

(2018) 02 CHH CK 0178
In the Chhattisgarh High Court
Case No : CRMP No. 1596 Of 2017

State Of Chhattisgarh

APPELLANT

Vs

Yogesh Sahu

RESPONDENT

Date of Decision : 08-02-2018

Acts Referred:

Indian Penal Code, 1860 — Section 307, 498A

Citation : (2018) 02 CHH CK 0178

Hon'ble Judges : Prashant Kumar Mishra, J; Ram Prasanna Sharma, J

Bench : Division Bench

Advocate : K. Tripti Rao

Final Decision : Dismissed

Judgement

Ram Prasanna Sharma, J

I. A. No.1, application for condonation of delay of 426 days in filing the appeal, is considered and allowed. Heard Learned State counsel on admission.

1. The trial Court has acquitted the accused, who happens to be the husband of the complainant, of the charges under Section 498A and 307 of IPC.

2. The respondent allegedly poured kerosene oil and picked up matchbox to lit fire on his wife Prabha Sahu. Thus, he committed cruelty and tried to commit murder of his wife.

3. The trial Judge has appreciated the contents of FIR, case diary statement, deposition of the complainant and other material witnesses including PW-2 Avan Kumar Dewangan, PW-3 Mansukh Sahu, PW-4 Dhalchand Patil, PW-5 Dhratrashttra Sonwani (Kotwar), PW-6 Meena Sahu, PW-7 Nirbhayram Sahu, PW-8 Dr. G. Goutam and the defence witnesses DW-1 Yogesh Sahu, the respondent himself, as also DW-2 Gariba Halba, to hold that the prosecution has failed to bring home the charges.

4. In the FIR and in her case diary statement, the complainant has not made any

allegation in respect of any previous incident where the respondent tried to strangle her or tried to forcibly administer poison to her, however, for the first time in the Court she stated all these past incidents. When the respondent allegedly poured kerosene oil on the person of the complainant on the date of incident, she ran away from her house and went to the house of PW-2 Avan Kumar Dewangan and thereafter called her mother. On the other hand, the respondent's defence was that the complainant had herself poured kerosene oil to falsely implicate him in the offence of attempt to commit murder.

5. There are evidences in the record to indicate that the parties were not pulling on well since after their marriage and there have been several meetings of elderly members of the society as also of the Panchayat. In those meetings, both the parties have made allegation on each other of abnormal or cruel behavior. The complainant has admitted that in one panchayat meeting, she had used disrespectful words for her husband and mother-in-law. Coupled with the fact that she never disclosed to the Police about the past incident of strangulation and trying to administer poison, the trial Judge concluded that it is doubtful as to whether the respondent has poured kerosene oil on the person of the complainant.

6. Despite thoughtful consideration, we are not in a position to hold that the finding arrived at by the trial Court is so absurd or perverse that it would alter the judgment of acquittal into a judgment of conviction. The trial Judge has rightly given benefit of doubt to the respondent, which does not call for any interference, therefore, the present is not considered to be a fit case for allowing leave to appeal.

7. Accordingly, CRMP is dismissed.