

(2004) 02 MP CK 0034

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No. 655 of 2004

Maresh Jethani and Others

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 20-02-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 304B, 498A

Citation : (2004) 2 MPHT 531

Hon'ble Judges : A.K. Awasthy, J

Bench : Single Bench

Advocate : S.K. Vyas, for the Appellant; Iqbal Anwar, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Awasthy, J.—The applicant/accused has filed the petition u/s 482 of the Cr.P.C. against the order dated 13-1-2004 passed by learned XIIIth Additional Sessions Judge, Indore in S.T No. 91/02 whereby the document is admitted by the learned Trial Court, Indore in the evidence.

2. The applicants are facing the trial in the Court of XIIIth Additional Sessions Judge, Indore for the offence punishable u/s 498A and 304B of the IPC and the allegation against the applicants is that the dowry death of Reshma was caused. The prosecution has examined 5 witnesses and Rajesh Pardasani (P.W. 3) who is the brother of the deceased has filed the Phonogram and the Phonogram was taken on record by the learned Trial Court.

3. The objection of the applicants is that the learned Trial Court has erred in admitting the document because there is no provision to admit that document during recording the evidence. That the alleged documents were not produced during investigation. Consequently, the order of the learned Trial Court of admitting the document be quashed u/s 482 of the Cr.P.C.

4. This fact is rightly not disputed that the alleged document which relates to the

allegation of harassment of the deceased is material evidence and the proof of the document is necessary for the just decision of the case. It is observed in case of *In Re: Shantilal and Others*, and in case of *State Vs. Raghunath*, that the Court has power to admit a document which was not filed along with the charge sheet even if it is produced during the trial by the witness. It is held in case of *Narayan Rao Vs. The State of Andhra Pradesh*, that the provision of filing of the document on which the prosecution relies before the trial are directory in nature and not mandatory. Consequently, the Court has a power to admit any document in the trial which is necessary for the just decision of the case. The learned Trial Court is providing the opportunity to the applicants to cross examine the witness on the alleged document. However, it is worth mentioning that the copy of this document was already filed by the prosecution at the time of filing the charge sheet.

5. The provisions of Section 482 of the Cr.P.C. are used sparingly in rarest of the rare cases in order to see that the process of the Court is not abused and to secure the ends of justice. This power cannot be exercised in routine manner but wherein the injustice is apparent and glaring and there is a gross abuse of the process of Court. The contention of the learned Counsel for the applicants that the order of the learned Trial Court of admitting the document is without jurisdiction is not proper. The learned Trial Court has not committed any error of jurisdiction.

6. The petition is devoid of merits and it is, hereby, dismissed.