



2026:CGHC:416-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 139 of 2018

1 – State of Chhattisgarh Through- Police Station Baradwar, District Janjgir Champa, Chhattisgarh.

... Appellant

versus

1 - Trilochan S/o Ganesh Ram Aged About 35 Years Occupation- Labour, Resident of Village Sakreli, Police Station Baradwar, District- Janjgir Champa, Chhattisgarh.

... Respondent(s)

For Appellant/ State	:	Ms. Sunita Sahu, P.L.
For Respondent(s)	:	Ms. Pragati Pandey on behalf of Mr. Hari Agrawal, Advocate

Hon'ble Smt. Justice Rajani Dubey
Hon'ble Shri Justice Radhakishan Agrawal
Judgment on Board

Per Rajani Dubey, J.

05/01/2026

1. The present appeal has been preferred by the appellant assailing the judgment dated 08.12.2017 passed by the learned Second Additional Sessions Judge, Sakti, District- Janjgir-Champa (C.G.) in Sessions Case No. 07/2016 whereby the learned trial Court acquitted the respondent/accused of the offences punishable under Sections 498-A, 304-B and in alternative Section 302 of the Indian Penal Code, 1860.
2. Earlier, the bailable warrant issued against the respondent/accused was received unexecuted with an endorsement that he was not residing at the address mentioned therein.
3. The prosecution case, in brief, is that the deceased, Akkabai alias Meenabai, was initially married to Sakunram, resident of village Sundareli (Jarwe). As she remained issueless for about 15–16 years, her husband Sakunram contracted a second marriage and brought another woman to the matrimonial home. Thereafter, Akkabai alias Meenabai left her matrimonial house and started residing with her parents. After about four years, the accused Trilochan Kumar married the deceased by putting bangles on her hands, in accordance with customary practices and kept her as

his wife. In this regard, a written agreement was also executed on stamped paper.

However, within a few days of the marriage, the accused Trilochan Kumar allegedly started subjecting the deceased to physical and mental cruelty by beating and harassing her with a demand to bring money and stamp paper from her parental home and from his brother. Due to such continuous cruelty and harassment, the deceased Akkabai alias Meenabai suffered severe physical and mental trauma.

On 30.07.2015, the deceased Akkabai alias Meenabai sustained burn injuries under suspicious circumstances. She was initially admitted to the Government Hospital, Champa, and thereafter referred to SIMS Hospital, Bilaspur for further treatment. Information regarding her hospitalization was sent to Police Station City Kotwali, Bilaspur by SIMS Hospital through intimation letters Ex.P-22 and Ex.P-23. During the course of treatment, the deceased succumbed to her injuries on 31.07.2015 at SIMS Hospital, Bilaspur.

On 31.07.2015, upon receipt of the hospital memo, an unnumbered merg intimation No. 0/388/15 (Ex.P-24) was registered at Police Station City Kotwali, Bilaspur. After issuing notice (Ex.P-4) to the witnesses, an inquest was conducted and the dead body of the deceased Akkabai alias Meenabai was sent for post-mortem examination. The post-mortem report (Ex.P-5)

was prepared in the presence of witnesses. As per the post-mortem examination conducted at SIMS Hospital, Bilaspur, Dr. Rizwan Siddiqui, vide his report (Ex.P-15), opined that the cause of death was respiratory and cardiac failure due to burn injuries. The fact of proceeding to the hospital has been corroborated by Santosh Kumar (PW-3) and Dilip Kumar Jangde (PW-12).

On receipt of the unnumbered inquest report No. 0/388/2015 from Police Station City Kotwali, Bilaspur, a numbered inquest report No. K-45/15 (Ex.P-27) was registered at Police Station Baradwar and investigation in the matter commenced. During the course of inquiry, prima facie material was found against the accused, whereupon a First Information Report (Ex.P-28) was registered against him under Section 304-B of the Indian Penal Code on 16.12.2015 at Police Station Baradwar. Statements of witnesses were recorded, the spot map (Ex.P-34) was prepared in presence of witnesses and the Patwari also prepared a site plan (Ex.P-31). The accused was arrested and his arrest memo (Ex.P-35) was prepared and due intimation of his arrest was given to his family members.

After completion of the investigation, a charge-sheet under Section 304-B of the Indian Penal Code was filed against the accused before the Court of Judicial Magistrate First Class, Sakti. Thereafter, in Criminal Case No. 173/2016, by order dated 09.03.2016, the case was committed to the Court of the learned District and Sessions Judge, Janjgir-Champa, who subsequently,

on 18.03.2016, transferred the case to the Court of the learned First Additional Sessions Judge for trial and disposal.

