

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.280 of 2009**

1. Rajaram, S/o. Uderam Suryavanshi, aged about 50 years,
 2. Smt. Ramkali, W/o. Rajaram, aged about 45 years,
 3. Ramkishan, S/o Rajaram, aged about 26 years,
- All R/o. Village Bodri-Parsada, PS Chakrabhata, Distt. Bilaspur.

---- Appellants**Versus**

State Of Chhattisgarh, Through Police Station Chakrabhata,
Distt. Bilaspur (CG)

---- Respondent

For the appellants : Shri Goutam Khetrapal, Advocate
For the respondent/State: Shri Vivek Sharma, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****12.11.2018.**

1. This appeal is directed against the judgment dated 04.4.2009 passed by Additional Sessions Judge, Bilaspur Distt. Bilaspur (CG) in Session Trial No.28/2009 wherein the said Court convicted all the three appellants for commission of offence under Section 498A of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for three years and to pay fine of Rs.100/- with default stipulation.

2. In the present case, name of the deceased is Arti who was the daughter of Umendra Ram (PW-6) and wife of appellant Ramkishan. The incident took place at village Parsada on 20.3.2008. Though the incident took place at village Parsada, no

one was examined from village Parsada who was the resident of nearby place of matrimonial house of the deceased. Umendra Ram (PW-6) is the father of the deceased who is the resident of village Chatona and as per version of this witness, his daughter informed him about the harassment of the appellants regarding demand of sewing machine. Neera Bai (PW-7) is the mother of the deceased and the resident of village Chatona and she also deposed on the same line. Karibai (PW-8) is the resident of village Chatona and she deposed before the trial Court what was informed to her by the deceased. Gulaba Bai (PW-9) has also deposed before the trial Court on the basis of information given by the deceased. Ramesh Kumar Suryavanshi (PW-10) is the resident of Tifra who deposed before the trial Court what was informed to him by the deceased regarding demand of sewing machine by the appellant. No one was examined from village Parsada to establish as to what really happened on the date of incident or just prior to the date of incident.

3. To establish the charges under Section 498A IPC the prosecution is under obligation to prove the guilt on the part of the appellants which means -

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet

any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

4. In the present case, evidence adduced by the prosecution is hearsay evidence in nature. In **Kalyan Kumar Gogoi vs. Ashutosh Agnihotri** reported in **(2011) 2 SCC 532** hearsay evidence is second hand evidence and is inadmissible in evidence, therefore, second hand evidence cannot be acted upon to record any finding.

5. Looking to the evidence adduced by the prosecution, the trial Court opined that causing harassment by the appellants is established but looking to the hearsay evidence, finding of the trial Court is not sustainable. In absence of connecting piece of evidence, finding arrived at by the trial Court is not sustainable.

6. Accordingly, the appeal is allowed. Conviction and sentence passed by the trial Court is set aside. The appellants are acquitted of the charge under Sections 498A IPC. The appellants are reported to be on bail. Their bail bond shall remain operative for a further period of six months from today in terms of Section 437A of the CrPC.

Sd/-
(Ram Prasanna Sharma)
JUDGE