

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 372 of 2002**

1. Ghasiram S/o Malikram Nishad, aged about 45 years (**....Died**)
2. Rukhanibai Bai W/o Ghasiaram Nishad, aged about 38 years,
3. Anant Ram S/o Ghasiram Nishad, aged about 27 years, (**....Died**)
All R/o Village Saliabhata, P.S. Tamnar, Tahsil Ghargoda, Distt. Raigarh (C.G.).

----Appellants**Versus**

State of Chhattisgarh, through the District Magistrate Raigarh (C.G.).

---- Respondent

For Appellants	:	Mr. Ajay Mishra, Advocate
For Respondent	:	Mr. Shubham Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****23/01/2020**

1. This appeal has been preferred under Section 374 of Cr.P.C against the judgment dated 26/03/2002 passed in Sessions Trial No. 103/1996 by the Second Additional Sessions Judge, Raigarh, whereby the Appellants have been convicted under Sections 306 and 498-A of the IPC and sentenced to undergo RI for five years with fine of Rs. 200/- and RI for three years with fine of Rs. 200/-, respectively, with default stipulations.
2. This appeal has already been abated on behalf of Appellants Ghasiyaram and Anantram Nishad and now the same is being decided only for Appellant Rukhani Bai.
3. Facts of the case are that a written complaint Ex.P-1 was lodged by father of Deceased Dulhar (PW1), wherein it has been alleged that after the marriage, Appellant Anant Ram (now died), husband of the

Deceased used to beat and tortured the Deceased. On 15/03/1996, the Deceased poured kerosene and set herself on fire. On the basis of said report, FIR (Ex.P-2) was registered. During course of treatment on 15/03/1996 itself, C.R. Ratre (PW13) recorded the dying declaration of the Deceased. In her dying declaration, the Deceased disclosed that her husband used to beat her and her father-in-law and mother-in-law also used to abuse her, therefore, she has committed suicide. On these backgrounds, a charge sheet was filed. Trial Court framed the charges. As many as 16 witnesses have been examined. Statement of the Appellants under Section 313 of the Cr.P.C have been recorded, wherein they have pleaded their innocence and false implication in the matter. One defence witness has been examined namely Dani Ram (DW-1).

4. After completion of trial, the trial Court has convicted and sentenced the Appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submits that the Appellant has been wrongly convicted by the trial Court without there being any reliable evidence available on record. He further submits that if the contention of the dying declaration is taken as it is, yet no offence under Section 498-A or 306 of the IPC is established. There is no evidence available on record which shows that the Appellant has continuously tortured or instigated the Deceased to commit suicide. He further submits that Dular (PW1) and Sahodra Bai (PW2) had admitted that the Deceased was living separately from husband, therefore, any cruelty made by the Appellant is not established.

6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
8. In his Court statement Dulhar (PW1), father of the Deceased has deposed that after the birth of child of the Deceased, husband and mother-in-law of the Deceased started quarrel with her. A social meeting was also conducted in this regard in the village. After some time, he came to know that his daughter has burned herself, then he proceeded to hospital where the Deceased told him that her husband quarreled with her and committed Marpeet with her, therefore, she poured kerosene on herself and set her on fire. During cross-examination, this witness has admitted that both the Deceased and her husband were living separately and their food was being prepared separately. He further admitted that when her daughter firstly came to his house, she did not disclose about any quarrel. Sahodra Bai (PW2), mother of the Deceased also deposed in the same manner like Dulhar (PW1). She also admitted that the Deceased and her husband were living separately and were preparing food separately. She also admitted that mother-in-law and father-in-law of the Deceased were also residing separately. Kasturi Bai (PW3), one of the relative of the Deceased deposed that the Deceased was living well in her in-laws house. This witness has been declared hostile. C.R. Ratre (PW13) is the witness who recorded dying declaration of the Deceased. According to this witness, the Deceased told him that the husband of the

Deceased used to abuse her and her in-laws used to quarrel with her, and due to this harassment she has committed suicide by pouring kerosene and set herself on fire. All other witnesses are formal witnesses.

9. On minute examination of above evidence, it is clear that the Deceased got married with Anant Ram. On the date of incident, the Deceased poured kerosene on herself and set herself on fire. Later on she died. Though Dulhar (PW1) and Suhodra Bai (PW2) have deposed that the Appellants used to quarrel and abuse the Deceased, on what matter and where the quarrel took place there is no specific mention by them. Dulhar (PW1) further admitted that when her daughter came to his house, she never discussed about any quarrel with them. Both Dulhar (PW1) and Suhodra Bai (PW2) have admitted that mother-in-law and father-in-law of the Deceased were residing separately, therefore, their statement that the Appellant used to quarrel with the Deceased is not established. For the shake of argument, if it is admitted that there was quarrel took place between them, but only single incident has been told by both the witnesses. In the dying declaration also, there is no specific allegation against this Appellant and the Deceased has only told that her husband has abused her. Apart from this there is no evidence available on record against the Appellant, thus, offence under Section 306 and 498-A is not established and the finding of the trial Court is not in accordance with the evidence available on record and the said Court has wrongly convicted the Appellant.
10. Accordingly, the Appeal is allowed. The judgment of the trial Court is set-

aside. The Appellant is acquitted from the charge framed against him. It is reported that the Appellant is on bail. Her bail bond be discharged.

11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul