
(2013) 10 MP CK 0298
In the Madhya Pradesh High Court
Case No : M. Cr. C. No. 7138 of 2013

Patiram and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 03-10-2013

Acts Referred:

Citation : (2013) 10 MP CK 0298

Hon'ble Judges : Brij Kishore Dubey, J

Bench : Single Bench

Advocate : Arvind Dwivedi, for the Appellant; B.K. Sharma, Public Prosecutor, Respondent No. 1 and State and Shri Dinesh Savita, Advocate, Respondents Nos. 2 and 3, for the Respondent

Judgement

Brij Kishore Dubey, J.—This petition u/s 482 of Cr.P.C. is preferred by the petitioner for quashing the criminal proceedings instituted against them vide Crime No. 51/2013 under Sections 498-A, 304-B, 34 of IPC and 3/4of Dowry Prohibition Act registered at Police Station Karhiya, District Gwalior. The quashment of the criminal proceedings has been prayed by the petitioners on the ground of compromise of the matter with the respondents No. 2 and 3, who are the father and brother of the deceased.

2. Shri Arvind Dwivedi, learned counsel for the petitioners submits that petitioners are innocent and they have been falsely implicated in the instant crime. There is no legal evidence against the petitioners to connect them in respect of the offence under Sections 498-A and 304-B of IPC. The father and brother of the deceased have stated in their affidavits that the deceased was neither subjected to cruelty nor harassment with regard to demand of dowry and further she had not died under suspicious circumstances. The deceased had died on account of taking some poisonous substance as she was mentally disturbed. It is further submitted that the respondent No. 2 and 3 have submitted I.A. No. 8294/2013, an application u/s 320(1) of Cr.P.C. to grant permission to compound the offence and I.A. No. 8295/2013 u/s 320(2) of Cr.P.C. to record the

compromise. On these grounds, learned counsel prayed for quashing the aforesaid criminal proceedings instituted against the petitioners. Learned counsel has cited the following decisions in support of his contention:

(1) M. Mohan Vs. The State represented by The Deputy Superintendent of Police, ;

(2) Sunil Bansal Vs. The State of Delhi, and

(3) Radha Kant Yadav and Others Vs. State of Jharkhand,

3. Learned Public Prosecutor appearing on behalf of the respondent No. 1/State opposed the prayer on the ground that the offence registered against the petitioners are serious in nature and the same are not compoundable.

4. Learned counsel for the respondents No. 2 and 3 submits that the petitioners and respondent No. 2 and 3 have amicably settled the subject matter of crime amongst themselves and he has no objection in dropping the criminal proceedings pending against the petitioners. In this regard the petitioners and the respondent No. 2 and 3 have submitted I.A. No. 8294/2013 and I.A. No. 8295/2013.

5. The respondents No. 2 and 3 by presenting themselves before this Court also submits that now all the disputes have been settled mainly with the petitioners, therefore, they do not want to prosecute the petitioners and the criminal proceedings may be quashed on the basis of the compromise petition submitted by them.

6. Considered the rival contentions of the parties and perused the record.

7. On the basis of information received from the Medical Officer regarding death of Smt. Bharti W/o Shriniwas aged 19 years, a Merg at Crime No. 7/2013 u/s 174 of Cr.P.C. was registered at Police Station Karhiya, District Gwalior and it was enquired into. After enquiry, an FIR at Crime No. 51/2013 under Sections 304B, 498A, 34 of IPC and 3 /4 of Dowry Prohibition Act was registered at Police Station Karhiya against the petitioners. The FIR reads as under:

8. From a bare perusal of the case diary, it is evident that Bharti (since deceased) got married with Shriniwas (Petitioner No. 5) on 20.6.2012 as per Hindu rites and rituals. The petitioners No. 1 to 4 and 6 are the relatives of Shriniwas. The petitioners were alleged to be involved in subjecting the deceased to cruelty and harassment for not meeting the demand of dowry and ultimately, she died on 9.5.2013 in the house of her in-laws under suspicious circumstances. The investigation is going on. The statements of Ravi Kumar, brother of the deceased, Naryandas (father), mother and the sister of the deceased have been recorded. Narayandas has made a typed written complaint on 20.7.2013 to the Superintendent of Police, Gwalior for ensuring the arrest of the accused persons, since accused are absconding, therefore, they could not be arrested.

9. In case of M. Mohan (supra) the charge against the appellant for the offence

punishable under Sections 306 and 107 of IPC has been quashed on the ground that there was no evidence regarding instigation attributable to the appellant to commit suicide.

10. In the case of Sunil Bansal (*supra*) the deceased was found hanging in her matrimonial house. The charge framed under Sections 498A and 304B of IPC against the husband and in-laws on the basis of statements of parents and brother of the deceased. However their first statement that deceased was happily married and they blamed nobody for her abnormal death, changed next day for which no explanation was given. None of allegation point to any kind of cruelty, harassment or cruel behaviour having any proximity, in point of time to date of death. In view of contradictory statements and improvements made thereafter the charge framed under Sections 498A and 304B is liable to be set aside.

11. In the case of Radha Kant Yadav (*supra*) the demand of dowry or act of cruelty was not proved, therefore, on the basis of presumption u/s 113-B of the Evidence Act, charge u/s 304B of IPC cannot be framed.

12. In the present case the investigation is going on and therefore, at this stage the decisions cited by the petitioners does not given any assistance to him.

13. Admittedly, offence punishable u/s 304B of IPC and 498A of IPC are not compoundable. In view of the aforesaid and law laid down by the Apex Court in the case of Gian Singh Vs. State of Punjab and Another, , I do not find any error, illegality or irregularity or any thing against the propriety of law which requires any interference in exercising the inherent jurisdiction of this Court. Consequently, this petition being devoid of any merit deserves to be and is hereby dismissed at the stage of motion hearing. Accordingly, I.A. No. 8294/2013 and I.A. No. 8295/2013, applications under Sections 320(1) and 320(2) of Cr.P.C. are also dismissed at this stage.