

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 27-11-2018****Pronounced on 30-11-2018****CRIMINAL APPEAL No. 547/2001**

(Arising out of judgment of conviction and order of sentence dated 28-4-2001 passed by Sixth Additional Sessions Judge, Surajpur, Distt. Surguja (CG) in ST No. 187/1994)

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Dhansay son of Lalsay, age 38 years, occupation Agriculture, R/o. Village Tiwragudi, PS Ramanujnagar, Distt. Surguja (CG)

---Appellant**-VERSUS-**

State of Chhattisgarh through P.S. Ramanujnagar, Distt. Surguja (CG)

---Respondent

For appellant	:	Shri Aditya Chopda, Adv. on behalf of Shri A.K. Prasad, Adv..
For State	:	Shri Ashok Kumar Swarnkar, P.L.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 28-4-2001 passed by Sixth Additional Sessions Judge, Surajpur, Distt. Surguja (CG) in ST No. 187/1994 whereby and whereunder he convicted the appellant for offence punishable under Section 306 of the Indian Penal Code (in brevity 'IPC') and sentenced him to undergo RI for 7 years.
2. This is admitted by the appellant that deceased Smt. Dilbasia Bai was his wife. She had committed suicide.
3. In brief the prosecution story is that on 8-6-1993 at about 6 pm at village Tiwragudi deceased Smt. Dilbasia Bai was found dead in the house of appellant. Next day he intimated police station Ramanujganj that she had committed suicide by hanging. A mere intimation was

lodged in said police station. After the inquiry on 13-7-1993 FIR was registered against him. After the investigation, a charge sheet was filed against him. The trial Court framed the charge against him under Section 306 of the Indian Penal Code (in brevity 'IPC'). After completion of trial, trial Court convicted and sentenced the appellant as aforesaid.

4. Shri Aditya Chopda, counsel for the appellant argued that trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentence of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charge.

5. Counsel for the State argued that the conviction and sentence of the appellant are based on clinching evidence. The conviction and sentence of the appellant do not call for any interference by this Court.

6. As per post mortem report Ex. P-6, P.W. 11 Dr. George Jeevan Lakda and Dr. R.B. Prajapati had conducted the autopsy on 9-6-1993. They found that one abrasion size 2" x 2" was present on her private part, one lacerated wound size 1/2" deep was present on her anus. These injuries were ante mortem and caused by hard and blunt object within 1 to 3 hours from her death. They opined that the mode of death was suicidal and cause of death was asphyxia due to hanging.

7. There is no such evidence on record on the strength of which it can be said that Ex. P-6 is not believable. Thus this Court believes on Ex. P-6.

8. P.W. 5 Kareeman Singh who is father of the said deceased says in para 3 of his statement given on oath that 3 years after the marriage appellant used to quarrel with the deceased. The deceased had told him that he often beats her.

9. P.W. 6 Smt. Dasmot who is mother of the the deceased says in

para 1 of her statement given on oath that appellant used to beat the deceased.

10. P.W. 9 Ahibaran who is the brother of deceased in relation says in para 1 of his statement given on oath that deceased had told him that appellant used to beat her.

11. P.W. 10 Sahdev who is real brother of the deceased says in para 1 of his statement given on oath that the appellant used to beat deceased after consuming the liquor.

12. There is no such evidence on record on the strength of which it can be said that aforesaid statements of aforesaid witnesses are not natural, not normal and not simple.

13. After appreciation of evidence discussed herebefore, this Court finds that prosecution has succeeded to prove the charge punishable under Sections 306 of the IPC against the appellant.

14. Thus this court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence, the appeal deserves to be dismissed.

15. The appeal is accordingly dismissed. The conviction and sentence of the appellant are hereby affirmed.

16. As per the report received from the Central Jail, Ambikapur, the appellant has been released on 21-2-2004 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge