

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.1444 OF 2011

Kishore Chand

Appellant(s)

Versus

State of Himachal Pradesh

Respondent(s)

O R D E R

The present appeal is preferred against the judgement of conviction and order of sentence dated 15<sup>th</sup> December, 2010, passed in Criminal Appeal No.22 of 2001 by the High Court of Himachal Pradesh at Shimla, whereby the High Court entertaining the appeal under Section 378(3) of the Code of Criminal Procedure (CrPC) had dislodged the judgement of acquittal dated 8<sup>th</sup> September, 2000, passed by the learned Sessions Judge, Hamirpur, H.P., in Sessions Trial No.4 of 1998, whereunder the learned trial Judge had found that the prosecution had not been able to prove the offences punishable under Sections 498A and 306 read with Section 34 of the Indian Penal Code (IPC) against the accused persons, namely, the appellant-husband and his parents.

The prosecution case, in brief, is that the deceased, Meena Devi, entered into wedlock with Kishore Chand as second wife in May, 1992, as per the Hindu rites and customs. In the wedlock, a son and a daughter were born. After few years of marriage, as time rolled by, the husband started treating wife with cruelty and in 1994 she witnessed the first treatment of cruelty. The parents of the husband also joined in such treatment. As the facts would further unfurl, unable to tolerate such maltreatment, the deceased, Meena Devi, jumped into the well on 26<sup>th</sup> May, 1997 along with her son, Ajay Kumar, aged two and half years and daughter, Sunita Devi, aged four and half years and all of them breathed their last. After the death was revealed, the investigation commenced and after due investigation, charge-sheet was filed for offences punishable under Sections 498A and 306 IPC read with Section 34 IPC. Eventually, the matter was committed to the concerned trial Judge. The accused persons abjured their guilt and pleaded false implication.

The prosecution in order to substantiate its case, examined number of witnesses and the principal witnesses are PW-1, Beer Singh, PW-14, Prem Raj, the brothers of the deceased and PW-15, the father of the deceased. The other witnesses are basically formal witnesses.

During the course of investigation, the investigating agency had seized three letters, alleged to

have been written by the deceased, Meena Devi, and all the three letters were exhibited before the learned trial Judge. Be it noted, the letters were sent for expert examination and eventually the trial Court opined that it was extremely difficult to place reliance on exhibit PW-13/A, which is the letter dated 19<sup>th</sup> March, 1997. The other two letters, however, were also not given credence to by the learned trial Judge on the foundation that there was a possibility that the same were written by the deceased but the said two letters did not reflect any allegation as regards the ill treatment. The learned trial Judge also found that there was no substantial oral evidence to record a conviction and, accordingly, acquitted the accused persons.

In criminal appeal the High Court found that the learned trial Judge had fallen into grave error by ignoring the letter i.e. PW-13/A, for there was no justification not to give credibility to the same. At this juncture, be it stated that an innovative argument was put forth before the High Court that the deceased and the two children accidentally fell into the well, but the same did not weigh with the High Court for the simple reason the High Court found that where the well was constructed, no signs of skid was available and it was not a situation where the deceased had gone to the well to fetch water or to do anything and, therefore, the plea of accident was absolutely far fetched. As is perceived from the judgement of the High Court, it has

basically placed reliance on the testimony of the brothers and other supportive evidence and the letter written by the deceased vide exhibit PW-13/A.

On the aforesaid analysis, the High Court altered the conviction and convicted the appellant under Sections 498A and 306 IPC read with Section 34 IPC and found the appellant and the parents guilty of all the offences and sentenced the appellant to suffer rigorous imprisonment for five years under Section 306 IPC, two years under Section 498A IPC and to pay a fine of Rs.2000/Rs.3000, on both the respective scores with the default clause. As far as the parents are concerned, for the reasons best known to the High Court, sentenced them till rising of the Court.

We have heard Mr. J.S. Attri, learned senior counsel for the appellant and Mr. Suryanarayana Singh, learned Addl. Advocate General for the State of Himachal Pradesh.

First, we shall deal with the facet whether the view expressed by the learned trial Judge was a plausible one and did not warrant interference by the High Court. It is well settled in law that if the view expressed is plausible one, the High Court should not interfere. However, if there is improper appreciation of evidence or manifest error on record, non-consideration of evidence which have materially affected the verdict, definitely the appellate court has jurisdiction to re-appreciate the evidence and reverse the judgement of acquittal. As we perceive, the expert opinion

was that two letters were written by the deceased, one virtually did not contain anything and, therefore, on that score no fault could be found with the learned trial Judge. As far as the letter exhibit PW-13/A is concerned, the same has immense significance. The High Court has translated the contents of the said letter which is admissible in evidence, but for unexplained reasons, the trial Judge ignored it. The High Court has perused the contents of the letter and come to hold that the factum of ill treatment and cruelty that was meted out to wife, had been established and, therefore, she was compelled to commit suicide. To satisfy ourselves, we have scrutinized the letter and we have found that the letter has been written by the daughter to the father in an agonised tone, expressing the torture, the taunt, the sufferings and the trauma that she had undergone. She has also indicated that the life had become unbearable and she was not able to sustain the life and was likely to invite death at any point of time. The said letter was written two months prior to the death. Once we do not accept the innovative submission pertaining to accidental death and there is oral evidence which gets support from the documentary evidence, the letter written by the wife, the only inevitable and irresistible conclusion is that the prosecution has proved the offence to the hilt and, therefore, we do not find any error in the conclusion recorded by the High Court.

Resultantly, the appeal, being devoid of merit, stands dismissed. As the appellant is on bail, his bail bonds be cancelled and he be taken into custody forthwith.

.....J.  
(Dipak Misra)

.....J.  
(Rohinton Fali Nariman)

.....J.  
(Uday Umesh Lalit)

New Delhi;  
October 15, 2014.

ITEM NO.102

COURT NO.7

SECTION IIB

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCriminal Appeal No.1444 of 2011

KISHORE CHAND

Appellant(s)

VERSUS

STATE OF H.P.

Respondent(s)

Date : 15/10/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE UDAY UMESH LALITFor Appellant(s) Mr. J.S. Attri, Sr. Adv.  
Mr. Rameshwar Prasad Goyal, AOR  
Mr. Sumeet Parkash, Adv.For Respondent(s) Mr. Suryanarayana Singh, Addl. A.G.  
Ms. Pragati Neekhara, AORUPON hearing the counsel the Court made the following  
O R D E RThe appeal is dismissed in terms of the signed  
order.(Chetan Kumar)  
Court Master(Renuka Sadana)  
Court Master

(Signed order is placed on the file)