
(2011) 02 UK CK 0067
In the Uttarakhand High Court
Case No : Criminal Appeal No. 247 of 2008

Sushil Kumar

APPELLANT

Vs

State of Uttarakhand

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 313
Penal Code, 1860 (IPC) — Section 120B, 302, 304B, 34, 498A

Citation : (2011) CriLJ 2251

Hon'ble Judges : Sudhanshu Dhulia, J; Nirmal Yadav, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Nirmal Yadav, J.—Accused Sushil Kumar, Mohald Singh and Naresh stood trial for the offences punishable under Sections 498A, 304B read with Section 34 and Section 120B of the Indian Penal Code, 1860 (for short, IPC). However, alternative charge was framed against Sushil Kumar u/s 302 IPC. Appellant Sushil Kumar has been convicted u/s 302 IPC vide impugned judgment and order dated 6.9.2008/11.9.2008, passed by Sessions Judge, Chamoli in Sessions Trial No. 5 of 2002, and has been sentenced to undergo imprisonment for life and a fine of Rs. 10,000/-. In default of payment fine, he has been further ordered to undergo one year simple imprisonment. Accused Sushil Kumar and other co-accused Mohald Singh & Naresh have been acquitted of the charges punishable under Sections 498A, 304B read with Section 34 and Section 120B IPC.

2. Prosecution case, in brief, is that complainant Laxmi Chandra, father of deceased Lalita alias Lalitesh (wife of accused Sushil Kumar), lodged a complaint (Ex. Ka-1) on 09.04.2002 at 5.30 pm at police station Chamoli alleging therein that marriage of his daughter Lalita was solemnized with Constable Sushil Kumar, accused, as per Hindu rites and ceremonies, who was posted at police station Chamoli. Accused Sushil Kumar along with Lalitesh came to meet the complainant and he gave Rs. 15,000/- and all the ornaments of his daughter to

Sushil Kumar. Thereafter accused Sushil Kumar along with Lalita returned and started living in the Government quarter situated within the premises of Police Station, Chamoli. About 10-15 days prior to the occurrence, Naresh and his father Mohald Singh had asked complainant to send Rs. 50,000/- to Sushil Kumar for Fridge, Washing Machine, Colour T.V. at Chamoli and in case he failed to fulfill the demand, his daughter would be killed. On 8/9th April 2002, complainant received information that his daughter has died due to bursting of gas cylinder. He reached District Hospital, Gopeshwar on the next day and found his daughter having burn injuries. According to his opinion, Lalita had died on account of setting fire by someone after pouring kerosene oil or petrol upon her body. He suspected that Lalita had been killed by accused Sushil Kumar on the instigation of Naresh and Mohald Singh (co-accused, acquitted by the trial court). On the basis of written complaint Ex. Ka-1, First Information Report Ex. Ka-17 was lodged.

3. The investigation was taken up by PW12 Inspector Naveen Chandra Joshi. He was present at police station Chamoli and was investigating Case Crime No. 47 of 2002, State v. Aayazuddin etc. and was informed by Kailash Chandra Lakhera that there was fire in the room of Constable Sushil Kumar. On this information, he along with other persons moved towards the room of Sushil Kumar and found that son of Makan Das and Kapil were taking out the wife of Constable Sushil Kumar, wrapped in a blanket. Sushil Kumar was present in the room and had also received some burn injuries on his hands. The injured was removed to District Hospital, Gopeshwar in a private car. The Investigating Officer inspected the room of Sushil Kumar and found smell of kerosene oil in the room. He locked the room of Sushil Kumar and went to the hospital. He tried to make an enquiry from injured Lalita, but her voice was not audible at all. Dr. R.K. Sundariyal informed him that Lalita had received hundred per cent burn injuries upon her body. He went to the surgical ward and made enquiries from accused Sushil Kumar also, but he too did not tell anything about the incident. Thereafter he informed the parents of Lalita and accused Sushil Kumar on next day i.e. on 9th April 2002. Father of Lalita lodged a report on the next day i.e. 10th April 2002. The Investigating Officer went and inspected the spot and prepared site plan (Ex. Ka-10). He also picked up the articles lying at the place of occurrence vide memo Ex. Ka-11. He arrested accused Sushil Kumar and other co-accused Mohald Singh and Naresh. Thereafter the investigation was conducted by PW-10 Dy. S.P. Heera Vallabh Bharola. He recorded the statements of the witnesses and inspected the spot. He took into possession a five-litre can containing one liter kerosene oil from the place of occurrence. He also took into possession the burnt clothes of victim, soot particles from the wall of the kitchen and other burnt articles from the place of occurrence vide memo Ex. Ka-11. He also took into possession the letters written by deceased and her husband accused Sushil Kumar vide memo Ex. Ka-12 and Ex. Ka-13. He also got photographed the place of occurrence and the photographs are Ex. Ka-24 to Ex. Ka-27 and their negatives are Ex. Ka-28 to Ex. Ka-30.

4. After completion of the investigation, the accused were chargesheeted under Sections 498A, 304B read with Section 34 and 120B of IPC, on 4th October 2002, to which they pleaded not guilty and claimed trial. However, alternative charge was framed against accused Appellant Sushil Kumar u/s 302 IPC on 25th January 2007, to which he pleaded not guilty and claimed trial.

5. The prosecution, in order to prove its case, produced as many as thirteen witnesses. PW1 Laxmi Chandra, complainant is the father, while PW2 Dharam Veer Singh is the brother of Lalita (since deceased). PW3 Bhage Ram disclosed about Rs. 15,000/- having been given to accused Sushil Kumar. PW4 Dr. N.K. Prasad is the Surgeon of District Hospital, Gopeshwar, who conducted the post-mortem on the dead body of deceased. PW5 Sunil Kumar S/o Makan Das is an independent witness, who was residing in the quarter adjoining the quarter of accused Sushil Kumar. PW6 Kapil Kumar, a police constable posted at police station Gopeshwar. PW7 Sub Inspector Satyavrat was also posted at police station Gopeshwar. PW8 Abdul Sattar and PW9 Habib are the independent witnesses, who had reached the spot on hearing the shrieks of injured Lalita (since deceased). PW10 Dy. S.P. Heera Vallabh Bharola is the Investigating Officer. PW11 Head Constable Ram Lal is the formal witness. PW12 Inspector Naveen Chandra Joshi also partially investigated the case. PW13 Raj Pal Singh, a neighbour of Laxmi Chandra, was declared hostile by the prosecution.

6. When examined u/s 313 Code of Criminal Procedure the incriminating evidence was put to all the accused, which they denied in toto and pleaded false implication. According to Naresh, he came to Chamoli along with Laxmi Chandra and found Lalita and Sushil Kumar admitted in the hospital. He was asked to be a witness and on his denial he was falsely implicated. Accused Mohald Singh stated that he never made any demand of dowry and he has been falsely implicated. Accused Sushil Kumar denied having received Rs. 15,000/- from the complainant. He denied to have set Lalita on fire by pouring kerosene oil upon her. According to him, he was present in the police station at the relevant time. He heard some noise that fire has set in somewhere. He went running and found that there was fire in his room. He tried to put off fire to save his wife with the help of a blanket and thereafter she was immediately removed to the hospital. The investigation has been conducted in a biased manner and the persons, who were having grudge against him, conducted the investigation.

7. In defence, accused Sushil Kumar examined four witnesses. DW1 Dr. R.K. Sundariyal, DW2 Naib Tehsildar Govind Dass, DW3 Constable Anil Arya and DW4 Kuldeep Singh. DW1 Dr. R.K. Sundariyal stated that on 8th April 2002, he was on emergency duty. At about 9.45 pm, Smt. Lalita, wife of Constable Sushil Kumar, was brought to the hospital in burnt condition by Constable Kuldeep Singh. She was having hundred per cent deep burns on whole of the body. Injured Lalita was examined by him and she was conscious and well oriented. She disclosed that her clothes caught fire accidentally by gas stove. He proved copy of medico-legal report Ex. Kha-1. According to him, he did not find any smell of kerosene oil

coming out from the body of the patient. On the same day, he examined Constable Sushil Kumar and found 36 per cent burns on both of his hands, face, neck, front side of chest and both shoulders. No smell of kerosene oil was coming from his hands. According to him, he might have received injuries while rescuing his wife. He further stated that he was present at the time of recording of dying-declaration (Ex. Kha-3) by Naib Tehsildar Govind Dass.

8. DW2 Naib Tehsildar Govind Dass stated that on 8th April 2002, he recorded dying-declaration of Lalita at 11.50 pm at District Hospital, Gopeshwar on the request made by Station House Officer, Gopeshwar. According to him, injured Lalita was speaking and was in a fit state of mind to give her statement. Impression of thumb of foot of Lalita was taken on her statement as both her hands were completely burnt. DW3 Anil Arya stated that he was residing in the barrack of police station Chamoli. During the night between 8-9th April 2002 at about 8.30 pm, he heard some noise from the side of family quarters. He went towards that side. Constable Kapil was ahead of him. When they went to the room of Sushil Kumar, he saw him putting off fire on the body of his wife. The deceased was lying on the floor. He denied any knowledge as to how Kapil had reached the room of Sushil Kumar. DW4 constable Kuleep Singh stated that he knew Sushil Kumar as they were together during the training and he had also attended the marriage of Sushil Kumar. According to him, behaviour of Sushil Kumar was good with his wife. He further stated that Sushil Kumar removed his wife to the hospital. She was speaking and was well oriented.

9. We have heard learned Counsel for the parties and have carefully gone through the material available on record.

10. Learned Counsel for the Appellant argued that learned trial court has acquitted all the accused persons for the charges and allegations levelled against them by the complainant with regard to the offences punishable u/s 304B and 498A IPC. There is no evidence on record to show that any cruelty or harassment had been caused to the deceased by the Appellant or any of his relatives on account of demand of dowry. The deceased had not addressed any correspondence to his parents, friends or relatives that any demand of dowry was made, nor there is any evidence on record that the deceased was not leading a happy married life. Only evidence is of her father Laxmi Chandra (PW1) and brother Dharam Veer Singh (PW2), who stated that Laxmi Chandra had given Rs. 15,000/- to accused Sushil Kumar, when he along with the deceased visited their house on the occasion of Bhaiya Dooj. There is not even a whisper that Sushil Kumar had made any demand of dowry from the father or brother of the deceased. He, therefore, argued that there is no reason to show that accused would cause the death of Smt. Lalita or she would herself commit suicide on account of harassment for demand of dowry.

11. As regards the charge u/s 302 IPC alleged against the Appellant is concerned, the learned Counsel for the Appellant submitted that there is no direct ocular evidence to prove the said charge. The prosecution case is based on

the circumstantial evidence. However, prosecution has not been able to establish the complete chain of circumstances to prove the guilt of the accused. It is argued that the only circumstance pointed out by the prosecution is the statement of PW5 Sunil Kumar, PW8 Abdul Sattar and PW9 Habib, who have stated that they had heard the shrieks of deceased and the door of the house of Sushil Kumar was bolted from inside. The door was opened by Kapil Kumar PW6, one of the colleagues of Sushil Kumar, by climbing a drain pipe from the side of the house. The witnesses had found Sushil Kumar present inside the room.

12. Learned Counsel for the Appellant challenged the testimony of PW5 Sunil Kumar stating that his presence at the place of occurrence is doubtful and not proved by any independent evidence. About PW8 Abdul Sattar and PW9 Habib, it is argued that both of them had encroached the land of Telephone Department, Appellant had asked them to vacate the encroached area, and on this account, both of them were having grudge against the Appellant. He further argued that from the medical evidence and from the statements of DW4 Kuldeep Singh, DW2 Naib Tehsildar Govind Dass and DW1 Dr. R.K. Sundariyal, it is clear that the deceased was conscious and well oriented after receiving the accidental burn injuries caused to her while preparing chapati.

13. Learned Counsel for the Appellant further argued that there are two dying-declarations on record supporting the defence version. The earlier dying-declaration was made by deceased before Dr. R.K. Sundariyal, when she was removed to the hospital in the presence of Constable Kuldeep Kumar. Dr. R.K. Sundariyal has mentioned in the medico-legal report of Lalita that she received accidental burn injuries. Learned Counsel for the Appellant further stated that DW2 Govind Dass, the Executive Magistrate recorded the dying-declaration of Lalita at 11.50 pm on 8th April 2002 in the presence of Dr. R.K. Sundariyal. She made statement Ex. Kha-3. Learned Counsel for the Appellant referred to the dying-declaration Ex. Kha-3, wherein deceased Lalita made the following statement:

I was preparing chapatti. I had not switched off the gas. I was wearing clothes made of terricot. I caught fire from the gas stove. At that time, my husband Sushil Kumar was outside. On hearing my screams, he came from outside and tried to put off the fire by placing blanket on my body. Thereafter I came to Gopeshwar hospital. I did not have any dispute with anyone. I have no suspicion on my husband. I caught fire from the gas. My one and half year old daughter Sakshi was also outside on the roof along with her father.

14. According to the learned Counsel, the deceased had made the statement before Dr. R.K. Sundariyal (DW1) and Executive Magistrate Govind Dass (DW2). Both of them are independent witnesses and there is nothing on record that they had any bias against the complainant party or had any reason to favour the accused. The learned Counsel, therefore, argued that dying-declaration made by the deceased clearly shows that she had received the burn injuries while preparing food, and her husband is not to be blamed. The learned Counsel

argued that the general principle on which the dying-declaration is admissible is that it is made in extremity when the person is at the point of death. Every motive to falsehood is silenced and the mind is induced by the powerful considerations to speak the truth. The learned Counsel, therefore, argued that the trial court has erred in disbelieving the dying-declaration, which was not as a result of any tutoring or prompting. Dr. R.K. Sundariyal has categorically stated that deceased was conscious when she was brought to the hospital and she was fit to make statement, when her statement was recorded by the Executive Magistrate.

15. The learned Counsel further pointed out that according to the prosecution the accused Appellant had set the deceased on fire after pouring kerosene oil, but none of the witnesses, who entered the place of incident, have stated that there was any smell of kerosene in the room. Dr. N.K. Prasad, who conducted the post-mortem, did not mention in his report that there was smell of any inflammable substance emitting from the body of the deceased.

16. On the other hand, Mr. Amit Bhatt, learned Additional G.A. for the State submitted that documents, viz., the medico-legal examination of Lalita (Ex. Kha-1) and dying-declaration (Ex. Kha-3) are not at all reliable, keeping in view the injuries received by the deceased. Even as per Dr. R.K. Sundariyal, victim had received hundred per cent burn injuries on the whole body i.e. from head to toe and general condition of the patient was poor. He further pointed out that PW7 S.I. Satyavrat categorically stated that when he went to the hospital on call at 10 pm on the date of occurrence, he found that the injured Lalita was not able to speak and, therefore, he came back. It is, thus, argued that if at 10 pm she was not in a position to speak, how it was possible that she would make any dying-declaration at 11.50 pm. The learned State Counsel further submitted that the Doctor has not even given any certificate prior to recording of alleged dying-declaration Ex. Kha-3, nor he has given any certificate after the dying-declaration was completed. It is argued that in the absence of any such certificate, it cannot be inferred that the patient was in a fit state of mind for making the statement. In such circumstances, the dying-declaration is shrouded with suspicion, and cannot be relied upon. In support, the learned Counsel referred to the judgment of Apex Court delivered in the case of Arvind Singh v. State of Bihar 2001 CLJ 2566.

17. Learned State Counsel further argued that the dying-declaration is also not corroborated by the other attending circumstances. He pointed out that as per the dying-declaration, deceased was making chapati and she did not put off the gas and her terricot clothes came into contact with the gas stove and she caught fire. He referred to the photographs Ex. Ka-24 to Ka-27, which does not show that there was any baked or half-baked chapati in the kitchen, nor any dough of flour was found near the gas stove. These articles were also not found and recovered from by the Investigating Officer after the incident. None of the witnesses, namely, PW5 Sunil Kumar, PW8 Abdul Sattar, PW9 Habib have found

any sign of chapati having been cooked in the kitchen. Moreover, from the site plan Ex. Ka-10 and the statement of PW10 Heera Ballabh, it is seen that the pieces of the flesh of the body were lying scattered in the kitchen. It is well said that man may lie but circumstances do not. If the injured had caught accidental fire, her natural behaviour would have been to run out of the kitchen, towards bedroom or towards balcony, in order to seek help for putting off the fire. But she was found lying inside the kitchen only, from where she was picked up by Constable Kapil and was rapped up in a blanket and removed to the hospital. The Doctor did not find any clothes on her body. Dr. N.K. Prasad, in the cross-examination, has stated that inflammable substance must have been poured on the body and that the fencing posture would be possible only if the victim was allowed to burn for a long time.

18. The learned State Counsel also argued that the medical evidence fully corroborates the prosecution case. It would not be possible that Lalita (deceased) would have been burnt to such a state that whole of her body was cooked and baked, if Appellant had tried to put off the fire. She would not have received hundred per cent deep burns or would be found in a fencing posture. Rather, it shows that she was intentionally allowed to burn for a long time, and no efforts were made by anyone to put off the fire.

19. On careful consideration of the rival submissions, we are inclined to agree with the findings of the learned trial court. The defence has relied on the two alleged dying-declarations, one having been recorded by Dr. R.K. Sundariyal (DW1) and the other recorded by DW2 Govind Dass, Naib Tehsildar. It is not disputed that an accused can be convicted solely on the basis of dying-declaration. A dying-declaration is entitled to be given great weight. The Court always insists that the dying-declaration has to be of such a nature as to inspire full confidence of the Court as to its correctness. However, the Court has to be on the guard that the statement of deceased was not as a result of tutoring, prompting or a product of imagination. The Court is further to be satisfied that the deceased was in a fit state of mind at the time of making such a statement. Where even a little suspicion arises, a dying-declaration should not be acted upon, without corroborative evidence. The Court has to be on its guard in a case where the injured was unconscious or had received such injuries showing that she could never make any dying-declaration, such a statement should be rejected at the outset.

20. In order to appreciate the condition of the injured immediately after the occurrence, it is necessary to examine the condition of the deceased. Dr. N.K. Prasad, PW4, found following ante mortem injuries:

External Examination: Rigor mortis present in both lower limbs and it was appearing in both upper limbs. Over the most part of the body, the skin was absent; at some places it was detached and hanging. The colour of skin was black. Both eyes and mouth were closed.

Ante mortem injuries:

Deep burns over the whole of the body i.e. 100 per cent burns were present. Singing of the hairs of head, hairs of the eyebrows and all the hairs over the body were burnt. Both lower limbs and arms were flexed and fingers were hooked like claws. The posture of the patient was pugilistic or in a fencing posture. All the cartilages of the brain were having blood and underneath the cartilages, cooked blood was found which is called "heat haematoma". The membranes above the lungs were found full of blood. Larynx, trachea, bronchial tubes were full of carbon soot particles and contained cooked and spongy mass. All chambers of the heart were full of blood.

As per the opinion of Doctor, the cause of death was asphyxia as a result of ante mortem burn injuries.

21. The injured was medically examined by Dr. R.K. Sundariyal, and according to the medical report Ex. Kha-1, the general condition of the patient was poor. She was having hundred per cent deep burns involving face, head, neck, chest, both arms, forearms, thighs. There was peeling of skin. The body was having hundred per cent deep burns. Burn injuries were present allover the body.

22. On perusal of the above medical evidence, it is apparent that the deceased could not have been conscious and in a fit mental condition to make a statement. Medical evidence is fully corroborated by the statement of PW7 SI Satyavrat, who stated that on receiving a call from hospital, he had visited the hospital and found that the injured Lalita was not able to speak. In such a situation, the statement of Dr. R.K. Sundariyal that the patient was conscious and well oriented when she was brought to the hospital appears to be doubtful. It is not disputed that the Appellant Sushil Kumar was also present in the hospital and the injured was removed by his colleague Constable Kapil to the hospital. There appears to be ample chances of manipulation at the time of medico-legal examination of the injured. After evaluating the physical condition of the injured, we are of the opinion that it is highly impossible that she was in a fit state of mind or she could utter even few words, rather than making a dying-declaration as stated by DW1 Dr. R.K. Sundariyal and DW2 Govind Dass, Naib Tehsildar. According to DW2 Govind Dass, Dr. Sundariyal was present throughout the time he recorded the statement, however, there is no certificate just before or after recording the alleged dying-declaration Ex. Kha-3. Govind Dass stated that before recording the statement of injured, no certificate was recorded having been given by the Doctor about the condition of the deceased, and the Doctor did not examine the deceased before recording her statement. It is true that the signature of Dr. R.K. Sundariyal finds affixed below the alleged dying-declaration Ex. Kha-1, but he has not given any certificate about the mental state of the deceased at the time of recording the statement. Thus, in our considered opinion, the alleged dying-declaration is shrouded with suspicion, and not reliable.

23. From the condition of the injured, as evident from the medical evidence, it

can well be inferred that the Appellant did not make any effort to put off the fire or save the injured. If he had tried to put off the fire, the injured would not have received the degree of burns she had received as mentioned above. Even the blood in the body of the deceased was found cooked and her entire body was found in pugilistic or fencing posture. This could only be possible if the fire was not put off and the injured was allowed to burn for a long time. If accused Appellant had reached the room on hearing the shrieks of his wife, she would not have received the nature of the burn injuries, as received by her.

24. The fact that no one tried to put off the fire is further supported by the statements of PW5 Sunil Kumar and PW8 Abdul Sattar. PW5 Sunil Kumar is an independent witness. He must be having cordial relations with the accused as he is the son of another police officer Makan Das and his room was adjacent to the room of the accused Sushil Kumar, where the occurrence took place. This witness categorically stated that he heard the cries of Lalitesh aunty at about 5 pm. He went up to the room and knocked the door, but it was not opened. He came back to his room and thereafter heard someone shouting towards the police station that fire has taken place. Thereafter he went to the balcony of his house from where he saw the smoke coming out from the room of Sushil Kumar. Then again he went towards room of the accused and stamped the door by his foot. Meanwhile, several other persons had reached and the door was opened by Kapil Kumar, PW6, and Sushil Kumar was found inside the room. From the statement of this witness, the argument of the defence is falsified that the accused was outside and he reached his room on hearing the cries of the deceased.

25. PW8 Abdul Sattar and PW9 Habib have also stated that on hearing the noise, they went to the room of accused and found the injured lying on the floor of the kitchen. None of them found any sign of cooking inside the kitchen. Abdul Sattar also stated that while he was going towards the house of the accused, he saw Kapil Kumar (PW6), a colleague of Sushil Kumar climbing up the drain pipe to approach the room of the accused and this fact is also corroborated by PW5 Sunil Kumar, who stated that Constable Kapil Kumar climbed through the drain pipe and went to the balcony of the house of Sushil Kumar and thereafter opened the door. They have categorically stated that Sushil Kumar was present in his room. Their statement clearly corroborates that the accused was present inside the room and he did not try to put off the fire. He was rather instrumental that no one comes to the rescue of the injured and she should be completely burnt so that she should not survive.

26. PW10, Dy. S.P. Heera Ballabh, the Investigating Officer, recovered five-litre plastic can containing one litre of kerosene oil from the kitchen. According to him when he went to the place of occurrence and entered the kitchen, he found the smell of kerosene oil. He also found the soot particles on the wall of the kitchen and pieces of flesh lying on the floor and the wall. He also stated that he found the articles in the kitchen in a scattered condition showing that there must have been some resistance by the deceased in the kitchen.

27. The learned Counsel for the Appellant also argued that accused Appellant also received 36 per cent burn injuries on his face, chest, upper limbs, which shows that he had tried to save his wife by putting off the fire. This argument of the learned Counsel cannot be accepted as the accused received only superficial burn injuries. Rather, it appears that he might have tried to restrain the deceased from coming out of the kitchen and thus, he aided to allow her to burn for a longer period of time. The trial court, in paragraph 58 of its judgment, has referred that when the bail application of the accused was decided, he was summoned by the court and no signs of burn injuries were found on his palm, which substantiated the prosecution case that the accused was holding the deceased from her mouth and that is how he suffered only superficial burns on the upper side of his hand and not on his palms.

28. From the evidence and the circumstances referred to above, we are of the view that the prosecution has been able to prove that the deceased received hundred per cent burn injuries and she was not mentally fit or in a fit state of mind to make the statement after the occurrence. The accused did not make any effort to put off the fire. Rather, it appears that he restrained the injured to run out of the kitchen and thus, aided in aggravating the situation. He was found present by the independent witnesses in the room, which was bolted from inside. The room was opened by Kapil Kumar (PW6) by climbing a drain pipe inside the room. The deceased kept on burning for such a long time that all the clothes on her body were burnt and she received hundred per cent deep burn injuries. Even the flesh of her body was detached and pieces of flesh had fallen on the floor of the kitchen, and were noticed by the Investigating Officer. The medical evidence fully supports the prosecution case as the posture of the deceased was found in a pugilistic and fencing posture, which could be possible only if the victim received the burn injuries by pouring some inflammable substance. The accused did not try to save his wife, rather he aided in aggravating the situation.

29. In view of the above discussion, we find no ground for interfering with the conclusion arrived at by the learned trial court and thus, we affirm the findings of the trial court convicting the accused u/s 302 IPC and the sentence of life imprisonment along with a sum of rupees ten thousand as fine for the offence.

30. Consequently, the appeal is dismissed. Impugned judgment and order dated 6.9.2008/11.9.2008 passed by the Sessions Judge, Chamoli (Gopeshwar) in Sessions Trial No. 5/2002, State v. Sushil Kumar and Ors. is affirmed.

31. A copy of this judgment and order be sent to the trial court for its compliance. Let the trial court record be sent back.