



2025:CGHC:47725-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

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ACQA No. 318 of 2010

State of Chhattisgarh Through The District- Magistrate Bilaspur District-
Bilaspur (C.G.)

... Appellant

versus

Laxmi Sahu S/o Shivram Sahu Aged About 28 Years R/o Village Sirgitti
Block, P.S. Tarbahar District- Bilaspur (C.G.)

Respondent

(Cause-title taken from Case Information System)

For State	:	Mr. Shailendra Sharma, Panel Lawyer.
For Respondent	:	Mr. Virendra Verma, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Judgment on Board

Per Ramesh Sinha, Chief Justice

17.09.2025

1. The State has preferred the instant appeal against the impugned judgment of acquittal dated 30.08.2007 passed in Sessions Trial No. 371/2006 by the learned 2nd Additional Sessions Judge, Bilaspur, CG, whereby the learned trial Court has acquitted the respondent from the offence punishable under Sections 498-A/34, 302 of IPC.

2. In the instant case, six accused persons were tried in S.T. No.371/2006 and after conclusion of trial, all the accused persons were acquitted by judgment of acquittal dated 30/08/2007. Against the said acquittal, the State preferred the appeal before this Court wherein, the petition under Section 378(3) of Cr.P.C. so far as it is against the acquittal of accused Smt. Rukhmini, Smt. Sandhya Sahu, Ku. Asha Sahu, Smt. Durga and Anita Sahu was dismissed by this Court by order dated 27/01/2010. However, the petition under Section 378(3) against acquittal of accused Laxmi Sahu was allowed and leave to appeal against his acquittal alone was granted. Thus, we are dealing with the acquittal of said accused Laxmi Sahu.
3. Case of the prosecution, in brief, is that on July 1, 2006, a memo was received regarding the admission of Sharda Sahu, wife of Laxmi Sahu, to the hospital with burn injuries. Upon investigation, it was found that Sharda Sahu had married to Laxmi Sahu in the year 2005. However, her in-laws used to make taunt to Sharda Sahu that she had not brought anything in dowry. The deceased and her husband were living in a rented quarter at Control Block Railway. On June 30, 2006, her father-in-law, Shivram, a Railway Employee, retired from his service, and when they were not invited to the retirement party, the deceased told her husband that she wanted to attend the party. This led to a quarrel, and her husband beat her. It is alleged that, in frustration, the deceased poured kerosene oil on herself, and her husband, with the intention of killing her, lit a matchstick and set her on fire, causing burns

to about 72% of her body. She was admitted to the hospital and died on 01/07/2006, during treatment. During investigation, spot map was prepared vide Ex.P-11 and 17. FIR was registered vide Ex.P-25. Accused persons were arrested vide Ex.P-2 to 5, 14/A and 22. Dying declaration was recorded vide Ex.P-1 After completing the investigation, a charge-sheet was filed against the respondents herein.

4. In order to prove its case, the prosecution has examined 29 witnesses. Statements of the respondent under Section 313 of the Cr.P.C was recorded wherein he has pleaded that he has been falsely implicated.
5. After appreciating the oral as well as documentary evidence, the learned trial Court vide its judgment dated 30.08.2007 acquitted the respondent/accused herein from the charges framed against him. Hence, this appeal.
6. Learned counsel for the State submits that the learned trial Court has failed to appreciate dying declaration of the deceased which was recorded by PW-1 Rajesh Shahi, Executive Magistrate. He submits that on perusal of the entire document, it is well established that the alleged offence has been committed by the accused respondent and the trial Court has erred in not looking to the prosecution case in proper perspective. The learned trial Court not appreciated the fact that the respondents have harassed the deceased in the form of dowry and used to make her taunt that they had received less dowry in the marriage. Hence, looking to the act committed by the respondent, the impugned judgment is bad in law and liable to be set-aside.

7. *Per contra*, learned counsel for the respondent would oppose the submission made by learned counsel for the State and submits that the judgment of acquittal is well merited and does not require any interference.
8. We have heard learned counsel for the parties, perused the judgment passed by the trial Court along with the trial Court record annexed with the present appeal with utmost circumspection.
9. This is appeal against the judgment of acquittal filed by the State under Section 378(1) of the Cr.P.C. in exercising the appellate jurisdiction under Section 378(1) or under Section 378 of the Cr.P.C. The appellate Courts are required to keep in mind that the trial Court had the advantage of looking at the demeanour of witnesses and observing their conduct in the Court especially in the witness-box and also required to keep in mind that even at that stage, the accused was entitled to benefit of doubt. The doubt should be such as a reasonably person would honestly and conscientiously entertain as to the guilt of the accused.
10. The Supreme Court in the matter of **C.Antony v. Raghavan Nair (AIR 2003 SC 182)**, unless the High Court arrives at definite conclusion that the findings recorded by trial Court are perverse, it would not substitute its own view on a totally different perspective and also as held by the Supreme Court in **Ramanand Yadav V. Prabhunath Jha (AIR 2004 SC 1053)**, the appellate Court in considering the appeal against judgment of acquittal is to interfere only when there are

compelling and substantial reasons for doing so. If the impugned judgment is clearly unreasonable and relevant and convincing materials have been unjustifiably eliminated in the process, it is a compelling reason for interference.

11. The scope of interference in appeals against acquittal is well settled. In **Tota Singh and another v. State of Punjab (AIR 1987 SC 1083)**, the Supreme Court has held in para 6 as under:-

“ . . . the mere fact that the Appellate Court is inclined on a reappreciation of the evidence to reach a conclusion which is at variance with the one recorded in the order of acquittal passed by the Court below will not constitute a valid and sufficient ground for setting aside the acquittal. The jurisdiction of the appellate Court in dealing with an appeal against an order of acquittal is circumscribed by the limitation that no interference is to be made with the order of acquittal unless the approach made by the lower Court to the consideration of the evidence in the case is vitiated by some manifest illegality or the conclusion recorded by the Court below is such which could not have been possibly arrived at by any Court acting reasonably and judiciously and is, therefore, liable to be characterised as perverse. Where two views are possible on an appraisal of the evidence adduced in the case and the Court below has taken a view which is a plausible one, the Appellate Court

cannot legally interfere within an order of acquittal even if it is of the opinion that the view taken by the Court below on its consideration of the evidence is erroneous."

12. Applying the law governing the scope of interference in an appeal against acquittal, the Hon'ble Supreme Court in the case of **State of Rajasthan Vs. Kistoora Ram (2022 SCC OnLine SC 984)** has held as follows:-

"8. The scope of interference in an appeal against acquittal is very limited. Unless it is found that the view taken by the Court is impossible or perverse, it is not permissible to interfere with the finding of acquittal. Equally if two views are possible, it is not permissible to set aside an order of acquittal, merely because the Appellate Court finds the way of conviction to be more probable. The interference would be warranted only if the view taken is not possible at all."

13. In the matter of **Jafarudheen and others v. State of Kerala (2022 8 SCC 440)**, the Supreme Court held as under:

"25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC. the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the

accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

14. While exercising the appellate jurisdiction against judgment of acquittal, the High Courts or the appellate Courts are fully empowered to appreciate and reappreciate the evidence adduced on behalf of the parties while reversing the judgment of the trial Court. The appellate Court is required to discuss the grounds given by the trial Court to acquit the accused and then to dispel those reasons.

15. In the present case, the learned trial Court while acquitting the accused/respondent has observed as follows:-

"48. As far as the dying declaration (Ex.P-1) of the deceased Sharda Sahu recorded by Rajesh Shahi (PW-1) is concerned, it does not bear the signature or thumb impression of the deceased. Furthermore, the medical examination and Dr. Suparna Goswami (PW-6) did not indicate any burns on the deceased's hand. In these circumstances, the dying declaration (Ex.P-1) recorded by Rajesh Shahi appears to be unreliable.

49. In defense, the testimonies of DW-1 P. Deepak Kumar and DW-2 Laxmi Prasad Sahu have been recorded. DW-2, in para 17 of his cross-examination stated that his wife became upset after not being taken to his father's retirement party. She was sitting on the bed in anger and began lighting matchsticks while sitting there. He tried to stop her, but she kept lighting matchsticks repeatedly. Then he attempted to snatch the matchbox from her hand, during which her bangles have broken. After that, he went to sleep and told his wife that he had to leave early in the morning and requested her not to disturb him. After falling asleep, he suddenly woke up to the sound of his wife screaming. When he woke up and looked, he saw that his wife was burning in the living room. Then he rushed to the living room, wrapped a cloth around her body and poured water on her, and called the neighbors. He also informed his friend Deepak about his wife being burnt, upon which Deepak came to his house. DW-1 Deepak also stated that upon receiving the call, he went to Laxmi Sahu's house and saw wife of Laxmi in a burnt condition. Thus, the testimony of DW-2, Laxmi Sahu, appears to be reliable, because Investigation Office-Ramashankar Tiwari PW-21 also visited the crime scene and prepared the spot inspection form Ex.P-18, and also recorded the statement of the

injured Sharda Sahu. However, the injured Sharda Sahu did not state that the accused Laxmi Sahu set her on fire, which indicates that there is no direct evidence available in the case against the accused.

50. Based on the above evidence and its analysis, the prosecution has completely failed to establish the case against the accused beyond reasonable doubt. Therefore, the offence under Section 498-A/34 of the Indian Penal Code is not found to be proven against the respondents. Similarly, the prosecution has also completely failed to prove the offence under Section 302 of the Indian Penal Code against the accused Laxmi Sahu beyond reasonable doubt.

16. Santosh Yadav PW-9, brother of deceased, stated in his cross-examination that his sister/deceased got married to the accused Lakshmi Sahu in July 2005 at Arya Samaj Temple, Raipur. He also admitted that the fact that the accused and his sister got married by eloping from home despite the family's disagreement and because of the love marriage, members of their family also did not go to Sharda's house. He further stated that when his sister ran away from home, he had filed a report at Torwa police station. In that report, it was written that his sister had taken Rs. 35,000 (thirty-five thousand rupees) from their house and ran away. He further stated that on June 30, 2006, there was a retirement ceremony of the father of accused Laxmi Sahu and

other family members were invited, but the deceased Sharda Sahu and her husband Laxmi Sahu were not invited. Then, Sharda Sahu, told her husband Laxmi Sahu that they should attend the ceremony since other family members were invited. This led to a quarrel between Laxmi Sahu and Sharda Sahu, which escalated. Around 1-1.5 hours later, Sharda Sahu poured kerosene oil on herself, and after a heated argument, and it is alleged that Laxmi Sahu lit a matchstick and threw it at Sharda Sahu, setting her on fire.

17. Rajesh Shahi, Tehsildar PW-1 in para 5 of his cross-examination, has not stated that in which ward or room of Apollo Hospital, the injured/deceased was admitted. PW-1 has also not mentioned the name of the Doctor who certified that the deceased was fit to give dying declaration. He further admitted in the cross-examination that during and after recording the dying declaration of deceased, he did not obtain any medical certificate regarding the health condition of the injured.

18. Based on the foregoing analysis, the reliability and evidentiary value of the dying declaration (Ex.P-1) recorded by Rajesh Shahi (PW-1) are seriously undermined. The absence of signature and thumb impression of deceased on the documents, coupled with the medical testimony indicating no burns on her hands, casts doubt on the authenticity of the declaration. The absence of any medical endorsement regarding the mental and physical fitness of the deceased at the time of recording of dying declaration, significantly undermines its credibility. In such circumstances, the dying declaration, without corroborative evidence,

cannot be considered wholly reliable or sufficient as the sole basis for conviction. Apart from that, marriage between accused Laxmi and deceased was a love marriage, as it manifest from the evidence that the brother of deceased lodged a report at P.S. that his sister had taken Rs.35,000/- from their house and ran away. Moreover, there is no eye witness in the case.

19. The Supreme Court in the matter of ***Purshottam Chopra and another v State (Government of NCT of Delhi*** reported in **(2020) 11 SCC 489**, held that where a dying declaration is suspicious or is suffering from any infirmity such as want of fit state of mind of the declarant or of like nature, it should not be acted upon without corroborative evidence.
20. There is no eyewitness in the case and no other evidence of conclusive nature, by which, his guilt of committing murder of the deceased can be proved. In the state of evidence on record, the respondent is entitled for the benefit of doubt.
21. Given the fact that more than 18 years have elapsed since the date of the incident, and taking into consideration the protracted nature of the proceedings, as well as the findings recorded by the trial Court which do not appear to suffer from perversity or manifest illegality, this Court finds no merit in interfering with the acquittal. Accordingly, the appeal, being devoid of substance, deserves to be dismissed and is hereby **dismissed**.

22. The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

**SD/-
(Bibhu Datta Guru)
Judge**

**SD/-
(Ramesh Sinha)
Chief Justice**

Amardeep