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ANNAPURNA

V.

STATE OF U.P.

(Criminal Appeal No. 1039 of 2008)

APRIL 17, 2013

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**[DR. B.S. CHAUHAN AND FAKKIR MOHAMED
IBRAHIM KALIFULLA, JJ.]**

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Penal Code, 1860 - s.302 - Death of 22 year old married woman within 2 months of marriage due to burn injuries - Dying declaration given by the victim alleging that she was subjected to cruelty for dowry and that her mother-in-law (appellant) sprinkled kerosene oil on her and burnt her - Conviction of appellant u/s.302 alongwith life imprisonment -

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Held: The victim got injured in her in-laws house while the appellant was present - In her dying declaration, the victim had disclosed that her sister-in-law was also present there but did not make any allegation, whatsoever, against her - Thus, the veracity of her dying declaration cannot be doubted and there

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is no cogent reason to interfere with the conviction of the appellant - However, the appellant has already served 14 years and 6 months of imprisonment in jail and her case has not been considered by the State for premature release u/

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s.432 CrPC - Authorities concerned to consider the case of the appellant for premature release strictly in accordance with law - Evidence Act, 1872 - s.113B - Code of Criminal Procedure, 1973 - s.432.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1039 of 2008.

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From the Judgment and Order dated 13.04.2007 of the High Court of Judicature at Allahabad in Criminal Appeal No. 3443 of 2000.

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Manoj Prasad, S.S. Gupta for the Appellant.

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Ravi Prakash Mehrotra, Ram Kishor Singh Yadav for the Respondent.

The following order of the Court was delivered

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O R D E R

1. This appeal has been filed against the impugned judgment and order dated 13.4.2007 passed by the High Court of Judicature at Allahabad in Criminal Appeal No. 3443 of 2000 by way of which, the High Court has affirmed the impugned judgment and order dated 15.12.2000 of the Sessions Court passed in Sessions Trial No. 3 of 2000, convicting the appellant under Section 302 of Indian Penal Code, 1860 (hereinafter referred to as 'IPC') and sentencing her to undergo imprisonment for life.

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2. As per the prosecution case, the appellant is alleged to have poured kerosene oil on her daughter in law Santoshi and set her on fire. On hearing hue and cry of the deceased, her neighbour Ram Singh took her daughter in law to the hospital. In the hospital, two dying declarations were recorded, one by the Investigating Officer and another by Shri Ved Priya Arya, Naib Tehsildar-cum-Magistrate (PW.8). The dying declaration was recorded by the said Magistrate on 26.6.1999 after getting a certificate from Dr. P.K. Pathak that she was fit to make the statement. In her dying declaration, she had clearly stated that she had married to Satish on 4.5.1999 and she was pregnant. She was not sent to her parental house because her in laws were demanding ring and money. Her mother in law sprinkled kerosene oil on her and burnt her. She was subjected to cruelty for dowry.

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3. The trial court also applied the provisions of Section 113-B of the Evidence Act, 1872 (hereinafter referred to as 'the Evidence Act'), which gives a presumption of demanding of dowry in such a case and recorded the findings of guilty of the

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A appellant. The said findings had been affirmed by the High Court.

4. We have gone through the entire record and we are not impressed by any of the argument advanced by Shri Manoj Prasad, learned counsel appearing on behalf of the appellant, and we are of the view that no fault can be found with the judgment and order impugned before us. Undoubtedly, the deceased Santoshi, was only 22 years of age when she got married on 4.5.1999. She got injured in the said incident on 25.6.1999 and died on 17.7.1999, i.e. within a period of two months from the date of marriage. She got injured at 8.00 a.m. in her in laws house when the appellant, her mother in law, was present there. In her dying declaration, she had also disclosed that her sister in law was also present there. She did not make any allegation, whatsoever, against her. Thus, the veracity of her dying declaration cannot be doubted and we do not find any cogent reason to interfere with the impugned judgment and order. The appeal lacks merit and is dismissed.

5. It is submitted by Shri Manoj Prasad, learned counsel for the appellant, that the appellant has already served 14 years and 6 months of imprisonment in jail and her case has not been considered by the State for premature release under Section 432 Cr.P.C. Further, Shri Mehrotra, learned standing counsel appearing on behalf of the State of U.P., assured the Court that her case for premature release would be considered within a period of 3 months from today. In view of the above, Shri Mehrotra will send a copy of this judgment to the concerned authorities. We request the said authorities to consider the case of the appellant for premature release strictly in accordance with law.

B.B.B.

Appeal dismissed.