

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on: 20.03.2025
Pronounced on: 15.04.2025

CRAA No. 155/2014

State of J&K through SHO Police Station, Ramban.

.....Petitioner(s)

Through: Mr. Eishaan Dadhichi, GA.

Vs

Ishtiyag Ali, S/O Mukhtiyar Ali
R/O Chanderkot, District Ramban.

..... Respondent(s)

Through: Mr. Jagpaul Singh, Advocate.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

- 01.** Through the medium of the instant Criminal Acquittal Appeal, the appellant-State (now UT) of J&K has challenged the judgment dated 09.12.2013 (for short, **'impugned judgment'**) passed by the court of learned Principal District & Sessions Judge, Ramban (for short, **'trial court'**) in sessions trial case No. 115/2009 titled **"State Vs. Ishtiyag Ali"** whereby the respondent has been acquitted despite commission of offence punishable under section 306 RPC, in a case registered at Police Station, Ramban vide FIR No. 94/2009 on a written complaint by one Haider Ali S/O Chirag Ali R/O

Chanderkote, Tehsil Ramban alleging that his daughter Rozina Begum, who had been married to the respondent-accused Ishtiyaq Ali for about thirty years, was subjected to cruelty and as a result of continuous beating, she had committed suicide on 25.06.2009 by jumping into river Chenab from Gugwal Bridge and that her dead body was later found after three months at Dayangarh, Reasi.

02. The case of the prosecution before the trial court was that on the basis of a written complaint filed on 26.06.2009, by Haider Ali S/O Chirag Ali, R/O Chanderkote, Tehsil Ramban, stating therein that his daughter Rozina Begum, who had been married to respondent-accused Ishtiyaq Ali about 30 years back, was subjected to cruelty and as a result of continuous beating, his daughter committed suicide on 25.06.2009 by jumping into river Chenab from Gugwal Bridge, an FIR was got registered by the Police Station, Ramban against the respondent herein; that during investigation dead body of the deceased-Rozina Begum was found at Dayangarh Reasi from Salal Project Dam, after three months and her postmortem was conducted on 01.10.2009 at District Hospital, Reasi.

03. After investigation of the case, chargesheet was laid against the respondent for the commission of offence

punishable under section 306 RPC; that the respondent was chargesheeted by the trial court vide order dated 16.08.2010 for the commission of offences punishable under sections 306/498-A RPC; that the prosecution in order to prove its case to bring home charge against the respondent examined eight witness, namely, Haider Ali, Abbas Ali, Subara Begum, Arif Ali, Inshar Ali, Fatrqa Bahadur, Muzafar Ali and Dr. Sudesh Raina. The respondent, in defence, also examined one witness, namely, Dr. Saifudin Khan.

04. The Trial Court, on conclusion of trial, however, dismissed the charge-sheet and acquitted the respondent-accused vide impugned judgment dated 09.12.2013.

05. The impugned judgment has been assailed on the following grounds:

- (i) That the impugned judgment is contrary to law and has been passed in a mechanical manner without appreciating the evidence available on record in its true and correct perspective;
- (ii) That the trial court has not appreciated the evidence led by the prosecution properly and by ignoring the statement of the witnesses has acquitted the respondent against the law and facts of the case;
- (iii) That there is sufficient material on record to convict the respondent but the learned trial court has not appreciated

the law and facts of the case, which has resulted into acquittal of the respondent;

- (iv) That the prosecution had established the case against the respondent by adducing documentary as well as oral evidence which, in ordinary course of nature, was sufficient to prove guilt of the respondent;

06. Learned counsel for the appellant-State in line with the memorandum of appeal and grounds taken therein, argued that the trial court, while passing the impugned judgment, has not appreciated the evidence properly and by ignoring the statement of the witnesses, has acquitted the respondent; that there is sufficient material on record to convict the respondent but the learned trial court has not appreciated the law and facts of the case which has resulted into acquittal of the respondent; that the prosecution had established the case against the respondent by adducing documentary as well as oral evidence which, in ordinary course of nature, was sufficient to prove guilt of the respondent.

07. Learned counsel for the respondent, *ex adverso*, argued that the trial court has decided the case very meticulously appreciating all aspects of the evidence and the impugned judgment does not call for any interference. He has further argued that the prosecution had miserably failed to bring home the charge against the accused as it was simply a case of committing suicide by

the deceased Rozina Begum, who happened to be the one of the wives of the respondent and there was not even an iota of evidence against the respondent to have in any manner abetted the commission of suicide by the deceased.

- 08.** Shorn of minute details, the facts of case are that on 26.06.2009 one Haider Ali R/O Chanderkot Tehsil Ramban moved a written complaint at Police Station, Ramban, stating that his daughter Rozina Begum married to the respondent Ishtiyag Ali about thirty years back was subjected to cruelty and as a result thereof, she had committed suicide on 25.06.2009 by jumping into river Chenab from Gugwal Bridge; that on the basis of this complaint, a case was registered vide FIR No. 94/2009 under section 306 RPC and the dead body of the deceased was later recovered at Dayangarh, Reasi from Salal Project Dam, after three months and her postmortem was conducted on 01.10.2009 at District Hospital, Reasi; that during investigation, it was revealed that the accused-respondent had contracted two marriages and his relations with the deceased were strained as he harassed the deceased on trivial issues and caused physical and mental torture to her; that on 25.06.2009 he had beaten the deceased, who fed up with

the continuous torture, jumped into river Chenab on 25.06.2009; that the police after investigation laid the chargesheet for the commission of offences punishable under sections 306/498-A RPC and on denial of the charge by the accused, prosecution examined PW-1 Haider Ali (complainant), PW-3 Abbas Ali, PW-5 Sufara Begum, PW-6 Arif Ali, PW-7 Inshar Ali, PW-9 Khadka Bahadur, PW-11 Muzafar Ali and PW-Dr. Sudesh Raina as prosecution witnesses.

- 09.** The complainant-Haider Ali, father of the deceased, PW-11 Muzaffar Ali is the brother of the deceased and PW-3 Abbas Ali and PW-6 Arif Ali, two sons of the deceased and accused were cited as prosecution witnesses. Father and brother of the deceased, who have been cited as witnesses, were found by the trial court as hearsay witnesses as their depositions were based on hypothesis. PWs Arif Ali and Abbas Ali, sons of the deceased and accused categorically refuted the allegations made in the chargesheet that the deceased was instigated to commit suicide as she was physically and mentally tortured by the accused after second marriage and both of them were declared hostile by the prosecution and on cross-examination they denied that the deceased and the accused ever quarreled prior to the occurrence. PW-

Abbas Ali had even stated that the second child was born after second marriage of the accused. The two independent witnesses namely Inshar Ali and Khadka Bahadur were also declared hostile, as both of them resiled from their earlier depositions but nothing incriminating could be extracted despite subjecting them to cross-examination.

10. It was clear from the statements of the prosecution witnesses that the deceased and the accused were married for about thirty years and even after the second marriage, the deceased had been living with the accused and the second wife for last 12 years and there being no complaint lodged in those long years with regard to any torture etc. by the respondent-accused. Also there being no incriminating statement made by any of the witnesses that the deceased was instigated to commit suicide due to continuous harassment and torture by the respondent did not inspire confidence. Thus, the trial court in a very lucid and reasoned judgment recorded acquittal of the respondent, for want of sufficient evidence.

11. Having given my thoughtful consideration to the rival submissions, this court is of the considered opinion that impugned judgment does not call for any interference by

this court which is hereby upheld. Resultantly, the appeal fails and is accordingly dismissed.

(M A CHOWDHARY)
JUDGE

JAMMU
15.04.2025
Naresh/Secy

Whether the order is speaking: **Yes**
Whether the order is reportable: **Yes**

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