

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUBANESWAR.

Present:-

Shri M. K. Mishra, LL. B,
Addl. Sessions Judge, Bhubaneswar.

CRIMINAL TRIAL NO. 221 OF 2014
(Arising out of Bhubaneswar Mahila PS
Case No. 168/2014, corresponding
to CT Case No-2193/ of 2014, committed
by the SDJM, Bhubaneswar)

Date of argument- 19.12.2014
Date of Judgment- 20.12.2014

S t a t e -

Sarat Chandra Khilar, S/o: Dhaneswar Khilar of village:
Nuagaondiha, P.S. Bansada, Dist: Bhadrak, AT present:
Chintamaniswar, P.S. Laxmisagar, Bhubaneswar, Dist:
Khurda. .

....Accused.

Advocate for the prosecution :Shri Asok Kumar Pattnyak,
Addl.P. P

Advocate for Accused :Shri Bibhu Prasad Jena and others,
ADVs.

Offence Under Sections :498-A/304-B/302 of of Indian
Penal Code and U/s.4 of D.P.Act.

J U D G M E N T

The aforesaid accused namely: Sarat
Chandra Khilar has faced his trial being charged U/s. 498-
A/304-B/302 of Indian Penal Code (hereinafter referred as
'I.P.C.') and U/s.4 of D.P.Act.

2. The case of the prosecution as per the FIR story is
that the accused was the husband of the deceased Minati
Khilar. Their marriage was solemnized as per Hindu rites,
and customs about four years prior to the date of

occurrence. At the time of the marriage, the father of the deceased lady had given dowry cash of Rs.50,000/-. Apart from that, he had given gold ornaments, gold ring to the deceased lady, as well as gold chain to the accused. But after the marriage, the deceased lady resided with her husband in her inlaw's house. However, after some days of the marriage on demand of further dowry, she was being subjected to torture, and cruelty as the father of the deceased lady was not able to satisfy the further dowry demand. On the next early morning of the occurrence, the informant came to know after receiving a telephonic call from his younger brother namely: Sarat and one Narayan Ch. Sahu that his sister Minati had committed suicide and they had instructed him to immediately proceed to P.S. He further came to know that after the marriage, the accused was residing in a rented house at Chintamaniswar, Bhubaneswar alongwith the victim lady and they were blessed with a daughter who was born out of their wedlock. He came to know that the accused alongwith his parents, and his family members had committed the murder of the deceased lady. Ultimately he lodged the FIR narrating the incident on 14.6.2014 before the IIC, Mahila P.S, Bhubanewar, basing on which the case was registered vide Mahila P.S. Case No-168/2014 U/s.498-A/304-B/302/34 of I.P.C and U/s.4 of D.P.Act. The investigation of the case was taken up by the IO. In course of the investigation of the case, the IO had examined the complainant and other witnesses, recorded their statement U/s.161 Cr.P.C, visited the spot, seized the wearing apparels and ligature saree of the deceased on production of the escort party on

dtd.11.6.2014, seized the dowry articles on identification made by the complainant and prepared the seizure list and left the same in zima of the complainant, issued requisition for the Post mortem examination of the deceased lady, and the Post mortem report was received, obtained the final report from SFSL, Rasulgah, Bhubaneswar, arrested the accused and forwarded him to the court. On completion of investigation, he has submitted Chargesheet against the accused U/s.498-A/304-B of I.P.C and U/s.4 of the D.P.Act. However, charge was framed by this court U/s.498-A/304-B/302 of I.P.C and Section 4 of the D.P.Act.

3. The plea of the defence is that of complete denial of the prosecution story.

4. Points for determination in this case are:

i) Whether on dtd.10.6.2014 and about four years since that date in the rented house at Chintamaniswar, Bhubaneswar the accused had subjected cruelty on his wife deceased Minati Khilar on demand of dowry?

ii) Whether during the said period, the accused had committed dowry death of deceased lady Minati Khilar, who is his wife within seven years of their marriage?

iii) Whether on dtd.10.6.2014 in the rented house at Chintamaniswar, Bhubaneswar the accused had committed the death of his wife Minati Khilar with the intention of causing her death?

iv) Whether during the aforesaid

period, the accused had demanded further dowry of cash from the deceased Minati Khilar in violation of the Dowry Prohibition Act?

5. In order to prove it's case, prosecution has examined as many as 6 nos. of witnesses. Out of whom, the P.W.1 is the brother-in-law of the informant, the P.W.2 and the P.W.3 are the brother-in-law of the informant, the P.W.4 is the informant of this case, who is the brother of the deceased lady, the P.W.5 and the P.W.6 are the independent witnesses.

On the other hand, no oral evidence is adduced on behalf of the defence. Ext.1 to Ext.5 are marked which include the FIR, zimanama, signature of the witnesses inquest report etc. No MO is marked on behalf of either side. On the other hand, no documentary evidence is adduced on behalf of the accused. The rest of the prosecution witnesses have been declined considering the evidence of the informant and witnesses, by the Ld. Addl. PP who has filed a memo to that effect. The statement of the accused is dispensed with due to lack of incriminating circumstance on record.

6. The evidence of P.W.1 indicates that the deceased Minati Khilar is the younger sister of his wife. His evidence in Paragraph2 indicates that he has no idea as to who was the husband of the deceased lady, and expressed his ignorance regarding the incident. According to him, police has not examined him. The said witnesses was examined by the prosecution U/s.154 of I.P.C and some leading questions were put to him. He has simply identified his signature vide Ext.1 which appears in the inquest report.

The P.W.2 who is one of the brothers of the informant has stated that accused Sarat Khilar had married his sister Minati Khilar who is the deceased lady of this case. After the marriage, both the couple was residing at Bhubaneswar and they were leading a normal conjugal life. He has expressed to have no personal knowledge regarding the facts of this case. He has categorically stated that police has not examined him in this case. However, he has put his signature at the instance of police vide Ext.1 in the inquest report.

The P.W.3 who is another brother of the informant and the deceased has stated that about two years back the accused had married the deceased lady, and they were residing together at Bhubaneswar and leading a normal cordial conjugal life. Like the P.W.2, he has categorically stated that as to under what circumstance the deceased lady died. He has identified his signature appearing in the inquest report. His cross-examination indicates that he has no knowledge regarding the contents of the inquest report but at the instance of police, he has put his signature on the inquest report.

The P.W.4, the informant of this case stated that the accused had married his sister Minati Khilar about four years back. After their marriage, they were residing at Bhubaneswar and leading a normal cordial conjugal life, and at the time of marriage a normal house-hold articles were given. He has categorically stated that the deceased lady committed suicide in the hanging process using her saree as ligature. During his cross-examination, he has stated that he has put his signature on the inquest report

as per the instruction of police without going through its contents. He has stated to have no knowledge if the accused had subjected any kind of torture to the deceased lady for demand of dowry. He has admitted to have received the house-hold articles, and ornaments of the deceased lady on zima executing zimanama vide Ext.3.

This witness was thoroughly subjected to a volley of leading questions U/s.154 of I.E.Act by the prosecution. But insptie of efforts made by the Ld. APP, the P.W.4 has not stated anything incriminating against the accused nor he has stated anything relating to the FIR story. In his cross-examination he has stated to have not known the contents of the inquest report. However, at the instance of police, he has put his signature on the inquest report. He has admitted that the accused has never tortured the deceased lady on demand of dowry. The informant did not supported the case of the prosecution nor gave any kind of corroboration to the FIR story.

The P.W.5 and the P.W.6 whose houses are located near the spot house has stated to have no knowledge regarding the facts of this case. The P.W.5 has stated to have no acquaintance with the deceased, nor he knows the accused at all. Similar type of evidence is also coming from the mouth of P.W.6. The P.W.5 and the P.W.6 have not stated anything incriminating against the accused. Rather the P.W.5 has stated that on 9.6.2014 he was present in his native village at Bhadrak. The P.W.6 has identified his signature appearing on the seizure list. But his cross-examination indicates that, at the instance of police he has put his signature.

7. This being the case of the prosecution and the evidence appearing on the record. It is found that the informant who happens to be the brother of the deceased lady has not at all supported the case of the prosecution in any manner. He has not adduced any evidence if at any point of time the accused had demanded any dowry, and subjected any kind of torture to the deceased lady for demand of dowry. The P.W.1 to P.W.6 who are the natural witnesses, and who come forward against the accused are completely silent regarding the facts, and circumstances of the case. The FIR story has not corroborated by any of the witnesses, so also by the informant. Rather, the informant had given a blow by stating that the accused, and the deceased lady were leading a normal cordial conjugal life. Similar type of evidence is also coming from the evidence of P.W.2 and P.W.3 who are the brothers of the deceased lady. There is no whisper coming from the mouth of any of the witnesses even from the brothers of the deceased lady that the accused persons have ever demanded dowry. In other words, there is absolutely no evidence on record to make out a case against the accused, and there is no independent corroboration coming from any source to fortify the case of the prosecution.

8) Under the circumstance, I am of the opinion that the case of the prosecution appears to be very weak and the evidence is not sufficient enough to make out a case against the accused. Accordingly, after going through the evidence on record both oral, and documentary, I am of the opinion that the prosecution has failed to prove its case U/s. 498-A/304-B/302 of I.P.C and U/s.4 of D.P.Act, and

the accused is found not guilty, and he is acquitted thereunder as per provision 235(1), Cr. P. C. He be set at liberty forthwith.

Addl. Sessions Judge, Bhubaneswar.

Typed to my dictation, corrected by me and pronounced in the open Court today this the 20th day of December, 2014 given under my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1	Prakash Barik
P.W.2	Sumanta Nayak
P.W.3	Sukanta Nayak
P.W.4	Subash Chandra Nayak
P.W.5	Sarat Kumar Patra
P.W.6	Dillip Palei

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1	Signature of P.W.1 on inquest report
Ext.1/1	Signature of P.W.2 on inquest report
Ext.1/2	Inquest report
Ext.1/3	Signature of P.W.3 on inquest report
Ext.1/4	Signature of P.W.4 on inquest report
Ext.2	FIR
Ext.2/1	Signature of P.W.4 on Ext.2
Ext.3	Zimanama
Ext.3/1	Signature of P.W.4 on Ext.3
Ext.4	Signature of P.W.6 on seizure list dt.12.6.14
Ext.5	Signature of P.W.6 on the list of dowry articles

seized.

List of Exts. Marked on behalf of the defence

Nil.

List of M.Os marked on behalf of the prosecution

Nil

List of M.Os marked on behalf of the defence

Addl. Sessions Judge, Bhubaneswar.