

Surinder Kumar

...Appellant

Versus

State of NCT of Delhi

...Respondent

O R D E R

Dr. B.S. CHAUHAN, J.

1. This appeal has been preferred against the impugned judgment and order dated 26.5.2009 passed by the High Court of Delhi at New Delhi in Criminal Appeal No. 91 of 1993, by which and whereunder, it has affirmed the judgment and order dated 12.5.1993 passed by the Learned Sessions Judge, Delhi in Sessions Case No. 168 of 1988 by which the trial court had convicted the appellant under Sections 304-B and 498 of Indian Penal Code, 1860 (hereinafter referred to as the 'IPC') and awarded sentence to undergo imprisonment for life for the offence under Section 304-B IPC, and further to undergo RI for three years for the offence under Section 498-A IPC with a fine of Rs.1000/-.

2. Facts and circumstances giving rise to this appeal are that:

A. An incident took place on 12.6.1988 and it has come in evidence of Chiranji Lal (PW.4), brother of the deceased and Chote Lal (PW.3), uncle of the deceased, when

they reached the house of the appellant within 40 minutes of the incident. Though none of them raised any grievance or lodged any report in the police station, although postmortem was conducted. This was after 3 days that an FIR was lodged by the father of the deceased and the investigation ensued.

B. Chiranji Lal (PW.4), brother of the deceased, did not support the case of the prosecution, however, the court appreciated the evidence given by the witnesses and considering the fact that Ms. Sarvesh got married on 2.12.1987 and committed suicide on 12.6.1988 in the house of the appellant and no explanation could be furnished by the appellant as for what reason, she had committed the suicide. The court recorded the conviction and awarded the punishment as aforesaid.

C. The High Court reappreciated the evidence and by placing reliance upon the evidence of Chote Lal (PW.3), uncle of the deceased and Radhey Shyam, father of the deceased, affirmed the aforesaid judgment and order.

Hence, this appeal.

3. Ms. Manisha Bhandari Srivastava, learned counsel appearing on behalf of the appellant, has raised a very large number of issues particularly the factual issues and various contradictions in the statements of witnesses. She

further submitted that as the incident has been occurred a long back ago and a period of 26 years has been elapsed and

the appellant has already served a substantial part of the sentence, the sentence should be reduced.

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4. Shri P.K. Dey, learned counsel appearing on behalf of the respondent State, has opposed the appeal contending that it was a case where a young girl was forced to commit suicide within six months of her marriage and there is no occasion that this Court should interfere with the concurrent findings of facts recorded by the two courts below. Hence, the appeal is liable to be rejected.

5. We have considered the rival submissions made by the respective learned counsel for the parties and perused

(VACATION BENCH)

For Appellant(s) Ms. Manisha Bhandari, Adv.
Mr. Omkar Shrivastava, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s) Mr. P.K. Dey, Adv.
Mr. Asit Tiwari, Adv.
Mr. Y.P. Mahajan, Adv.
Mr. D.S. Mahra, Adv.

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

The appeal succeeds partially and accordingly disposed
of in terms of the signed order.

(DEEPAK MANSUKHANI) (M.S. NEGI)
Court Master Assistant Registrar
(Signed order is placed on the file)