4. The Trial Court framed charges against the accused under Sections 498-A and 304-B of the Indian Penal Code and, in the alternative, under Section 302 IPC. The accused denied the charges and claimed trial. His plea was recorded accordingly. Subsequently, in pursuance of the distribution of work order dated 26.08.2016 passed by the learned Sessions Judge, the case was transferred to the present Court by the learned First Additional Sessions Judge for adjudication.
5. In order to bring home the guilt of the accused/respondent, the prosecution examined as many as 22 witnesses. The statement of the accused/respondent was also recorded under Section 313 of the Code of Criminal Procedure, wherein he denied all the incriminating circumstances appearing against him and pleaded innocence alleging false implication in the case. The accused/respondent did not lead any evidence in defence.
6. Upon due appreciation of the oral as well as documentary evidence available on record, the learned Trial Court acquitted the respondent/accused of the offences punishable under Sections 498-A and 304-B of the Indian Penal Code and in the alternative, under Section 302 IPC. Hence, this acquittal appeal.
7. Learned counsel for the appellant submits that although the scope of interference with an order of acquittal is limited, the appellate

Court is nonetheless empowered to re-appreciate the entire evidence on record. It is a settled principle of law that where the findings recorded by the Trial Court are perverse, unreasonable, or contrary to the evidence available on record, the appellate Court is fully justified in setting aside such acquittal and recording an order of conviction in accordance with law.

In the present case, the learned Trial Court has gravely erred in acquitting the respondent/accused despite overwhelming oral and documentary evidence establishing his guilt. The evidence of the complainant and other prosecution witnesses has not been appreciated in its proper perspective, and material evidence, including the post-mortem report and medical opinion, has been misread and misconstrued. The learned Trial Court has proceeded on conjectures and surmises, leading to findings which are manifestly erroneous and unsustainable in law.

It is further submitted that the prosecution evidence is consistent, cogent, and trustworthy, clearly proving that the respondent/accused subjected the deceased to cruelty and that the death occurred in circumstances squarely attracting the offences alleged. The learned Trial Judge failed to draw the necessary legal inferences arising from the proved facts and thereby committed a serious error of law in acquitting the respondent/accused.

Upon a careful and holistic scrutiny of the entire record, it is evident that the prosecution has successfully proved its case

beyond reasonable doubt. The learned Court below ought to have convicted the respondent/accused for the offences punishable under the relevant provisions of the Indian Penal Code. The Trial Court also failed to consider the gravity of the offence and the conduct of the respondent/accused, which were material considerations in the facts of the present case. It is also submitted that the investigation was conducted strictly in accordance with the mandatory provisions of the Code of Criminal Procedure, and no illegality or procedural infirmity exists so as to discredit the prosecution case. For the foregoing reasons, it is respectfully submitted that the judgment of acquittal passed by the learned Trial Court is unjust, improper, perverse and contrary to law and the evidence on record and therefore deserves to be set aside.

8. On the other hand, learned counsel for the respondent submits that the scope of interference in an appeal against acquittal is extremely limited and the presumption of innocence in favour of the respondent stands further strengthened by the judgment of acquittal. The prosecution has failed to prove its case beyond reasonable doubt. The evidence relied upon by the prosecution suffers from material contradictions and infirmities and the learned Trial Court has rightly disbelieved the same. The findings recorded are based on a plausible view of the evidence and do not warrant interference by the appellate Court merely because another view is possible. Therefore, the present appeal deserves to be

dismissed and the judgment of acquittal passed by the learned Trial Court deserves to be affirmed.

9. Heard counsel for the parties and perused the material placed on record including the impugned judgment.
10. It is evident from the record of the learned Trial Court that charges were framed against the accused/respondent under Sections 498-A and 304-B and alternatively under Section 302 of the Indian Penal Code. However, upon due appreciation of the oral as well as documentary evidence on record, the learned Trial Court acquitted the accused/respondent of all the charges so framed.
11. It is not disputed before the learned trial Court that the deceased Akkabai @ Meenabai was first married to Sakunram of village Sundareli (Jarve). Having no issue for about 15–16 years, Sakunram contracted a second marriage, whereafter Akkabai left the matrimonial home and resided with her parents. After about four years, accused Trilochan Kumar took Akkabai as his wife by performing customary rites of bangles, supported by a written document on stamp paper. On 30.07.2015, Akkabai sustained burn injuries and succumbed to them on 31.07.2015 during treatment at SIMS Hospital.
12. The prosecution examined several witnesses, namely, Faguna Ram Jangde (P.W.-1), brother of the deceased; Smt. Devki Jangde (P.W.-2), sister-in-law of the deceased; Santosh Kumar (P.W.-3), a relative of the deceased; Bhagwan Das (P.W.-4), a

