

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 01-02-2019

Delivered on 08-3-2019

Criminal Appeal No. 467 of 2009

1. Pritam Patel son of Murari Patel aged 22 years.

2. Guribai wife of Murari Patel, aged about 45 years.

Both residents of village Singhangarh, Chowki, Patewa, PS
Tumgaon, Dist. Mahasamund (CG).**---- Appellants****Versus**The State of Chhattisgarh Through Police Station Tumgaon,
Dist. Mahasamund (CG).**---- Respondent**-----
For the appellants : Mrs. Usha Chandrakar, AdvocateFor the respondent/State : Mr. Ravish Verma, Govt. Advocate
-----**Hon'ble Shri Justice Ram Prasanna Sharma****CAV Judgment**

1. This appeal is directed against the judgment of conviction and order of sentence dated 19-6-2009 passed by the Sessions Judge, Mahasamund (CG) in Sessions Trial No. 23 of 2009 wherein the said Court convicted the appellants for the commission of offence under Section 304 (B) read with Section 34 of IPC and sentenced them to undergo rigorous imprisonment for seven years, RI for seven years and to pay fine of Rs. 2000/- each with default stipulations.

2. In the present case, name of the deceased is Brinda Bai who was married to appellant Pritam Patel on 14-4-2008. She died due to consuming poison substance other than in normal circumstances on 4-2-2009 i.e., within 10 months of her marriage. Appellant No.2 Gouri Bai is mother of the appellant Pritam Patel and as such she is mother-in-law of the deceased. All the three were residing at village Singhangarh which is matrimonial house of the deceased and deceased died at the same place. It is alleged that both appellants demanded money and due to non-fulfilment of demand they assaulted her and they committed cruelty soon before her death that is why she died which is dowry death. The matter was reported to the Police Station and after completion of investigation charge sheet was filed, the appellant did not plead guilty and the trial was conducted. After completion of trial, the trial Court convicted and sentenced the appellants as aforementioned.

3. Learned counsel for the appellants submits as under:

- I) The trial court failed to consider the material contradictions in the statements of the prosecution witnesses.
- II) Report is delayed and there is no explanation for such delay.
- III) The trial Court has not appreciated the evidence

correctly, therefore, same is liable to be reversed.

4. On the other hand, learned counsel for the State submits that the finding recorded by the trial Court is based on proper marshaling of evidence and the same is not required to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the material available in the record.

6. PW/1 Maniram is father of the deceased. As per his version appellant demanded money from him and due to non-fulfilment of demand, both appellants harassed her and assaulted her. PW/2 Lalita is mother of the deceased. She deposed on same line. PW/3 Dheer Bai also deposed on same line and she saw the injuries on the hand and elbow of the deceased. Amar Das PW/4 and Bodhan Patel PW/7 deposed the same thing and as per version of Bodhan Patel(PW/7), one meeting was organised due to dispute between the parties.

7. Looking to the evidence it is established that both appellants harassed the deceased on account of non-fulfilment of demand. The term of marriage is short in nature i.e., less than ten months, therefore, it can be inferred that she has been harassed constantly which was sarcastic for her and that is why she ended her life by consuming poisonous substance.

8. Dr. Ghanshyam Chandrakar (PW/14) examined the deceased and opined that she consumed poisonous substance. Dr. A.K. Tripathi (PW/5) who conducted autopsy of the deceased opined that she died due to consumption of poisonous substance

9. Looking to the entire evidence the trial court opined that it is a case of dowry death and after re-assessing the entire evidence, this court has no reason to substitute contrary finding. Argument advanced on behalf of the appellants is not sustainable. The act of the appellants falls within mischief for which the trial Court convicted the appellant. Conviction of the appellants is hereby affirmed. The trial Court awarded rigorous imprisonment for seven year for the said offence which cannot be termed as harsh, unreasonable or disproportionate. Sentence part is also not liable to be interfered.

10. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. The appellants are reported to be in jail, therefore, no further arrest for their arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju