

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRR No. 821 of 2012

- Lobhan Verma S/o Shri Ghasiya Verma Aged About 48 Years R/o Village Kanhera, Post Office Khandsara, PS - Bemetara Distt. Durg C.G.

---- Applicant

Versus

- 1.State Of Chhattisgarh Through SHO, Bemetara Distt. Durg C.G.
- 2.Rohit Verma S/o Dhruv Verma Aged About 28 Years R/o Padumsara, PS Bemetara, Distt. Durg C.G.
- 3.Dhruv Verma S/o Jhagru Verma Aged About 48 Years R/o Padumsara, PS Bemetara, Distt. Durg C.G.
- 4.Indra Bai D/o Dhruv Verma Aged About 30 Years R/o Padumsara, PS Bemetara, Distt. Durg C.G.
- 5.Milapa Bai W/o Dhruv Verma Aged About 45 Years R/o Padumsara, PS Bemetara, Distt. Durg C.G.
- 6.Santoshi Bai D/o Dhruv Verma Aged About 29 Years R/o Padumsara, PS Bemetara, Distt. Durg C.G.

---- Respondents

For Applicant	:	Shri Ajay Chandra, Advocate
For State	:	Shri Sanjay Pathak, Panel Lawyer

D.B.:- Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Justice Arvind Singh Chandel

Order On BoardArvind Singh Chandel, J.11/11/2021

1. Heard on I.A.No.1/12, application for condonation of delay in filing the criminal revision.

2. The revision is delayed by 168 days.

3. After hearing learned counsel for the parties and considering the fact that earlier, the applicant had filed CrMP against impugned judgment of acquittal which was withdrawn on 13/04/2010, delay in filing this revision is condoned.

4. Heard on admission.

5. Invoking jurisdiction under Section 397 read with Section 401 of the CrPC, this revision has been preferred by the applicant questioning the judgment of acquittal passed by the Additional Sessions Judge, Bemetara, District – Durg (CG) on 22/08/2009 in Sessions Trial No.287/06.

6. According to the case of the prosecution, the deceased Rani @ Indrani Bai was married to accused/Rohit Verma in the year 1999. After marriage, the deceased was harassed by her husband, mother-in-law, father-in-law and sister-in-laws in connection with demand of dowry and finally, she committed suicide by burning herself. The matter was reported to the police and offence was registered against the respondents/accused under Section 304(B) of IPC. After filing of charge sheet before the Court of Additional Chief Judicial Magistrate, Bemetara,

criminal case was registered against all the accused/respondents. After committing the case to the Court of Sessions Judge, Bemetara, charges were framed against them under Section 304(B) IPC and they were prosecuted for the said offence. In order to prove its case, the prosecution examined as many as 12 witnesses.

7. After appreciating oral and documentary evidence on record, learned Trial Court acquitted the respondents / accused vide order dated 22/08/2009 extending benefit of doubt holding that the prosecution has failed to prove its case beyond reasonable doubt, against which, this criminal revision has been filed by the father of the deceased.

8. Learned counsel for the applicant submits that the learned Trial Court is absolutely unjustified in acquitting the respondents herein extending benefit of doubt holding that the prosecution did not prove its case under Section 304-B of IPC beyond reasonable doubt. Learned Trial Court has acquitted the respondents by recording totally a perverse finding overlooking the material available on record and as such, the judgment of acquittal is based on totally irrelevant consideration omitting the admissible evidence available on record. Therefore, the judgment of acquittal deserves to be set aside and the matter may be remitted to the Trial Court

for re-trial/fresh consideration.

9. On the other hand, Mr. Sanjay Pathak, learned State counsel, would submit that the scope of revision against the judgment of acquittal is extremely limited and would not go beyond the permissible ground as mentioned by the Supreme Court in the matter of **Sheetala Prasad and others v. Sri Kant and another**¹ and as such, learned Trial Court has rightly held that it is the case where no offence has been committed by present respondents and even otherwise, benefit of doubt has rightly been extended to them in view of the fact that they have falsely been implicated in the crime in question by the applicant. He would also rely upon the judgment of the Supreme Court in the matter of **Logendranath Jha and others v. Shri Polai Lal Biswas**² (para-7).

