

(2025) 08 DEL CK 0696

In the Delhi High Court

Case No : Criminal Miscellaneous Petition No. 4785 Of 2017

Gainda Lal

APPELLANT

Vs

State Govt Of Nct Of Delhi

RESPONDENT

Date of Decision : 13-08-2025

Acts Referred:

Constitution of India, 1950 — Article 227
Code of Criminal Procedure, 1973 — Section 161, 164, 482
Indian Penal Code, 1860 — Section 34, 304B, 498A
Limitation Act, 1963 — Section 5

Citation : (2025) 08 DEL CK 0696

Hon'ble Judges : Neena Bansal Krishna, J

Bench : Single Bench

Advocate : Gurbaksh Singh, Arjun Dhamija, Yudhvir Singh Chauhan, M. T. Malik, Arnab Malik

Final Decision : Dismissed

Judgement

Neena Bansal Krishna, J.

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") read with Article 227 Constitution of India has been filed against the impugned Order dated 03.04.2017 vide which the learned District and Sessions Judge has upheld the Order of the learned M.M. dated 27.06.2016 discharging the Respondents No. 3 to 5 in the Charge-sheet filed in FIR No. 199/2014 under Sections 498A/304B/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at P.S. Sangam Vihar, New Delhi.

2. Briefly stated, the Complainant/Sh. Gainda Lal (the Petitioner herein), father of the deceased, Ms. Shashi made a Complaint of dowry harassment and death of his daughter.

3. It is submitted that he is an Auto Rickshaw driver. His daughter, Ms. Shashi got married to Respondent No. 3/Sh. Bhagwan Swaroop, son of Respondent No.

4/Sh. Rishi Pal, on 05.12.2010 as per Hindu rites and customs. He spent about Rs.4 Lacs, which was beyond his financial means and resources. He arranged the money from his friends, relatives and family members.

4. The Petitioner asserted that after the marriage, his daughter was continuously humiliated and tortured for not bringing sufficient dowry and Respondents No. 3 to 5 made demands of gold bracelet, bike and other articles from his daughter. However, when the demands were not met, his daughter was mentally tortured because of which she died on 31.03.2014.

5. The Petitioner submitted that Ms. Shashi was blessed with two daughters; one was 2.5 years old and the other was 40 days old at the time of her demise. It was further stated that after marriage of the daughter, he had been regularly meeting their demands but she was continuously harassed and tortured, which increased manifold after the birth of second daughter.

6. Whenever his daughter visited her parental house, he always advised her to adjust with the family members. Because of his financial limitations, the Complainant was unable to take any coercive measure against the Respondents No. 3 to 5.

7. On 03.04.2014 at about 11.00 PM, the Petitioner received a call from Respondent No.4/Sh. Rishi Pal, that his daughter, Ms. Shashi has fallen unwell and has been taken to Majeedia Hospital. He reached the hospital and was informed by the doctor that his daughter has died.

8. The statement of the Petitioner as well as of Smt. Gyana Devi, his wife was recorded by the SDM and on their statements, FIR No. 199/2014 was registered on 04.04.2014 under Sections 304B/498A/34 IPC at P.S. Sangam Vihar.

9. During the investigation, further statements of the Complainant/Petitioner and his wife and other family members, were recorded under Section 161 Cr.P.C. On completion of investigation, Charge-sheet was filed under Sections 304B/498A/34 IPC. The case was committed to the Court of Sessions.

10. The learned ASJ noted the testimony of CW-1, the Doctor, who deposed that Ms. Shashi had died on account of Pneumonia. Considering that the cause of death was not unnatural but on account of Pneumonia, the Respondents No. 3 to 5 were discharged under Section 304B IPC and the case was remanded back to learned M.M. for Trial under Section 498A/34 IPC.

11. This Order of discharge under Section 304B IPC was not challenged.

12. Learned M.M. vide Order dated 27.06.2016 concluded that the allegations were vague and there were no specific instances or description of alleged demand for dowry or harassment. It was also noted that there were contradictions in the first statement made by the Complainant and his wife before the SDM and the subsequent statement of the Complainant recorded under Section 164 Cr.P.C. Consequently, it was held that the allegations were

vague and did not prima facie disclose any offence under Sections 498A or 34 of the IPC against Respondents No. 3 to 5. In the absence of specific allegations regarding harassment related to dowry demands or any wilful conduct likely to drive the woman to commit suicide or cause her grave injury, no case was held to be made out against the Respondents No. 3 to 5 who were discharged under Sections 498A/34 IPC.

13. The Order of the learned M.M. was challenged by way of a Revision Petition. However, the learned District and Sessions Judge in the Order dated 03.04.2017, considered all the statements of the Complainant and other witnesses and concurred with the learned M.M. that there was no evidence to prima facie show the harassment of the deceased on account of dowry. Consequently, the Order of the learned M.M. was upheld.

14. Aggrieved by the said Order of the District and Sessions Judge, the present Petition under Section 482 Cr.P.C. has been filed.

15. The grounds of challenge are that at the time of framing of Charge, only the averments with material placed on record, is required to be considered and the defence of the Respondents No. 3 to 5 is not to be taken into account. There was specific allegations against the Respondents No. 3 to 5 in the statements of the brother, sister and parents recorded under Section 161 Cr.P.C. They had elaborately disclosed about the cruelty meted out to the deceased from the date of her marriage till her death. Due weightage has not been given to the statement under Section 164 Cr.P.C. of the Petitioner wherein specific allegations were levelled against the Respondents No. 3 to 5.

16. It is submitted that the correctness of their statements was not required to be judged at the time of passing the Order on framing of Charges as only a prima facie case was to be considered against the accused persons. In the Post-Mortem Report, it was mentioned that stomach of deceased contained about 300 cc of semi-solid indistinguishable material, but the same was not sent for Forensic analysis to ascertain its contents. At the time of admission of the deceased, it was noticed in the MLC that she was frothing from her mouth and nostrils. However, this aspect has not been considered either by the learned M.M. or the learned District and Sessions Judge.

17. It is submitted that in the Bail Application, it was nowhere mentioned that the deceased had died because of Pneumonia or any such plea of her death being natural, was taken. It was incumbent upon both the Courts to ascertain the actual cause of death of the deceased. Though a Medical Board comprising of 05 senior doctors was constituted, but both the Courts below took the contrary view and discharged the accused.

18. Even if it is assumed that the deceased was suffering from Pneumonia, Respondents No. 3 to 5 were required to provide her proper treatment, which they have failed to do. Rather they tortured a sick person, which establishes a clear case of abetment. There is certainly a foul play on the part of Respondent

No. 3 to 5, but the same has been negated by both the Courts.

19. Reliance has been placed on State of Orissa vs. Devendra Nath Padhi, Appeal (Cri.) 497/2001 wherein it was held that at the time of framing of the charge, the defence of the accused is not to be considered. Reliance is also placed to Stree Atyachar Virodhi Parishad vs. Dilip Nathumal Chordia & Anr., 1989 SCC (1) 715 wherein it was held that where Prosecution is able to connect the accused with the crime, the charges ought to be framed.

20. Similarly, reliance has also been placed Ghulam Hassan Beigh vs. Mohammad Maqbool Magrey & Ors., Criminal Appeal No. of 2022 (Arising out of SLP (Crl.) No. 4599 of 2021) decided on 16.07.2022.

21. Therefore, Prayer is made that the impugned Order dated 03.04.2017 of the Revisional Court upholding the Order of discharge of the Respondents No. 3 to 5, be set aside.

22. The Status Report has been filed on behalf of the State wherein the aforesaid details leading to filing of Charge-sheet and discharge of the Respondents No. 3 to 5 under Section 304B IPC, have been detailed.

23. The Respondents No. 3 to 5 in their Reply, have denied all the averments made in the present Petition.

24. It is stated that Civil Suit No. 751/2017 titled as Bhagwan Swaroop & Ors. vs. Genda Lal & Ors., was filed by the Respondent against the Complainant which is pending in the Court. The present Petition is merely a counterblast to the said Civil Suit It has been prompted by an ulterior motive to compel the Respondents No. 3 to 5 to withdraw their Civil Suit.

25. It is further submitted that the present Petition is liable to be dismissed as it is filed beyond the period of limitation and is not accompanied by any Application under Section 5 of the Limitation Act.

26. There is no merit in the present Petition, which is liable to be dismissed.

Submissions heard and record perused.

