

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.2537 of 1999

Judgment Reserved on : 4.9.2017

Judgment Delivered on : 6.11.2017

1. Chhannu, S/o Tikaram Sahu, aged about 26 years,
 2. Tikaram, S/o Gendu Sahu, aged about 46 years,
 3. Smt. Suhawan Bai, W/o Tikaram Sahu, aged about 40 years,
- All residents of Village Ganiyari, P.S. Pulgaon, District Durg, M.P. (now Chhattisgarh)

---- Appellants

versus

State of Madhya Pradesh (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 has been preferred by the accused/Appellants under Section 374 of the Code of Criminal Procedure against the judgment dated 30.8.1999 passed in Sessions Trial No.16 of 1999 by the 5th Additional Sessions Judge, Durg convicting the accused/Appellants under Section 306 of the Indian Penal Code and sentencing each of them to undergo rigorous imprisonment for 5 years and to pay fine of Rs.1,000/- with default stipulation.
2. Case of the prosecution, in brief, is that the marriage between Jamunbai (deceased) and Appellant Chhannu took place in the year 1994. After one year of the marriage, *Gauna* ceremony was

performed. Appellant Tikaram is father-in-law and Appellant Suhawan Bai is mother-in-law of Jamunbai. It is alleged that after the *Gauna* ceremony, Jamunbai was permitted to go back to her maternal house only on the occasion of *Tija* festival. When she went her maternal house, she told her parents that the accused/Appellants keep her hungry and they also do not give her the articles of her daily use and they have expelled her from their house. Whenever any member of her maternal house wanted to visit her at her matrimonial house, the Appellants did not allow that member to visit her. They used to doubt her and for this they used to beat her. It is further alleged that due to the harassment given to her, she committed suicide by hanging herself at her matrimonial house on 3.10.1998. Same day, at about 10:30 p.m., Appellant Tikaram informed about the death in Police Station Pulgaon, District Durg. Morgue Intimation No.72/98 was registered on 3.10.1998. After inquiry, First Information Report (Ex.P5) was registered against the Appellants for the offence under Section 306/34 of the Indian Penal Code. After completion of the investigation, a charge-sheet was filed against the Appellants under Sections 306/34 and 498A of the Indian Penal Code. Charge was framed against them under Section 306 of the Indian Penal Code.

3. So as to hold the accused/Appellants guilty, the prosecution examined as many as 8 witnesses in support of its case. Statements of the accused/Appellants under Section 313 Cr.P.C. were also recorded in which they denied the guilt. They took the defence that Jamunbai (deceased) was suffering from panic stomach ache and head ache, which were being treated by Dr.

Kothari and one Yashwant Sahu of the village and she committed suicide due to the illness.

4. After trial, the Trial Court convicted and sentenced the accused/Appellants as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the accused/Appellants argued that there was no complaint lodged by Jamunbai or by her parents before her death. No panchayat meeting was also called on behalf of Jamunbai. Except the close relatives of deceased Jamunbai, no independent witness has supported the case of the prosecution. Chintaram (PW3), Budhiyarinbai (PW4) and Baliram (PW7) are close relatives of the deceased. Therefore, they are interested witnesses and their statements are contradictory. Their statements are not reliable. The offence under Section 306 of the Indian Penal Code is not proved beyond doubt.
6. Per contra, Learned Counsel appearing for the State supported the impugned judgment and submitted that the same does not warrant any interference by this Court.
7. I have heard Learned Counsel appearing for the parties and perused the material available on record including the impugned judgment minutely.
8. In support of its case, the prosecution has examined total 8 witnesses. Assistant Sub-Inspector B.R. Dhurve (PW5) is the witness who registered the FIR (Ex.P5). Bodhanlal (PW1) is a panch witness. He deposed that in his presence, Naksha

Panchayatnama (Ex.P3) was prepared. Dr. R.N. Pandey (PW2) has proved the post mortem report (Ex.P4). He deposed that he found a ligature mark measuring 11"x1/4" over the thyroid cartilage on the neck. As per his opinion, cause of the death was asphyxia which took place ante mortem. The time of death was within 30 hours from the post mortem examination. The statements of above witnesses have been unrebutted, therefore, it is clear that death of Jamunbai occurred due to hanging in her matrimonial house.

9. As per the prosecution story, after the *Gauna* ceremony, Jamunbai was permitted to go back to her maternal house only on the occasion of *Tija* festival. She was not being given complete food and also the articles of her daily use at the matrimonial house. In support of its case, the prosecution has examined Chintaram (PW3), father of Jamunbai, Budhiyarinbai (PW4), mother of Jamunbai and Baliram (PW7), brother-in-law (*Jija*) of Jamunbai. No other witness has been examined in this regard. Therefore, it is clear that the prosecution has examined only close relatives of deceased Jamunbai. Since all these witnesses are close relatives of deceased Jamunbai and no independent witness has been examined, therefore, a minute examination of the evidence of these witnesses is required.
10. Chintaram (PW3), father of the deceased has deposed that after the marriage, her daughter Jamunbai had stayed at her matrimonial house for about 3 years. She came back to her maternal house only on *Tija* festival every year. When she came to her maternal house, she was complaining that her father-in-law was harassing her and was scolding while visit of any guest at the

matrimonial house. He further deposed that the accused/Appellants were beating her, not giving her food and they were also not giving her footwear and clothes (saree etc.). On visit of any of her relatives, she was not allowed to talk to that relative. The Appellants were not caring her properly.

11. Budhiyarinbai (PW4), mother of the deceased has deposed that whenever her daughter Jamunbai came to her maternal house on the occasion of *Tija* festival, on being asked by her, she told that her in-laws were not giving her food, doubting her and were beating her. She further deposed that when her daughter Jamunbai had come to her maternal house before her death, she had told her that she was being beaten by the in-laws.
12. Chintaram (PW3) has admitted in his cross-examination that he used to go to the matrimonial house of her daughter Jamunbai and asked her well being. On every occasions of *Tija* festival, her daughter was properly given farewell at her matrimonial house. He further admitted that her daughter used to come to her maternal house. He also admitted that he never reported about the beating to her daughter nor did he call any panchayat meeting in this regard.
13. Budhiyarinbai (PW4) has also admitted in her cross-examination that her daughter Jamunbai used to come to the maternal house on every occasions of *Tija* festival and after the festival they used to take her to her matrimonial house. She also admitted that father of her daughter used to go to the matrimonial house of their daughter and return after knowing well being of their daughter. She further admitted that they did not report about assault or

beating to their daughter nor did they call any panchayat meeting in this regard. In paragraph 8, she has categorically admitted that during the period of 4 years their daughter never complained of any assault on her. In paragraph 9 also, she admitted that her daughter was coming to her maternal house happily and was returning to her matrimonial house happily. She never refused to go back to her matrimonial house.

14. From the above statements of Chintaram (PW3) and Budhiyarinbai (PW4), it is clear that their daughter/deceased used to visit at her maternal house on every occasions of *Tija* festival. It is also clear that father of the deceased also used to visit the matrimonial house of the deceased. From the admission of Budhiyarinbai (PW4) in paragraph 8, it is also clear that the deceased never complained of beating to her by the in-laws during the period of 4 years. From her admission, it is further clear that the deceased was happily going to her matrimonial house and she never refused to go to her matrimonial house. From the statements of both these witnesses, it is clear that there were small domestic issues between the deceased and her in-laws and she was not having any grievance against the issues.
15. Baliram (PW7), brother-in-law (*Jija*) of the deceased has stated that once he had gone to the matrimonial house of the deceased. At that time, the Appellants had not talked to him, therefore, he had returned therefrom. At that time, the deceased had told him that whenever any of her relatives visits there, they do not talk to the relative. She had also told him that after returning of the relative, they beat her. In paragraph 6 of his cross-examination, he has

admitted that this incident took place before 2 years of the death of the deceased. He further admitted that during those 2 years, he never listened about any beating given to the deceased by her in-laws. From the above also, the prosecution case does not find support.

16. Chintaram (PW3) has admitted that Jamunbai was suffering from head ache and due to which she was disturbed. Budhiyarinbai (PW4) has also admitted that Jamunbai was suffering from head ache and that was being got treated by her in-laws.
17. From the above discussion, it is clear that though deceased Jamunbai committed suicide in her matrimonial house yet from the evidence on record it is clear that the deceased used to visit her maternal house on every occasions of *Tija* festival and return thereafter to her matrimonial house. Her maternal relatives also used to visit her at her matrimonial house. According to Budhiyarinbai (PW4), mother of the deceased, the deceased happily came to her maternal house on every occasions of *Tija* festival and she never refused to return to her matrimonial house. It is also clear from the admission of the mother of the deceased that the deceased never complained of any assault on her before her death. The deceased had complained of assault on her during her last visit to her maternal house before her death, but no report had been lodged in this regard nor any panchayat meeting was called. From the evidence on record, it appears that no grievous issue was involved between the deceased and her in-laws which could abet her to commit suicide. Merely because the deceased committed suicide in her matrimonial house, her in-laws and

husband cannot be charged for harassment and abetment to commit suicide. Though the deceased committed suicide in her matrimonial house yet there is no conclusive evidence against her in-laws and husband, i.e., the Appellants to hold them guilty.

18. In the result, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. The Appellants are acquitted of the charge framed against them.
19. It is reported that the Appellants are on bail. Their bail bonds shall continue for a further period of six months from today in terms of Section 437A of the Code of Criminal Procedure.
20. 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