

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.268 of 2015**

- Bhuneshwar Uraon S/o Lalasay Uraon Aged About 32 Years R/o Village Kuchainamod, Imalichhapar, Ps Kusmunda, Distt. Korba, Civil And Rev. Distt. Korba C.G.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Kusmunda, Distt. Korba C.G.

---- Respondent

For the appellant :Mr. Manoj Kumar Sinha, AdvocateFor the Respondent/State :Mrs. Smita Jha, Panel Lawyer
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Judgment on Board****14.01.2020**

Heard.

1. The appeal is preferred against judgment dated 22.11.2014 passed by Additional Sessions Judge, Katghora, District-Korba, C.G., in Sessions Trial No.19/2013, wherein the said Court convicted the appellant for commission of offence punishable under Section 306 of I.P.C. and sentenced him to undergo R.I. for 10 years and fine of Rs.1000/- with default stipulation.
2. In the present case, the name of the deceased is Hemwati, who was wife of the appellant. As per autopsy report of the

deceased, she died due to shock of burn injuries. The statement of deceased was recorded by police officer on 8th of January, 2013, wherein she stated that due to constant assault and constant harassment by the appellant and due to his suspicion on her character, she committed suicide by pouring kerosene on her body and set her ablaze. The matter was reported and investigated and after completion of trial, the appellant was convicted as mentioned above.

3. Learned counsel for the appellant submits as under:-

The statement of witnesses are contradictory in nature and the same is not sufficient to establish abatement on the part of the appellant. The normal quarrel between wife and husband cannot be equated as intentionally adding for commission of suicide or instigation for the same. The trial Court has not evaluated the evidence properly, therefore, finding of the trial Court is liable to be set aside.

4. On the other hand, learned counsel for the State submits that finding of the trial Court is based on proper marshaling of evidence, which is not liable to be interfered with sby invoking jurisdiction of appeal.

5. Assistant Sub Inspector of Police namely Ganesh Ram Mahilange (P.W.-10) deposed before the trial Court that on 8th of January, 2013, the deceased Hemwati sustained burn injuries and he recorded her statement as per Ex.P/9.

As per version of this witness, the deceased made statement that appellant questioned her character for a long and assaulted her repeatedly. She further stated that on 8th of January, 2013, which is the date of incident, the appellant again assaulted her by questioning her character that is why she poured kerosene on her body and set her ablaze. Version of this witness is unrebutted during cross-examination.

6. From the other witnesses, harassment on the part of the appellant is established to whom the deceased informed regarding harassment.
7. Looking to the statement just before death of the deceased, which is made regarding cause of her death or as to circumstance of transaction which resulted in his death when the case in which the cause of that person's death comes into question is relevant as per Section 32 of the Indian Evidence Act, 1872 and looking to the nature of a statement which is cause of death of victim and further looking to the corroborative piece of evidence, the trial Court opined that it is the appellant, who instigated the deceased for the commission of suicide.
8. After going through the entire record, this Court has no reason to take a contrary view. Accordingly, the conclusion arrived at by the trial Court for offence under Section 306 of I.P.C. is hereby affirmed.

9. Heard on the point of sentence, the appellant is in jail since 24th of January, 2013 and he has suffered jail term of about 07 years, therefore, his sentence is reduced to period already undergone by him. The fine amount shall remain intact. He be set at liberty forthwith if not required in any other case.
10. With these modifications, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
JUDGE

Monika