

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.143 of 2010**

Smt. Lata Nishad wife of Punaram Nishad, aged 26 years,
R/o Bhawani Nagar, Simga, Police Station, Simga, District
Raipur (CG)

---- Appellant

Versus

State Of Chhattisgarh Through Police Station Simga, District
Raipur (CG)

---- Respondent

For Appellant : Shri Y.C.Sharma, Advocate

For State/ Respondent : Shri Ramakant Pandey, Panel Lawyer

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**JUDGMENT ON BOARD****29/08/2018**

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against the judgment dated 5th February, 2010 passed by the Additional Sessions Judge Bhatapara, District Raipur (CG) in Sessions Trial No. 10/2009, whereby the appellant has been convicted under Section 304 Part I of the Indian Penal Code, 1860 (for short the I.P.C.) and sentenced to undergo S.I. for 7 years and fine of Rs.100/- with default stipulation for causing culpable homicide to one Anupriyabai on 21.10.2008 at village Simga by pouring kerosene on her body and setting her ablaze.

2. As per the prosecution case, appellant is daughter in law of the said deceased Anupriyabai. Appellant's father-in-law is Shanturam. It is alleged that on the date of incident there was a quarrel between the appellant and the deceased and in that quarrel, Shanturam intervened and he had beaten the appellant. After some time, the appellant poured kerosene on the body of Anupriyabai and lit match stick, causing severe burn injuries resulting into her death. The matter was investigated and the appellant was charge-sheeted. After hearing both the parties, the trial Court has convicted and sentenced the appellant as aforementioned.

3. I have heard learned counsel for the parties and perused the record.

4. Learned counsel for the appellant submits as under :

(i) There is no eye-witness account to the incident and family members of said Anupriyabai have not supported the version of prosecution.

(ii) Witnesses who reached on the spot after the incident have not seen the actual occurrence therefore, their version is not to be relied upon.

(iii) The trial Court has not evaluated the evidence in its true perspective and same is liable to be reversed.

5. On the other hand, learned counsel for the State supporting the judgment submits that the finding recorded by the trial Court is

based on proper marshalling of evidence and same is not liable to be interfered with.

6. To substantiate the charge prosecution has examined as many as 16 witnesses.

7. Dr. R.S.Singh (PW16) is the medical expert, who conducted autopsy on the body of the deceased Anupriyabai. As per version of this witness, the deceased sustained burn injuries and the cause of death was complication due to burn injuries resulting in respiratory failure. He further opined that duration of death is 24 hours since the examination. Shanturam (PW3) is a person to whom the deceased made oral dying declaration that the appellant poured kerosene on her body and lit match stick that is why she burnt. Bhonduram (PW5) deposed on same line regarding oral dying declaration made by the deceased against the present appellant. Mohitram (PW9) is a person before whom the appellant was arrested. Basantu (PW11) deposed that after the burn injuries, the deceased made oral dying declaration to him that the appellant had burnt her. Ramkali (PW12) deposed on same line regarding oral dying declaration made by the deceased against the present appellant.

8. Looking to the entire evidence adduced on behalf of the prosecution, the trial Court had come to the conclusion that death of Anupriyabai is criminal in nature. The appellant was subjected to assault by club during quarrel between the appellant and the

deceased, therefore, it is a case which is committed in sudden provocation and that is why the appellant was not in a position to control herself and her act falls within the purview of Section 304 Part I of the I.P.C. The said finding of the trial Court is not under challenge by the State for enhancement of sentence and therefore, the finding of the trial Court is not liable to be modified. The finding of the trial Court regarding commission of offence under Section 304 Part I of the I.P.C. is hereby affirmed.

9. Heard on the point of sentence:

10. The trial Court has awarded S.I. for 7 years with a fine of Rs.100/- which also cannot be termed as harsh, disproportionate or unreasonable. The sentence part is also not liable to be interfered with.

11. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/

(Ram Prasanna Sharma)
JUDGE