

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1140 of 2017

- Smt. Baso W/o Late Ramdas aged about 65 years, R/o Village Rajkheta (Ghutarapara), Police Chowki Wadrafnagar, Police Station Basantpur, District Balrampur- Ramanujganj, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Basantpur District Balrampur, Ramanujganj, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Jitendra Kumar Saxena, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

23/06/2021

1. By the impugned judgment dated 02/03/2017 passed in Session Trial No. R-63/2016 by the learned Additional Sessions Judge Ramanujganj, District Surguja (C.G.), the Appellant has been convicted for the offence punishable under Section 314 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 100/-, with default stipulation.
2. According to the case of prosecution, on 06.12.2015 at about 12:30 PM, the Appellant inserted some medicines (jadibuti) in private part of the deceased Anita Agariya in order to cause miscarriage as she was having pregnancy, due to which she died. Thereafter, morgue was lodged. On the basis of morgue report, FIR has been registered.

Later on statements of witnesses have been recorded under Section 161 of the Cr.P.C. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 9 witnesses. No defense witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein she has pleaded her innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Ambikapur Surguja (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon her by the Trial Court and already released from jail on 21.02.2020.
5. Learned Counsel appearing for the Appellant would submit that without there being any clinching and reliable evidence available on record, the Trial Court has convicted the Appellant. He further submits that there are material contradiction and omissions occurred in the statement of the witnesses and by ignoring these facts, the Trial Court has wrongly convicted the Appellant.
6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the Trial Court is just and proper and requires no interference.
7. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction. I have also gone through the statements of the witnesses.

8. From the statement of Ramprakash (PW-1) husband of the deceased, Smt. Kaleshwari (PW-2) mother of the deceased and Ameer Singh (PW-3) brother of the deceased, it is well established that at the time of incident, the deceased was carrying pregnancy of about 2-3 months. From the statement of above witnesses, it is also well established that Smt. Kaleshwari (PW-2) has taken the deceased to the Appellant for abortion. From the evidence available on record, it is also established that for the purpose of abortion of the deceased, the Appellant inserted some medicines (jadibuti) inside the vagina of the deceased. The statement of above witnesses, were not duly rebutted during their cross-examination. Dr. KR Tekam (PW-9), who conducted postmortem of the deceased has categorically opined that due to insertion of medicines in her vagina and by rupture of lungs, the death of the deceased was caused. The above opinion given by the Doctor has also not been duly rebutted during his cross-examination. Thus, it is well established that the Appellant has negligently inserted medicines (jadibuti) inside the vagina of the deceased for the purpose of abortion, due to which the deceased has died.
9. Thus, finding of the Trial Court is accordance with the evidence available on record and the Trial Court has rightly convicted the Appellant.
10. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge