

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 25 of 2016**

- Upendra Nath Pandey S/o Shri Pyare Lal Pandey, aged about 74 years, R/o Shanti Vihar Colony, Daganiya, District - Raipur (C.G.).

---- Applicant**Versus**

1. State of Chhattisgarh Through : Station House Officer, Police Station - Amanaka, District Raipur (C.G.)
2. Shrikant Dewan, aged about 37 years, S/o Kamalnarayan Dewan.
3. Kamalnarayan Dewan S/o Late Shri Chandudhar Dewan, aged about 69 years,

Respondent Nos. 2 and 3 are resident of Udaya Society, Tatibandh, Sector-4, House No.C/5/7, Police Station Amanaka, District Raipur (C.G.)

---- Respondents

For Applicant	:	Shri Vinay Pandey, Advocate.
For Respondent No.1/State	:	Shri Ravindra Agrawal, G.A.
For Respondent No.2	:	Shri Arvind Dubey, Advocate.
For Respondent No.3	:	None

Hon'ble Shri Justice Pritinker Diwaker &**Hon'ble Smt Justice Rajani Dubey****Judgment on Board****Pritinker Diwaker, J****19/09/2018**

1. Respondent No.3-Kamalnarayan Dewan is reported to be dead.
2. Challenge in the present appeal is to the judgment and

order dated 18.12.2012 passed by III Additional Sessions Judge, Raipur (C.G.), in Sessions Trial No.140/2011 acquitting the private respondents of the charge under Section 304(B) read with section 34 IPC, in alternative Section 302 read with section 34, Section 306 read with section 34 IPC and Section 498-A of IPC.

3. In the present case name of the deceased is Smt. Urvashi, wife of accused/respondent No.2-Shrikant Dewan and daughter-in-law of accused/respondent No.3-Kamalnarayan Dewan. The marriage of deceased Urvashi and accused/respondent No.2- Shrikant Dewan was solemnized on 19.02.2007 and she died in the night intervening 1-2/12/2010 by hanging herself. On the report lodged by family members of the deceased, FIR (Ex.P/5) was registered against private respondents/accused under Section 304 (B) and they were prosecuted of the offence under Section 304(B) read with section 34 IPC, in alternative Section 302 read with section 34, Section 306 read with section 34 IPC and Section 498-A of IPC.
4. So as to hold the accused/respondents 2 and 3 guilty, the prosecution has examined 14 witnesses. Statements of the accused/respondents 1 and 2 were also recorded under Section 313 of Cr.P.C. in which they denied the circumstances appearing against them in the prosecution case, pleaded innocence and false implication.
5. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondents 2 and 3 as mentioned in para-1 of this judgment. Hence, this acquittal appeal.
6. Learned counsel for the applicant submits that the trial Court has erred in law in acquitting accused/respondents 1 and 2 even when there is ample evidence against

them.

7. State counsel assisted the Court.
8. On the other hand, learned counsel for accused/respondents 1 and 2 submits that the impugned judgment of acquittal is in accordance with law and there is no infirmity in the same.
9. We have heard the parties and perused the material available on record.
10. While acquitting the private respondents, it has been observed by the trial Court that the deceased was having illicit relation with someone and the possibility of her committing suicide because of the same cannot be ruled out. From the evidence, it appears that there was rumor that deceased was having illicit relation with someone in the school where she was teaching.
11. Considering the facts and circumstance of the case and further considering the aspect that neither dowry death has been proved by the prosecution nor there is any evidence on record to bring home offence under Sections 302/34 and 306/34 IPC, the trial court has come to the conclusion that the prosecution has failed to prove its case beyond the shadow of doubt and thus acquitted the accused/respondents 2 and 3 of the charges levelled against them. We find no illegality in the order impugned acquitting the private respondents particularly when there is a settled legal position that if on the basis of record two conclusions can be arrived at, the one favouring the accused has to be preferred. Even otherwise, the prosecution thus has utterly failed in proving its case beyond reasonable doubt and the trial Court has been fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. Furthermore, in case of appeal against the acquittal the scope is very limited

and interference can only be made if finding recorded by the trial Court is highly perverse or arrived at by ignoring the relevant material and considering the irrelevant ones. In the present case, no such circumstance is there warranting interference by this Court.

12. Accordingly, the acquittal appeal preferred by the complainant/applicant is bereft of any substance and, therefore, the same is liable to be and is hereby dismissed.
13. Death certificate of accused/respondent No.3- Kamalnarayan Dewan be taken on record.

Sd/-

(Pritinker Diwaker)
JUDGE

Sd/-

(Rajani Dubey)
JUDGE