

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 275 of 2013**

1. Shobharam S/o Banshidhar Bhoi, Aged About 23 Years, R/o Village Patsendri, Thana - Saraypali, Distt. Mahasamund C.G., Chhattisgarh
2. Banshidhar S/o Devo Bhoi, Aged About 45 Years, R/o Village Patsendri, Thana - Saraypali, Distt. Mahasamund C.G., District : Mahasamund, Chhattisgarh
3. Basmati W/o Banshidhar Bhoi, Aged About 40 Years, R/o Village Patsendri, Thana - Saraypali, Distt. Mahasamund C.G., District : Mahasamund, Chhattisgarh

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

- State Of Chhattisgarh, through the District Magistrate, Mahasamund, District Mahasamund, C.G., Chhattisgarh

**---- Respondent**


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For Appellants : Shri Sunil Sahu, Advocate.

For Respondent/State: Shri Adil Minhaj, Panel Lawyer.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board****03/04/2019**

1. This appeal has been preferred against the judgment dated 05-03-2013 passed in S.T. No.53/2012 by the Second Additional Session Judge, Mahasamund, District Mahasamund, C.G. convicting each of these appellants under Section 306/34 of the IPC and sentencing them R.I. for four years along with fine of Rs.200/- each with default stipulation.
2. The case of prosecution, in brief, is this, that about one year prior to the date of incident, deceased Chandrama Bai and appellant No.1 got married. The deceased became pregnant about 6 months prior to the date of incident. It is alleged that the appellants started

making allegation on the deceased that the child in her womb was not theirs, they alleged that the deceased was unchaste and asked her to commit suicide. Because of this torture the deceased committed suicide on 21-05-2012 by hanging herself. The morgue intimation was lodged and inquest procedure was carried out. In the postmortem examination it was found that the death was suicidal. On the basis of the morgue enquiry report, FIR, Ex.-P/7 was lodged registering offence under Section 306 of the IPC against the appellants.

3. The appellants were charged with offence under Section 306/34 of the IPC, to which they denied and prayed for trial.
4. After completion of the prosecution evidence, the appellants were examined under Section 313 of the Cr.P.C., in which they denied all the incriminating evidence against them, pleaded innocence and false implication. One witness was examined in defence.
5. After completion of the trial, the impugned judgment has been passed wherein the appellants have been convicted and sentenced as aforementioned.
6. It is submitted by learned counsel for the appellants that no case is made out for conviction of the appellants in offence of abetment to commit suicide. Although there is evidence of witnesses Amina (PW-1), Padmini (PW-3) and Neharu Bhoi (PW-4) that the deceased had narrated to them that the appellants were alleging that the child in her womb was not theirs and because of which she was tortured and was asked to leave the matrimonial home. But, there is no such statement made by them that any of the appellants had made any

statement that the deceased should commit suicide or end her life. Therefore, the statement of Shriram Barge (PW-8) appears to be contradictory and with improvement, which should not have been relied upon by the Court below for holding conviction against the appellants. Hence, it is prayed that the appellants may be acquitted of the charges against them. In the alternative, it is prayed that if this Court is not inclined to allow the appeal and acquit the appellants, then sentence of imprisonment imposed upon the appellants may be reduced to the period of detention already undergone by them in jail.

7. Learned counsel for the State/respondent opposes the grounds raised in this appeal and submits that even if there is no direct evidence of abetment to commit suicide, but there is evidence to show that the deceased was being subjected to torture and cruel treatment by making allegation that she is characterless and by doubting her integrity, which itself is sufficient evidence to draw presumption under Section 113A of the Evidence Act. Hence, no case is made out for acquittal and reduction in sentence.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Amina (PW-1) is mother of deceased Chandrama Bai, she has stated that after marriage of her daughter Chandrama Bai, her daughter became pregnant. When her daughter had come to her parental house, she told her that her husband says that her child does not belong to him, because of which she is being tortured. Her statement has remained unrebutted in her cross-examination and her statement regarding appellants' doubt on integrity of the

deceased has remained unchallenged.

10. Similarly, Padmini (PW-3) who is aunt of the deceased has stated that she was also narrated by the deceased about act and behaviour of the appellants when she met with her. She has also stated that about two hours prior to the time of incident deceased Chandrama Bai had been to her house and informed that she is being tortured by her in-laws, then the witness had advised and counseled the deceased and sent her back. Then she came to know about the incident of suicide. In cross-examination she has denied the adverse suggestions given and has remained firm on her statement given in examination-in-chief.
11. Neharu Bhoi (PW-4) has made similar statement. He is uncle of the deceased and resident of the same village where the appellants reside. He was also narrated about the torture given to the deceased and the reason for it. He has also stated about meeting with the deceased about two hours prior to the time of the incident when she informed that she is being tortured again by making allegation that child in her womb was not of her husband. Then, he heard about the incident after two hours. His statement has remained unrebutted in his cross-examination. There is no such statement in his cross-examination so as to hold that he has contradicted or rebutted the statement given in examination-in-chief.
12. Narendra Barge (PW-7) is brother of the deceased, he has stated the narration given by his sister regarding allegation made by the appellants on her integrity and chastity and about not claiming the child in her womb and about the incident that has taken place. His

statement has remained unrebutted in his cross-examination.

13. Shriram Barge (PW-8) has stated about the narration given by his daughter, about the allegation made by the appellants and also that apart from torturing her they were not providing her with food etc., the appellants used to say that the deceased should die. When this witness had been to the house of the appellants for leaving Chandrama Bai, the deceased, then in his presence the appellants had stated that child in the womb of the deceased is not of their family, therefore, they did not want to keep her. If she is left there she won't be found alive by them. When the witness was making arrangement to call a meeting of the community, he learnt about the incident of suicide. In cross-examination the statement given by him has not been specifically rebutted. The statement given by him regarding visiting the house of the deceased and the appellants and his conversation with the appellants has not been challenged. Therefore, this is another direct evidence available that the appellants were making such allegation on the integrity and chastity of the deceased.
14. There is no dispute that the deceased has committed suicide in her matrimonial home within 7 years of her marriage. Therefore, there is no need to examine and scrutinize the other evidence of investigation procedures.
15. One witness was examined in defence, i.e., Subani (DW-1). She has stated about the incident and stated that she was never told about any dispute by the deceased. She is a witness of vicinity and she was having acquaintance with the deceased. Therefore, I do

not find any reason why the deceased should confine with her, regarding her plight and regarding allegation that were made on her. In such matter no person of prudence would discuss it publicly. It is a matter which can be discussed only with the persons close to the victim or to such person on whom victim has faith. Therefore, this evidence in defence does not lead any conclusion and has no bearing on the evidence of prosecution witnesses. There is evidence of prosecution that the deceased has committed suicide because her integrity and chastity was alleged by the appellants regarding which there is no defence taken by the appellants. Not a single question was put to any of the witnesses examined by the prosecution on the point of character and integrity of the deceased and neither the defence witness examined has made any statement in this regard.

16. Therefore, in presence of such evidence that the deceased was being tortured and treated with cruelty by the appellants by making allegation on her integrity and chastity it is definitely cruel treatment as defined under Section 498A of the IPC and on this basis presumption can be drawn under Section 113A of the Evidence Act that the deceased was abetted to commit suicide by the appellants. On the basis this observation made in the judgment of this appeal, I do not find any reason to intervene with the finding of the Court below regarding conviction of the appellants, therefore, conviction of the appellants under Section 306/34 of the IPC is liable to be upheld.
17. Considered on the prayer made for reduction of the sentence of the

appellants. After considering on the facts and circumstances of this case, I feel inclined to reduce sentence of imprisonment.

18. Consequently, the appeal filed by the appellants is allowed in part. Conviction of the appellants under Section 306/34 of the IPC is maintained. Fine sentence imposed upon the appellants are also maintained. However, the jail sentence awarded to each of the appellants by the trial Court, i.e. R.I. for four years is reduced to R.I. for two years.
19. The appellants are reported to be on bail, their bail bonds are cancelled and they are directed to surrender to serve out remainder of the sentence of imprisonment awarded to them by this Court.

Sd/-  
**(Rajendra Chandra Singh Samant)**  
Judge