

HIGH COURT OF CHHATTISGARH, BILASPURCRA No. 1414 of 2019

1. Durgesh Sinha S/o Bhagwani Sinha Aged About 24 Years R/o Ward No. 10, Khamhariya, Police Station – Than - Khamhariya, District Bemetara Chhattisgarh.

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Khamhariya, District Mahasamund Chhattisgarh.

---- Respondent

03/12/2019	Heard Shri Vaibhav Goverdhan, Adv. for the appellant and Shri Chitendra Singh, Panel Lawyer for the State. <u>I.A. No.1</u> This is an application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 18-9-2019 passed by the Additional Sessions Judge, Bemetara, in ST No.66/16 the appellant has been convicted under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life with default stipulations. Deceased Khileshwari Bai @ Shakun died of burn injuries on 6-6-2016. She was married with the appellant herein about 1½ month prior to the date of incident. In all 4 accused persons namely; Durgesh Sinha (husband/appellant herein), Bhagwani Sinha (father-in-law), Bisahin Sinha (mother-in-law) (since deceased) and Ashok Sinha (Brother-	

in-law) were sent for trial for offence under Section 304-B of the IPC in the alternative 302 & 306 read with Section 34 of the IPC. While other accused persons have been acquitted of all the charges, the appellant alone has been convicted for committing offence under Section 302 of the IPC.

Postmortem was conducted by PW-9 Dr. G.S. Thakur & PW-10 Dr. Kunti Thakur. In their report (Ex.P/14) they have opined that the nature of death is suicidal.

The parents of the deceased namely; PW-1 Lakhan Sinha & PW-6 Smt. Kamla Bai have not made any allegation regarding demand of dowry or ill treatment. The only statement of PW-6 Smt. Kamla Bai is to the effect that the accused persons used to taunt the deceased that she does not know cooking.

There being absence of evidence regarding demand of dowry or abetment to commit suicide the accused persons have been acquitted of the said charges including the present appellant.

The appellant alone has been convicted for the reason that he being the husband was available in the house at the time of incident and the dead body having been found in his room it was for him to explain the facts within his exclusive knowledge.

There is statement of PW-5 Amarlal Sinha, neighbour, that the appellant was not present in the house. There is also evidence that the room where the deceased was found dead was bolted from inside.

Thus, considering the entire material available on record, we are inclined to suspend the jail sentence imposed against the appellant and release him on bail.

Accordingly, the application (I.A.No.1) is allowed.

Execution of the sentence imposed on the appellant shall remain suspended and he is directed to be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on 4th of March, 2020. He shall thereafter appear before the trial Court on a date to be given by the Registry of this Court and shall continue to appear there on all such subsequent dates as are given to him by the said Court, till the disposal of this appeal.

Certified copy as per rules.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge