

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. (S). 1155 OF 2011

RAJ KUMAR

Appellant(s)

VERSUS

STATE OF UTTARKHAND

Respondent(s)

O R D E R

This appeal arises out a judgment and order dated 22nd February, 2010 passed by the High Court of Uttarakhand at Nainital whereby Criminal Appeal No.1416 of 2001 filed by the appellant has been dismissed and his conviction and sentence for the offences punishable under Section 304-B of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1961 affirmed.

The appellant was tried and convicted by the trial court for the offences, mentioned above, and sentenced to undergo imprisonment for life under Section 304-B of the I.P.C. and imprisonment for a period of one year under Section 4 of the Dowry Prohibition Act. The prosecution case before the trial court and so also before us is that the appellant and the deceased-Anita got married on 3rd December, 1986. Several gifts and dowry items were, according to the prosecution, given to the deceased-Anita at the time of her marriage

including a double bed, a TV, a sewing machine, a trunk, a radio etc. Even so at the time of her send-off (vidai) from her parental house the appellant herein is alleged to have demanded a sum of Rs.60,000/- or else he would refuse to take the bride to her matrimonial home. People in the neighbourhood are alleged to have mediated to resolve the stalemate and persuaded the appellant to take the bride home. The appellant's demand for a sum of Rs.60,000/- to start some business and earn his livelihood did not however abate and is alleged to have been repeated for a long time. Failure of the deceased-Anita and her family to arrange the amount led to her torture at the matrimonial home. On 22nd February, 1990, the appellant is alleged to have come to Chartawal where Anita was staying with her parents and asked her to accompany him to his village Bastam, Sultanpur. A demand for Rs.60,000/- is alleged to have been made on that occasion also and upon failure of the parents to arrange the same, a quarrel was picked up by him. The deceased-Anita all the same accompanied the appellant to village Bastam, Sultanpur, but was instead taken to Jwalapur, Haridwar, and put up in a house owned by one Usha Bali. On 28th February, 1990, Usha Bali, landlady of the house, appears to have informed the police that the deceased-Anita had committed suicide whereupon the police

registered a case setting the law into motion. Investigation eventually led to the filing of a charge-sheet against the appellant for offences punishable under Section 304-B of the I.P.C. and Section 4 of the Dowry Prohibition Act, as already mentioned above.

Before the trial court, the prosecution examined as many as 8 witnesses in support of its case. The trial court upon appraisal of the said evidence came to a definite conclusion that the deceased had met with a dowry death within the meaning of Section 304-B of the I.P.C. and that the appellant was responsible for the same. The trial court also convicted him for having demanded dowry and sentenced him to undergo imprisonment for life under Section 304-B of the I.P.C. and a period of one year under Section 4 of the Dowry Prohibition Act. An appeal preferred by the appellant before the High Court of Uttarakhand at Nainital to challenge his conviction and sentence awarded to him having failed, the appellant has filed the present appeal to assail the said judgments and orders.

When the matter came up for hearing on 6th May, 2011, this Court granted leave limited to the question of sentence awarded to the appellant. We have accordingly heard learned counsel for the parties on the said limited question. The

deceased-Anita was a young lady who was fairly well-qualified being a post-graduate with a degree in education. She was employed as a teacher and appears to be the sole bread earner in the family. Since the appellant was jobless, his ambition of starting business with the help of money which he demanded from the parents of the deceased-Anita, did not fructify as the parents of the deceased appear to be much too poor to be able to provide the amount necessary for any such venture. Dowry harassment appears from the evidence on record to be the only reason why the deceased was compelled to put an end to her life by burning herself. Depositions of witnesses including the deposition of Seva Ram, father of the deceased, and her brother-Ashok Kumar fully support the version of the prosecution that the deceased-Anita died because of her harassment on account of the failure of the family of the deceased-Anita to meet the demands made by the appellant. Even so we are of the view that the sentence of imprisonment for life awarded by the trial court as affirmed by the High Court is on the higher side and may prove to be too harsh to meet the ends of justice. Having regard to the circumstances in which the entire incident has taken place, the sentence awarded to the appellant deserves to be reduced to rigorous imprisonment for a period of eight years only.

In the result, we allow this appeal but only in part and to the extent, while the conviction of the appellant for the offences punishable under Section 304-B of the I.P.C. and Section 4 of the Dowry Prohibition Act shall stand affirmed, the sentence awarded to the appellant for the offence punishable under Section 304-B of the I.P.C. shall stand reduced to rigorous imprisonment for a period of eight years. As regards the sentence of imprisonment for a period of one year under Section 4 of the Dowry Prohibition Act, 1961, the same shall remain unaltered. Both the sentences shall however run concurrently.

.....J
(T.S. THAKUR)

.....J
(R. BANUMATHI)

NEW DELHI
DATED 5th NOVEMBER, 2014

ITEM NO.104

COURT NO.2

SECTION II

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 S

Criminal Appeal No(s). 1155/2011

RAJ KUMAR

Appellant(s)

VERSUS

STATE OF UTTARKHAND

Respondent(s)

(with appln. (s) for bail and office report)

Date : 05/11/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE R. BANUMATHI

For Appellant(s) Mr. Abhay Kumar,Adv.
 Mr. Tenzing Tsering,Adv.
 Mr. Smarhar Singh,Adv.

For Respondent(s) Mr. Mukesh Verma,Adv.
 Mr. Jatinder Kumar Bhatia,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

In terms of the signed order, this appeal is allowed:

"In the result, we allow this appeal but only in part and to the extent, while the conviction of the appellant for the offences punishable under Section 304-B of the I.P.C. and Section 4 of the Dowry Prohibition Act shall stand affirmed, the sentence awarded to the appellant for the offence punishable under Section 304-B of the I.P.C. shall stand reduced to rigorous imprisonment for a period of eight years. As regards the sentence of imprisonment for a period of one year under Section 4 of the Dowry Prohibition Act, 1961, the same shall remain unaltered. Both the sentences shall however run concurrently."

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)