

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No.473 of 2014

Arvind Chouhan and others **Versus** State of Chhattisgarh

DB

Hon'ble Shri Justice Sanjay K. Agrawal and

Hon'ble Shri Justice Arvind Singh Chandel

Final	
17/11/2021	Mrs. Savita Tiwari, counsel for the appellants. Mr. Ravish Verma, Govt. Advocate for the State/respondent. Mr. A.K. Samantray and Mrs. Aditi Singhvi, Advocates appear as <i>amicus curiae</i>. Heard. When the matter is taken-up for final hearing, learned counsel for the appellants submits that appellant No.2 Darasram died on 28-2-2021 and death certificate has been brought on record. In that view of the matter, the appeal against appellant No.2 Darasram stands abated. The criminal appeal so far as it relates to appellants No.1 & 3 is heard. Judgment passed separately. Signed and dated. Sd/- (Sanjay K. Agrawal) Judge Sd/- (Arvind Singh Chandel) Judge

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.473 of 2014

{Arising out of judgment dated 10-4-2014 in Sessions Trial No.220/2012 of the 2nd Additional Sessions Judge, Sakti}

1. Arvind Chouhan, S/o Darasram, aged about 23 years,
2. Darasram, S/o Karmuram Chouhan, aged about 42 years,
3. Smt. Dori Bai, W/o Darasram Chouhan, aged about 42 years

All R/o Village Hardi, Police Station Chandrapur, Civil and Revenue District Janjgir-Champa (C.G.)

---- Appellants

Versus

State of Chhattisgarh, through Station House Officer, Police Station Chandrapur, Civil and Revenue District Janjgir-Champa (C.G.)

---- Respondent

For Appellants No.1 and 3: -

Mrs. Savita Tiwari, Advocate.

For Respondent/State: Mr. Ravish Verma, Government Advocate.

Amicus Curiae: Mr. A.K. Samantray and Mrs. Aditi Singhvi,
Advocates.

Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Arvind Singh Chandel, JJ.

Judgment On Board
(17/11/2021)

Sanjay K. Agrawal, J.

1. This criminal appeal which has been preferred by three appellants, namely, Arvind Chouhan (A-1), Darasram (A-2) and Smt. Dori Bai (A-3) is directed against the judgment of conviction recorded and sentence awarded by the 2nd Additional Sessions Judge, Sakti in Sessions Trial No.220/2012, whereby the learned Additional Sessions Judge has convicted A-1 under Section 302 of the IPC and sentenced him to undergo imprisonment for life and pay a fine of ₹ 10,000/-, in

default, to further undergo rigorous imprisonment for six months, and also convicted all the three appellants under Section 498A of the IPC and sentenced them to undergo rigorous imprisonment for one year and pay a fine of ₹ 500/- each, in default, to further undergo rigorous imprisonment for 15 days. Sentences awarded to appellant No.1 were directed to be run concurrently.

2. In view of the fact that the appeal against appellant No.2 Darasram is already abated by order of this Court passed today separately, we proceed to consider the case of appellants No.1 & 3.
3. Case of the prosecution, in brief, is that on 18-3-2012 at 10 a.m., at Village Hardi, Distt. Janjgir-Champa, the appellants, in their house, poured kerosene oil on the body of Shashikala (wife of appellant No.1) and set her into fire with the intention of causing her death within 7 years of her marriage and thereby committed the offence under Section 302, in alternative Section 302 read with Section 34 and Section 304B of the IPC. Shashikala died on 27-3-2012 on account of the burn injuries sustained by her. Further case of the prosecution is that marriage of Shashikala was solemnized with appellant No.1, 2-3 years before the date of incident and appellants No.2 & 3 are father-in-law and mother-in-law of the deceased being residents of Village Hardi Police Station Chandrapur, Distt. Janjgir-Champa. It is admitted position on record that on the date of incident, sister of deceased Shashikala – Kum. Rashmi Chauhan (PW-1) was also in the house, as father and mother of the deceased and that of Kum. Rashmi Chauhan had gone to Gujarat for earning their livelihood.
4. According to the case of the prosecution, deceased Shashikala Chouhan was wife of appellant No.1 and daughter-in-law of appellants

