

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 123 of 2016

Judgment reserved on : 16.11.2016

Judgment delivered on : 23 .11.2016

- Sadheram Lodhi, son of Anathram Lodhi, aged about 22 years (now aged about 27 years), resident of Chhindbhog, Police Station - Patharia, District Bilaspur (now district - Mungeli) (CG)

---- Appellant (In jail)

Versus

- State of Chhattisgarh, through Station House Office, Police Station - Pataria, district - Bilaspur (now district - Mungeli) (CG)

---- Respondent

For Appellant : Shri CK Sahu, Advocate
For Respondent/State : Shri Sanjeev Pandey, GA

Hon'ble Shri Justice Anil Kumar Shukla

CAV Judgment

- 1) This appeal is directed against the judgment of conviction and order of sentence dated 28.09.2011 passed by the Additional Sessions Judge, Mungeli in Sessions Trial No.08 of 2010, whereby learned ASJ after holding the appellant guilty for commission of offences under Sections 304-B & 498-A of the IPC, sentenced him to undergo RI for 10 years; RI for one year and to pay fine of Rs.500/-, in default of payment of fine to further undergo RI for one month respectively.
- 2) Conviction is impugned on the ground that without there being an iota of evidence, the trial Court has convicted & sentenced the appellant as aforementioned and thereby committed illegality.

3) Case of the prosecution, in brief is that marriage of the deceased Sushila Bai was performed with the appellant on 27.04.2009, thereafter, she was subjected to torture and cruelty for demand of dowry. On 09.11.2009, on account of the cruelty, she committed suicide in her matrimonial house by consuming poison within one year of her marriage.

4) Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973. After completion of investigation, charge-sheet was filed before the Court of Judicial Magistrate First Class, Mungeli, who in turn, committed the case to the Court of Sessions from where learned Additional Sessions Judge, Mungeli received the case on transfer for trial.

5) In order to prove the guilt of the accused/appellant, the prosecution has examined as many as 11 witnesses. The appellant was examined under Section 313 of the Cr.P.C., in which he denied the circumstances appearing against him and claimed innocence and false implication in the crime in question.

6) After providing opportunity of hearing to the parties, learned Additional Sessions Judge, Mungeli has convicted and sentenced the appellant as aforementioned.

7) I have heard learned counsel for the parties, perused the judgment impugned and record of the trial Court.

8) At the outset, counsel for the appellant submits that in light of evidence of the witnesses available on record, he is not disputing the conviction, but considering the age of the appellant and the fact

that the appellant is in jail for about seven years, the sentence requires re-consideration. Therefore, looking to the custody period of the appellant, his sentence may be reduced to the period for which he remained in the custody.

9) On the other hand, learned State counsel supported the judgment impugned and submitted that the evidence adduced on behalf of the prosecution is sufficient for drawing inference that the appellant has committed cruelty and torture upon the deceased.

10) In order to appreciate the arguments advanced on behalf of the parties, I have examined the evidence available on record.

11) It is not in dispute that the appellant was 22 years of age at the time of the incident and he remained in jail for near about seven years; the total sentence awarded to him was ten years and only three years is left for completion of his sentence. Looking to the submissions made by learned counsel for the parties and facts and circumstances of the case, considering that the appellant does not want to challenge the conviction imposed upon him but, he only prays for reduction of the sentence, the prayer of learned counsel for the appellant appears to be acceptable.

12) In my view, considering all the facts and circumstances of the case, it would be appropriate that while maintaining the fine amount imposed upon the appellant, if the jail sentence is reduced to the period for which he remained in jail, that would meet the ends of justice.

13) Accordingly, the appeal filed by the appellant is hereby partly allowed. The conviction directed against the appellant for the offences punishable under Sections 304-B and 498-A is hereby maintained but, jail sentence is reduced to the period which he has already undergone in the custody. Fine amount imposed against him shall remain as it is meaning thereby, he shall pay fine amount of Rs.500/-, in default of payment of fine, to undergo one month additional RI.

14) It is stated that the appellant is in jail. He be set at liberty at once, if not required in any other case.

Sd/-

(Anil Kumar Shukla)
JUDGE