

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 713 of 2008**

- A.N. Chandra aged about 58 years, S/o Pannalal Chandra, R/o Charcha Colliery, Korea (C.G.)

---- Applicant/Petitioner**Versus**

1. The State of Chhattisgarh, through Police Station Civil Lines, Bilaspur
 2. Rahul Chatterjee aged about 25 years, S/o Kalidas
 3. Smt. Vandana Chatterjee aged about 55 years, W/o Kalidas
- Respondent No 2 and 3 R/o C-58, Rahul Bhawan, Parijat Extension, Nehru Nagar, Thana Civil Lines, District Bilaspur (C.G.)

---- Respondents

For Applicant	:	Shri Parag Kotecha & Shri Shalvik Tiwari, Advocates
For State/Respondent No.1	:	Ms. Madhunisha Singh, Panel Lawyer
For Respondent No. 2 & 3	:	None

Hon'ble Shri Justice Prashant Kumar Mishra, J**Hon'ble Shri Justice Gautam Chourdiya, J****Order on Board by Justice Prashant Kumar Mishra****22.11.2019**

1. In this criminal revision under Section 397 read with Section 401 of Cr.P.C. the applicant/complainant would challenge the legality and validity of the judgment dated 14.07.2008 passed by the Sixth Additional Sessions Judge, Bilaspur (C.G.) in Sessions Trial No. 40 of 2008 acquitting the accused/respondents No.2 & 3 of the charges under Sections 304B of IPC.
2. Deceased Sawanti was married with accused/respondent No.2 Rahul Chatterjee on 30.01.2007. She committed suicide by suspected poisoning in the late evening of 11.08.2007. In the F.I.R. and in the case diary statements, her parents have alleged demand of four-wheeler by the accused persons and commission of cruelty in connection with the said demand. However, when examined in court, PW-1 Awanindra Nath admits that the accused have never demanded four-wheeler directly from him. Within seven months between her marriage and death, she visited her

parental house twice and on both the occasions relations were normal. PW-1 also admits that her daughter and accused Rahul Chatterjee were acquainted to each other during their education days and they wanted to marry, however, he was not agreeing for the marriage. He also admits that accused Vandana Chatterjee as back as in 2004 wanted his daughter (PW-1's daughter) to be her daughter-in-law. It is also admitted by him (PW-1) that on the date of incident, he had telephonic talk with the deceased at 05:00 pm and 06:31 pm and on both the occasions, she had stated that she was alright meaning thereby that just before the death, there was no cruelty inflicted on her, nor the situation in the house was abnormal. Similarly, PW-2 Chinmay Chandra, brother of the deceased, and PW-3 Mala Chandra, mother of the deceased, have also stated that the accused persons have never raised any demand from them directly. PW-3 states in para-6 of her examination-in-chief that the deceased had informed her at about 10:30 am on the date of incident that the accused persons are coercing her for bringing four-wheeler. This statement is contrary to what PW-1 says in reply to the court's question that in the evening, the deceased informed him that she is alright. PW-3 too admits that they did not want their daughter to marry accused Rahul Chatterjee. She denies acquaintance of Rahul and deceased Sawanti before marriage. This is again contrary to what PW-1 admits in his statement.

3. There being no direct evidence of demand of dowry and on account of prior acquaintance of deceased with her husband during their education, there is absence of necessary ingredients constituting offence under Section 304B of IPC. Merely because Section 113B of the Evidence Act speaks about presumption and the death had taken place within seven months of marriage, it does not permit the court to convict an accused even when there is absence of necessary ingredients to attract the offence. In a case where

there is lack of direct evidence of demand of dowry, the prerequisite for attracting the presumption clause is not fulfilled. Therefore, argument to the contrary raised by the learned counsel for the applicant is rejected.

4. No case for entertaining this revision application is made out, it fails and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

vatti