

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.2603 of 1999

Judgment Reserved on : 12.10.2017

Judgment Delivered on : 16.11.2017

- 1. Dhanau Das, S/o Kartik Das Mahant, aged about 25 years,
 - 2. Ramana Bai, W/o Kartik Das Mahant, aged about 45 years,
- Both are residents of Village Bhelwadi, Police Station Kharsiya, District Raigarh, M.P. (now Chhattisgarh)

---- Appellants

versus

State of Madhya Pradesh (now Chhattisgarh) through S.O. Kharsiya, District Raigarh, M.P. (now Chhattisgarh)

---- Respondent

For Appellants	:	Smt. Indira Tripathi, Advocate
For Respondent/State	:	Shri Rajendra Tripathi, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

- 1. This appeal is directed against the judgment dated 7.9.1999 passed in Sessions Trial No.23 of 1997 by the 1st Additional Sessions Judge, Raigarh convicting and sentencing the accused/Appellants as under:

<u>Appellants</u>	<u>Conviction</u>	<u>Sentence</u>
Dhanau Das	Under Sections 498A and 306 of the Indian Penal Code	Rigorous Imprisonment for 1 year and Rigorous Imprisonment for 3 years, respectively
Ramana Bai	Under Section 306 of the Indian Penal Code	Rigorous Imprisonment for 3 years

- 2. Case of the prosecution, in brief, is that 7-8 months prior to 8.12.1996, Kamlabai (deceased) was married with Appellant

Dhanau Das. It is alleged that after the marriage, the Appellants were torturing her alleging that she had brought less dowry. On 7.12.1996, Kondadas (PW7) went to the matrimonial house of Kamlabai to bring her back to her maternal home, but the Appellants did not send her along with him and thereafter they beat her. Being aggrieved with this, Kamlabai committed suicide by coming under the running train on 8.12.1996 at about 6:00 a.m. Morgue intimation (Ex.P1) was lodged by Sadhudas (PW1). Inspector B.P. Ahirwar (PW4) prepared Naksha Panchayatnama (Ex.P6). Dead body of Kamlabai was sent for post mortem examination. Dr. R.K. Singh (PW5) performed post mortem on the dead body of Kamlabai and gave his report (Ex.P10A). After morgue inquiry, First Information Report (Ex.P12) was registered on 19.12.1996. On completion of the investigation, a charge-sheet was filed against the Appellants and co-accused Kartik Das, father-in-law of deceased Kamlabai under Sections 498A and 306 of the Indian Penal Code. Charges were framed against them under Sections 498A and 306 of the Indian Penal Code.

3. In order to prove the guilt of the three accused, the prosecution examined as many as 12 witnesses in support of its case. Statements of the accused under Section 313 Cr.P.C. were also recorded in which they denied the circumstances appearing against him. They claimed to be innocent and pleaded false implication in the case.
4. After trial, the Trial Court acquitted accused Kartik Das of the charges framed against him, but convicted and sentenced rest two of the accused, i.e., the present Appellants as mentioned in the first

paragraph of this judgment. Hence, this appeal.

5. Learned Counsel appearing for the Appellants argued that there are material contradictions in the statements of father of the deceased Vishnulal (PW6) and uncle of the deceased Kondadas (PW7). Both of them have exaggerated their version before the Court. The Appellants never made any demand for dowry. Refusal of sending Kamlabai back to her maternal home may have caused the alleged suicide, but the Appellants neither instigated nor abetted her to commit suicide. The prosecution has not been able to establish the ingredients of the alleged offence under Sections 498A and 306 of the Indian Penal Code. The prosecution case is not proved beyond doubt. Reliance has been placed on **2005 (2) CGLJ 14 (Shanti Bai v. State of Madhya Pradesh)** and **(2014) 12 SCC 595 (Mangat Ram v. State of Haryana)**.
6. On the other hand, Learned Counsel appearing for the State supported the impugned judgment.
7. I have heard Learned Counsel appearing for the parties and in order to appreciate the evidence available on record I have carefully gone through the same.
8. Sadhudas (PW1), brother of acquitted accused Kartik Das has deposed that on the date and time of incident, he was on duty at Kharsiya. He came to know that his daughter-in-law has died by coming under the running train. He lodged morgue intimation (Ex.P1). Deelchand (PW8) has deposed that on 08.12.1996 in the morning, he was on duty on Bhelwadih Railway Crossing. When

Geeetanjali Express was coming, Kamlabai came there, slept on the railway track and committed suicide by coming under the running train. Inspector B.P. Ahirwar (PW4) prepared Naksha Panchayatnama (Ex.P6) and Spot Map (Ex.P2) and sent the dead body for postmortem examination. Postmortem was conducted by Dr. R.K. Singh (PW5). He deposed that the dead body was cut into two pieces. He has given his report (Ex.P10A) in which he has opined that the cause of death was injuries in the internal vital parts of the body.

