

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.A. No. 1068 of 2015

Puranlal Sahu, S/o. Shri Shivdayal Sahu, Aged About 24 Years, R/o. Village - Kalartarai, Post Office and Police Station - Arjuni, District - Dhamtari Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh, Through : The District Magistrate, Dhamtari, District - Dhamtari Chhattisgarh.

-----Respondent

For Appellant	: Mr. Shivendu Pandya, Advocate
For Respondent/State	: Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/09/2018

1. This appeal has been preferred against the judgment of conviction and order of sentence, passed by the Additional Sessions Judge, Dhamtari, District Dhamtari (C.G.), in Sessions Trial No.33/2014 on 17.07.2015, convicting the appellant for the offence under Section 306 of the Indian Penal Code and sentencing him to under go R.I. for 7 years along with fine of Rs.100/- with default stipulations.
2. The prosecution case in brief is this that the marriage of the deceased Premin Bai was performed with the appellant on

19.04.2014. It is alleged that while residing in her matrimonial home, the deceased was subjected to torture and cruel treatment by the appellant as he had doubts on her chastity, alleging that she was having affair with her own brother. She was also tortured for the reasons that she was unable to cook good food. It is alleged that the appellant used to thrash her, in inebriated condition. On 12.09.2014, the deceased immolated herself and died on the spot. Morgue intimation, Ex.P-12 was recorded by the Police Station – Arjuni. After conclusion of morgue enquiry, FIR, Ex.P-17 was lodged registering the offence under Section 304-B, 34 of the Indian Penal Code against the appellant and the acquitted co-accused- Smt. Uttara Bai. Investigation was completed and the charge-sheet was filed subsequently before the concerned Court.

3. Appellant and the co-accused were charged with offence under Section 304-B read with Section 34 of the Indian Penal Code. The appellant denied the charges and prayed for trial. The prosecution examined as many as 15 witnesses on its behalf. On examining the appellant under Section 313, he denied all the incriminating evidence against him and pleaded innocence and false implication. No witness was examined in defence. On completion of trial, judgment has been delivered, in which co-accused person namely Smt. Uttara Bai was acquitted, whereas this appellant stands convicted and sentenced as mentioned aforesaid.

4. It is submitted by the learned counsel appearing on behalf of the appellant that the trial Court has passed totally erroneous judgment of conviction without there being any basis of reliable and cogent evidence in support of the charge. All the witnesses, who have deposed against the appellant are related to the deceased and thus interested witnesses, whose statement should not have been held trustworthy by the trial Court, to hold conviction against the appellant. The evidence of witnesses are full of contradictions and commissions, hence, were unreliable. The appellant was entitled for acquittal in this case. Hence, his conviction is bad in law. It is prayed that the appeal be allowed.
5. Counsel for the State opposes the grounds raised in appeal and the submissions made in this respect. It is submitted that the prosecution has proved its case beyond all reasonable doubts. Hence there is no room for interference in the impugned judgment, hence, the appeal be dismissed.
6. I have heard the learned counsel for the parties and perused the record of the Court below.
7. The point in issue in this appeal is whether the prosecution has proved the charge against the appellant on the basis of the evidence beyond reasonable doubt?
8. The death of the deceased is undisputed that she has died due to burn injuries, which has been proved by the Dr. Tikam Singh Dhruw (P.W.-6) vide his postmortem report Ex.P-8. According to

which, the deceased has died because of the antemortem burn injuries, as there is no such investigation and no witnesses to depose that the reason regarding burn injuries caused to the deceased had been something other than self immolation. Hence, it is clearly made out that the deceased had committed suicide by burning herself.

9. Narayan Sahu (P.W.-1), father of the deceased has stated that soon after the marriage, the deceased informed that her husband is habitual drinker. He raised doubt about her relation with her brother and for this reason, he habitually beats her and thrashes her. His statement to this extent has remained unrebutted in his cross-examination. Similar statement has been given by Binda Bai Sahu (P.W.-2), mother of the deceased, Anusuiya Bai Sahu (P.W.-3), Harishchand Sahu (P.W.-4), brother of the deceased, Ramdayal Sahu (P.W.-5), Puran Lal Sahu (P.W.-7), Ku. Gauri Sahu (P.W.-8) and the statements given by these witnesses have also remained un-contradicted and unrebutted in their cross-examination, which shows that the deceased was subjected to cruel treatment before the date she committed suicide.
10. Narayan Sahu (P.W.-1) and Binda Bai Sahu (P.W.-2) have given statement in examination-in-chief, that the marriage of the deceased with the appellant was performed in summer season of the same year, in which she died, which has not been challenged and it has also been admitted by the appellant in his examination

under Section 313 of CR.P.C. Hence, it is case, in which the wife of the appellant committed suicide in the same year, in which, she was married to the appellant. It is a circumstance according to which it becomes case for presumption under Section 113A of the Evidence Act, which provides, that in case a married women commits suicide within a period of 7 years of marriage, and it is established that she was subjected to cruel treatment by her husband and in-laws in that case, it may be presumed that she was abetted to commit suicide by her husband or in-laws.

11. It was the burden of the defence to establish that there had been other circumstances, which could have lead the deceased to commit the suicide, which is totally absent in the evidence as no question was put to any of the witnesses of the prosecution to suggest that the deceased may have committed suicide because of some other reason. Apart from that, no witness has been examined in defence and the case of the defence was simply denial through out. Hence, under these circumstances and on the basis of the facts and circumstances of this case, it appears that there is no other theory to consider, as to what may be the other reason because of which, the deceased may have committed suicide. Hence, it is a case in which the presumption under Section 113-A of the Evidence Act can be safely drawn, that the deceased was abetted to commit suicide by the appellant, who used to subject her torture and cruel treatment by doubting on her chastity. On the basis of these findings, no infirmity can be

found in conviction of the appellant for the offence under Section 306 of the Indian Penal Code.

12. Counsel for the appellant prays by submitting that the sentence of imprisonment imposed upon the appellant is excessive and harsh and prayer has been made to reduce the same. After considering all the facts and circumstances and after due consideration I am inclined to allow this prayer.
13. Consequently, the appeal is allowed in part. Conviction of the appellant under Section 306 of the Indian Penal Code is upheld, whereas, his sentence of imprisonment imposed upon him by the trial Court is interfered with and reduced to the sentence for rigorous imprisonment of 5 years. The period of detention already undergone by the appellant shall be adjusted with the period of sentence imposed upon him by this Court and the fine amount as imposed by the trial Court shall remain as it is as imposed by the trial Court.
14. Accordingly, the appeal is disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge