

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 2556 of 2000

1. Shivdas, S/o Bharat Satnami, aged about 24 years, R/o Village Khamhariya, Police Station Khamhariya, District – Durg, (M.P.) (now Chhattisgarh).
2. Rabendra, S/o Bharat Satnami, aged about 31 years, R/o Village Khamhariya, Police Station Khamhariya, District – Durg, (M.P.) (now Chhattisgarh).
3. Begum alias Sangita, wife of Shyamcharan Satnami, aged about 23 years, R/o Village Khamhariya, Police Station Khamhariya, District – Durg, (M.P.) (now Chhattisgarh).
4. Boondbai, widow of Bharat Satnami, aged about 60 years, R/o Village Khamhariya, Police Station Khamhariya, District – Durg, (M.P.) (now Chhattisgarh).

---- Appellants

Versus

- State of Madhya Pradesh (now Chhattisgarh).

---- Respondent

For Appellants	:	Shri Anand Gupta and Ms. Sharmila Singhai, Advocates
For State/Respondent	:	Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

17/03/2021

1. This appeal has been preferred against the impugned judgment dated 28/9/2000 passed in S.T. No. 251/97 by the Additional Sessions Judge, Bemetara, District – Durg, (M.P.) (now Chhattisgarh) wherein

appellants has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 498-A of the I.P.C.	R.I. for three years and fine of Rs.200/- with default stipulations.

2. Vide order dated 28/1/2019 passed by this Court, present appeal stands abated against appellant No.1 and 4 namely Shivdas and Boondbai respectively.
3. In the present case, name of the deceased is Rambai. Her marriage was solemnized with appellant No.1 namely Shivdas (died during pendency of this appeal) prior to 2-3 years of the alleged incident of committing suicide. Appellant No.2 namely Rabendra is the brother-in-law (*jeth*) and appellant No.3 namely Begum @ Sangita is the sister-in-law (*jethani*) of the deceased. According to the case of prosecution, deceased committed suicide by pouring kerosene and set herself ablaze. Merg intimation vide Ex.P-5A was registered. After merg inquiry, on the basis of inquiry report, F.I.R. vide Ex.P-2 was registered. Statement of witnesses were recorded under Section 161 of Cr.P.C. After completion of the investigation, a charge-sheet was filed. Trial Court framed charges under Sections 306 and 498-A of the I.P.C. To prove the guilt of the accused/appellants, prosecution has examined as many as 12 witnesses. One defence witness has been examined. Statement of appellants under Section 313 of the Cr.P.C. was recorded, wherein accused/appellants have pleaded innocence and false implication.

4. After completion of trial, the trial Court acquitted the appellants for the offence punishable under Section 306 of the I.P.C. and convicted and sentenced the appellants as mentioned in paragraph 1 of this judgment. Hence, this appeal.
5. Learned Counsel appearing on behalf of the appellants submit that appellant No.2 and 3 namely Rabendra and Begum @ Sangita respectively are innocent and are falsely implicated in the present case. They further submit that trial Court has wrongly convicted the appellants without there being sufficient and clinching evidence against them. They further submit that trial Court has itself assumed that no case is made out against appellants, though trial Court has convicted appellants mere on the ground that appellant No.3 Begum @ Sangita had illicit relationship with the husband of the deceased. Therefore, conviction of the appellants is not sustainable.
6. Per contra, learned Counsel appearing for the State supports the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing for the parties, perused the record and statements of witnesses minutely.
8. Bimla Bai (PW-1), mother of the prosecutrix in her Court statement has deposed that appellant No.3 Begum Bai @ Sangita bit on the cheek of the deceased. There is no explanation about how and when said incident occurred. She further deposed that her daughter (deceased) had told her that appellant No.3 Begum Bai @ Sangita had illicit relationship with husband of the deceased i.e. appellant No.1. During

cross-examination, she stated that deceased only had suspicion and mere on that basis she used to say that husband of the deceased had illicit relationship with Begum Bai @ Sangita. She further admitted the fact that deceased despite knowing the fact about illicit relationship, she never said anything to her or her husband i.e. appellant No.1 Shivdas. Bhagwat (PW-2), father of the deceased, has not stated anything specifically, he only deposed that deceased had told her mother Bimla Bai (PW-1) about the illicit relationship between Shivdas and Begum Bai @ Sangita. Prosecution does not get any support from the statements of the above witnesses. Dulari (PW-3), aunty of the deceased, has also admitted the fact that since after the marriage, deceased had doubt regarding illicit relationship between Shivdas and Begum Bai @ Sangita.

9. On a minute examination of statements of the above witnesses, it becomes clear that no one has stated anything specific against appellant No.2 Rabendra. Allegation against appellant No.3 Begum @ Sangita is that, deceased had doubt about illicit relationship between her husband Shivdas and Begum. Even if there was illicit relationship between Shivdas and Begum, no clinching evidence is available on record regarding the same. For the sake of argument, if we assume that there was illicit relationship, then also, this is not sufficient ground for deceased to commit suicide. In present case, appellant No. 2 & 3 namely Rabendra and Begum @ Sangita cannot be held guilty for the offence punishable under Section 498-A of the I.P.C. Looking to the evidence adduced by the prosecution, in my considered view, conviction of the appellants No. 2 and 3 namely Rabendra and Begum @ Sangita respectively, made by the trial Court is not sustainable.

10. Consequently, appeal is allowed. The conviction and sentence of the appellants No. 2 and 3 namely Rabendra and Begum @ Sangita respectively is set aside and they are acquitted of the charge framed against them under Section 498-A of the I.P.C.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge