

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through The Station House Officer Police Station Bhilai -3 District Durg Chhattisgarh

Versus

1. Smt. Bhumisuta Harpal W/o Suresh Bihari Harpal R/o Above The Bhagat Aata Chakki Laxminagar Police Station Newai District Durg Chhattisgarh.
2. Nishikant Harpal S/o Suresh Bihari Harpal R/o Above The Bhagat Aata Chakki Laxminagar Police Station Newai District Durg Chhattisgarh.

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For Applicant-State :- Mr. Rajendra Tripathi, PL

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

By

Prashant Kumar Mishra, J.

16/03/2020

1. On due consideration delay of 173 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01/2018, for condonation of delay in filing of the instant Cr.M.P. is allowed.

2. The trial Court has acquitted the accused persons of the charge under Section 304-B of the I.P.C.
3. Respondent No.1 Smt. Bhumisuta Harpal is the mother-in-law while respondent No.2 Nishikant Harpal is the husband of deceased – Pinky Harpal who committed suicide at her matrimonial home on 03.10.2013. During merg enquiry it was found that the accused persons were demanding second hand four wheeler in dowry, therefore, the FIR was registered on 01.11.2013.
4. The trial Court has acquitted the accused persons on the ground that there is no independent evidence about commission of cruelty in connection with demand of dowry. It has also been observed that there are inconsistencies in the diary statement and deposition of material witnesses. Moreover, there is delay in lodging the FIR and recording statements of witnesses. It has also been observed that in the statement of PW-4 Rajkumari (mother of deceased) there is no allegation of demand of dowry before the marriage or any demand directly made to this witness. Deceased's sister namely; Dolly Mahanand has been examined as PW-5, however, she would also not depose about demand of dowry directly made to her or that the deceased ever complained to her that she was subjected to such cruelty in connection with demand of dowry which drove her to commit suicide.
5. The trial Court has observed that there is lack of evidence as to whether the demand of second hand car was made in cash or by

asking for the vehicle. There is no evidence as to the extent of such demand, neither the name of brand nor company of the vehicle is mentioned. Thus, the trial Court has found allegation of demand of dowry of second hand car to be vague and unclear.

6. We have scrutinized the entire evidence to examine whether the trial Court's reasoning is borne out from the record. We have found nothing to indicate that the trial Court's finding is perverse. The trial Court's judgment is based on one probable view in the state of evidence on record, therefore leave to appeal is not permissible only because another view is also probable.
7. 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.
8. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge