



2025:CGHC:23019-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**CRMP No. 2149 of 2022**

State of Chhattisgarh, through its Station House Officer, Police Station
Kotwali, District Korba (C.G.)

... Applicant**versus**

Tekeshwar S/o Niraram Patel, aged about 29 years R/o Chandranagar
Jatraj, Police Station Kotwali, District Korba (C.G.)

... Respondent

For State / applicant : Mr. Shailendra Sharma, Panel Lawyer

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Bibhu Datta Guru, Judge

Order on Board**Per Ramesh Sinha, C.J.****11.06.2025**

1. I.A. No. 01 of 2022, is an application for condonation of delay of 184 days in filing the instant petition seeking leave to appeal.
2. For the reasons mentioned in the application, the same is allowed. Delay in filing the petition for leave to appeal is condoned.
3. The State has sought leave to appeal against the impugned judgment of acquittal dated 15.03.2022 passed in Session Trial No.05/2020 by the Court of First Additional Sessions Judge, District Korba (C.G.) whereby the learned trial Court has acquitted

the respondent from offence punishable under Section 304B of Indian Penal Code in connection with Crime No. 533/2019, registered at Police Station City Kotwali, Korba by giving benefit of doubt holding that the prosecution has failed to prove the charges beyond reasonable doubt.

4. Case of the prosecution, in brief, is that on 21.05.2019, informant Niraram Patel, appearing in the Police Station City Kotwali, Korba informed that on 20.05.2019 all the family members went to sleep at 9:00 pm after having dinner, his son Tikeshwar Singh had gone to work in Manikpur mine, his daughter-in-law Mrs. Nirabai Patel was alone in the room and she did not eat food in the night and on 21.05.2019 at 5:30 in the morning, she was found lying dead in the bed in her room, there was foam coming out from her mouth, it seemed that she has consumed poison. On the basis of the above information, Merg intimation was registered by Police Station Kotwali under Merg No.-58/2019, under Section-174 of the Code of Criminal Procedure. After information, a map of the site was prepared and panchnama action was taken of the dead body in front of the witnesses and the dead body of the deceased was sent for postmortem to Primary Health Centre, Korba, wherein Dr. M.L. Bhariya (PW-11) conducted postmortem over the dead body of the deceased vide Ex.P-17 and opined that death of deceased was probably due to cardio-respiratory failure caused by the consumption of poison and the viscera was sent to the forensic lab to find out the actual cause of death.

5. During the course of investigation the statements of the witnesses were recorded and thereafter, thereafter on the basis of information in the above complaint of the applicant, Police Station Kotwali registered FIR against the accused / respondent under Crime No. 533/2019 for offence punishable under Section 304B, 34 of the IPC vide Ex.P-25.
6. After due and necessary investigation, the charge-sheet was filed under aforementioned sections against the accused respondent before the learned trial Court and while framing the charges, accused/respondent denied the charges. In order to prove its case, the prosecution examined as may as 13 witnesses and statement of the accused/respondent under Section 313 of CrPC was recorded and when he was asked for examining defense witnesses, he has stated that he do not want to examine any defense witnesses.
7. After appreciating the evidences on record, the learned trial Court did not believe the evidence proving guilt of the accused/ respondent, and therefore, acquitted the accused/respondent from the offence charged vide impugned judgment dated 15.03.2022 hence, present Criminal Miscellaneous Petition has been filed seeking leave to appeal.
8. Mr. Shailendra Sharma, learned Panel Lawyer appearing for the applicant/State would submit that the learned trial Court has erred by acquitting the respondent from the offence charged by discarding the evidence of prosecution witnesses without there

being any strong reason to discard their evidences. He further submitted that death of deceased namely Meera Patel has been proved to be caused in the suspicious circumstances clearly established by the deposition of Dr. M.L. Bhariya (PW-11), who also claimed in the post mortem report vide Ex.P-17. Further, the fact has been fortified by the Forensic Science Laboratory report vide Ex.P-24, where the viscera of the deceased was found to be containing the poisonous substance. He also submits that factum of demand of dowry has been duly proved by the Jagganath Prasad Patel (PW-3, Father of the deceased), Smt. Badrika Bai (PW-1, Mother of the deceased) and Babli Patel (PW-6, Sister of the deceased). The learned trial court has failed to appreciate the evidences led by the prosecution and its entirety and committed grave error by acquitting the accused from the offences of 304B of IPC. The learned trial Court has unnecessarily given more weightage to the minor discrepancies to the deposition of material witness, however, clearly overlooked the material incriminating portion of the statement and thereby, committed grave error of law while acquitting the accused person. He lastly submits that the learned trial Court also failed to appreciate that it is the duty of the accused person to explain the unnatural death of the victim, where the accused person is charged with the offence of section 304B, but the accused in the present case has completely failed to discharge his burden casted over him by the operation of law.

9. We have heard learned Panel Lawyer appearing for the

applicant/State and perused the record of the case including the impugned judgment of acquittal.

10. From perusal of the materials available on record and the impugned judgment of acquittal, it transpires that the learned trial Court, while acquitting the accused/respondent has observed that if there was really any kind of harassment or cruelty or provocation, then the deceased's father would have immediately brought his daughter to her maternal home after going to her in-laws' house. It has been further observed that it is being shown from the prosecution witnesses that the deceased wanted to come to her maternal home, but it is not being proved from the statements of the prosecution witnesses that she wanted to come back because she was upset due to some harassment etc. Rather, it is being shown that the incident took place because Babli Patel (PW-06) came to know about talking to others from her mobile. On the night of the incident, the accused Tikeshwar had gone for night duty. No report has ever been made anywhere by the deceased's maternal side. No report has been made even at the time of the dead body panchnama proceedings. On the information of the father-in-law, deceased Nira Ram Patel, a case was registered and an FIR of the incident dated 20-21/05/2019 was lodged. The FIR was lodged on 30.08.2019 by Assistant Sub-Inspector Khanna in the capacity of applicant. It is a case registered by the police. It has been also observed that the evidence of the deceased's parents, sister and Tirath Bai is fragmented and exaggerated and

is unreliable, hence it cannot be proved that the deceased was harassed or tortured in connection with the demand for a motorbike or dowry. There is a lack of medical report regarding physical torture or cruelty by burning with hot water, and it cannot be proved by fragmented and unreliable evidence. Incitement to commit suicide is also not proved by the above evidence. The prosecution case has failed to prove its case beyond doubt against the accused and thus, giving the benefit of doubt, the learned trial Court has acquitted the accused/respondent.

11. Taking into consideration the findings recorded by the learned trial Court, acquitting the accused/respondent from aforesaid offences, we do not find any reason to allow Criminal Miscellaneous Petition seeking grant of leave to appeal.
12. Recently, 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"** reported in **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. Thus, for the foregoing reasons, the Criminal Miscellaneous Petition seeking for leave to appeal being totally devoid of merits the same is **rejected**. Consequently, the appeal also stands **dismissed**.

Sd/-
(Bibhu Datta Guru)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice