

IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE,
BHUBANESWAR.

Present:-

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

CRIMINAL TRIAL NO. 27/157 OF 2013

(Arising out of Laxmisagar PS Case No. 61/12, dtd. 13.4.2012,
corresponding to G.R case No. 1147 of 2012, committed by the
SDJM, Bhubaneswar)

Date of argument- 19. 11. 2013

Date of Judgment- 21. 11. 2013

S t a t e -

- V e r s u s -

1. Muna Saha, aged about 30 years, S/o- Late Rameswar Saha,
2. Sunil Saha, aged about 28 years, S/o- Late Rameswar Saha,
3. Malati Devi, aged about 50 years, W/o- Late Rameswar Saha
4. Sova Sahoo, aged about 23 years, D/o- Rameswar Saha,

At- Belsuin P.S Daarolim, Dist – Siwan, Bihar, At
present Kulisahi, Budheswari Colony, P.S-
Laxmisagar, Dist- Khurda.

....Accused persons.

Advocate for the prosecution :Shri R.R. Brahma, Addl. P. P

Advocate for Accused :Shri R.C Barala and assts.

Offence Under Sections : Sec.498-A/302/326/34, IPC/ 4 D.P.Act

J U D G M E N T

The accused persons named above have faced their trial being charged U/ss. 498-A/302/326/34, IPC/ 4 D. P. Act of the Indian Penal Code (hereinafter referred as 'I.P.C.').

2. The case record discloses that the accused Muna Saha had married the deceased Baby Saha, who belongs to Bihar. The victim lady Baby Saha is the daughter of informant Mohan Lal Saha. After marriage, the deceased lady resided with Muna Saha and other accused persons in their dwelling house at Budheswari, Kuli Sahi, Bhubaneswar. Their marriage was solemnized on 24.5.2001. At the time of marriage, some dowry articles were given but for demand of further dowry of a motor cycle, the accused persons used to misbehave with the victim lady, and subjected her to torture and cruelty. On the date of occurrence i. e. on 8/9.4.2012, it is alleged that accused Muna and others had assaulted the victim lady with physically assault and committed her murder by pouring kerosene oil on her body by setting fire. Accused Muna, had informed the informant on 9.4.2012 that the deceased became ill. Hence, the informant came to Bhubaneswar and on his arrival he came to know regarding the facts of the case. Hence, as he was satisfied that the accused persons had committed murder of the victim lady and after subjecting her to torture and cruelty for non-fulfillment in procuring a motor cycle towards dowry, he lodged a written report before IIC, Laxmisagar P S on 13.4.2012. Basing on which a case was registered and investigation was taken up. During course of investigation, the I.O has visited the spot, examined the witnesses, recorded the statement of the informant and other witnesses U/s.161, Cr. P. C, prepared the spot map and made seizure of incriminating articles as per the seizure list and conducted the inquest in

respect of the dead body of the deceased lady in presence of the witnesses, prepared the inquest report, send the exhibits to SFSL, Bhubaneswar for chemical examination and opinion, arrested the accused persons and forwarded them to the Court. On completion of investigation submitted charge sheet U/s.498-A/302/ 306/ 34, IPC read with section 4 D.P. Act, against the present accused persons along with accused Rina Saha, against whom the case has been disposed of. Basing on the materials available in the case record charge was framed for the aforesaid section after hearing from the learned counsel for the parties.

3. The plea of the accused is one of complete denial of prosecution story.

4. Points for determination in this case are:

i) Whether on 08/09.04.2012 and prior to that since the date of marriage of the victim lady with the accused Muna Saha, the present accused persons had subjected the victim lady to torture and cruelty for the purpose of obtaining further dowry of a motor cycle in furtherance of sharing of their common intention?

ii) Whether on 13.4.2012 at Budheswari, Kuli Sahi in front of Plot No. 78, Bhubaneswar, the present accused persons had committed the murder of the deceased lady by pouring kerosene on her setting fire to her body in furtherance of sharing common intention ?

iii) Whether on 8/9.04.2012 during night time, at Budheswari, Kuli Sahi, the accused persons voluntarily caused grievous hurt to Raju Saha, the son of the deceased lady and accused Muna Saha in furtherance of sharing common intention?

iii) Whether since the date of marriage of the deceased lady with the accused Muna Saha till her death the accused persons had demanded dowry from the deceased lady for procure a motor cycle from her parents ?

5. In order to prove it's case, prosecution has examined as many as 15 witnesses, out of whom P.W. 1 is the Medical Officer, who had conducted Post Mortem examination of the victim lady. P.W.2 is the cousin sister of the deceased lady. P.W. 3 is the Medical Officer, who was present at the time of Post mortem examination of the victim lady. P.W. 4 is an witness to the inquest report. P.W. 5 is also another inquest witness. P.W. 6, P.W.7, P.W. 8, P.W.9, P.W.10 and P.W. 11 are the independent witnesses belong to the case area. P.W.12 is the informant himself. P.W. 13 is the brother of the informant. P.W.14 is the mother of the deceased lady and P.W.15 is the I.O of this case. On the other hand, no witness has been examined on behalf of the accused. Ext.1 to 12 series are marked as per the exhibit list, including F.I.R, formal F.I.R, inquest report, seizure list etc. The accused persons have denied the incriminating evidence appeared against them during their examination U/s.313 (1), Cr. P. C.

6. Considering the facts and circumstances of the case and the back ground of the case as mentioned in the F.I.R, the evidence as appearing in the case record was examined by the substratum of the allegation indicates that for the failure of the procuring a further dowry of a motor cycle by the victim lady, she was subjected to torture and cruelty for which this incident has taken place.

7. P.W. 1 who has conducted the autopsy in respect of the victim lady has stated that on 12.04.2012 he had conducted the post mortem examination in respect of the dead body of the deceased lady

and has opined that the injuries are ante-mortem in nature and might have been caused by fire. The cause of death was due to burn.

P.W. 3 has stated identical opinion who was present at the time of examination.

P.W. 2 who is the cousin sister of the victim lady has deposed that on the relevant time of occurrence, the informant was at Delhi and she had accompanied him to Bhubaneswar about a year back and the informant had reported the matter at P.S. P.W. 2 has not stated any thing relating to the facts of the case. On her cross-examination, she has deposed that she had never visited the house of the accused Muna at Bhubaneswar nor she had made discussion with the nearby persons relating to the occurrence. The said witness was subjected to leading questions U/s.154, I.E. Act by the prosecution but nothing fruitful could be elicited from her mouth in support of the case of the prosecution.

8 P.W.4, P.W.5, P.W. 6, P.W.7, P.W.8, P.W.9, P.W.10, P.W.11 have stated that they have heard that the victim lady had caught fire and charred to death. But they have not stated any thing further in support of the prosecution case and they were asked leading questions U/s.154, I.E. Act by the learned prosecutor for the state and in spite of that they have not uttered any thing favourable to the prosecution. P.W. 4 in her cross-examination has stated that to her knowledge the accused persons are never demanded any motor cycle from the parents of the deceased. P.W. 5 in his cross-examination has stated to have no knowledge as regards the family dispute and quarrel in respect of the case. He has also stated to have no knowledge if the accused persons had demanded any motor cycle from the parents of the deceased. Similar types of evidence also coming from the cross-examination of

P.W.6, P.W.7, P.W.8, P.W.9 and P.W.10. P.W.11 has deposed in his cross-examination to have never heard if at any point of time the accused persons were demanding any motor cycle from the parents of the deceased lady. P.W.12 who is the father of the deceased lady has deposed that the marriage in between the deceased and accused Muna Saha took place about 12 years back which was solemnized in the accused village. At the time of marriage no dowry was given. On the relevant day while he was staying at Delhi he received information relating to the death of the deceased lady over phone which was sent from the Police Station, Bhubaneswar, he then came back to his native village Bihar and thereafter he came to Bhubaneswar along with his nephew, his brother and wife. They went to Laxmisagar P.S, Bhubaneswar and police has examined him in connection with this case. Excepting this he has not disclosed any thing before the police relating to facts and circumstances of the case. The informant was subjected to leading questions U/s.154, I. E Act but in it's entire deposition he has not stated when the accused persons had subjected the victim lady to cruelty and torture on demand of motor cycle. His cross-examination never indicates that as to under what circumstances his daughter died nor he can assign any reason for her death. He has also categorically stated that accused Muna has never demanded any dowry at any point of time. According to him prior to her marriage, the victim lady was totally abnormal. P.W.13, the brother of the informant had accompanied the informant to Bhubaneswar after the occurrence took place has giving a similar types of evidence like the informant. He was examined U/s.154, I.E. Act by the prosecution but during his examination by the prosecution he has not made it clear by any other evidence which could lend support to the prosecution. During cross-examination, he has stated

he can not say under what circumstances, the deceased lady died nor he can assign any reason for her death. As per him the accused persons have never demanded any motor cycle at any point of time.

P.W.14 who is the mother of the victim lady has given identical evidence of the informant and P.W.13. She was also put leading question U/s.154, I.E. Act but she has not disclosed any thing in support of the prosecution case. Rather, her cross-examination indicates that she has never heard at any point of time, the accused persons had demanded any motor cycle.

9 P.W.15 who is the I.O of this case has deposed that during the course of investigation, he had conducted the inquest and issue requisition for post mortem examination, received the post mortem report, send the exhibits to SFSL, Rasulgarh, Bhubaneswar, made seizure of incriminating articles, prepared the seizure list, examined the informant and other witnesses U/s.161, Cr. P. C, visited the spot, prepared the spot map and after completion of investigation submitted charge sheet against the accused along with others. She was cross-examined by the defence but her evidence carries no value. Considering the aforesaid evidence on record when it is found that the informant, the mother of the deceased lady, informant's brother, other independent witnesses, who belong to the case locality and vicinity of the spot have not supported the case of the prosecution and rather they have equivocally deposed that accused persons have never demanded any motor cycle. The case record reveals that not a single witness has supported the case of the prosecution nor had stated any thing which could reveals that the accused persons had subjected the deceased lady to torture and cruelty for demand of a motor cycle or if the deceased lady was murdered by the accused persons by setting fire on her body

after pouring kerosene oil. In absence of any such materials or record the case of the prosecution can not succeed basing only on suspicion rather the evidence adduce on behalf of the prosecution suffers from serious laches and all the independent witnesses including the informant and the mother of the informant have expressed their ignorance relating to the circumstances for which the victim lady died. In absence of such material, the case of the prosecution seems to be extremely vulnerable and weak.

10. Under the aforesaid evidence I feel it proper that prosecution has failed to prove it's case against the accused persons U/s.498-A / 302/326/ 34, IPC/ 4 D. P. Act and they are acquitted therefrom as per section 235(1), Cr.P.C. They be set at liberty forthwith.

The seized articles, except the photo copies and marriage invitation card may be destroyed, four months after the appeal period is over, if no appeal is preferred, if preferred subject to the order of the Appellate Court.

Addl. Sessions Judge, Bhubaneswar.

Typed to my dictation, corrected by me and pronounced in the open Court today this the 21st day of November, 2013 given under my signature and seal of this Court.

Addl. Sessions Judge, Bhubaneswar.

List of witnesses examined for the prosecution

P.W.1	Dr. Jatan Kumar Sarangi
P.W.2	Sri Barister god
P.W.3	Dr. Kabita Naik
P.W.4	Smt. Padma Patra

P.W.5	A. Shom Shekhar Achari
P.W.6	Jagannath Mallick
P.W.7	Kunirani Samal
P.W.8	Smt. Manjulata Behera
P.W.9	Sukamani Sahu
P.W.10	Smt. Renubala Barik
P.W.11	Bapi Banarjee
P.W.12	Mohanlal Saha
P.W.13	Balakhil Gade
P.W.14	Smt. Shyampati Devi
P.W.15	Haramani Baske.

List of witness examined for the defence

Nil

List of exhibits marked for the prosecution

Ext.1	Report of P.W.1
Ex.1/1	Signature of P.W. 1 on Ext.1
Ext.1/2	Signature of Dr. Kabita Naik on Ext.
Ext.2	Inquest report
Ext.2/1	Signature of P.W.4 on Ext.2
Ext.2/2	Signature of P.W.5 on Ext.2
Ext.2/3	Signature of P.W. 8 on Ext.2
Ext.2/4	Signature of P.W.15 on Ext.2
Ext.2/5	Signature of supervising authority
Ext.3	F.I.R
Ext.3/1	Endorsement and signature of IIC
Ext.3/2	Formal FIR
Ext.4.	Crime details form
Ext.4/1	Signature of P.W. 15

Ext.5	Dead body challan
Ext.5/1	Signature of P.W.15
Ext.6	Final form
Ext.6/1	Signature of P.W.15
Ext.7	Spot map
Ext.7/1	Signature of P.W. 15
Ext.8	Spot map
Ext.8/1 to 8/4	Signature of team members.
Ext.8/5	Signature of P.W.15
Ext.9	Seizure list
Ext.9/1	Signature of P.W.15
Ext.10	Seizure list
Ext.10/1	Signature of P.W.15
Ext.10/2	Signature of constable Annapurna Kar
Ext.11	Seizure list
Ext.11/1	Signature of P.W.15
Ext.12	Forwarding report
Ext.12/1	Signature of P.W.15.

List of Exts. Marked on behalf of the defence

Nil.

Addl. Sessions Judge, Bhubaneswar.

