

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (DB) No. 916 of 2019

1. Bablu Verma
2. Sudhir Verma
3. Kushmi Devi

....

Appellants

Versus

The State of Jharkhand

...

Respondent

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CORAM: **Hon'ble Mr. Justice Aparesh Kumar Singh**
Hon'ble Mrs. Justice Anubha Rawat Choudhary

Through Video Conferencing

For the Appellants : Mr. Arvind Kumar Choudhary, Advocate
For the Informant : Mr. Nityanand Prasad Choudhary, A.P.P
For the State : Mr. Tarun Kumar, A.P.P

05/09.09.2021

Heard learned counsel for the appellants, Mr. Arvind Kumar Choudhary, learned counsel for the informant, Mr. Nityanand Prasad Choudhary and Mr. Tarun Kumar, learned Additional Public Prosecutor for the State on the prayer for suspension of sentence made by appellant nos. 2 & 3 through I.A. No. 4335 of 2021.

All three appellants in this appeal being husband, father-in-law and mother-in-law stand convicted for the offences punishable under Sections 304B/34 and 201/34 of the Indian Penal Code by the impugned judgment dated 09.08.2019 passed in S.T. No. 48 of 2016 by the Court of learned Additional Sessions Judge-II, Deoghar and all the convicts have been sentenced to undergo Rigorous Imprisonment for life with a fine of Rs. 25,000/- each and a default sentence each under Section 304B/34 of I.P.C and also sentenced to undergo Rigorous Imprisonment for 7 years each with a fine of Rs. 5,000/- each and a default sentence under Section 201/34 of I.P.C by the impugned order of sentence dated 19.08.2019. All the sentences have been ordered to run concurrently.

Learned counsel for the appellants, at the outset, does not want to press the prayer for suspension of sentence of appellant no. 2, Sudhir Verma being father-in-law, at this stage.

He further submits that on the basis of general allegations of demand of dowry and torture leading to death of sister of the informant (P.W.4) within six months of her marriage, the appellant no. 3, mother-in-law has also been convicted though there were no specific allegations against the mother-in-law of demand of dowry or torture. It is submitted that the prosecution witnesses like informant (P.W.4) and uncle of the deceased (P.W.1) had stated that there

was abrasion on right side of the face and blood was oozing out from the temporal region and there was froth coming out from nose of the deceased when the body was pulled out of the well, but the medical evidence of doctor (P.W.11), who conducted the post-mortem upon the victim (Ext.-4) says that there was no injury on the dead body and the cause of death was due to drowning in the well. It is submitted that other prosecution witnesses such as P.Ws. 7 & 8 have turned hostile while P.W. 9 has stated that the marriage of the victim with the appellant no. 1 had taken place 8 years before the incidence and that relationship between the deceased and her in-law's including husband was good as she had never been beaten up nor subjected to torture for demand of dowry. Appellant no. 3, mother-in-law is in custody since 11th December, 2015 during trial and was released vide order dated 28th November, 2016 i.e., about 11 months and she is in suffering sentence since the date of her conviction i.e. 9th August, 2019. By now, she has remained in custody for 3 years. Therefore, appellant no. 3 may be enlarged on bail by suspending her sentence.

Learned Additional Public Prosecutor and learned counsel for the informant have opposed the prayer. It is submitted that the deceased was married on 22nd April, 2015 as is also evident from the statement of prosecution witnesses and D.W. 1, in his cross-examination, and that she died in unnatural circumstances on 5th November, 2015 while being at the matrimonial house with preceding demand of dowry of Rs. 50,000/- which was paid. Thereafter, demand of further dowry of Rs. 1.00 Lakh and a motorcycle was made which could not be fulfilled. It is submitted that since the allegations are also made against the appellant no. 3 and prosecution witnesses have also corroborated the allegation made in the F.I.R such as P.W. 4 informant, P.W.1 uncle, P.Ws. 2 to 6 also, appellant no. 3 may not be enlarged on bail by suspending her sentence, at this stage.

We have considered the submissions of learned counsel for the parties and taken note of the relevant materials relied upon by them from the Lower Court Records including the period of custody undergone by appellant no. 3. Appellant no. 3 is the mother in law and moreover, general allegations have been made against the accused persons and that post-mortem report of the Medical Officer (P.W.11) adduced as Ext.-4 states that no injury was found on the dead body and death was caused due to fall in well. We are persuaded to enlarge the appellant no. 3 on bail also considering the period of custody of

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about 3 years undergone by her. Accordingly, appellant no. 3, namely, Kushmi Devi shall be released on bail, during the pendency of this appeal, on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each, to the satisfaction of learned Additional Sessions Judge-II, Deoghar in connection with S.T. No. 48 of 2016 with the condition that the appellant no. 3 and her bailors shall not change their address or mobile number without permission of the learned Trial Court.

I.A. No. 4335 of 2021 of 2021 stands partly allowed.

In view of the prayer made by learned counsel for the appellants, I.A. No. 4335 of 2021, as respects the appellant no. 2, Sudhir Verma, is dismissed as not pressed.

(Aparesh Kumar Singh, J)

(Anubha Rawat Choudhary, J)

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