

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 106 of 2011**

- State Of C.G. Through District Magistrate, Distt.-Bilaspur, C.G.

---- Appellant**Versus**

1. Khemraj Singh, Aged about 27 years S/o Bisahu Singh Rajput.
2. Smt. Sahodara Singh, Aged about 48 years, W/o Bisahu Singh Rajput.

Both R/o Lakhasar, P.S.-Lormi, Distt.-Bilaspur, C.G.

---- Respondents

For State	:-	Shri R. Tripathi, PL
For Respondent/s	:-	Ms. Nirupama Bajpai, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Judgment On Board

By**Prashant Kumar Mishra, J.****07/02/2020**

1. This Acquittal Appeal would question the legality and validity of the impugned judgment of acquittal whereby the trial Court has acquitted the accused persons of the charges under Sections 498 and 304 B of the I.P.C.

2. Deceased - Bharti Rajput was married to respondent No.1 Khemraj Singh sometime in the year 2005. She sustained severe burn injury on 09.07.2008 and died in course of treatment on 12.07.2008. Alleging commission of cruelty in connection with demand of dowry an FIR was registered and thereafter charge sheet was filed against the respondent. In course of investigation PW-9 Gulab Sonwani, Constable of the concerned Police Station recorded the dying declaration Ex-D-4 wherein the deceased did not allege demand of dowry or commission of cruelty by the accused persons. She stated in the dying declaration that she sustained accidental burn injury while cooking meals at about 8:30-9 P.M. This dying declaration was witnessed and signed by Uma Singh and Veer Singh Netam. PW-4 Uneram, father of the deceased, admits that when they had gone to CIMS hospital to meet the daughter, Uma Singh was present in the hospital. He also admits that Uma Singh is his sister-in-law, thus, Uma Singh is Aunt (*Mausi*) of the deceased and her presence in the hospital was natural and probable.
3. There is no direct evidence of demand of dowry. There is no material that accused persons have ever made any demand before parents or other relatives of the deceased. Statement in this regard is of hearsay nature. Although, PW-4 Uneram has tried to make out a case of oral dying

declaration by the deceased but here also he fails to mention as to whether the deceased had named any of the respondent in her purported oral dying declaration.

4. Considering the evidence on record, we are satisfied that the view taken by the trial Court is one probable view on the basis of state of evidence on record.
5. In view of the settled legal position that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (See : **Khekh Ram Vs. State of Himachal Pradesh**, (2018) 1 SCC 202), we are of the opinion that the present is not a fit case for grant of leave to appeal, because, the view taken by the trial Judge emanates from the state of evidence on record and the same does not appear to be perverse.
6. For the foregoing we do not find any ground to entertain this application. Accordingly, the Acquittal Appeal deserves to be and is hereby dismissed.

SD/-
(**Prashant Kumar Mishra**)
Judge

SD/-
(**Gautam Chourdiya**)
Judge