

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 23 of 2010**

Yunus Khan @ Papa, S/o Shri Yusuf Khan, aged about 34 years,
R/o Paras Nagar, Devendra Nagar, Raipur, District- Raipur (C.G.)

---- Appellant

Versus

State of C.G. through: District Magistrate, Raipur, District- Raipur
(C.G.)

---- Respondent

For Appellant : None.

For State/respondent : Mr. Ramakant Pandey, PL.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

14/09/2018

1. Mr. Om Prakash Agrawal & Mrs. Sarita Sharma, Advocates have been engaged by the High Court Legal Aid for arguing the case on behalf of the appellant. Despite repeated calls, they have not appeared when the case is called for final hearing, therefore, Mr. Bharat Rajput, Advocate, who is present in the Court has been appointed as *Amicus Curiae* to argue the case on behalf of the appellant.
2. This appeal is preferred under Section 374(2) of the Code of Criminal Procedure, 1973 against judgment dated 30.11.2009 passed by 7th Additional Sessions Judge, Raipur, District- Raipur (C.G.) in Sessions Trial No. 187/2007, wherein the said court convicted the appellant for commission of offence under Section 498(A) & 306 of IPC and sentenced to R.I. for 3

years and fine of Rs. 500/- & R.I. for 7 years and fine of Rs. 500/- respectively with further default stipulations.

3. In the present case, name of deceased is Raisa Parveen who was wife of the appellant. Raisa Parveen committed suicide on 13.07.2007 in the house of the appellant. Reshma Parveen (PW-11) is daughter of the deceased and as per version of this witness, the appellant is drunker and he used to assault the deceased. Version of this witness is supported by version of Mohammad Khalil (PW-4), Akhtari Begum (PW-5) & Mohammad Kamal (PW-6). As per version of Mohammad Afzal (PW-8), the appellant was in company of some other woman namely Tabassum Bano. From direct evidence of Reshma Parveen (PW-11) and the supportive evidence of the persons named above, it is established that the appellant made physical torture to the deceased day by day. Version of this witness is supported by medical expert Dr. Shivnarayan Manjhi (PW-3) who conducted autopsy of deceased on 13.07.2007 and he noticed following injuries on the body of the deceased:-

- (i) Brownish colour contusion present on right arm mid part lateral aspect transversely 2 in no.
- (ii) Same contusion present on right thigh lower 1/3 part anterior aspect 3x1 cm. transversely.
- (iii) On right lower leg lower 1/3 part anterior aspect 2x1 cm. transversely.

- (iv) Same on left lower leg upon 1/3 region medial aspect.
 - (v) On left leg medial aspect 3x1.5 cm. vertical obliquely.
 - (vi) On right hand region slightly medial aspect 1.5x1 cm. transversely.
4. As per version of medical expert, the injuries are caused by hard and blunt object and looking to the injuries which are multiple on the body of the deceased, it is clear that the physical violence is brutal caused on the deceased by the appellant. Looking to the conduct of the appellant, in harassing the deceased frequently, the trial court opined that the act of the appellant was sarcastic for the deceased and on the date of incident and prior to the date of incident, he made physical violence and the same is intentionally adding for committing suicide. Again, act of the appellant was willful and it was of such nature that driven the deceased to commit suicide which means to cruelty as per section 498(A) of IPC. Abetment of suicide is offence punishable under Section 306 of IPC and act of cruelty is offence punishable under Section 498(A) of IPC for which the trial court convicted the appellant and this Court has no reason to interfere with the finding recorded by the trial court.
5. On overall assessment of the evidence, grounds raised in the appeal are not sustainable and conviction of appellant by the trial court is hereby affirmed. The trial court awarded sentence of 7 year for commission of offence under Section 306 of IPC and sentence of 3 years for commission of offence under

Section 498(A) of IPC, which cannot be termed as harsh, disproportionate or unreasonable.

6. Accordingly, the appeal is liable to be and is hereby dismissed.
7. It is reported that the appellant was in jail and it appears that he has suffered full jail sentence. No order for arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge