
(2007) 02 DEL CK 0247

In the Delhi High Court

Case No : Criminal Rev. Ps. 821-824 and 837-838 of 2006

Raghubir Singh and Others

APPELLANT

Vs

State (NCT of Delhi)

RESPONDENT

Date of Decision : 13-02-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 227, 228, 397
Penal Code, 1860 (IPC) — Section 120B, 161, 304B, 34, 498A

Citation : (2007) 02 DEL CK 0247

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : Baldev Raj, for the Appellant; V.K. Malik, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—These Revision Petitions challenge a common order dated 4.9.2006 passed by the Additional Sessions Judge (Trial Court") charging the petitioner of various offences.

2. The brief facts necessary to decide this petition are that:

The, complainant Anoop Singh resident of Sirsa (Haryana) alleged that on 31.1.2006 he received information that his daughter Amarjeet Kaur (hereinafter referred to as the deceased) who was married to Gurwant Singh @ Tony (hereinafter referred to as "the husband") on 17.10.2003, succumbed to burn injuries. The information was given by the complainant's brother in law.

3. The complainant alleged that he along with family members reached Delhi. The Sub-Divisional Magistrate recorded statements as well as that of his son, and subsequently a FIR was registered on the same day (31.1.2006). Thereafter, the husband was arrested along with Smt. Lakhwinder Kaur, Mousi-in-law (co-accused in the instant case) and sent to Judicial custody. The case was investigated and charge-sheet was filed.

4. The trial of the case commenced and the learned Trial Court passed the impugned order on 4.9.2006. The extracts of the impugned order are:

All of you being the husband, mother-in-law, mausi, sister-in-law, devar and mama of husband of the deceased Amarjeet Kaur in furtherance of your common intention subjected her with cruelty and also gave her beatings on account of inadequate dowry and also for not meeting your unlawful demands of brining motor-cycle, Maruti car and cash amount from her parental house, and thereby all of you committed an offence punishable under Sections 498A/34, IPC.

As a consequence thereof the said Amarjeet Kaur died of burn injuries in her matrimonial house on 31.1.2006 and thus all of you caused her death within the meaning of section under Sections 304B/34, IPC.

And I hereby direct that you be tried by this Court from the said office.

5. The petitioners allege that the arguments in the Trial Court were addressed without the FSL report. They also allege that the deceased had committed suicide as she was alone at home at the time of the incident and her room (where the body was found) was bolted from inside; the room was opened after breaking the window pane. The deceased was found in an unconscious position; she was taken to the hospital and there was declared dead.

6. After 3 months of the incident a letter was allegedly recovered from the deceased's parental home. The letter was hand-written by the deceased and identified by her family. The letter narrated the problems and harassment faced by the deceased in her matrimonial home. The letter was addressed to a "Guruji" of the community.

7. The petitioners were charged under Sections 498A/304B/34/120B, IPC and it was stated in the charge-sheet that during investigation a plastic can of kerosene oil, one burnt match-stick, burnt and un-burnt sticks, one half burnt bed sheet, a bunch of burnt hair and pieces of burnt fabric were found on the floor below the dead body.

8. The Trial Court charged the petitioners for offences committed under Sections 498A/34 and 304B/34, IPC.

9. It is contended that the charges framed cannot be sustained. Learned Counsel submitted that there were material circumstances which were lost sight of by the Trial Court such as the fact that the body was found in a room that was bolted from inside; that the mother-in-law as well as other relatives had all joined the investigation and at no stage was anything incriminating discovered. It was further claimed that all the petitioners could not be involved with common intention to inflict cruelty or harassment to the deceased.

10. Counsel submitted in addition that at the stage of framing the charges although the Court can closely sift the evidence, it has to nevertheless apply its mind to the materials and circumstances to satisfy itself about sufficiency of

grounds, to raise the presumption of guilt. Such an exercise is not an idle formality but requires application of mind on the basis of probabilities. The mere fact that the petitioner had at one stage alleged cruelty and gone back to the matrimonial home subsequently, could not lead to automatic assumption that the death was caused on account of dowry harassment.

11. In this case the marriage took place on 17.10.2003. The young bride died of extensive burns on 31.1.2006. The FIR was lodged on the statement of father of the deceased, who alleged that after marriage, she faced repeated harassment and was asked to fulfill several dowry demands. It was also alleged that due to the cruel treatment she had to return to her parental house and after some time, as a result of some kind of Panchayat settlement she went back to the matrimonial home. Apart from the statements recorded u/s 161, the charge-sheet, which has been placed on record, has also indicated statements of brother of the deceased (which corroborated dowry demands) and a letter said to have been written by the deceased to her Ouruji mentioning about the cruel treatment meted out to her.

12. It is no doubt true that the Court cannot merely act as a rubber stamp or post office, mechanically framing the charges leveled. It has an obligation under Sections 227-228, Cr.P.C. to sift the materials and apply its mind. In this case the circumstances which implicate the accused are in the form of written/documentary materials. It is also an undisputed that death of Amarjeet Kaur, was within seven years of her marriage, by extensive burns injuries. On a consideration of all these factors, the Trial Court proceeded to frame charges under Sections 498A/304/34, IPC. The veracity or otherwise of statements recorded during investigation, the probability of their leading to conviction, cannot be weighed in a golden scale. Equally, sufficiency or adequacy of the materials cannot normally be scrutinized, so long as some evidence probalising the accused's guilt is available.

13. I am satisfied that sufficient materials existed to justify the order on charge. There is nothing illegal or improper in the exercise of jurisdiction by the Trial Court, to warrant interference u/s 397.

These revision petitions are accordingly dismissed.