
(2013) 01 MP CK 0128
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 11857 of 2010

Nandlal Patel

APPELLANT

Vs

State of M.P. and Another

RESPONDENT

Date of Decision : 09-01-2013

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 169, 174, 482
Penal Code, 1860 (IPC) — Section 304, 498A

Citation : (2013) 1 DMC 602

Hon'ble Judges : M.A. Siddiqui, J

Bench : Single Bench

Advocate : Sanjay Patel, for the Appellant; Sameer Chile, Govt. Advocate for the Respondent No. 1 and Mr. L.S. Patel, Advocate for the Respondent No. 2, for the Respondent

Final Decision : Allowed

Judgement

M.A. Siddiqui, J.—This petition has been filed u/s 482 of Criminal Procedure Code, 1973 (hereinafter referred to as Cr.P.C.) for invoking the extraordinary jurisdiction to quash the FIR dated 12.10.2012 registered at Police Station Bandri, District Sagar under Sections 304 and 498A of I.P.C., against the petitioner through crime No. 226/2010. In short the facts of the case are that Rukmani who was a teacher married the petitioner on 12.2.2007 in a temple after their love affair, against the wishes of her father respondent No. 2, Munnalal Kushwaha and she was residing with the petitioner as his wife.

2. It is alleged that deceased, Rukmani Kushwaha was treated with cruelty both physically and mentally and she was 7 months pregnant at the time of her death and she was also suffering from jaundice and anemia and instead of giving proper treatment to her by the petitioner's husband she was kept in the house and exorcism (Jhad Phoonk) was done and when her condition deteriorated and became critical she was taken to the hospital where she died on 27.11.2008.

3. Merg was reported by respondent No. 2 u/s 174 of Cr.P.C. and case was

registered by Police Station Bandri and the matter was enquired into. The respondent No. 2 also represented and matter was enquired into by the SDOP. Police Bandri filed the final report u/s 169 of Cr.P.C. for closure of case in favour of petitioner. But respondent No. 2 made several complaints to the higher authorities including Human Rights Commission, Chief Minister, etc. Ultimately on 12.10.2010. Police Station, Bandri registered case under Sections 304 and 498A of I.P.C. against the petitioner and against this registration this petition has been filed to quash the registration of offence by the Police Station, Bandri in Crime No. 226/10 on the ground that no homicidal death is there and there is no allegation of ill treatment or cruelty. As the deceased Rukmani was a teacher and was holding some agricultural land in Ganjbasoda and some movable and immovable property, so respondent No. 2 has lodged false complaint and allegation in order to acquire the land and the movable and immovable property of deceased Rukmani. There is no prima facie case against the petitioner hence the offence registered by the Police Station Bandri be quashed.

4. I have heard Counsel for both the parties and perused the documents filed by the parties.

5. Learned Counsel for the petitioner has submitted that in the report made by the respondent No. 2 no allegation about ill treatment and unnatural death has been reported and that no homicidal death has been confirmed in the postmortem report as well as report of FSL, Sagar. On a perusal of the postmortem report it is seen that no definite opinion on the cause of death of deceased has been given and in the FSL report also no poison was found in the Viscera of the deceased. The allegation that petitioner did not properly treat his wife during her last stage is there. On the other hand it has been brought forward that deceased was 7 months pregnant and ill and when she was taken to the hospital on the way she died.

6. The submission of the respondent is that death was unnatural and there is allegation against the petitioner that he was not properly taking care of the deceased and he did not allow the deceased to meet her family members so the allegation of the respondent is not baseless.

7. On the other hand learned Counsel for the petitioner submits that false report has been made against the petitioner. The allegations were made by respondent No. 2 only for the purpose of getting the immovable and movable property of the deceased.

8. As far as homicidal death is concerned death should be caused by the accused by an act or there should be an intention or knowledge that there is likelihood of causing death.

9. As the petitioner married the daughter of respondent No. 2 without his consent and there was some movable and immovable property in the name of the deceased and respondent No. 2 wanted to acquire the property, the death of the deceased which was due to complication in the pregnancy and weakness has

been given the colour of homicidal death by the respondent No. 2 which is without any basis.

10. As far as the case of cruelty is concerned u/s 498A, there are allegation that deceased was not allowed to meet her parents and family members; this is a matter of fact and it is to be decided. In view of the facts and circumstances of the case as there is no prima facie case of homicidal, cognizance taken by Police Station, Bandri u/s 304 of I.P.C. is quashed so far Section 498A is concerned, no interference is called for in that regard. Accordingly, this petition is partly allowed and registration of offence by Police Station, Bandri in Crime No. 226/10 is quashed herewith.