

CASE NO.:
Appeal (crl.) 1291 of 1999

PETITIONER:
MANDHARI

Vs.

RESPONDENT:
STATE OF CHATTISGARH

DATE OF JUDGMENT: 16/04/2002

BENCH:
R.P. Sethi & D.M. Dharmadhikari

JUDGMENT:

DHARMADHIKARI, J

The appellant's conviction and sentence of imprisonment under Section 302 Indian Penal Code passed by Second Additional Sessions Judge Ambikapur (Surguja) vide judgment dated 9.2.1987 has been confirmed by the High Court of Madhya Pradesh by its Judgment dated 6.11.1996 in Criminal Appeal No.200 of 1987. The appellant has approached this Court after obtaining Special Leave against his conviction and sentence.

The case of the prosecution against the appellant is that on 13.5.1985 at about 4.00 p.m. he killed his wife Kassobai @ Singerjheen by strangulating her. It is also alleged that he falsely stated to Patel (PW-1) and Kotwar (PW-2) of the village that his wife had committed suicide. It is further alleged that it is only on the advice of the Patel and Kotwar that he gave intimation of death (Ex.P-8) on 14.5.1985 at 9.00 a.m. in Police Station Jai Nagar and on the basis of which a formal FIR (Ex.P-9) was recorded.

The case of the prosecution is based on circumstantial evidence which has been accepted both by the trial court as well as the High Court in appeal.

The most culpable circumstance found to have been proved and accepted by the courts below against the accused is that he had himself made a false report of commission of suicide by his wife and admitted in his examination under Section 313 Criminal Procedure Code that he was present in the house at the time of incident. His case was that he heard some sound in the adjoining room and when went inside, found his wife hanging by neck with a sari tied on the rafter of the roof of the house. He then untied the sari, brought down the dead body, first reported the matter to the villagers and then to the police. The post-mortem report prepared on autopsy conducted by Dr. PC Jain (PW-8) shows that there was ligature mark on the neck of the deceased which was anti-mortem. The opinion of the doctor is clear and definite that such ligature mark of 5 cm width in horizontal position cannot be caused by hanging but could have been caused by strangulation. Medical evidence, therefore, completely falsifies the case of the appellant that on his return from the field to his house he had found his wife hanging and thus she had committed suicide. The conduct of the accused is also not natural. When he found his wife hanging by neck he neither raised any hue and

cry nor called any villagers living nearby. He all alone brought down the body hanging from the roof. He thereafter did not report the matter immediately. When villagers collected he took a plea that she had committed suicide. He also did not report the matter on his own but, as is deposed by Dilboodh (PW-2), Kotwar, it is on his insistence and of the Sarpanch that he reported the matter to the Police. These witnesses also stated that the wife had complained in the past to the Panchayat that the appellant was ill-treating her and was not providing her food.

After hearing learned counsel appearing and on going through the record we find no ground to take a different view of the evidence. The accused in his examination under Section 313 Cr.P..C. had admitted that he was in the house and on hearing a sound had rushed to find his wife hanging by neck. His defence that his wife committed suicide has been found to be false and the same is not corroborated by medical evidence. The above facts coupled with the circumstances that they were not leading a congenial marital life, the unnatural conduct of the accused subsequent to the incident; the spot map (Ex.7) showing that the rafter of the roof to be at such height as was unapproachable for committing suicide - cumulatively lead only to one irresistible conclusion that the accused alone was the author of the crime and had taken a false defence that he had seen the deceased to have committed suicide by hanging herself.

In the aforesaid state of evidence we find no ground to upset the judgment of conviction and sentence. Consequently the appeal fails and is dismissed.

...J
[R.P. Sethi]

J
[D.M. Dharmadhikari]

April 16, 2002