No.2 & 3. Marriage of Shashikala Chouhan was solemnized with appellant No.1, 2-3 years prior to the date of incident. On 18-3-2012, at about 10 a.m., appellant No.1 allegedly poured kerosene oil on the body of Shashikala by which she got burn injuries and firstly, she was taken for treatment to Community Health Centre, Dabhra, in burnt condition, thereafter, she was referred to Kirodimal Government Hospital, Raigarh for further treatment and during the course of treatment, on 27-3-2012, she died. On the basis of information received from the hospital, morgue intimation was registered vide Ex.P-7. After morgue enquiry, on the basis of morgue enquiry report, on 28-7-2012, initially, offence was registered under Section 304B read with Section 34 of the IPC against the appellants vide Ex.P-26. During the course of investigation, the statement of younger sister of the deceased namely, Kum. Rashmi Chauhan (PW-1) was recorded by the police under Section 161 of the CrPC in which she disclosed the fact that on the date of incident, she was present in the house of the appellants and she witnessed the incident. According to her statement, appellant No.1 poured kerosene oil on the body of the deceased and set her on fire. On the basis of the said statement made by Kum. Rashmi Chauhan (PW-1), offence under Section 302 of the IPC was also added. During the course of investigation, inquest proceeding was conducted vide Ex.P-4. Postmortem of the dead body was conducted by Dr. R.K. Agrawal (PW-17). His report is Ex.P-15. Statements of other witnesses were also recorded under Section 161 of the CrPC..

5. After completion of investigation, charge-sheet was filed and the appellants abjured guilt and entered into trial. The trial Court framed

charges under Section 302 of the IPC, alternatively under Section 302 read with Section 34 of the IPC and under Section 304B of the IPC to bring home the offence. The prosecution in order to bring home the offence examined as many as 19 witnesses and exhibited 27 documents Exhibits P-1 to P-27.

6. Statements of the appellants were recorded under Section 313 of the CrPC in which they abjured the guilt and pleaded innocence and no defence witness was examined by them and they did not bring any document on record. After completion of trial, the appellants were convicted and sentenced by the trial Court as mentioned in the opening paragraph of this judgment.
7. The trial Court upon appreciation of oral and documentary evidence on record held that the death of Shashikala occurred within 7 years of marriage in abnormal circumstances and principally relying upon the testimony of Kum. Rashmi Chauhan (PW-1), further held that appellant No.1 caused the death of Shashikala by pouring kerosene oil on her body and by setting her ablaze. The trial Court also held the appellants guilty of the offence under Section 498A of the IPC and proceeded to convict them and sentence them in the manner mentioned in the opening paragraph of this judgment against which this appeal under Section 374(2) of the CrPC has been preferred.
8. Mrs. Savita Tiwari, learned counsel appearing for appellants No.1 and 3, would submit as under: -

1. The statement of Kum. Rashmi Chauhan (PW-1) is totally unworthy of acceptance, as she has claimed herself as eyewitness in the statement under Section 161 of the CrPC recorded on 28-7-2012 before the police, whereas neither

during the inquest proceeding nor during the morgue enquiry, she did not make any statement and did not claim herself to be eyewitness by allegedly suppressing the fact of her being eyewitness and by which her statement becomes totally unreliable, unacceptable and it will be unsafe to convict appellant No.1 relying upon the testimony of Kum. Rashmi Chauhan (PW-1) for the offence under Section 302 of the IPC.

2. There is material contradiction in the statement of Kum. Rashmi Chauhan (PW-1) before the police under Section 161 of the CrPC, whereas she claimed herself to be eyewitness and said to have witnessed the incident of pouring kerosene oil on the body of the deceased and setting her on fire committed by appellant No.1, however, in the Court statement recorded on 25-4-2013, she has brought out a new story that her sister Shashikala made oral dying declaration to her involving appellant No.1. Therefore, the material contradiction in her statement before the Court makes her version unacceptable.
3. The alleged incident is said to have occurred on 18-3-2012, whereas the deceased died on 27-3-2012 and Kum. Rashmi Chauhan (PW-1) in her evidence in para 15 has clearly admitted the fact that the deceased was in condition to talk till her death, but she did not state anything to anyone implicating appellant No.1. Similar statement has also been made by father of the deceased Kailash Chauhan (PW-2) in paragraphs 5 & 6 of his evidence which goes to show that the statement of Kum. Rashmi Chauhan (PW-1) is unreliable. Similarly, Smt. Mithila Bai (PW-4), mother of the deceased, has also stated that

Shashikala was in condition to talk till her death on 27-3-2012, but Shashikala did not make any such statement to her.

