

# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**Criminal Appeal No. 38 of 2000.**

**Date of decision: 30.3.2007.**

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<b>Raghubir Singh</b>	<b>..... Appellant.</b>
<b>Vs.</b>	
<b>State of H.P.</b>	<b>.... Respondent.</b>

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***Coram***

**The Hon'ble Mr. Justice Surjit Singh, Judge.**

***Whether approved for reporting?***

**For the Appellant : Mr. Raman Sethi, Advocate.**

**For the Respondent : Mr. Ashok Chaudhary, Additional Advocate General.**

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**Surjit Singh, Judge (Oral).**

Heard and gone through the record.

**2.** Appellant has been convicted by the trial court (Sessions Court), for offences, under Sections 306 and 498-A of the Indian Penal Code, and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs. 500/- in respect of the offence, under Section 498-A, IPC, and to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 1,000/- in respect of offence under Section 306 IPC. He has challenged his conviction and sentence for the aforesaid two offences. His grievance is that there is no evidence connecting him with either of the two offences, he had been charged with.

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***Whether the reporters of the local papers may be allowed to see the Judgment?***

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3. Appellant and his mother Smt. Kamla Devi had been sent up for trial on the following allegations. Deceased Kanchan Devi was married to appellant in February, 1992. She was treated well till December, 1995 when the elder brother of the appellant, namely Ranbir Singh, got married and many items of household were given to him in dowry. Thereafter, the appellant and his mother Kamla Devi, his co-accused, started demanding for more dowry from the parents of the deceased as also the deceased herself and when their demands were not met, they started ill-treating her and at times she was given beatings also. On 17<sup>th</sup> August, 1996, when she was beaten up severely by the appellant, she left her matrimonial home and went to her parents' place, which is situated at a distance of one and half kilometer from the matrimonial home. On 21.8.1996, the mother of the appellant went to the in-laws of the appellant and brought the deceased back to the matrimonial home. On 13.9.1996, the deceased consumed tablets of aluminum phosphate. She was taken to the hospital by the appellant, where she died the same day. On coming to know about the death of his daughter, the father of the deceased rushed to the hospital. Some police officials were already there. He made a statement to the police people that his daughter was harassed by the appellant and his mother and subjected to physical torture and fed up with the ill-treatment, she had taken her life. A case was accordingly registered, under Sections 498-A and 306 IPC, against the appellant and his mother. Police got the post mortem of the dead body conducted from the Medical Officer. Viscera was sent to the Chemical Examiner. Aluminum phosphate

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was found in the viscera by the Chemical Examiner. Trial court charged both the appellant and his mother with offences, under Sections 306 and 498-A, IPC and on their pleading not guilty, tried them for the said offences and ultimately the appellant was convicted and sentenced, as aforesaid, while his mother was acquitted.

**4.** Appellant's grievance is that there is no evidence on record about the alleged demand for dowry or the ill-treatment of the deceased by the appellant on account of the inability of the deceased to meet the so called demand for more dowry and also there is no evidence as regards the allegations of harassment and physical torture.

**5.** There is evidence on record proving beyond reasonable doubt that the appellant used to give beatings to the deceased. The evidence consists of testimony of PW 3 Lekh Raj (the father) and PW 4 Rajinder Pal (the brother), both of whom have stated that once the appellant had given beating to the deceased at their house after she had taken shelter at their house in the month of August, 1996. Also, there is testimony of an independent witness, namely PW 5 Amar Devi, the Pradhan of the Gram Panchayat, who proved on record a writing Ex. PW 5/A. This writing is in the form of an application addressed by the appellant to the Panchayat, whereby he gave an undertaking that in future he will not quarrel with or give beatings. Though it is not mentioned in the application that he had undertaken not to give beatings to his wife, but PW 5 Amar Devi has stated that this writing was given by the appellant, after she went to his house, on being approached by the mother of the appellant, who came to her

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house and told that the appellant was quarreling with his wife. She stated that she went to the house of the appellant and asked him why he had fought with his wife but he did not respond and thereafter prepared the writing, copy Ex. PW 5/A, and handed the same over to her. The above discussed evidence conclusively proves that the appellant was habitual of beating his wife, which amounts to cruelty within the meaning of Explanation (a) to Section 498-A of the Indian Penal Code. Hence, no fault can be found with the conviction and sentence of the appellant, for the offence, under Section 498-A IPC, by the trial court.

**6.** As regards the offence, under Section 306 IPC, there is absolutely no evidence that between 21.8.1996 when the deceased was taken back to the matrimonial home by the mother of the appellant and 13.9.1996 when the deceased consumed the poisonous substance, she was harassed or ill-treated by the appellant. As a matter of fact, the evidence on record viz. the statement of PW 8 Roshan Lal, Investigating Officer shows that the deceased was up-set, because the mother of the appellant had refused to take meals served by her on the relevant date and so she took the extreme step of ending her life. The mother of the appellant stands acquitted. No appeal has been filed by the State against the order of her acquittal. Also, there is no evidence that the deceased was harassed or ill-treated or subjected to beating with a view to pressurising her and her parents to meet the alleged demands of dowry. In fact, the statements of the father and the brother of the deceased, with regard to the alleged demands for dowry are

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contradicted by their previous statements, under Sections 154 & 161, Cr.P.C. with which they were duly confronted. In the said statements, including the statements, under Section 154, Cr.P.C., they did not make even a whisper of the alleged demand for dowry or that the appellant and his mother became greedy and started making demand for dowry after the elder brother of the appellant got married and his wife brought lot of dowry.

7. In view of the above stated position, it cannot be said that the appellant played any role, which may be said to amount to abetment of the commission of suicide by the deceased. Hence, his conviction and sentence for the offence, under Section 306 IPC, are set-aside and he is acquitted of this offence.

8. As a sequel to the above discussion and findings, appeal is partly accepted. The conviction and sentence of the appellant for the offence, under Section 306 IPC are set-aside and he is acquitted of this offence. However, his conviction and sentence for offence under Section 498-A, IPC, are upheld and maintained.

**March 30, 2007.**  
(Hem)

**( Surjit Singh )**  
**Judge.**