

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 30-08-2018****Pronounced on 6-9-2018****CRIMINAL APPEAL No. 770/2008**

(Arising out of judgment of conviction and order of sentence dated 14-7-2008 passed by First Additional Sessions Judge, Baloda Bazar in ST No. 6/2008)

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Sanjay Kumar S/o. Fekulal Pradhan, Caste Kaulota, age 22 years, R/o. Village Kumhari Chowki Gidhowry, Thana Bilaigarh, Distt. Raipur (CG)

---Appellant**-VERSUS-**

State of Chhattisgarh through P.S. Bilaigarh, Distt. Raipur (CG)

---Respondent

For appellant : None appears.

For State : Ms. Smita Ghai, P.L.

Hon'ble Shri Sharad Kumar Gupta, Judge

C.A.V. JUDGMENT

- In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 14-7-2008 passed by First Additional Sessions Judge, Baloda Bazar in ST No. 6/2008 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	RI for	Fine Rs.	RI in default of payment of fine
498-A, IPC	3 Years	500/-	2 months
304-B, IPC	10 Years		

Both the jail sentences are directed to run concurrently.

- This is admitted by the appellant that his marriage was

solemnized with his wife / deceased Sushma last year from the date of accused statement, in the month of June/Jeth.

3. In brief the prosecution story is that the appellant is a resident of village Kumhari. On 9-9-2007 at about 7.00 pm the appellant had gone to his agricultural field situated at village Amlidih Khar. After sometime his younger brother Pradeep Pradhan reached there and intimated him that froth is coming from mouth of the deceased. The appellant reached there. When they were taking the deceased to hospital, on the way she died. Appellant gave information to Out Post Gidhauri where merg intimation was lodged. During investigation, it was found that as the appellant was harassing the deceased on account demand of dowry, she committed suicide. After completion of investigation, a charge sheet was filed against the appellant under Sections 498-A and 304-B of the Indian Penal Code (in brevity ' IPC'). The trial Court framed the charges against the appellant under Section 304-B, alternatively, unerr Sections 306 and 498-A of the IPC. After completion of trial, trial Court convicted and sentenced the appellant as aforesaid.
4. Case of the appellant is 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 from the aforesaid charges.
5. Counsel for the State argued that the conviction and sentence of the appellant is based on clinching evidence. The conviction and sentence of the appellant do not call for any interference by this Court.

6. As per the Post Mortem report Ex. P-14, P.W. 13 Dr. Subrat Nandi and Dr. J.R. Ghritlahare had conducted the autopsy on the dead body of the deceased on 10-9-2007. They had opined that the cause of death was cardio-respiratory embarrassment due to organophosphorus poisoning.
7. There is no such evidence on record on the strength of which it can be said that Ex. P-14 is not believable, thus this Court believes on Ex. P-14.
8. P.W. 6 Chandramani who is the maternal grand mother of the deceased says in para 3 of her statement given on oath that after the marriage deceased had stated that appellant was harassing her on account of dowry.
9. P.W. 7 Chandrahas who is the maternal uncle of the deceased says in para 3 of his statement given on oath that the appellant was harassing her on account of bringing money from her maternal house.
10. P.W. 9 Dilip Kumar Pradhan says in paras 2 and 6 of his statement given on oath that deceased had told him that appellant was harassing her on account of demand of cash.
11. D.W. 1 Lakheshwar says in para 3 of his statement given on oath that deceased was suffering from waist pain, her father had performed second marriage, deceased was living well in the house of appellant.
12. D.W. 2 Tejram says in para 2 of his statement given on oath that father of the deceased had performed second marriage. The maternal uncle of the deceased had told him that deceased was suffering from waist pain and she was living well in the house of

the appellant.

13. There is no such evidence on record on the strength of which it can be said that aforesaid statements of P.W. 6 Chandramani, P.W. 7 Chandrahas and P.W. 9 Dilip Kumar Pradhan are not simple, not natural, not normal. Thus, this Court believes on the aforesaid statements of P.W. 6 Chandramani, P.W. 7 Chandrahas and P.W. 9 Dilip Kumar Pradhan and disbelieves aforesaid statements of D.W. 1 Lakheshwar, DW 2 Tejarm in this reference that allegedly the deceased had committed suicide because she was miserable on account of second marriage of her father, waist pain; and she was happy in appellant's house.
14. After appreciation of evidence discussed herebefore, this Court finds that prosecution has succeeded to prove the charges punishable under Sections 304-B and 498-A of the IPC against the appellant.
15. 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.
16. The appeal is accordingly dismissed. The conviction and sentence of the appellant are hereby affirmed.
17. As per the report received from the Central Jail, Raipur, the appellant has been released on 16-7-2015 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge