

(2015) 08 UK CK 0011

In the Uttarakhand High Court

Case No : Special Leave to Appeal No. 215 of 2013, Government Appeal No. 110 of 2013 and Delay Condonation Application (CRMA 2022/2013)

State of Uttarakhand

APPELLANT

Vs

Vinod Singh and Others

RESPONDENT

Date of Decision : 05-08-2015

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 304-B, 34, 498-A

Citation : (2015) 2 NCC 815

Hon'ble Judges : Alok Singh and S.K. Gupta, JJ.

Bench : Division Bench

Advocate : A.S. Gill, Dy. Advocate General, for the Appellant; C.S. Rawat, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Alok Singh, J.

Delay Condonation Application (CRMA 2022/13)

1. Mr. C.S. Rawat, learned counsel for respondent No. 2 has no serious objection if the delay of 164 days in preferring the appeal is condoned. We have also independently considered the application seeking condonation of delay and being satisfied with the same, we allow the application and condone the delay of 164 days.

Special Leave to Appeal (215 of 2013)

Present appeal is preferred assailing the judgment and order dated 11.04.2013 passed by learned Sessions Judge, Pauri Garhwal in Sessions Trial No. 13 of 2008, whereby all the accused persons were acquitted for the offences punishable u/s. 302/34, 498-A, 304-B/34 and 201 IPC.

2. Brief facts of the case, inter alia, are that Soban Singh, father of deceased, was informed on 3.9.2007 that his daughter Ms. Kiran was killed on 2.9.2007; he

along with others reached to the matrimonial house of Ms. Kiran and found Ms. Kiran lying dead on the floor; blood was oozing out from her mouth; he went to report the matter to the Patwari, however the Patwari was not available, therefore, he has returned to his house in another village; he could not find Patwari on 4.9.2007 and 5.9.2007; thereafter, he has reported the incident to Naib Tehsildar on 6.9.2007; meanwhile, last rites were performed on the dead body of Ms. Kiran on 3.9.2007 itself by her in-laws in presence of other villagers.

3. It has come on record that Ms. Kiran had delivered a baby about ten days before her death. Since last rites were performed on her dead body on 3.9.2007, therefore, no post-mortem could be conducted. Thus, the cause of death remained a mystery.

4. PW1 Soban Singh, father of Ms. Kiran, has also stated during his cross-examination that neither any dowry was demanded at the time of engagement or at the time of marriage nor any dowry was given by him ever. Therefore, the factum of harassment on account of dowry is completely ruled out.

5. It has also come on record that Soban Singh, father of Ms. Kiran, was present on the spot on 3.9.2007 and he had permitted the in-laws of Ms. Kiran to perform such rites, therefore, the last rites were performed by in-laws of deceased Kiran, with the consent of father of deceased Kiran.

6. Had it been a murder or suspicious death of Ms. Kiran, then perhaps, Soban Singh would not have permitted the in-laws of Ms. Kiran to perform the last rites.

7. There is another aspect of the matter. If Ms. Kiran was killed by her in-laws, then PW1 and PW2 would not have returned back to their village in the evening of 3.9.2007.

8. In our considered opinion, the submission of Mr. C.S. Rawat, learned counsel for the accused, seems to be probable that Ms. Kiran had developed some complications after delivery of child which took place only 10 days ago and she died due to such complication developed due to delivery. We are of the considered view that the judgment passed by learned Trial Court is perfectly correct and cogent. Therefore, no useful purpose would be served in granting the leave to appeal. Thus, the leave to appeal is declined. Application (SPLA 215/13), moved therefor, is rejected. Consequently, the Government Appeal (GA 110/2013) is also dismissed.