

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 24-10-2018****Delivered on 26-10-2018****CRIMINAL APPEAL No. 1038/2002**

(Arising out of judgment of conviction and order of sentence dated 16th September, 2002 passed by Additional Sessions Judge, Mungeli, District Bilaspur, CG in S.T. No. 7/2000)

1. Bisahu son of Kaliram aged 33 years
2. Kaliram son of Lakhan Sahu, aged 63 years
3. Rambai W/o. Kaliram Sahu, aged 53 years

All resident of village Saraipetra Chowki Pandatarai, Police Station Kunda, District Kawardha (CG)

----Appellant**-Versus-**

State of Chhattisgarh through P.S. Kunda, District Kawardha

----Respondent

For appellant : Shri Atul Pandey, Adv.

For State : Shri Ramakant Pandey, PL

Hon'ble Shri Sharad Kumar Gupta, Judge

CAV JUDGMENT

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 16th September, 2002 passed by Additional Sessions Judge, Mungeli, District Bilaspur, CG in S.T. No. 7/2000 whereby and whereunder he convicted the appellants for the offence punishable u/s 498-A/34 of the Indian Penal Code (in brevity 'IPC') and sentenced them to undergo RI for 1 year and to pay fine of Rs. 2,000/-, in default of payment of fine, further undergo additional SI for 3 months.

2. In brief, case of the prosecution is that appellant No. 1 Bisahu is the husband of the deceased Saraswati Bai, appellant

No. 2 Kaliram and appellant No. 3 Ram Bai are her father-in-law, mother-in-law respectively. After marriage appellants were harassing her as a result of which the deceased committed suicide on 14-11-1999 by consuming poison. After completing investigation, a charge sheet was filed against them. Trial Court framed the charges against them under Section 498-A, IPC, alternatively S. 498/34 of the IPC, S. 306, IPC, alternatively S. 306/34, IPC. After conclusion of the trial, Trial Court acquitted them of the charges punishable under Section 306, IPC, alternatively 306/34, IPC, however convicted and sentenced them as aforesaid.

3. Shri Atul Pandey, counsel for the appellants at the outset submitted that he is not challenging the conviction of the appellants rather he is challenging only the period of sentence of RI of one year. He further submitted that the appellant has already undergone about 44 days thus the period of RI for 1 year may be reduced to the period of undergone.

4. Shri Ramakant Pandey, Panel Lawyer argued that aforesaid RI is just and proper and does not call for any interference.

5. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 498-A, IPC. The appellants have remained in jail for about 44 days. About 19 years have passed after the incident. At the time of incident, appellant No. 1 was aged about 33 years, now he is of 52 years, appellant No. 2 Kaliram was 63 years old, now he is of 82 years, appellant No. 3 was aged 53 years, now she is of 72 years. Now they are in mainstream of society. Sending them to jail would

disturb them as well as their family members' life. Hence, no useful purpose would be served if they are sent to jail after 19 years of the incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v- State of Karnataka** [(2007) 6 SCC 231] this Court is of the opinion that cause of justice would be sub-served, if RI of one year to each applicant is reduced to the sentence for the period already undergone by him and fine of Rs. 2,000/- may be suitably enhanced.

6. Consequently, the appeal is partly allowed. The sentence of each of the appellants for RI for one year is reduced to the period already undergone by them and fine of Rs. 2,000/- of each applicant is enhanced to Rs. 5,000/- (Rupees five thousand only), in default of payment of fine, to further undergo SI for 3 months.
7. The appellants are granted two months' time from the date of this judgment for depositing the fine amount. The fine amount deposited earlier, if any, by the appellants shall be adjusted in the fine amount of Rs. 5,000/-.
8. The appellants are reported to be on bail. Their bail bonds stand cancelled subject to the provisions of Section 437-A, Cr.P.C.
9. Seized Rs. 200/- be returned to the appellant after expiration of prescribed period of legal proceeding available to the parties.

Sd/-
(Sharad Kumar Gupta)
Judge