
(2014) 07 MP CK 0034
In the Madhya Pradesh High Court
Case No : Mcrc. 5692.2014

Seema Bhadauria

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 10-07-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 482
Penal Code, 1860 (IPC) — Section 304B, 34, 498A

Citation : (2014) 07 MP CK 0034

Hon'ble Judges : B.D. Rathi, J

Bench : Single Bench

Advocate : Sandeep Singh Bhadoriya, Advocate for the Appellant; R.K. Shrivastava, Panel Lawyer, Advocate for the Respondent

Final Decision : Allowed

Judgement

B.D. Rathi, J.—With the consent of the learned counsel for the parties, matter is heard finally at motion stage.

2. This petition has been preferred u/s 482 of the Code of Criminal Procedure for quashment of the criminal proceedings pending against the petitioner as Crime No. 59/2014 was registered under Sections 304B, 498A/34 of IPC at Police Station Mahila Thana Padav, District Gwalior (M.P.) with all other proceedings in consequence thereto including charge-sheet and on that basis registered criminal case.

3. In brief, the facts of the case are that petitioner Smt. Seema Bhadauria is the maternal aunt of co-accused Nitin Rajawat whose marriage was solemnized with Preeti (since deceased) in the year 2007. Thereafter, Nitin and Preeti both were residing at Indore. Out of their wedlock, one daughter Vanshika was born. Aadhar Card and ration card were issued in their favour at their Indore address. In the month of December, 2013, Nitin and Preeti both came to Gwalior to attend the marriage of cousin (sister) of Nitin where Preeti made a complaint against Nitin and his father Ghanshyam Singh at P.S. Mahila Thana, Padav, Gwalior to the

effect that she was subjected to harassment and cruelty both physical and mental and also she was beaten by her husband. Her husband was having illicit relationship with Ashika Rajawat. When objection was raised, she was threatened by Nitin for divorce. Ghanshyam Singh, father-in-law, was also having bad intention of lust towards her and also he had offered her to live with him as wife. Written complaint dated 24.12.2013 (Annexure P-2) was sent to Station House Officer, Mahila Thana Padav, Gwalior. Both the parties were called for resolving the matter and in pursuance of the same Preeti, her mother, Nitin and his father Ghanshyam entered into the compromise and matter was ended on 30.12.2013. Follow up date was fixed on 08.01.2014. Copy of the compromise proceeding dated 30.12.2013 obtained by the petitioner under RTI is Annexure P-3.

4. Preeti died on 05.01.2014 prior to the follow up date i.e. 08.01.2014. Marg was registered. Statements were recorded and thereafter FIR was registered. After investigation, charge-sheet was filed against the petitioner as well as two other co-accused persons, which is Annexure P-4. Hence, this petition has been preferred on the ground that just prior to five days of her death she had not made any allegation against the petitioner and thereafter the petitioner has been falsely implicated by the police on the basis of some omnibus allegations made against the petitioner during enquiry and then in the statements made by the witnesses u/s 161 Cr.P.C.

5. It is submitted by Shri Bhadoriya, learned counsel appearing on behalf of the petitioner, that in the absence of specific allegation against the petitioner and so also since not a single allegation was made by the deceased Preeti either in the report Annexure P-2 or in the compromise Annexure P-3 dated 30.12.2013, no case is made out against the petitioner and thus the entire proceedings should be dropped.

6. On the contrary, it is submitted by Shri Shrivastava, learned Panel Lawyer appearing on behalf of the State that on perusal of the statements recorded by the police during investigation specific allegations were made against the petitioner, therefore, present petition should be dismissed.

7. Having regard to the arguments advanced by the learned counsel for the parties, entire record has been perused.

8. In the report addressed to the Station House Officer, Mahila Thana Padav, Gwalior, Annexure P-2, dated 24.12.2013, not a single allegation was made against the present petitioner who is the maternal-aunt-in-law of deceased Preeti. Her statement was recorded for this complaint. In that also, allegations were not made against the present petitioner. Thereafter, compromise was written on 30.12.2013 between the parties. But in that also, no allegations were made against the petitioner. Preeti died on 05.01.2014 just after six days when the compromise deed Annexure P-3 dated 30.12.2013 was written. Marg No. 2/14 was registered on the basis of information given by Jeetu Singh who is the brother of the deceased Preeti. He reached in the hospital after receiving the

phone call from co-accused Nitin where he found that Preeti had already died.

9. During enquiry of marg, statements of Manorama (mother of the deceased), Munesh Tomar (relative of the deceased), Aashish Bhadoriya and Jeetu (brothers of the deceased) were recorded. It was stated by them that when parties had arrived at compromise on 30.12.2013 at Mahila Thana Padav, Gwalior, maternal-aunt-in-law of the deceased was also present and it was stated by her that Preeti will not reside in her home and divorce would be given by Nitin and in the light of the statements it was stated by both the witnesses that Preeti was subjected to cruel behaviour on account of dowry. Same statements were given by all the witnesses and thereafter when Crime No. 59/14 was registered, again the witnesses were examined and statements were given by them to the Police.

10. On perusal of the compromise deed dated 30.12.2013, it is clear that neither the factum of divorce was mentioned in it nor was the presence of petitioner marked. Therefore, the single lined omnibus allegation that the deceased was subjected to cruelty on account of dowry by petitioner also is not reliable.

11. In the opinion of this Court, no case is made out against the petitioner. Accordingly, petition stands allowed and the proceedings of Crime No. 59/14 registered under Sections 304B, 498A/34 of IPC are hereby quashed so also the entire proceedings of criminal case registered on the basis of FIR and pending before the competent court is also hereby quashed. Accordingly, petitioner is discharged from the offences under Sections 304B, 498A/34 of IPC.