

(2009) 11 DEL CK 0189
In the Delhi High Court
Case No : Criminal M.C. 4043 of 2009

Manoj Kumar and Others

APPELLANT

Vs

State and Another

RESPONDENT

Date of Decision : 30-11-2009

Acts Referred:

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

Citation : (2010) CriLJ 3414

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Satish Bajaj, for the Appellant; O.P. Saxena, APP, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jain, J.—This is a petition u/s 482 of the Code of Criminal Procedure for quashing FIR No. 272/2008 registered at Police Station Gandhi Nagar, u/s 498A of I.P.C. It has been alleged in the petition that petitioner No. 1 was married to deceased Samiksha who committed suicide on 15.10.2007 being under mental depression. The quashing of FIR has been sought on the ground that the complainant, father of deceased Samiksha, informed the Court at the time of grant of bail to petitioner No. 1 that his daughter had committed suicide being under mental depression.

2. The FIR in this case was lodged by one Darshan Lal, father of the deceased Samiksha, who stated that though at the time of marriage of Samiksha, he had been given a maruti car and jewellery articles to her husband Manoj, he his father Kashmiri Lal, his younger brother Gagan, his sister-in-law Mausmi and the father of the Mausmi use to harass his daughter so as get more dowry and were demanding a share in her property. He further alleged that they also used to abuse and manhandle her daughter. He further alleged that he had paid Rs. 8 lakhs to Manoj in January, 2008 but even thereafter he was being threatened that if the demand was not fulfilled they would kill Samiksha. He further alleged

that on 15.10.2008, Samiksha came alone to his house. At that time she was quite worried and told him that her father-in-law Kashmiri Lal had said that there was no place for her in their house and that she should take one house from her father to live in, else they would kill her. He asked Samiksha to wait for a few days so that he could arrange a house for her. At about 10 p.m., he was informed about Samiksha having got burnt.

3. The issue relating to quashing of FIR and criminal proceedings pursuant to a compromise was discussed by this Court at length while deciding CrI.Misc. Case No. 3447/2009 and CrI.M.C. No. 3712/2009 and W.P.(CrI.) No. 858/2009, decided by a common judgment of 5.11.2009. In CrI.M.C. No. 3712/2009, one Mehrunissa, who was married to petitioner No. 1, Guddu died on account of broncho pneumonia. In the FIR lodged by her father, it was alleged that the husband, mother-in-law, sister-in-law of the deceased use to harass her for dowry and her husband had threatened to marry again in case Rs. 80,000/- were not paid. Since the offence u/s 304B of IPC was not made out, the matter was sent back for trial for the offence punishable u/s 498A of IPC. The quashing of petition was sought on the ground that the petitioner had compromised with the family members of the deceased. Rejecting the petition seeking quashing of FIR, this Court inter alia, observed as under:

The object behind addition of Section 498A to Indian Penal Code by Criminal Law (2nd Amendment) Act, 1983 was to prevent the torture of a woman by her husband or relatives of the husband. The increase in cases of harassment and deaths of young married women, as a result of unlawful demands of dowry by their husbands or parents-in-law, had led to enactment of Dowry Prohibition Act, 1961. Since the provisions of Dowry Prohibition Act were not found to be adequate to curb the evil, the Parliament in its anxiety to extend protection to the weaker spouse, added Chapter XX-A, which includes Section 498A, to Indian Penal Code. Traditionally, the women in our society has, at least in the past, been subjugated to the whims and caprices of the husband and sometimes also her in-laws. Sometimes, on account of the harassment caused and the cruelties inflicted on her, her life becomes so miserable and intolerable that she decides to put an end to such a life by committing suicide. The statement of objects and reasons behind enactment of Act 46 of 1983, inter alia, stated as under:

The increasing number of dowry deaths is a matter of serious concern. The extent of the evil has been commented upon by the Joint Committee of the Houses to examine the working of the Dowry Prohibition Act, 1961. Cases of cruelty by the husband and relatives of the husband which culminate in suicide by, or murder of, the hapless woman concerned, constitute only a small fraction of the cases involving such cruelty. It is, therefore, proposed to amend the Indian Evidence Act suitably to deal effectively not only with cases of dowry deaths but also cases of cruelty to married women by their in-laws.

52. If the wife, who has been subjected to cruelty or harassment enters into a settlement with her husband and/or in laws either by deciding to give the

marriage another try and consequently continue living with the husband or by obtaining divorce by mutual consent and decides to embark upon a new Chapter in her life, bereft of her past relationship, the courts do recognize the need for bringing an end to the criminal proceedings initiated in such a case by quashing the same in terms of the settlement between the parties. The purpose is to enable the parties to live peacefully, in future, without retaining any feeling of rancour or ill-will towards each other.

In fact, quashing criminal proceedings in such cases, after death of victim of the crime may in some cases, encourage the accused persons to win over the family members of the deceased for considerations which may not necessarily be brought on record. To put it rather bluntly, this may encourage the accused of such offences to offer lucrative amounts in the form of compensation or otherwise to the family members of the deceased, particularly if they happen to come from rather poor strata of the society. Having already lost their daughter/sister, they may not always find any incentive to continue the criminal proceedings, if they are compensated in monetary terms or are otherwise persuaded to enter in to a settlement. Therefore, in my view, it would be contrary to public interest if the criminal proceedings are quashed pursuant to a compromise between the accused persons on one hand and family members of the deceased on the other hand.

4. For the above stated reasons, I am of the considered view that the victim of the crime having already died, it would not be appropriate to quash the FIR merely on account of the statement given by her father at the time of grant of bail to the petitioners.

CrI.M.C.4043/2009 is hereby dismissed.