



2026:CGHC:12921-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 147 of 2019

State of Chhattisgarh, through its Station House Officer, Police Station-
Abhanpur, District- Raipur (C.G.)

... Appellant

Versus

1 - Krishna Sahu, S/o Chatru Ram Sahu, aged about 30 years, R/o Village
Kanhara, Police Station- Abhanpur, District- Raipur (C.G.).

2 - Om Parkash Sahu, S/o Sewak Ram Sahu, aged about 37 years, R/o
Village- Dharampura, Sahara India Chowk, Police Station- Mana Camp,
Raipur, District- Raipur (C.G.).

3 - Girvar Sahu, S/o Om Parkash Sahu, aged about 29 years, R/o Village
Dutkarea (Khapri), presently residing at near Chhattisgarh Gramin Bank,
Santoshi Nagar, Raipur, District- Raipur (C.G.).

4 - Chatru Ram Sahu, S/o Punaauram Sahu, aged about 60 years, R/o Village-
Kanhara, Police Station- Abhanpur, District- Raipur (C.G.)

... Respondents

(Cause title is taken from Case Information System Software)

For State/ Appellant : Mr. Ramnarayan Sahu, Dy. G.A.

For Respondents : Mr. Navin Shukla, Advocate.

Hon'ble Smt. Justice Rajani Dubey, J.
Hon'ble Shri Justice Radhakishan Agrawal, J.

**Judgment on Board****18.03.2026****Per, Rajani Dubey, J.**

1. The present appeal has been preferred by the appellant/State against the judgment dated 03.07.2018 passed by the learned Third Additional Sessions Judge, Raipur, District- Raipur (C.G.) in Sessions Case No. 216/2017, whereby the learned trial Court acquitted the accused/respondents of the charges under Sections 498-A, 304-B/34 in alternate Section 302/34 (two times) and Section 306/34 of IPC.
2. Brief facts of the case as unfolded from the impugned judgment and records is that a F.I.R. No. 245 was registered under Section 304B of IPC on 28.07.2017 at 19:30 wherein it was mentioned that on 24.07.2017, a morgue intimation was lodged by Vyasnarayan in respect of death of Kuleshwari Sahu and her 2^{1/2} years old son due to hanging. The dead body panchnama was conducted by the Executive Magistrate in the presence of the family members of the deceased from paternal side and during morgue proceedings, the statements of Dilip Sahu, Loknath Sahu, Khilawan Sahu, Pankaj Sahu & Gopal Sahu (father of the deceased) were recorded. After the marriage of the deceased, the husband of the deceased, father-in-law, brother-in-law Om Parkash Sahu & Girvar Sahu, in furtherance of their common intention, used to torture Kuleshwari Sahu in connection with demand of dowry. The postmortem of the dead body was



conducted. The deceased killed her 2^{1/2} years baby child Umang Sahu and thereafter, she herself committed suicide.

3. After completion of due and necessary investigation, charge-sheet was led before the concerned jurisdictional Magistrate who, in turn, committed the case for trial. On the basis of the material contained in the charge-sheet, learned trial Court acquitted the accused/respondents of charges punishable under Section 498A, 304-B/34 and alternative charges of 302/34 (two times and Section 306/34 of IPC against which the present appeal has been filed by the State/appellant.
4. Learned counsel for the appellant/State submits that though the scope of interference with the order of acquittal is very much limited but on the other hand, the appellate Court is vested with wide powers of re appreciation of the evidence in the matter. It is the settled position of law that, if reappraisal of the evidence goes to show that the finding of acquittal recorded by the trial Court is unjust and perverse then the appellate Court is empowered to set aside the same and reverse the order of acquittal and convict the accused appropriately. The learned trial Court has erred by acquitting the respondents of the offences charged. It is respectfully submitted that in the peculiar facts and circumstances of the case, the conduct of the respondents proves their ill intention and, therefore, they ought to have been convicted appropriately by the learned trial Court. The Learned Trial Court has failed to appreciate the facts and material available on record



and also failed to appreciate the intention of the accused while passing the impugned judgment of acquittal. The learned trial Court failed to appreciate that in the present case, every witness was examined before the same and the prosecution case was supported by it, however, on the contrary, the learned trial Court acquitted the accused persons in all reasonable doubts. The learned trial Court has failed to appreciate the fact that, on the date of incident, when the injury inflicted by the accused, is not the simple injury and the same was grievous injury with intention to kill him and, therefore, the offence of those Sections of the IPC is made out. The learned trial Court has failed to appreciate the fact that, there was clear chain of evidences and sufficient material available on record before it while passing the impugned judgment of acquittal of accused/respondents. He further submits that the foregoing grounds amongst others the finding of acquittal recorded by the learned trial Court is unjust, improper and bad in law, therefore, the same is liable to be set aside. The learned trial Court has failed to appreciate the evidence of the witnesses in its true perspective and has succumbed to the conjectures and surmises. Therefore, looking to the facts and circumstances of the case, the judgment and finding of the learned trial Court is perverse and is liable to be set aside.

5. *Ex adverso*, learned counsel for the respondents/accused supporting the impugned judgment submits that the learned trial Court minutely appreciated the oral and documentary evidence



and rightly acquitted the respondents/accused. Therefore, the impugned judgment does not suffer from any irregularity or infirmity warranting interference by this Court in the instant appeal.

6. We have heard learned counsel for the parties and perused the material available on record.
7. It is clear from the record of the learned Trial Court that it framed charges under Sections 498A/34, 304-B/34 of IPC and in alternate Section 302/34 and 306/34 of IPC against the accused/respondents and after appreciation of oral and documentary evidence available on record, the learned Trial Court acquitted all respondents on this ground that the prosecution has failed to prove the essential ingredients of Section 498A, 304B, 302 and 306 of IPC.
8. It is not disputed before learned trial Court that accused/respondent No. 1 is the husband of the deceased (Kuleshwari Sahu) and it is further undisputed that the deceased died on 24.07.2017 i.e., within 07 years of her marriage and the other respondents Chatru Ram Sahu, her father in law, Om Prakash Sahu and Girvar Shau are brother in law of the deceased.
9. PW-12 Dr. Smt. S.D. Kanwar has conducted the postmortem of the deceased has stated that the cause of death was asphyxia due to hanging and gave her report vide Ex. P/10.



10. PW-01 Dilip Sahu, brother of the deceased Kuleshwari, has deposed in his examination-in-chief that the accused/respondents subjected her to cruelty and harassment on account of demand of dowry. He added that on the very day his sister arrived at her marital home, she was made to clean the stool and urine of her paralyzed mother-in-law. He further stated that the brother in law of his sister viz. Girvar Sahu allegedly gave his sister some herbs (*Jadi Booti*), after which she began vomiting blood. Thereafter, a Panchayat meeting was convened in our village and in her in-laws' village regarding the subjection of cruelty and harassment upon his sister by her in-laws and in the said meeting, his sister was counselled and sent back to her in-laws' house. He further stated that his sister regularly observed fasts and worshipped Sai Baba in the courtyard of her home. This reportedly annoyed her husband, the accused Krishna Sahu, who scolded her and allegedly vandalized the idol of Sai Baba. Thereafter, on the date of the incident, at around 3pm, Sarpanch of his sister's in-laws' village Kanhera has told his father that his sister Kuleshwari has committed suicide. He further stated that he is not aware of how his sister died, but he stated that his sister committed suicide due to harassment. The prosecution declared him hostile and cross-examined him, then he stated that the accused Krishna Sahu did not let his sister talk to him, even when our sister talked to us, her husband became suspicious and broke his and my sister's phone. He admitted this suggestion of defence that parents of the



accused Krishna Sahu were used to reside separately and he also admitted this suggestion that he has never lodged any report against the accused persons to the Police regarding harassment on account of demand of dowry.

11. PW-2 Loknath Sahu, maternal grandfather of the deceased has stated that the deceased was harassed on account of demand of dowry by the accused persons. In paragraph 5 of his cross-examination, he admitted that he had not filed any report against the accused persons regarding the alleged demand for a fridge and a vehicle as a dowry.
12. PW-3 Vyasnarayan has stated that on 24.07.2017 he was in Cooperative Bank with the accused Chatru Ram Sahu and they were apprised by some unknown person of their village that the daughter in law of the accused Chatru Ram Sahu has committed suicide at home. Thereafter, the accused Chatru Ram Sahu reached at the spot and conveyed this witness that his daughter in law as well as his grandson committed suicide by hanging. The prosecution declared him hostile and cross-examined him. In para 06 of his cross-examination he has admitted that the mother in law of the deceased is suffering from paralysis and she is unable to move herself. He also admitted that Kuleshwari struck her father-in-law with a stick and, by pulling her mother-in-law's hair, drove them out of the house. A social meeting was subsequently convened to address this incident.



