



**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S).532 OF 2021

MUNNI DEVI

APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH

RESPONDENT(S)

JUDGMENT

ATUL S. CHANDURKAR, J.

1. The appellant challenges her conviction for the offence punishable under Section 304-B and Section 316 of the Indian Penal Code¹. She has been sentenced to imprisonment of seven years.

2. The case of the prosecution is that the appellant's son, Rahul was married with one Alka @ Pooja on 02.12.2010. As per the brother of Alka, Anil Singh Tomar who has lodged the First Information Report on 03.08.2011, it was alleged that his sister was being harassed by her husband, her mother-in-law – the appellant, her brothers-in-law as well as her sisters-in-law who

¹ For short, Penal Code

were demanding an amount of Rs.2,00,000/- and a Car in dowry. This demand of dowry by the family members from her matrimonial home was informed to the informant. The relatives of Alka had repeatedly talked to the members of her matrimonial home but they did not stop their demand. On 03.08.2011 at about 05:30 A.M. the informant received information that his sister had been murdered. Accordingly, the First Information Report was lodged on the same day at 08:40 A.M against the husband of the deceased, her mother-in-law, her brothers-in-law as well as her sisters-in-law.

3. On completion of the investigation, the chargesheet was submitted and the appellant including the other accused were charged under Sections 498-A, 304-B and Section 316 of the Penal Code along with Sections 3 and 4 of the Dowry Prohibition Act, 1961². The accused having denied the charges were accordingly tried. The prosecution examined about nine witnesses to support the aforesaid charges. The accused examined one witness. At the conclusion of the trial, the learned Additional Sessions Judge by his judgment dated 10.08.2018 was pleased to convict the husband-Rahul, his brother-Chetan and his mother-the appellant

² For short, the Act of 1961

under Sections 498-A, 304-B and 316 of the Penal Code along with Sections 3 and 4 of the Act of 1961. They were sentenced to undergo rigorous imprisonment for a period of ten years for the offence punishable under Section 304-B of the Penal Code, seven years rigorous imprisonment and fine of Rs.20,000/- for the offence under Section 316 of the Penal Code, in default, additional rigorous imprisonment of one year. They were also sentenced to undergo three years imprisonment with fine of Rs.5,000/- for the offence punishable under Section 498-A of the Penal Code, in default, additional imprisonment of six months. They were also sentenced to two years imprisonment with fine of Rs.5,000/- for the offence under Sections 3 and 4 of the Act of 1961 and in default of payment of fine to undergo three months additional imprisonment. All sentences were to run concurrently. The other accused came to be acquitted.

4. All the three convicted accused preferred separate appeals challenging their conviction. The learned Single Judge of the Allahabad High Court allowed the appeal preferred by Chetan, the brother of the husband and acquitted him from all the charges. Insofar as the appeal of the husband-Rahul was concerned, his conviction under Section 498-A and Sections 3 and 4 of the Act of

1961 came to be set aside. His conviction under Sections 304-B and 316 of the Penal Code came to be confirmed. However, his sentence was reduced to the period undergone by him which was about nine years and six months. It may be stated that Rahul had preferred Criminal Appeal No.748 of 2021 challenging his conviction before this Court. However, during pendency of the said appeal, he expired and hence, his appeal has been dismissed today by a separate order as having abated. Insofar as the appellant is concerned, her conviction has also been upheld under Sections 316 and 304-B of the Penal Code. Her sentence was however reduced to seven years. She was acquitted from the charges under Section 498-A and Sections 3 and 4 of the Act of 1961. It is against this conviction under Sections 304-B and 316 of the Penal Code that the appellant has come up in appeal.

5. Mr. Abhijit Banerjee, learned Counsel for the appellant submitted that there was no evidence whatsoever on record to sustain the appellant's conviction under Section 304-B of the Penal Code. According to him, to sustain a conviction under the said provision it was necessary for the prosecution to have brought on record evidence that would indicate beyond reasonable doubt that the deceased was subjected to cruelty or harassment for or in

connection with any demand for dowry. Notwithstanding the fact that the death occurred within a year of the marriage of the appellant's son with the deceased, there was no evidence to indicate that the deceased was subjected to cruelty or harassment at the hands of the appellant. He submitted that though the informant referred to a registered letter dated 07.04.2011 to support his stand that a complaint had been made with regard to the harassment of his sister, there was no reference of writing such letter in the First Information Report nor was a copy of that letter produced during the trial. Except for a few general allegations that there was a demand for dowry by the appellant and other relatives, the same was not sufficient to bring home the charge under Section 304-B of the Penal Code. Insofar as the appellant's conviction under Section 316 of the Penal Code is concerned, it was submitted that there was no evidence on record to indicate that it was the appellant who had caused the death of the unborn child. The cause of death of the deceased was on account of suicide with which the appellant could not be connected. The High Court having set aside the appellant's conviction under Section 498-A of the Penal Code as well as Sections 3 and 4 of the Act of 1961, coupled with the fact that there was no evidence on record to

indicate any cruelty or harassment being caused by the appellant to the deceased in connection with any demand for dowry, the appellant's conviction under Section 316 of the Penal Code was also unsustainable. It was thus submitted that the appellant was entitled to be acquitted from all the charges.

