

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

**CRIMINAL APPEAL NO.1309 OF 2001
(OLD NO.1433/1992)**

Rakesh Chandra & another

..... Appellants

Versus

The State

..... Respondent

Dated: July 31, 2009

**Mr. U.P.S. Negi, Advocate for the appellants
Mr. M.A. Khan, Brief Holder for the State**

HON. DHARAM VEER, J.

This appeal, preferred by the appellants u/s 374(2) of The Code of Criminal Procedure, 1973 (*hereinafter to be referred as Cr.P.C.*), is directed against the judgment and order dated 4.8.1992 passed by Sessions Judge, Pauri Garhwal in S.T. No.8/1989, State Vs. Rakesh Chandra & another, whereby the learned Sessions Judge convicted the accused/appellants Rakesh Chandra and Smt. Roopa Devi under Sections 306 read with Sec.34 and Sec.498-A read with Sec.34 of The Indian Penal Code, 1860 (*hereinafter to be referred as I.P.C.*) and sentenced each of them to undergo R.I. for a period of four years' u/s 306 r/w Sec.34 IPC and two years' R.I. u/s 498-A r/w Sec.34 IPC. Both the sentences were directed to run concurrently.

2. I have heard Sri U.P.S Negi, learned counsel for the appellants as well as Sri M.A. Khan, learned brief holder for the State. Perused the entire material available on record.

3. Chief Judicial Magistrate, Pauri Garhwal vide his report dated 10.11.2008 has reported that the appellant no.2-Smt. Roopa Devi has died. Hence, the appeal preferred by Smt. Roopa Devi stands abated.

4. In brief, the prosecution case is that Rakesh Chandra, the appellant herein, lodged the FIR at P.S. Pauri Garhwal stating therein that on 18.5.1988 at 5 or 6:00 AM, his wife Rukmani set herself at fire. He was sleeping at that time. When he heard the sound of his father and some other persons of the locality, he came outside. He saw the smoke emitting out from the room. Then he and other people broke the door and extinguished fire by pouring water. Up to that time his wife had burnt. He further stated that his wife who was about 19 years has died due to burning. With the above-said averments, he lodged the FIR at P.S. Pauri Garhwal on 18.5.1988 at 06:50 AM. That FIR is Ext.Ka-4. On the basis of FIR (Ext.Ka-4), Chik FIR (Ext.Ka-8) was prepared by Head Mohirror Roop Chand Tyagi. Initially, the investigation of this case was entrusted to S.I. Rukan Singh (PW6), then it was transferred to Inspector Mehak Singh and lastly it was conducted by G.S. Martolia, Dy.SP, Pauri Garhwal. On the same day i.e. on 18.5.1988, the inquest report of the dead body was prepared by the I.O., which is Ext.Ka-6. Along with the inquest report, other documents viz. Police Form No.33 (Ext.Ka-10), sketch of the dead body (Ext.Ka-11) and Police Form No.13 were also prepared by the I.O. Thereafter, the dead body was sent for post-mortem examination, which was conducted by Dr. G.S. Rawat (PW3) on 18.5.1988 at 03:30 PM. The post-mortem report is Ext.Ka-5. During the course of investigation, the I.O. recorded the statements of the witnesses, inspected the place of occurrence and prepared the site-plan, which is Ext.Ka-13. He also took into possession some ash, jerricane cap and a lock with latch from the place of occurrence and thereafter prepared the FARD, which is Ext.Ka-14.

5. On 20.5.1988, PW1 Mangsheeru moved a complaint before District Magistrate, Pauri Garhwal with the averments that his daughter Smt. Rukmani Devi was married to the accused Rakesh in May, 1987. His daughter remained at her in-laws house for some days then she sent an information to them that she is unhappy due to Marpeet committed by the accused/appellants. Therefore, he brought his daughter at his house. After persuading her, they sent her to her in-laws house on 14.4.1988. He further stated that when his daughter was at his house then she had told him that she will be murdered some day because her husband, father-in-law, mother-in-law and one Vikram (husband of her sister-in-law) had complaint that her parents and brothers have given nothing in dowry. It was further stated that many times her daughter also sent information to them to take her to their house otherwise she will be murdered by her in-laws. He had suspicion that his daughter was murdered and she has not committed suicide. He further stated that no information was given by in-laws of Rukmani about her death. With the same averments, complaint (Ext.Ka-1) was moved by Mangsheeru (PW1) before D.M., Pauri Garhwal. A report was also given by him at P.S. Pauri Garhwal, which is Ext.Ka-3.

