

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 258 of 2011**

1. Nandu Verma S/o Salik Ram Verma, aged about 25 years
2. Hari Ram Verma S/o Meluram Verma, aged about 22 years

Both R/o village Ruse, Police Station Navagarh, District Durg, CG

---- Appellants

Versus

1. State of Chhattisgarh through the Police Station Navagarh, District Durg, CG

---- Respondent

AND

CRA No. 407 of 2011

1. Salik Ram Verma son of Meluram Verma, aged about 52 years, R/o Village Ruse, Police Station Nawagarh, District Durg, CG

---- Appellant

Versus

1. State of Chhattisgarh through the Police Station Navagarh, District Durg, CG

---- Respondent

For Appellants : Shri P.P. Sahu and Shri R.K. Pali, Advocates
 For Respdtd/State : Shri Adil Minhaj, PL

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Sanjay K. Agrawal

Judgment on Board by Pritinker Diwaker, J

26/05/2017

As the aforesaid two Criminal Appeals arise out of the same judgment dated 24.3.2011 passed by Additional Sessions Judge Bemetara, District Durg in Sessions Trial No. 37/2010 convicting the accused/appellant Salik Ram Verma under Sections 302/34, 201/34 and 498-A/34 IPC and sentencing him to undergo imprisonment for

life and pay fine of Rs. 1000/- u/s 302/34; RI for four years with fine of Rs. 500/- u/s 201/34 and RI for two years with fine of Rs. 300/- u/s 498-A/34 plus default stipulations; whereas convicting accused Nandu Verma and Hari Ram Verma u/s 201/34 and 498-A/34 and sentencing each of them to undergo RI for four years with fine of Rs. 500/- u/s 201/34 and RI for two years with fine of Rs. 300/- u/s 498-A/34 plus default stipulations, they are disposed of by this common judgment.

2. Name of the deceased in the present case is Dileshwari alias Rani - the wife of accused/appellant Hari Ram Verma and their marriage was solemnized sometime in the year 2009. Dileshwari alias Rani died homicidal death on 22.4.2010 in the house of the accused/appellants. Accused/appellant Salikram is the maternal uncle of accused Hari Ram Verma whereas accused Nanduram is his son. As per the case of the prosecution, accused Hari Ram was residing in the house of accused Salikram since childhood and his marriage was got performed by him. Further case of the prosecution is that on 22.4.2010 accused Salikram strangled Dileshwari alias Rani and after her death he burnt her dead body by sprinkling kerosene so as to present a false picture that she committed suicide. Case of the prosecution further says that after coming out of the room where the incident had taken place, they bolted the door from inside and came out by lifting the door. All this was done to project as if the door was bolted by the deceased herself before committing the suicide. When the smoke was noticed by the neighbours, they are said to have called the accused/appellants from the field and then the door was broken open and the dead-body was found lying inside. *Merg* Ex. P-23 was recorded on the same day at the instance of accused Nanduram,

inquest vide Ex. P-2 was conducted and the dead-body was sent for postmortem examination which was conducted by Dr. T.N. Mahileshwar (PW-8) who gave his report Ex. P-4 (to be discussed later). After receiving the postmortem report and completing the *merg* inquiry, on 24.4.2010 FIR Ex. P-26 was registered against the three accused persons for the offences punishable under Section 304-B/34 IPC and on the same day memorandum of accused Salikram Ex. P-8 was recorded based on which one *lungi* with the smell of kerosene and one shirt were seized vide Ex. P-9. Likewise, vide Ex. P-10 seizure of wooden cot and match stick was made from the spot and vide Ex. P-11 seizure of match box smelling of kerosene was also made at the instance of accused Salikram. Similarly, one plastic jar containing half liter of kerosene was also seized from the spot vide Ex. P-5. FSL report Ex. P-31 confirms the presence of kerosene in the lungi, shirt and also the match box. Trial Court framed the charge against all the accused persons under Sections 302/34, 201/34 and 498-A/34 IPC.

3. In order to prove its case the prosecution has examined 11 witnesses in support of its case. Statements of the accused/appellants were also recorded under Section 313 of the Code of Criminal Procedure in which they denied their guilt and pleaded innocence and false implication in the case.

4. After hearing the parties the Court below by the judgment impugned acquitted accused Nanduram and Hari Ram of the charge under Section 302/34 but has convicted them under Sections 201/34 and 498-A/34 IPC. However, accused/appellant Salikram has been convicted for all the offences. Hence this appeal.

5. Counsel for the accused/appellants submit as under:

(i) That there is no eyewitness to the incident and though the conviction of the accused/appellants is based on circumstantial evidence but as the chain of such circumstances is not complete, their conviction cannot follow.

(ii) That as the door of the room where the incident took place was bolted from inside, it was a case of suicide by the deceased.

(iii) That there is no concrete evidence against the accused/appellants to hold them guilty for the commission of crime in question.

(iv) That as accused Hari Ram and Nanduram have already remained in jail for one year and one month, the sentence imposed on them may be reduced to the period already undergone if their conviction is not going to be disturbed.

6. On the other hand counsel for the respondent/State supports the judgment impugned and submits that as per the postmortem report Ex. P-4 the deceased died a homicidal death and cause of death has been opined as asphyxia due to throttling and even the hide bone was found fractured which is normally found in the case of throttling. He submits that after committing the murder of the deceased, accused Salikram with the help of other accused persons burnt her dead body to give a false picture of suicide but ultimately after the postmortem was conducted, the truth surfaced. He further submits that after committing the offence the accused/appellants bolted the door from inside and by lifting open the door they got out. State counsel referred to the seizure of certain articles such as *lungi*, shirt and match box made on the basis of memorandum of accused Salikram which as per FSL report Ex. P-31 contained the presence of kerosene. According to him, even the motive has also

been proved by the evidence of Gend Ram Verma (PW-2), Smt. Shanta Bai (PW-4), Goverdhan Verma (PW-5), Shiv Prasad (PW-6) and Kejuram Verma (PW-7) who have categorically stated that the deceased was subjected to cruelty for demand of dowry. State counsel submits that in his memorandum Ex. P-8 accused Salikram has stated that it is he who committed the murder of the deceased by strangulating and then her dead body was burnt after pouring kerosene thereon.

7. Heard counsel for the parties and perused the evidence available on record.

8. S.S. Som (PW-1) is the Tehsildar who conducted inquest. Gendram Verma (PW-2) - the maternal uncle of the deceased has stated that about two months after the marriage deceased returned to her parents' house twice and informed about being subjected to cruelty by the accused/appellants for demand of cycle, TV, deck and fan. According to him, on the date of incident accused Salikram had come to his house and informed him about the death of the deceased. Pratap Singh Chouhan (PW-3) has not supported the case of the prosecution and has been declared hostile. Smt. Shanta Bai (PW-4) - wife of Gend Ram Verma (PW-2) has stated that after marriage the deceased had come to her parental house and informed about the cruelty by the accused/appellants for demand of dowry. She however has stated that for initial two months the attitude of accused persons towards the deceased was normal. Goverdhan Verma (PW-5) - the uncle of the deceased has also made the allegation of cruelty at the hands of the accused/appellants for demand of dowry. He has also given description as to on which occasion the deceased was meted out with cruelty. According to this witness, while giving memorandum,

accused Salikram had disclosed as to how the door was bolted by him from inside. Shiv Prasad (PW-6) – the maternal grand father of the deceased has stated about the manner in which deceased was subjected to cruelty at the hands of the accused persons. Kejuram Verma (PW-7) – an independent witness has also stated that the deceased was subjected to cruelty by the accused/appellants. Dr. T.N. Mahileshwar (PW-8) is the witness who with the help of another doctor namely Krishna Kumar Daharia conducted postmortem examination on the body of the deceased and gave his report Ex. P-4 stating that there was 84.5% burn on the body of the deceased and cause of death of the deceased was asphyxia due to throttling and the death was homicidal in nature. Ram Charan Verma (PW-9) is the Patwari who prepared spot map Ex. P-16. Narendra Singh Bais (PW-10) is the investigating officer who has duly supported the case of the prosecution. C.B. Pradhan (PW-11) is the witness who assisted in the investigation.

9. We have gone through the entire material on record including the evidence of the witnesses and having done so it becomes apparent that the marriage of the deceased was solemnized with accused/appellant Hari Ram Verma in the year 2009 and she died homicidal death in the house of the accused/appellants on 22.4.2010. Evidence further goes to show that the deceased was subjected to cruelty by the accused/appellants for demand of dowry. Evidence of the doctor conducting postmortem examination shows that there was 84.5% burn on the body of the deceased, that carbon particles were not present in her trachea which is suggestive of the fact that she was burnt after being killed and that had she burnt while being alive she would have breathed and in that process carbon particles must have been there in the trachea.

Evidence of the doctor further shows that the bone of the deceased was fractured which is also indicative of the fact that the deceased was throttled first and burnt down then. Furthermore, as per the FSL report Ex. P-31, from the articles seized at the instance of accused Salikram presence of kerosene has also been confirmed. Though there is other corroborative evidence showing the involvement of accused Salikram that on his memorandum, seizure of *lungi*, shirt and match box was made emanating smell of kerosene which got confirmed by way of forensic science examination and for all this no explanation has come from the accused persons to justify their innocence. Thus there is ample material against accused Salikram to prove his complicity in subjecting the deceased to cruelty for demand of dowry, committing her murder and then resorting to concealment of evidence by burning her dead-body, and being so the conclusion drawn by the Court below slapping conviction on him under Sections 302, 201 and 498-A IPC is fully justified. However, as there is no sufficient evidence against accused Nandu Verma and Hari Ram Verma that they played any active role in causing disappearance of the dead-body, this Court finds it just and proper to acquit them of the charge u/s 201 IPC. We do so accordingly. Further, In the wake of evidence about their indulgence in subjecting the deceased to cruelty for dowry, their conviction u/s 498-A/34 IPC appears to be just and proper and the same is hereby maintained. As regards sentence imposed under this section, since they have already remained in jail for one year and one month, it is reduced to the period already undergone. Because of their being on bail already, no order to set them free is etc. is needed. Likewise, accused Salikram Verma being already in jail needs no

further order of surrender etc consequent to dismissal of his appeal.

10. Net result is that Criminal Appeal No. 407/2011 preferred by accused Salikram Verma is dismissed and Criminal Appeal No. 258/2011 preferred by accused Nandu Verma and Hari Ram Verma is allowed in part to the extent sketched above.

Sd/-
(Pritinker Diwaker)
Vacation Judge

Sd/-
(Sanjay K. Agrawal)
Vacation Judge