

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 52 of 2020**

- The State Of Chhattisgarh Through Police Station Nawagarh, District Bemetara Chhattisgarh.

---- Applicant

Versus

1. Jaleshwar S/o Itawari Sahu Aged About 23 Years,
2. Dileshwar S/o Itwari Sahu Aged About 25 Years,
3. Itwari Sahu S/o Asha Ram Sahu Aged About 46 Years,
4. Agasiya Bai W/o Itwari Sahu Aged About 42 Years,
5. Tomin Bai W/o Dileshwar Sahu Aged About 22 Years

All R/o Villgae Bortara, Police Station - Nawagarh, District Bemetara Chhattisgarh.

---- Respondents

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.****13/01/2020**

1. On due consideration delay of 80 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01 for condonation of delay

occurred in filing of the Cr.M.P. is allowed.

2. The trial Court has acquitted the accused persons of the charges under Sections 498-A, 307 read with Section 34 of the I.P.C.
3. Victim- Neeta Sahu was married with accused – Jaleshwar on 23.04.2016. As per allegations, she was treated with cruelty for demand of dowry and was administered poisonous liquid on 26.12.2016.
4. In her deposition, the victim has made omnibus and vague statement on demand of dowry without specifying as to nature of the article or the cash amount which was demanded as dowry. Although, she speaks about administration of poisonous liquid by accused - Agasiya and other accused persons were present at the time of such incident, she is not stating that the other persons forced her to consume poison liquid. Accused - Agasiya aged about 42 years is mother-in-law of the victim whereas the victim herself is a young lady aged about 22 years. Learned trial Judge has rightly observed that if other accused persons had not caught hold of the victim at the time of incident it was not possible for accused- Agasiya alone to have succeeded in administering poisonous liquid.
5. Similarly, there is no evidence that the victim tried to resist such administration of poisonous liquid but yet the accused persons over-powered her to make her consume poison.
6. It is also to be seen that PW-8 Dr. S.P. Baghel has preserved

contents of the stomach of the victim for chemical examination to find out whether the victim was forced to consume any poisonous liquid, however, there is no FSL report available in the record.

7. Thus, there is no corroborating evidence proving presence of poisonous substance in the contents preserved for FSL examination.
8. Considering the evidence on record, we are satisfied that the view taken by the trial Court is one possible view in the matter and while recording such finding to acquit the accused persons, the trial Court has not recorded any perverse finding or reasoning.
9. 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 : **State of M.P. Vs. Bachhudas alias Balram and others**, (2007) 9 SCC 135), 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.
10. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-

(**Prashant Kumar Mishra**)
Judge

Ayushi

SD/-

(**Gautam Chourdiya**)
Judge