

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1086 of 2014**

1. Mohanlal Yadav S/o Ranjeet Yadav Aged About 22 Years R/o Sarvani, Ps Baradwar, Civil And Rev. Distt. Janjgir - Champa C.G. , Chhattisgarh
2. Ranjeet Yadav S/o Dayaram Yadav Aged About 51 Years R/o Sarvani, Ps Baradwar, Civil And Rev. Distt. Janjgir - Champa C.G., District : Janjgir-Champa, Chhattisgarh

---- Appellants**Versus**

State Of Chhattisgarh Through Ps Baradwar, Civil And Rev. Distt. Janjgir - Champa C.G. , Chhattisgarh.

---- Respondent

For Appellants	:	Shri R.R. Soni, Advocate.
For Respondent/ State	:	Ms. Madhunisha Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****13/12/2018**

Heard.

(1) Challenge in this appeal is to the judgment of conviction and order of sentence dated 27.10.2014 passed by Learned First Additional Sessions Judge, Sakti, District Janjgir-Champa, Chhattisgarh in Sessions Trial No. 194 of 2013 whereby and whereunder the learned First Additional Sessions Judge after holding the appellants guilty for the offences under Section 304B/ 34 of the Indian Penal Code, sentenced him to undergo rigorous imprisonment for 10 years.

(2) Conviction is impugned on the ground that without there being any iota of evidence, the trial Court has convicted and sentenced the appellants as aforementioned and thereby committed illegality.

(3) As per case of the prosecution, in brief, deceased – Agaasmati Yadav got married with appellant No.1 – Mohanlal Yadav in April, 2012. The deceased committed suicide by consuming some poisonous substance on 6.5.2013. Merg Ex.P/18 was recorded by appellant No.1 and on that basis and after the merg enquiry, FIR Ex.P/19 was lodged on 9.6.2013 registering the offence of dowry death and offence under Section 302 of the IPC. On the basis of the statements of the witnesses, there had been demand of motorcycle in dowry from the deceased soon before her death because of which, she was being tortured.

(4) Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short 'the Code'). The investigation was carried out and on completion of the same, the charge-sheet was filed before the concerned Court.

(5) The appellants were charged for the offences under Sections 306/ 34, 304B/ 34 and 302/ 34 of the IPC. The appellants denied the charges and prayed for trial.

(6) In order to prove the guilt of the appellants, the prosecution examined 9 witnesses. Statements of the appellants were recorded under Section 313 of the Cr.P.C. in which they denied all the incriminating evidence against them, pleaded innocence and false implication in the crime in question. Two witnesses were examined in defense.

(7) After affording opportunity of hearing to both the parties, learned trial Judge acquitted the appellants for the charge under Sections 306/34 and 302/34 of the IPC, however, convicted and sentenced the appellants as aforementioned.

(8) I have heard learned counsel for the parties, perused the judgment impugned and records of the Court below.

(9) Learned counsel appearing on behalf of the appellants submits that no case is made out for conviction of the appellants. It is submitted that the deceased has died by consuming some poisonous substance. The marriage was though recorded on 6.5.2013, but none of the witnesses made any statement under Section 161 of the Cr.P.C. before 12.6.2013 that there had been any demand of dowry from the deceased. It is also submitted that according to the statements of the witnesses, namely, Akadasiya (PW-3), Chatmati (PW-4) and Aagesh (PW-5) it does not appear that the demand of dowry was being made soon before the death of the deceased. Therefore, the conviction under Section 304B of the IPC is bad in law and the appellants were entitled for acquittal.

(10) Per contra, learned counsel for the respondent/ State opposed the prayer and submission. He further submitted that the prosecution has proved its case beyond reasonable doubt. The deceased has died within 7 years of marriage in suspicious circumstances by consumption of poisonous substance and there is evidence that there had been a demand of motorcycle as dowry from the deceased since after 5 months

from the date of her marriage and this demand was continuing because of which, the deceased felt harassed and tortured and she has committed suicide. Hence, the appeal is without substance and the appeal be rejected.

(11) In order to appreciate the arguments advanced on behalf of the parties, I have perused the evidence adduced by the prosecution.

(12) The key witnesses in this case are the parents and brother of the deceased. It is not disputed that the deceased, the wife of appellant No.1 – Mohanlal and daughter-in-law of appellant No.2 – Ranjeet Yadav has died within 7 years of her marriage by consumption of some poisonous substance.

(13) Akadasiya (PW-3) has stated that whenever his daughter used to visit him she used to inform that she was being tortured by the appellants for the reason that the motorcycle was not given to them in dowry. This witness was not in a position to give motorcycle in dowry to the appellants. He has stated that the deceased had informed him on every occasion whenever she visited him, that she was being tortured for demand of dowry. In cross-examination, he has remained firm on this statement and there is no other statement which shows that his statement regarding demand of dowry has been contradicted or rebutted. There is no other circumstance present in his deposition to show that he has made false statement.

(14) Chatmati (PW-4) also stated similarly and she has also remained firm in her cross-examination. Again Agesh (PW-5), brother of the deceased, also supports the version of Akadasiya (PW-3).

(15) The point for consideration in this appeal is, whether there had been any demand of dowry soon before the death of the deceased or not.

(16) After scrutinizing the evidence of the relevant witnesses, it has appeared that the deceased whenever met her father, mother and brother, she used to inform that she was being tortured for demand of motorcycle as dowry. Although, there is no specific statement given as to what manner she had been tortured but the result of this demand of dowry and torture is clearly visible that the deceased was compelled to commit suicide because her parents were unable to meet with the demand of dowry. Hence, it is a clear case of dowry death and no fault can be found with the conviction of the appellants in the impugned judgment.

(17) After scrutinizing the evidence of the relevant witnesses present on record of the trial Court, it is found that the conviction of the appellants under Section 304B of the IPC is well founded which needs no interference.

(18) In the alternative, learned counsel for the appellants has submitted that the appellants are in jail since more than 5 years and they are rustic

villagers who were not aware of the legal consequences of the Act. Therefore, it is prayed that the sentence of imprisonment passed against the appellants in the impugned judgment may be reduced.

(19) After considering the submissions so made, I feel inclined to allow this prayer. As the offence under Section 304B of the IPC is punishable with minimum 7 years of imprisonment, this appeal is allowed in part. Accordingly, the conviction imposed upon the appellants is upheld whereas, the sentence imposed upon them is modified to RI for 7 years.

(20) Accordingly, the appeal is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
JUDGE