4. Similarly, from 18-3-2012 to 27-3-2012, father and mother of the deceased did not make any report to the police or did not make any complaint to any of the parties about murder by appellant No.1 / demand of dowry by the appellants which creates suspicion on the prosecution case and as such, conviction based on the testimony of Kum. Rashmi Chauhan (PW-1) is liable to be set aside.
5. Ramdayal (PW-9) and Ramprasad (PW-10) – neighbours of the deceased, have stated that immediately after the incident they visited the house of the deceased where deceased Shashikala was in condition to talk and she had informed that she has received burn injuries while cooking food on stove and as such, conviction of the appellants is liable to be set aside. Reliance has been placed upon the decisions of the Supreme Court in the matters of State of Orissa v. Mr. Brahmananda Nanda¹ and Jagjit Singh alias Jagga v. State of Punjab².
6. With respect to the offence under Section 498A of the IPC in respect of appellants No.1 & 3, learned counsel would submit that appellant No.1 is in jail since 23-8-2012 and appellant No.3 had already served a period of 181 days in jail, therefore, they be sentenced to the period already undergone by them and their appeal be allowed to that extent.

9. Mr. Ravish Verma, learned Government Advocate appearing for the

1 (1976) 4 SCC 288

2 (2005) 3 SCC 689

State / respondent, would submit that the prosecution has adduced legal evidence to bring home the above-stated offences and in view of the statement of Kum. Rashmi Chauhan (PW-1) before whom oral dying declaration was made by the deceased, the learned Additional Sessions Judge has rightly relied upon the same to convict appellant No.1, as such, it cannot be held that there is no legal evidence to convict the appellants for the aforesaid offences and therefore the appeal is liable to be dismissed.

10. Mr. A.K. Samantray, learned *amicus curiae*, would submit that there is inordinate delay in interrogation of witness during investigation which itself is a sufficient ground for excluding the testimony of Kum. Rashmi Chauhan (PW-1) in considering the involvement of the appellants in the crime in question. He would rely upon the decision of the Supreme Court in the matter of **Ganesh Bhavan Patel and another v. State of Maharashtra**³ in support of his submission.

11. Mrs. Aditi Singhvi, learned *amicus curiae*, would submit that delay, if any, in recording the statement of witness does not necessarily discredit the testimony of witness and Court can rely upon the testimony if it is cogent and credible and delay is explained to the satisfaction of the Court. She would further submit that delay in interrogation or examination cannot by itself result in rejection of testimony of witness. She would rely upon the decisions of the Supreme Court in the matters of **Harbeer Singh v. Sheeshpal and others**⁴ and **Goutam Joardar v. State of West Bengal**⁵ to buttress her submission.

3 AIR 1979 SC 135

4 (2016) 16 SCC 418

5 2021 SCC OnLine SC 910

12. We have heard learned counsel for the parties and *amicus* as well and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
13. It is not in dispute that marriage of deceased Shashikala was performed with appellant No.1, 2-3 years prior to the date of incident and she suffered burn injuries on 18-3-2012 in the house of the appellants and ultimately died on 27-3-2012 in the hospital. Immediately thereafter, morgue intimation Ex.P-7 was registered in Police Station City Kotwali, Raigarh and thereafter, the dead body was sent for postmortem and further thereafter, it was sent to Police Station Chandrapur, District Janjgir-Champa where morgue No.9/2012 vide Ex.P-17 was registered and FIR was also registered for the offence punishable under Section 304B read with Section 34 of the IPC.
14. The question which is required to be considered is, whether the finding recorded by the learned Additional Sessions Judge that it is only appellant No.1 who has poured kerosene oil on the body of the deceased and set her on fire by which she suffered burn injuries and died and proceeded to convict him for offences under Sections 302 & 498A of the IPC, is a finding not based on the evidence available on record and liable to be set aside?
15. Admittedly and undisputedly, on 18-3-2012, when the incident is said to have taken place, Kum. Rashmi Chauhan (PW-1) – sister of the deceased was also staying with the appellants and the deceased in the house of the appellants, as her father & mother had gone to Gujarat for earning their livelihood. The incident is said to have taken place on 18-3-2012 and immediately thereafter, the deceased was

taken to Community Health Centre, Dabhra, but thereafter, she was referred to Kirodimal Government Hospital, Raigarh where she was admitted as inpatient on 18-3-2012 and she died on 27-3-2012 at that hospital on account of the burn injuries sustained by her and thereafter, the dead body was subjected to postmortem vide Ex.P-15 in which it has been opined that she died due to septicemic shock due to burn. During that period, morgue intimation vide Ex.P-7 was registered by Police Station City Kotwali, Raigarh and thereafter, morgue enquiry was undertaken by Police Station City Kotwali, Raigarh. After morgue enquiry, on the basis of morgue enquiry report, on 28-7-2012, initially, offence was registered under Section 304B read with Section 34 of the IPC against the appellants vide Ex.P-26. Inquest was conducted vide Ex.P-4.

16. It appears from the aforesaid fact that after the morgue enquiry, FIR was registered, but it was only for the offence under Section 304B read with Section 34 of the IPC. Kum. Rashmi Chauhan (PW-1) in her statement recorded under Section 161 of the CrPC, at that stage, did not disclose anything to the police that it is appellant No.1 who was instrumental in causing burn injuries to the deceased though she was present in the home of the deceased and that is the reason why the police did not register the offence under Section 302 of the IPC at the time of FIR and only registered the offence under Section 304B read with Section 34 of the IPC, otherwise, there was no reason for the concerned police not to register the offence under Section 302 of the IPC. Thereafter, Kum. Rashmi Chauhan (PW-1) made statement under Section 161 of the CrPC before the police on 28-7-2012 vide Ex.P-1 in which for the first time, she stated before the Investigating

Officer that it is appellant No.1 who set her sister on fire after pouring kerosene oil on her body, she (PW-1) started shouting and crying and then appellant No.1 poured water on the body of her sister and extinguished the fire on the body of the deceased and thereafter, taken her sister to Dabhra hospital for treatment from where she was referred to Raigarh hospital for treatment. She informed to her father & mother about the incident on which they came back from Surat, Gujarat. Her sister succumbed to the injuries sustained by her and died on 27-3-2012.

17. Kum. Rashmi Chauhan was examined before the Court as PW-1. In her statement before the Court she took U-turn and in para 3 she has stated that when her sister started shouting to save her, she went there and her sister Shashikala informed to her that she has been burnt by Arvind (A-1). In para 4, she has further stated that sister of Arvind came to the spot and on seeing her, Arvind (A-1) has extinguished the fire on her body and then her sister became unconscious and was taken to hospital. As such, Kum. Rashmi Chauhan (PW-1) has made altogether a new statement from that of an eye-witness to that of oral dying declaration by her deceased sister to herself.

18. Now, the question for consideration is, whether the statement or testimony of Kum. Rashmi Chauhan (PW-1) is trustworthy and would be acceptable to base conviction?

19. On the basis of submissions of learned counsel for the parties and after going through the material available on record, following facts would emerge on the face of record: -

1. On 18-3-2012, Kum. Rashmi Chauhan (PW-1) was admittedly

present in the house of the deceased along with the appellants and Sasikala died on 27-3-2012 in the hospital at Raigarh.

2. Admittedly, in view of the statements of Kum. Rashmi Chauhan (PW-1), Kailash Chauhan (PW-2) & Smt. Mithila Bai (PW-4), the deceased was in fully conscious condition and she was talking to one and all till 27-3-2012 before her death, but she did not state anything about pouring of kerosene oil and causing burn injuries to her by appellant No.1. The said witnesses Kum. Rashmi Chauhan (PW-1), Kailash Chauhan (PW-2) & Smt. Mithila Bai (PW-4) did not state anything about causing of death by pouring kerosene oil and setting the deceased on fire, to anyone. Similarly, father and mother of the deceased Kailash Chauhan (PW-2) & Smt. Mithila Bai (PW-4) did not disclose anything about causing of burn injuries by appellant No.1 to any one as the deceased did not complain about the conduct of appellant No.1.
3. Kum. Rashmi Chauhan (PW-1), though was present in the house where the incident is said to have taken place and cited as eye-witness, but did not disclose it either during inquest or during morgue enquiry to the police authorities or anyone till her statement before the police on 28-7-2012.
4. Kum. Rashmi Chauhan (PW-1) in her statement before the Court has stated that she immediately informed the incident to Santoshi Chauhan (*badi maa*) that her sister has suffered burn injuries, but did not inform to her that it was caused by appellant No.1.
5. In the statement recorded under Section 161 of the CrPC on 28-

7-2012, after more than four months of the incident, for the first time, Kum. Rashmi Chauhan (PW-1) has disclosed that appellant No.1 poured kerosene oil on the body of deceased Shashikala and then set her on fire.

6. In the statement before the Court recorded on 25-4-2013, for the first time, she made out the case of oral dying declaration to her by her sister / deceased Shashikala.

