

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 436 of 2015

1. Girvar Prasad Sharma S/o Fakirchand Sharma, Aged about 57 years R/o Sector -4, Street W.M.R. Qrt. No. 02/b, Bhilai, Police Station - Bhilai Bhatti, District - Durg Chhattisgarh
2. Shrin Sharma D/o Girvar Prasad Sharma Aged about 31 Years R/o Sector -4, Street W.M.R. Qrt. No. 02/b, Bhilai, Police Station - Bhilai Bhatti, District - Durg Chhattisgarh
3. Kunti Devi Sharma W/o Girvar Prasad Sharma Aged About 46 Years R/o Sector -4, Street W.M.R. Qrt. No. 02/b, Bhilai, Police Station - Bhilai Bhatti, District - Durg Chhattisgarh

Versus

The State of Chhattisgarh S/o Through Station House Office, Police Station - Bhilai Bhatti, District - Durg Chhattisgarh

And

ACQA No. 42 Of 2015

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05/08/2015	<p>Mr. B.P. Singh, Counsel for the Appellants. Ms. Smita Ghai, Panel Lawyer for the State. Mr. Avinash K. Mishra, Counsel for the Objector. Heard Learned Counsel for the Appellants, State and the Complainant-Objector. I.A. 1/2015 has been filed by the Appellants seeking bail in a conviction under Section 498-A/34 IPC read with Section 306/34 IPC to seven years rigorous imprisonment as ordered in Sessions Trial No. 189/2013 by the Additional Sessions Judge, Durg dated 27.03.2015.</p>	

Learned Counsel for the Appellants submits that the Appellants are the father-in-law, husband and mother-in-law of the deceased. The charge under section 304-B has been disbelieved in absence of any evidence with regard to harassment and cruelty. There is no discussion in the impugned order with regard to any other cruelty to sustain a conviction under Section 498-A of IPC. Similarly, there is no discussion with regard to any abatement by the Appellants as required by section 107 IPC to attract conviction under Sections 306 and 498-A IPC.

Learned Counsel for the State submits that certain marks have been found on the body of the deceased suggesting cruelty and therefore, conviction under Sections 306 and 498-A IPC was ordered.

Learned Counsel for the Complainant-Objector submitted that deceased died a homicidal death due to strangulation according to postmortem report conducted by two Doctors. Only one of them has been examined. The death occurred in suspicious circumstances when she was found unconscious in the bathroom. Earlier in the day, the deceased had called when she was being harassed. The Trial Court in the entirety of the facts considering that the marriage was barely 1½ years old, had rightly ordered conviction under Sections 306 and 498-A read with Section 34 IPC.

We have considered the submissions on behalf of the parties and perused the postmortem report also. In the facts of the case, particularly with regard to the statement of the Doctor in paragraph 6 of the cross-examination that in the event of throttling there would have been marks across the

entire neck which was missing and that the occurrence was single in nature with regard to a dispute regarding milk for the minor child and the desire of the deceased to go to her parental home, that the Appellants have remained in custody for 2½ years, to enlarge them on bail.

I.A. No.1/2015 is allowed. It is directed that jail sentence imposed upon the Appellants shall remain suspended during pendency of this appeal and they shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with two sureties in the like sum to the satisfaction of the Trial Court concerned. Personal appearance is dispensed with.

Any observation in the present order has to be considered as restricted for the purpose of bail only and can have no implications either during hearing of the Appeal or the Acquittal Appeal filed on behalf of the Complainant-Objector.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE