

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S).574/2011

THE STATE OF RAJASTHAN

Appellant(s)

VERSUS

DEEN DAYAL @ DEENA RAM & ANR.

Respondent(s)

O R D E R

1. Heard Dr. Manish Singhvi, learned Senior Counsel appearing for the appellant-State. Also heard Ms. Madhurima Tatia, learned counsel appearing for the respondents.

2. The challenge here is to the judgment dated 16.03.2010 in SB Criminal Appeal No.827 of 2006 rendered by the High Court of Judicature for Rajasthan at Jodhpur under which the appeal filed by the two accused was partly allowed. The conviction of the respondent No.1-Deen Dayal @ Deena Ram under Section 304B and 201 of the Indian Penal Code(IPC) was upheld but the sentence was reduced to 7 years instead of the 10 years, for the offence under Section 304B but the sentence of 3 years rigorous imprisonment for the offence under Section 201 of the IPC was maintained together with the fine. Insofar as the respondent No.2-Dwarka Ram is concerned, who was

convicted under Section 304B of the IPC, the High Court acquitted him of the charge levelled against him. Consequently, the State is in appeal to challenge the acquittal of Dwarka Ram and also reduction of sentence for respondent No.1-Deen Dayal @ Deena Ram.

3. The sheet anchor of the case of the State in this appeal is the evidence of the father of the deceased, Dungar Ram (PW-3) and the uncle of the deceased, Devi Lal (PW-21). Dr. Manish Singhvi, learned counsel has read the the testimony of both witnesses to contend that following the marriage of the deceased on 14.05.2002 with the respondent-Deen Dayal @ Deena Ram, she suffered dowry harassment in the matrimonial home and on 20.08.2003 i.e. within 7 years of marriage, she died an unnatural death. On the mode and manner of unnatural death, the respondents have tried to project this to be a case of suicidal death by hanging but it is seen from the post mortem report that there is no ligature mark on the neck of the deceased and death by hanging was therefore disbelieved and it was found that the deceased Kanta had died due to obstruction in breathing by smothering.

4. Interestingly, the learned Trial Court found no evidence to convict the respondents on charge of murder

and also charge under Section 498A IPC. The conviction is based upon the legal presumption to be drawn for the offence under Section 304B IPC.

5. With the assistance of the learned counsel for the parties we have perused the evidence of PW-3 and PW-21 who were the material witnesses for projecting the possible harassment faced by the deceased which led to her unnatural death within 7 years of marriage. The evidence of PW-21, who is the uncle of the deceased is of general kind against the in-laws. On the other hand, some specific allegation is made in the evidence of PW-3, who is father of deceased the deceased suffering dowry taunts and harassment. Although, in the complaint of PW-3 the names of the husband as also the brother-in-law, Dwarka Ram is mentioned together with the mother-in-law, the mother-in-law was never proceeded against by the State either for the offence under Section 304B or for any other offence.

6. The Site map of the place of occurrence indicates that the deceased and the respondent No. 1-Deen Dayal @ Deena Ram as a couple, resided in one room whereas the respondent No.2 resided in a separate room in the same house. The husband tried to set up a case of suicidal hanging of his wife at a time when he was away from home

on some household errand. However, the post mortem report clearly demolish the case projected by the husband about death of his wife by hanging.

7. Insofar as the allegation about the comments on inadequate dowry being brought by the deceased, this can be categorized as general taunts by the relatives in the matrimonial home and it is difficult for us to accept that the action of the respondent No.2 is such that he should also be roped in under the presumptive Section 304B IPC, for the unnatural death of his sister-in-law.

8. While considering the merits of the State's appeal, this Court must be conscious of the fact that although the courts below acquitted the accused from the charge of murder and also the charge under Section 498A IPC, the State chose not to challenge those findings of acquittal vis-a-vis those accused.

9. On the conviction for the offence under Section 201 IPC is concerned, the medical evidence would show that the respondent No.1 tried to give a different colour to his wife's death and therefore his conviction under Section 201 IPC has to be sustained.

10. Insofar as the conviction of the respondent No.1 under Section 304B, IPC, we see no infirmity with the

conclusion drawn by the Trial Court as also by the High Court.

11. On the State's challenge to the reduction of sentence to 7 years, we may notice that in case of dowry death, minimum sentence prescribed is 7 years which may extend to imprisonment for life but in the present case, the High Court has exercised discretion and ordered for reduction of sentence to 7 years from 10 years, for the respondent No.1. We see no good reason to interfere with such reduction of sentence.

12. As regards the acquittal of the brother-in-law of the deceased, we have scanned the evidence and the materials on record and find that the benefit of doubt has been rightly given in favour of the respondent No.2 by the High Court in the impugned judgment. The materials are not convincing enough for us to reverse the finding of the acquittal, against the respondent No.2.

13. In view of the foregoing, we see no merit in this appeal and the same is accordingly dismissed. Pending application(s), if any, stand disposed of.

.....J.  
(HRISHIKESH ROY )

.....J.  
(MANOJ MISRA)

NEW DELHI;  
MARCH 15, 2023

ITEM NO.104

COURT NO.15

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).574/2011

THE STATE OF RAJASTHAN

Appellant(s)

VERSUS

DEEN DAYAL @ DEENA RAM &amp; ANR.

Respondent(s)

Date : 15-03-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE MANOJ MISRAFor Appellant(s) Dr. Manish Singhvi, Sr. Adv.  
Mr. Arpit Parkash, Adv.  
Ms. Shubhangi Agarwal, Adv.  
Mr. Milind Kumar, AORFor Respondent(s) Ms. Madhurima Tatia, Adv.  
Ms. K. V. Bharathi Upadhyaya, AOR

UPON hearing the counsel the Court made the following

## O R D E R

The appeal is dismissed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(DEEPAK JOSHI)  
COURT MASTER (SH)

(Signed Order is placed on the File)

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR

