

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL Nos. 539-540 OF 2008

JAGDISHRAJ KHATTA

... APPELLANT

VERSUS

STATE OF HIMACHAL PRADESH

... RESPONDENT

J U D G M E N T

N.V. RAMANA, J.

1. These appeals are directed against judgment and order dated 09.01.2008 and 27.02.2008, passed by the Division Bench of the High Court of Himachal Pradesh at Shimla in Criminal Appeal No. 356 of 1993, whereby the appeal preferred by the State of Himachal Pradesh was allowed, and the judgment and order dated 03.04.1993 passed by the Additional Sessions Judge, Kangra, Dharamshala, Himachal Pradesh, acquitting the appellant-accused for offences under Sections 498A and 306 of the IPC, and Section 30 of the Indian Arms Act, was set aside.

2. The case of the prosecution in brief is that the appellant, who

was posted as the Forest Range Officer at Jawalamukhi, at the relevant time, was residing with the deceased (his wife) and two minor children. On 07.01.1990, at about 10 a.m., within seven years of the deceased's marriage with the appellant, the deceased used the appellant's gun to kill herself. On receiving information about her death, the deceased's mother, cousin, brother in law and father's neighbor went to Jawalamukhi, and the inquest report was prepared in their presence. After the funeral ceremonies were completed, on 08.01.1990 at around 11 p.m., the deceased's cousin lodged a report against the appellant herein, alleging that the appellant drove the deceased to commit suicide as he continuously subjected the deceased to cruelty, harassment, physical violence and even mistreated her and insulted her in the presence of her parents and relatives. Subsequently, on 13.01.1990, the father of the deceased produced a letter allegedly written to him by the deceased, which he received on 10.01.1990. The contents of the letter supported the allegations made against the appellant in the FIR, regarding cruelty and harassment towards the deceased.

3. The appellant was charged under Sections 498A and 306 of the IPC and Section 30 of the Indian Arms Act. The Trial Court, after

considering the material against the appellant, acquitted him of all the charges. On appeal by the State, the High Court reversed the findings of the Trial Court and convicted the appellant for the offences under Sections 498A and 306 of the IPC and sentenced him to three years rigorous imprisonment with a fine of Rs. 10,000, in default of payment of which he is to undergo rigorous imprisonment for a further period of six months, for the offence under Section 306, IPC, and one-year rigorous imprisonment with a fine of Rs. 5,000, in default of payment of which he is to undergo rigorous imprisonment for a further period of three months, for the offence under Section 498A, IPC, with both sentences to run concurrently. Aggrieved by the judgment and order of the High Court, the appellant has preferred the present appeals before us.

4. The counsel for the appellant strongly urged that the High Court erred in relying on a letter which was allegedly sent by the deceased to her relatives in overturning the well-reasoned judgment of the Trial Court. Counsel for the appellant submitted that the letter was surrounded by suspicious circumstances which were not considered by the High Court, such as the fact that there was a delay in handing over the letter to the police, which delay was not

explained, and that the family of the deceased had never received any other letter from the deceased, who had a phone connection and often used to be visited by her family. Additionally, the counsel submitted that the High Court did not consider that the notebook, which was used as a handwriting sample of the deceased for comparison purposes, was not proved to belong to the deceased. As such, the learned counsel for the appellant supported the findings of the Trial Court and prayed that the High Court's findings be set aside, and the appellant be acquitted.

5. On the other hand, the learned counsel for the respondent-State supported the findings of the High Court and submitted that the same do not merit any interference by this Court.

6. Heard the submissions of the learned counsels of both parties.

7. On perusing the judgment of the High Court, we find that it has reversed the findings of the Trial Court by mainly relying on the following evidences: (1) the testimonies of the relatives of the deceased that the appellant acted in a cruel manner against the deceased in front of her relatives, and (2) the letter allegedly written by the deceased around the time of her death to her parents.

8. With respect to the former, we are unable to agree with the reasoning of the High Court in relying on the testimonies of the

relatives of the deceased. As highlighted by the Trial Court, not only were the allegations in the FIR extremely general in nature, but also the same were never raised by the family of the deceased when they were present at the time of preparation of the inquest report or to the investigating officer. In fact, the allegation of cruelty meted out by the appellant against the deceased appears for the first time at the time of filing the FIR, after a delay of nearly one and a half days. Further, the prosecution did not even examine any neighbor of the appellant and the deceased to substantiate the allegation that the appellant ill-treated the deceased. In fact, and as the High Court also recorded, it appears from the evidence on record that the appellant treated the deceased with love and affection and provided for all her needs. In these circumstances, a reliance on the general oral testimonies of the prosecution witnesses, without any supporting evidence, would be misplaced. Further, as the High Court itself indicated somewhat contradictorily, reliance on the instances testified to by the witnesses would not be appropriate as the said incidents had taken place much before the deceased's death and could not be treated as conduct which drove the deceased to commit suicide.

9. This brings us to the second part of the High Court's reasoning in convicting the appellant, relating to the letter allegedly sent by the deceased to her parents one day before her death. We are again unable to accept the findings of the High Court on this point. We agree with the submission of the counsel for the appellant that the letter has not been proved to have been written by the deceased and is surrounded by suspicious circumstances. While the handwriting expert testified that the writing in the letter is the same as that of certain notebooks, no independent proof has been led regarding who owned or wrote in the aforesaid notebook. In fact, the only persons who were examined for the purposes of identifying the handwriting of the deceased were her father and cousin. However, how either of them could be said to be acquainted with her writing is unclear. The father of the deceased was her teacher nearly 15 years prior to the incident, and the deceased had admittedly not written any other letter to her father after her marriage. Similarly, the cousin of the deceased also did not have any other letter from the deceased in his possession.

10. Most importantly, the letter was received by the deceased's father on 10.01.1990 but was handed over to the police only on

13.01.1990, casting serious doubt on the authenticity of the letter. The fact that the deceased had never written any other letter to her family after her marriage but had rather been in touch with her relatives through the telephone, further strengthens the case of the appellant.

11. Considering the facts and circumstances of the present case, as well as the material placed before us, we hold that the prosecution was not able to prove the guilt of the appellant beyond reasonable doubt. Additionally, we are of the opinion that this was not a fit case for the High Court to interfere with the well-reasoned judgment and order of acquittal passed by the Trial Court, particularly when there existed no grave infirmity in the findings of the Trial Court. [See ***Bannareddy and Ors. v. State of Karnataka and Ors.***, (2018) 5 SCC 790]. In the aforesaid circumstances, the appeals are allowed, and the impugned judgment and order of the High Court are set aside. The judgment and order of the Trial Court, acquitting the appellant herein, is therefore affirmed.

12. Pending applications, if any, shall also stand disposed of.

.....**J.**
(N.V. RAMANA)

.....**J.**
(S. ABDUL NAZEER)

NEW DELHI;
APRIL 26, 2019.