

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 417 of 2009**

Jeevan Das So Jhapitdas aged about 40 years, Occupation-
Labourer, R/o Frejarpur, Jagdalpur, District Bastar (CG)

---- Appellant**Versus**

State of Chhattisgarh Through P.S. Bhanupratappur, District
Kanker (CG)

---- Respondent

For Appellant : Shri C.P. Soni, Advocate

For the respondent/State: Shri Vinod Tekam, Panel Lawyer

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**JUDGMENT ON BOARD****01/12/2018**

1. Shri Amit Verma, Advocate has been engaged by the appellant, but despite repeated calls, none appeared on all dates of the week, therefore, Shri C.P.Soni, Advocate present in the Court is appointed as amicus curiae to argue the matter on behalf of the appellant.
2. This is a Jail Appeal filed by the appellant against the judgment dated 18.5.2009, passed in S.T.No.129/2008 by the Sessions Judge, Kanker, District North Bastar Kanker (CG) for commission of offence under Section 306 of the I.P.C. and sentenced to undergo R.I. for 7 years and fine of Rs.1000/- with default stipulation.
3. In the present case name of the deceased is Smt. Nalini Das who was wife of the appellant. The deceased died due to consumption of

poisonous substance (aluminum phosphide) and as per opinion of the medical expert, her death was suicidal in nature. The deceased died on 16.1.2001 at Community Health Centre, Bhanupratappur. As per version of the prosecution, the deceased was married to the appellant about 15 years ago and their marriage took place due to love affair. Subsequently, arranged marriage was also organized in support of their love marriage. The deceased was a Staff Nurse while the appellant was not working anywhere. It is alleged that for performing duty of Nurse, the deceased had to go to different places and the appellant was suspecting her character and assaulting constantly and harassed her.

4. Santosh Kumari Das (PW5) is mother of the deceased. As per version of this witness when the deceased visited at different places to discharge her duty, the appellant was suspecting her character and assaulted her repeatedly. From the evidence of this witness, it is clear that the appellant was in habit of drinking wine and snatching income of the deceased, assaulting and harassing her. Version of this witness is supported by the letters written by the deceased during her lifetime which are marked as Exs. P/13, P/14, P/15 and P/16. A report was also lodged by her against the appellant as per Ex. P/13 during her lifetime which shows that the appellant had constantly beaten her after consuming liquor and suspected her character. It is again supported by the Police report Ex.P/38 and P/39 lodged by the deceased during her lifetime. Version of Santosh Kumari Das (PW5) is supported by the version of Denzil Das @ Sailu (PW8) who is son of the deceased and the

appellant. He also deposed that there was quarrel between the deceased and the appellant. Ku. Shilpa Das (PW9) is daughter of the appellant and the deceased. She also deposed before the trial Court that the appellant was constantly harassing the deceased and used to beat her. She deposed that on the date of incident also the appellant assaulted the deceased that is why she was weeping out of the door of house.

5. Vijay Chandra Das (PW10) is brother of the deceased and he also deposed that the appellant assaulted the deceased at Kondagaon when she had gone there for Nurse training. All the witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of the defence.
6. Looking to the conduct and constant act of the appellant, it is established before the trial Court that there was long torture and harassment by the appellant to the deceased which amounts to instigating or intentionally aiding her to end her life. The evidence adduced by the prosecution is direct and clinching in nature and the letters written by the deceased and various reports made by her during her lifetime, clearly goes to show that there is live link between the act of the appellant and suicidal death of the deceased.
7. The trial Court had elaborately discussed the entire evidence and recorded finding of conviction. This Court has no reason to record a contrary finding looking to the ample evidence against the appellant. The finding arrived at by the trial Court is based on relevant material placed on record and same is not based on extraneous or irrelevant

material, therefore, finding of the trial Court is not liable to be interfered with. Offence under Section 306 I.P.C. is punishable with imprisonment 10 years, for which the trial Court has convicted the appellant and the same is hereby affirmed. The trial Court had awarded sentence of R.I. for 7 years, therefore, the sentence awarded is not disproportionate, unreasonable or harsh.

8. Accordingly, the appeal is liable to be and is hereby dismissed. As per report, the appellant has already suffered full jail term of his jail sentence, therefore, no order for his arrest etc. is required.

Sd/

(Ram Prasanna Sharma)
JUDGE