

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 136 of 2004**

Rajesh Mishra, S/o Late Manharanlal Sharma, aged about 37 years, A Government Servant, R/o Near Shriram Hospital, Danganiya, Raipur (C.G.)

---- Appellant

Versus

State Of Chhattisgarh through the Station House Officer, Police Station Azad Chowk, Raipur (C.G.)

---- Respondent

For Appellant	:	Shri Roop Naik, Advocate
For State/Respondent	:	Shri Ajay Kumrani, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14.01.2020

1. This appeal has been preferred against the judgment dated 21.01.2004 passed in S.T. No.259 of 2003 by the 8th Additional Sessions Judge (Fast Track Court) Raipur (C.G.) wherein, the Appellant has been convicted under Section 498-A of IPC and sentenced to undergo RI for 03 years and to pay fine of Rs.1,000/- with default stipulation.
2. In this case date of the incident is 19.12.2002. According to the case of prosecution, about 1 ½ year prior to the date of incident marriage of the present Appellant was solemnized with the deceased Anuradha Mishra. After marriage, Appellant as well as his relatives used to torture the deceased on account of demand of dowry, due to which she committed suicide on 19.12.2002 and thereafter morgue was lodged. After morgue inquiry police has registered the offence. Statements under Section 161 of Cr.P.C have been recorded and after completion of investigation charge-

sheet was filed by the police. The learned Trial Court framed the charges under Section 304 (B) of IPC against the Appellant as well as other co-accused Brajesh Mishra (acquitted). The prosecution has examined as many as total 11 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C he denied his guilt and pleaded his innocence and false implication in the matter however, one defence witness has been examined by the Appellant. After completion of trial, Trial Court acquitted the co-accused and present Appellant for the charges under Section 304-B of IPC, however, Trial Court convicted the Appellant for the offence punishable under Section 498-A and sentenced him as mentioned in Para 01 of this judgment. Hence this appeal.

3. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant has already undergone about 13 months out of total jail sentence of 03 years, he has no criminal antecedent and he is facing the *lis* since 2002, i.e., for about 18 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 03 years, the Appellant has undergone about 13 months, he is facing the *lis* since 2002 and there is no criminal antecedent against him, I am of

the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him.

7. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
8. 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