

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 621 OF 2008**

Khageshwar Prasad Naik, S/o Late Baldev Prasad Naik, aged about 52 years,
Occupation- Service, R/o House No. 771, Sector-5, Balko Nagar, Korba, District
Korba (C.G.)

---- Applicant**Versus**

1. State of Chhattisgarh Through P.S. Gharghoda, District Raigarh (C.G.)
2. Ramesh @ Chaitanya @ Guddu, S/o Lekhram Patel, aged about 29 years, Occupation Labourer, R/o Khorsipali, P.S. Kharsiya, District Raigarh (C.G.) (Accused Person).
3. Smt. Champa Patel, W/o Lekhram Patel, aged about 48 years, Occupation Labourer, R/o Khorsipali, P.S. Kharsiya, District Raigarh (C.G.) (Accused Person).

---- Respondents

For Petitioner	:	None
For Respondent No.1/State	:	Ms. Madhunisha Singh, P.L.
For Respondents No. 2 & 3	:	Mr. S.N. Nande, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Order on Board**Per Deepak Gupta, Chief Justice****08/02/2017**

1. On 06/02/2017 when this matter was called for hearing, none had appeared. We had adjourned the matter today and made it clear that if none appears on behalf of the petitioner, we shall decide the case in absence of

counsel for the petitioner.

2. This revision petition is directed against the judgment dated 10/06/2008 passed by the learned 3rd Additional Sessions Judge (F.T.C.), Raigarh in Sessions Trial No. 117/2007 whereby he had acquitted the accused persons of having committed offences punishable under Sections 304B of the I.P.C. read with Section 3 & 4 of the Dowry Prohibition Act, 1961.

3. The undisputed facts are that the deceased Kusumlata was married to Ramesh Patel alias Chaitanya alias Guddu on 21st June, 2007. She consumed poison and died as a result of poisoning on 22/07/2007, i.e. within one month of the marriage. Thereafter, merg intimation (Ex. P-22) was filed and on the basis of merg intimation, First Information Report (Ex.P-14) was registered. The accused persons, viz., mother-in-law and husband of the deceased were charged with the aforesaid offences. It was the allegation of the prosecution that the deceased committed suicide because of the demand of dowry and harassment by the accused persons.

4. The learned Trial Court, after recording the evidence, had acquitted the accused persons giving them the benefit of doubt on the ground that the deceased had not committed suicide at her matrimonial house but at her parental home. There was no evidence on record to show what was immediate provocation which led her to commit suicide. The learned Trial Court referred the statement of complainant Khageshwar Prasad Naik (PW-1), father of the deceased, who in para-22 of his cross examination, admitted that while getting his statement recorded under Section 161 of the Cr.P.C. he had not informed the police that his daughter had informed him that her in-laws demanded Rs. 50,000/-, Sewing Machine, Press, Stabilizer and Cooler Stand. He also admitted that he had not reported this matter to the elders in the

family or in the community (*Biradari*). He also admitted the suggestion that his daughter had complained him that her marriage was performed even in a family of much lower status but she also stated that she will adjust in the family.

5. The learned Trial Court also found that at the time when the inquest was conducted by (PW8) Atul Shete, Naib Tahsildar, no complaint was made that there was a demand of dowry or harassment by the accused persons from the deceased or her family members.

6. We have gone through the judgment of the learned Trial Court. The learned Trial Court in its judgment, entire statements of prosecution witnesses have been discussed and thereafter, the learned Trial Court has come to the conclusion that the prosecution has not been able to prove its case beyond reasonable doubt. This is not a case where the learned Trial Court has not dealt with the evidence properly. There is no jurisdictional error in the judgment. It may be that we may take a different view than the view taken by the learned Trial Court but we are not sitting in appeal. There is no glaring error or omission which would be serious enough to invoke revisional jurisdiction under Section 397 or Section 401 of the Cr.P.C. The view taken by the learned Trial Court cannot be said to be perverse view. It is based on the evidence adduced and it is a view which can be taken.

7. In our considered opinion, the prosecution has failed to prove its case beyond reasonable doubt. Obviously, a lady, who committed suicide, is under stress but it is for the prosecution to clearly establish what were the reasons for doing so. We may also add that the presumption under Section 113B of the Indian Evidence Act, only arises when the demand of dowry, is proved. Since the demand of dowry is not proved, we cannot invoke the presumption

under Section 113B of the Indian Evidence Act. The prosecution has also failed to prove any other harassment meted out to the deceased by accused.

8. In view of the above discussion, we find no reason to interfere in the judgment of the learned Trial Court in exercise of revisional jurisdiction.

9. The revision is accordingly dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE