

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

Signature Not Verified

and 498A of the IPC before the

Digitally signed by

Meenakshi Kohli

Jurisdictional Magistrate who committed the case to the Court of

Date: 2014.11.24

16:16:06 IST

Reason:

Sessions at Katra.

At the trial, the prosecution examined as many

as eight witnesses in support of its version.

The trial Court

2

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

3

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.

4

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.

5

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  
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 163/2011

SHER SINGH

Appellant(s)

VERSUS

STATE OF UTTARAKHAND

Respondent(s)

(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

