

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 665 OF 2017
(Arising out of S.L.P. (Criminal) No.1570 of 2017)

SARADA PRASANNA DALAI

...APPELLANT

VERSUS

**INSPECTOR GENERAL OF POLICE,
CRIME BRANCH, ODISHA & ORS.**

...RESPONDENTS

ORDER

S.ABDUL NAZEER, J.

1 Leave granted.

2 The appellant is the brother of deceased Sulekha Dalai. Sulekha Dalai was married to Trilochan Rout on 4th June, 2008. According to the appellant, at the time of marriage, dowry in the form of cash of Rs.1,50,000/-, 20 tola gold ornaments, TV and washing machine was given to the three accused persons as per their demand and that certain additional sums have also been given through the deceased. It was contended that the accused have murdered the deceased. Therefore, he lodged a complaint against the accused persons and First Information Report at Talcher Police

Station was registered against them under Sections 498A, 302, 304B, 34 IPC and Section 4 of the Dowry Prohibition Act, 1961. It was further contended that after scientific investigation, the cause of death was recorded as ante mortem hanging and that ligature mark found on the body of deceased was not possible by the seized sari. However, after five days of the registration of the case, the I.O. made a query seeking clarification whether the hanging was suicidal or homicidal in nature and the medical officers, who had conducted the post mortem, opined the hanging to be suicidal hanging. After investigation, charge sheet dated 4th June, 2011 was submitted against the accused under Sections 498A, 306, 304B read with 34 IPC and under Section 4 of the Dowry Prohibition Act. The I.O. dropped charges against the accused under Section 302 of the IPC. Therefore, the appellant filed a writ petition being WP (Crl.) No.1131 of 2012 before the High Court of Orissa for a direction for reopening the case and to hand over further investigation to the Crime Branch or the CBI. The High Court dismissed the writ petition on 29th February, 2016 by holding that further investigation into the case is unnecessary. The appellant has challenged the legality and correctness of the said order in this appeal.

3 The appellant contends that sufficient material is available on record for framing an additional charge for the offence punishable under Section 302 IPC.

4 Having heard learned counsel for the parties, we are of the view that it is just and proper for the Sessions Court before whom the case is pending to consider framing of an additional charge under Section 302 of the IPC. Therefore, the Sessions Court is directed to peruse the entire material on record in order to consider the aspect of framing of an additional charge for the offence punishable under Section 302 IPC. However, this shall not be construed as our opinion on merits of the case.

5 The appeal is accordingly disposed of.

JUDGMENT

.....J.
(J. CHELAMESWAR)

.....J.
(S. ABDUL NAZEER)

New Delhi;
April 10, 2017.