

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 177 of 2010

(Arising out of judgment/order dated 09/03/2007 in Case No. 174 /2006
of the learned Sessions Judge, Durg District Dirg

State of Chhattisgarh through District Magistrate, District Durg (C.G.).

--- APPELLANT

Versus

1. Lalit S/o. Late Shri Prabhu Nath Shah, Aged about 30 years,
2. Smt. Urmila, W/o. Late Shri Prabhu Nath Shah, Aged about 60 years,
3. Rajesh Prasad @ Indrajit Singh, S/o. Late Shri Prabhu Nath Shah,
Aged about 19 years.

All are resident of Camp-2, Ganesh Chowk, Near Tadi Shop, Police
Station Chhawani, District Durg (C.G.)

---- RESPONDENT

For the Appellant	:-	Mr. Rajendra Tripathi, Panel Lawyer
For the Respondents	:-	None

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board By
Prashant Kumar Mishra, J.

16.01.2018

1. Challenge in this acquittal appeal is to the judgment of acquittal rendered by the trial Court acquitting the accused persons from the charges under 304B/34 of the IPC.
2. Accused No. 1 Lalit is husband of the deceased; accused No. 2 Smt. Urmila is mother-in-law of the deceased and accused No. 3

Rajesh Prasad @ Indrajit Singh is brother-in-law (*Devar*) of the deceased. Lalit was married with deceased Anita on 23rd June, 2005. She committed suicide by hanging herself in her matrimonial house at 5.30 PM on 18/03/2006, for the alleged reason that the accused persons were committing cruelty by demanding golden chain, sewing machine and godrej almirah. After merg enquiry the offence was registered against the accused persons.

3. In course of trial, the prosecution examined eight witnesses to bring home the charges out of which PW-3 Pardeshi Shah and PW-4 Devkali Shah were the two most important witnesses. While PW-3 Pardeshi Shah derived the information about commission of cruelty for demand of dowry from one Sujit Modak the other witness PW-4 Devkali Shah derived the information from PW-3 Pardeshi Shah.
4. While appreciating the evidence of these two witnesses the trial Court has observed that in absence of examination of Sujit Modak before the Court, even though he was cited as one of the prosecution witnesses in the charge sheet, the information provided by this person to PW-3 Pardeshi Shah is not substantiated and likewise the statement made by PW-4 Devkali Shah regarding demand of dowry and commission of cruelty is also not substantiated. The trial Court has also referred to material contradiction and omission in between the statements of these two witnesses. It is also observed by the trial Court that the independent witnesses have not been examined. On the other

hand four defence witnesses examined the accused person have proved that the accused persons have never committed cruelty on the deceased.

5. We have seen the record of the trial Court and have heard learned State counsel at length.
6. In our considered opinion, the reasoning assigned by the trial Court that in absence of the examination of Sujit Modak, the statement of PW-3 Pardeshi Shah and PW-4 Devkali Shah is neither substantiated nor credible is fully born out from the records and is not perverse. Similarly, non-examination of independent witnesses is also an important fact in this case because the statement of relative of the deceased has not been found trustworthy.
7. Considering the scope of interference in acquittal appeal where the High Court is entitled to exercise the power to set aside the judgment of acquittal only when the approach and findings of the trial Court is utterly perverse, we do not find any good ground for interference with the impugned judgment.
8. Accordingly, the acquittal appeal fails and is hereby dismissed.

Sd/
Judge
Prashant Kumar Mishra

Sd/-
Judge
Ram Prasanna Sharma