
(1987) 12 RAJ CK 0010

In the Rajasthan High Court

Case No : Criminal Miscellaneous Bail Application No's. 2878, 3247 and 3181 of 1987

Madan Singh and Others

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 09-12-1987

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (1988) 1 WLN 551

Hon'ble Judges : M.B. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Sharma, J.—Three bail applications are being deposed of by this order, namely, Deena Lal v. State of Rajasthan S.B. Cr. Misc. Bail Application No. 3181/87, Kalyan Singh and Ors. v. State of Rajasthan S.B. Cr. Misc. Bail Application No. 3247/87 and Madan Singh v. State of Rajasthan S.B. Cr. Misc. Bail Application No. 2878/87. All the aforesaid three bail application relate to FIR No. 108/87 which was lodged in relation to one Roop Kanwar having committed Sati along with her husband, deceased Mal Singh. The case of the prosecution is that Smt. Roop Kanwar in fact did not commit Sati but was burnt alive by Sumer Singh father of deceased Mal Singh and other persons who were present at the house of Sumer Singh and other accused petitioners were said to have actually aided in the burning of Roop Kanwar.

2. Smt. Roop Kanwar was married to Mal Singh only on January 17, 1987. Mal Singh all of sudden had been taken ill and said to have developed pain in the abdomen and he was admitted in the Kalyan Hospital, Sikar on September 3, 1987 and died on September 4, 1987 in the morning at about 6.50. It is further the case of the prosecution that Sumer Singh, father of deceased Mal Singh and others took Smt. Roop Kanwar in funeral procession while it is not the custom that ladies accompany the funeral procession. She was dressed and was having

all "Shringar" and every body in the village knew when the funeral procession was passing through the market that Roop Kanwar is to be made a Sati.

3. There is no dispute that along with the dead body of Mal Singh Roop Kanwar was also consigned to flames. There is dispute as to whether she voluntarily committed Sati or was burnt alive. The case of the prosecution is that she was not a willing party and in order to glorify Sati, she was burnt alive and a story was floated that she has committed Sati. I need not to go in the question which shall be considered during the trial of the case. There can be no dispute that there has been no custom of Sati as is well known that a custom must be in existence for many years and must be continuous. Even if it would have been the custom, the same could not have been termed as a valid custom. This Court has already held the validity of anti Sati laws which was framed by the Legislature as a piece of legislation. Not only committing Sati but also its glorifications has been banned by an Act of the Legislation. Besides this, it is already an offence under the Indian Penal Code and that apart it cannot be said to be integral part of any religion or of society. It is barbaric and cannot be allowed to be permitted. But besides making legislation it is the duty to create awareness among the public against any widow committing Sati or glorification of Sati.

4. So far accused petitioners are concerned, except Shambhu Singh, accused petitioner in bail application No. 3247/87, none of the accused-petitioners of the family of deceased Mal Singh or of deceased Roop Kanwar. The allegations against the accused persons are that they accompanied the funeral procession and against some of them allegations are that they prepared the funeral pyre. It is not the case that any of the accused-petitioners actually took part in preparing the funeral pyre after Roop Kanwar had taken the dead body of Mal Singh in her lap after having set in the funeral pyre. The allegations are that the accused-petitioners had prepared the funeral pyre of Mal Singh. The allegations against the father of deceased Sumer's Singh uncle Mangal Singh are that after the funeral pyre had been prepared and dead body of Mal Singh had been placed on it, they took Smt. Roop Kanwar and made her sit in the funeral pyre and put the head of deceased Mal Singh in her lap. When as a result of some movement of Roop Kanwar, which allegedly is said have been to avoid herself being burnt alive, the pyre had been disturbed, they resort to the pyre. Thus, though it cannot be said that the accused petitioners did whatever was expected of them, or tried their best to avoid Smt. Roop Kanwar committing Sati or being burnt alive, but in a case of present nature, in my opinion, a distinction has to be made in the case of these two persons viz., Sumer Singh and Mangal Singh and other than the petitioners if the involvement of others is also found and in the case of the petitioners who simply accompanied the funeral procession of Mal Singh and did nothing more. It may be that a case of abetment of offence u/s 302, 1FC may be made out ultimately but for the reasons aforesaid, so far as the accused-petitioners are concerned, I am inclined to release them on bail, despite the fact that Shri M.I. Khan has vehemently opposed the bail applications and has referred to the authorities of the Supreme Court as to what are the considerations

for releasing the accused on bail in a serious crime. Those cases have been decided on their own facts.

5. Consequently, I allow the bail applications and direct that the accused petitioners Kalyan Singh, Naresh Singh, Jai Singh, Arjun Singh, Kalyan Singh s/o Sawai Singh, Bhanwar Singh, Anand Singh, Guman Singh, Ganga Singh, Mahaveer Singh, Bheru Singh, Gokul Singh, Hanuman Singh, Gheesu Singh, Gordhan Singh, Prahlad Singh, Ramotar, Surajmal, Prabhu Dayal, Jagdish Prasad, Rameshwar, Ramdas, Richapal, Mukti Lal, Shambhu Singh, Madan Singh, and Deena Lal be released on bail provided they furnish a personal bond in the sum of Rs. 10,000/- (Rs. Ten Thousand) each with two sureties in the sum of Rs. 5,000/- each to the satisfaction of the learned Additional District and Sessions Judge, Neem-ka-thana for their appearance in that court or in any other Court as and when required. The condition of the release of each of the accused which is to be incorporated in their bonds, that they shall not indulge in the glorification of Sati. If they are found so involved during investigation and trial of the case, on proving of breach of the condition, their bail will be liable to be cancelled.