

HIGH COURT OF CHHATTISGARH, BILASPURACQA No. 460 of 2010

1. State Of Chhattisgarh, through the District Magistrate, District Rajnandgaon (CG).

---- Appellant

Versus

1. Ruman Lal S/o Kishan Lal Verma, aged about 23 years.
2. Kishan Lal, S/o Khemlal Verma, aged about 45 years.
3. Sumitra Bai, W/o Kishan Lal Verma, aged about 40 years
All R/o Vill. Khajari, PS Ghumka, Dist. Rajnandgon (CG).
4. Videshi, S/o Faguwa Kurmi, aged about 40 years, R/o Vill. Khajari, Ps Ghumka, Dist. Rajnandgon (CG).
5. Ramesh, S/o Bisahu Maithilkshatri, aged about 36 years, R/o Vill. Khajari, Ps Ghumka, Dist. Rajnandgon (CG).

---- Respondents

For Appellant/State	Shri Avinash Choubey, Panel Lawyer
For Respondents No.1 to 3	Shri Rajat Agrawal, Advocate
For Respondent No.5	Shri Anand Shukla, Advocate

Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Judgment on BoardByPrashant Kumar Mishra, J.15-11-2019

1. Trial Court has acquitted the accused from the charges under Sections 304-B, 302, 302/34, 120-B & 201 of the Indian Penal Code.

2. The accused persons were sent for trial for the above stated offences on account of death of Kanchan Bai (since deceased) on 29-7-2006. She was married with the accused Ruman Lal (henceforth 'the A1') four months prior to the date of death. The basis for the impugned judgment of acquittal is lack of consistency in the prosecution evidence about the demand of any particular item or any specific demand in any of the statement of the witnesses.
3. PW-7 Jaikaran is the father of the deceased. He admits that there was no demand of dowry either before or at the time of marriage. Similar is the statement of Kamta Bai (PW-13). In the statements PW-7 Jaikaran as well as PW-13 Kamta Bai, PW-9 Sampatti, PW-19 Guddu Verma & PW-10 Kiran (friend of the deceased) there is no consistency as to demand of any particular item and commission of cruelty for non-fulfillment of that particular item or cash.
4. While PW-9 Sampatti says that the deceased used to say that she is treated with cruelty for non-gifting of ornaments. PW-13 Kamta Bai speaks about non-gifting of clothes. Friend of the deceased namely; Kiran (PW-10) does not speak about any demand of dowry. PW-12 Dharamveer Verma had once offered lift to the deceased during which the deceased

informed him about the demand of dowry, but yet again the deceased did not inform this witness about the demand of any specific item.

5. In so far as evidence for homicidal death is concerned, PW-16 Dr. R.R. Mandle, who has conducted postmortem on the body of the deceased, has not mentioned homicidal death in his postmortem report (Ex.P/10-A). In the said opinion, the cause of death is mentioned as '*constriction of neck by rope, leading to asphyxia and death.*' The Doctor also directed for preservation of viscera. While describing the injuries, the Doctor observed that the ligature mark around neck is postmortem in nature and rest of the injuries are antemortem in nature, however, despite this there was no mention of homicidal death.
6. When the Investigating Officer made query about the ligature mark and constriction by rope as to whether the same could have been the cause of death and whether the death is homicidal or suicidal, PW-16 Dr. R.R. Mandle in his query report (Ex.P/12) mentioned that there may be overlapping of injury caused by constriction of neck and ligature mark (scar) caused by hanging. Confirmation done after Histopathological report of scar tissue. In respect of

homicidal or suicidal death, the Doctor again recommended confirmation after Histopathological report of scar tissue.

7. Significantly, the Investigating Officer did not proceed to obtain Histopathological report. Thus, the evidence in respect of homicidal death is only observatory in nature and not conclusive. Except for this medical evidence, there is no other evidence either oral or documentary pointing towards homicidal death or guilt of the accused in that connection.
8. In our considered view, there being lack of evidence in respect of offence under Section 302 IPC and again inconsistency in the prosecution case about the demand of dowry, the trial Judge's finding while acquitting the accused does not appear to be perverse. No case for interference with the impugned judgment of acquittal is made out.
9. As a sequel, the instant acquittal appeal, *sans* merit, is liable to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Gowri