10. We have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.

11. In order to judge the correctness of the judgment of acquittal recorded by the trial Court, it would be appropriate to notice the categories exhaustive on which the revisional jurisdiction can be exercised by this

¹ (2010) 2 SCC 190

² AIR 1951 SC 316

Court at the instance of a private complainant, which has been authoritatively laid down by Their Lordships of the Supreme Court in **Sheetala Prasad** (supra) in which, in para-12, Their Lordships have laid down the categories on which this Court can exercise the revisional jurisdiction filed at the instance of a private complainant.

12. In the matter of **Sheetala Prasad** (supra), it has been held that this Court can exercise the revisional jurisdiction (i) where the trial Court has wrongly shut out evidence which the prosecution wished to produce, (ii) where the admissible evidence is wrongly brushed aside as inadmissible, (iii) where the trial court has no jurisdiction to try the case and has still acquitted the accused, (iv) where the material evidence has been overlooked either by the trial court or the appellate court or the order is passed by considering irrelevant evidence, and (v) where the acquittal is based on the compounding of the offence which is invalid under the law. Their Lordships observed as under:-

"12. The High Court was exercising the revisional jurisdiction at the instance of a private complainant and, therefore, it is necessary to notice the principles on which such revisional jurisdiction can be exercised. Sub-Section (3) of Section 401 of Code of

Criminal Procedure prohibits conversion of a finding of acquittal into one of conviction. Without making the categories exhaustive, revisional jurisdiction can be exercised by the High Court at the instance of private complainant

(1) where the trial court has wrongly shut out evidence which the prosecution wished to produce,

(2) where the admissible evidence is wrongly brushed aside as inadmissible,

(3) where the trial court has no jurisdiction to try the case and has still acquitted the accused,

(4) where the material evidence has been overlooked either by the trial court or the appellate court or the order is passed by considering irrelevant evidence and

(5) where the acquittal is based on the compounding of the offence which is invalid under the law.

15. The High Court has further concluded that no offence punishable under Section 324 IPC is committed by the appellants. This finding could have been recorded only in an appeal filed by the appellants. In the face of prohibition contained in Section 401(3) of the Code of Criminal Procedure, it was all the more incumbent upon the High Court to see that it does not convert the finding of acquittal into one of conviction by the indirect method. Further, the matter is remitted to the learned Additional Sessions Judge for the purpose of passing fresh order of conviction and imposition of sentence on the appellants in the light of what is observed in the impugned judgment."

13. In **Logendranath Jha** (supra), the Supreme Court has held that the High Court, while dealing with a revision

petition by a private party against an order of acquittal, cannot interfere to it in absence of error on point of law.

14. Reverting to the facts of the present case in the light of the aforesaid judgment delineating the scope of interference in the judgment of acquittal recorded by the learned Trial Court, it would appear that learned Additional Sessions Judge, while acquitting the respondents, has recorded following findings -

(i) That, the marriage of the deceased was solemnized in April, 1999 whereas the death of deceased Rani @ Indrani Bai took place on 15/06/2006 which is beyond the period of 7 years as contained under Section 304 (B) of IPC.

(ii) That, in the dying declaration, the deceased did not make any charge upon the respondents herein and that the prosecution did not examine Ms. Neha (daughter of the deceased) as she was the eye witness of the incident as stated by the prosecution witness Lobhan Verma (PW6), father of the deceased and applicant herein.

(iii) That there is no evidence on record to hold that the deceased was subjected to cruelty soon before her death on account of demand of dowry.

15. We have carefully considered the submission of learned counsel for the parties and evidence available

on record. Learned Trial Court, after appreciating oral and documentary evidence on record, came to the conclusion that the death of Rani @ Indrani Bai happened after 7 years of her marriage and in her dying declaration, she did not make any allegation against the respondents herein and the eye witness (her daughter – Neha) has not been examined and further, finding has been recorded that there is no material evidence to hold that soon before her death, the deceased was subjected to cruelty in connection with demand of dowry. The abovestated findings recorded by the learned Trial Court are duly supported by material available on record. Those findings are neither perverse nor contrary to records.

16. On the basis of aforesaid analysis, we are of the considered opinion that the applicant has failed to make out a case in terms of para-12 (1 to 4) of **Sheetala Prasad's** case (supra) to warrant interference in the judgment of acquittal passed by learned Additional Sessions Judge and there is no error of law in the order of acquittal. We do not find any merit in this criminal revision.

17. Accordingly, the criminal revision deserves to be

and is hereby dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

Sd/-

(Arvind Singh Chandel)
Judge

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