6. Ms. Ruchira Goel, learned Counsel appearing for the respondent supported the judgment of the High Court and submitted that since there was an allegation of cruelty and harassment being meted out to the deceased shortly after her marriage which led her to commit suicide, the presumption under Section 113-B of the Indian Evidence Act, 1872 was attracted. There was a presumption that it was the appellant who had caused the dowry death on account of the cruelty and harassment inflicted by her. The evidence led by the prosecution including that of the relatives of the deceased clearly established that there was a constant demand of an amount of Rs.2,00,000/- and a Car towards dowry. As the family of the deceased could not satisfy such demand, the deceased was led to commit suicide. There was sufficient evidence on record to indicate that the deceased was pregnant at the time of her death with a fetus of thirty-four weeks. The Trial Court as well as the High Court were therefore justified

in convicting the appellant for the offence punishable under Section 304-B and 316 of the Penal Code. She, therefore, submitted that there was no case made out to interfere with the concurrent findings recorded by both the Courts. The appeal was therefore liable to be dismissed.

7. We have heard the learned Counsel for the parties at length and with their assistance we have also gone through the records of the case. At the outset we may note that though the appellant was convicted by the Trial Court under Sections 498-A, 304-B, 316 and Sections 3 and 4 of the Act of 1961, the High Court while maintaining the conviction of the appellant under Sections 304-B and 316 of the Penal Code has set aside her conviction under Section 498-A and Sections 3 and 4 of the Act of 1961. As per Section 304-B (1) it would be necessary for the prosecution to show that the death was caused otherwise than under normal circumstances within seven years of the marriage and that soon before the death, the victim was subjected to cruelty or harassment by her husband or any relative of her husband for or in connection with any demand for dowry. In the present case the death of the appellant's daughter-in-law has occurred otherwise than under normal circumstances in view of the fact that it was a case of

suicide. The death occurred within seven years of the marriage. It would therefore be necessary to examine whether any evidence has been led to prove beyond reasonable doubt that soon prior to committing suicide, the appellant's daughter-in-law was subjected to cruelty or harassment by the appellant. This is for the reason that the appellant's conviction is under Section 304-B of the Penal Code.

8. If the deposition of the informant – PW2/Anil Singh Tomar who is the brother of the deceased is perused, it can be seen that except for general statements about mental and physical harassment being inflicted on his sister by the members of her matrimonial family, there is not a single instance specifically attributed to the appellant. Except for using the expression “mental and physical harassment” the witness has not deposed about any specific instance narrated to him by the deceased that could indicate that his sister was subjected to cruelty or harassment specifically by the appellant. His deposition is in general terms without giving any specific details of any instance of cruelty or harassment meted out to his sister by the appellant. The other witnesses examined including PW3 and PW4 are also members of the family of the deceased but they have also not

referred to any specific instance of cruelty or harassment being caused by the appellant to the deceased. It is one thing to make a demand for dowry and another thing to inflict cruelty or harassment in connection with such demand for dowry. For sustaining the conviction under Section 304-B of the Penal Code, it would be necessary for the prosecution to bring on record at least some instance of cruelty or harassment being caused to the woman in connection with any demand for dowry that results in her death occurring otherwise than under normal circumstances within seven years of the marriage. Such evidence, however, is missing in the present case. It is to be noted that the High Court acquitted the appellant of the charge under Sections 3 and 4 of the Act of 1961 and 498A of IPC which acquittal has attained finality.

9. Coming to conviction under Section 316 of the Penal Code, it is not in dispute the deceased was carrying a fetus of thirty-four weeks when she committed suicide. However, when the charge against the appellant under Section 304-B of the Penal Code has not been proved by the prosecution, there would be no basis whatsoever to sustain the appellant's conviction under Section 316 of the Penal Code. It is also to be noted that the appellant was not present at her son's matrimonial home when the death took place

on 03.08.2011. This fact stands admitted by PW2/Anil Singh Tomar. We, therefore, find that there is no material whatsoever to sustain the appellant's conviction under Section 316 of the Penal Code.

10. For all the aforesaid reasons, we are satisfied that the prosecution has failed to prove the charges under Sections 304-B and 316 of the Penal Code against the appellant beyond reasonable doubt. Hence, the present appeal is hereby allowed and the impugned judgment dated 02.03.2021 passed in Criminal Appeal No.5108 of 2018 is quashed and set aside. The appellant is acquitted of the charges under Sections 304-B and 316 of the Penal Code. She be released forthwith, if not required in any other case. In case the appellant has been enlarged on bail during pendency of the appeal, her bail bonds would stand discharged.

.....J.
[**J.K. MAHESHWARI**]

.....J.
[**ATUL S. CHANDURKAR**]

NEW DELHI,
JANUARY 29th, 2026.