6. On completion of the investigation, the I.O. submitted the charge sheet against the accused/appellants Rakesh Chandra and Smt. Roopa Devi. That charge sheet is Ext.Ka-15.

7. C.J.M., Pauri Garhwal, on receipt of charge sheet, committed the case to the court of Sessions on 27.1.1989, after giving necessary copies to the accused/appellants, as provided u/s 207 Cr.P.C.

8. On 1.6.1989, learned Sessions Judge, Pauri Garhwal framed the charge of offence punishable under Sections 304-B r/w Section 34 and 498-A r/w Sec.34 IPC against the accused/appellants. The charge was read over and explained to the accused/appellants to which they pleaded not guilty and claimed to be tried.

9. To prove its case, the prosecution examined PW1 Mangsheeru, father of the deceased and complainant of the case; PW2 Sidhu Lal; PW3 Dr. G.S. Rawat, who conducted the post-mortem examination of the dead body of the deceased; PW4 K.R. Kothari, witness of the inquest report; PW5 Ramesh Lal, brother of the deceased; PW6 S.I. Rukam Singh, I.O. of the case; PW7 G.S. Martolia, DSP, I.O. of the case and PW8 Inspector Mehak Singh, I.O. of the case.

10. Three witnesses were also examined as court witnesses. They are CW1 Y.P. Juyal, CW2 Teja Nand Pandey and CW3 Yashwant Singh.

11. Thereafter, the statements of the accused/appellants were recorded u/s 313 Cr.P.C. The oral and documentary evidence were put to each of them in question form, who have denied the allegations made against them. In defence, they have filed certain documents (Ext.Kha-1 to Kha-3) as documentary evidence and in oral evidence, DW1 Jagdish Singh Chaudhary, DW2 Gulab Singh, DW3 Binji Lal and DW4 Vikram Singh were produced.

12. After appreciating the entire evidence available on record and hearing learned counsel for the parties, learned Sessions Judge, Pauri Garhwal vide his judgment and order dated 4.8.1992 convicted and sentenced the accused/appellants as stated above. Being aggrieved by

the said judgment and order, the accused/appellants have preferred the present appeal.

13. Before any further discussion, it would be pertinent to mention the injuries found on the body of the deceased Smt. Rukmani Devi. The post-mortem examination of the dead body was conducted by Dr. G.S. Rawat on 18.5.1988 at 03:30 PM, who also prepared the post-mortem report (Ext.Ka-5). Following injuries were found on the dead body:-

- (i) Black sooty mark on body, face, mouth around it, nose bleeding mark neck.
- (ii) Pugilistic attitude.
- (iii) Upper arm deeply burnt, skin peeled off, both hand, fingers, clunched, skin peeled off.
- (iv) Skin peeled off from internal part of both left forearm.
- (v) Skin burnt of both thighs outer front aspect of lower part black sooty mark.
- (vi) Both feet burnt, skin peeled off, black brown.
- (vii) No vesication seen.
- (viii) Back of body black sooty, skin peeled off.

14. To prove the above-noted post-mortem report, the prosecution examined PW3 Dr. G.S. Rawat, who has stated that on 18.5.1988 he was posted as Senior Medical Superintendent at District Hospital, Pauri. On that day at 03:30 PM, he along with Dr. C.P. Dimri had conducted the post-mortem examination of the dead body of Smt. Rukmani. In his opinion the death was caused due to asphyxia which was caused by excessive burning. He further stated that Dr. C.P. Dimri had prepared the post-mortem report on which he has also signed. He has proved the report Ext.Ka-5.

15. Further to prove its case, the prosecution examined PW1 Mangsheeru, whose statement was recorded in the trial court on 4.12.1989 where he stated that his daughter was married to the accused/appellant Rakesh Chandra two and a half years ago. Accused/appellant Smt. Roopa Devi was the mother of the appellant Rakesh Chandra. Whenever his daughter Smt. Rukmani used to visit his house she made complaint that her mother-in-law and husband were harassing her for bringing insufficient dowry and that they were demanding a television and Rs.1,000/-. He further stated that in the marriage he had given dowry as per his status. Before the said incident he had sent one Siddhu Lal (PW2) to enquire about the welfare of his daughter, who after returning from her in-laws house told him that his daughter had told him that her in-laws are harassing her and she asked to call her back. He called his son Dinesh and sent him to in-laws house of his daughter to bring her back. His son brought Rukmani and thereafter Rukmani was sent to Rishikesh to reside with her brothers. After sometime, his son left his daughter at Pauri and after one month he came to know that the accused/appellants has committed murder of his daughter by burning. He further deposed that the accused/appellants did not give any information of death of his daughter but he received that information from the villagers of Rain. Thereafter he moved the application (Ext.Ka-1) before District Magistrate. He has also filed the list of articles given in dowry at the time of marriage, which is Ext.Ka-2. He also moved an application at P.S. Pauri i.e. Ext.Ka-3. He further deposed that when the inquest report of his daughter was prepared at that time also no information was given to him.

In the cross-examination, he stated that his daughter was studied up to Class VI and the accused

Rakesh was Class X pass. He further stated that it takes two hours to reach the house of accused from his village. His daughter was not allowed to go in the neighbours' house by the accused/appellants. He further stated that his daughter had complaint that her mother-in-law used to sleep with her and did not allow her to sleep with her husband Rakesh Chandra. This witness was cross-examined at length by the defence counsel but nothing has come out from his evidence, which may create any doubt in his evidence. The evidence of this witness is reliable, believable and inspires confidence.

16. PW2 Shiddu Lal stated that before the said incident, on the request of Mangsheeru (PW1), he had gone to in-laws house of Rukmani (deceased) to enquire about her welfare. He had a talk with her (deceased) who told him that her mother-in-law, father-in-law and husband are harassing her for the demand of dowry. She had also requested him to ask her parents to bring her back at their house. He further stated that he had given this message to Mangsheeru. This witness was cross-examined at length by the defence counsel but nothing has come out from his evidence, which may create any doubt in his evidence. The evidence of this witness is reliable, believable and inspires confidence.

17. PW4 Kirti Ram Kothari stated that in May 1987 he was living in the Government Quarters of PWD. Appellant/accused Rakesh Chandra was also residing there in another quarter. On the date of incident in the morning after hearing the noise he went to the house of accused Rakesh Chandra. Many people were gathered there and the Police have also reached there. When he went there he found the wife of accused Rakesh

lying dead by burning. The Police have prepared the inquest report (Ext.Ka-6) on which he has also signed.

18. PW5 Ramesh Lal has stated that the deceased Rukmani was his real younger sister. Husband of his sister Rakesh Chandra and her mother-in-law, appellants herein, used to commit Marpeet with her for the demand of dowry. He further stated that his sister Rukamani had sent him a letter by post which he filed in the court. He received this letter after one month of her death. That inland letter is Ext.Ka-7. The said letter and the address written outside it was in the hand writing of his sister. His sister often used to tell him that the accused/appellants has a demand of Rs.10,000/-, a T.V. and a gas stove. He had promised to give the aforesaid things to the appellants up to 20.6.1988. His sister had also told to his other family members about the demand of these three things. He further deposed that before the said incident his sister Rukmani had come to live at Rishikesh where she had told him that the appellant/accused Rakesh Chandra, in the state of intoxication, used to beat her and her mother-in-law was also harassing her for the demand of dowry. On 14.4.1988 he left his sister at her in-laws house. He further deposed that when he went to leave his sister at Pauri then the demand of aforesaid three things was again made. On this, he promised to give these things in the month of June and came back. On 20.5.1988 he came to know that his sister had died due to burning.

In the cross-examination, he stated that he had not given the letter Ext.Ka-7 to the Police because of the fear that if he would have given this letter to the

Police then the Police might have definitely concealed the same. This witness was cross-examined at length by the defence counsel but nothing has come out from his evidence, which may create any doubt in his evidence. The evidence of this witness is reliable, believable and inspires confidence.

19. PW6 S.I. Rukam Singh stated that on 18.5.1988, he was posted as Sub Inspector at P.S. Pauri. On that day he prepared the inquest report (Ext.Ka-6) of the deceased Rukmani Devi. On the written report (Ext.Ka-4) lodged by the accused/appellant Rakesh he went to place of occurrence. On the basis of that FIR, Chik FIR (Ext.Ka-8) of the case was prepared by H.M. Roop Singh Tyagi. Along with the inquest report, he also prepared certain other documents, which are Ext.Ka-9 to Ka-12. Thereafter, the dead body of the deceased was sent for post-mortem examination. During the course of investigation, he also recorded the statements of the witnesses, prepared the site-plan (Ext.Ka-13) of the place of incident and took into possession some ash, jerrican cap, a lock with latch and prepared its FARD (Ext.Ka-14). He further stated that because it was a case of dowry death therefore the investigation was entrusted to C.I. Mehak Singh on 25.5.1988. Lastly the investigation of the case was transferred to C.O. Sri Martolia.

20. PW8 Mehak Singh stated that by the order of C.O., Pauri he received this investigation on 31.5.1988 which before him was conducted by S.I. Rukam Singh. On 1.6.1988 he recorded the statements of some witnesses and on 9.6.1988 the investigation was entrusted to C.O. City.

21. PW7 G.S. Martolia, Dy. S.P. has stated that in May-June 1988 he was C.O., Pauri. On 9.6.1988, the investigation of this case was entrusted to him. Before him, it was conducted by S.I. Mehak Singh and S.I. Rukam Singh. He perused the papers of earlier investigation and made enquiries from the witnesses. After completing the investigation, he submitted the charge sheet (Ext.Ka-15) against the accused/appellants.

22. C.W.1 Y.P. Juyal has proved the signatures of Ved Prakash, Asstt. Post Master on paper no.38 Ka/1 and 38 Ka/2. He further stated that he was the Inspector of Post. He stated that on the letter Ext.Ka-7 there was seal of Post Office, Pauri. He also stated that in May 1988, CW2 Teja Nand Pandey, Packer used to change the date on seal daily and he is doing the same work since then.

23. CW2 Teja Nand Pandey stated that he was posted as Packer at Head Post Office since 1980. He used to change the date on seal and also affixes seal on the mail. He further stated that on the letter Ext.Ka-7 there was seal of Post Office, Pauri. He stated that he gave sample seal to Ved Prakash, who attested the same.

24. CW3 Yashwant Singh, Principal stated that he has brought original T.C., admission form and attendance register of Km. Rukmani. He further stated that he found out a paper of answer book of Km. Rukmani, which he filed in the court. He further stated that Km. Rukmani had passed Class V in 1982.

25. Thereafter, the statements of the accused/appellants were recorded u/s 313 Cr.P.C. The oral and documentary evidence were put to each of them

in question form, who have denied the allegations made against them. In defence, they have filed certain documents (Ext.Kha-1 to Kha-3) as documentary evidence and in oral evidence, DW1 Jagdish Singh Chaudhary, DW2 Gulab Singh, DW3 Binji Lal and DW4 Vikram Singh were produced.

26. DW1 Jagdish Singh Chaudhary has stated that he was the neighbour of the accused/appellants. Being a neighbour, Smt. Rukmani-wife of the accused/appellant used to visit his house but she had never complained to him or his family members about the harassment committed upon her by the accused/appellants for the demand of dowry. He further stated that the deceased Rukmani had told his wife that her engagement was done at some other place. The family of the accused/appellants has lower status than her family. He further stated that he had seen the hand writing of the deceased and the letter Ext.Ka-7 was not written by her. He further stated that the document Ext.Kha-2 is in the hand writing of the deceased.

In the cross-examination, he stated that Smt. Rukmani (Deceased) never used to write before him, she only used to give letter to him to mail it. He further stated that he never saw the hand writing inside the letter, he only saw the address written outside the letter. Before him, Smt. Rukmani had never written address on the letter.

27. DW2 Gulab Singh stated that the accused/appellant Rupa Devi is his mother-in-law. On 18.5.1988 he had sent a telegram to Mangsheeru (PW1) about the death of the deceased Rukmani. He has proved the receipt of telegram (Ext.Kha-3).

28. DW3 Bingi Lal, Asstt. Post Master has stated that in the receipt Ext.Kha-3, seal was illegible but it seems to be of Pauri. On the basis of presumption, he stated that the death message would have been sent through this receipt.

29. DW4 Vikram Singh stated that the accused/appellant Rupa Devi is his mother-in-law and the accused/appellant Rakesh is his brother-in-law. He has corroborated the statement of Jagdish Singh Chaudhary (DW1).

30. Learned counsel for the appellant submitted that on the basis of the above-said evidence, no case u/s 306 r/w Sec.34 and 498A r/w Sec.34 IPC is made out against the accused/appellant. I do not find force in the argument. Before further discussion, it is pertinent to mention Section 306 and 107 of IPC, which reads as under:-

306. Abetment of suicide.-If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 107 of IPC lays down the ingredients of abetment, which includes instigating any person to do that thing or engaging with one or more other persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing, or intentionally aids, by any act or illegal omission, the doing of that thing.

Section 113-A of Indian Evidence Act, 1872, is also relevant to mention here, which reads as under: -

[113-A. Presumption as to abetment of suicide by a married woman.-When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other

circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.

Explanantion.-For the purposes of this section, “cruelty” shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860)].

‘Cruelty’ has been defined in Section 498-A of IPC, which is also reproduced as under: -

“498-A. Husband or relative of husband of a woman subjecting her to cruelty – Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.”

Explanation-For the purpose of this section, “cruelty” means-

- (a) any willful 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 woman; or
- (b) harassment of the woman where such 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.

Section 2 of Dowry Prohibition Act, 1961 is also relevant to mention here which also reads as under: -

2. Definition of ‘dowry’- In this Act, “dowry” means any property or valuable security given or agreed to be given either directly or indirectly.

- (a) by one party to a marriage to the other party to the marriage; or
- (b) by the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person.

At or before [or any time after the marriage] [in connection with the marriage of the said parties, but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II- The expression “valuable security” has the same meaning as in section 30 of the Indian Penal Code (45 of 1860).

31. From the evidence of P.W.1 Mangsheeru, father of the deceased and P.W.5 Ramesh Lal, brother of the deceased, it is proved that Smt. Rukmani Devi has

died due to burn injuries inside the house of appellants. Deceased Rukmani Devi was married to accused/appellant Rakesh Chandra one year before the said incident. After the marriage, accused/appellants harassed the deceased Rukmani Devi for getting T.V. and Rs.10,000/- in dowry and by non-fulfilling of the demand of dowry, they were continuously torturing her. Sidhu Lal (PW2) who was sent to in-laws house of the deceased for enquiring about her welfare by Mangsheeru (PW1), has specifically stated that the deceased had told him that the accused/appellants were harassing her for the demand of dowry. She had also requested him to ask her parents to bring her back at their house. Ramesh Lal (PW5), brother of the deceased, has also stated that before the said incident, the deceased had come to live at his house at Rishikesh and had told him about the harassment committed upon her by the accused/appellants for the demand of dowry. On 14.4.1988 when he went to leave his sister at her in-laws house then on that day also the accused/appellants demanded Rs.10,000/-, a T.V. and a gas stove. Thus, from the evidences of P.W.1 Mangsheeru, P.W.2 Siddhu Lal and P.W.5 Ramesh Lal, it is proved beyond reasonable doubt by the prosecution that Rukmani Devi was being harassed for the demand of dowry by the appellants after the marriage and they were continuously demanding dowry just before her death. After this harassment from the side of appellants for the demand of dowry, deceased Rukmani Devi committed suicide by burning herself inside the house of appellants where she was living along with the appellants. This fact is further corroborated from the post-mortem report Ext.Ka-5 as well as from the medical evidence of P.W.3 Dr. G.S. Rawat, who opined that the death of the deceased was caused due to asphyxia which was caused by excessive

burning. Above fact further gets corroborated from the recovery of items which were shown in the recovery FARD Ext.Ka-14 from the place of occurrence. Vide Fard Ex.Ka-14, the I.O. recovered (1) some ash (2) jerricane cap (3) a lock with latch. Therefore, in view of the aforesaid discussion, it is proved that deceased Rukmani Devi died in an unnatural circumstances within one year of her marriage in the house of appellants where she was residing along with her husband-Rakesh Chandra and mother in-law Roopa Devi. Deceased Rukmani Devi has died due to burn injuries. As such, it has been proved by the prosecution beyond reasonable doubt that the deceased was subjected to mental and physical cruelty by the appellants for the demand of dowry and due to non-fulfillment of the demand of dowry and due to the harassment and Marpeet committed by the appellants, Rukmani Devi had to commit suicide by burning herself in the house of her husband Rakesh Chandra (accused/appellant).

32. Learned counsel for the accused/appellants further argued that the evidence of PW5 Ramesh Lal is not reliable due to the reason that the letter Ext.Ka-7 dated 13.5.1988 was filed by him in the court on 28.5.1990, after a long period of the said incident. He neither gave that letter to the I.O. during the investigation nor he disclosed about it to any one, which creates suspicion about the genuineness of the said letter and the evidence of PW5 Ramesh Lal. I do not find force in this argument as in the cross-examination, Ramesh Lal (PW5) has clearly stated that he did not give that letter to the I.O. because of the fear that if he would have given this letter to the Police then the Police might have definitely concealed the same. A perusal of the letter (Ext.Ka-7) reveals that soon before her death, the deceased Rukmani Devi was

being harassed by the accused/appellants for the demand of Rs.10,000/-, a T.V. and a gas stove due to which she committed suicide. Thus, the evidence of PW5 Ramesh Lal is reliable, believable and inspires confidence.

33. Learned counsel for the accused/appellants further argued that no question was asked about letter Ext.Ka-7 from the accused/appellants during recording their statements u/s 313 Cr.P.C, which creates doubt in the prosecution story. I do not find force in this argument as Ramesh Lal (PW5), in his deposition, has proved the letter Ext.Ka-7. For the sake of arguments, if the letter Ext.Ka-7 is not taken into account, then in that event also, there is ample evidence on record against the appellants which can prove their guilt in the said crime.

34. Learned counsel for the accused/appellants further argued that the evidences of PW1 Manghseeru and PW2 Shiddu Lal also does not inspires confidence as there are contradictions in their evidences. I do not find force in the argument of learned counsel for the accused/appellants as there is minor discrepancy in their evidences and their testimony cannot be discarded only on this ground.

35. In support of its case, the defence had examined four witnesses-Jagdish Singh Chaudhary as DW1, Gulab Singh as DW2, Binji Lal as DW3 and Vikram Singh as DW4. DW1 Jagdish Singh, who is the neighbour of the accused and DW4 Vikram Singh, who is the son-in-law of the accused Rupa Devi and brother-in-law of the accused Rakesh Chandra, have stated that the letter Ext.Ka-7 was not written by the deceased. The statement of DW1 Jagdish Singh is self-contradictory as in the cross-examination, he stated that he had never seen the

deceased while writing before him. DW4 Vikram Singh is the interested witness and he came in the court below just to give evidence in favour of the appellants, therefore, no reliance can be placed on his evidence. Further DW2 Gulab Singh, who is the son-in-law of the accused Rupa Devi and brother of DW4 Vikram Singh, has stated that he had sent a telegram to Mangsheeru (PW1), father of the deceased, informing him about the death of Smt. Rukmani. DW3 Binji Lal, Asstt. Post Master has stated that the seal on the receipt Ext.Kha-3 was illegible but on the basis of presumption he stated that some death message might have been sent through this receipt. Mangsheeru, father of the deceased, has categorically denied the said fact of telegram. He has stated that no information was given by the accused/appellants to him regarding the death of his daughter. Thus, the evidences of defence witnesses are not in any way helpful to the appellants.

36. In view of the above, the prosecution has established its case against the accused/appellants under Sections 306 r/w Sec.34 IPC and Section 498-A r/w Sec.34 IPC and I also concur with the view taken by the learned Sessions Judge, Pauri Garhwal while convicting and sentencing the accused/appellants under the aforesaid sections.

37. For the reasons recorded above, the appeal is devoid of merit and is accordingly dismissed. The judgment and order dated 4.8.1992 passed by Sessions Judge, Pauri Garhwal, is hereby confirmed. Consequently, the conviction and sentence as directed by the court below, which has been discussed above, is also confirmed. The accused/appellant Rakesh Chandra is on bail. His bail bonds are cancelled. Let him be taken into

custody forthwith in order to serve out the sentence. (As far as the appeal preferred by the appellant/accused Smt. Roopa Devi is concerned, it stands abated due to her death).

38. Let the record of the case be sent back immediately to the trial court concerned for compliance of the order.

(Dharam Veer, J.)

31.07.2009

RG