

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 19 of 2020**

- Shravan Netam, S/o Shri Baliram Netam, aged about 45 Years, R/o Village Urputi, Police Station Keregaon, District Dhamtari, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh, Through Police Keregaon, District Dhamtari, Chhattisgarh.

---- Respondent

For Appellant	Mr. Mayank Chandrakar, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board

06/12/2021

1. This appeal arises out of the judgment of conviction and order of sentence dated 10.12.2019 passed by the Sessions Judge, Dhamtari, (C.G.) in Sessions Trial No. 29/2019, whereby the appellant stands convicted and sentenced as under:-

Conviction	Sentence
Under Section 306 of Indian Penal Code (for short 'IPC')	Rigorous imprisonment for five years & fine of Rs.1,000/- in default of fine further R.I. for one month.

2. The brief facts of the case are that the marriage between the deceased Amin Netam and appellant/accused Shravan Netam was solemnized in the year 1994 as per Hindu rituals and customs. After 15 years of marriage, appellant started suspecting that the deceased has illicit relationship with another man, on account of this, deceased

used to remain mentally disturbed and there used to be quarrel between the husband and wife. On 01.03.2019 at about 9:00 pm, appellant quarreled with the deceased regarding her character and ill-treated her and when she could not tolerate this persistent torture, the deceased poured kerosene oil on her body and set herself ablaze. Thereafter, deceased was admitted in the hospital for treatment where dying declaration of the deceased Ex.P-8 was recorded by PW-8 Lalit Kumar Chandrakar, Nayab Teshildar. During treatment, the deceased succumbed to the burn injuries. Upon receiving the information regarding death of the deceased, PW-13 Ramesh Sahu, Sub-Inspector registered the mere intimation Ex.P-18 and on the basis of mere intimation, FIR Ex.P-9 was registered.

3. Inquest report (Ex.P-2) was prepared. Spot map (Ex.P-10) was prepared. Postmortem on the dead body of the deceased was conducted by PW-15 Dr. Rajesh Suryavanshi and he gave postmortem report vide Ex.P-18, wherein he opined that the deceased died on account of hypovolumic shock and there was 90-95 superficial burn injuries and the death was caused within 8-20 hours prior to postmortem examination. During investigation, one match box, broken necklace, piece of sari, two burnt plastic slippers and one chimney were seized from the spot vide Ex.P-5. Accused/appellant was arrested vide Ex.P-11.
4. After completion of investigation, charge sheet was filed against the appellant under Section 306 of IPC followed by framing of charge accordingly by the trial Court, which was denied by him and he prayed for trial.

5. So as to hold the accused/appellant guilty, the prosecution examined as many as 15 witnesses i.e. PW-1 Ramadeen, PW-2 Sukhchand Netam, PW-3 Jayantri Bai Mandavi, PW-4 Sanjay Mandavi, PW-5 Satrupa, PW-6 Rajendra Kumar, PW-7 Shakun Bai Yadav, PW-8 Bhupesh Kumar Chandrakar, PW-9 Nehru Ram, PW-10 Lokesh, PW-11 Salik Yadav, PW-12 Gondlal Sahu, PW-13 Ramesh Sahu, PW-14 Kummaj Kunjam and PW-15 Dr. Rajesh Suryavanshi. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he denied the incriminating circumstances appearing against him in the prosecution case, pleaded innocence and false implication. However, no defence witness was examined by him.
6. The trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment convicted and sentenced the appellant as mentioned in para-1 of this judgment.
7. Learned counsel for the appellant submits that the trial Court without appreciating the evidence adduced by the prosecution wrongly held the appellant guilty. There is no evidence to prove that the appellant provoked the deceased to commit suicide. He submits that the trial Court wrongly interpreted dying declaration of deceased. He also submits that marriage of the deceased with the appellant was solemnized in the year 1994 and deceased committed suicide in the year 2019 and during this period, she had never complained about the assault, quarrel or ill-treatment given by the appellant. No independent witness has supported the prosecution case. The trial Court only on the basis of conjectures and surmises has held the appellant guilty and therefore, the impugned judgment is liable to be set aside and the

appellant be acquitted of the charge levelled against him.

