

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 06-03-2019****Delivered on 07-03-2019****CRIMINAL APPEAL No. 576/2002**

(Arising out of judgment of conviction and order of sentence dated 09/05/2002 passed by Additional Session Judge, Balod, District Durg CG in S.T. No. 344/2001)

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1. Jodhi Ram (since deceased)
 2. Bhisam Lal S/o Jidhi Ram Rawat, age 24 years,
 3. Kanhaiya Lal S/o Jodhi Ram Rawat, age 20 years,
- Appellants No. 2 and 3 are residents of Thema Bujurg, P.S. Daundi, District Durg (CG)

----Appellants**-Versus-**

State of Chhattisgarh through Police Station, Daundi, District Durg (C.G.)

----Respondent

For appellants	: Shri N.S. Dhurandhar, Adv. with Shri Deepak Jain, Adv.
For State	: Shri S.R.J. Jaiswal, PL

Hon'ble Shri Sharad Kumar Gupta, Judge**CAV JUDGMENT**

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 09/05/2002 passed by Additional Sessions Judge, Balod, District Durg CG in S.T. No. 344/2001 whereby and whereunder he convicted and sentenced the appellants as under :-

Appellant No. 1 Jhodhi Ram (since deceased)

Sr. No.	Offence u/S.	Sentence
1.	306, IPC	RI for 5 Years + fine of Rs. 1,000/-, in default of fine RI for 6 months.
2.	498 A, IPC	RI for 3 Years + fine of Rs. 500/-, in default of fine RI for 6 months.

Appellant No. 2 Bhisham Lal and Appellant No. 3 Kanhaiya Lal

Sr. No.	Offence u/S.	Sentence
1.	498 A, IPC	RI for 3 Years + fine of Rs. 500/-, in default of fine RI for 6 months.

All the substantive jail sentences have been directed to run concurrently.

2. This is admitted by appellants that the marriage of deceased Uttara Bai was solemnized with appellant No.2 Bhisham Lal. Appellant No. 1 Jodhi Ram (since deceased) is her father-in-law and appellant No. 3 Kanhaiya Lal is her brother-in-law (*devar*).

3. In brief, case of the prosecution is that after the marriage appellants used to harass deceased Uttara Bai on account of dowry, consequently she committed suicide between 19/04/2001 and 21/04/2001 at village Thema Bujurg by drowning in well. After completing investigation, a charge sheet was filed against them. After conclusion of the trial, Trial Court convicted and sentenced them as aforesaid.

4. During the pendency of this appeal, appellant No. 1 Jodhi Ram has died and his appeal stood abated. Hereinafter 'appellants' will be mentioned only for appellants No. 2 and 3.

5. Counsel for the appellants at the outset urged that he is not challenging their conviction rather he is challenging only the aforesaid period of jail sentences. He further submitted that the appellants have undergone jail sentences of about 3 months thus the period of RI awarded to the appellants may be reduced to the period already undergone by them.

6. The Panel Lawyer appearing for the State argued that aforesaid RI is just and proper and does not call for any interference.

7. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Sections 498 A, IPC. The appellants have remained in jail from 28/06/2001 to 22/09/2001. About 18 years have passed after the incident. At the time of incident, appellant No. 2 Bhisham Lal was aged 24 years, now he is of 42 years, appellant No. 3 Kanhaiya Lal was 20 years old, now he is 38 years old. Now they are in mainstream of society. Sending them to jail would disturb their as well as their family members' life. Hence,

no useful purpose would be served if they are sent to jail after 18 years of the incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v- State of Karnataka** [(2007) 6 SCC 231] this Court is of the opinion that cause of justice would be sub-served, if jail sentence awarded by the trial Court to the appellants are reduced to the sentences for the period already undergone by them and fine sentence may be suitable enhanced.

8. Consequently, the appeal is partly allowed. Conviction of appellants is upheld. The jail sentences of appellant No. 2 Bhisham Lal and appellant No. 3 Kanhaiya Lal for the offence punishable under Section 498A, IPC are reduced to the period already undergone by them. However, fine amount of Rs. 500/- (Rupees five hundred) imposed upon each appellant under this section is enhanced to Rs. 10,000/- (Rupees ten thousands) each, in default of payment of fine, each appellant shall further undergo RI for 6 months. The fine amount already deposited, if any, be adjusted in the fine sentence imposed by this order.

9. The appellants are granted two months' time from the date of this judgment for depositing the fine amount.

10. The appellants are reported to be on bail. Their bail bonds shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge