

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRR No. 383 of 2019**

Manju Jaiswal

**Applicant**

**Versus**

State Of Chhattisgarh

**Respondent**

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**Post for pronouncement of the judgment on 15.07.2019**

**JUDGE**

**Sd/-**

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**HIGH COURT OF CHHATTISGARH, BILASPUR****Judgment Reserved on : 04.07.2019****Judgment Delivered on : 15/07/2019****CRR No. 383 of 2019**

- Manju Jaiswal W/o Ajay Jaiswal Aged About 42 Years R/o Mission Chowk, Ward No. 19, Ambikapur, Police Station Kotwali, District - Surguja Chhattisgarh.

**---- Applicant****Versus**

- State Of Chhattisgarh Through The Police Station Kusmi, District - Balrampur - Ramanujganj Chhattisgarh

**---- Respondent**


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| For Applicant         | : Smt. Hamida Siddiqui, Advocate |
| For Respondent /State | : Shri Rahul Mishra, Dy.GA       |

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**Hon'ble Smt. Justice Rajani Dubey****C A V Order**

15/07/2019

This criminal revision under Section 397/401 of Cr.P.C. has been filed by the applicant against the order dated 04.01.2019 passed by Additional Sessions Judge, Ramanujganj, Balrampur in S.T. No. 81/2016 by which charge under Sections 498-A, 304-B and 306 of IPC, in the alternative under Section 302/34 IPC have been framed against the applicant.

2. Brief facts of the case are that on 16.06.2016, when Mamta Jaiswal (deceased) was harassed by her husband and other family members (in-laws) for demand of Rs. 5,00,000/- and she was abated

to commit suicide as a result of which she committed suicide by hanging. Offence under Sections 498-A, 304-B and 306 of IPC, in the alternative under Section 302/34 IPC were registered against the applicant and other members of the family. After completion of investigation, charge sheet was filed under the aforesaid sections. Learned trial court on 04.01.2019, framed charges against the accused persons and the present applicant under the above sections and hence, the present revision petition filed by the applicant.

3. Learned counsel for the applicant submits that the impugned order dated 04.01.2019 is bad in law and is liable to be set aside particularly, the charges under Sections 498-A, 304-B and 306 of IPC, in the alternative under Section 302/34 IPC because the applicant is a married woman residing in her matrimonial house along with her husband after marriage which is clear from the FIR itself. She further submits that except for occasional visit, she has nothing to do with the family affairs of the husband of the deceased and her in-laws. Copy of Adhar Card which is supported by the version of her husband that the applicant is residing at Ambikapur with her children. Birth Certificate and School Admission card of her children has also been annexed in support of the arguments. She submits that if the entire case of prosecution is taken as it is, no offence under Sections 498-A, 304-B and 306 of IPC, in the alternative under Section 302/34 IPC is made out against the applicant. The main allegation has been levelled by Rukmani Jaiswal (mother), Anil Jaiswal (brother) and Anita Prajapati (maid) which reveals that at the time of incident or before the incident the applicant was not present in the said house where the incident had

taken place. She submits that no specific overt act has been assigned against the applicant and that she has been made accused as she happens to be sister (*nanad*) of the husband of the deceased. Therefore, the order dated 4.01.2019 against the applicant be quashed and applicant be discharged from all the charges. The next contention of the counsel for the applicant is that if the entire case, which has been alleged against the applicant is considered in proper perspective then it would be clear that there is no *prima facie* and sufficient material available on record to take cognizance against the applicant. Thus, the order dated 4.01.2019 against the applicant be quashed and she be discharged from all the charges.

4. Learned counsel for the State vehemently opposed the prayer of the applicant and prayed for rejection of this revision petition.

5. Heard counsel for the parties and perused the order impugned including records of the case carefully.

6. If the entire case is taken as it is, then it would be clear that no overt act or specific allegation has been made and only omnibus and vague allegation has been made against the applicant. Nothing has been brought on record nor any incriminating circumstance is attributed to the aforesaid applicant which could be made the basis for her conviction. In the light of the statements, in the present case, the applicant has been roped only on the ground of being close relative i.e. sister of the husband of the deceased. For the fault of the husband, the in-laws or the other relations cannot, in all cases, be held to be involved in the demand of dowry. In cases where such accusations are made, the overt acts attributed to persons other than

husband are required to be proved, at least to show some prima facie case against them. It is clear from the statement of Anita Prajapati that on the date of incident, applicant was not present in her parental house and the allegation is against father-in-law, mother-in-law and husband of the deceased. The fact that parents of the deceased had not even mentioned name of the appellant and referred to her as "*Ambikapur wali nanad*" which is clear from the FIR and there is no specific allegation against the applicant. The purpose of criminal justice system is to deliver justice for all by convicting and punishing the guilt and helping them to stop offending, while protecting innocent and hence, it should not be used as a tool to take revenge or settle personal scores by anybody..

7. In the opinion of this Court, in absence of any allegation with regard to any specific overt act on the part of the applicant, the order taking cognizance against, is bad. In the present case, the trial court without considering the evidence available on record erred in framing the charges against the applicant. Hence, the revision filed by the applicant is allowed. It is held that there is no material for framing charges against the present applicant and she is discharged from the offences punishable under Sections 498-A, 304-B and 306 IPC in alternative under Section 302/34 IPC. Applicant is on bail. The surety and bail bonds shall stand discharged.

Sd/-

(Rajani Dubey)  
Judge

