

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 69 of 2009**

- State Of Chhattisgarh, through District Magistrate, Kabirdham (C.G.)

---- Petitioner**Versus**

1. Pradeep Kumar, S/o Ashok Kumar Verma, aged about 25 years
2. Ashok Kumar, S/o Mohan Lal Verma, aged about 48 years
3. Rajkumari, W/o Ashok Kumar Verma, aged about 45 years,

All are R/o Village Madmada, PS Bodla, District Kabirdham (C.G.)

---- Respondents

For Appellant	Shri Subhash Yadav, Dy. GA
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For Respondents	Shri A. K. Dubey, Advocate
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Hon'ble Justice Mr. Prashant Kumar Mishra**Hon'ble Justice Mrs. Rajani Dubey****Order On Board****15/05/2019**

1. This is an acquittal appeal preferred by the State challenging the judgment rendered by the Trial Court acquitting the accused persons of the charges under Sections 498-A and 306 of IPC, in the alternate under Section 304-B of IPC for causing dowry death of deceased Nandrani Bai between 2:30 pm to 6:30 pm on 28.11.2004.

2. Respondent No.1 Pradeep Kumar and deceased were married on 12.05.2003. It is the case of the prosecution that before marriage, it was agreed that the husband would be gifted S. S. Honda Motorcycle, however, at the time of marriage, Yamaha Motorcycle was gifted and that the deceased was subjected to cruelty for this reason as well as on other counts like not doing household work properly, quality of other dowry articles etc.
3. The prosecution examined as many as 20 witnesses to bring home the charges, whereas the accused persons examined two defence witnesses namely, Manju Dwivedi (DW-1) and Dinesh Kumar Verma (DW-2).
4. Admittedly, the deceased died of asphyxia due to poisoning. The evidence available on record points that at the time of incident, the accused persons were not available in the house for the reason that the respondent No.1 Pradeep Kumar was prosecuting his law studies at Bilaspur and the father-in-law and mother-in-law had gone to hospital to see one Manju Dwivedi, who had delivered a baby. Since none of the accused persons were available in the house at the time of incident, there is no material concerning the immediate cause which may constitute abetment to commit suicide attracting Section 306 of IPC.
5. The other evidence which may eventually drag the lady to a situation where she is compelled to commit suicide or for attracting offence of dowry death under Section 304-B of IPC, the prosecution has led evidence, particularly the statement of PW-6 Durga Prasad, father of the deceased. Statement of PW-10 Janki Bai and

deceased's brother PW-11 Nandkumar is also relevant for the said purpose. On close scrutiny of these statements, we find that all the witnesses would state about the ordinary wear and tear of married life of the deceased and respondent No.1 Pradeep Kumar and the parents-in-law as well. It has come in evidence that Pradeep Kumar was not properly behaving with the deceased and he was subjecting her to constant taunt and sarcasm in the name of quality of dowry articles and household works. He was also commenting upon the rusticity or the standard of education of the deceased. Thus, there is no direct allegation of demand of any particular article or cash after the marriage. There is no material that when Yamaha Motorcyle was gifted instead of S. S. Honda Motorcyle, the respondents accused were pressurizing the deceased or her parents to bring S. S. Honda Motorcycle in dowry. Merely because she was subjected to taunt and sarcasm, the same would not constitute an offence of demand of dowry. The deceased having died after consuming poison, as has been found in FSL report (Ex-P-23), it is not established that she was subjected to cruelty including physical cruelty on the date of incident.

6. There are other evidences in form of statement of Durga Prasad, which would indicate that the deceased was frequently coming back to her parental house, as she was not happy in her marital home and when she left her parental house to join the company of the husband few days before the incident, she was initially not willing to join the company but was persuaded by her parents to go to her marital house. It appears, the deceased was not in a proper state of mind and was not able to reconcile being dissatisfied with her

marital life, therefore, she has committed suicide by consuming poisonous substance, but the death otherwise than normal circumstance is not a result of demand of dowry or for any such situation created by the accused persons, which dragged her to a situation where she is compelled to commit suicide. For constituting an offence for abetment to commit suicide, there has to be cogent, reliable and direct evidence of such nature, which would constitute abetment. The Supreme Court in the matter of **Sanju alias Sanjay Singh Sengar vs State of Madhya Pradesh**, reported in AIR 2002 1998, has held thus in para 11:-

“11. This Court considering the definition of 'abetment' under Section 107 of I.P.C. found that the charge and conviction of the appellant for an offence under Section 306 is not sustainable merely on the allegation of harassment to the deceased. This Court further held that neither of the ingredients of abetment are attracted on the statement of the deceased.”

7. Considering the entire evidence available on record, we are satisfied that the view taken by the Trial Court is one possible view, which can be taken on the basis of evidence on record. Therefore, in an appeal against acquittal, we are not entitled to set aside the judgment only because some other view is also possible.
8. For the foregoing, the acquittal appeal deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Rajani Dubey
Judge