

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.380 of 2010**

State Of Chhattisgarh Through : Station House Officer, Police
Station, Gaurela, District Bilaspur (CG)

---- Appellant**Versus**

Lagnu, S/o Bipat Ram Lohar, Aged about 48 years, R/o Village
Jogisar, Police Station- Gaurela, District Bilaspur (CG)

---- Respondent

For Appellant/State	: Shri Bhaskar Payashi, Panel Lawyer
For respondent	: None

**DB: Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Ram Prasanna Sharma**

Judgment On Board**Per Ram Prasanna Sharma, J.****15.03.2018**

1. This Acquittal Appeal is directed against the judgment dated 7.2.2007, passed by the Additional Sessions Judge (FTC), Pendra Road, Sessions Division Bilaspur (CG) in Sessions Trial No.231/2005, wherein the trial Court has acquitted the respondent of the charge under Section 302 IPC, however, convicted him under Sections 304 Part II and 201 IPC and sentenced him to undergo R.I. for 3 years and fine of Rs.1,000/-, and R.I. 6 months, in default of payment of fine to further undergo R.I. for 3 months.

2. In the present case name of the deceased is Savitri Bai who was wife of the respondent. It is alleged that on 28.5.2005, dead body of the deceased was found in a Well of Devraj Tikra. The

matter was reported to Police Station Gaurela and after investigation charge sheet was filed against the respondent. The respondent denied the charges, therefore, trial was conducted and after completion of trial, the trial Court acquitted the respondent under Section 302 IPC and convicted him under Sections 304 Part II and 201 IPC.

3. Learned counsel for the State submits as under :

(i) From the evidence adduced by the prosecution, it is established that the respondent has committed murder of his wife- Savitri Bai and caused disappearance of evidence of the said offence but the trial Court on the basis of conjecture and surmises, has arrived at a wrong conclusion.

(ii) The trial Court has failed to appreciate the conduct of the respondent after commission of offence and also overlooked his motive to eliminate his wife.

(iii) The trial Court has ignored the documents regarding seizure which is a strong connecting piece of evidence.

4. We have heard learned counsel for the appellant and perused the record.

5. Dr. Nidhi Korram (PW10) had conducted autopsy on the dead body of the deceased and opined that cause of death was asphyxia due to coma and duration of death is since 5-7 days from the date of postmortem i.e. 29.5.2005.

6. There is no clear opinion regarding homicidal death of the deceased, therefore, we are required to appreciate the evidence regarding commission of offence.

7. Shivratan (PW1) is son of the respondent and he was not present at the time of any incident. As per his version, though there was some quarrel between his mother and father on prior occasions, but he is not aware of the fact as to how his mother has died. Shivprasad (PW2) is a person in whose presence some wood and soil stained with blood was seized from the spot and again one shirt and lungi was seized from the respondent in his presence. Birbal (PW3) has not supported the version of prosecution and expressed his ignorance about the incident. Ramratan (PW6) is another son of the respondent and as per his version, his father informed him that his mother left the house with one Dauwa @ Brijlal, thereafter, they searched for his mother and found her dead body in a Well. Brijlal(PW11) deposed that brother of the respondent informed him about the incident and he deposed that prior to the incident he visited the house of the deceased, but he denied that the deceased left her house with him. There is no evidence to connect this person for accompanying the deceased.

8. There is no eye-witness account to the incident and case of the prosecution is based on circumstantial evidence, but not a single link is established to connect the respondent with the crime. The medical report is also not certain and circumstances

established by the prosecution are not sufficient to connect the respondent with the crime in question. Some articles were alleged to have been seized from the respondent, but there is no Serologist report regarding blood group connecting the articles with the blood group of the deceased.

9. It is a settled law that graver the offence stricter the proof, but in the present case there is no direct or circumstantial evidence to connect the respondent with the crime and therefore, in absence of any cogent and reliable evidence, the respondent cannot be convicted for commission of offence under Section 302 IPC on the above set of evidence.

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

**Sd/-
Judge**

(Prashant Kumar Mishra)

**Sd/-
Judge**

(Ram Prasanna Sharma)