

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 439 of 2013**

State of Chhattisgarh, through Police Chouki- Rampur, Police Station- Kotwali, Korba, District- Korba (C.G.)

---- **Petitioner**

Versus

1. Manoj Kumar, S/o Barrister Choudhary, Aged About 37 Years.
2. Barrister Choudhary, S/o Late Shivbalak Choudhary, Aged About 64 Years.
3. Smt. Laljhari Choudhary W/o Barrister Choudhary Aged About 62 Years.
All R/o MIG-1/103, M.P. Nagar, Korba, District- Korba (C.G.).
4. Smt. Rita Choudhary, W/o Raviranjn Kumar, Aged About 35 Years, R/o LIG 56, Housing Board Colony, Dadarkhurd, Korba (C.G.).

---- **Respondents**

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

For Respondents : Mr. Dharmesh Shrivastava, Adv.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

05/12/2018

1. This petition is preferred against judgment dated 26.02.2013 passed by Additional Sessions Judge, Korba, District- Korba (C.G.) in Session Trial No. 37/2012, wherein the said court acquitted all the four respondents for commission of offence under Sections 498 (A), 306/34 of IPC, 1860.
2. In the present case, name of the deceased is Smt. Manju Choudhary who died on 28.11.2011 and as per FIR, incident took place in house bearing No. MIG-1/103 situated at M.P. Nagar, Korba (C.G.).
3. To substantiate the charge, the prosecution examined Ashok Kumar Yadav (PW-1) who is brother of the deceased and

Sikandar Kumar (PW-2) who is paternal uncle of the deceased. Rest of the witnesses have assisted during investigation after registration of FIR.

4. Ashok Kumar Yadav (PW-1) is resident of Chhatabad No.5, Katrasgarh Dhanbad (Jharkhand), he is not resident of place of incident. As per version of this witness, deceased informed her on telephone that all the four respondents demanded money for purchasing flat and harassed her. Version of this witness is based on information given to him by the deceased on telephone, but the fact remains that this witness had no occasion to see as to what was really going on in the matrimonial house of the deceased. Sikander Kumar (PW-2) did not depose anything regarding illegal demand or harassment by any of the respondent.
5. Version of Ashok Kumar Yadav (PW-1) 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 trial court after assessing the entire evidence came to conclusion that statements are general and bald in nature which is not sufficient to conclude regarding abetment of suicide or cruelty on part of any of the respondent. The trial court also discussed the presumption clause as embodied in Section 113A of the Indian Evidence Act, 1872. It is not established that marriage of the deceased took place with respondent No. 1 within seven years of her death.
7. The trial court elaborately discussed the entire evidence and documents on record and opined that the charges leveled against the respondents are not established.
8. After reassessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge