

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 46 of 2000**

- Gharbharan, S/o Shivratan, Caste – Gond, aged about 25 Years, Occupation Agriculture, R/o Village Podipa, P. S. Ambikapur, District Surguja, Chhattisgarh.

---- Appellant**Versus**

- The State of Madhya Pradesh (Now Chhattisgarh), Through P.S. Ambikapur, District Surguja, Chhattisgarh.

---- Respondent

For Appellant	:	Shri Rishi Mahobia on behalf of Shri A.K. Prasad, Advocates.
For State/Respondent	:	Shri Priyanshu Gupta, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board**26/03/2021**

- This appeal has been preferred against the impugned judgment dated 23/11/2000 passed in S.T. No. 220/99 by the 2nd Additional Sessions Judge, Ambikapur, District - Surguja, (M.P.) (now Chhattisgarh) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 306 of the I.P.C.	R.I. for six years and fine of Rs.200/- with default stipulations.

- In the present case, appellant is the husband of deceased Sanmet Bai.

Date of incident is 19.01.1999. Prior to 13 months of the alleged incident, there marriage was solemnized. Allegedly, after the marriage, appellant and other accused persons Muto (mother-in-law) and Basanti (sister-in-law) of the deceased, used to torture her on account of demand of dowry, due to that on 19.01.1999, deceased in her paternal house, committed suicide by hanging herself. Merg intimation was lodged by Jaglal (PW-1) i.e. father of deceased vide Ex.P-1. An inquest proceeding was conducted vide Ex.P-9. *Post-mortem* of dead body of deceased was conducted by Dr. M.K. Jain (PW-10). His report is Ex.P-6. After merg inquiry, on the basis of inquiry report, F.I.R. was registered vide Ex.P-7. After completion of investigation, a charge-sheet was filed against appellant and co-accused Muto (mother-in-law) and Basanti (sister-in-law) of the deceased. Trial Court framed charges under Sections 498-A and 306/34 of the I.P.C. against all the accused persons. To prove the guilt of the accused/appellants, prosecution has examined as many as 13 witnesses. No defence witness has been examined. Statement of appellant under Section 313 of the Cr.P.C. was recorded, wherein appellant has pleaded innocence and false implication.

3. After completion of trial, the trial Court acquitted the co-accused persons i.e. Muto (mother-in-law) and Basanti (sister-in-law) of the deceased from all the charges framed against them and also acquitted the appellant from charge under Section 498-A of the I.P.C. However, the trial Court convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. Learned Counsel appearing on behalf of the appellant submit that

appellant is innocent and is falsely implicated in the present case. He further submits that trial Court has wrongly convicted the appellant without there being sufficient and clinching evidence against him. Therefore, conviction of the appellant is not sustainable. It is further argued by the Counsel that trial Court itself has arrived on the conclusion that, in this case, prosecution has failed to prove that any cruelty defined under Section 498-A of the I.P.C. has been committed by any of the accused persons with the deceased. Therefore, trial Court has acquitted all the accused persons from the offence punishable under Section 498-A of the I.P.C. Trial Court has convicted the appellant only on the ground that on 19.01.1999, at the matrimonial house of the deceased, appellant committed mar-pit with the deceased in front of her parents, therefore, deceased committed suicide. But in there statements, Jaglal (PW-1) and Sanjho Bai (PW-2), father and mother of deceased respectively, have not stated anything regarding mar-pit. Inspite of that, trial Court has arrived on the conclusion that in front of these witnesses, appellant committed marpit with the deceased, which is not in accordance with the evidence available on record. Thus, conviction of the appellant is not sustainable.

5. 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.
6. I have heard learned Counsel appearing for the parties, perused the record and statements of witnesses minutely.
7. There is no dispute on the point that deceased had committed suicide in her matrimonial house on 19.01.1999. After examining the

statements of witnesses, trial Court itself has arrived on the conclusion that prosecution has failed to prove that any cruelty as defined under Section 498-A of the I.P.C. has been committed by the appellant as well as by co-accused persons with deceased. Therefore, the trial Court has acquitted the appellant as well as co-accused persons from charge under Section 498-A of the I.P.C.

8. Also, perused the impugned judgment passed by the trial Court. In paragraph 24 and 25 of the said judgment, the trial Court arrived on the conclusion that on 19.01.1999, at village Keshavpur (paternal village i.e. *mayka* of deceased) committed marpit with the deceased in front of her parents, due to that deceased committed suicide. Thus, on perusal of statements of Jaglal (PW-1) and Sanjho Bai (PW-2), father and mother of deceased respectively, it reveals that in their Court statements, they have stated nothing in this regard. There is nothing found in their statements, on the basis of which it can be said that appellant had committed marpit with deceased in front of them. Thereafter, due to this reason only, deceased committed suicide. Though, PW-3 (Mankanwar) neighbour of parents of deceased, deposed that appellant pulled the hair of his wife (deceased) in front of her but parents of deceased have not stated anything in this regard. If such incident would have occurred as stated by Mankanwar (PW-3), then parents of the deceased would have stated the same, but they have not stated anything. Therefore, on the date of incident i.e. 19.01.1999, appellant had committed mar-pit with the deceased, no such conclusive evidence is available on record in this regard. Therefore, it appears that findings of the trial Court is not in accordance with the evidence available on record. Thus, findings of

conviction of appellant is also not in accordance with the evidence available on record. Therefore, conviction of the appellant is not sustainable.

9. Consequently, appeal is allowed. The conviction and sentence of the appellant is set aside and he is acquitted of the charge framed against him.
10. 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