

(2019) 08 CHH CK 0114

Chhattisgarh High Court

Case No: ACQA No. 598 Of 2019

Rekha Gupta And Ors And Ors

APPELLANT

Vs

Vishal Kumar Gupta And Ors

RESPONDENT

Date of Decision: Aug. 19, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 302, 304B, 306, 498A

Hon'ble Judges: Prashant Kumar Mishra, J; Gautam Chourdiya, J

Bench: Division Bench

Advocate: J. K. Gupta, Pawan Kesharwani

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. This acquittal appeal is directed against the judgment of acquittal rendered by the Trial Judge acquitting the accused of the charges under Sections

498 (A), 304 (B) and 302 of IPC.

2. Respondent Vishal Gupta was married with deceased Rashmi Gupta on 11.07.2007. Thereafter, both of them started residing together at Village

Bhivapur, District Nagpur (Maharashtra). After 30th July, 2008, they came to District Durg, as the deceased secured job of Shiksha Karmi. Initially

they resided together at the village where the deceased was posted, but subsequently they shifted to Gaya Nagar at Durg. 2-3 months before the date

of death, the accused Vishal Gupta allegedly developed intimacy with one girl Mini, as reflected in the suicide note (Ex-P-7A). The deceased

committed suicide on 30.08.2010 leaving the said suicide note.

3. In the suicide note, the deceased has not made any allegation of demand of dowry and commission of cruelty by the accused persons in connection with such demand. The only reason for commission of suicide, as mentioned in the suicide note, is that her husband Vishal Gupta has extra marital relation with one Ms. Mini and despite persuasion he is not mending ways. Her father Sushil Kumar Gupta, examined as PW-1, would admit in his cross examination that there was no demand of dowry at the time of marriage or soon thereafter. He would state in his examination- in-chief at para 4 that at the time of Raksha Bandhan Festival in 2010, the deceased informed him that her husband Vishal Gupta has developed illicit relation with one girl. Thus, the contents of dying declaration find corroboration from the statement of PW-1. Other witnesses would also state the same facts with little variations, which are not material.

4. The evidence does not establish that the deceased was subjected to cruelty in connection with demand of dowry soon before her death. Since she has committed suicide, there is no question of commission of offence under Section 302 of IPC. There being no evidence to prove the fact of extra marital affair of the deceased with Ms. Mini, the ingredients of offence under Section 306 are also not proved.

5. Considering the evidence on record, the present is not considered to be a fit case for admitting the acquittal appeal, as the view taken by the Trial Court does not appear to be perverse.

6. Accordingly, the acquittal appeal is dismissed.