

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2924 of 2017

Arising Out of PS. Case No.-15 Year-2001 Thana- NAYAGAON District- Saran

Ajeet Singh S/o Sri Nand Kishore Singh, R/o Village- Dumari Gola, P.S.-
Nayagaon, District- Saran,

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vindhya Keshari Kumar, Sr. Adv. Mr. Ravi Shankar Pathak, Birendra Kumar Singh,
For the Respondent/s	:	Mr.Sri Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL JUDGMENT

Date : 24-09-2019

During course of hearing of prayer for bail, the learned counsel for the appellant has prayed for hearing of appeal on merit as, the period of custody of appellant would cater the period of sentence, so inflicted whereupon, the Addl. PP did not object. Thus, the appeal has been heard on its merit.

Appellant Ajeet Singh, vide judgment of conviction dated 08.08.2017, has been found guilty for an offence punishable under Section 304(B), 201 of the Indian Penal Code and, vide order of sentence dated 16.08.2017, has been directed to undergo R.I. for eight years as well as R.I. for two years and to pay fine appertaining to Rs.10,000/-, in default of payment of fine to undergo S.I. for six months additionally, respectively, by the F.T.C. II, Saran at Chapra in connection with S.Tr. No. 378 of 2003.



Hari Singh (PW 3) filed a written report on 25.03.2001 disclosing therein that his sister Mamta Devi (deceased) had been married with Ajeet Singh, s/o Nand Kishore Singh of village Dumari Gola on 06.12.2000 whereupon, she had gone to her *Sasural*. Thereafter, when he had gone to the *Sasural* of his sister, mother as well as sister of Ajeet Singh advanced demand of motorcycle and T.V. whereupon, he shown his inability on account of poverty. However, his poverty did not deter their demand and, in order to have its fulfillment, they began to torture his sister. On 11.03.2001 while he was at his fruit shop at Gola Bazar, father-in-law of his sister came at his shop and during course of gossip he directed that motorcycle as well as TV. should be provided otherwise, it will not be good for his sister. At that very time, his brother Sudama and Munni Lal, another shopkeeper were also present. In the aforesaid background he went to the place of his sister and effected Vidai on 14.03.2001. While his sister was staying, his brother-in-law came on 19.03.2001 and began to pressurize for Vidai. His sister was afraid of on account of having been faced with torturous activity during course of stay at her *Sasural* on account of non-fulfillment of demand, was not at all ready to go to her *Sasural* but, considering the insistence of his brother-in-law he effected Vidai any how, after persuading his



sister. The Vidai was effected on 23.03.2001. On 24.03.2001 at about 2:00 P.M. an unknown person came and informed that his sister has been murdered by burn whereupon, he had gone to *Sasural* of his sister where majority of the villagers have stated regarding the criminal activity having at the end of *Sasuralwala* of Mamta Devi which, ultimately costed her life.

After registration of Nayagaon P.S. Case No. 15/2001, investigation commenced and after completing the said charge-sheet has been submitted, facilitating the trial, wherein the other co-accused have been acquitted while the appellant, Ajeet Singh, has been convicted and sentenced in a manner indicated above.

Defence case as is evident from the mode of cross-examination as well as statement recorded under Section 313 of the Cr.P.C. is of complete denial. It has also been pleaded that victim was suffering from cardiac disease for which she was being treated and, on account thereof, she died and in order to substantiate the same, two Dws have also been examined.

Altogether 6 Pws have been examined in this case who are, PW 1 Ashok Kumar, PW 2 Sudama Singh, PW 3 Hari Singh, PW4 Surya Mohan Singh, PW5 Vidya Sagar And PW 6 Ashok Kumar Singh. Side by side has also exhibited written report as Ext.-1. Defence has also examined two Dws, who are, Rama



Shankar Singh (DW 1) and Radha Harijan (DW 2) and has also exhibited two prescriptions under Ext.-A series, Certificate (Ext.-B), Photocopy of attendance register (Ext.-C), copy of station diary (Ext.-D).

Learned counsel for the appellant confined his submission only on the question of sentence in the background of period of custody which the appellant has spent uptill now and to justify the same, it has been submitted that appellant had gone into custody on 06.10.2001 and remained uptill 25.12.2005. So, he had spent at first length of 4 years 2 months 25 days under custody. The judgment was pronounced on 08.08.2017 on which date he was taken into custody and since thereafter, he is under custody covering with 2 years 1 month 25 days. So, against the sentence of 8 years inflicted for an offence punishable under Section 304 B of the Indian Penal Code. Appellant remained under custody only for 6 years 3 months 20 days, actual period of sentence, which if taken in consonance with the period calculated as per jail manual, would saturate the sentence and so, it be reduced as period having undergone.

The learned Addl. P.P. submitted that as per calendar of jail, his period of sentence is likely to be completed.



Considering the quantum of sentence in consonance with the actual period of custody in the background of submission having at the rival end and further, considering the fact that the period of sentence is to be calculated, independently as per jail manual, unless and until there happens to be specific direction at the end of court on that very score, which is lacking and so, retaining the finding recorded by the learned lower court, under both heads and further, reducing the sentence as already undergone, which will cover the sentence under both counts, independently, but directed to run concurrently, however, the sentence of fine as inflicted relating to Section 201 IPC along with default clause is maintained. If the fine is deposited then, in that circumstance, appellant will be released if not wanted in any other case, otherwise will remain under custody so directed. In terms thereof, instant appeal is disposed of.

(Aditya Kumar Trivedi, J)

rakhi/-

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