relative of the deceased; Itwari (P.W.-5), a villager of Dumarpara; Natthuram (P.W.-6), a villager of Dumarpara; Jagatram Jangde (P.W.-7), a relative of the deceased; Chaitam (P.W.-8), a relative of the deceased; Ganpat (P.W.-9), brother-in-law of the deceased; Tiharin Bai (P.W.-10), sister of the deceased; Jawahar Lal (P.W.-11), a relative of the deceased; and Dilip Kumar Jangde (P.W.-12), a relative of the deceased. All these witnesses stated that the deceased, Meenabai @ Akkabai was married to the respondent-accused Trilochan by way of customary *Chudi* marriage and that an agreement was executed in the presence of elderly persons of the village. They further deposed that after the marriage, the deceased resided peacefully with the accused for about four to five years and thereafter the accused allegedly subjected her to physical assault after consuming alcohol and demanded money from her. However, in their respective cross-examinations, these witnesses admitted the defence suggestion that the marriage between the deceased and Trilochan was performed in accordance with the customary *Chudi* form and that a written agreement was executed on a stamp paper of Rs.60/- /Rs.100/- stipulating that in the event of any harassment or ill-treatment by Trilochan, 50 decimals of land would be transferred in favour of the deceased.

13. Some of the prosecution witnesses alleged that the accused had caused the death of Meenabai. However, Dr. Rizwan Siddiqui (P.W.-13), who conducted the post-mortem examination of the

deceased, categorically admitted that the nature of death was not mentioned in the post-mortem report.

14. None of the relatives of the deceased alleged that the deceased was subjected to cruelty or harassment in connection with any demand for dowry soon before her death.
15. Hon'ble 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."

16. The Hon'ble Apex Court in its latest 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 evidence, 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.”

17. Upon a cumulative appreciation of the entire oral and documentary evidence on record, this Court finds that the findings recorded by the learned Trial Court are neither perverse nor illegal. The prosecution has failed to prove beyond reasonable doubt the essential ingredients of the offences punishable under Sections 498-A and 304-B or alternatively under Section 302 of the Indian Penal Code.
18. The testimonies of the prosecution witnesses, most of whom are close relatives of the deceased, unequivocally establish that the marriage between the deceased Akkabai @ Meenabai and the accused Trilochan was a customary *Chudi* marriage, duly evidenced by a written agreement executed on stamp paper in the presence of village elders. Their own depositions further reveal

that the deceased resided peacefully with the accused for a period of about four to five years after the marriage, which significantly weakens the allegation of persistent cruelty or harassment.

19. Though certain witnesses made vague and omnibus allegations regarding assault and demand for money, none of them deposed that the deceased was subjected to cruelty or harassment in connection with any demand for dowry soon before her death. In the absence of such cogent and proximate evidence, the mandatory presumption under Section 113-B of the Indian Evidence Act is not attracted, thereby rendering the charge under Section 304-B IPC unsustainable.
20. The medical evidence also does not lend support to the prosecution case of homicidal death. Dr. Rizwan Siddiqui (P.W.-13), who conducted the post-mortem examination, categorically admitted that the nature of death was not specified in the post-mortem report. In the absence of a clear and definite medical opinion regarding the cause and nature of death, the charge under Section 302 IPC cannot be sustained.
21. It is a settled principle of criminal jurisprudence that suspicion, howsoever strong, cannot take the place of legal proof. The evidence led by the prosecution suffers from material inconsistencies and lacks substantive corroboration. At best, the evidence gives rise to one plausible view favouring the accused

and in such circumstances, the accused is entitled to the benefit of doubt.

22. In view of the aforesaid discussion, this Court is of the considered opinion that the learned Trial Court has rightly appreciated the evidence on record and has taken a plausible and reasonable view in acquitting the accused. The judgment of acquittal, therefore, does not warrant interference by this Court.

23. Consequently, the appeal fails and is hereby dismissed.

Sd/-

(Rajani Dubey)

JUDGE

Sd/-

(Radhakishan Agrawal)

JUDGE