

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 1414 OF 2016

State of Chhattisgarh, through the Station House Officer, Police Station- Darri,
District Korba (C.G.)

... Petitioner

Versus

Pramod Kumar Hindore, age 31 years, S/o Bhagirathi, R/o Village Jaibhagwan
Gali, Darri, Police Station Darri, District Korba (C.G.)

... Respondent

For Petitioner-State : Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

07/02/2017

1. The present Criminal Misc. Petition has been filed by the Petitioner-State seeking for leave to appeal against the judgment dated 9.8.2016 passed by the Additional Sessions Judge, Katghora, District Korba, in Sessions Case No. 63 of 2015, whereby the Respondent has been acquitted from the offence punishable under Section 306 of IPC.
2. The Respondent in the instant case was prosecuted for the offence under Section 306 of IPC in connection with Crime No. 51 of 2015 registered at Police Station Darri, District Korba.
3. Case of the prosecution in brief is that the deceased, Smt. Bebi Bai, is said to have committed suicide by hanging herself on 7.2.2015 at around 1:30 in the afternoon at her matrimonial home. The respondent-accused is the husband of the deceased. It is alleged that the marriage between the respondent and the deceased took place in May, 2013 and she ended her life on 7.2.2015. The allegation against the respondent-accused is that of subjecting the deceased to continuous cruelty which forced her to commit suicide on 7.2.2015. A Merg Intimation was provided on 8.2.2015 on the basis of which, FIR was registered on 14.5.2015. Initially, the respondent-accused was prosecuted for the offence under Section 304(B) of IPC. However,

subsequently, it was the charge of having committed the offence punishable under Section 306 of IPC which was framed against him.

4. During the course of evidence, the prosecution has examined as many as 10 witnesses in support of its case. There was no evidence which has been led on behalf of the defence. After conclusion of the trial, the Court below vide impugned judgment, found that the prosecution has not been able to prove the offence punishable under Section 306 of IPC against the respondent-accused beyond reasonable doubt and giving the benefit of doubt, the Court below acquitted the respondent-accused from the said offence, leading to the filing of the present case.

5. Learned Counsel for the Petitioner-State submits that the Court below has not properly appreciated the evidence which have been adduced by the prosecution particularly, that of the near relatives of the deceased, in its proper perspective and has passed the impugned judgment of acquittal on technical grounds. Counsel for the State contended that from the evidence of PW-1 Shrichand Banjare, PW-2 Smt. Rukhmani Bai and PW-3 Kumari Tanuja, who are father, mother and sister respectively of the deceased, there was ample evidence on record, to show that there was a demand of dowry by the respondent-accused and for the demand of dowry the deceased was being subjected to cruelty continuously which forced her to take the extreme step of suicide. According to the State Counsel, the prosecution case also stood established from the other evidence which have been gathered during the course of investigation and therefore the present petition may be allowed by granting leave to appeal so that the impugned judgment of acquittal could be assailed on its merits.

6. However, having considered the contentions put forth by the State Counsel and on perusal of the record, what clearly reflects is the fact that undisputedly the marriage between the respondent and the deceased took place in May, 2013 and the deceased committed suicide on 7.2.2015. The

only ground alleged by the prosecution for the deceased to have committed suicide was on account of the demand of dowry by the respondent-accused and also cruel treatment which the respondent-accused gave to the deceased on account of demand of dowry. For establishing the said offence, the important evidence which are relevant to be considered, are the statements of the immediate family members of the deceased, i.e., father, mother and sister of the deceased. On perusal of the deposition of these three witnesses, i.e., PW-1 Shrichand Banjare, PW-2 Smt. Rukhmani Bai and PW-3 Kumari Tanuja, it is found that there are lot of discrepancies and contradictions in the statements of these three witnesses. From the evidence which have come on record and the statements which have been adduced by the three family members of the deceased, it reflects that the only demand of money which was made by the respondent-accused, was at the time of construction of his house and which was also provided by the father of the deceased to the respondent-accused. Apart from this, there was no allegation for demand of dowry or, for that matter, any act of cruelty which is established from the deposition of three important witnesses.

7. Further, from the cross-examination of these three witnesses also it clearly reflects that they have not supported the case of the prosecution. PW-1 Shrichand Banjare, the father of the deceased, has been declared hostile. PW-2 Rukhmani Bai and PW-3 Kumari Tanuja, who are mother and sister of the deceased, though have not been declared hostile but there was not much which could be extracted from their evidence with which the offence under Section 306 of IPC could have been established. Furthermore, there are also material contradictions in the evidence, inasmuch as PW-1 and PW-2, i.e., father and mother of the deceased, have stated that the respondent-accused used to ask the deceased to get money from her father for the purpose of construction of his house. Whereas, PW-3 Kumari Tanuja, the sister of the deceased, gave an altogether different story of the respondent-

accused demanding a motorcycle. Thus, there does not seem to be a consistent stand taken by the material witnesses in the instant case, i.e., the immediate family members of the deceased.

8. So far as the offence under Section 306 of IPC is concerned, the law is well settled that the offence under Section 307 of IPC would be made out only in the event if the prosecution is able to adduce sufficient evidence of abetment on the part of the accused so as to bring home the offence under Section 306 of IPC. Abetment has been defined under Section 107 of IPC. From the evidence which have come on record, none of the witnesses have been able to lead any evidence so as to establish any sort of abetment on the part of the respondent-accused. None of the witnesses have shown any sort of instigation, incitement or any act on the part of the respondent-accused which forced the deceased to take the extreme step of committing suicide. In the absence of the ingredients contained in Section 107 of IPC, the offence under Section 306 of IPC cannot be established. In the instant case, in the absence of any evidence of abetment under Section 107 of IPC, the Court below has rightly reached to the conclusion that the prosecution failed in establishing its case beyond reasonable doubt.

9. Thus, for the foregoing reasons, this Court is of the opinion that no strong case has been made out calling for an interference with impugned judgment of acquittal. Accordingly, the prayer for leave to appeal is rejected.

10. The present Criminal Misc. Petition thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge