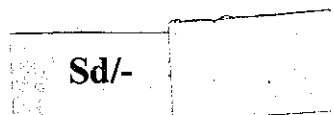


soon before her death she was subjected to such cruelty or that they in any manner abetted commission of suicide by the deceased. In this view of the matter, the findings of acquittal recorded by the trial Court being based on proper and due appreciation of the entire evidence call for no interference by this Court.

17. 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.

18. 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