

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.A. No. 721 of 2006

Chaituram, S/o. Benuram Dhurwa, aged about 22 years, Caste-Dhurwa, R/o. Village- Malgaon, P.S. - Nagarnar, District – Bastar (C.G.)

---- Appellant

Versus

State Of Chhattisgarh, Through – P.S. - Nagarnar, Distt. Bastar (C.G.).

-----Respondent

For Appellant	: Mrs. Indira Tripathi & Mr. Wasim Miyan, Advocates
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For Respondent/State	: Mr. Vinod Tekam, Penal Lawyer
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Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/06/2018

1. This appeal has been preferred against the judgment of conviction and order of sentence, passed by the learned Sessions Judge, Bastar at Jagdalpur in S.T. No.220/2006 on 14.09.2006 convicting the appellant for the offence under Section 306 of the Indian Penal Code and sentenced him to under go R.I. for 5 years.
2. It is not disputed that the deceased Fulmani was wife of this appellant and both had been married about 3 years prior to the date of incident i.e. 15.04.2006. It is also not disputed that the deceased committed suicide. In postmortem report (Ex.P-9) opinion is this that the death was caused to due Asphyxia, which confirms that the death was suicidal.
3. The case of the prosecution in brief is that the deceased had some doubt that the appellant was having illicit relation with some other

women because of which both husband and wife used to quarrel and appellant used to beat and thrash the deceased after consuming liquor on the number of occasions. On the day before the incident, the appellant has thrashed the deceased and subsequent to that, she committed suicide. Father of the appellant, Sampat recorded morgue intimation vide Ex.P/8. After inquest procedure, FIR was lodged against the appellant on the basis of the statement given by the witnesses that the appellant has abetted the deceased to commit suicide. After completion of investigation, charge-sheet has been filed before the concerned trial Court.

4. Appellant was charged with offence under Section 306 of the Indian Penal Code. The appellant denied the charges and prayed for trial. The prosecution examined as many as 8 witnesses on its behalf. On examining the appellant under Section 313, he denied all the incriminating evidence against him and pleaded innocence and false implication. No witness was examined in defence. On completion of trial, judgment has been delivered, in which the appellant stands convicted and sentenced as mentioned aforesaid.
5. It is submitted by the learned counsel appearing on behalf of the appellant that the trial Court has passed totally erroneous judgment of conviction without there being any basis of reliable and cogent evidence in support of the charge. Reliance has been placed on the statement of Budhram (P.W.-1) and Hiramani (P.W.-8), whose statements are contradictory to each other. The appellant and deceased were living peaceful married life. The deceased had

committed suicide out of her own frustration for which the appellant is not at all responsible. Hence, the conviction of the appellant recorded by the trial Court is bad in law, hence, it is prayed that the appellant be acquitted of the charges.

6. Counsel for the State opposes the grounds in appeal and the submissions made in this respect. It is submitted that the prosecution has proved its case beyond all reasonable doubt. The statement of Budhram (P.W.-1) and Hiramani (P.W.-8) clearly supports the prosecution case that the act and conduct of the appellant had been of such nature, which amounts to abetment for committing suicide by the deceased. hence, the prosecution has proved its case beyond all reasonable doubts and there is no room for interference in the impugned judgment of conviction and order of sentence.
7. I have heard the learned counsel for the parties and perused the record of the Court below.
8. It is not disputed that the deceased Fulmani has committed suicide. Whether the appellant had abetted her to commit suicide, that is a question which has been answered in positive by the trial Court. The correctness of this finding of the trial Court is being examined in this appeal.
9. Budhram (P.W.-1) has stated that after the marriage of the appellant and his daughter, the deceased, they used to live peacefully but on some occasions, the appellant used to assault and thrash the deceased, which was informed by the deceased to this witness.

This witness received information from the deceased on the date of incident, that appellant had beaten his daughter and when he was preparing to go and meet his daughter, he received information that his daughter has committed suicide.

10. Another witnesses Hiramani (P.W.-8) has stated, that she received information about the suicide of her daughter and when she went to see, the dead body of the deceased, she saw sign of injuries on the body of the deceased. This witness has expressed her doubts that the deceased was first beaten and then murdered and then she was hanged to show that she has committed suicide. In cross-examination, she has admitted that she was informed by her daughter that her husband, the appellant used to beat and thrash her. On the basis of the statement of these witnesses, the only thing which is made out is this that the appellant was habitually beating and thrashing the deceased during the quarrel with her.
11. Whether it amounts to abetment, it has to be examined under the provision of Section 107 of the Indian Penal Code, which clearly provides that in case the person is given instigation to do a thing and that thing is done that amounts to abetment, beating any person does not amount to abetment any person.
12. Secondly under Section 107 of I.P.C. when one or more other person or persons engage in any conspiracy for the doing of that thing, which amounts to offence of abetment. Clearly according to the evidence present in this case that does not appear to be any conspiracy by such persons for commission of offence of abetment

and thirdly under Section 107 of I.P.C., the abetment has to be in the manner of intentional aid given by the person. There is no such evidence on record that the appellant has intentionally aided the deceased in any manner, for committing suicide. Hence, this case does not fall within the scope and definition of Section 107 of the Indian Penal Code and thus no case is made out for abetment to commit suicide. Regarding the beating and thrashing of the deceased by this appellant, no other charge has been framed by the trial Court.

13. Hence, looking to the nature of the evidence that has been lead by the prosecution in this case, it is found that such evidence does not inspire confidence of this Court, hence for this reason the conviction against the appellant that has been recorded by the trial Court appears to be erroneous and without the basis of evidence beyond reasonable doubt. Hence, for these reasons, I am of this opinion that this appeal deserves to be allowed and it is hereby allowed. The appellant is acquitted of the charges. If the, appellant is on bail, his bail bonds shall continue for a period of six months subject to the provisions of Section 437 Cr.P.C.

Sd/-
(Rajendra Chandra Singh Samant)
Judge