
(2006) 04 P&H CK 0032
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 446 of 2000

Bishan Dass and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 25-04-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 304B

Citation : (2006) 17 CriminalCC 234

Hon'ble Judges : Arvind Kumar, J

Bench : Single Bench

Advocate : G.S. Sandhawalia, for the Appellant; Eklavya Kumar, AAG Punjab and Mr. T.P. Singh, for the Complainant, for the Respondent

Final Decision : Dismissed

Judgement

Arvind Kumar, J.—The instant petition is directed against the order dated 6.1.2000 and 8.2.2000 vide which the petitioners were charged for an offence u/s 304- B of the Indian Penal Code.

2. At the outset it may be mentioned that the petitioners were charge sheeted vide order dated 6.1.2000. Since the name of petitioner Paramjit was, inadvertently, not mentioned in the charge-sheet, his name was also ordered to be incorporated in the head note of the charge-sheet vide order dated 8.2.2000.

3. Brief facts of the case are that Smt.Satya Devi, since deceased was married to petitioner No.5 Paramjit Singh on 26.1.1995 and from this wedlock a male child was born Smt.Satya Devi was found dead on 14.8.1998 while hanging on a girder with a chunni. A suicide note (Annexure P-1) was found lying near the dead body. Statements of Duni Singh (Annexure P-2), Surjit Kaur (Annexure P-3) and Jaswant Singh (Annexure P-4) were recorded. Letter (Annexure P-6) was also written by Duni Singh Jaswant Singh and others to S.D.M.Jalandhar. The police submitted report u/s 174 Cr.P.C. (Annexure P-5) that Smt.Satya Devi had committed suicide. However, on 25.8.1998 on the basis of statement made by

complainant Duni Singh, father of the deceased Smt.Satya Devi, FIR No.78 dated 25.8.1998, u/s 304-B IPC was lodged at police station Adampur, District Jalandhar, against the petitioners. On completion of investigation final report u/s 173 Cr.P.C. was submitted in Court for the trial of the petitioners. Petitioners are the close relations of husband (petitioner No.5) of the deceased Smt.Satya Devi whereas petitioner No.3 is stated to be a mediator in the said marriage.

4. Learned trial court, after hearing the learned counsel for the parties and appreciating the record, framed the charges against the petitioners for the commission of offence u/s 304-B of Indian Penal Code.

5. Learned counsel, while assailing the impugned order has referred to the statements of Duni Singh the father, Surjit Kaur the mother, and Jaswant Singh the brother (Annexures P-2 to P-4 respectively), exonerating the petitioners, wherein it is mentioned that there was no demand of dowry and they were living a happy married life and on account of a domestic quarrel between her and her husband, Satya Devi got annoyed and committed suicide and nobody is to be blamed for this incident, has developed his argument that by virtue of the said statements, there is nothing incriminating against the petitioners and subsequent registration of FIR on 25.8.1998 i.e. after a delay of about 10 day of the occurrence, is an after thought of the complainant. Learned counsel has further contended that petitioners No.1, 2 and 4 are the relatives of the husband, residing separately and, therefore, as a natural corollary could not have any role to play in the commission of offence u/s 304-B Indian Penal Code. Moreover, petitioner No.3 was only a mediator in the said marriage, so he cannot be chargesheeted for the offence u/s 304-B IPC. Thus, it is contended that the petitioners have been falsely implicated and their discharge has been sought.

6. On the other hand, learned State counsel has contended that a perusal of the FIR, the order framing charge do not reveal any error of jurisdiction or illegality, as would warrant interference. He sought for the dismissal of the revision petition.

7. I have heard learned counsel for the petitioners as also the learned State counsel and have perused the paper book carefully.

8. After considering the rival contentions raised by learned counsel for the parties, I am of the considered view that the contentions raised by learned counsel for the petitioners are meritless. At the stage of framing the charge, the Court has to form its opinion on a general consideration of the materials placed before it by the investigating agency. The standard test, proof and judgment which is to be applied finally before finding the accused guilty or otherwise is not exactly to be applied at the stage of framing a charge. At this stage prima facie case is to be seen and even a very strong suspicion founded upon materials can lead the Court to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged, may justify the framing of charges against the accused in respect of commission of offence. In the instant case, no

doubt, the earlier statements of Duni Singh, Surjit Kaur and Jaswant Singh (Annexures (P-2 to P-4) had exonerated the accused, but the said statements, at this juncture, cannot axed the subsequent statement of Duni Singh on the basis of which the case was registered wherein he leveled allegations against all the petitioners in relation to the demand of Rs.25,000/- for visit of Paramjit to abroad, which was paid and 20 days earlier there was again demand of Rs.25,000/-, which was refused and on this score his daughter has been killed by the accused and specifically stating that his earlier statement was not correct and had been given as he was puzzled. In the light of these allegations, at this juncture, the petitioners cannot derive any benefit of the earlier statements though they can use the same at appropriate stage as per law. Suicide note is also one piece of evidence which can only be appreciated during the course of trial. There can be no general proposition in law that a relative residing separately can in no eventuality be arraigned as an accused for the offence u/s 304-B IPC. Every case would have to be determined on its own peculiar facts. At this juncture also, no presumption can be drawn that Bhajan Dass, alleged mediator in the said marriage, cannot be a party to the demand. Satya Devi has died within 7 years of marriage in the matrimonial home and the death is unnatural. Prima facie there is presumption of dowry death. Even otherwise, contentions raised by counsel for the petitioners being pure questions of fact should be left to the wisdom of the trial court to be determined on the basis of evidence to be adduced by the parties.

9. In view of what has been stated above, the present petition fails and the same is dismissed. Registry is directed to sent back the lower court record to it forthwith. Vide order dated 10.10.2000 proceedings before the Trial court were stayed. With the dismissal of the instant revision petition, the said interim order stands vacated. The trial court shall proceed with the trial in accordance with law. The parties through their counsel are directed to appear before the trial court on 5.5.2006. Before parting it is made clear that whatever has been stated hereinabove shall not be construed as an expression of my opinion on the merits of the case.