8. On the other hand, supporting the impugned judgment learned counsel for the State submits that conviction and sentence of the accused/appellant are strictly in accordance with law and there is no illegality or infirmity in the same warranting interference by this Court.
9. Heard learned counsel for the parties and perused the material available on record.
10. It is not disputed that deceased was married with appellant in the year 1994 and two children were born out of their wedlock. There is no dispute regarding the death of deceased due to burn injury. This fact is proved by the prosecution as per inquest report and the postmortem report. It is also proved by prosecution that after 25 years of marriage deceased committed suicide.
11. As per Ex.P-8 Dying declaration of the deceased she has specifically levelled allegation against the present appellant by saying that appellant used to quarrel with her and ill-treat her on the suspicion of having an affair with another person and for that reason she used to remain tense and committed suicide by pouring kerosene on her body and set herself ablaze. She also stated that “मेरा पति मुझे आग लगते देखता रह गया और बचाने भी नहीं आया वह अपने स्थान उठा भी नहीं।”. Dying declaration of the deceased has been proved by PW-8 Lalit Kumar Chandrakar, Nayab Teshildar and there is no reason to disbelieve the dying declaration of the deceased.
12. PW-15 Dr. Rajesh Suryavanshi conducted the postmortem of the deceased vide Ex.P-8 and gave his report as mentioned in the

preceding paragraph. He has duly proved the said report.

13. PW-1 Ramadeen is the father of the deceased. He has stated in paras 4 & 5 of his deposition that the appellant used to quarrel with the deceased, suspecting her character and ill-treat her and when she (deceased) lost her patience, she poured kerosene oil on her body and set herself ablaze. He also stated that before the incident number of times he had pacified the dispute between appellant and the deceased and for this village meeting was also held. He further stated in para 6 of his deposition that appellant was suspecting that the deceased has illicit relationship with another man on account of this she used to remain mentally disturbed and therefore she committed suicide.
14. PW-2 Sukhchand Netam is the son of the deceased. He has stated the same facts as stated by PW-1 Ramadeen. He also states that appellant used to quarrel with the deceased and also assault her.
15. PW-3 Jayantri Bai Mandavi is the mother of the deceased. He has supported the statements of PW-1 Ramadeen and PW-2 Sukhchand Netam.
16. PW-4 Sanjay Mandavi is the independent witness. He has proved this fact that appellant used to beat the deceased on the suspicion of having an affair with another person. He also stated that deceased herself told him that appellant used to quarrel with her and suspect her character and when she could not tolerate the ill-treatment given by the appellant, she poured kerosene oil on her body and set herself ablaze.
17. PW-8 Bhupesh Kumar Chandrakar, Nayab Teshildar, has recorded the

dying declaration of the deceased and duly proved the same.

18. PW-5 Satrupa, PW-6 Rajendra Kumar and PW-7 Shakun Bai have turned hostile and not supported the prosecution case.
19. PW-9 Nehru Ram and PW-14 Kummaj Kunjam are the hearsay witnesses. They have not specifically stated anything about the incident.
20. PW-10 Lokesh is the witness of the seizure Ex.P-5 and the spot *panchnama* vide Ex.P-6.
21. PW-11 Salik Yadav, the Investigating Officer, has duly supported the prosecution case.
22. PW-12 Gondlal Sahu, Assistant Sub-Inspector, duly assisted in the investigation and supported the prosecution case.
23. PW-13 Ramesh Sahu, Sub-Inspector, recorded the merg intimation of the deceased vide Ex.P-18 and seized the burnt articles from the spot vide Ex.P-5 and duly proved the same.
24. Thus, close scrutiny of the entire evidence available on record, oral and documentary, the medical evidence, the statements of the supporting witnesses i.e. PW-1 Ramadeen, PW-2 Sukhchand Netam, PW-3 Jayantari Bai Netam, PW-4 Sanjay Mandavi and PW-8 Bhupesh Kumar Chandrakar, in particular the dying declaration (Ex.P-8) of the deceased go to show that on the suspicion of having an affair with another person, appellant used to quarrel with her, ill-treat her and assault her to such an extent that the deceased was left with no other option but to put an end to her life by setting herself ablaze after pouring kerosene on her body. The deceased in her dying declaration (Ex.P-8) has categorically stated about the act of the appellant and the

defence has failed to bring on record anything which could lead this Court to take a different view from the learned trial Court that the appellant is guilty of commission of offence under Section 306 of IPC.

25. On the basis of aforesaid discussions, this Court is of the opinion that the prosecution has been successful in proving the guilt of the appellant under Section 306 of IPC beyond all reasonable doubt. In these circumstances, conviction of the appellant under Section 306 of IPC deserves to be upheld.

26. As regards the quantum of sentence, considering the facts and circumstances of the case, the fact that the incident took place in the year 2019, the appellant is the first offender having no criminal antecedents, this Court is of the opinion that ends of justice would be served if the jail sentence of five years R.I. is reduced to four years R.I. while keeping the fine amount with default sentence as imposed by the trial Court intact.

27. In the result, the appeal is allowed in part. While maintaining conviction of the appellant under Section 306 of IPC, his jail sentence thereunder is reduced from five years R.I. to four years R.I. However, the fine amount with default sentence as imposed by the trial Court is maintained.

28. The appellant is reported to be in jail for the last two years and eight months. Let him remain inside to serve out the remainder of the sentence.

Sd/-
Gautam Chourdiya
Judge