

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 174 of 2020

1. Nityanand Tiwary @ Nityanand Tiwari
2. Rohit Tiwary @ Rohit Kr. Tiwari
3. Shankar Tiwary
4. Chameli Devi

....Appellant

Versus

The State of Jharkhand

...

Respondent

**CORAM: Hon'ble Mr. Justice Aparesh Kumar Singh
Hon'ble Mrs. Justice Anubha Rawat Choudhary**

Through Video Conferencing

For the Appellant : Mr. Arwind Kumar, Advocate

For the State : Mrs. Priya Shrestha, A.P.P

08/06.07.2021 Heard learned counsel for the appellant, Mr. Arwind Kumar and Mrs. Priya Shrestha, learned Additional Public Prosecutor for the State on the prayer for suspension of sentence made on behalf of appellant no. 4, Chameli Devi, mother-in-law through I.A. No. 2558 of 2021.

All the appellants stand convicted for the offence punishable under Sections 498A/34, 304(B)/34 of I.P.C by the impugned judgment dated 25.01.2020 passed in Sessions Trial No. 211/2013, Sessions Trial No. 218/2013, Sessions Trial No. 38/2016 by the Court of learned District & Additional Sessions Judge-II, Giridih and have been sentenced to undergo Imprisonment for life with a fine of Rs. 25,000/- each for the offence punishable under Section 304(B)/34 of I.P.C and a default sentence and further sentenced to undergo Rigorous Imprisonment for 3 years with a fine of Rs. 5,000/- each and a default sentence under Section 498(A)/34 of I.P.C by the impugned order of sentence dated 27.01.2020.

Learned counsel for the appellant submits that as per F.I.R lodged by the informant-father (P.W.7), the allegation of torture due to non-fulfilment of dowry is specifically against the husband. Other witnesses have also made general and omnibus allegations against the accused persons. Appellant has remained in custody during trial from 3rd July, 2013 to 14th February, 2017 i.e., 3 years and 7 months and thereafter since conviction on 25th January, 2020 i.e., one and half years till now in total more than 5 years. Appellant is 64 years old by now. Therefore, appellant may be enlarged on bail by granting her the privilege of suspension of sentence.

Learned Additional Public Prosecutor has opposed the prayer. She submits that during post-mortem the Doctor (P.W.5) has found several ante-

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mortem injuries. There was clotted blood in the interior part of the neck and fractured of cavity bone on right side (Ext-1). Appellant no. 4, mother-in-law and other accused reside in the same house as per the case of the prosecution. Therefore, she has been convicted in aid of Section 34 of I.P.C. Hence, appellant may not be enlarged on bail.

We have considered the submission of learned counsel for the parties and taken note of the relevant materials relied upon by them from the Lower Court Records. It appears from the evidence of father (P.W.7) that the allegation of torture is against the husband, who is appellant no. 1. The present appellant no.4, who is the mother-in-law has remained in custody for more than 5 years by now. Therefore, we are inclined to enlarge the appellant no. 4, namely, Chameli Devi on bail by granting her the privilege of suspension of sentence. Accordingly, appellant no. 4, Chameli Devi, shall be released on bail, during pendency of this appeal on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each, to the satisfaction of learned District & Additional Sessions Judge-II, Giridih in connection with Sessions Trial No. 211/2013, Sessions Trial No. 218/2013, Sessions Trial No. 38/2016 with the condition that the appellant no. 4 and her bailors shall not change their address or mobile number without permission of the learned Trial Court.

Consequently, I.A. No. 2558 of 2021 stands disposed of.

(Aparesh Kumar Singh, J)

(Anubha Rawat Choudhary, J)