

**IN THE HIGH COURT AT CALCUTTA**  
**CRIMINAL APPELLATE JURISDICTION**  
**APPELLATE SIDE**

**PRESENT:**

***The Hon'ble Justice Rajarshi Bharadwaj***  
***And***  
***The Hon'ble Justice Apurba Sinha Ray***

***GA 2 of 1992***  
***State of West Bengal***  
***-Vs-***  
***Kishori Prasad Jaiswal***

For the Respondent: Mr. Navanil De  
Mr. Srinjan Ghosh

Heard on : 02.07.2025

Delivered on : 02.07.2025

**Rajarshi Bharadwaj, J.:**

1. The prosecution case, inter alia, is as follows:
2. From the evidence on record it is revealed that Sm. Sashikala Jaiswal since deceased was married to accused Kishori Prasad Jaiswal on 11.06.1978 after negotiation by the guardians of both families. However, her conjugal life became unhappy and miserable. After few months' of marriage it was found that the husband of the said Sm. Sashikala demanded a (Hero Honda) Motor-Cycle or its cash equivalent and for failure to deliver the same, various means of physical and mental tortures were perpetrated upon the said Sm. Sashikala. Even the husband used to bring questionable girls in the house for his enjoyment and used to abuse his wife whenever she used to attend telephone call. In this way, the tortures mounted heavily upon the victim for which she

seriously apprehended and gave out to her elder brother, uncle and aunt that she might be killed or be compelled to commit suicide. In the early hours of 16.02.1981 the above relatives of Sm. Sashikala were informed that Sm. Sashikala received severe burn injuries in her person. On arrival at the said place the said family members were received very coldly and they get up on the second floor stores room found that Sm. Sashikala was lying dead on the floor. They also notices that the tongue of the victim was protruded to some extent and certain portion of the body were affected with such burn. Till their arrival even police was not informed and later one Atmaram, a relative to the accused having informed an officer namely Sisir Das came to the P.O. and made an inquest of the said body in presence of witnesses. He on completion of preliminary investigation dispatched the dead body to Howrah General Hospital for causing post-mortem. The post-mortem in the hospital was done at a great haste causing suspicion in the mind of the family members of the deceased. Thereafter the said body was taken to Hanuman Burning Ghat. When the body was ready to be put on fire. A doctor in the company of police rushed there and took samples of viscera from the said dead body which added to their suspicion of foul play. Finally the said dead body was consigned to flames. After receipt of inquest and post-mortem report the complainant Sitaram Jaiswal who happened to be elder brother of the victim took further opinion of Dr. C.C. Mallick, Head of the Department of Forensic State Medicine, N.R.S. Medical College, Calcutta. Dr. Mallick opined on 30.04.1981 that the death was due to moderate pressure extended on the neck of the victim and burns which were ante-mortem and homicidal in nature. The said complainant on 17.02.1981 also submitted a written complaint but the police having not taken any steps, the said elder brother filed a written complaint before the Court of the learned S.D.J.M., Howrah(Sadar) for treating such complaint as F.I.R. under Sections 302/201/120B/182 of the Indian Penal Code. The learned S.D.J.M., Howrah(Sadar) accordingly sent the complaint to M.P. Ghara P.S. for causing

investigation. After that the formal F.I.R. was drawn by S.I. P. Chakraverty, the instant case no.10 was started again against 7 accuseds named in the petition of complaint. The investigation of the case was taken up by the Detective Department of Howrah and S.I. Tapan Sen submitted charge-sheet under Section 306 of the Indian Penal Code against the present accused. His younger brother Dharma Chand Jaiswal and his wife Smt. Uma Jaiswal after commitment to the sessions by the learned S.D.J.M the case was transferred for disposal. On 20.03.1991 hearing of the charge started against the 3 charge-sheeted accuseds. After hearing the learned Public Prosecutor the learned defence counsel and on perusal of the case diary charge was framed against the present accused, the husband of the deceased Sm. Sashikala under Section 306 of the Indian Penal Code and the learned Trial Court discharged the two other accuseds namely Dharam Chand Jaiswal and his wife Uma Jaiswal from his case. The trial of the case thereafter followed as the accused pleaded not guilty and claimed be tried. From the cross-examination of the prosecution witnesses and suggestions made to such witnesses it is evident that the defence denied the prosecution story completely but did not attach any specific defence. No defence witness was however examined on behalf of the prosecution.

**3.** That in support of its case, prosecution examined 16 witnesses.

**4.** The Trial Court after compliance of necessary formalities, recorded an order of acquittal which is in challenge before this Hon'ble Court. In spite of service, the accused/respondents are unrepresented and as such, we propose to deal with the appeal on its merits.

**5.** Dispensing with the service upon the respondents as in our view, it will not be prejudicial in the interest of the respondents for the order we propose to pass.

**6.** We have heard the learned Public Prosecutor who argues in favour of the appeal and points out some infirmities in the order of the learned Trial Judge.

**7.** We are, however, not convinced with the arguments advanced on behalf of the State by the learned Public Prosecutor in view of the fact that the order of acquittal has been recorded by the learned Trial Judge upon consideration of all the materials placed before him.

**8.** In view of the proposition laid down by the Hon'ble Apex Court from time immemorial and recently in the case of Constable 907 Surendra Singh & Anr. Vs. State of Uttarakhand , reported in 2025 SCC Online, SC 176, we do not think there is any scope for interference by this Hon'ble Court as the impugned judgment and order seems to be justified and reasonable.

**9.** Accordingly, the appeal fails and is dismissed.

**10.** Copy of this judgment along with the trial court records, if any, shall be sent back to the trial court at once for necessary compliance.

**11.** Urgent Photostat certified copy of this order, if applied for, be supplied expeditiously after complying with all requisite legal formalities.

**[Rajarshi Bharadwaj, J.]**

**I agree**

**[Apurba Sinha Ray, J]**