

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 8 of 2013**

- Smt.Parvati Dewangan W/o Late Shri Shatrughan Dewangan Aged About 53 Years R/o Chandrapur, Poilce Station and Post Office, Chandrapur, Tah. Dabhara, Distt. Janjgir-Champa C.G. 495692

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station, Chandrapur, Distt. Janjgir-Champa C.G. 495692
2. Maya Ram Dewangan S/o Shiv Prasad Dewangan Aged About 73 Years
3. Smt. Purnima W/o Het Ram Dewangan Aged About 39 Years
4. Smt. Kamla Bai W/o Mayaram Aged About 67 Years

Respondent No.2 to 4 are R/o Dewanganpara Chandrapur, Police Station and Post Office Chandrapur, Tah. Dabhara, Distt. Janjgir-Champa C.G. 495692 (wrongly mentioned as P.S. Chandrapur)

---- Respondent

For Appellant	Mr. Ishwar Jaiswal, Advocate
For Respondent /State	Ms. Madhunisha Singh, Panel Lawyer

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mr. Justice Gautam Chourdiya****Order on Board by Prashant Kumar Mishra, J.****18/2/2020**

1. Under the impugned judgment dated 14.8.2012 passed by the Additional Sessions Judge, Sakti, District Janjgir-Champa (CG) in

Sessions Case No.253/2011, accused No.1 Suresh Dewangan has been convicted for the offence under Section 306 of IPC, against which, he has preferred Criminal Appeal No.784/2012 and three other accused namely Mayaram Dewangan, S/o Shivprasad Dewangan, aged about 73 years (accused No.2), Smt. Poornima, W/o Hetram Dewangan, aged about 39 years (accused No.2) and Smt. Kamlabai, W/o Mayaram, aged about 67 years, have been acquitted of the charges under Section 304-B in alternative under Sections 306 and 302 of IPC. The acquittal appeal is directed against this part of the judgment of acquittal.

2. Deceased Seema Dewangan, W/o Suresh Dewangan died of hanging during the intervening night of 12th and 13th of September 2011. They were married about 3 years prior to the date of the incident. In the FIR lodged by PW-2 Gangadhar Dewangan, brother of the deceased, allegation of commission of cruelty for demand of dowry was levelled against husband Suresh Dewangan (accused No.1) only.
3. The trial Court has also referred to the diary statement of Gangadhar Dewangan (PW-2), in which, he would make similar allegation against Suresh Dewangan (accused No.1) only. It has been observed by the trial Court that it appears, at a subsequent stage, diary statement was improved to make allegation against the acquitted accused, who are father-in-law, sister-in-law and mother-in-law respectively of the deceased.
4. Considering the material weakness in the prosecution case,

inasmuch as, the FIR, merged information and the possible addition/interpolation in the diary statement(s) containing allegation against the acquitted accused, it appears, the trial Court's finding while acquitting accused Nos. 2, 3 & 4 is a probable view in the matter.

5. Moreover, the trial Court has acquitted all the accused under Section 304-B in alternative under Section 302 of IPC, against which, the acquittal appeal has not been preferred either by the State or by the present appellant. Thus, the finding that the deceased did not die dowry death has now attained finality.
6. If there was no dowry death only such accused can be convicted for causing abetment to commit suicide against whom there is *prima facie* material in the record.
7. It has come in the evidence that on the date of the incident, it was accused Suresh Kumar Dewangan, who had assaulted the deceased pursuant to a dispute and in the said incident, the present acquitted accused persons (respondents 2 to 4 herein) have not participated.
8. In the above view of the matter, the acquittal appeal has no substance, it fails and is hereby dismissed at the motion stage itself.

Sd/-**Sd/-**

(Prashant Kumar Mishra)
Judge

(Gautam Chourdiya)
Judge