

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 2456 of 1998**

Shyamsai S/o Kashiram Gaund, aged about 24 years R/o Village- Munjgahan,
P.S. Gurur, Distt.- Durg (M.P.) (Now Chhattisgarh).

-- Appellant**Versus**

State of Madhya Pradesh through P.S. Gurur, Distt. Durg (M.P.) (Now
Chhattisgarh).

---- Respondent

For Appellant	:	Mr. Adil Minhaj, Advocate
For Respondent	:	Mr. Ramakant Pandey, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board**27/07/2018**

1. This appeal has been preferred against the judgment dated 08/10/1998 passed by the Additional Sessions Judge, Balod in S.T. No. 224/1996, convicting the accused/appellant under Section 498-A of the IPC and sentenced him to undergo RI for 3 years with fine of Rs. 1000/-with default stipulation.
2. Brief facts of the case, is that the appellant was the husband of deceased- Sarojni Bai (henceforth 'the deceased'). The marriage between both of them was solemnized in the year 1990. After marriage, they were blessed with two daughter namely- Reema and Reena. It was alleged that after some time, the deceased was harassed by the appellant on the demand of dowry. It was further

alleged that the applicant had developed illicit relation with one lady namely- Kalabati. On the date of incident i.e. 16/08/1994, the appellant came with Kalabati to his house and demanded food from the deceased. When the deceased refused to do so, he beaten her. Thereafter, the deceased left the house along with her daughters and jumped into the well, which caused death of all. Merg intimation was recorded. Inquest on the dead bodies of deceased- Sarojni, Reema and Rena was done vide Ex.P-6, P-11 & P-13. The postmortem was also conducted. During merg, statement of witnesses were also recorded. On the basis of merg inquiry report, offence was registered. After investigation, a charge-sheet under Section 498-A and 304 (B) of the IPC was submitted before the trial Court. The learned trial Court framed the charges under Sections 498-A and 304-B of IPC.

3. To prove the guilt of the accused/appellant, the prosecution examined as many as 8 witnesses. Statement of accused/Appellant was recorded under Section 313 Cr.P.C, wherein he denied all the charges, pleaded his innocence and false implication. No witness has been examined in his defence.
4. After trial, the trial Court has acquitted the accused/appellant from the charge framed under Section 304-B of the IPC and convicted and sentenced him as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. It is further submitted that in total the appellant has

undergone about 7 months out of total jail sentence of 3 years, the incident is of the year 1994, he is facing this *lis* since the year 1994 and he has no criminal antecedent. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him.

6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, the appellant has undergone about 7 months and he is facing this *lis* since 1994, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentenced awarded to him is reduced to the period already undergone by him.
9. Consequently, the appeal is partly allowed. The conviction imposed upon the appellant is affirmed and the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is also affirmed.
10. It is reported that the appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.

11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul