

**HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 112 of 2011**

State of Chhattisgarh, Through: District Magistrate, District-  
Ambikapur (Surguja) (C.G.) **---- Appellant**

**Versus**

Pyarelal Yadav, S/o Jagarnath Yadav, aged about 28 years, R/o  
Village- Chhindpara, Narmadapur, P.S. Kameshwarpur, District-  
Surguja (C.G.) **---- Respondent**

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For State/ Appellant : Mr. Vivek Sharma, G.A.

For Respondent : Mr. Vineet Kumar Pandey, Advocate.  
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**Hon'ble Shri Justice Ram Prasanna Sharma****Judgment On Board****14/11/2018**

1. This acquittal appeal is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against judgment dated 10.12.2010 passed by Third Additional Sessions Judge (FTC), Surguja at Ambikapur (C.G.) in Session Trial No. 155/2009, wherein the said court acquitted the respondent for commission of offence under Sections 306 & 498 (A) of IPC, 1860.
2. In the present case, name of the deceased is Basanti @ Shanti Bai who is wife of respondent and was living with him at village- Chhindadad. It is alleged that the respondent demanded golden chain and vehicle from family of the deceased and harassed the deceased that is why she committed suicide by jumping into well on 23.10.2008.
3. To substantiate the charge, the prosecution examined as many as 10 witnesses. Jaylal Yadav (PW-3) is brother of the deceased. He is resident of village- Jamdi and he had no

occasion to see as to what was going on in the family of the respondent where deceased was residing with him. As per version of this witness, he has been informed by the deceased that the respondent has demanded money and if his demand is not fulfilled then he will badly treat her.

4. Devmuniya (PW-6) is maternal aunt of the deceased. She is resident of village- Bhatgava which is different village from the village of incident. This witness has also stated on the basis of information given to her by the deceased that respondent demanded dowry from her. Nanbabu (PW-7) is maternal uncle of the deceased who is resident of village- Kaskela. His statement is also based on the fact that father of the deceased gave Rs. 10,000/- to the respondent. Smt. Bai (PW-8) is mother of the deceased and her statement is also based on the information given to her by the deceased regarding demand of one golden chain and Rs. 20,000/-. Mohri Bai (PW-9) is grand mother of the deceased and as per version of this witness, the deceased informed her that the respondent beaten her on account of dowry.

5. All the witnesses adduced by the prosecution before the trial court is hearsay in nature. In the matter of **Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri** reported in **(2011) 2 SCC 532**, Hon'ble the Supreme Court has held as under:

“(a) the person giving such evidence does not feel any responsibility. The law requires all evidence to be given under personal responsibility, i.e., every witness must give his testimony, under such circumstance, as

expose him to all the penalties of falsehood. If the person giving hearsay evidence is cornered, he has a line of escape by saying "I do not know, but so and so told me",

(b) truth is diluted and diminished with each repetition and

(c) if permitted, gives ample scope for playing fraud by saying "someone told me that.....". It would be attaching importance to false rumour flying from one foul lip to another. Thus statement of witnesses based on information received from others is inadmissible."

6. The case of the prosecution is based on second hand evidence which is not admissible and the same cannot be acted upon to record any finding. The trial court has elaborately discussed the entire facts and statement of the witnesses and came to conclusion that the charges leveled against the respondent are not established.
7. After reassessing the entire evidence, this Court has no reason to substitute contrary finding because finding recorded by the trial court is based on relevant material placed on record and the same is not based on irrelevant or extraneous matter. It is not a case of reversal of finding recorded by the trial court.
8. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

**Sd/-**  
**(Ram Prasanna Sharma)**  
Judge