

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 25-1-2019

Delivered on 8-3-2019

Criminal Appeal No. 1060 of 2012

- Dayalal Sahu s/o. Punaram Sahu, aged about 39 years r/o. Village Kanyadabri, Thana Devri, Distt. Durg (CG).

---- Appellant**Versus**

The State of Chhattisgarh Through Police Station Newra,
Dist. Raipur (CG).

---- Respondent

For the appellant : Mr. Samir Singh, Advocate

For the respondent/State : Mr. V.B.Singh, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. This appeal is directed against the judgment of conviction and order of sentence dated 8-11-2012 passed by the Additional Sessions Judge, Bhatapara, Distt. Raipur (CG) in Sessions Trial No. 1 of 2012 wherein the said Court convicted the appellant for the commission of offence under Section 306 of the IPC and sentenced him to undergo rigorous imprisonment for four years and to pay fine of Rs.500/- with default stipulations.

2. In the present case, name of the deceased is Chandrika Bai who committed suicide on 27-8-2011 by setting herself ablaze. As

per version of prosecution, present appellant has conveyed the message to local people frequently that he is having illicit relation with deceased Chandrika Bai. It is alleged that due to wide publicity by the appellant, deceased suffered grave mental agony which was sarcastic for her and looking to no option she ended her life. The matter was reported to the Police Station and after completion of investigation charge sheet was filed, the appellant did not plead guilty and the trial was conducted. After completion of trial, the trial Court convicted and sentenced the appellant as aforementioned.

3. Learned counsel for the appellant submits as under:

- I) Even if the evidence of the prosecution is taken as it is, the ingredients of Section 107 of IPC is missing in the case.
- II) There are major contradictions in the version of prosecution witnesses which do not prove the abetment on the part of the appellant for commission of suicide.
- lii) The trial Court has not evaluated the entire evidence in its true perspective, therefore, finding of the trial Court is liable to be set aside.

4. On the other hand, learned counsel for the State submits that the finding recorded by the trial Court is based on proper

marshaling of evidence and the same is not required to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the material available in the record.

6. PW/1 Megnath is father of the deceased. As per version of this witness, deceased worked in the brick-kiln of one Suresh Kunwar where appellant was also working. The appellant came to his house and asked this witness that he cannot live without deceased that is why he will take her from his house. This witness and other members of the family scolded him and thereafter he left the house of this witness. PW/3 Raju deposed that the appellant told him that he will keep the deceased as concubine and then he pushed the appellant from his house. PW/5 Kaushalya, PW/6 Saraswati Bai and PW/7 Harbans Singh deposed that the appellant teased the deceased while working on brick-kiln by catching her hand and he stated before this witness that he will keep the deceased as concubine.

7. From the statements of these witnesses it is established that the appellant followed the deceased frequently and harassed her and also defamed which was sarcastic for her that is why she set herself ablaze by pouring kerosene and lit the match stick. Evidence of all the witnesses is stable from first day of investigation

and they are firm before the trial Court. All the witnesses have been subjected to searching cross examination, but nothing could be elicited in favour of the defence. There is nothing to disbelieve their testimonies and there is nothing on record to say that the appellant has been roped in false charge. Looking to the constant act of the appellant it is clearly established before the trial Court that the appellant did the act of mischief against the deceased and defamed her in the locality that is why she ended her life because it is the appellant who had given mental pressure on deceased with high magnitude. It is also act of aiding to commit suicide. Therefore, argument advanced on behalf of the appellant that abetment on the part of the appellant is not established, is not sustainable.

8. Harbans Singh (PW/7) is Additional Tahsildar, Raipur and Executive Magistrate who recorded dying declaration of the deceased. As per dying declaration, the deceased stated that an hour before the incident appellant reached to the deceased and they had quarrel just before the incident and as per dying declaration, she committed suicide because of the quarrel between the appellant and her. Dying declaration itself is sufficient to establish that just before the incident the appellant had insulted the deceased that is why she ended her life.

9. Looking to the entire evidence, it is established that it is a case of abetment of suicide on the part of the appellant. The trial Court has elaborately discussed the entire evidence and this court has no reason to substitute contrary finding. Commission of abetment of suicide is an offence which is punishable under Section 306 of IPC for which the trial Court convicted the appellant. Conviction of the appellant is hereby affirmed. The trial Court awarded rigorous imprisonment for four years which cannot be termed as harsh, unreasonable or disproportionate. Sentence part is also not liable to be interfered.

10. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. The appellant is reported to be in jail, therefore, no further arrest for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

JUDGE

Raju