

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 467 of 2013**

- Shyam Kumar Diwakar S/o Ram Ji Diwakar, Aged About 24 Years, R/o Village Birda, Police Station Korba, Civil and Revenue District Korba C.G., Chhattisgarh

---- Appellant**Versus**

- State of Chhattisgarh Through – Station House Officer, Police Station Korba, District Korba C.G., Chhattisgarh

---- Respondent

For Appellant : Mr. Nitesh Shrivastava, Advocate.

For Respondent/State: Ms. Madhuni Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on Board

17/01/2019

1. This appeal has been preferred against judgment dated 08-03-2013 passed in S.T. No.65/2012 by the Additional Session Judge Korba, District Korba, C.G. convicting the appellant under Section 304(B) and 306 of the IPC and sentencing him with R.I. for 7 years and R.I. for 7 years along with fine Rs.2000/- and Rs.2000/- with default stipulations and direction that both the jail sentences shall run concurrently.
2. The case of the prosecution, in brief, is this, that, marriage of this appellant and deceased Krishna Bai was performed on 13-10-2011. It was alleged that soon after the marriage the deceased was subjected to torture by this appellant and other in-laws for the reason that they were not satisfied with the dowry given and they had their own demand. Twice the meeting of caste society was held in which the appellant and his family were advised to behave, but

the behaviour of the appellant and his family members did not change. The deceased died under suspicious condition on 11-03-2012 regarding which a written report Ex.-P/10 was lodged by father of the deceased Samelal (PW-7), on that basis the FIR Ex.-P/11 was lodged registering the offences against the appellant and other co-accused persons. After completion of the investigation, charge sheet was filed.

3. The appellant and co-accused were charged with offence under Section 304B/34, in alternative under Section 302/34 of the IPC, in alternative under Section 306/34 of the IPC, to which they denied and prayed for trial.
4. On completion of the prosecution evidence, the appellant and the co-accused persons were examined under Section 313 of the Cr.P.C. in which they denied all the incriminating evidence brought against them by the prosecution, pleaded innocence and false implication. No witness was examined in defence.
5. On completion of the trial, the impugned judgment was passed in which the co-accused persons were acquitted from all the charges framed against them and this appellant has been convicted and sentenced as aforementioned.
6. It is submitted by learned counsel for the appellant that the prosecution has failed to prove the offence against the appellant, therefore, his conviction is bad in law. The deceased had in fact died natural death as the doctor has not given any opinion as to cause of death of the deceased and further, report of the FSL was also not received till end of the trial. The allegations made against

the appellant and co-accused persons were totally false regarding demand of dowry and cruel treatment. The evidence of the prosecution was the same on the basis of which the co-accused persons were not found guilty by the trial Court, hence, conviction of this appellant is totally erroneous and uncalled for. Therefore, it is prayed that the appellant was entitled for acquittal. However, it is submitted that the appellant has been released from jail after completion of his sentence of imprisonment including the remission in sentence given to him by the State Government, even then it is prayed that to restore the prestige of the appellant this appeal may be allowed.

7. Per contra, learned counsel for the State opposes the grounds raised in the appeal and the submission made by learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt. Therefore, the appeal may be dismissed.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Perused the entire evidence present in the record of the trial Court and after closely scrutinizing the same, I am of this opinion that the trial Court has not committed any error in convicting the appellant for the offences as aforesaid and in sentencing him accordingly. Therefore, this appeal is without any substance, hence, the same is accordingly dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
 Judge