

Supreme Court

Case No: Criminal Appeal No. 2616 Of 2014

Bhagwati Devi

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision: Aug. 29, 2025

Acts Referred:

- Indian Penal Code, 1860 — Section 34, 302, 304B, 498A

Hon'ble Judges: Aravind Kumar, J; N.V. Anjaria, J

Bench: Division Bench

Advocate: Rajesh Pathak, Sanjeet Kumar Trivedi, Saakshi Singh Rawat, Sudarshan Singh Rawat

Final Decision: Allowed

Judgement

Aravind Kumar, J

1. The Appellant herein who has been convicted for the offence punishable under Section 498-A of IPC is assailing the judgment rendered by the High Court of Uttarakhand at Nainital in Criminal Appeal No.174 of 2003 on 10.04.2014.

2. The son of the Appellant – Sh. Sanjay Mishra married Smt. Chandra Devi, the daughter of the complainant – Dharmanand Joshi (PW-1) according to Hindu customs and rites about a year prior to her death on 15.06.2001. PW-1 presented a complaint before Bagwshwar (P.S.) on 16.06.2001 alleging that his daughter was found dead inside the matrimonial home and only the accused persons were present in the house. It was also stated in the complaint that the daughter of PW-1 had committed suicide by hanging herself. However, he is said to have seen the wounds on his daughter's body during examination and he along with the Patwari saw blood along with water oozing out from the mouth of his daughter. It was further alleged that she was pregnant at the time of her death and further stated

that deceased used to inform that her mother-in-law was commenting on her sarcastically for dowry. Hence, expressing doubt about her death and his daughter having been killed requested suitable action being taken against the culprits. It was also stated by the complainant himself that her husband namely son-in-law was out of city on professional work at Mumbai. The said complaint came to be registered in Crime Case No.1 of 2001 for the offences punishable under Sections 498-A and 304-B of IPC. The father-in-law, mother-in-law and brother-in-law of the deceased were arraigned as accused and the trial court framed the charge for the offences under Sections 304-B, 498-A and optional charge under Section 302 readwith Section 34 of IPC. On behalf of the prosecution, three (3) witnesses namely Dharmanand Joshi, Shambhu Dutt Joshi and Smt. Heera Devi apart from four (4) other witnesses were examined and on behalf of the accused one Smt. Janki Devi was examined. The learned Sessions Judge after trial held that the charge of Section 302 readwith Section 34 of IPC was not proved against all the accused. So also, for the charge of Section 304-B was held to be not proved and accused persons were acquitted for the offences punishable under Section 302 readwith Section 34 and Section 304-B of IPC. However, Accused no.2 – Mother-in-law namely the Appellant herein was convicted for the offence punishable under Section 498-A of IPC on the ground that deceased had informed her mother (PW-3) and brother (PW-2) about the harassment she was facing for dowry to which effect they had accordingly deposed before the trial court. Hence, the learned Trial Judge concluded that deceased had committed suicide due to harassment. However, the offence under Section 498-A of IPC was held to be not proved against Accused no.1 and Accused no.3 and they came to be acquitted for all the offences alleged.

3. The Accused no.2 being aggrieved by the conviction and sentence of three years rigorous imprisonment with fine of Rs.5,000/- and default sentence of three months imprisonment preferred an appeal before the High Court in Criminal Appeal No.174 of 2003. The High Court on reappreciation of the evidence came to the conclusion that evidence of PW-3 disclosed that on every visit made by the deceased to the paternal home, she had disclosed the demand of dowry by her mother-in-law as well as other accused persons as an acceptable piece of evidence and as such affirmed the judgment of sessions court. Hence, this Appeal.

4. We have heard the arguments of Shri Anshumaan Purohit and Smt. Saakshi Singh Rawat, learned Counsels appearing for the Appellant and the Respondent respectively. It is the contention of the learned counsel for the Appellant that PW-1 complainant had not whispered a word in his complaint or in his evidence about any demand for dowry having been raised by the appellant and this vital aspect has been completely ignored by the courts below. He would also contend none of the independent witnesses examined by prosecution had deposed against the appellant to substantiate the offence of dowry demand and the witness examined on behalf of the appellant, namely neighbour Smt. Janki Devi (DW-1) had stated in unequivocal terms of no demand for dowry having been made by the appellant at any point of

time. He would further elaborate his submissions by contending that conviction is based solely on uncorroborated statement of interested witnesses with no independent or medical evidence tendered to prove cruelty or dowry demand. He would further contend that concurrent findings conveniently overlooked the absence of any specific dowry demand or by what act the appellant's conviction could be justifiable under Section 498-A of IPC. Hence, he prays for the appeal being allowed by setting aside the order of conviction.

5. Per contra, Smt. Saakshi Singh Rawat, learned counsel appearing for the Respondent has vehemently contended that courts below have rightly arrived at a conclusion with regard to demand of dowry and the statement made by DW-1 examined on behalf of the accused was rightly not accepted or believed since such demand for dowry would be within the four corners of the matrimonial home and as such the courts below have rightly convicted the appellant for the offence under Section 498-A of IPC. Hence, she prays for dismissal of the appeal.

6. Having regard to the submissions made by the learned counsels appearing for the parties and on scrutiny of the records of the courts below, it would clearly emerge that though the appellant alongwith her husband and another son was charged for the offences punishable under Section 304-B and as an alternate under Section 302 readwith Section 34 of IPC they have been acquitted by the court below for which there was no appeal. In other words, the order of acquittal for the said two offences had attained finality.

7. The only issue which remains to be examined in the instant appeal is whether the order of conviction under Section 498-A and consequential sentence imposed on the appellant can be sustained on the basis of the material evidence? The answer has to be necessarily in the negative for the reasons indicated hereinbelow.

8. A perusal of Section 498-A would clearly indicate that whoever, being the husband or the relative of the husband of a woman, subjects her to cruelty would be liable to be punished with imprisonment for a term which may extend to three years and also liable to fine. Under the caption of explanation "Cruelty" has been defined to mean and include any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the said woman or harassment of the woman or where the harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand. Demand for dowry in any form is itself sufficient for Section 498-A of IPC being attracted. Demand made in any form either by the husband or by the relative of the husband would also attract Section 498-A of IPC. Even if the demand exhibits the conduct that would likely to drive the said woman being unable to bear such conduct would attract Explanation (a). Likewise, harassing of a married woman with a view to coercing her or her relative to meet any unlawful demand would also fall within the mischief of

the expression 'cruelty'. This court in the case of **Manju Ram Kalita vs. State of Assam** (2009) 13 SCC 330 has held cruelty for purpose of Section 498-A of IPC is to be established in that context as it may be different from other statutory provisions. In other words, it has been held that it has to be established that the woman had been subjected to cruelty continuously/ persistently or atleast in close proximity of time of lodging of complaint. It has been further held:-

"21. "Cruelty" for the purpose of Section 498-A IPC is to be established in the context of Section 498-A IPC as it may be different from other statutory provisions. It is to be determined/inferred by considering the conduct of the man, weighing the gravity or seriousness of his acts and to find out as to whether it is likely to drive the woman to commit suicide, etc. It is to be established that the woman has been subjected to cruelty continuously/persistently or at least in close proximity of time of lodging the complaint. Petty quarrels cannot be termed as "cruelty" to attract the provisions of Section 498-A IPC. Causing mental torture to the extent that it becomes unbearable may be termed as cruelty."

9. Keeping the aforesaid salutary principles enunciated by this court in mind, while we turn our attention to the facts on hand it would be apt and appropriate to have a look at the complaint lodged by the father of the deceased PW-1 on the very next day of the demise of his daughter. The perusal of the complaint would indicate that the complainant had reached his daughter's matrimonial home on 16.06.2001 at 4 A.M. and he came to know that his daughter had expired in the afternoon on 15.06.2001 and was informed that she had committed suicide by hanging. It is further stated that the deceased used to tell them during her visit to the paternal home that her mother-in-law used to comment on her sarcastically for dowry. There is not even a word with regard to any dowry demand having been raised by the appellant. In this background when the deposition of the complainant PW-1 is perused it would not detain us for long to arrive at a definite conclusion that his deposition does not indicate of any such demand for dowry having been made or the deceased having been inflicted with cruelty so as to drive her to commit suicide. It would be appropriate to note at this juncture itself that the cause of death has been recorded as asphyxia on account of strangulation as evidenced from the post-mortem report.

10. The trial court has based the conviction on the strength of the evidence of the mother of the deceased PW-3. She has deposed that her in-laws used to state that the dowry given was less and she used to weep. In the cross-examination she admits that her daughter had come with her younger brother-in-law and had not made any complaint about the members of the matrimonial home. She also admits that during Shiv Ratri her daughter had come alongwith son-in-law and she did not make any complaint. She further admits that when PW-1 went to drop her to her matrimonial home she did not make any complaint to her father about any demand for dowry being made. She further admits that the alleged demands made by

father-in-law, mother-in-law and younger brother-in-law was for the first time disclosed in the court when she tendered her examination-in-chief. She also admits that the married life of her daughter was happy and cordial and at the time of marriage there was no demand for dowry. She infact admits at the time of marriage her son-in-law had told that he has no demand of dowry. A holistic look at the deposition of PW-3 that is the mother of the deceased would not inspire any confidence to any person of common prudence to arrive at a conclusion that on account of either harassment for dowry or on account of demand for dowry made by the appellant she had been perforced to commit suicide. Even the evidence of PW-2 that is the brother of the deceased is in line with the evidence tendered by his mother PW-3. Infact he also admits that there was no demand for dowry made before marriage and the marriage was solemnised happily and properly and only on the basis of doubt he was expressing that his sister might have been murdered. The doctor (PW-4) who conducted the post-mortem and submitted the report (Ex. Ka-2) of the deceased PW-4 has opined the cause of death appears to be asphyxia on account of strangulation. He admits if there is strangulation then possibility of injuries being suffered to other parts of the body is possible and when there is resistance to the strangulation there is likelihood of urination and faecal matter can also be excreted which was not found on the body of the deceased.

11. Thus, the cumulative effect of the evidence of these witnesses would drive us to the irresistible conclusion that the deceased had not committed suicide on account of either demand for dowry being made or cruelty being inflicted on her. Our view also gets fortified by the fact that the neighbour of the appellant who was examined as DW-1 has deposed that appellant had never made any demand for dowry. She also deposed that the deceased had informed her of not keeping well. She being neither the relative of the appellant nor belonging to the same community to which the appellant belongs would indicate that there was no interest in her to depose against the factual matrix or in favour of the appellant. Her evidence having been brushed aside by the trial court and also High Court on the premise that she could not have deposed any fact with regard to the demand of dowry as it happens within the four walls is an erroneous finding particularly in such matters the word spreads faster than the wind about a daughter-in-law being harassed for the dowry by the parents in law. Such facts being conspicuously absent in the instant case, we have no hesitation in arriving at a conclusion that the conviction of the appellant for the offence punishable under Section 498-A and the sentence imposed on her cannot be sustained.

12. For the reasons aforestated above, we allow this Appeal, set aside the judgment of the High Court of Uttarakhand at Nainital in Criminal Appeal No.174 of 2003 dated 10.04.2014 and acquit the accused for the offence under Section 498-A of IPC. Her bail bonds stand discharged. No order as to costs.