

**(2024) 03 OHC CK 0047**  
**In the Orissa High Court**  
**Case No : Criminal Appeal No. 393 Of 2012**

Chandrasekhar Mohanty

APPELLANT

Vs

State Of Odisha And Others

RESPONDENT

**Date of Decision :** 07-03-2024

**Acts Referred:**

Code of Criminal Procedure, 1973 — Section 372  
Indian Penal Code, 1860 — Section 34, 304B, 306, 498A  
Dowry Prohibition Act, 1961 — Section 4

**Citation :** (2024) 03 OHC CK 0047

**Hon'ble Judges :** S. K. Sahoo, J

**Bench :** Single Bench

**Advocate :** P.K. Mohanty, Arupananda Das

**Final Decision :** Dismissed

## Judgement

S. K. Sahoo, J

1. The appellant Chandrasekhar Mohanty has filed this appeal challenging the judgment and order dated 4th MaY 2012 passed by the learned Addl. Sessions Judge (FTC-1), Bhadrak in Sessions Trial No.75/141 of 2011 in acquitting the accused persons i.e. respondent nos.2 to 6 of the charges under sections 498-A/304-B/306/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

2. The prosecution case, in short, is that the deceased Sanjukta Nayak (hereinafter 'the deceased') married to respondent no.6 Dwarika Prasad Nayak on 15.07.2010 as per Hindu rituals and there was a demand of Rs.50,000/- and other articles including one motor-cycle by the accused persons from the parents of the deceased. Though the father of the deceased fulfilled all the demands raised by the accused persons, but so far as the demand of motor-cycle is concerned, he promised to give it after the marriage. It is the further prosecution case that since the demand of motor-cycle could not be fulfilled after marriage, the deceased was subjected to physical and mental torture in that connection by

the in-laws' family members of the deceased. It is the further case of the prosecution that the respondent no.6 kidnapped one girl and left for Kolkata and hearing such news, the father of the deceased came to the house of the accused persons but by the time he came, he found that the deceased had already consumed poison and immediately the deceased was shifted to District Headquarters Hospital, Bhadrak and in course of treatment, the deceased died. One U.D. case was registered in Bhadrak (T) police station, inquest over the dead body of the deceased was held and autopsy was done in District Headquarters Hospital, Bhadrak from which it came to light that the deceased consumed organo phosphorus poison. The father of the deceased lodged a written report before the Inspector in-charge of Tihidi police station on 15.03.2011, which was treated as F.I.R. and accordingly, Tihidi P.S. Case No. 61 of 2011 was registered against the respondent nos.2 to 6 and on conclusion of investigation, charge sheet was submitted under sections 498-A/304-B/306/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

In order to prove its case, the prosecution examined fourteen witnesses and some documents were exhibited on behalf of the prosecution.

The defence plea was one of denial.

The learned trial Court discussed the evidence of the witnesses and came to the conclusion that so far as the charge under section 498-A of I.P.C. is concerned, there is no specific allegation against any of the accused persons that they tortured the deceased and caused cruelty to her. Further, the allegations are omnibus in nature and it has not been established by the prosecution that respondent no.6, the husband of the deceased kept illicit relationship with another girl and left the village with her and accordingly, the learned trial Court held that the prosecution has not established the charge under section 498-A of the I.P.C. against the accused persons.

Then the learned trial Court has discussed the evidence on record relating to the charge under section 304-B of I.P.C. and came to hold that the prosecution has failed to prove that the accused persons subjected the deceased to cruelty soon before her death and there is no clinching evidence to show that they assaulted or harassed the deceased for or in connection with demand of dowry soon before her death. Except bald statement by the parents of the deceased and her brother in-law and another person that the deceased was subjected to cruelty or harassment prior to the death, there is no other clinching evidence and accordingly, it was held that the prosecution has failed to prove the charge under section 304-B/34 of the I.P.C.

Then the learned trial Court discussed the evidence on record with regard to the charge under section 306 of the I.P.C. and came to hold that though it has been established by the prosecution that the deceased committed suicide by consuming organo phosphorus poison but so far as abetment part is concerned, there is nothing in the evidence of the witnesses to show that the accused

persons in any way instigated or intentionally aided by acts or omission in the commission of suicide by the deceased and further came to hold that mere allegations, which are general in nature, with regard to the deceased was subjected to mental or physical cruelty by the accused persons cannot be sufficient to hold that the charge under section 306 of the I.P.C. has been proved.

Learned trial Court then discussed the evidence relating to the offence under section 4 of the D.P. Act and held that the mediator has stated that there was no demand of dowry from the side of the accused persons at the time of marriage and there is no convincing evidence that the accused persons demanded any dowry in shape of Hero Honda motor-cycle from the parents of the deceased after marriage and accordingly, held that the prosecution has not been able to bring home the charges against the accused persons beyond all reasonable doubt and accordingly held them not guilty.

Learned counsel for the State placed the impugned judgment.

In case of Babu -Vrs.- State of Uttar Pradesh reported in A.I.R. 1983 Supreme Court 308, it is held that in appeal against acquittal, if two views are possible, the appellate Court should not interfere with the conclusion arrived at by the trial Court unless the said conclusion is not possible. If the finding reached by the trial Judge cannot be said to be unreasonable, the appellate Court should not disturb it even if it were possible to reach a different conclusion on the basis of the material on the record because the trial Judge has the advantage of seeing and hearing the witnesses and the initial presumption of innocence in favour of the accused is not weakened by his acquittal. The appellate Court, therefore, should be slow in disturbing the finding of fact of the trial Court and if two views are reasonably possible on the evidence on the record, it is not expected to interfere simply because it feels that it would have taken a different view if the case had been tried by it.

Considering the materials available on record and after going through the impugned judgment, I am of the view that the findings arrived at by the learned trial Judge cannot be said to be unreasonable and there is no illegality or impropriety in the impugned judgment. The learned trial Court has come to a just conclusion and acquitted the accused/respondent nos.2 to 6 of all the charges.

In view of the foregoing discussions, I am not inclined to interfere with the impugned judgment passed by the learned trial Court in acquitting the respondent nos.2 to 6 of the charges under sections 498-A/304-B/306/34 of the Indian Penal Code and section 4 of the Dowry Prohibition Act.

Accordingly, the CRLA fails and stands dismissed.

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