

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 856 of 2009**

Fagani Bai Yadav W/o Shankar Yadav aged about 43 years, R/o
Village Achharidih, PS Tumgaon, Distt. Mahasamund (CG)

---- Appellant**Versus**

State of Chhattisgarh through Police Station Tumgaon, Distt.
Mahasamund (CG)

---- Respondent

For appellant	None.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****14-7-2018**

1. In this Criminal Appeal, challenge is levied to the judgment of conviction and order of sentence dated 15-10-2009 passed by the Sessions Judge, Mahasamund in Sessions Trial No. 44/2009, whereby and whereunder the appellant along with co-accused Shankar Yadav has been convicted for the offence punishable under Section 304(B) read with Section 34 of the IPC and sentenced to undergo RI for 8 years and to pay fine of Rs.3,000/-; in default of payment of fine amount, to further undergo 6 months RI.
2. In brief, the appellant is mother-in-law of the deceased Smt. Santoshi Bai and co-accused Shankar Yadav is father-in-law of the deceased. The deceased was married with Kesharichand Yadav three years prior to the date of her death. One year after the marriage, the accused persons started harassing the deceased on account of bringing insufficient dowry. On 25-5-2009, the deceased committed suicide in their residence at village Achharidih. On the report of the father of deceased Mannulal Yadav given in writing, merg inquiry was conducted. After completion of the investigation, charge sheet was filed against the accused persons. The trial Court framed charges against the accused persons under Section 304-B read with

Section 34 of the IPC. The appellant abjured the charge and faced trial. Prosecution examined as many as 9 witnesses and the accused persons examined one defence witness in their defence.

3. On completion of the trial, the trial Court convicted and sentenced the accused persons as aforesaid. Being aggrieved the appellant has preferred this appeal.
4. As per report dated 8-11-2017 received from the Office of the Superintendent, Central Jail, Raipur, the appellant has been released on 29-7-2015 on grant of remission.
5. Learned counsel for the appellant submits that there is no direct evidence against the appellant and the appellant has been falsely implicated in the case.
6. Learned State counsel supported the impugned judgment of conviction and order of sentence and submitted that the appellant has rightly been convicted and sentenced on the basis of the evidence available on record.
7. P.W. 1 Mannulal says in paras 6 and 7 of his statement given on oath that it is true that he had told that the accused persons used to beat his daughter and used to say that she had brought insufficient dowry and demanded Rs. 50,000/-. He had given Rs. 50,000/- to father-in-law of the deceased after selling his land to Jaishankar Chandrakar at the cost of Rs. 60,000/- but even after giving money, the accused persons harassed the deceased.
8. P.W. 2 Santosh who is brother of the deceased says in paras 3, 5 and 6 of his statement given on oath that 3 years after the marriage, the deceased had died. The deceased had told him that the accused persons were harassing her on account of demand of dowry. At the time of Holi festival when he had gone to her in-laws' house, the accused persons had demanded Rs. 50,000/-. He had sold his land to Jaishankar Chandrakar at the cost of Rs. 60,000/- and he had given Rs. 50,000/- to the co-accused Shankar Yadav.
9. P.W. 4 Jaishankar Chandrakar says in para 2 of his statement given on oath that he had purchased plot of Mannulal Yadav at the cost of Rs. 60,000/-. Mannulal Yadav had told that in-laws of the deceased are harassing the deceased, thus he is selling the

plot to give dowry to them.

10. P.W. 5 Kesharichand Yadav who is husband of the deceased says in para 2 and 4 of his statement given on oath that his marriage was solemnized with the deceased 3 years ago. His parents were harassing the deceased on account of not bringing dowry. The deceased had told him that her father had given Rs. 50,000/- to accused Shankar Yadav.
11. There is no such evidence on record on the strength of which it could be said that the aforesaid statements of P.W. 2 Santosh, P.W. 4 Jaishankar Chandrakar, P.W. 5 Kesharichand Yadav are not normal, not natural and not simple.
12. D.W. 1 Shiv Kumar Patel says in para 3 of his statement given on oath that ordinary dispute regarding cleaning occurred between the accused persons and the deceased. In para 8 he says during cross-examination that he has good relation with the accused Shankar Yadav and he is giving the statement in his favour so that he may not be sentenced.
13. As per post mortem report Ex. P-5, P.W. 6 Dr. Girdharilal Chandrakar and Dr. J.P. Diwan had conducted autopsy on the body of the deceased and on external examination found ligature mark on her neck. On internal examination, they found that ligature mark was present in trachea and neck, thyroid cartilage was fractured. They found that cause of death was respiratory failure due to asphyxia due to hanging. Duration of the death was within 18 hours.
14. There is no such evidence on record on the strength of which it could be said that Ex. P-5 is not believable. Thus, this Court believes on Ex. P-5.
15. Looking to the above mentioned facts and circumstances of the case, this Court finds that the appellant does not get any help from the aforesaid statement made in para 3 by DW 1 Shiv Kumar Patel.
16. Looking to the above-mentioned circumstances, this Court finds that the trial Court has not committed any error in convicting and sentencing the appellant as mentioned above.
17. Thus, the appeal being devoid of substance, deserves to be and is hereby dismissed.

18. As per the communication dated 8-11-2017 received from the office of Superintendent, Central Jail Raipur, the appellant is reported to be released from jail after getting remission. Therefore no further order is required.

Sd/-

(Sharad Kumar Gupta)

Judge