
(2006) 11 PAT CK 0081
In the Patna High Court

Manoj Choudhary and Others

APPELLANT

Vs

The State of Bihar and Another

RESPONDENT

Date of Decision : 14-11-2006

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 202, 203
Dowry Prohibition Act, 1961 — Section 3, 4
Penal Code, 1860 (IPC) — Section 201, 304B, 498A

Citation : (2007) 1 PLJR 553

Hon'ble Judges : Subash Chandra Jha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Subash Chandra Jha, J.—Heard the parties.

2. This is an application for quashing the order dated 31.7.2004 passed by the SDJM, Muzaffarpur(West)on Complaint Case No. 11/96, Tr.No. 754/2005.

3. The complainant Ramdeo Chowdhury, being father of the deceased Pratima Devi, has alleged that marriage of his daughter Pratima Devi with Petitioner No. 1 Manoj Chowdhary was solemnised on 19.2.1994 at village Shahpur Patti, P.S. Sahebgunj. Dt. Muzaffarpur, by observing Hindu rites and rituals. He spent sufficient money as per his capacity at such marriage so as to please the husband of Pratima Devi as also his father. But even then they were not pleased because of non-fulfilment of dowry demand of Motor-cycle and with heavy heart they proceeded with the brid for their place. Thereafter, all the accused persons cited in the complaint petition started torturing on Pratima Devi with the result that she had/been kept confined in a room without food and water for long four days besides being tortured and assaulted so as to pressurise her for fulfilment of dowry demand of Motor-cycle. The complainant met several times with the accused persons and assured them fulfilment of such dowry demand provided fund is managed. But it did not deter the accused persons from committing torture in various ways on Pratima Devi. One Bhagwan Chowdhary used to

convey regioning torture and ill treatment on Pratima Devi Pratima Devi also delivered a child in Ararba Hospital on 18.3.1995. But the accused persons without informing her father released her from the Hospital and brought her to Chandan Kewari in the district of Muzaffarpur, where she was murdered and her dead body was made to disappear. Even, the accused persons did not inform the father of Pratima Devi regarding her death.

4. It has also been stated that village Chandan Kewari of the accused persons and the village Shahpur Patti of the complainant are in the close proximity. But even then no information regarding Pratima Devi's her death was given to the father. It has been submitted on behalf of the petitioner that FIR was drawn under Sections 304B, 498A, 201 of the Indian Penal Code as also Sections 3 and 4 of the Dowry Prohibition Act. But Police submitted Final Form finding the allegation unsubstantiated and false and thereafter cognizance taking Magistrate i.e. the SDJM, Muzaffarpur(West), accepted the Final Form, but proceeded with the complaint petition treating it as Complaint Case No. 11/1996 and in course of holding enquiry he examined the complainant on oath as also two witnesses u/s 202 Cr.P.C. and then dismissed the complaint petition u/s 203 Cr.P.C.

5. Thereafter, being aggrieved the complainant-O.P. No. 2 filed Criminal Revision No. 236/1997 before the Sessions Judge, Muzaffarpur, which was heard and dismissed by the Third Additional Sessions Judge, Muzaffarpur, on 25.4.2000 (Annexure-4).

6. Thereafter, the complainant-O.P. No. 2 filed Cr.Misc. No. 9900/2001 before this Court for quashing the order of the Revisional court as also for quashing the order of the SDJM, Muzaffarpur (West)as referred to above. It is further stated that the aforesaid Cr. Misc. No .9900/2001 was allowed by a Bench of this Court and the aforesaid two orders of the SDJM and Third Additional Sessions Judge were set aside and the case was sent back to the learned Magistrate for holding further enquiry and passing order accordingly. Thereafter, the SDJM, Muzaffarpur(West) passed the impugned order on 31.7.2004 finding prime facie case for the offences punishable under Sections 304B, 498A, 201 of Indian Penal Code as also Sections 3 and 4 of the Dowry Prohibition Act against the petitioners and accordingly took cognizance and issued summons for their trial.

7. Contention has been advanced on behalf of the petitioners that he aforesaid order is illegal and without application of any mind in true sense of the directions given by this Court in the aforesaid Cr.Misc. case. It has also been submitted that no offence under Sections 304B, 498A and 201 of Indian Penal Code as also Sections 3 and 4 of the Dowry Prohibition Act have been disclosed.

8. The Judgement of Hon"ble Apex Court reported in 2004 AIR SCW 4788 has been cited on behalf of the petitioners which has no relevance for all practical purposes here.

9. While passing the impugned order the learned SDJM (West), Muzaffarpur, has mentioned the entire facts and reasonings and graphic account of the happenings

of passing such order. He rightly referred and quoted the order of this Court dated 10.12.2002 passed in Cr.Misc. No. 9901 of 2001 which reads as follows:

From the perusal of the complaint petition it is clear that there was allegation of torture, harrassment for dowry as stated by the witnesses and subsequent death of the victim during her delivery due to negligency on the part of her husband and in-laws. It also appears that the parents of the deceased were not informed about the death of their daughter.

10. The learned Additional Public Prosecutor appearing on behalf of the State while arguing has rightly submitted that there was no scope for the cognizance taking Magistrate in taking any other view than what has been taken in the impugned order specially in view of the fact that the Hon"ble High Court while disposing of the Cr. Misc. petition has held that there appears sufficient grounds for proceeding against the petitioners. He has rightly urged that there was no jurisdictional error, so no interference is required in the impugned order.

11. Considering the above facts and circumstances and force in the contentions of the learned Counsel for O.P. No. 2 as also in the contentions of the Additional Public Prosecutor appearing on behalf of the State, I do not find any material and merit in the case for interference in the impugned order.

12. This application is accordingly dismissed.