9. From the foregoing, it is established that Kamlabai had committed suicide.
10. Charanlal (PW3) and Chhedilal (PW10) have not supported the case of the prosecution and they have been declared hostile.
11. Father of the deceased Vishnupal (PW6) has deposed that marriage of his daughter Kamlabai (deceased) was performed with Appellant Dhanau Das 8 months prior to her committing suicide and at the time of marriage he had given sufficient dowry according to his status. He has further deposed that his elder brother Kondadas (PW7) had gone to the matrimonial house of the deceased to bring her back to her maternal house, but the Appellants did not send her back along with Kondadas and beat her. He has further deposed that Kondadas returned and told him that the Appellants beat the deceased. In the next morning, he came to know that the deceased had committed suicide. He has further deposed that Appellant Dhanau Das used to beat the deceased alleging that the deceased had brought less dowry and,

therefore, the deceased had committed suicide.

- 12.** Kondadas (PW7), uncle of the deceased has deposed that when he had gone to the matrimonial house of the deceased to bring her back to her maternal home, the Appellants had told him that they will not send the deceased back to her maternal home for the whole life. He has further deposed that Appellant Ramana Bai, mother-in-law of the deceased had abused the deceased alleging that her parents had not given any dowry at the time of marriage. Thereafter, this witness had returned. He has categorically stated that the deceased had not told him anything. On this ground, this witness has been declared hostile. He has not supported the above version of the prosecution. In paragraph 5 of his cross examination he has categorically admitted that the deceased had never told him about the beating given to her. He has further admitted that the Appellants did not assault him nor did they abuse him. He has further admitted that the mother-in-law of the deceased, saying that the deceased was to do some household works, did not send the deceased with him.
- 13.** Father of the deceased Vishnulal (PW6) has also admitted in paragraphs 4 and 5 of his cross examination that his brother Kondadas (PW7) had gone to the matrimonial house of the deceased. Kondadas had stayed there for the whole night. This witness has also admitted that the in-laws of his daughter Kamlabai (the deceased) had not sent her back saying that some agricultural work was to be done with her assistance. From the admission of Vishnulal (PW6) and Kondadas (PW7), it is established that Kondadas had gone to the matrimonial house of

the deceased to bring her back, but her in-laws had not sent her saying that she was to assist in some agricultural work. According to the statement of Vishnulal, Kondadas, after returning from the matrimonial house of the deceased, had told him that the in-laws of the deceased used to beat her. But, Kondadas has not supported the above statement of Vishnulal. Kondadas has categorically admitted that the deceased had never told him about any beating given to her. Though Vishnulal has stated in paragraph 2 of his examination-in-chief that Appellant Dhanau Das used to beat the deceased alleging that the deceased had brought less dowry yet in his cross examination, in paragraph 6, he has admitted that he had not told about this to the police. Therefore, he has exaggerated his statement before the Court.

14. From the foregoing, it reveals that there are material contradictions in the statements of Vishnulal (PW6) and Kondadas (PW7). Vishnulal has exaggerated his statement. From the statements of both these witnesses, the only thing which is established is that Kondadas had gone to the matrimonial house of the deceased to bring her back to her maternal house but, her in-laws had refused to send her back saying that she was to assist in some household works. Therefore, in the next morning, being aggrieved, the deceased committed suicide. There is nothing on record to establish that the Appellants had ever demanded dowry or beat or tortured the deceased. Merely because the deceased committed suicide, it cannot be held that the Appellants abetted her to do so.
15. Consequently, the appeal deserves to be and is hereby allowed. The impugned judgment of conviction and sentence is set aside.

The Appellants are acquitted of the charges framed against them.

- 16.** Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE