

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 383 of 2008**

- Gulaba Bai, W/o. Shri Tijauram aged about 55 years, R/o. Navapara (Ghutaku) P.S.Sarkanda, District Bilaspur (CG)

**---- Applicant**

**Versus**

- Rahaslal S/o. Uamendi, aged about 37 years, Occupation labour
- Rajesh Kumar S/o Rahaslal Occu. Labour,  
Both R/o Vill. Gatouri, P.S. Koni, Distt. Bilaspur (C.G.)
- State Of C.G. Through- D.M., Bilaspur (C.G.)

**---- Respondents**

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|---------------------------|--------------------------------------|
| For Applicant             | : Shri Nitant Jayaswal, Advocate     |
| For Respondents 1 &2      | : Shri Suresh Kumar Pandey, Advocate |
| For Respondent No.3/State | : Smt. Smita Ghai, P.L.              |

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**Hon'ble Shri Justice Pritinker Diwaker**  
**Hon'ble Shri Justice Ram Prasanna Sharma**

**Order On Board**

**Per Pritinker Diwaker,J.**

**04/07/2017**

Challenge in the present revision is to the judgment and order dated 29.03.08 passed by the Nineth Additional Sessions Judge (FTC) Bilaspur S.T. No. 01/2008 whereby the court below has acquitted the accused/respondents 1 & 2 of the offence under Section 304-B IPC.

2. Brief facts of the case are that marriage of deceased Shiv Kumari was solemnized with accused No.2 Rajesh Kumar in the year 2006 and she died on 17.06.07 in her matrimonial house after suffering burn injuries. Accused/respondent No.1 is father-in-law of the deceased

whereas accused/respondent No.2 is her husband. On the information given by accused/respondent No.1 Rahaslal, merger intimation Ex.P-7 was recorded on 17.06.07, inquest on the dead body of the deceased was prepared vide Ex.P-1 on the same day and body was sent for postmortem examination vide Ex.P-11 which was conducted by Dr. K. K.Tiwari (PW-10) and according to him cause of death is cardio respiratory failure due to hyperemic shock as a result of extensive burn. FIR (Ex.P-13) was registered against respondents 1 & 2 under Section 304-B IPC. Diary statement of mother, father and brother of the deceased (PW-1, PW-2 and PW-3) were recorded by the police wherein they have stated that the deceased was subjected to cruelty and for demand of dowry. After filing of the charge sheet, trial judge framed charge against the accused/respondents 1 & 2 under Section 304-B IPC.

3. Prosecution has examined 12 witnesses in support of its case. Statements of the respondents/accused were also recorded under Section 313 of the Code of Criminal Procedure in which they denied the charges levelled against them and pleaded false implication in the case.

3. After hearing the parties, the trial Court, vide its judgment dated 29.03.2008 has acquitted the accused/respondents 1 & 2 of the offence punishable under Section 304-B IPC. Hence the present revision by the applicant (PW-1) mother of the deceased, assailing the acquittal.

4. Counsel for the applicant submits that

i) PW-1 and PW-2 (father and mother of the deceased) have fully supported the prosecution case and the trial court has erred in law in acquitting the accused persons.

ii) that the ingredients of Section 304-B IPC are duly attracted against the accused persons.

iii) the trial court has erred in law in acquitting the respondents 1 & 2 mainly on the basis of statement of PW-3.

5. On the other hand, supporting the impugned judgment it has been argued on behalf of the respondents 1 & 2 that the impugned/judgment is in accordance with law. It has been further argued that the scope of revision against acquittal is very limited.

6. State counsel has duly assisted this Court.

7. Gulaba Bai (PW-1) mother of the deceased has stated that marriage of the deceased was solemnized about 1-1 1/2 years prior to the date of recording her statement dated 04.02.08. After staying for about 15 days in her matrimonial house she came to her parent's house for a day. Thereafter, after about 2-3 months she came along with her husband/respondent No.2 and told that respondent No.2 used to abuse her and create nuisance by saying that less dowry has been given in marriage and he is not able to repay the loan. She has stated that thereafter on 5-6 occasions deceased had come to her house and told that her father-in-law also used to abuse her for bringing less dowry and that in the marriage they had taken a loan which has to be repaid. In cross-examination she admits that after looking to the family condition and understanding everything the marriage was performed. She has stated that the family of the accused persons was known to her because earlier also one girl from her village had got married in that village. She has stated that her family and that of the accused persons work as labour and earn their livelihood. She has further admitted that

in their caste there is no custom of dowry and at the time of marriage no such demand was raised by the accused persons nor there was any agreement for the same. She has further admitted that on one or two occasions she had gone to the house of accused persons and likewise accused persons also visited her house. She has admitted that her daughter used to go along with her husband to work in the brick kiln. She has stated that a week prior to the incident deceased came to her house and complained about the ill-treatment given to her at the matrimonial house but the same was not disclosed before the panchas. Tijau Ram (PW-2) father of the deceased has stated that for some time deceased lived happily in her in-laws house and thereafter she was harassed by the accused persons for bringing less dowry and they are not able to repay the loan. He has stated that while going to work at the brick kiln, she came to his house and made a complaint that she was beaten by her husband and father-in-law. He has stated that on the 13<sup>th</sup> day ritual he had informed the police about everything. In para 10 he has categorically stated that at the time of marriage neither dowry was demanded nor any agreement was got into. He has further stated that no panchayat was called in relation to the complaint made by the deceased. Dhanesh Kumar Patel (PW-3) is the brother of the deceased. He has stated that after marriage, for the first time deceased came to his house and informed that her husband used to beat her as his father had spent Rs.20,000/- on marriage and therefore to repay the loan taken, she has to go for work. He has not made any allegation against the accused person for demand of dowry and has been declared hostile. When he was questioned by the police he has stated that no demand was raised by the accused persons. Triveni Bai (PW-4) neighbour of the respondents/accused has been declared hostile.

Dhaniram (PW-7) has stated that after death of the deceased he heard some rumour that accused Rajesh was having illicit relation with some other lady. He however has been declared hostile. Saraswati Bai (PW-9) aunt of the deceased has stated that the deceased came to her house along with her husband and informed that she is being harassed by the accused persons for not bringing sufficient dowry. In cross-examination she has however stated that whatever she is disclosing it is for the first time in the court itself. Dr. K.K.Tiwari (PW-10) is the autopsy surgeon who conducted postmortem examination on the body of the deceased and according to him, cause of death is cardio respiratory failure due to hyperemic shock as a result of extensive burn. Smt. Satrupa Taram (PW-12) is the Investigating Officer who had done part of the investigation.

8. After considering the entire evidence in particular the statements of Gulaba Bai (PW-1), Tijau Ram (PW-2) and Dhanesh Kumar (PW-3) the Court below has arrived at a particular conclusion to acquit the respondents/accused.

9. After hearing counsel for the parties and considering the material available on record as well as the elaborate judgment impugned passed by the Court below, and being very much conscious of the existing legal position that in a revision against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law and further considering the scope of revision against acquittal, we are of the considered opinion that the judgment impugned acquitting the respondents/accused of the

offence under 304-B IPC is just and proper and does not call for any interference. Revision is accordingly dismissed.

Sd/-

Pritinker Diwaker  
Judge

Sd/-

Ram Prasanna Sharma  
Judge