

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 13-02-2020

Delivered on 05-03-2020

CRA No. 682 of 2007

- Jaikaran aged about 35 years, son of late Shri Paltu, resident of village Pandary, Police Station Marwahi, Dist. Bilaspur (CG).

---- Appellant

Versus

- State of Chhattisgarh through Police Station Marwahi, District Bilaspur (CG).

---- Respondent

 For Appellant : Ms. Preeti Jha Advocate
 appears as Amicus Curiae

For respondent/State : Mr. Ishwar Jaiswal, PL.

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

1. This appeal is preferred against the judgment of conviction and order of sentence dated 25-7-2007 passed by the Additional Sessions Judge, Pendra road (CG) in Sessions Trial No. 345 of 2006 wherein the said Court has convicted the appellant for commission of offence under Section 306 of the IPC and sentenced him to undergo rigorous imprisonment for seven years and to pay fine of Rs.100/-, with default stipulations.

2. In the present case, name of the victim is Om Bai who was wife of the appellant. The appellant was in habit of consuming liquor and he spent a lot of money for that purpose. The deceased

objected to his habit, but he did not heed her words and assaulted her repeatedly. Due to constant harassment deceased consumed poisonous substance and she was brought to hospital by her brother-in-law namely Lakhanlal (PW/6) but she died in the hospital during the course of treatment. The matter was reported and investigated. After completion of trial, the trial Court convicted and sentenced him as aforementioned.

3. Learned counsel for the appellant would submit as under:

- i) The trial court has not evaluated the entire evidence in its true perspective, statements of the prosecution witnesses are contradictory in nature and there are lot of omissions and contradictions but the trial court overlooked the same and recorded finding of conviction.
- ii The trial Court has not evaluated the evidence of appellant which is contrary to law, therefore, finding of the trial court is liable to be set aside.

4. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshalling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. In the present case, name of the appellant is mentioned as culprit in FIR (Ex.P/8) lodged at Police Station Marwahi. From the evidence of Somwati (PW/1) who is mother of the victim, Nardu (PW/2) who is father of the victim, Yadvendra @ Ajay Kewart (PW/3) who is son of the victim and Lakhanlal (PW/6) who is brother-in-law of the victim, it is established that the appellant used to beat the deceased and he was in habit of consuming liquor daily. Even, son of the appellant deposed against him regarding constant harassment. Brother of the appellant namely Lakhanlal (PW/6) also deposed before the trial court regarding harassment and beating. All the witnesses have been subjected to searching cross examination but nothing could be elicited in favour of defence. PW/7 Dr. Sheela Saha who conducted autopsy of the deceased recorded finding that deceased died due to consuming poisonous substance and her death is suicidal in nature.

7. From the entire evidence and looking to the totality of the fact it is clearly established that it is the appellant who instigated the deceased to commit suicide by constant harassment till her death. After assessing the evidence, this court has no reason to say that the appellant has been falsely implicated. There is no reason to disbelieve the evidence of prosecutrix and other witnesses. Argument advanced on behalf of the appellant is not sustainable. The act of the of the appellant falls within mischief of Section 306 of IPC for which the trial Court has convicted the appellant and same is hereby affirmed. The trial Court awarded RI for seven years for the said offence which cannot be termed as harsh or unreasonable or disproportionate. Sentence part is also not liable to be interfered with.

8. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed. As per report of jail authorities, the appellant has been released after full term from jail on 15-8-2010 after getting the benefit of remission, therefore, no further order for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju