

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 192 of 2011**

- Arun Maheshwari, S/o- Pardeshi Maheshwari, Aged about- 29 years, R/o- Village- Nevnara, P.S.- Berla, District- Durg, C.G.

---- Appellant**Versus**

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

---- Respondent

For Appellant : Shri R.K. Pali & Shri Amit Kumar Sahu, Advocates.

For State/Respondent : Shri Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****20/11/2019**

1. This appeal is preferred against the judgment dated 26th February, 2011 passed by Additional Sessions Judge (F.T.C.), Bemetara, District- Durg (C.G.) in Sessions Trial No. 33/2009 wherein the said Court convicted the appellant for commission of offence under Section 306 of IPC, 1860 and sentenced him to undergo R.I. for seven years and fine of Rs. 2000/- with default stipulations.
2. In the present case, name of the deceased is Arti Maheshwari who is wife of the appellant. She died on 10th March, 2009 at village- Nevnara in the house of the appellant because she set herself ablaze. As per version of prosecution marriage between appellant and deceased took place about 9-10 years prior to date of incident and appellant was demanding money from in-laws

through the deceased and due to harassment she committed suicide.

3. To substantiate the charge, the prosecution examined as many as 12 witnesses. Santosh Kumar Satnami (PW-3) is father of the deceased, he is resident of village- Pikari, while the incident took place at village- Nevnara. This witness had no occasion to see as to what was going on in the house of the deceased. He deposed before the trial Court what is informed to him by the deceased regarding demand of money by appellant and harassment, but statement of this witness is not clear as to what happened on the date of incident or prior to date of incident, therefore, appellant cannot be made responsible to the incident in absence of connecting piece of evidence. Budhiya Bai Satnami (PW-4), Godawari Bai Naurange (PW-5) and Lekha Banjare (PW-6) have deposed before the trial Court on the basis of information given by the deceased. These witnesses are also residents of village- Pikari and Duda and they are not residents of village- Nevnara where incident took place, therefore, these witnesses had no occasion to see as to what really happened on the date of incident and prior to the date of incident.
4. For commission of offence under Section 306 of IPC ingredients mentioned in Section 107 of IPC has to be established which may be mentioned as under:-
 - (i) instigating a person to commit an offence.
 - (ii) engaging in a conspiracy to commit an offence.
 - (iii) intentionally aiding a person to commit an offence.

5. In the present case, the entire evidence is based on information given by deceased which is hearsay in nature. In **Kalyan Kumar Gogoi Vs. Ashutosh Agnihotri reported in (2011) 2 SCC 532**, Hon'ble the Supreme Court has held as under:-

"(a) the person giving such evidence does not feel any responsibility. The law requires all evidence to be given under personal responsibility, i.e., every witness must give his testimony, under such circumstance, as expose him to all the penalties of falsehood. If the person giving hearsay evidence is concerned, he has a line of escape by saying "I do not know, but so and so told me,"

(b) truth is diluted and diminished with each repetition and,

(c) if permitted, gives ample scope for playing fraud by saying "someone told me that.....". It would be attaching importance to false rumor flying from one foul lip to another. Thus statement of witnesses based on information received from others is inadmissible."

6. For establishing the charge under Section 306 of IPC there should be link between the death of the deceased and act of the appellant, but that is not the case here. Mere demand of money cannot be equated with abetment of suicide. For commission of said offence instigation or intentionally aiding or conspiracy is condition precedent. In absence of evidence of abetment, the trial Court is not correct in holding guilty the appellant. Again as per version of Dhanesh Ram Sahu (PW-1) when deceased was admitted in hospital after burn injuries she made statement that she set herself ablaze out of anger. This witness further deposed that deceased did not tell as to what was reason of anger of

deceased, therefore, appellant cannot be connected for crime when act of the deceased is her independent act. In view of the above, charge levelled against the appellant is not established.

7. Accordingly, appeal is allowed. Conviction and sentence imposed on the appellant is hereby set aside. The appellant is acquitted from charge under Section 306 of IPC, 1860. The appellant is reported to be on bail. His bail bonds shall continue for further period of six months in view of Section 437-A of Cr.P.C.

Sd/-

(Ram Prasanna Sharma)
Judge