

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CRIMINAL APPEAL NO(s). 1855 OF 2008

ABDUL GAFFAR @ ABDUL GAFFOOR Appellant (s)

VERSUS

STATE OF UTTRAKHAND Respondent(s)

(With office report)

Date: 15/05/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE DIPAK MISRA  
(VACATION BENCH)

For Appellant(s)

Mr. J.M. Khanna, Adv.  
Ms. Shefali Sethi, Adv.

For Respondent(s)

Mr. Abhishek Atrey, Adv.  
Mr. Tanmaya Agarwal, Adv.

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

The appeal lacks merit and is dismissed in terms of the signed order.

| (DEEPAK MANSUKHANI) | (M.S. NEGI) |  
| Court Master | Court Master |

(The signed order is placed on the file)

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(s). 1855 OF 2008

VERSUS

STATE OF UTTARAKHAND

Respondent(s)

## O R D E R

This appeal has been filed against the impugned judgment and order dated 2.6.2008 passed by the High Court of Uttarakhand at Nainital in Govt. Appeal No. 1472 of 2001 by way of which the High Court has allowed the State appeal reversing the judgment of the Sessions Court by way of which the trial Court had acquitted the appellant for the offences punishable under Section 302 IPC and convicted him under Section 309 IPC and awarded the sentence as already undergone.

According to the evidence on record, the incident occurred in 1988 wherein the deceased Faujia @ Firoza who got married twice earlier and had taken divorce and had got married third time with appellant was found lying in a pool of blood and grievous injuries were found on her body in a room bolted from inside and appellant was also having three injuries on his body. The people who were the tenant and the landlord of the same premises had gathered in the early morning after hearing the screams. Post mortem was conducted and the following injuries were found on the person of the deceased:-

(i) incised wound oblique on the right side of the lower end of the face 2cm X 1/4 cm X skin deep.

(ii) Transverse incised wound 9cm X 3cm X viscera deep on the upper abdomen about 7 cm above the umbilicus. Blood oozing out.

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(iii) Incised wound 4 cm X 1 cm on the back of the left hand.

(iv) Incised wound 1 cm X 1/4 cm parallel to no. 3.

So far as injuries of the accused are concerned, they are as follows:

(i) Dressing wound found at upper abdomen dressing removed and wound noted as below:-

(a) Size 2cm in length, 1-1/2cm in width, 3cm in depth.

(b) Direction-From lateral to medial, superior to inferior going posteriorly in depth. Muscle deep.

(c) Upper abdomen right side medial end of wound 4 cm below xyplesten end 10 cm above umbilicus. Lateral end 9 cm below and 6 cm medial to right nipple.

(d) Margin-Fresh would well defined margin. Incised wound bleed on touch. Two stiches given.

(ii) Other wounds:

(a) Haematoma with incised wound 1/4 cm in width, 2 cm in length, skin deep. Direction medial to lateral and inferior on left side. Size of haematoma 2 cm in diameter. Plead on touch, fresh, one stitch given. 12 cm above and lateral to umbilicus.

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(b) Incised wound .5 cm in length, 2 cm in width, skin deep 2 cm above obliquely placed on left side of abdomen. 1-1/2 cm lateral to midline.

(c) Incised wound just above injury(b) .5 cm in length 2 cm in width obliquely placed .5cm lateral to midline.

There has been sufficient evidence on record to the extent that the room was found bolted from inside and there were only two persons in the room, the deceased and the accused and none else and such a fact view has been categorically stated by all the witnesses. The appellant in his statement under Section 313 Cr.PC has stated as under:-

"I was third husband of Firoza. In my absence some body used to come to meet my wife secretly. I also used to see her secretly, but I could not meet that unknown person. My wife was Faisha."

In appeal, the High Court has convicted the appellant under Section 302 IPC after rightly appreciating the evidence on record. The conclusion of the High Court has been founded on the factum that as the appellant had doubted the character of his wife, he killed her and subsequently wanted to commit suicide.

In view of the above, we do not see any cogent reason to interfere with the aforesaid finding.

The appeal lacks merit and is dismissed.

.....J.  
(Dr. B.S. CHAUHAN)

.....J.  
(DIPAK MISRA)

NEW DELHI  
MAY 15, 2013.