13. PW-04 Narendra Kumar has not supported the prosecution case and he supported the suggestion of the defence that deceased Kuleshwari used to say that she would not clean the stool of her paralyzed mother in law. He also admitted that Kuleshwari used to beat her father in law and her mother in law.
14. PW-05 Khilawan Sahu, uncle of the deceased has not supported the prosecution case. The prosecution declared him hostile and cross-examined him, then he admitted in para 05 of his cross-examination that father of the deceased told him that after marriage of his daughter Kuleshwari, her in-laws' used to beat his daughter on account of demand of dowry.
15. PW-06 Yashwant Dhruv, Sarpanch of the village Kanhera has stated that the deceased Kuleshwari along with her child has committed suicide and he informed the police as well as family of the deceased. He admitted this fact that several meetings took place in respect of family disputes between the deceased Kuleshwari Sahu and the accused Krishna Sahu. He also admitted the suggestion of defence that a social meeting used to take place on account of complaint relating to beating on part of Kuleshwari to her mother in law, who was suffering from paralysis. He also admitted that Kuleshwari had assaulted his father in law on head with a stick.
16. PW-07 Smt. Anita Bai, mother of the deceased has stated that all the accused persons subjected cruelty and harassment upon her



daughter Kuleshwari on account of dowry and Om Prakash Sahu, the brother in law of the deceased used to say her that she will be persecuted until she brings fridge and vehicle from her maternal house. She made several allegations against the accused persons, but in her cross-examination, she admitted that she did not complaint to the police against the accused persons and she also confronted her previous statement and she stated that she had brought such facts in the notice of the police, but could not tell the reason as to why such facts could not find place in her statement recorded under Section 161 of Cr.P.C.

17. PW-08 Pankaj Sahu, relative of the deceased has stated that in-laws' of the deceased Kuleshwari used to quarrel and torture her on account of dowry. He also admitted this suggestion in cross-examination that quarrel were brought in his notice by the parents of the deceased.
18. PW-16 Madhu Sen, neighbour of the deceased has stated that the incident took place 8-9 months ago where the deceased Kuleshwari along with her son committed suicide by hanging themselves. In his cross-examination, he stated that the deceased used to visit his house to pluck Bael leaves (bel patta) and always spoke to everyone politely. He further mentioned that the deceased had never lodged any complaints against the accused persons.



19. PW-17, Bhekhram Sahu, a resident of village Kanhera, stated that the accused, Krishna Sahu, approached him and complained that his wife, Kuleshwari Sahu, frequently visited the police station over trivial matters. Krishna Sahu asked him to make her understand. Accordingly, the witness went to the police station, where Kuleshwari Sahu had already gone to lodge a complaint. When she came out, he spoke to her, advising her not to create quarrels over trivial issues and further urged her to take care of her mother-in-law, who was suffering from paralysis.
20. PW-19, Gopal Sahu, the father of the deceased has stated that all accused persons tortured his daughter Kuleshwari on account of demand of dowry, but he admitted that he never complained to the Police before the incident.
21. PW-21, Manthil Yadav, neighbour of the accused has stated that the deceased Kuleshwari and accused Krishna Sahu used to quarrel everyday. In cross-examination he admitted that the accused Chatru Ram Sahu told him that his daughter in law Kuleshwari beats him besides beats his wife by pulling her hair and he also admitted that after social meeting the father in law and mother in law of the deceased used to reside separately.
22. DW-01 Tameshwar Sahu has supported the defence of the accused and stated that he is the President of the "*Sahu Samaj*" in the village Kanhera and accused Chatru Ram made a



complaint that his daughter in law used to beat him as well as his wife.

23. Learned Trial Court minutely appreciated the oral and documentary evidence and finds that there is no evidence on record to come to the definite conclusion that soon before her death, the deceased Kuleshwari was subjected to cruelty or harassment by the accused persons or in connection with any demand of dowry and also finds that there is no any evidence regarding abetment under Section 107 of IPC proved by the prosecution against all accused persons.
24. It has been held by Hon'ble the Apex Court in the matter of **Charan Singh @ Charanjit Singh Vs. the State of Uttarakhand** reported in **2023 LiveLaw SC 341** held in paras 4, 5, 10 and 11 as under:-

“4.....The presumption in regard to dowry death can be raised in terms of Section 113B of the Indian Evidence Act, 1872 (for short, 'IEA') only if it is shown that soon before death, such woman had been subjected to cruelty or harassment for, or in connection with the demand of dowry.

5. If the evidence led by the prosecution is examined, no case for conviction under Section 304B or 498A IPC can possibly be made out as none of the witnesses have stated that there was any harassment or cruelty to the deceased or demand of dowry immediately before her death. The marriage took place in the year 1993, the deceased died on 22.6.1995. None of the family members of the deceased including her father, maternal grandmother or the maternal uncle have



stated anything about the harassment of the deceased immediately before her death in connection with demand of dowry. In fact, the maternal grandmother and two maternal uncles who were living at distance of about one farlang from the village of the deceased were even present at the time of her cremation. They did not raise any issue either by lodging a complaint to the police or otherwise. In fact, it was admitted by the maternal grandmother and the uncles of the deceased that after the cremation, with the intervention of the panchayat, they had collected all the dowry articles. It was further submitted that intimation was also given to the father of the deceased who in fact was living at a distance of about 290 kms. However, the cremation could not be delayed on account of waiting for the arrival of the father of the deceased.

10. The conviction of the appellant is under Sections 304B and 498A IPC raising presumption regarding dowry death within seven years of marriage. To appreciate the arguments raised by the learned counsel for the parties, a perusal of Section 304B and 498A IPC and Section 113B of the Indian Evidence Act would be required. The same are extracted hereinbelow:-

"304B. Dowry death- (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be



deemed to have caused her death.

Explanation. For the purpose of this sub-section, "dowry" shall have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

498-A. Husband or relative of husband of a woman subjecting her to cruelty - Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation. For the purposes of this section, "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman: or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

113B. Presumption as to dowry death.-

When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such



woman had been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death.

Explanation. -For the purposes of this section, "dowry death" shall have the same meaning as in Section 304-B of Indian Penal Code (45 of 1860)"

11. The interpretation of Sections 304B and 498A IPC came up for consideration in **Baijnath's** case (supra). The opinion was summed up in paras 25 to 27 thereof, which are extracted below:-

"25. Whereas in the offence of dowry death defined by Section 304-B of the Code, the ingredients thereof are:

- (i) death of the woman concerned is by any burns or bodily injury or by any cause other than in normal circumstances, and
- (ii) is within seven years of her marriage, and
- (iii) that soon before her death, she was subjected to cruelty or harassment by her husband or any relative of the husband for, or in connection with, any demand for dowry.

The offence under Section 498-A of the Code is attracted qua the husband or his relative if she is subjected to cruelty. The Explanation to this Section expositis "cruelty" as:

- (i) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical), or



(ii) harassment of the woman, where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

26. Patently thus, cruelty or harassment of the lady by her husband or his relative for or in connection with any demand for any property or valuable security as a demand for dowry or connection therewith is the common constituent of both the offences.

27. The expression "dowry" is ordained to have the same meaning as in Section 2 of the Dowry Prohibition Act, 1961. The expression "cruelty", as explained, contains in its expanse, apart from the conduct of the tormentor, the consequences precipitated thereby qua the lady subjected thereto. Be that as it may, cruelty or harassment by the husband or any relative of his for or in connection with any demand of dowry, to reiterate, is the gravamen of the two offences."

25. The learned trial Court after minutely appreciating the oral and documentary evidence finds that prosecution has only proved this fact that the deceased Kuleshwari was died within 07 years of her marriage due to hanging, but prosecution has failed to prove essential ingredients of murder and essential ingredients of dowry death. Learned trial Court has rightly acquitted the accused/respondents of the aforesaid charges levelled against them.



26. The Hon'ble Apex Court vide its judgment dated 12.02.2024
(Criminal Appeal No 1162 of 2011) passed in **Mallappa and Ors.**

Versus State of Karnataka has held in para 36 as under:-

"36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive-- inclusive of all vidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

27. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in **Mallappa** (supra) and the view which has been taken by the learned trial Court appears to be plausible and possible view and in the absence of any



patent illegality or perversity this Court is not inclined to interfere with the impugned judgment.

28. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-

(Rajani Dubey)
JUDGE

Sd/-

(Radhakishan Agrawal)
JUDGE