
(1987) 07 MAD CK 0017
In the Madras High Court

Gowar Chand

APPELLANT

Vs

The Superintendent of Police and Others

RESPONDENT

Date of Decision : 30-07-1987

Acts Referred:

Penal Code, 1860 (IPC) — Section 306

Citation : (1988) CriLJ 1399

Hon'ble Judges : Padmini Jesudurai, J

Bench : Single Bench

Judgement

Padmini Jesudurai, J.—The petitioner, who is the maternal uncle of the deceased Prabha Kumari, wife of the fifth respondent herein and

daughter-in-law of respondents 3 and 4, invokes the inherent powers of this Court, for a direction to the concerned police to enquire into the death

of the above Prabha Kumari and to pass such further orders as this Court might deem fit.

2. The facts giving rise to the present petition are briefly as follows. The deceased Prabha Kumari, aged 20 years, at the time of her death on 21-

3-1987, is a native of Rajasthan. Her parents had moved over to Hassan in Karnataka State and were doing business there. She was their eldest

daughter. She was married to the 5th respondent herein on 14-12-1985 at Rajasthan. Respondents 3 to 5 reside in Kancheepuram, wherein the

deceased also took up her residence. Even prior to the marriage, there had been demand for dowry, jewels, silver vessels, and in addition articles

like Fridge, Television etc. An agreement had been arrived at regarding the above demands and finally the marriage had been celebrated. After the

marriage, respondents 3 to 5 persisted in demanding additional cash and other items of jewellery. The parents of the deceased satisfied the

demands to the extent to which it was possible for them. On that score, the deceased was ill-treated and harassed by respondents 3 to 5, and had been forced to deliver her first child in the house of respondents 3 to 5, quite contrary to the custom of their community to have the delivery in the house of the parents. Harassment had continued and finally on 21-3-1987, she died. According to the petitioner, who was in Bangalore, news about the death was conveyed by their distant relatives to the parents of the deceased and in turn to the petitioner. They were told that the death was due to massive heart attack. On reaching Kancheepuram they were informed that the deceased had committed suicide by hanging herself. The petitioner and the parents of the deceased were not satisfied with the explanation, since the mother of the deceased found injuries on the body of the deceased. However, their attempts to have the body subjected to post-mortem failed and since they were handicapped in not knowing the regional language "Tamil" and since they felt helpless being in an alien state, they could not prevent the body from being cremated.

3. On 25-3-1987, the father of the deceased gave two telegrams, one to the Chief Minister of Tamil Nadu and another to the Home Secretary of India, New Delhi alleging that the death of her daughter was not due to suicide, but it was a suspected dowry death and the police were in

connivance with the in-laws and had avoided post mortem and that immediate action was prayed for. Finding that no action was taken, on 28-3-

1987 the father of the deceased sent petitions to the Director General of Police, Tamil Nadu at Madras, the Governor of Tamil Nadu, the Chief

Minister of Tamil Nadu, the Superintendent of Police, Chengalpattu Dist. the Chief Minister of Karnataka, the Collector of Chengalpattu Dist., the

Home Minister of India, New Delhi and the Minister of State for Home, New Delhi. The petitions to all the above authorities have been sent by

registered post with acknowledgement due and the photostat copies of the acknowledgments have been produced in court. In the petition, the

father of the deceased had stated that even the news of the death had not been initially conveyed to them by respondents 3 and 4 and that the

police were also present in the house at the time when they went there, that there were injuries on the body of the deceased which was cremated

abruptly. It was further alleged that the deceased had died due to homicidal violence and necessary action was requested. Since no action was

taken, the petitioner approached this Court on 3-4-1987 with the present petition.

4. Learned Counsel for the petitioner, learned Public Prosecutor for respondents 1 and 2 and Thiru V. Gopinathan, learned Counsel for

respondents 3 to 5 were heard.

5. The case diary relating to crime No. 294/84 of B-1 police station, Kancheepuram, relating to the death of the deceased has been produced and perused

6-7. It is seen that even though in the telegram sent on 25-3-1987, it is mentioned that it was not suicide but was suspected dowry death and in the

petitions sent on 28-3-1987, it had been specifically mentioned that the deceased had been done to death due to dowry harassment and that the

police were in active connivance with respondents 3 to 5, yet, we find that no action had been taken either on the telegram or on the petitions.

Postal acknowledgments show that the petitions have been received by the respective addressees.

8. The present petition has been filed in court on 3-4-1987 and notice had been ordered to be sent to respondents 3 to 5 and to the learned Public

Prosecutor on 3-4-1987 itself. The records show that notice had been given to the learned Public Prosecutor on 7-4-1987. The case, viz,, Cr.

No. 294/84 has been registered on a complaint from the father of the deceased only on 20-4-1987, for offences under Sections 306 and 498-A,

I.P.C. Investigation so far done would show that initially it was made to appear as if the death was due to heart attack. In fact, one Dr. K.V.

Subramanian, who is running a Private Dispensary, has stated that about four days after the death of the deceased, the brother of the third

respondent came and told him that the deceased had died due to heart attack and a certificate to the above effect was necessary in order to make

an entry in the Register of Deaths in the Municipal office at Kancheepuram, that he had never treated the deceased and that he did not see her at

any time, either during her lifetime or after the death. Neighbours examined during investigation also say that on the day of the occurrence, they

heard a big hue and cry inside the house of the deceased and on rushing inside they found that the deceased was found hanging from the pole of a

ceiling fan and the body was brought down and she was found dead. Investigation reveals, that the deceased did not die of heart attack, as alleged

initially.

9. Though the present case has been registered for an offence under Sections 306 and 498-A, I.P.C. and the present investigation indicates that it

could be a case of suicide, the statements of the petitioner and the parents of the deceased to the Investigating Officer, are to the effect that at the

time when the body was bathed before cremation, the mother of the deceased saw certain contusions and blood clots on the chest, right arm

shoulder, near the ear, chin and on the throat. The relatives of the deceased are positive that whatever the harassment might have done, the

deceased, who had recently delivered a child, and had the suckling child, would never have decided to end her life. These would be matters which

would require further probe.

10. It is quite obvious that the local police have been in the picture right from the beginning. Even in the telegram given on 25-3-1987, it is stated

that with police connivance post mortem was avoided, and in the petitions sent on 28-3-1987, it is mentioned that the police were in the scene

house when the parents of the deceased went. In fact, all the neighbours examined during the present investigation have stated that the Sub-

Inspector of Police and the Police came to the scene house that evening itself. There is also the evidence that Constables were posted at the scene

house that night to provide bundobust. One witness, Mohanlal, has stated that on the next morning at 7.30 a.m. they met the Sub-Inspector in his

residence and instructions were given that the body could be buried if the parents of the deceased did not object to the same. Whatever that be,

the fact remains that the police were very much in the picture right from the beginning.

11. Section 174 (3), Cr.P.C. is a mandatory provision which requires that the body of a woman, who had committed suicide within seven years of

her marriage, has to be subjected to post-mortem and the inquest also has to be held. To say that the local Police were not aware that it should be

at least a case of suicide appears to be too big a pill to be swallowed. A case, therefore, u/s 174, Cr.P.C. ought to have been registered even on

21-3-1987, the inquest held and the body sent for post-mortem. The above requirements are mandatory and have to be carried out without

reference to the wishes of the parties concerned.

12. The failure to register a case immediately, at least u/s 174, Cr.P.C. initially the failure to hold inquest, the failure to have the body subjected to post-mortem to find out the real cause of death and the failure to register a case at least later, when several petitions had been sent to different authorities, are all lapses which any amount of investigation hereafter done, even by the best of investigation agencies, would not adequately compensate. Under even better circumstances, Pathak, J. (as he then was) in *Bhagwant Singh Vs. Commissioner of Police, Delhi*, speaking for the Supreme Court observed

The greed for dowry and indeed the dowry system as an institution calls for the severest condemnation... Besides this, what is important to point out is that where the death in such cases is due to a crime, the perpetrators of the crime, not infrequently escape from the nemesis of the law, because the inadequate police investigation. It would be of considerable assistance if as appropriately high priority was given to the expeditious investigation of such cases....

Whether it is a case of suicide or homicide, that the death was due to dowry harassment over the entire span of the marital life of the deceased has been clearly established from the present investigation.

13. In a country like India where the system of private detective agency is still undeveloped and the common man is either too ignorant or too poor, to have resort to the few of the agencies that are available, and depends solely on the State machinery to investigate into crime, it is absolutely necessary that this onerous responsibility be discharged by such machinery however challenging the situation may be in a way which would inspire confidence in the minds of the public.

14. Since the advantage of an immediate investigation has not been made available in this case and since certain disturbing features indicate that the death could be due to homicide, it is necessary that there should be a fuller and deeper investigation by some other agency having greater facilities for investigation. Investigation, therefore, shall be taken up by the C.B. C.I.D. Madras. The Investigating Agency shall carry out the task of investigation unbiased by any of the observations made by this Court in this order. This petition is ordered accordingly.