
(1996) 06 OHC CK 0012

In the Orissa High Court

Case No : Criminal Miscellaneous Case No. 1748 of 1996

Laxmidhar Nayak and Others (In Jail Custody)

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 18-06-1996

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304B, 498A

Citation : (1996) 82 CLT 142 : (1996) 2 DMC 249 : (1996) 2 OLR 55

Hon'ble Judges : C.R. Pal, J

Bench : Single Bench

Advocate : Brahmananda Panda, for the Appellant; B.K. Das, A.S.C., for the Respondent

Judgement

C.R. Pal, J.—Learned Counsel for the petitioners states that the defect has already been removed.

2. Heard learned Counsel for the petitioner's and Mr. B.K. Das, learned Addl. Standing Counsel.

3. The petitioners in G.R. Case No. 982 of 1996 of the Court of SDJM, Bhubaneswar who were charged under Sections 498A, 304B/302/34, IPC have prayed for bail. The learned Counsel appearing for the petitioners submitted that there is no material to make out a case under Sections 304B and 302/34, IPC. The materials on record at best made out a case u/s 498A. It is further submitted that even if it is accepted that there was ill-treatment and torture by the petitioners which ultimately led the deceased to commit suicide, the same may not make out a case u/s 304B as the alleged torture was not in connection with any demand of dowry. In this context, the learned Counsel for the petitioners further submitted that any demand made through the daughter-in-law may not amount to dowry if there was no agreement at the time of marriage for giving any dowry to the bridegroom. From the FIR lodged by the brother of the deceased, it appears that there was no agreement for giving any dowry subsequent to the marriage. Therefore, the demand, if any, made at a later

stage even within the period of seven years of the marriage may not amount to dowry. There is also no material on record to implicate the petitioners directly with an offence u/s 302, IPC. The petitioners are permanent residents of village Bankula and there is no reason for any apprehension that they would abscond in case they are released on bail. Considering all the above circumstances, the prayer for bail is allowed. Let the petitioners be enlarged on bail for an amount of Rs. 10,000/- (Rupees ten thousand) with one surety each for the like amount to the satisfaction of the SDJM, Bhubaneswar.