

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 163 OF 2011

SHER SINGH

Appellant(s)

VERSUS

STATE OF UTTARAKHAND

Respondent(s)

O R D E R

This appeal arises out of an order dated 18.06.2010 passed by the High Court of Uttarakhand at Nainital, whereby the Criminal Appeal No. 1554/2001 filed by the appellant has been dismissed upholding his conviction for offences punishable under Sections 304B and 498A of the IPC and sentence of seven years imprisonment for the former offence and one year for the latter.

The incident in question appears to have taken place on 14.09.1992. A written report about the same was filed five days later by the father of the deceased - Kapuri Devi alleging dowry harassment by the appellant who happens to be the father-in-law of the deceased. With the completion of investigation, the police, in due course, filed a challan against the appellant for offences punishable under Section 304B and 498A of the IPC before the Jurisdictional Magistrate who committed the case to the Court of Sessions at Katra. At the trial, the prosecution examined as many as eight witnesses in support of its version. The trial Court

eventually came to the conclusion that the prosecution had indeed established the charges framed against the appellant and, accordingly, found him guilty on both counts. Avatar Singh, co-accused and Gavri Devi, wife of the appellant were, however, acquitted by the trial Court. Criminal Appeal No. 1554 of 2001 preferred by the appellant against his conviction and sentence was heard and dismissed by the High Court of Uttarakhand by the order impugned in this appeal.

We have heard learned counsel for the appellant at considerable length, who has taken us through the evidence on record. We have also gone through the orders passed by the trial Court and the High Court. There is no gainsaying that the prosecution has led sufficient evidence against the appellant to support the charge of dowry harassment under Section 498A IPC. The statement of the father of the deceased and Bharat Singh, her brother has, in our opinion, sufficiently proved the allegation of dowry harassment of the deceased at the hands of the appellant. The husband of the deceased, it appears was living away at Bombay in connection with his employment. There is no allegation against the husband nor was he prosecuted.

Having said that, we find that there is no evidence to support the charge framed under Section 304B IPC. The evidence in that regard is not only deficient but even shaky to an extent. There is no evidence as to the cause of death of the deceased and the circumstances in which she died. Even the prosecution has not been able to, in any way, connect the appellant with the cause of

death. All that the evidence suggests is that the deceased had met with an un-natural death and died because of a fall from the hill where women folk from the villages often go to collect fodder for the cattle. What is evident from the record is that there is neither any evidence regarding dowry harassment of the deceased "soon before her death" nor is there any evidence to connect the appellant with the circumstances relating to her death. In the circumstances, we find it difficult to sustain the conviction of the appellant under Section 304B IPC merely on the basis of a suspicion howsoever strong.

In the result, the appeal succeeds in part but only to the extent that while the conviction of the appellant for the offence of dowry harassment under Section 498A IPC is affirmed his conviction and sentence of seven years for the offence punishable under Section 304B IPC shall stand set aside.

We are informed by learned counsel for the parties that appellant has already undergone a sentence of nearly six months. Keeping in view the fact that the incident in question had taken place in the year 1992 and the fact that the appellant is around 80 years of age, we are inclined to reduce the sentence of one year awarded to him for the offence of dowry harassment under Section 498A to the period already undergone.

The appellant is on bail. His bail bonds shall stand discharged.

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

..... J.
(ADARSH KUMAR GOEL)

..... J.
(R. BANUMATHI)

New Delhi;
October 16, 2014.

ITEM NO.108

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). 163/2011

SHER SINGH

Appellant(s)

VERSUS

STATE OF UTTARAKHAND

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(with office report)

Date : 16/10/2014 This appeal was called on for hearing today.

CORAM :

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

For Appellant(s) Mr. A. S. Pundir, Adv.
 Mr. Arijeet Singh, Adv.

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

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

The appeal succeeds in part.

The appellant is on bail. His bail bonds shall stand
discharged.

(R.NATARAJAN)
Court Master

(VEENA KHERA)
Court Master

(Signed order is placed on the file)