

(2025) 12 UK CK 0033

Uttarakhand HC

Case No: Criminal Appeal No. 423 Of 2014

Mahesh Ram

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision: Dec. 15, 2025

Acts Referred:

- Indian Penal Code, 1860 - Section 201, 302
- Code Of Criminal Procedure, 1973 - Section 82, 83, 313

Hon'ble Judges: Ravindra Maithani, J; Alok Mahra, J

Bench: Division Bench

Advocate: Lalit Sharma, Suraiya Naaz, Pankaj Joshi

Final Decision: Dismissed

Judgement

Ravindra Maithani, J

1. Instant appeal is preferred against the judgment and order dated 22.11.2014, passed in Sessions Trial No. 294 of 2012, State Vs. Mahesh Ram, by the court of Sessions Judge, Rudrapur, District Udham Singh Nagar. By it, the appellant has been acquitted of the charge under Section 201 IPC but convicted under Section 302 IPC and sentenced to undergo life imprisonment with a fine of Rs.50,000/-In default of payment of fine, to undergo, simple imprisonment for a further period of two years.

2. Facts necessary to appreciate the controversy, briefly stated, are as follows. According to the prosecution, the deceased was married to the appellant in the year 2001 and they were blessed with two children. The appellant would torture the deceased soon after the marriage. Some 3-4 days prior to the lodging of the FIR, he had burnt stomach, hands and feet of the deceased, of which marks were still present on the body of the deceased, when she died. Some 3-4 days prior to the lodging of the FIR, the deceased had come to her parental home. On 10.07.2011, in the evening, the appellant came to his matrimonial home and tendered apologies saying that in future, he would not commit such mistake. He regretted for his deeds.

That night, he stayed in his matrimonial home alongwith the deceased. On 11.07.2011, in the morning at about 9:00, when the deceased went outside to answer the call of nature in the sugarcane fields of Munna Singh, the appellant followed her. Suddenly, the brother, mother and other villagers heard the shrieks of the deceased. PW1, Pawan Ram, PW2 Smt. Chanda Devi, PW3 Buddh Ram, PW5 Munna Lal and others noticed it. When PW1 Pawan Ram, the brother of the deceased, his mother PW2 Chanda Devi, the witnesses and villagers came outside, they saw the appellant running from the sugarcane fields towards the road, where he boarded a vehicle and disappeared. When PW1, Pawan Ram, PW2 Smt. Chanda Devi, PW3 Buddh Ram and PW5 Munna Lal reached at the spot, they saw that the deceased was dead and her throat was slit. The dead body of the deceased was still lying in the sugarcane field, when PW1 Pawan Ram lodged the FIR on 11.07.2011 at 10:30 a.m. at Police Station Sitarganj, District Udham Singh Nagar. Based on which, Case Crime No.113 of 2012, under Section 302, 201 IPC was lodged at the Police Station. The inquest of the dead body of the deceased was conducted on the same date, which began at about 11:00 a.m. and the post mortem was conducted on the same day at 4:40 p.m. The Investigating Officer prepared a site plan, took the blood stained and plain soil from the place of incident and sent it for forensic examination. He also sent other articles for forensic examination. The forensic examination report though detected blood on the clothes of the deceased, but on the soil, blood was not detected. During investigation, the appellant was absconding. The charge sheet was filed against the appellant under Section 302, 201 IPC as an absconder.

3. On 17.01.2013, the charge under Section 302 and 201 IPC was framed against the appellant. To which, he denied and claimed trial.

4. In order to prove its case, the prosecution examined eleven witnesses, namely, PW1, Pawan Ram, PW2 Smt. Chanda Devi, PW3 Buddh Ram, PW4 Puran Singh, PW5 Munna Lal, PW6 Krishna Chandra, PW7 Dr. Pradeep Singh, PW8 Sub Inspector, Kevlanand Arya, PW9 Sub Inspector, Dharam Singh, PW10 Inspector, Ganesh Prasad Bothiyal and PW11 S.O. Ramesh Chandra Makholiya.

5. After prosecution evidence, the appellant was examined under Section 313 of the Code of Criminal Procedure, 1973 (the Code). According to him, the witnesses have falsely deposed against him. He could not tell the reason as to why his brother in law PW1 Pawan Ram and his mother in law PW2 Smt. Chanda Devi and others have falsely stated against him.

6. After hearing the parties, by the impugned judgment and order, the appellant has been convicted and sentenced, as stated hereinbefore. Aggrieved, the appellant has preferred the instant appeal.

7. Heard learned counsel for the parties and perused the record.

8. Learned counsel for the appellant submits that prosecution has failed to prove its case beyond reasonable doubt and the court below has wrongly convicted and

sentenced the appellant. He would also raise the following points in his submission-

(i) There is no report of any harassment and torture that was meted out to the deceased prior to lodging of the FIR in the instant case.

(ii) According to the prosecution, the throat of the deceased was cut, but no weapon of offence was ever recovered.

(iii) The Forensic Science Laboratory report did not detect blood on the soil that was picked up from the place of incident.

(iv) The statements of PW3 Buddh Ram and PW6 Krishna Chandra are hearsay evidence.

(v) There is no eyewitness to the incident.

(vi) PW2 Smt. Chanda Devi says that she had seen knife at the place of incident, but PW8 Sub Inspector, Kevlanand Arya did not find any knife at the place of incident. It further doubts the prosecution case.

(vii) According to the PW2 Smt. Chanda Devi sugarcane had grown up to her height. In such a situation, it is argued that it was not possible that she could see as to what had happened in the sugarcane field from a distance. Therefore, her testimony is not reliable, which doubts the entire prosecution case.

9. On the other hand, learned State counsel submits that PW1, Pawan Ram, PW2 Smt. Chanda Devi, and PW5 Munna Lal have supported the prosecution case. The appellant was seen running from the sugarcane field after killing the deceased. Soon after the incident, the witnesses reached at the spot and saw the deceased dead on the sugarcane field. The dead body was still lying on the field when the FIR was lodged at 11.30 a.m. It is a prompt FIR, which records the details of the incident. There is no reason to disbelieve the prosecution case. The witnesses have stated that the appellant was in the habit of beating and harassing the deceased. She had burnt injuries on her person when the post mortem was conducted and the witnesses have stated about it. The appellant absconded after the incident. The charge sheet was filed showing him absconder. He was arrested on 30.11.2012. This conduct is also relevant.

10. Learned counsel for the appellant submits that mere because the appellant could not be traced for a long may not be a ground to make any inference. He cites the principles of law, as laid down by the Honble Supreme Court in the case of Sekaran Vs. State of Tamil Nadu, (2024) 2 SCC 176. In the case of Sekaran (**supra**), on the aspect of absconding of an appellant, the Honble Supreme Court held that this itself cannot establish the guilt of the guilty conscience.

In para 30, the Honble Supreme Court observed as follows:-

30. Although not brought to our notice in course of arguments, it is revealed from the oral testimony of PW 11 that the appellant could be apprehended 3 (three) years after the incident from Puliur road junction in (1 km away from Ambalakalai) in Kerala after vigorous search. However, abscondence by a person against whom an FIR has been lodged and who is under expectation of being apprehended is not very unnatural. Mere absconding by the appellant after alleged commission of crime and remaining untraceable for such a long time itself cannot establish his guilt or his guilty conscience. Abscondence, in certain cases, could constitute a relevant piece of evidence, but its evidentiary value depends upon the surrounding circumstances. This sole circumstance, therefore, does not enure to the benefit of the prosecution.

11. PW1 Pawan Ram is the informant, who is brother of the deceased. According to him, the deceased Rekha and the appellant were married in the year 2001. But after marriage, the appellant would torture her. They were blessed with two children. 3-4 days prior to the incident, the appellant had burnt the stomach, hands and feet of the deceased. Thereafter, the deceased had visited her parental home. On 10.07.2011, the appellant visited his matrimonial home and tendered apologies, assuring that in future, he would not repeat such mistakes. He was seeking pardon. On that night, the appellant stayed with his wife in the room in the house of this witness. According to PW1, on 11.07.2011 at about 9:00 in the morning when she went out in the sugarcane field of Munna Singh to answer the call of nature, the appellant followed her. After a while, this witness heard shrieks of the deceased. This witness, his mother PW2 Smt. Chanda Devi saw the appellant running out from the sugarcane field towards the road. From there he boarded a vehicle and ran away. When this witness reached in the sugarcane field, he saw that the deceased was killed by slitting her throat. PW1 Pawan Ram also says that the villagers had also seen the appellant running from the place. Many persons assembled there. Thereafter, this witness PW3 Buddh Ram, PW5 Munna Lal and PW6 Krishna Chandra went to the police station to lodge the report. The report was written by PW6 Krishna Chandra on the dictation of the PW1 Pawan Ram. This witness proved the FIR, Ex. A1. According to him, the Investigating Officer prepared the site plan in the case in his presence.

12. PW2 Smt. Chanda Devi is mother of the deceased. She has also corroborated the statement of PW1 Pawan Ram.

13. PW5 Munna Lal has also corroborated the statements of PW1 Pawan Ram and PW2 Smt. Chanda Devi.

14. PW3 Buddh Ram and PW6 Krishna Chandra reached at the spot after the incident. According to PW3 Buddh Ram, as soon as he reached at the place of incident, he was told by the villagers that the appellant had killed his wife and ran away. He had seen the dead body. He proved his signatures of the inquest report. According to him, the police had taken blood stained and plain soil in his presence and recovery memo of it was prepared.

15. PW4 Constable Puran Singh has written chik FIR Ex.A2 and lodged the case at the police station. He proved the extract of GD Ex. A3.

16. PW7 Dr. Pradeep Singh, conducted the post mortem of the deceased on 11.07.2011. According to him, he found injuries on the person of the deceased.

17. According to PW7 Dr. Pradeep Singh, the cause of death was ante mortem injuries leading to shock. He has proved the post mortem report Ex. A4. According to him, he has sealed the clothes of the deceased and given to the police, who took the dead body.

18. PW8 Sub Inspector, Kevlanand Arya, took up the investigation. After lodging of the FIR, he prepared site plan Ex. A5 and also took into custody blood stained and plain soil from the place of incident and prepared the recovery memo Ex. A6. Thereafter, the investigation was transferred from this witness. It was continued by PW10 Inspector, Ganesh Prasad Bothiyal. According to him, the appellant was absconding. Processes under Sections 82 and 83 of the Code had already been executed against the appellant. Thereafter, he submitted charge sheet Ex. A12 against the appellant as absconder.

19. PW9 Sub Inspector, Dharam Singh is the Police Officer who prepared inquest Ex. A7. He has proved other documents also.

20. In the instant case, nobody has seen the appellant killing the deceased, his wife. What is stated is that soon after the incident, the appellant was seen running away from the place of incident and the deceased was found dead. The prosecution has also alleged that the appellant was not happy with his wife. He would beat her quite frequently and some 3-4 days prior to the incident, he burnt her stomach, hands and feet of which marks were present on the person of the deceased.

21. This Court had raise a few questions during the course of hearing with regard to the presence of the appellant in his matrimonial home in the night of 10.07.2011. As to what other material was collected by the Investigating Officer to establish the fact that the appellant had stayed in the house of PW1 Pawan Ram on the previous night? If the height of sugarcane was at the height of PW2 Smt. Chanda Devi, how could PW2 Smt. Chanda Devi was able to see from the distance that the appellant is running from the place of occurrence?

22. PW1 Pawan Ram is quite consistent. He has proved the FIR and stated about the incident. In his cross examination, as such, nothing has been extracted, which may, in any manner, doubt his credibility. He tells that the appellant would torture the deceased. In first paragraph of his cross examination, he states that the appellant would beat the deceased after consuming liquor. This is what PW2 Smt. Chanda Devi has stated.

23. Learned counsel for the appellant also submits that PW5 Munna Lal is not reliable because in the site plan it has not been shown as to from which place he has

seen the incident. He is a villager. Even it is not in doubt that his house is not situated in the vicinity. Merely because the Investigating Officer has not shown the place from where he could notice the incident, does not create any doubt in the testimony of the PW5 Munna Lal or the entire prosecution case. In fact, at page 4 of his statement, PW5 Munna Lal has stated that the appellant would beat up the deceased after consuming liquor.

24. The inquest report Ex. A7 records that there were marks of burn on the person of the deceased. This is what PW7 Dr. Pradeep Singh has stated that he had noted burnt marks on the person of the deceased. It corroborates the statements of PW1 Pawan Ram, PW2 Smt. Chanda Devi and other witnesses.

25. It is consistent case of the prosecution that the appellant would harass, beat and torture the deceased. She had burnt marks, which have been proved by the prosecution. The deceased had come to her parental home 3-4 days prior to the date of incident. Why did she come? According to PW1, because of atrocities she had come. Although, at one stage, he has stated that there was some function in the house of Pratap Ram, therefore, the deceased had come to join that function.

26. On behalf of the appellant, arguments were raised that the reasons for the deceased to visit her parental home are distinct. Therefore, it is not reliable. It is not any material contradiction. It is not disputed that the deceased was in her parental home. It is also established by the prosecution that she had burnt marks. Prosecution has also proved that the deceased was harassed by the appellant.

27. The place of incident is sugarcane field, which is in the northern side of the residence of PW1 Pawan Ram and PW2 Smt. Chanda Devi. The distance of the place of incident is about 300 meters. The sugarcane field starts from a distance. PW1 Pawan Ram has stated in page 6, beginning paragraph of his statement, that the sugarcane had grown up to 3 feet height though PW2 Smt. Chanda Devi, in page 4 of her statement, in the last but 2nd line tells that the sugarcane was grown up to her height.

28. During the course of arguments, learned counsel for the State submits that in District Udham Singh Nagar sugarcane grows little late and in the month of July it could grow only 2-3 feet. That is what PW1 Pawan Ram has stated. The statement of PW2 Smt. Chanda Devi does not doubt the prosecution case. From a distance she could definitely have seen a person running from the sugarcane field. This is what PW1 Pawan Ram, PW2 Smt. Chanda Devi and PW5 Munna Lal have stated.

29. It is argued that blood stains were not found in the Forensic Science Laboratory report. It is true that plain and blood stained soil were taken into custody, from the place of incident. Blood was not detected on it, but it does not doubt the prosecution case in any manner. At times, it could have been fatal to establish the place of incident. This is because the dead body was still in the field when the FIR was lodged by the PW1 Pawan Ram. This is what is stated in the FIR. FIR was lodged

at 10:30 a.m. and inquest begun at 11:00 a.m. Inquest report records that the dead body was in the sugarcane field. The place of incident is not in doubt.

30. Insofar as, recovery of any belonging of the appellant from the house of PW1 Pawan Ram is concerned, it does not gain much importance because this has been stated by PW1 Pawan Ram and PW2 Smt. Chanda Devi that on 10.07.2011, the appellant stayed in their home and this has not been doubted. Not even a single question was asked to the witnesses, in their cross examination, so as to discredit their testimonies on this aspect. Even no suggestions were given that the appellant did not stay in the house of PW1 Pawan Ram on 10.07.2022.

31. It is also argued that weapon of offence has not been recovered. In all cases, recovery of weapon of offence is not necessary to bring home the guilt of the accused. It is true that PW2 Chanda Devi in page 5, bottom lines of her statement has stated that the appellant has left the knife on the spot. PW8 Kevlanand Arya, the Investigating Officer has said that he looked for the weapon of offence, but he could not find it (Statement of PW8 Kevlanand Arya, the Investigating Officer, page 5 middle paragraph). But, it appears that the statement of PW2 Smt. Chanda Devi is little exaggerated. Her statement to the extent that the knife was lying on the place of incident is not reliable, but it also does not falsify her entire statement.

32. What is more important is that the appellant absconded. After lodging of the charge sheet, he was not traceable. The processes under Section 82 and 83 of the Code were taken out. His belongings were attached. He did not appear. He was arrested long after the date of incident. He was arrested on 30.11.2012. This conduct **per se** in itself is not sufficient to convict the appellant, but, for conviction in the instant case, there are other sufficient material. This conduct is also relevant. The statements of PW1 Pawan Ram, PW2 Smt. Chanda Devi and PW5 Munna Lal are corroborating and they inspire confidence. It has further been corroborated by the statement of PW3 Buddh Ram, PW6 Krishna Chandra. Medical evidence also supports the prosecution case.

33. In view of the foregoing discussion, this Court is of the view that the prosecution, in fact, has been able to prove its case beyond reasonable doubt against the appellant. The court below has rightly convicted and sentenced the appellant by the impugned judgment and order, which calls for no interference. Accordingly, the appeal deserves to be dismissed.

34. The appeal is dismissed.