

(2020) 05 CHH CK 0003
In the Chhattisgarh High Court
Case No : Criminal Appeal No.820 Of 2002

Ajay @ Vijay @ Babu Jaiswal

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 27-05-2020

Acts Referred:

Indian Penal Code, 1860 — Section 107, 304B, 306, 498A
Code Of Criminal Procedure, 1973 — Section 313

Citation : (2020) 05 CHH CK 0003

Hon'ble Judges : Arvind Singh Chandel, J

Bench : Single Bench

Advocate : V.K. Pandey, Smriti Shrivastava

Final Decision : Allowed

Judgement

Conviction, Sentence

Under Section 498A of the Indian Penal Code, "Rigorous Imprisonment for 3 years and fine of

Rs.500/- with default stipulation

Under Section 306 of the Indian Penal Code, "Rigorous Imprisonment for 10 years and fine of

Rs.500/- with default stipulation

11. Gauri Devi (PW3), mother of the deceased has deposed that at the time of visit of her maternal house, the deceased did not tell anything about her",

matrimonial house. This witness has further deposed that when she had visited matrimonial house of the deceased, at that time, the deceased had told",

her that the Appellant had been taking meals at the house of his parents and he had not been giving her food. This witness has also stated that the,

Appellant had been frequently asking the deceased to withdraw the amount of fixed deposit. She has admitted the fact that the Appellant and his,

family were very poor.,

12. Laxmaniya (PW4), younger sister of the deceased has deposed that 10 days prior to the incident, she had visited matrimonial house of the",

deceased. At that time, the Appellant had demanded money from the deceased and had quarreled with her therefor. She has further deposed that",

while visiting matrimonial house of the deceased, she had taken rice and potato along with her and she and the deceased were cooking food at the",

matrimonial house of the deceased and were taking meals, but the Appellant was taking meals at the house of his parents.",

13. Shakuntala Bai (PW6), landlady of the house where the Appellant and the deceased were residing has deposed that one day the deceased had told",

her that the Appellant was asking for money and had also scolded her. She has not stated anything more about the incident. However, she has",

admitted the fact during cross- examination that the Appellant and the deceased were residing happily, but sometimes quarrels took place between",

them.,

14. Ramnath (PW7), maternal uncle of the deceased has only deposed that before the incident at the time of Shivratri festival, the deceased had come",

to his house and told that she was in difficulty of livelihood and the Appellant was torturing her for money. This witness has admitted during cross-,

examination that the Appellant is very poor, there was a difficulty of livelihood in his house and he wanted to withdraw the amount of fixed deposit for",

running livelihood of his house.,

15. Vinod Kumar (PW8), brother of the deceased has told that the Appellant used to come to him and make demand for money from him. According",

to this witness, the Appellant used to make demand for money from the deceased also and on not being given he used to commit marpeet with her.",

However, during cross- examination, he has admitted that he had visited matrimonial house of the deceased 3-4 times, but, in his presence, no quarrel",

took place at any occasion. This witness has further admitted that when the deceased had visited his house, she had told him that she was in difficulty",

of livelihood. Therefore, he had given her 2-4 kgs. of rice and 1½ - 2 kgs. of potato.",

16. On a minute examination of the evidence available on record, it is clear that the Appellant and his family were very poor. The Appellant was living", along with the deceased in a rented room. From the evidence on record, it is also established that due to poverty, the Appellant was selling the", household articles of the house and was fulfilling the needs of livelihood. From the evidence, it is also established that though he had been asking the", deceased frequently to withdraw the amount of fixed deposit, he had been asking so for fulfilling the needs of livelihood. Quarrels had been taking", place between the Appellant and the deceased, but those quarrels were of routine nature of a husband and wife. From the statement of the witnesses", it is also established that the Appellant was very poor and for their livelihood when the deceased had visited her brother's house, she had brought rice", and potato from there and when her sister had visited her matrimonial house, she had also brought rice and potato to her. From the evidence, it is also", established that the Appellant was not doing any job. The entire evidence on record go to show that the quarrels between the Appellant and the, deceased were for livelihood. He had sold household articles for the purpose of running livelihood and for this purpose itself he had been asking the, deceased for withdrawing the amount of fixed deposit. I find that the acts of the Appellant do not fall within the purview of instigation or abetment as, defined under Section 107 of the Indian Penal Code. Whatever problems arising due to poverty and difficulty of livelihood were not only of the, deceased herself but of both of the Appellant and the deceased. Therefore, if the deceased committed suicide under depression, this cannot be held as", instigation or abetment by the Appellant to the deceased to commit suicide. Merely because the deceased committed suicide, it cannot be said that the", Appellant instigated or abetted her to do so. Considering the entire evidence available on record, I find that the alleged offence is not proved against", the Appellant.,

17. Consequently, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. The Appellant is acquitted of the charges", framed against him.,

18. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.,