

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.202 of 2017**

State of Chhattisgarh Through Station House Officer, Sakti, District Janjgir Champa Chhattisgarh.

---- **Petitioner****Versus**

1. Ramdas S/o Khikdas, Aged About 36 Years
2. Ramhaiyadas, S/o Khikdas Aged About 42 Years
3. Khikdas, S/o Garibdas, Aged About 62 Years
4. Smt. Dudhmatbai, W/o Khikdas, Aged About 58 Years
5. Brihaspati Bai, W/o Kanhaiyadas, Aged About 36 Years
6. Lakeshwari Bai, W/o Kanhaiyadas, Aged About 42 Years
7. Kanhaiyadas, S/o Khikdas Aged About 46 Years

All R/o Village Ghoghra, Police Station Sakti, District Janjgir Champa Chhattisgarh.

---- **Respondents**

For Petitioner : Shri Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board**13/02/2017**

1. The present petition has been preferred seeking for leave to appeal against the judgment of acquittal dated 06.09.2016 passed by the Ist Additional Sessions Judge, Sakti, in Sessions Trial No.229/2014. Vide the said impugned judgment, the court below has acquitted the respondents from the offence under Sections 306/34 and 498-A/34 IPC.
2. Facts in brief necessary for disposal of present case is that Sharda was wife of the respondent No.1-Ramdas. Marriage was taken place in the year, 2007. Sharda committed suicide by consuming poisonous substance on 26.08.2014. Subsequently, Merg intimation was given.

Later on an FIR was also lodged. After investigation, a case under Sections 306/34 and 498-A/34 IPC was registered against the respondents i.e. the Husband of deceased Sharda as well as her in laws.

3. In all, the prosecution examined as many as 17 witnesses whereas, there was no witness examined on behalf of the defence. After conclusion of trial, the court below reached to a conclusion that the prosecution has not been able to adduce sufficient and cogent evidence so as to establish the offence under Sections 306/34 and 498-A/34 IPC and acquitted the respondents from the said charges vide the impugned judgment.
4. Learned counsel appearing for the petitioner-State submits that it is a case where the prosecution witnesses have infact adduced sufficient material to show that the deceased was subjected to cruelty by the non applicants particularly, the respondent No.1-Husband and which has not been properly appreciated by the court below. It was also the contention of the counsel for the petitioner that apart from the father and mother, the evidence of PW-5 & PW-6 reflect that they have also supported the case of the father and mother so far the deceased being subjected the cruelty is concerned. This fact has not been properly considered by the court below while acquitting the respondents. Therefore, the State intends to challenge the same and seeks leave to appeal.
5. A perusal of records would show that the prosecution infact had also taken the evidence of PW-3, Prince Menon, PW-4, Jailal and PW-7, Manijar. They were the independent witnesses and who have not

supported the case of the prosecution. In the absence of independent witnesses, the prosecution had to produce strong evidence against the respondents by extracting evidence from the relatives of the deceased. The father, PW-1, Johan Das, during the course of evidence has categorically accepted the fact that at the time of marriage no demand of dowry was made. In addition, in his cross examination he has also accepted the fact that the family of the respondent No.1 were quite well off. Further, from the evidence of PW-1 it also reflects that the respondents also had large amount of agricultural land. The deposition also reflects there was some strained relationship between the deceased and respondent No.1 and for which Panchayat meeting was also called wherein it was accepted by both the parties and it was decided that respondent No.1 shall keep Sharda along with him and also treat her as his wife. In respect of said Panchayat meeting documentation were also done which are Ex. D/1 and D/2.

6. From the evidence of PW-2, Prabhashini Mahant also it reflects that so far as the issue of cruelty is concerned, there was no complaint whatsoever lodged before any authority or police authorities. From her evidence it also reflects that during the festival of the previous Raksha Bandhan when she had come to her parental home she was not interested to go to her matrimonial home. Even when the respondent No.1 had come to take her, she refused to go along with him.
7. So far as question of demand of dowry or the deceased being subjected to cruelty is concerned, there was no complaint lodged before any authorities. Likewise, there was great element of contradictions in the statement initially made by PW-2 before the

authorities than what she made before the court. From the evidence there appears improvement and exaggerations in her court statement which led to the court not giving sufficient weightage to the statement of PW-2 and disbelieved the same. Further, evidence of PW-5 and PW-6 also does not inspire sufficient confidence so as to reach to the conclusion that the deceased was infact subjected to cruelty for demand of dowry. Thus, in the given factual matrix of the case this court does not find any illegality or infirmity in the conclusion of court below that the prosecution has not established the offence under Section 498-A/34 IPC beyond reasonable doubts.

8. So far as offence under Section 306/34 IPC is concerned, the necessary ingredients of abetment on the part of respondents is all along missing from the evidence of any of the witnesses even in their cross examination. In the absence of any such ingredients under Section 107 IPC, the offence under Section 306 IPC could not have been made out. Thus, acquittal of the respondents for the said offence also does not seem to be bad in law or illegal in any manner.
9. Accordingly, this court is of the opinion that no strong case is made out for grant of leave to appeal. The petition is accordingly is rejected. Consequently, leave to appeal also stands dismissed.

Sd/-

(P.Sam Koshy)
Judge