27. The Respondent No. 3/Sh. Bhagwan Swaroop got married to Ms. Shashi, daughter of the Petitioner/Complainant on 05.12.2010. They were blessed with two daughters. Unfortunately, when the younger daughter was barely 40 days old, Ms. Shashi died. According to the Complainant, he was informed about the poor health of his daughter on 30.03.2014 at about 11:00 PM and he immediately rushed to Majeedia Hospital, where on reaching, it was informed by the Doctor about the sad demise of his young daughter.

28. The First and foremost aspect which emerges is that the Post-Mortem of Ms. Shashi was done and it was reported that she died on account of Pneumonia i.e. a natural cause. The learned ASJ considered this aspect of the demise being on account of natural death and discharged the Respondents No. 3 to 5 under

Section 304B IPC vide Order dated 11.03.2016 and remanded the case back to the learned M.M. for Trial under Sections 498A/34 IPC.

29. The learned M.M. in the impugned Order dated 27.06.2016, observed that there were no specific averments of dowry harassment or cruelty and the Respondents No. 3 to 5 had been discharged. It is asserted by the Petitioner that there were specific allegations of dowry harassment, which have been overlooked and the Respondents No. 3 to 5 had been wrongly discharged.

30. Thus, to assess the merits of the allegations, it is pertinent to refer to Section 498A IPC, which is reproduced as under:-

"Husband or relative of husband of a woman subjecting her to cruelty.

Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.—For the purposes of this section, "cruelty means"—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

31. The act of 'cruelty' by a husband or his relative towards a woman, has been defined in the Explanation appended thereto, which provides that the cruelty punishable under Section 498A may be of two kinds;

(i) Firstly, such conduct which is likely to drive a woman to commit suicide or to cause grave injury to herself; or

(ii) Secondly, harassment to coerce her or any person related to her to meet any unlawful demand for any property or valuable security.

32. Furthermore, in *Jayedepsinh Pravinsinh Chavda vs. State of Gujarat*, (2025) 2 SCC 116 the Supreme Court while considering the guilt of the husband under Section 498A IPC observed that cruelty simpliciter is not enough to constitute the offence under Section 498A IPC; rather it must be done either with an intention to cause injury or to drive the person to commit suicide or with an intention to coerce her and her relatives to meet unlawful demands. Mere cruelty is not enough to constitute the offence.

33. In the present case, to bring in the clause of cruelty leading to the death of the woman, it may be noted that Ms. Shashi had died not because of any act of cruelty but for natural reasons, as stated by CW-1 and rightly noted by learned ASJ. Therefore, Clause (a) to the Explanation annexed to Section 498A IPC is not

attracted.

34. Now, Clause (b) to Section 498A IPC needs to be examined to assess whether there are any allegations, which even prima facie make out that the deceased was subjected to harassment with a view to coerce her or persons related to her to meet any unlawful demand of property or valuable security.

35. In *Dara Lakshmi Narayana vs. State of Telangana*, 2024 SCC OnLine SC 3682 the Supreme Court while dealing with the components of Section 498A IPC and to ascertain whether the same are attracted on vague allegations raised by the wife, observed that the contents of the Complaint may be assessed to see if there is any kind of cruelty as contemplated in Clause 1 or if there is any harassment for dowry as contemplated in Clause 2 is made out. If the allegations in the FIR are found to be vague and ambiguous and lack precise allegations which are alleged after the notice of divorce, then it may be concluded that the FIR has been lodged as a retaliatory measure intended to settle the score with the husband and his relatives. In such a situation, the quashing of the FIR is justified.

36. Furthermore, the above observations were reiterated in the case of *Digambar*, (supra), that where the FIR or the Complaint even if taken on the face value and accepted in their entirety, do not prima facie constitute a case against the accused, the quashing of proceedings would be justified. Only stating cruelty has been committed by the Appellants, would not amount to an offence under Section 498A IPC.

37. In the light of the aforesaid discussion, the allegations made have to be assessed in detail.

38. The first statement of the Complainant got recorded by the SDM on 04.04.2014 i.e. a day after the demise of the daughter wherein he stated that he has spent about Rs.4 Lacs on the marriage of his daughter but after a few days, her in laws had started making demands. His son in law used to make a demand of bracelet. When the second daughter was born, there were a lot of fights happening in the house of the in-Laws. They also tortured his daughter on birth of the second girl and used to pick fight. On the occasion of Holi, his younger daughter, Poonam had called the Son-in-Law, who also abused her.

39. It is quite understandable that he being a father, he would have been highly traumatised on account of the untimely death of his daughter. However, it is quite evident from the first statement of the Complainant that no details of the alleged harassment of the daughter was mentioned.

40. The second document is the Complaint dated 15.05.2014 that was made by the Petitioner to ACP. He, in his Complaint, also stated that the Son-in-Law used to demand gold bracelet, which he was not in a position to give. After some time, he demanded a motorcycle for which he gave Rs.80,000/-. After some time, the first daughter was born after which they started harassing and torturing her.

They gave Rs.45-50,000/- in the Chuchak even thereafter, the demands did not stop and the daughter was continuously tortured for bringing money. He, at times used to take Rs.10,000/- and sometimes Rs.15,000/- so that the relationship would not disrupt and the family honour was saved. For this reasons, no Complaint was lodged at ITO Women Cell.

41. The next statement made by the Complainant was under Section 164 Cr.P.C. wherein also, similar allegations were made. However, as already noted above, no specific incidents which have been detailed in this Complaint.

42. During the investigations, the statement of Smt. Gyana Devi, mother of the deceased, Ms. Shashi was recorded under Section 161 Cr.P.C. wherein also similar averments were made.

43. However, Petitioner has neither given any date nor given any proof of giving any money, especially when he himself has stated that he was an Auto driver and had financial constraints. Such bald assertions, in the given situation, cannot be held to be even making out a prima facie case of harassment.

44. When the Petitioner's daughter became pregnant for the second time, he brought her to his house in the 5th month as there was threat to liquidate her in case she gave birth to the second child. He brought her to his house and left her in the matrimonial home after the birth of the second child. Pertinently, the Complainant has made contradictory statements in so much as if the Respondents had threatened to kill the Petitioner's daughter on birth of a girl child, no father would leave the daughter in the matrimonial home in the face of such imminent threat.

45. It is further claimed that there was consistent demand of Rs.2 Lacs in the name of both the children or else they threatened to kill the daughter. He sold his plot at Surya Colony, Faridabad and gave Rs.1 Lakh, despite which his daughter was killed. However, no evidence has been placed on record of either the ownership or sale or of the date on which this money was given. This assumes importance as the Petitioner's daughter died within 40 days of birth of second daughter. To accept the alleged sale and payment, some cogent evidence about the alleged demands and payment should have been disclosed by the Petitioner. Such bald assertions cannot be considered to even disclose the case of harassment.

46. The statement under Section 161 Cr.P.C. of Sunny, brother of the deceased, Ms. Shashi was also recorded, who stated that he had gone to meet Ms. Shashi at her matrimonial home on Holi when he found her crying and her in-Laws were harassing her. He, on return to their home, informed the same to the Petitioner.

47. Likewise, statement of sister of the deceased, Poonam under section 161 Cr.P.C. was recorded wherein she also stated that on the occasion of Holi, she had called her sister and found her crying.

48. However, merely because the deceased was crying, cannot per se make out

any case of dowry harassment. The statements of the brother, Sunny and sister, Poonam also in no way establish even prima facie that Shashi was being harassed by her in laws for meeting their demands.

49. Furthermore, in the Petitioner's Complaint as well, aside from vague assertions that there was a constant demand of money, there are no specific incidents which have been detailed in this Complaint. The amount of Rs.45-50,000 has been stated to have been given in Chuchak at the time of birth of the daughter and cannot be termed as a demand. There was nothing on record to even remotely suggest that there was any harassment of the deceased for fulfilling their demands for money.

50. The allegations in the Complain and the statements of the witnesses reflect that essentially the Petitioner was aggrieved by the death of his daughter and believed it to be on account of cruelty meted out to her. However, the learned ASJ had concluded that the death was on account of natural reasons and discharged the Respondents No. 3 to 5 under Section 304B IPC. This Order never got challenged and cannot be re-agitated now.

51. The learned M.M. after referring in detail to all the above statements, had rightly concluded that no offence punishable under Section 498A IPC was disclosed, and the Order which has been correctly upheld by the learned District and Sessions Judge vide impugned Order dated 03.04.2017.

52. There is no merit in the present Petition, which is hereby, dismissed. Pending Application(s), if any, are accordingly disposed of.