
(2012) 03 DEL CK 0128
In the Delhi High Court
Case No : Criminal M.C. 4001 of 2011

Kalpana Zardari Wakude

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 13-03-2012

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 304B, 34, 498A

Citation : (2012) 5 AD 413

Hon'ble Judges : Suresh Kait, J

Bench : Single Bench

Advocate : Sugam Puri, for the Appellant; Navin Sharma, APP for State, for the Respondent

Judgement

Suresh Kait, J.—Vide the instant petitions; the petitioners have challenged the impugned order dated 18.10.2011, whereby learned MM has summoned the petitioners for the offences punishable under Sections 498A/304B/302/34 Indian Penal Code, 1860.

2. Learned counsel further submits that the incident took place on 23/24.04.2010.

3. The concerned SDM has recorded the statement of father of the deceased on 24.04.2010, wherein he had stated that on 23.04.2010 as follows:-

At morning 8am, on dated 23.04.2010 Rameshvar Dube who is our relative, told us that my daughter has burned and admitted in the hospital. My son-in-law Mukesh did not inform me about this incident. It had only been 4-5 months of marriage of my daughter. In between my daughter Kiran never complained about her husband or her father in law or regarding any dowry demands. The marriage of Kiran was with the son of her matrimonial uncle. The cause of death of Kiran was burn and I cannot say anything regarding that because we are living in Mumbai

On the same day, the statement of Smt. Anuradha W/o Sanjay Vidhate R/o

House No.15, Ved Nivas Buddha Nagar Bhadu (West) Mumbai, aged 43 years, was also recorded which reads as under :-

I am residing with my on above address from 8 years. I married my daughter Kiran on 2/12/2009 to Mukesh s/o Jardari R/o Aaradhana Road Paharganj. This marriage was solemnized with the consent of both the families. My daughter and my son in law used to keep shuttling between Delhi and Mumbai. On 23/4/2010 at about 8am, Rameshvar Dube who is our relative, told us that my daughter has got burned and is admitted in a hospital. My son in law Mukesh did not inform us about this incident. It had only been 4-5 months since the marriage of my daughter. In this time of the said marriage our daughter Kiran had never complained about her husband or her father in law or regarding any dowry demands. We had spoken to our daughter only 2 times from the time she came to Delhi and both these times we made the phone call. It had only been 20-25 days that our daughter had come to Delhi. Neither the father in law or son in law ever called us after going to Delhi. Kiran death due to the burning or on the fact of her death we have no other information as we reside in Mumbai. After hearing about the death we reached Delhi at 3 O'clock on 23/4/2010.

4. Learned counsel further submits that the concerned SDM recorded another statement of the father of the deceased on 15.05.2010, where he stated as under:-

Marriage of my elder daughter Kiran was solemnized on dated 2/12/2009 with Mukesh Jardari Vakude at Gulbarga (Karnatka) 6 days prior to the marriage of my daughter on dated 27/11/2009, mother of the boy namely Mira Bai died. After the marriage my daughter Kiran and Mukesh went to her matrimonial house, district Mulbagi, Taluka Kamlapur, (village Jivnagi). There they were living with other members of the in laws, whose names are as follows : Girl's father in law Sri Jardari Dharampal Vakude, Girl's brother in law (Jeth) Lokesh Jardari Vakude, Girl's sister in law (Jethani)- Renuka Lokesh Vakude, Damad (husband of my daughter) - Mukesh Jardari Vakude, Girl's sister in law (nanad) - Kalpana Vakude (unmarried), Girl's elders sister in law - Rachna Jitendra Shided (married), Girl's second sister-in-law Disha Rameshvar Druve (married). They all blamed my daughter for the death of her mother in law, they all said that she was unlucky (tere paav ache nahi hai). They all together used to beat my daughter Kiran and also mentally harassed her.

5. It is further submitted that the petitioners are the married sisters of the husband of deceased. They were married even before this marriage and living separately. The learned trial Judge has passed the impugned order without application of mind, in spite of the fact that there is no specific allegations against the petitioners.

6. Ld. APP on the other hand submits that there are specific allegations made in the supplementary statement, therefore, there is no discrepancy in the impugned order.

7. In the facts and circumstances of the case, I find force in the submission of Id. Counsel for the petitioner, therefore, order dated 18.10.2011 is hereby quashed.
8. Ld. Metropolitan Magistrate is directed to pass fresh order after taken into consideration the material on record.
9. Accordingly, Crl. M.C. 4001/2011 is allowed in the above terms.
10. No order as to costs.