20. At this stage, it would be appropriate to consider the decisions of the Supreme Court in this regard, particularly, in the light of delay in examining Kum. Rashmi Chauhan (PW-1) during investigation.

21. The Supreme Court in Ganesh Bhavan Patel (supra) has held that inordinate delay in interrogation of witness during investigation is itself a sufficient ground for excluding his testimony in considering involvements of the appellants and observed as under: -

“15. ... Delay of a few hours, simpliciter, in recording the statements of eye-witnesses may not, by itself, amount to a serious infirmity in the prosecution case. But it may assume such a character if there are concomitant circumstances to suggest that the investigator was deliberately marking time with a view to decide about the shape to be given to the case and the eye-witnesses to be introduced. A catena of circumstances which lend such significance to this delay, exists in the instant case.

18. In this connection, the second circumstance, which enhances the potentiality of this delay as a factor undermining the prosecution case, is the order of priority or sequence in which the investigating officer recorded the statements of witnesses. Normally, in a case where the commission of the crime is alleged to have been seen by witnesses who are easily available, a prudent investigator would give to the examination of such witnesses precedence over the evidence of other witnesses. ...

29. Thus considered in the light of the surrounding circumstances, this inordinate delay in registration of the

'F.I.R.' and further delay in recording the statements of the material witnesses, casts a cloud of suspicion on the credibility of the entire warp and woof of the prosecution story."

22. Similarly, in Mr. Brahmananda Nanda's case (supra), the Supreme Court has held that in a case where the sole eyewitness did not disclose the name of the murderer for a day and a half after the occurrence, the fact seriously affects his credibility, and observed as under: -

"2. ... It is indeed difficult to believe that this witness should not have disclosed the name of the respondent to the police or even to A.S.I. Madan Das and should have waited till the morning of June 15, 1969 for giving out the name of the respondent. This is a very serious infirmity which destroys the credibility of the evidence of this witness. The High Court has also given various other reasons for rejecting her testimony and most of these reasons are, in our opinion, valid and cogent. If the evidence of this witness is rejected as untrustworthy, nothing survives of the prosecution case."

23. In Jagjit Singh alias Jagga (supra), their Lordships of the Supreme Court while dealing with the effect of delay in recording statement of the witness held as under: -

"30. ... The delay in examining her in the course of investigation also creates a serious doubt in the absence of any explanation for her late examination after three days, when admittedly she was the sole eyewitness who was also injured in the course of the occurrence. We are, therefore, of the view that though she may have witnessed the occurrence, she did not know the appellant by name as she had no opportunity of knowing or seeing him earlier, and that she has involved the appellant at the instance of her father, who was the person who suggested the involvement of the appellant when her statement Ext. PW-6/A was being recorded."

24. In the matter of Ramanand Yadav v. Prabhu Nath Jha and others⁶, the

Supreme Court while dealing with the effect of delayed examination of witnesses has held that the investigating officer would have to be asked specifically the reason for their delayed examination and unless the investigating officer is categorically asked as to why there was delay in examination of the witnesses, the defence cannot gain any advantage therefrom.

25. Reverting to the facts of the case in the light of the aforesaid broad facts noticed herein-above and the legal position as stated above qua delay in recording the statement of Kum. Rashmi Chauhan (PW-1), it is quite vivid that though Kum. Rashmi Chauhan (PW-1) being sister of the deceased and star witness of the prosecution, who claimed and cited to be the eye-witness by the prosecution and who was allegedly present in the house of the appellants and the deceased, but she did not disclose anything either during morgue enquiry or during inquest proceeding and the prosecution did not thought it expedient to record her statement during morgue enquiry or inquest proceeding, however, she made statement under Section 161 of the CrPC on 28-7-2012 and for the first time, after four months of incident, she has stated that she has witnessed the incident and witnessed the fact of appellant No.1 pouring kerosene oil on the body of the deceased and setting her into fire by which the deceased suffered injuries and died. Delay of more than 4 months in disclosing this fact by Kum. Rashmi Chauhan (PW-1) creates serious doubt on her testimony, because she had ample and sufficient opportunity to disclose the said fact to the police authorities from 18-3-2012 to 28-7-2012 when they visited the house of the deceased to conduct inquest proceeding, morgue enquiry and other proceedings, particularly when she informed the incident to her

aunt (*badi maa*) Santoshi on phone stating that Shashikala died by burn injuries, but again she did not disclose the said fact that it was caused by appellant No.1. Similarly, thereafter, when she was examined before the Court, she omitted to state what she has stated before the police i.e. the fact of causing burn injuries by appellant No.1 and being an eye-witness, and came out with a new story of oral dying declaration made by the deceased to her on 18-3-2012 which was not the case of the prosecution, as Shashikala (deceased) did not disclose the same at any point of time till her death on 27-3-2012 as till that time, she was fully conscious and was in a condition to talk. This makes the statement of Kum. Rashmi Chauhan (PW-1) untrustworthy and thus, we are not inclined to accept the testimony of Kum. Rashmi Chauhan (PW-1) in this regard.

26. As per the statements of Kum. Rashmi Chauhan (PW-1), Kailash Chauhan (PW-2) & Smt. Mithila Bai (PW-4), the deceased was in fully conscious condition and she was talking regularly till her death on 27-3-2012. But, on a careful perusal of the statements of the aforesaid three witnesses, it is quite evident that it is not their case that at any point of time, Shashikala has made any statement that it is only appellant No.1 who has caused burn injuries to her and it is also unacceptable that Kailash Chauhan (PW-2) & Smt. Mithila Bai (PW-4), being parents of the deceased, could not ask question to their daughter Shashikala about how she sustained burn injuries. Ramdayal (PW-9) & Ramprasad (PW-10), being elder-men of the village who reached immediately to the spot, have stated in their evidence that on being asked Shashikala (deceased) had informed to them that while cooking food she has suffered burn injuries and her

husband appellant No.1 Arvind came on the spot to save her.

27. If the evidence of Kum. Rashmi Chauhan (PW-1) is rejected as untrustworthy, nothing survives of the prosecution case so far as the offence under Section 302 of the IPC against appellant No.1 is concerned, as such, we hereby reject the testimony of Kum. Rashmi Chauhan (PW-1) being inadmissible in evidence. As such, the finding recorded by the learned Additional Sessions Judge that it is appellant No.1 who poured kerosene oil on the body of the deceased and set her to fire, is a finding which is clearly erroneous and based on no evidence and is liable to be set aside and it is hereby set aside.
28. Appellant No.1 has also been convicted for the offence under Section 498A of the IPC and appellant No.3 has been convicted only for the offence under Section 498A of the IPC and sentenced to one year rigorous imprisonment.
29. After going through the record and after taking into account the statements of Kum. Rashmi Chauhan (PW-1), Kailash Chauhan (PW-2) – father of the deceased & Smt. Mithila Bai (PW-4) – mother of the deceased, that the appellants used to demand dowry and assault the deceased and treat her with cruelty, we are of the considered opinion that the finding recorded by the trial Court that appellants No.1 & 3 used to treat her with cruelty by demanding dowry, is a finding of fact based on the evidence available on record. As such, we hereby affirm the finding of the trial Court that appellants No.1 & 3 are guilty of the offence under Section 498A of the IPC. Appellant No.1 had already suffered the sentence being in jail since 23-8-2012 and appellant No.3 had already served a period of 181 days in jail. As appellant No.1 had already suffered the sentence awarded and appellant No.3 has

remained in jail for 181 days, we hereby direct that the period of 181 days undergone by appellant No.3 is sufficient sentence and we accordingly modify the sentence so far as appellant No.3 is concerned.

30. As a fallout and consequence of the aforesaid discussion, conviction and sentences imposed upon appellant No.1 under Section 302 of the IPC are hereby set aside and he is acquitted of the said charge, whereas, his conviction under Section 498A of the IPC is hereby affirmed and maintained and he has already suffered the sentence of one year awarded by the trial Court. The criminal appeal so far as it relates to appellant No.2 has already been dismissed as abated. Conviction imposed upon appellant No.3 under Section 498A of the IPC is hereby affirmed and he is also sentenced to the period already undergone by him i.e. 181 days.

31. Consequently, the criminal appeal is partly allowed. Appellant No.1 be released forthwith, if not required in any other case. Appellant No.3 is already on bail, he need not surrender to his bail bonds, his bail bonds shall remain in operation for a period of six months in view of the provisions contained in Section 437-A of the CrPC.

32. This Court appreciates the assistance rendered by Mr. A.K. Samantray and Mrs. Aditi Singhvi, Advocates, who appeared as *amicus curiae*.

Sd/-
(Sanjay K. Agrawal)
Judge

Sd/-
(Arvind Singh Chandel)
Judge